

## **DEVELOPMENT PLAN**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise.

### **Unitary Development Plan - current status**

The Unitary Development Plan for Sunderland was adopted on 7th September 1998. In the report on each application specific reference will be made to those policies and proposals, which are particularly relevant to the application site and proposal. The UDP also includes a number of city wide and strategic policies and objectives, which when appropriate will be identified.

## **STANDARD CONDITIONS**

Sections 91 and 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 require that any planning application which is granted either full or outline planning permission shall include a condition, which limits its duration.

## **SITE PLANS**

The site plans included in each report are illustrative only.

## **PUBLICITY/CONSULTATIONS**

The reports identify if site notices, press notices and/or neighbour notification have been undertaken. In all cases the consultations and publicity have been carried out in accordance with the Town and Country Planning (General Development Procedure) Order 1995.

## **LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION**

The background papers material to the reports included on this agenda are:

- The application and supporting reports and information;
- Responses from consultees;
- Representations received;
- Correspondence between the applicant and/or their agent and the Local Planning Authority;
- Correspondence between objectors and the Local Planning Authority;
- Minutes of relevant meetings between interested parties and the Local Planning Authority;
- Reports and advice by specialist consultants employed by the Local Planning Authority;
- Other relevant reports.

Please note that not all of the reports will include background papers in every category and that the background papers will exclude any documents containing exempt or confidential information as defined by the Act.

These reports are held on the relevant application file and are available for inspection during normal office hours at the Office of the Chief Executive in the Civic Centre or via the internet at [www.sunderland.gov.uk/online-applications/](http://www.sunderland.gov.uk/online-applications/)

Janet Johnson  
Deputy Chief Executive

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South  
Sunderland

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Reference No.: 10/00113/EXT1 Extension of Time

**Proposal:** Application for a new planning permission to replace an extant planning permission (06/04558/FUL) in order to extend the time limit for implementation

**Location:** Dewhirst Ltd Pennywell Industrial Estate Sunderland

**Ward:** St Annes

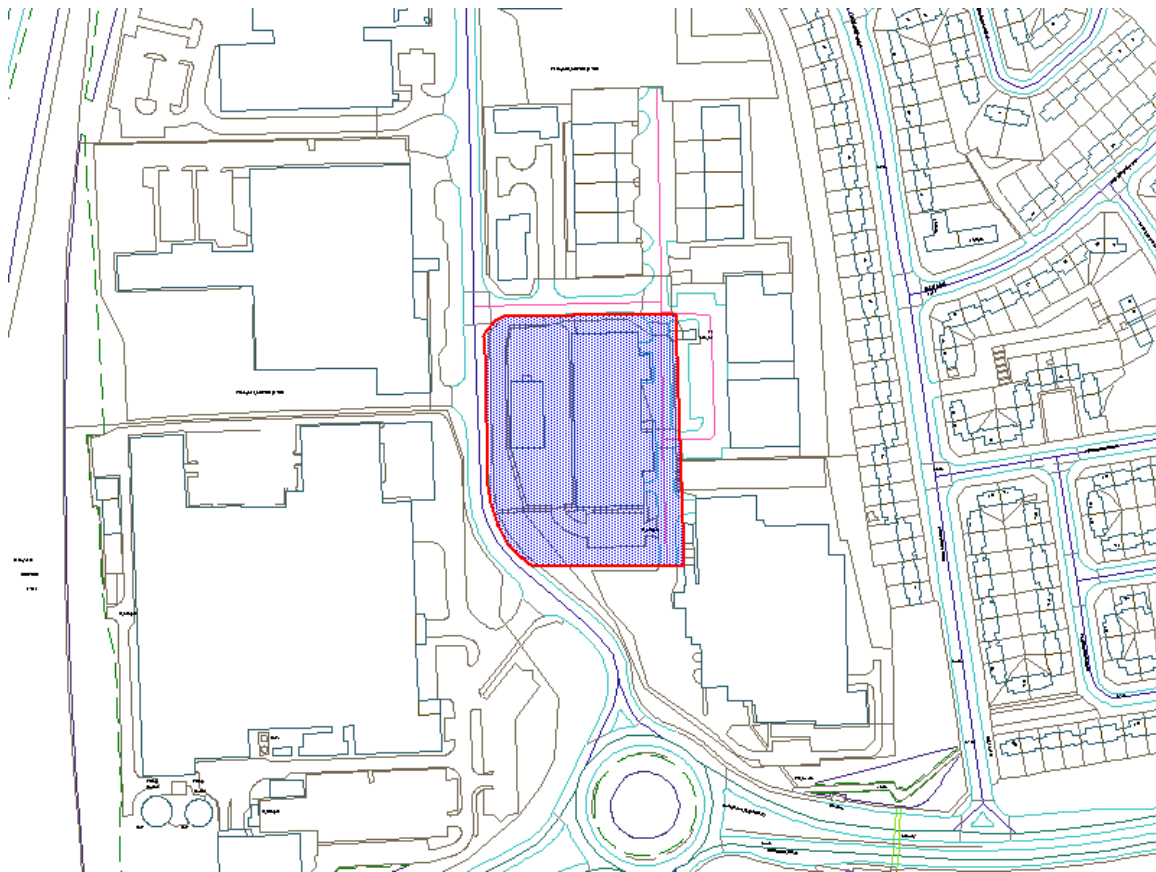
**Applicant:** North East Property Partnership Limited

**Date Valid:** 27 January 2010

**Target Date:** 28 April 2010

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### Location Plan



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### PROPOSAL:

The application for a new planning permission has been submitted in order to replace an extant planning permission (06/04558/FUL) and extend the time limit for its implementation.

Planning application 06/04558/FUL; Change of use from general industry (class B2) to class A1 (retail) factory shop in association with adjoining manufacturing/warehouse/office use. Part demolition of and external alterations to building. Change of use of existing factory shop to industrial use (classes B1 and B2). Formation of associated car parking and access arrangements. This permission was granted on the 19 February 2007 after it had been approved by Members at the 6 February 2007 DC Sub Committee due to the need to advertise the application as a departure from the approved development plan.

Communities and Local Government Guidance (CLG) on greater flexibility for planning permissions allows applicants to apply for a new planning permission to replace an existing permission which is in danger of lapsing, in order to obtain a longer period in which to begin the development. This measure has been introduced temporarily due to current economic conditions and has been in place since 1 October 2009 following the publication of Statutory Instrument 2009 No. 2261. The 06/04558/FUL permission was granted on the 19 February 2007 with a three year implementation condition and because the current application was submitted (27 January 2010) prior to the 06/04558/FUL lapsing the Local Authority retains the power to issue an extension of time if it sees fit.

The CLG guidance advises Local Authorities to take a positive and constructive approach towards applications which improve the prospect of sustainable development being taken forward quickly, whilst taking into account whether development plan policies and other material considerations have changed significantly since the original granting of planning permission. Paragraph 30 of the CLG guidance allows where necessary, Local Planning Authorities to impose such conditions as they see fit, including different conditions to those originally imposed, where necessary.

It is worth noting that in the supporting information submitted as part of the 06/04558/FUL application it stated that if Dewhirst was to withdraw from the site it would result in the loss of 10 staff, while the proposed retail expansion would result in an extra 10 people being employed and also involve the firm's head office at Peterlee moving to the application site, transferring an additional 20 members of staff. Therefore the total number of staff ultimately employed at the site would be around 40.

**TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

**CONSULTEES:**

Northern Electric

City Services (Environmental Service)

Final Date for Receipt of Representations: **29.03.2010**

**REPRESENTATIONS:**

Neighbours

No letters of representation were received as part of the consultation process.

**POLICIES:**

In the Unitary Development Plan the site is subject to the following policies;

B\_2\_Scale, massing layout and setting of new developments

B\_1\_Priority areas for environmental improvements

S\_13\_Resisting retail development on land allocated for industry

EC\_4\_Retention and improvement of existing business and industrial land

EC\_5\_Sites for mixed uses

SA\_1\_Retention and improvement of existing employment site

**COMMENTS:**

The main issue to consider in the assessment of this application is whether, since the original application was approved, there have been any changes in policy on the following matters:

1. Principle of the use
2. Design considerations
3. Highway considerations

The application is being given further consideration, however, it is anticipated that a recommendation will be made on the supplement.

**RECOMMENDATION: Deputy Chief Executive to Report**

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**Reference No.:** 10/00836/FUL Full Application

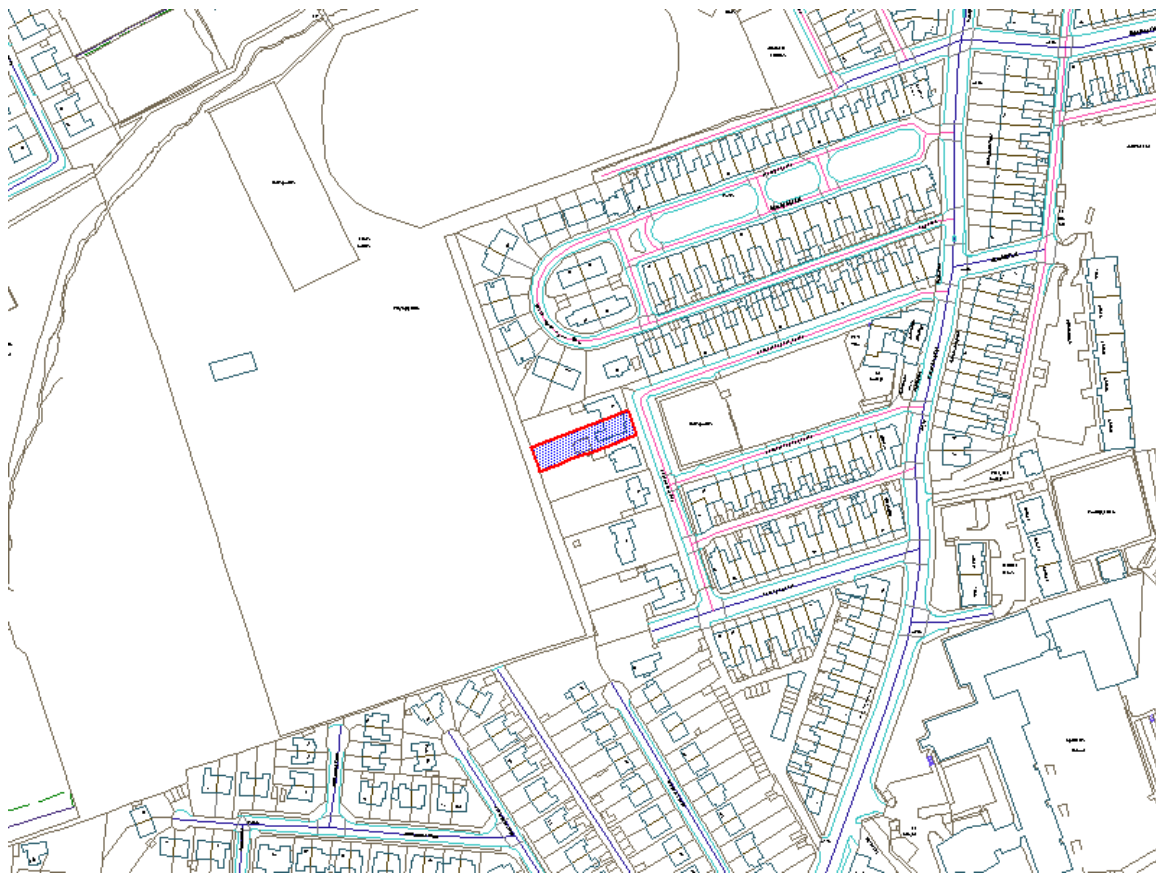
**Proposal:** **Erection of a single storey side and rear extension.**

**Location:** 7 Belle Vue Drive Sunderland SR2 7SF

**Ward:** St Michaels  
**Applicant:** Mr Paul Richardson  
**Date Valid:** 9 March 2010  
**Target Date:** 4 May 2010

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### Location Plan



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### PROPOSAL:

The proposal is for the erection of a single storey extension to the side and rear of this semi-detached property to provide a garage, utility room, shower room and conservatory. The proposed extension will be set back by the full depth of the original house and will wrap around an existing single storey extension to the rear across the width of the house. The garage and utility to the side will have a dual pitched roof and will extend beyond the rear elevation of the original house by 12.3m. The conservatory will project into the garden by 4.4m, 10m from the rear

elevation of the original house. It will extend 3.8m across the width of the house determining that it will be set 4.9m away from the adjoining boundary with number 8. The conservatory will have a dual pitched roof hipped at both ends.

The site lies within the Ashbrooke Conservation Area and the rear garden faces the playing fields of Thornhill School.

**TYPE OF PUBLICITY:**

Neighbour Notifications

**CONSULTEES:**

Final Date for Receipt of Representations: **01.04.2010**

**EPRESENTATIONS:**

One letter of representation has been received. The writer confirms that there are no objections to the proposal.

**POLICIES:**

In the Unitary Development Plan the site is subject to the following policies;

EN\_10\_Proposals for unallocated sites to be compatible with the neighbourhood

B\_2\_Scale, massing layout and setting of new developments

B\_4\_Development within conservation areas

T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising

**COMMENTS:**

Site History

The property is a larger than average inter-war semi-detached house that sits on the edge of the Ashbrooke Conservation area. The properties of Belle Vue Drive are not typical of the conservation area, which is overwhelmingly made up of large Victorian and Edwardian terraces and villas. Whilst the properties of Belle Vue Drive are attractive in their own right, they have no special architectural or historic interest.

In 1996, existing extensions to the rear of the property were removed and a single storey extension was erected. This was the culmination of communications with the LPA regarding the possible erection of a sizeable extension to the rear under the permitted development rights afforded by the Town and Country Planning (General Permitted Development) Order 1995 (GPDO) in effect at the time. This has now been superseded by the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008. The 1995 GDPO contained a number of restrictions on the extent of development that was permitted, including a limit on the maximum cubic content. However, this maximum was further restricted for properties within a conservation area.

At the time of these discussions with the LPA, it was not appreciated by the case officer that the property was within the conservation area and written advice regarding the scale of extension that could be constructed under the general permitted development rights was issued in error. A scheme submitted to the LPA showing a single storey extension to the rear was confirmed to be permitted development, however, the scale of extension was in fact in excess of that which was permitted because of the specific restrictions that apply to properties within a conservation area under the GDPO. Consequently, an extension larger than that permitted within a conservation area was constructed to the rear of the property.

This error was discovered whilst investigating a complaint around July 2006. Nevertheless, it was decided not to take enforcement action to require that a planning application be submitted, for two reasons. Firstly, because the development was only built after the owners had sought and relied on written advice from the Council that the extension was permitted development, they therefore had a legitimate expectation (under the general principles of public law) that the extension was considered lawful by the Local Planning Authority and would not be subject to enforcement action.

Secondly and, in the context of determining this application, more importantly PPG18: Enforcing Planning Control advises planning authorities not to pursue enforcement action solely to regularise development which is acceptable on its planning merits, but for which permission has not been sought. The key point here is that, had the owners applied retrospectively for permission for the extension, there would have been no sound planning reasons to refuse it permission. Furthermore, PPG 18 advises that taking such enforcement action under those circumstances would, at appeal, be considered unreasonable and could render the local planning authority liable to an award of costs.

The owners did not apply for planning permission, however, it remains the case that it is not considered appropriate for the Council to issue enforcement action in relation to the existing extension for the reasons stated above. Further, under the Planning and Compensation Act 1991 no enforcement action may be taken against the carrying out without planning permission of this type of development after the end of the period of four years beginning with the date on which the operations were substantially completed. It would appear that the extension was substantially complete around July 2006, just short of four years ago. On expiry of the four year period, the existing extension would become lawful for the purposes of the Town and Country Planning Act 1990. At this stage the existing extension remains as an unauthorised development, but one that would have been granted permission had an application been submitted.

In relation to this application for the further extension, this constitutes development in its own right and therefore is capable of consideration. The definition of a "building" under Section 336(1) of the 1990 Act includes any part of a building. The current application is for permission to erect part of a building so this constitutes development per se. Whether the existing extension is acceptable in planning terms is clearly a material consideration in relation to this application for the further extension.

#### Assessment of the Proposal

The main issues to consider in this case are;

- the principle of the use,
- the highway safety implications of the development,
- the impact of the development upon the amenities of the nearby residential properties,
- the impact of the development upon the visual amenities of the area and the character of the conservation area.

In determining the application the LPA had regard to policies within the adopted UDP that are on the list of 'saved' policies submitted to the Secretary of State via Government Office for the North East. Confirmation of the saved policies and the direction provided by the SoS was received on the 4th September 2007. All the policies referred to in the following assessment have been saved.

#### Principle of the Use.

EN10 provides that the existing pattern of land use should remain and that proposals for development in such areas will need to be compatible with the principle use of the neighbourhood. The proposal is for an extension to an existing residential property in an established residential area. It is therefore considered that the principle of the proposed development is acceptable subject to the consideration of all other material considerations.

#### Highway Safety Implications.

Policy T14 relates to the accessibility of developments and their impact upon highway safety. The proposal provides a garage and also retains an adequate driveway, therefore there are no objections from a highway safety point of view and the proposal is considered to comply with policy T14 of the UDP.

#### Impact of the Development upon the Amenities of nearby Residential Properties.

Policy B2 of the Council's UDP states: "the scale, massing, layout or setting of new developments and extensions to existing buildings should respect and enhance the best qualities of nearby properties and the locality and retain acceptable levels of privacy."

The Supplementary Planning Guidance, 'Development Control Guidelines' (SPG) adopted in June 2000 has been subject to public consultation and is a material consideration when determining planning applications. Section 3, 'Residential Extensions and Alterations', sets out to ensure that proposed extensions are in keeping with the appearance of the application site and its surroundings and do not have a detrimental impact upon the amenities of neighbouring properties or the locality.

On 6 December 2007 the Council approved the Draft Supplementary Planning Document 'Household Alterations and Extensions' (SPD) as Interim Planning Guidance which will become part of the Local Development Framework and will replace section 3 of the 'Development Control Document'. The guidance amplifies the City's adopted UDP policy B2. This is currently the subject of a new round of consultations following revisions.

The extension is proposed along the southern boundary of the site adjoining no. 6 Belle Vue Drive and wraps around the existing rear extension across less than half its width. No. 6 has a detached garage and a garden shed adjacent to the



adjoining boundary which, together with a 2m boundary fence, serve to screen the bulk of the development from view from the rear windows of the property. It is therefore considered that the proposal will not adversely affect the amenities of the neighbouring property at no. 6.

The conservatory part of the extension will be set in 4.9m from the boundary with no.8 Belle Vue Drive. A 45 degree angle taken from the corner of the existing extension demonstrates that the proposed extension will not be visible from the ground floor window of no. 8 adjacent to the boundary. Similarly, the extension will not cross the 45 degree line taken from the corner of the single storey extension to the rear of no.8. Further, the existing 2m boundary fence will provide a screening function.

It is therefore considered that the proposed extensions will not adversely affect the residential amenities of the neighbouring properties and the development complies with policy B2 of the UDP, section 3 of the SPG and the requirements of the SPD in this respect.

Impact of the Development upon the Visual Amenities of the Area.

The site is subject to UDP Policy B4, which requires all development within and adjacent to conservation areas to preserve or enhance their character or appearance.

The development is confined mostly to the rear of the site, the front of the garage being set back to the level of the original main rear elevation of the property. The impact upon the street scene is therefore limited and is not considered likely to be detrimental to the character or appearance of the conservation area. The property is not of any significant architectural or historical importance and the design of the extensions is considered to be in keeping with the character of the host property.

The property is set within a larger than average garden, to the rear of which lies the playing fields of Thornhill School, screened by the boundary enclosure and planting. The proposal is therefore not considered to result in the overdevelopment of the site.

For these reasons, the proposal is not considered likely to adversely impact upon the visual amenities of the area and complies with policies B2 and B4 of the UDP.

## CONCLUSION

For the reasons given above, the proposal is acceptable in terms of the principle of the use of the site and highway safety. The proposal is not considered likely to be detrimental to the visual amenities of the street scene or the residential amenities of adjacent properties. It complies with the policies within the UDP, SPG and SPD and is considered to be acceptable.

**RECOMMENDATION: Approve**

**Conditions:**

- 1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time
- 2 Unless otherwise first agreed in writing with the Local Planning Authority, the development hereby granted permission shall be carried out in full accordance with the following approved plans:
  - elevations, floorplans and roofplan as existing received 9/3/10,
  - elevations, floorplans and roofplan as proposed received 9/3/10,
  - site plan received 9/3/10,
  - location plan received 9/3/10,

in order to ensure that the completed development accords with the scheme approved and to comply with policy B2 of the adopted Unitary Development Plan.

- 3 Notwithstanding any indication of materials which may have been given in the application; the external materials to be used, including walls, roofs, doors and windows shall be of the same colour, type and texture as those used in the existing building, unless the Local Planning Authority first agrees any variation in writing; in the interests of visual amenity and to comply with policies B2 and B4 of the Unitary Development Plan.