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Planning and  
Highways Committee  
25 August 2011

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Reference No.: 11/00288/FUL Full Application

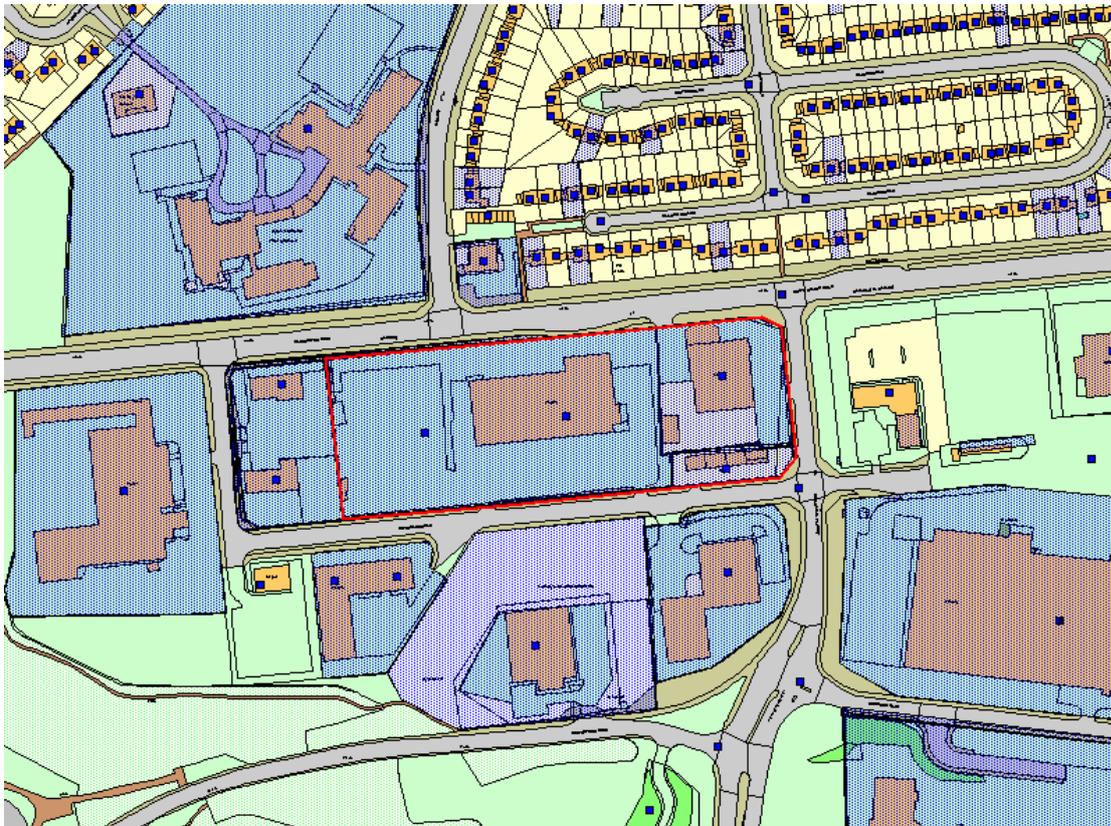
**Proposal:** Proposed new local centre development comprising foodstore (class A1), retail units (class A1), commercial units (class A1-A5), offices / non residential institutions (class B1a / D1) and restaurant (class A3 / A5): associated parking, landscaping, servicing and access arrangements.

**Location:** Land Bounded By North Hylton Road Castletown Way Riverbank Road Southwick Industrial Estate Sunderland

**Ward:** Castle  
**Applicant:** Verum Victum Limited And Penmarric Plc  
**Date Valid:** 2 February 2011  
**Target Date:** 4 May 2011

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### Location Plan



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## **BACKGROUND**

The application was submitted on 31 January 2010 and validated as being complete on 2 February 2010.

At the meeting on 22 June 2011 the Development Control (North Sunderland) Sub-Committee resolved to refer the application to the Planning and Highways Committee for decision.

## **PROPOSAL**

This application seeks full planning permission for a proposed new local centre development comprising foodstore (class A1), retail units (class A1), commercial units (class A1-A5), offices / non residential institutions (class B1a / D1) and restaurant (class A3 / A5): associated parking, landscaping, servicing and access arrangements.

### **The Application Site**

The application site is the former Arriva Ford dealership approximately 1.5 hectares in area located on North Hylton Road at its junction with Riverbank Road and Castletown Way, approximately 4km from the City Centre. Access is proposed to be taken from North Hylton Road with a service access to the rear from Riverbank Road leading from Castletown Way.

There are various unauthorised uses currently active on the site including a car wash.

The site is in a prominent location, bounded to the north by North Hylton Road beyond which the predominant land use is residential but the rest of the area is in industrial use.

The nearest residential properties are on North Hylton Road, where Radlett Road gives road access to the estate. The remainder of the area to the east, south and west of the site is occupied by various industrial and commercial uses.

Site levels appear more or less flat but the western end is below grade with North Hylton Road and overall there is a north to south gradient as the landform slopes towards the river.

### The Proposed Development

There are 12 units proposed with Class A1 retail units varying in size from 96m<sup>2</sup> to 1,635m<sup>2</sup> (21,035-17,600sq.ft.) with a gross area of 3570m<sup>2</sup> (38,420sq ft). In addition two B1 or D1 (Offices or Halls, Clinics etc.) units of 497m<sup>2</sup> (5,350sq.ft.) and 397m<sup>2</sup> (4,275 sq.ft.) respectively are proposed along with one A2 unit of 96m<sup>2</sup> (1,035sq.ft) (Bank, estate agent etc.) and one A3/A5 unit of some 241m<sup>2</sup> (2,600sq.ft.) (restaurant or takeaway).

Parking spaces are proposed for a total of 186 vehicles, together with motorcycle bays and 28 cycle hoops.

The 12 proposed units are largely set back towards the southern and eastern boundaries of the site and fronting car parking areas. There is one unit, a drive through restaurant/take away located near the access road from North Hylton Road /Washington Road. Public realm circulation is from the vehicular access ramp and the two pedestrian routes which link to the residential areas across North Hylton Road. The ecological value of the land over which this development is being built was, previously, very limited. 90% of the open areas are hardcored/concrete building bases or hardstanding parking areas. Only existing foliage is an existing overgrown section to the north boundary of the site, of which all is proposed to be removed. Tree planting and other foliage is proposed within the car park and around the edges of those parts of the site to which the public has access. The proposed buildings are a mix of single and two storeys and are of contemporary design with aluminium, cladding and glass finishes. The largest single building (retail) is to be positioned towards the eastern (Castletown Way) boundary, standing forward of the main block of 10 linked units.

### The Planning Application

The application is supported by the following documents and information:

- Drawings showing 3D images, plans and elevations
- Planning Statement
- Community Consultation Statement
- Design and Access Statement
- Transport Assessment
- Sustainability Statement
- Flood Risk Assessment
- Interim Travel plan and transport statement.

- Ground Investigation Report
- Landscape strategy statement
- Ventilation and extraction statement.

## **TYPE OF PUBLICITY**

The application is a departure from the approved Development Plan and has been advertised as such.

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

### Publicity

The Statement of Community Involvement (November 2006) of the City Council sets out how the community and other stakeholders are involved in the planning process, including the determination of individual planning applications.

The Statement of Community Involvement makes clear that the Council encourages early dialogue to examine any development proposed and to identify whether there is a need to consult the community at pre planning application stage. The results of any consultation exercises should be reported and considered as part of the planning application process.

The Council's Statement suggests that methods of community involvement may include:

- Public exhibitions;
- Public meetings; and
- Workshops

Prior to the submission of the application, GVA on behalf of the applicant undertook significant consultation in connection with the proposed development. This included an exhibition and extensive media publicity in July 2010. An exhibition was held at the Red House Academy on 22 July 2010 where the proposal was described to attendees. The proposal was publicised by way of press articles in the Sunderland Echo on 20, 23 July 2010 and The Journal and Northern Echo on 23 July 2010.

Based upon the above consultation exercises undertaken prior to the submission of the planning application, it is considered that the applicant has complied with the requirements of the City Council Statement of Community Involvement.

Pre application discussions were also held with officers.

On receipt of a valid planning application the Council acting in its capacity as local planning authority advertised the proposal via a notice in the local press (Sunderland

Echo) published on 16 February 2011, by posting 4 site notices and issuing some 64 letters to residential and commercial properties close to the site, in accordance with the requirements of Article 13 of the Town and Country Planning (Development Management Procedure) Order 2010. This application constitutes a departure from the development plan for the purposes of the 2010 Order and has been advertised as such by the Local Planning Authority.

## Representations

### **Representations as a result of the applicant's own pre-application publicity and consultation exercises:**

There were 83 visitors that attended the public exhibition, of this 34 feedback forms were completed and returned during the event. The responses received provided a mix of comments, with a balanced outcome, 17 people support the scheme and 17 comments sheets raised concerns. A summary of the main points is as follows:

#### *Positive Impacts*

- Creation of new jobs within the locality;
- Good, sustainable and accessible location for those without private cars;
- The north side of Sunderland has limited retail and therefore retail use is supported;
- Site is located on a bus route;
- Development will be good for the community;
- Supports scheme as currently travels by car and would use local facilities if available;
- Proposals will assist the growth of the local community;
- Improved visual impact over what currently exists;
- Concentrated area for a number of retail units will reduce the need to travel;
- A much needed development, however requires a better bus service for Carley Hill;
- Local jobs in close proximity to schools to allow parents to work close by; and
- Proposals will put 'life' back into area.

#### *Negative Impacts*

- Concerns with increased traffic congestion on North Hylton Road;
- Visual impact and scale of proposed buildings;
- Increased noise;
- Impact on small traders;
- Concern regarding 24 hour operations of retail units;
- Would prefer site to be developed for leisure or residential uses;
- Anti-social behaviour on car parks at night;
- Safety issues associated with North Hylton Road;
- Impact on residential amenity caused by early/ late deliveries;
- Difficulties in crossing North Hylton Road; and
- Existing office and factory units within the area remain empty.

### **Representations made to the Local Planning Authority**

## Neighbours

Five petitions and seven individual letters of objection have been received.

A petition bearing approximately 280 signatures received from residents with addresses in Redhouse Estate states,

“We the undersigned object to the out of centre retail development above on the grounds that it will draw away trade from the local shops in the Redhouse area and will threaten their viability thereby resulting in the potential loss of a much valued local service. We are also concerned about the safety of pedestrians from the residential areas to the north of this proposed retail site who would need to cross the busy Washington road to visit the site. We request this petition is reported to the appropriate meeting of the North Area Planning Committee and that our objections are taken into consideration the council in coming to its decision on the planning application”.

Four other petitions submitted by the operators of independent shops, three in Redhouse and one in Witherwack containing, 450, 700, 300 and 480 signatures from their customers have also been received. Each petition is accompanied by a covering letter setting out a range of similar concerns relating to the impact of the proposed development on the viability of the local shops, loss of jobs in those shops, loss of local facilities to the community, threat to investment that has been made and concerns about traffic congestion and the safety of pedestrians when crossing the main road to get to the new centre.

In addition seven letters of objection have been received in response to the council's publicity of the planning application, covering a range of issues which are summarised as follows.

- The site is allocated for industry and should be kept for that use.
- The proposal is considered to be another foodstore in the vicinity where there already exists a Netto, Aldi and Cooperative.
- The proposed office development is unnecessary as there are empty office premises in the Riverside area.
- North Hylton Road is a busy road which will be dangerous for pedestrians to cross and the large car park will become a magnet for “boy racers” at night.
- Traffic Congestion would increase with the proposal.
- The development will encourage car users to the area. By providing 184 car parking spaces it shows the development and the developers intend to attract a large number of cars to the retail units.

- There is not much substance to the travel plan it provides details of how people could get there using public modes of transport but does not include in detail how traffic created by the development will be handled.
- It is suggested that the people from the local residential area will use the facility and it is a walkable distance for employees. Statistics taken from the North East Regional Road Safety Resource Project Report: 22 (Distance from Home) have shown there have been 14 accidents between 2005 - 2009 on that particular part of North Hylton Road as well as Castletown Way. Although there have been no further statistics reports for the past 2 years that have been published at least 2 other major accidents that happened last year one of which was a fatality.
- North Hylton Road is a 40 mile per hour road and the developers are encouraging people to walk across a very busy road.
- The development is close to a school encouraging school children to cross the road.
- HGV traffic will also increase with deliveries to the retail units.
- There are a number of retail outlets and units within the north of Sunderland that are vacant at the Wheatsheaf retail park as well as in Southwick. Any new businesses should be looking to fill these not creating new developments.
- The Sunderland Echo refer to the Local Data Company (LDC) reporting that the city centres vacancy rate rose to 21.5 per cent last year an increase of four per cent from 2009. The national economy has an impact on the propensity to spend and as this reduces there is a corresponding increase in the number of vacant shops.
- Technological factors such as the growth in internet on-line shopping also reduce the need for more shops.
- The Council have (allegedly) raised the rent for retail properties within the vicinity of the proposed development, by more than 100% which will force further small business to shut and create more derelict properties within the city.
- This is acknowledged in the Sunderland Retail Assessment report of 2009 in point 5.56 where it states that supermarkets have continued growth in the market share at the expense of smaller supermarket operators and independent retailers.
- Sunderland Retail Assessment report of 2009 also states that a planning application for a new Tesco store at Sunderland Retail Park is currently pending consideration, and, if approved, would meet the qualitative need for additional food and grocery provision in the area towards the north of the City, and would reduce the leakage of convenience expenditure to the Asda store at Boldon

Colliery. Why is not the Council taking the advice of the consultants who wrote that report, ignoring their own development plans by creating further retail units which as far as the report is concerned are not needed within the north of the city?

- Having fast food retailers so close to a school should also be considered, by having such units near children will encourage the chance of obesity.
- Two letters of support have been received welcoming the competition and variety to be offered requesting under cover parking for cyclists/motor cyclists.

### Other Representations

In addition to the representations received from the general public and local independent retailers, three letters of objection have been received as follows:

Driving Test Centre - The management of the nearby centre is concerned that the proposal will inconvenience the operation of the centre with conflicting traffic users.

Peacock and Smith (PS) - planning consultants acting on behalf of their client, Wm Morrison Supermarkets plc (Morrisons) object to the application for the reasons summarised as follows.

Paragraph EC17.1 of PPS4 states that:

Planning applications for main town centre uses that are not in an existing centre and not in accordance with an up-to-date development plan should be refused planning permission where:

- a. the applicant has not demonstrated compliance with the requirements of the sequential approach (policy EC15); or
- b. there is clear evidence that the proposal is likely to lead to adverse impacts in terms of any one of the impacts set out in policies EC10.2 and 16.1 (the impact assessment), taking account of the likely cumulative effect of recent permissions, developments under construction and completed developments.

This application for an out-of-centre foodstore does not satisfy the criteria set out within policy EC17.1 of PPS4. By reason of its out-of-centre location, it is likely that the proposed development will not only draw trade from established centres to the detriment of their vitality and viability but will also draw trade away from the Netto/proposed Morrisons store at Castletown, which is on the edge of an emerging centre.

The applicant has also failed to assess the cumulative impact that the proposed foodstore and proposed Sainsburys store would have on existing and emerging centres. In light of this, PS considers it necessary for the Local Planning Authority to determine both applications together.

Policy EC17 states that planning permission should be refused where the applicant has not demonstrated compliance with the sequential approach, or where there is clear evidence that the proposal is likely to lead to significant adverse impacts.

Furthermore, the application site is currently allocated for Business and Employment purposes. In light of this, and all of the above PS request that the application is refused.

Nathaniel Lichfield and Partners (NLP) Acting on behalf of their clients Terrace Hill the applicants for the Sainsbury's store proposal on the nearby Riverside Road site.

In summary Terrace Hill object to the proposal and consider the development to be inappropriate in that

- It will replicate existing provision in the area and would not meet the identified qualitative need in North West Sunderland to provide a new main foodstore to reduce expenditure leakage outwith the area; and
- It will not meet the needs of local residents, indicated by the significant public opposition to the planning application.

Furthermore the PPS4 Assessment undertaken by GVA Grimley is inadequate in that it fails to provide a robust and credible assessment of the likely trade diversion impacts and does not comply with the sequential approach to site selection.

“On the basis of all of the above we consider that planning permission should be refused for the proposed development.

GVA representing the applicant has provided letters rebutting the points raised in the above objections, all of which will be taken into consideration in making a recommendation on the application.

Full copies of all of the representations received are available for inspection on the Council's planning applications website.

#### Consultee Responses

#### NORTHUMBRIA WATER.

Northumbria Water has no objections to the proposal.

## HIGHWAYS AGENCY

The Highways Agency is satisfied that the development will not generate significant flows of traffic on the Strategic Road Network in the area, and therefore hold no objections to the application being determined.

### Travel Plan

The revisions proposed by the applicants to the Travel Plan appear to be satisfactory. The applicants should now produce a revised Travel Plan before any determination of the application, that includes the proposed revisions described in a letter to the Highways Agency dated 6 April 2011. The Travel Plan will then be conditioned as part of the determination of the application.

## ENVIRONMENT AGENCY (EA)

The EA has no objection to the development as proposed subject to the following conditions being imposed on any planning permission:

Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor installed in accordance with a scheme previously submitted to and approved in writing by the LPA. Roof water shall not pass through the interceptor.

Reason: To prevent pollution of the water environment.

Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

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

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

Reason: The information provided with the planning application indicates that the site has been subject to a number of potentially contaminative land-uses. The environmental

setting of the site is sensitive as it lies on the Magnesian Limestone, a principal aquifer and within Zone III of a currently designated groundwater Source Protection Zone. This condition will ensure that the risks posed by the site to controlled waters are assessed and addressed as part of the redevelopment.

Prior to commencement of development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.

Reason: The information provided with the planning application indicates that the site has been subject to a number of potentially contaminative land-uses. The environmental setting of the site is sensitive as it lies on the Magnesian Limestone, a principal aquifer and within Zone III of a currently designated groundwater Source Protection Zone. This condition will ensure that the risks posed by the site to controlled waters are assessed and addressed as part of the redevelopment.

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

Reason: Unsuspected contamination may exist at the site which may pose a risk to controlled waters.

The EA has also requested that the following informatives be added to any consent;

The applicant or their representatives have provided a copy of the following report in support of their application:

Phase 1 Desk Study Report for the proposed new local centre at North Hylton Road, Sunderland (Jan 2011). Verum Victum Ltd

Information within this document meets the requirements of a Preliminary Risk Assessment (PRA), in respect to addressing the risks to controlled waters only. Information within the report indicates that the site has been subject to a number of potentially contaminant land uses e.g. garage, engineering works. In addition, the site lies within an area of high environmental sensitivity, as the Magnesian Limestone principal aquifer underlies the site and the site lies within Zone III of a currently designated groundwater Source Protection Zone.

The report recommends that further site investigation works should be undertaken to refine the conceptual understanding of the site (investigate identified pollutant linkages) in order to determine the level of risk posed by the site. We acknowledge and agree with the need to undertake these works. The applicant should ensure that they carry out sufficient leachability/groundwater samples in order to assess the risks to the underlying principal aquifer.

With regards to flood risk, providing NWL agree to accept the surface water discharge, it would be NWL who must agree discharge rates or storage requirements.

The EA would recommend that the discharge to sewer remains the same as existing and would encourage the use of SUDS wherever possible and hope they can be incorporated into the design. It is unfortunate of all the SUDS methods referred to, it may be only permeable paving that is utilised. For example it may be useful to consider the use of green roofs, rain water harvesting or swales in car parks which can all be used to help attenuate surface water.

## CITY SERVICES ENVIRONMENTAL HEALTH

### Ground Contamination

The Applicant has submitted an assessment in respect of ground contamination. It is recommended that no works other than investigation works should be carried out on the site prior to the receipt of written approval of the desktop study and any necessary remediation strategy in respect of this matter. This can be controlled by condition.

### Air Quality

The North Hylton area is not identified in the report to be of concern with regards to air quality. As the site is not within an AQMA, a simple-level assessment has been undertaken in accordance with DMRB. The DMRB spreadsheet (version 1.03) has been used to predict concentrations for the base year 2010, and the future year 2012 without the development (DM) and with the development (DS).

There is a small magnitude impact on air quality predicted, and therefore the impact of the proposal in terms of air quality can be described as negligible given that total NO<sub>2</sub> concentrations were below 36 ug/m<sup>3</sup>.

### Noise (operational)

The Applicant has also submitted a noise impact assessment which assesses the likely impact of the proposed development on nearby residential premises. The report relies upon detailed traffic flow data which has been provided by AECOM which indicates that the largest increase in traffic flow is predicted to arise on a Saturday therefore the Saturday traffic flow data has been used to calculate the noise level change with the development in place.

The significance of the noise level differences with and without the development in place is very low (maximum of 1 dB) and is not anticipated to be perceptible to the human ear.

#### Odour (From proposed A3/A5 use)

It is understood that the proposed development seeks permission for the inclusion of restaurant (class A3/A5). Regard must therefore be had to the potential for odorous emissions from the proposed restaurant to give rise to complaints of nuisance or disturbance from nearby residential properties. It is therefore recommended that a suitable and effective extraction / ventilation system which efficiently captures odours and incorporates a grease filtration system shall be provided to serve the restaurant. The extraction system should terminate in a suitable position above eaves level and not be fitted with any restriction at the final opening, such as a plate, cap or cowl.

The applicant must also ensure that suitable provision is made for the disposal of refuse, in particular food waste, to deter the attraction of pests

#### Construction Issues

In view of the close proximity of the proposed development to nearby residential premises the applicant should make application for prior consent in respect of work on construction sites under the Control of Pollution Act 1974, Section 61 to Community and Cultural Services, Environmental Services, Pollution Control Section. Application should be made prior to the commencement of any works. This issue could be controlled by condition should consent be granted.

It is also recommended that on-site operations should not commence before 07:00 hrs and cease at or before 19:00 hrs Monday to Friday inclusive, and 07:30 and 14:00 hrs Saturdays. No works shall be permitted to take place on Sundays and Bank Holidays at any time without prior approval from Environmental Services (Pollution Control). Approval will only be given for such working in exceptional circumstances for example on the grounds of safety and public protection. This could also be controlled by condition should consent be granted.

Provision should be made for the reasonable prevention of dust generation. Where this is not possible adequate dust suppression management should be applied. As such a suitable and constant supply of water (mains supply or water bowsers in sufficient numbers) adequate for dust suppression purposes must be provided to the site. This could also be controlled by condition.

## CITY SERVICES TRANSPORTATION

### 1. Transport Assessment

The applicants Transport Assessment uses traffic generations without discounting for existing trips on the network. In an appeal situation the applicant would be able to demonstrate a lower traffic generation and therefore a lower impact on the network. Taking this factor into account, the effect of the proposals on the existing Castletown Way/N Hylton Rd junction (weekday peaks) can be predicted to be comfortably within

acceptable limits i.e. significantly less than a 5% increase in traffic which is the typical intervention level.

## 2. Access Configuration

Traditional junction spacing guidance has now been relaxed and is given a very low level of importance in the Manual for Streets Revision 2, which would probably be endorsed by an inspector. The proposed access onto North Hylton Rd would therefore be deemed to be acceptable at appeal.

## 3. Pedestrian Access

From the pedestrian safety aspect, the acceptance of the land use for this proposal introduces the risk of more pedestrian crossing movements. A check on recent traffic accidents (three years) indicates nil pedestrian accidents at the existing pedestrian crossing points. The introduction of a Pelican crossing, in conjunction with other potential traffic management changes, may be an appropriate mitigation measure in these circumstances.

## 4. Draft Conditions

If the application is recommended for approval, a suitable Grampian condition should include,

"Details of highway improvements TBA prior to commencement, including pedestrian crossing facilities, bus lay-by relocation, junction alterations and improvements, modifications and extension to waiting restrictions. Highway improvements to be in place prior to occupation."

NOTE The highway improvements would need to be subject to an Agreement under Section 278 of the Highways Act 1980.

Also the applicant has submitted an interim Travel Plan, therefore a condition requiring a more detailed Travel Plan should be included.

## PLANNING POLICY

The proposal is acceptable in principle but requires further modification before it is approved (see comments below). Failure to secure amendments may warrant refusal.

This scheme takes the shopping proposal suggested in the UDP NA12 proposal and applies it to this site. That particular proposal was based on the need to develop facilities in a convenient central location within walking distance of the housing estates at Town End Farm, Hylton Castle and Downhill. It is claimed by the applicant that this proposed development represents the *"best option in spatial terms to provide a new local centre to meet the acknowledged need for new provision in the north west Sunderland area"*.

The Council's 2009 Retail Needs Assessment highlights that there is a need for new convenience retail facilities in the north part of Sunderland. The proposed Tesco store

at the Sunderland Retail Park will provide a new large-scale facility to serve this area. However, this store is located in the eastern part of the sub-area (Zone 1) and therefore is somewhat peripheral to the northwest Sunderland estates (Zone 2). As such there will still be a requirement for appropriately scaled local convenience retail facilities towards the western side of north Sunderland. Whilst there is an identified need for new convenience facilities in the sub-area, the location and format of any new facility has not been determined by the Council. Furthermore, whilst the Retail Needs Assessment states that there is a need for additional supermarket provision in north Sunderland (para. 6.76), it does not make any specific recommendations regarding the need for new comparison goods provision in this area.

**PPS4 compliance:** EC15 – Chapter 6 of the Retail and Planning Statement addresses the sequential test. The applicant has stated that there are no sequentially superior sites available. However, this is in the absence of a defined catchment area - which should have been submitted as part of the planning application - which would aid the identification of any other potential sites. The potential to accommodate the proposed retail units within existing vacant units at Southwick should be explored (EC15.1.d). Whilst it is unlikely that such capacity exists at Southwick Green to fully comply with the sequential test, this issue needs to be appropriately examined and, if no opportunity exists, discounted. However, due to this lack of detail it is considered that the applicant has not clearly demonstrated the absence of other potentially available sites in the catchment and therefore has not addressed the criteria highlighted in Policy EC15 of PPS4.

EC16 – Chapters 7 and 8 of the RPS considers the impact test. The applicant has supplied information regarding the potential impact on existing local centres but this is not clearly presented. Further information should be sought which clarifies this key issue.

Chapter 9 of the RPS highlights regeneration and employment benefits. The applicant utilizes recent Homes and Communities Agency employment densities to establish that the scheme could provide up to 236 FTE jobs. This is a significant level of job creation – higher than that that could be expected from retaining the existing B use - and would be of a type that aligns with the skills base of the local area. The proposed development therefore maximizes employment generation on the site. This is probably a more important factor in assessing the positive benefits of the proposed development than the retention of land for its value for B-class uses in the UDP.

It is noted that a number of objections including three petitions have been submitted in response to this application. These highlight the potential impact of this scheme on established small shops and service outlets in the area. In terms of PPS4 competition is to be *“encouraged so as to provide enhanced consumer choice”*, however in this instance due to the potentially marginal nature of some of these establishments competition could be a material consideration as ultimately despite new jobs being created, the development might have an overall adverse impact on local employment. Consideration could be given to applying conditions to any planning permission so as to

limit the types of uses acceptable in the small separate (A1-A5) units to avoid duplication/ competition and undue adverse impacts. Consideration could also be given to restricting works to combine adjoining units to form larger retail units.

The site is located on a “spur” separated from the bulk of the existing employment area by Castletown Way. The functioning of the main part of the employment area will remain unaffected by this development and would still be capable of supporting employment uses.

### **CONCLUDING COMMENTS**

The emphasis in national planning policy is on achieving sustainable development that promotes regeneration and tackles deprivation. PPS4 encourages local planning authorities to promote social inclusion and address deficiencies in the existing network of centres and areas with poor access to local shops and services. While key deprivation indicators including unemployment levels, mobility and incomes are not necessarily in themselves indicators of retail need, when considered together with other indicators, such as a limited choice of facilities, these may reinforce need for improved facilities in the area. PPS4 advises that particular attention should be given to this measure where proposals are likely to bring significant improvements to the range, choice and quality of everyday shopping to serve the needs of those living in deprived areas.

This is the situation surrounding this application. The 2007 Indices of Multiple Deprivation show that the neighbourhoods to the north of this site are amongst the most deprived in the City. Outside of the existing local centre at Southwick there are no significant modern retail facilities to meet local needs. The supermarket element of this proposal would fill an identified gap in convenience provision in this part of the City, enhance local choice (including options for healthy food), and would be a strong symbol of regeneration in this area. It would make use of a brownfield site, improve the appearance of a derelict site adjacent to a major road corridor and contribute to local employment in an area of significant deprivation. In sequential terms, pending confirmation that the applicant has assessed Southwick Green, it is unlikely that a superior site can be found.

For this development to function as a local centre – as is how it is described - it will need to provide socially useful services such as a post office, bank or chemist. If it was to be developed purely for speculative retail development it could have the character and function of an out-of-centre retail park – such a development would provide less positive local benefits and would have less value in social inclusion terms. The inclusion of a drive-thru restaurant also lessens the feel that this is a local centre. The inclusion of D1 and B1a uses is welcomed but there is no guarantee that these will be taken up.

The applicant states that this development will serve the north west estates so as to accord with UDP policy NA12. However, evidence that has emerged through the preparation of the LDF “Sustainable Neighbourhoods” Topic Paper highlights that these areas are relatively well served by a range of facilities (apart from food retailing). The Bunny Hill Centre has brought new community facilities to the area. The same paper highlights that the actual physical gap in the provision of key facilities equates to the approximate location of this proposed development; in particular that there is limited access to a range of facilities including a pharmacy, non-surcharging ATM machines, doctors surgery and a post office. If some – or all - of these uses could be incorporated into this development, this would effectively fill a gap in the provision of these facilities. In these circumstances, provided further information is supplied which satisfactorily addresses the issues regarding PPS4 requirements, the proposal would be supported from a planning policy perspective.

In principle the supermarket element of this proposal can be supported in policy terms. However it remains that the applicant should supply the following information to ensure that the proposal fully conforms with the requirements of PPS4:-

**EC15:** The applicant has stated that there are no sequentially superior sites available. However, this is in the absence of a defined catchment area. This should be submitted to aid the identification of any other potential sites.

**EC16:** Further information regarding the potential impact on existing local centres.

The letter from GVA dated 29 July 2011 addresses these matters appropriately and as such it is now considered that the proposal is acceptable in Policy terms.

## **PLANNING HISTORY**

The recent planning history of the site reflects its former use as a motor vehicle dealership as per the various applications listed below.

- Erection of various fascia and freestanding non-illuminated and illuminated signage. Ref. No: 00/00947/ADV | Status: Approved
- Erection of a two storey building to provide rental office and workshop with car parking area and creation of new vehicular access onto Riverbank Road. Ref. No: 03/01678/FUL | Status: Approved
- VEHICLE STORAGE AND PARKING AREA Ref. No: 92/01366/UD | Status: UC
- ERECTION OF VARIOUS SIGNS Ref. No: 95/01412/UA | Status: Approved
- Refurbishment of existing motor trading facilities and provision of 2 porta cabins. Ref. No: 99/01448/FUL | Status: Approved

## **POLICY CONTEXT**

In considering this planning application the Local Planning Authority must take into account both:

- The Development Plan; and
- National Planning Policy.

### **The Development Plan**

The Development Plan in this instance comprises:

- a. The North East of England Plan Regional Spatial Strategy to 2021 (RSS);
- b. The saved policies of the City of Sunderland Unitary Development Plan, adopted in 1998 (UDP); and
- c. The UDP alteration number 2 (Central Sunderland), adopted in September 2007.

### **Interpretation of the Development Plan.**

When Local Planning Authorities make their decisions they must take into account the requirements of Section 38(6) of the Planning and Compulsory Purchase Act, 2004, which provides that:

*“If regard is to be had to the Development Plan for the purpose of any determination to be made under the planning acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise”*

Based upon the above, the first test and the statutory starting point in the determination of this planning application is whether the application is “in accordance with the plan”, which is a phrase that has been the subject of debate in the High Court in the context of Section 54A of the Town and Country Planning Act, 1990. In his judgement of 31 July 2000 (R v Rochdale Metropolitan Borough Council ex parte Milne) Mr Justice Sullivan concluded as follows:

*“I regard as untenable the proposition that if there is a breach of any one Policy in a development plan a proposed development cannot be said to be “in accordance with the plan”...*

*“For the purposes of Section 54A it is enough that the proposal accords with the development plan considered as a whole. It does not have to accord with each and every policy therein.”*

The Rochdale judgement is applicable to the interpretation of S38(6) of the 2004 Act and the Council must reach a decision, therefore, as to whether the application under consideration is in accordance with the development plan when the plan is considered as a whole.

This assessment is therefore a balancing exercise with compliance with the Development Plan considered as a whole, as opposed to each and every policy, and that lack of compliance with one, or more, individual policies does not, of itself merit a verdict of non-compliance.

### **Consideration of the Development Plan.**

Taking each element of the Development Plan in turn:

#### **i. Regional Spatial Strategy (RSS)**

The current planning and transport framework for the region is set out in the North East Regional Spatial Strategy issued by the Secretary of State in July 2008. This sets out the long term strategy for the scale, location and phasing of development throughout the North East to 2021 and beyond. The RSS remains part of the development plan notwithstanding the impact of the Court of Appeal decision in R (Cala Homes (South) Ltd) v Secretary of State for Communities and Local Government and another [2011] which provides that the proposal to abolish regional strategies, now embodied in clause 89 of the Localism Bill, is capable of being a material consideration for the purpose of determining planning applications and appeals.

The four key themes of the guidance are:-

- delivering sustainable and inclusive economic prosperity and growth;
- delivering sustainable communities;
- conserving, enhancing and capitalising upon the Region's natural and built environment, heritage and culture; and
- improving connectivity and accessibility within and beyond the Region.

Its spatial strategy for all future developments in the North East is based on the following principles:-

- To promote an urban and rural renaissance
- To contribute to the sustainable development of the Region
- To reflect a sequential approach to land allocations; and
- To include appropriate phasing and plan, monitor, manage mechanisms for new developments.

It is considered that the RSS contains three policies of particular relevance to the consideration of the application proposal, these are:

- RSS Policy 4, which defines a sequential approach to the identification of land for development, with priority given to previously developed land and buildings in sustainable locations within urban areas that are accessible to non-car modes and not at risk from flooding;

The proposed development is considered to be in broad accordance with RSS Policy 4 as the applicant has undertaken sequential testing and submitted the results of this testing for the consideration of the Council. Further consideration of the merits of the sequential testing undertaken is set out later in this report.

- RSS Policy 7, which seeks to reduce demand for travel through improved connectivity and accessibility;

The development is designed to meet a gap in existing retail provision, particularly in the convenience goods sector and may well reduce the demand for travel to facilities outside of and distant from the neighbourhood.

- RSS Policy 18, which seeks a general employment land allocation in Sunderland of 225 hectares through the RSS plan period, but which recognises, also, the need for a review of the supply and demand for employment land and the possible need to de-allocate employment land where this is not required in the 25 year period.

It is considered (and is widely accepted) that RSS Policy 18 is based upon an out of date evidence base and as a result uses an unrealistically high aspirational rate of forecasted employment growth. It is also accepted that the application site is separated

from the North Hylton employment area by Castletown Way and overall the application proposal is unlikely to represent a significant conflict with RSS Policy 18.

## **ii. The saved policies of the City of Sunderland Unitary Development Plan, adopted in 1998 (UDP)**

A number of saved Unitary Development Plan policies are considered to be relevant to the determination of this planning application. These policies are set out below, together with consideration of the proposed development's compliance with each policy.

- R1 which seeks environmentally sustainable development by making the most efficient use of land, energy and other resources and reducing reliance on the private car.
- R2 which seeks to make use of existing resources of infrastructure, land etc.
- R4 which encourages energy saving measures.
- EC1 (iv) which encourages proposals targeted at areas of economic and social deprivation.
- EC3 (iv) which encourages the re-use of land and premises
- SA54 which directs major new commercial and retail developments to specific sites within the City Centre.
- SA69 which refers to the Principal Shopping Area as defined on the proposals map supports shopping development within that area and encourages major retail developments to locate on the sites mentioned in SA54.
- EN10 which states that, where the UDP does not indicate any proposals for change, development will need to be compatible with the principal use of the neighbourhood.
- EN12 which seeks to ensure that proposals will not increase the likelihood of flooding
- B2 which requires the scale, massing, layout or setting of new developments to respect and enhance the best qualities of nearby properties and the locality.
- B19 which seeks to achieve a 'user-friendly' environment in all developments to which the public, including those with impaired mobility, have access.
- CN14 which requires developments prominent from main transport routes to be designed to enhance the image of the City.
- N1 which states that existing employment sites will be retained for employment purposes

### **Retail Policies**

In considering this planning application the Local Planning Authority acknowledges that the adopted Unitary Development Plan is not up-to-date. The original retail policies in the adopted plan were drawn up on the basis of a shopping review undertaken in 1988, which pre dated the publication of PPG6 in June 1996 and PPS 6 in March 2005. However, as is made clear in paragraphs 6.13 and 6.14 of the adopted plan, the advice contained in the then revised PPG6 of June 1996 was reflected in the policies of the adopted plan. The following UDP policies which specifically relate to "shopping" are considered to be relevant:

- S1 which seeks to enhance the City's shopping service by encouraging a wide range of well distributed facilities to meet future shopping and related needs generally based on existing centres. Development elsewhere should result from the appliance of the sequential test and complement existing facilities.
- S2 which encourages proposals which sustain and enhance the vitality, viability and appropriate diversification of centres including the City Centre.
- S3 seeks the retention of older shopping areas.
- S7 which requires a high standard of design for new retail development.
- S13 states that retailing on land allocated for industry and/or mixed use will only be permitted if it accords with Policies EC4 and EC5 of the UDP.

Policy S1, which is saved, seeks to enhance the role of the city's shopping service by encouraging a wide range of attractive, well distributed, facilities to meet future shopping and related needs. Developments - such as the application proposal, which are located outside existing centres - are subject to the sequential test, must be in accordance with other policies in the UDP, and should complement existing facilities. It is considered therefore, that Policy S1 incorporates the sequential approach and some aspects of the impact tests set out in PPS4. So far as the sequential approach is concerned, it is the applicant's case that its proposal is seeking to deliver a new local centre to serve the specific needs of the north west Sunderland area and that such needs cannot be accommodated within any surrounding centre such as Southwick Green. It is confirmed that Southwick Green is the only local centre within the primary catchment area of the application proposal (Zone 2 of the SRNA study, for which GVA estimates it will draw 85 per cent of its convenience turnover) that is specifically identified in Policy S2 of the UDP. It is accepted that there are no opportunities within, or on the edge of Southwick Green which – even applying the principles in relation to scale, format, car parking, provision and the scope for disaggregation - meet the 'available', 'suitable' and 'viable' tests of Policy EC15.1 of PPS4. It is further accepted that the site identified under Policy NA12 of the UDP for convenience retailing and other community/leisure facilities has been subsequently developed for other uses (the Bunny Hill Customer Service Centre) and is no longer available.

However the applicant's argument that '*... the scheme delivers major regeneration benefits which in this instance override the PPS4 sequential approach*' is not accepted

The sequential approach is integral to Policy S1 and a 'gateway' policy under Policy EC17.1.a of PPS4. Nevertheless, it is considered that the application proposal is consistent with the sequential test incorporated in Policy S1 of the UDP.

So far as impact considerations are concerned, RTP consider that the cumulative impact of the application proposal, together with the extant consent for redevelopment of the Sunderland Retail Park, will have some adverse impact on Southwick Green Local Centre. The cumulative effects of the application proposal, together with the extant consent at the Sunderland Retail Park are not fully consistent with the objectives of Policy S1 of the UDP. More weight, however, can be given to the more up to date impact tests set out in PPS4.

Policy S2 seeks to enhance the vitality and viability and diversification of the City's three strategic centres and six local centres, including Southwick Green, and Policy S3 seeks the retention of other local shopping centres. There is concern that the cumulative effects of the application proposal and the extant consent at Sunderland Retail Park are not fully consistent with the objectives of these policies. However, again more weight should be given to the more up to date impact tests set out in PPS4.

Finally, Policy S13, states that retailing on land allocated for industry and/or mixed use will only be permitted if it accords with Policies EC4 and EC5. The application proposal is in clear conflict, therefore, with Policy S13 and EC4, given the allocation of the site for B1, B2 and B8 uses, under site specific Policy NA1.2, and given that Policy EC4 seeks to limit ancillary retail use to 50 sq.m. and defines other A1 use as being unacceptable. It is recognised however, that the former use of the site was not for B1, B2 or B8 purposes and has been vacant for almost three years. Accordingly, although the application proposed causes some degree of conflict with the UDP's retail policies, RTP do not regard the conflict as being significant for the reasons set out in Sections 4 and 6 of their report.

### **Site Specific Policies**

The applicant contends that the evidence base for the UDP employment land policies is dated and has been superseded by PPS4, which is more flexible in its definition of economic development. The applicant then cross-refers to the Employment Land Review (ELR) prepared by Roger Tym & Partners for the Council in September 2009. The latter identifies a potential over-supply of industrial and warehousing land of 197 hectares up to 2026, but it goes on to note that the unconstrained supply of sites larger than 4 hectares amounts to only 54 hectares (paragraph 6.26). Thus, given the ELR's high scenario demand figure of 36 hectares, the over-supply of unconstrained sites falls to 18 hectares. 3.23 Thus, although the ELR recommends the retention of the North Hylton Industrial Estate, it is accepted that the ELR uses OEF employment forecasts, dating from October 2008, which may no longer be achievable, so that demand may fall. Thus, although North Hylton is not a priority for reallocation, RTP do not consider that the application conflicts with the UDP's land use Policy NA1.2, or that its conflict with Policies S13 and EC4, weigh decisively against the application proposal.

### **Policy NA12**

Policy NA12 of the UDP identifies a site at Hylton Lane/Washington Road for convenience retailing in association with community/leisure uses to serve the every-day needs of adjacent housing estates. Much of this site has now been developed for community and medical facilities and is no longer available for a local foodstore. Nevertheless, the allocation of Hylton Lane/Washington Road site reflected an acceptance of a localised gap in provision of convenience goods in north west Sunderland. This gap in localised provision has been reflected, subsequently, in the Council's Retailing and Town Centres Topic Paper 1.5 and in RTP's Sunderland Retail Needs Assessment (SRNA) of September 2009, both of which form part of the evidence base for the LDP process. Thus, Policy CS8.1 of the draft Revised Preferred Options for the Core Strategy DPD supports new convenience and comparison retail provision in Sunderland North and paragraph 12.2 notes that existing retail provision is concentrated in the eastern part of the North Sunderland sub-area, with only a small local centre in the western part of the sub area at Castletown.

The application site lies outside the geographical area covered by UDP Alteration No 2. The latter is relevant to the Terrace Hill application because of its substantially wider catchment area, but it is not relevant to the Verum Victum application.

### **Conclusion in Relation to the Development Plan**

RTP consider that the application proposal is in conflict with the land use and employment policies of the development plan, but that the latter are based on an outdated evidence base. Similarly, it is considered that the cumulative effects of the application proposal, together with the extant consent for redevelopment of the Sunderland Retail Park (ref 08/03336/OUT) means that there is some degree of conflict with the UDP's Shopping Policies. However, that policies in all elements of the development plan pre-date PPS4 and, as a consequence, RTP consider that more weight should be given to the development management tests set out in PPS4, as discussed in Sections 5 and 6 of their report.

### **Emerging LDF**

Work has commenced on the Sunderland Local Development Framework, but the majority of the Local Development Documents are at an early stage of preparation. The City Council published the Draft Revised Preferred Options for its Core Strategy in March 2010 and Policy CS1.2, states that the priority for new convenience retailing will be focused towards Sunderland City Centre, Houghton town centre and Sunderland North; and \_ PolicyCS8.1, which states that new convenience and comparison retail

provision in Sunderland North will be supported. Nevertheless, only limited weight can be given to the draft Revised Preferred Options document.

### **National Planning Policy**

For the purposes of assessing this application, national planning policy guidance, insofar as it relates to town centres and the delivery of sustainable economic growth and development is set, in the main in:

- Planning Policy Statement (PPS) 1 Delivering Sustainable Development
- Planning Policy Statement (PPS) 4 Planning for Sustainable Economic Growth

The application has been assessed against this national planning policy guidance and the Council's consideration of the proposed development's compliance with these policies is set out below.

### **Planning Policy Statement 1**

PPS1 sets out the Government's overarching planning policies on the delivery of sustainable development.

PPS1 states, from the outset in its opening paragraph that:

*"Good planning ensures that we get the right development, in the right place and at the right time."*

In considering this planning application the social and economic impacts of the proposed development are particularly relevant. In this regard paragraph 23 of PPS 1 is particularly relevant:

Paragraph 23 of PPS1 states that in promoting a strong and productive economy that brings jobs and prosperity to all, planning authorities should, amongst other things:

- Recognise that economic development can deliver environmental and social benefits;
- Recognise the wider sub-regional, regional or national benefits of economic development alongside any adverse local impacts;
- Ensure that suitable locations are available for industrial, commercial, retail, public sector and leisure developments, so that the economy can prosper;
- Provide for improved productivity choice and competition; and
- Identify opportunities for future investment to deliver economic objectives.

PPS1 also states (paragraph 29) that;

*"In some circumstances, a planning authority may decide in reaching a decision to give different weight to social, environmental, resource or economic considerations. Where this is the case, the reasons for doing so should be explicit and the consequences considered"*.

In accordance with PPS1 the weight afforded to each aspect of the consideration of this proposal will be fully explained in this report.

### **Planning Policy Statement 4 (PPS4)**

Central Government's overarching objective, which it promotes through PPS4, is sustainable economic growth, so that one of the Government's main aims for planning is to promote the vitality and viability of town centres. To do this the Government wants:

- New economic growth and development of main town centre uses to be focused in existing centres, with the aim of offering a wide range of services to communities;
- Competition between retailers and enhanced customer choice through the provision of innovative and efficient shopping, leisure, tourism and local services in town centres; and
- Conservation of the historic, archaeological and architectural heritage of centres.

The planning application under consideration is for a major retail development which is a main town centre use on an out of centre site. Given the complex nature of the technical data submitted in support of this planning application the Council has appointed specialist retail planning consultants (Roger Tyms & Partners) to scrutinise the information submitted to address the Development Management Tests set out in PPS4 relating to impact upon existing centres and sequential testing and to advise the Council accordingly. RTP previously undertook the city-wide Sunderland Retail Needs Assessment (SRNA) in September 2009 to inform the emerging Local Development Framework.

RTP have subsequently produced a report: Audit of Applicant's Retail and Planning Statements. That report has informed the analysis and conclusions reached in this report regarding site selection and the impact tests. Of particular relevance to the consideration of this planning application are the following PPS 4 policies:

EC10: Determining Planning Applications for Economic Development.

EC14: Supporting evidence that should accompany planning applications for main town centre uses.

EC15: The consideration of sequential assessments for planning applications for main town centre uses that are not in a centre and not in accordance with an up to date development plan.

EC16: The impact assessment for planning applications for main town centre uses that are not in a centre and not in accordance with an up to date development plan.

EC17: The consideration of planning applications for development of main town centre uses not in a centre and not in accordance with an up to date development plan.

#### **Evaluation of the Application against PPS4 EC10**

Policy EC10.1 advises that Local Planning authorities should:

*“adopt a positive and constructive approach towards planning applications for economic development”* and that

*“planning applications that secure sustainable economic growth should be treated favourably.”*

Policy EC10.2 of PPS4 requires that all planning applications for economic development, including retail, should be assessed against five criteria. These are:

- the impact on economic and physical regeneration in the area including the impact on deprived areas and social inclusion objectives; and
- impact upon local employment

RTP confirm that the application proposal would have a positive impact in relation to tests d and e of Policy EC10.2, mainly through the provision of jobs in a deprived part of Sunderland. It is further accepted that the application proposal will constitute a more intensive use of the application site than its previous use. It is estimated that the application proposal would create net additional employment in North West Sunderland of 140 full time and part time jobs and that these jobs will be suitable to the skills profile of those seeking to gain employment.

Policy EC10.2 requires all planning applications for economic development to be assessed against the following impact considerations:-

(a) Limitation of carbon dioxide emissions and to minimise vulnerability and provide resilience to climate change

(b) Accessibility of proposal by a choice of a means of transport and the effect on local traffic levels and congestion

The application proposals include measures to ensure ease of access by

sustainable transport modes, such as walking and cycling, these include:

- (c) Quality of the design
- (d) Impact on economic and physical regeneration in the area

The planning statement supporting the application demonstrates that the proposal is aimed at primarily serving local needs although there will be some degree of passing trade that will benefit the development. The Transportation Assessment concludes that the site location is highly accessible and sustainable for non-car modes including walking, cycling and public transport (buses). Proposed design measures including appropriate routes through the application site for walking and cycling, management of vehicles and provision of appropriate cycle parking facilities will encourage non-car use. A Travel Plan Framework has also been prepared in order to encourage and maximise non-car use and encourage modal shift. A successful Travel Plan will ensure that the proposed scheme is truly sustainable. An assessment of the potential impacts of the proposed development on local air quality arising from additional vehicular movements associated with operational phases of development identifies that there will be a negligible impact on sensitive receptors (residential dwellings) to the immediate north of the site beyond North Hylton Road. The application site is not in an existing air quality management area and the proposed development will not generate any increases in concentrations of emissions (particulates). An assessment has been prepared in support of the application proposals and sets out the overall sustainable design approach and energy efficiency strategy for the proposed development. The assessment identifies the current technologies and design-related initiatives such as water minimisation, building orientation and energy reduction which will ensure that the scheme is sustainable. The proposals will ensure a high quality development which will make a valuable contribution to the local and wider area. The design is considered to be entirely appropriate to the function of the development and the site context, delivering a significant qualitative improvement on the existing vacant site. Appropriate landscaping and boundary treatment will also significantly improve the appearance of the site, which occupies a visually prominent gateway site when arriving into North Sunderland from the west. The design of the scheme seeks to minimise the risk of crime. Overall the proposal represents a more intense use of the site than its previous (and current unauthorised) occupation and presents a more fitting form of development on this prominent site. The employment opportunities offered have already been covered in this report.

In view of the above findings, it is considered that the application proposal has a positive impact in relation to each of the impact tests contained in Policy EC10.2 of PPS4.

### **Evaluation of PPS4 Policies EC15, EC16 and EC17**

Policy EC14 of PPS4 sets out the supporting evidence that should accompany planning applications for main town centre uses and requires that:

- vi a sequential assessment be undertaken under Policy EC15 for planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date development plan (EC14.3); and that
- vii an assessment of impacts be undertaken under Policy EC16.1, for planning applications for retail and leisure developments over 2,500 sq.m. gross floorspace, or any other local floorspace threshold set in the development plan process, that are not in an existing centre and are not in accordance with an up-to-date development plan (EC14.4).

The application scheme is not allocated for retail development in an up-to-date development plan and it concerns the redevelopment of an out-of-centre vacant employment site. Thus, RTP consider that the applicant is required to undertake both a sequential assessment and an impact assessment.

## **Policy EC15 – The Sequential Approach**

### ***The Requirement of PPS4***

In planning for their centres, Policy EC5 of the PPS4 requires that LPA's should identify an appropriate range of sites to accommodate the identified need; such sites should be identified through a sequential approach to site selection, identifying sites that are suitable, available and viable. Importantly, when considering sites with similar locational characteristics, LPA's should give preference to sites that best serve the needs of deprived areas.

For retail purposes, EC5.2 identifies the following order for considering sequential sites:

- i locations in appropriate existing centres;
- ii edge of centre locations, with preference given to sites that are, or will be, well connected to the centre; and
- iii out-of-centre sites, with preference given to sites which are, or will be, well served by a choice of means of transport, and which are closest to the centre.

Insofar as development management is concerned, Policy EC15 sets out the requirements for the consideration of sequential assessments for planning applications for main town centre uses that are not in a centre, and not in accordance with an up-to-date development plan. The policy requires that in considering sequential assessments, LPAs should:

- i ensure that sites are assessed for their availability, suitability and viability;
- ii ensure that all in-centre options have been thoroughly assessed before less central sites are considered;
- iii ensure that where it has been demonstrated that there are no town centre sites to accommodate the proposed development, preference is given to edge of centre sites that are well connected to the centre by means of easy pedestrian access; and
- iv ensure that in considering sites in or on the edge of existing centres, developers and operators have demonstrated flexibility in terms of:
  - scale:** reducing the floorspace of their development;
  - format:** more innovative site layouts and store configurations such as multi-storey developments with smaller footprints;
  - car parking provision:** reduced or re-configured car parking areas; and
  - the scope for **disaggregating** specific parts of a retail or leisure development.

In respect of the latter, the policy advises that LPAs should not seek '*arbitrary subdivision of proposals*' and, in considering whether flexibility has been demonstrated, LPAs should take into account any genuine difficulties which the applicant can demonstrate are likely to occur in operating the proposed business model from a sequentially preferable site.

In applying the sequential approach in the context of development management the onus is firmly on the applicant to demonstrate to the LPA that all in-centre and 'edge-of-centre' options have been thoroughly investigated, having applied the necessary flexibility.

An important consideration in applying the sequential approach is a consideration of the

scale and form of development that is needed, as set out in the checklist under paragraph 6.52 of the Practice Guidance.

RTP concluded that the scale of the application proposal is justified on the basis of quantitative and qualitative need; nevertheless they also consider, that the applicant should demonstrate flexibility in applying the sequential approach.

### ***Review of Applicant's Assessment***

The applicants have argued that they are seeking to deliver a new local centre to serve the specific needs of the north west Sunderland area, and that such needs cannot be accommodated within any surrounding centre, such as Southwick Green. GVA's argument that the regeneration benefits associated with the application proposal '*...override the PPS4 sequential approach*' is rejected. Further GVA makes no attempt to assess specific sites and premises within the primary catchment area of the proposal (Zone 2 of the SRNA). Nevertheless, RTP note in their review of the Terrace Hill application at Riverside Road, the supporting assessment which looked at six sites, within the primary catchment area (Zones 1 and 2 of the SRNA) of that scheme. Four of those sites evaluated are in Zone 2. The first three of these sites – Southwick Social Club, St Hilda's Parish Centre, and Land adjacent to the North Star – are each less than 0.2 hectares in size. This compares to a site size for the Verum Victum application proposal of 1.57 hectares, and therefore RTP conclude that they are not suitable for a new local centre, and that it would go beyond the flexibility requirements of PPS4 to seek to channel the application proposal to any of these sites.

The fourth site is the UDP allocation at Hylton Lane, which is largely developed and no longer available to provide even for a small supermarket on its own, without any associated comparison and service units. The potential for disaggregation of the Verum Victum application proposal has also been considered. It is noted however, that there are only four vacant units in Southwick Green Local Centre, and whilst it might be technically possible for the two smallest A1 units (each of 96 sq.m gross) to be accommodated in vacant units in Southwick Green within a reasonable period of time, RTP consider that such disaggregation is likely to represent an arbitrary sub-division of the application proposal, which is not consistent with the PPS4 guidance.

### **Conclusions in Relation to the Sequential Approach**

As a consequence, RTP conclude that there are no sites, or vacant premises within the application's PCA which meet the available, suitable and viable tests of Policy EC15.1 of PPS4. Moreover, there is merit in the applicant's argument of a locationally specific need to serve the residential estates in the western part of North Sunderland, many of whose residents are not accessible to Southwick Green. In these circumstances, we can conclude that the application proposal is in accord with Policy EC15.1 of PPS4.

### **Policy EC16 Impact Tests**

Policy EC16.1 sets out the six impact tests which planning applications for town centre uses must be assessed against; these are:

- i 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;
- ii the impact of the proposal on town centre vitality and viability, including local consumer choice and the range and quality of the comparison and convenience retail offer;
- iii the impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan;

- iv the impact of the proposal on in-centre trade/turnover and on trade in the wider area, taking account of current and future expenditure capacity in the catchment area;
- v if located in, or on the edge of a town centre, whether the proposal is of an appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the hierarchy of centres; and
- vi any locally important impacts on centres under policy EC3.1.e.

#### ***EC16.1.a Impact on Committed and Planned Investment***

RTP agree with the thrust of the conclusions reached by GVA in paragraphs 7.2 to 7.5 of its Retail and Planning Statement and note that the application would represent a private investment of around £10m, in an area which has long suffered from multiple deprivation. Furthermore, RTP are not aware of any firm proposals or planning applications for investment or development in Southwick Green, and agree that the application will have no effect on investment prospects in the City Centre. Thus, given that there is sufficient expenditure capacity to support both of the live applications, in addition to the commitment to redevelop the Sunderland Retail Park, there is no clear evidence of any significant adverse impact in relation to Policy EC16.1.a of PPS4.

#### ***EC16.1b Impact on town centre vitality and viability and EC16.1d Impact on town centre trade and turnover***

Tests b and d of Policy EC16.1 are closely inter-related and are considered together. Table 10b of GVA's Appendix 2 sets out its assessment of cumulative impact in the convenience goods sector, taking account of the commitment to redevelop the Sunderland Retail Park. However, GVA provides no comparable table for the comparison goods sector; nevertheless, it does emphasise that the comparison goods turnover of the application proposal is estimated at only £6.8m, and that much of this will be derived from the City Centre, and out of centre retail parks, but with negligible percentage impacts. GVA also asserts that Southwick Local Centre does not perform a main comparison function and will not suffer from any material level of comparison goods trade diversion.

Thus, the focus of GVA's work is in the convenience sector. At first sight, there is a high cumulative percentage impact on the Tesco Metro store in Sunderland City Centre, but inspection of Table 10b reveals that it will continue to overtrade by 80 per cent following the cumulative diversion of convenience goods. Of more concern, is the projected £0.7m cumulative diversion from the Iceland store in Southwick District Centre, most of which GVA attributes to diversion to the new local centre application scheme, rather than as a result of diversion to the Tesco commitment. RTP consider, however, that GVA is likely to have overestimated the trade diversion from Iceland to the application scheme, but underestimated the diversion from Tesco. Indeed, it is noted from Table 4.2 of NLP's PPS4 Addendum Report of 18th April 2011, that the cumulative convenience diversion from Southwick Green to Tesco, J Sainsbury at Riverside Road and the North Hylton Local Centre application is only £0.6m, compared to the GVA estimate of £0.7m for Tesco and the Local Centre alone. Moreover, although GVA asserts (paragraph 8.38) that the main trade impacts arising from the proposed foodstore will be on existing out of centre foodstores at Hylton Riverside i.e. the Aldi and Netto stores on Wessington Way, it provides no quantitative estimate of diversions from these stores. RTP are slightly concerned therefore, that GVA's assessment of cumulative trade diversion is not as robust as it should be.

Nevertheless, taking account of the cumulative analysis presented by NLP in its PPS4 Addendum, in relation to both convenience and comparison goods, and that presented by GVA in relation to convenience goods, RTP consider that there is no 'clear evidence'

to suggest that the cumulative impact on Southwick Green's turnover will be 'significant' for the purposes of Policy EC16.1.d. Moreover, RTP disagree with NLP's statement that the comparison goods impact on the Verum Victum application is likely to be higher than the comparison goods impact of the proposed J Sainsbury store at Riverside Road (paragraph 4.28 of NLP's PPS4 Addendum).

Furthermore, given the relative robustness of Southwick Green, and the low level of vacancy which exists, RTP conclude, similarly, that there is no 'clear evidence' to suggest that the cumulative impact on the local centre's overall vitality and viability will be 'significant' for the purposes of Policy EC16.1.b of PPS4.

### ***EC16.1c Impact on allocated sites outside town centre***

Although the UDP identifies some general localities which could potentially benefit from additional local convenience provision, there are no specific allocated sites outside town centres, other than a very small site of 1 hectare at Hylton Lane/Washington Road, under Policy NA12. This site has already been substantially developed for medical and other community facilities and, as a consequence, it is considered that criterion c. of Policy EC16.1 is not applicable to the application proposal.

### ***EC16.1.e Scale***

The application site is in an out of centre location for the purposes of PPS4, so that criterion e. of Policy EC16.1 does not apply.

### ***EC16.1.f Other Locally Important Impacts***

The LDF process is not sufficiently advanced for locally important impacts to have been defined, so that criterion f. of Policy EC16.1 does not apply to the application proposal.

## **Policy EC16 – Conclusion**

6.25 RTP consider that the two live application proposals at Riverside Road and North Hylton, together with the extant consent for redevelopment of the Sunderland Retail Park, are likely to cause a cumulative diversion of trade from Southwick Green Local Centre of around £0.7m. Such a diversion of trade is likely to cause a some adverse impact on the Local Centre's vitality and viability, but there is no clear evidence to suggest that this will be 'significant' for the purposes of Policy EC17.1 of PPS4. No other local centre will be materially affected by the Verum Victum application.

RTP's findings in relation to quantitative and qualitative need, which suggest that there is sufficient expenditure capacity to support two new large food superstores in North Sunderland, together with the Local Centre proposal at North Hylton, reinforces our conclusion that impact on the local centres at Southwick Green, is unlikely to be significant for the purposes of Policy EC17.1.b of PPS4. Thus, given that the cumulative impacts identified in relation to the tests set out in Policy EC16.1.b and d. are likely to be adverse, but not significantly adverse, the decision maker has to enter the balancing exercise incorporated in Policy EC17.2 of PPS4, which is addressed later.

## **Conclusion in Relation to the Development Plan**

It is considered that the application proposal is in conflict with the land use and employment policies of the development plan, but that the latter are based on a dated evidence base, so that the conflict is not determinative. Similarly, the cumulative effects of the two live application proposals, together with the extant consent for redevelopment of the Sunderland Retail Park (ref 08/03336/OUT), causes some degree of conflict with the UDP's Shopping Policies, but RTP do not regard the degree of conflict to be significant. Moreover, it is accepted that the retail and employment policies of the

development plan pre-date PPS4 and, as a consequence, more weight should be given to the development management tests set out in PPS4.

### **Conclusion in Relation to Need**

Need is no longer a development management test for the purposes of PPS4. Nevertheless, RTP can conclude that there is sufficient quantitative need to support the two live application proposals at Riverside Road and at North Hylton, together with the extant consent at the Sunderland Retail Park, and that the application is further justified on the basis of qualitative need. This finding has implications for the application of the sequential approach and for the evaluation of potential impacts on town centres.

### **PPS4 Tests**

#### ***Decision Making Framework***

Policy EC17 of PPS4 sets out the Government's guidelines for considering planning applications for town centre uses. Paragraph EC17.1 explains that applications for main town centre uses that are not in an existing centre and not in accordance with an up-to-date development plan should be refused planning permission where:

- a) the applicant has not demonstrated compliance with the requirements of the sequential approach (Policy EC15); or
- b) there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any one of the impacts set out in Policies EC10.2 and EC16.1 (the impact assessment), taking account of the likely cumulative effect of recent permissions, developments under construction and completed developments (our emphasis).

Where no significant adverse impacts have been identified under Policies EC10.2 and EC16.1, Policy EC17.2 of PPS4 advises that planning applications should be determined by taking account of:

- a) the positive and negative impacts of the proposal in terms of Policies EC10.2 and 16.1 and any other material considerations; and
- b) the likely cumulative effect of recent permissions, developments under construction and completed developments.

Finally, Policy EC17.3 states that, '*judgements about the extent and significance of any impacts should be informed by the development plan*'. Policy EC17.3 also notes that recent local assessments of the health of town centres and any other published local information are also relevant.

### **Overall Assessment**

#### ***Regeneration and Employment Impacts***

RTP consider that the application proposal would have a positive impact in relation to tests d. and e. of Policy EC10.2, mainly through the creation of jobs in a deprived part of Sunderland and further accept that the application proposal will constitute a more intensive use of the application site than its previous use. Indeed, they estimate that the application proposal would create net additional employment in North West Sunderland of 140 full-time and part-time jobs and that these jobs will be well suited to the skills profile of those seeking to gain employment. As a consequence, RTP consider that the application proposal scores positively in relation to tests d. and e. of Policy EC10.2 of PPS4.

#### ***Sequential approach***

There is no sequentially preferable opportunity within the application proposal's primary catchment area (i.e. within or on the edge of Southwick Green) which

meets the 'available', 'suitable' and 'viable' tests, even allowing for the flexibility required by Policy EC15.1.d. As a consequence, it is considered that the applicant has demonstrated compliance with the sequential approach

#### *Town Centre impacts*

RTP consider that the two live application proposals at Riverside Road and North Hylton together with the extant consent for redevelopment of the Sunderland Retail Park are, likely to cause a cumulative diversion of trade from Southwick Green Local Centre of around £0.7m. Such a diversion of trade is likely to cause a some adverse impact on the Local Centre's vitality and viability, but there is no clear evidence to suggest that this will be 'significant' for the purposes of Policy EC17.1 of PPS4. No other local centre will be materially affected by the Verum Victum application.

RTP's findings in relation to quantitative and qualitative need, suggest that there is sufficient expenditure capacity to support two new large food superstores in North Sunderland, together with the Local Centre proposal at North Hylton, reinforce their conclusion that impact on the local centres at Southwick Green, is unlikely to be significant for the purposes of Policy EC17.1.b of PPS4. Given that the cumulative impacts identified in relation to the tests set out in Policy EC16.1.b and d. are likely to be adverse, but not significantly adverse, the decision maker has to enter the balancing exercise incorporated in Policy EC17.2 of PPS4, which is addressed in the final section.

#### *Overall conclusion*

RTP consider that the application proposal passes the sequential test, and is consistent with Policy EC15.1 of PPS4. They also consider that there is no 'clear evidence' of any 'significant' adverse cumulative impact in relation to any of the tests set out in Policies EC10.2 and EC16.1. Nevertheless, there will be some adverse cumulative impact on Southwick Green Local Centre, and possibly on some of the parades of shops in nearby residential areas which do not enjoy policy protection under PPS4. In these circumstances, the decision maker has to enter the balancing exercise of positive and negative impacts identified in Policy EC17.2.

The main benefits associated with the application proposal are the creation of a net gain of 140 jobs (full time and part time) in North West Sunderland, with the jobs well suited to the skills profile of the local labour market. The application will also secure the beneficial use of a previously developed site which has been vacant for almost three years. Given the acute levels of deprivation which persist in North West Sunderland, it is considered that the employment and positive onsite regeneration benefits of the application proposal more than offset the effects of the trade diversion from Southwick Green Local Centre, and nearby parades of shops. There is, therefore, no retail policy reason for refusal of the application. However RTP urge the imposition of strict conditions in relation to:

- i the total gross floorspace of the application proposal, which should be limited to 4,987 sq.m, including any mezzanine floorspace used for retail purposes;
- ii the net sales area of the foodstore should be limited to 1,283 sq.m (including any mezzanine floorspace used for sales);
- iii the aggregate net sales area of units B to G should be limited to 1,313 sq.m (including any mezzanine floorspace used for sales);
- iv Units H and J should be limited to Use Classes A2, A3 and A5;
- v Units N and P should be limited to Use Classes B1a or D1;
- vi Unit M should be limited to Class A3 use.

The purpose of these conditions is to safeguard the vitality and viability of Southwick Green Local Centre, and to seek to ensure that the proposal provides for the range of uses expected of a local centre in the PPS4 Annex B definition. In addition

The applicant should be encouraged to promote uses such as a pharmacy, a doctor's surgery, a post office and the provision of a non-surcharging ATM. Finally, RTP regard the provision of a signalised pedestrian crossing across North Hylton Road to be very important, given the need to promote accessibility by foot, to the residents of Hylton Red House.

These matters have been taken up with the agents for the scheme and their response is being considered.

#### Comment

The application is being considered further including in the context of representations received from the general public and the various commercial interests. An addendum report which will include an officer recommendation will be circulated in advance of the committee meeting on 25 August 2011.

**RECOMMENDATION: Report to follow**