

THE TOWN AND COUNTRY PLANNING ACT 1990

AND

THE ACQUISITION OF LAND ACT 1981

THE COUNCIL OF THE CITY OF SUNDERLAND

(SUNDERLAND RETAIL PARK)

COMPULSORY PURCHASE ORDER 2011

DRAFT
STATEMENT OF REASONS

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1. INTRODUCTION

- 1.1 This document is the Statement of Reasons for a compulsory purchase order entitled The Council of the City of Sunderland (Sunderland Retail Park) Compulsory Purchase Order 2011 ("the Order"). The land and interests in land included in the Order are referred to as ("the Order Land"). The Order has been made under section 226(1)(a) of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.
- 1.2 The Order has been made by the Council of the City of Sunderland ("the Acquiring Authority"), the local planning authority for the area within which the Order Land is situated. The Order Land is situated at Sunderland Retail Park, Sunderland ("the Retail Park").
- 1.3 The Acquiring Authority resolved to make the Order on 16 February 2011 for the purposes of facilitating the carrying out of development, re-development or improvement of land by constructing a new retail superstore, four additional retail units, carrying out improvements to existing retail units and improving the Retail Park access ("the Scheme"). The Acquiring Authority think that the development and/or redevelopment is likely to contribute to the achievement of the promotion and/or improvement of the economic, social and environmental well-being of its area. It is satisfied that there is a compelling case in the public interest to exercise compulsory powers and to acquire the private property interests contained in the Order.
- 1.4 The Scheme will deliver the comprehensive re-development of this currently run-down and unattractive Retail park which is situated in a prominent location on the main approach to the City Centre area from the north. Despite offering excellent accessibility to public transport links, the Retail Park offers limited retail choice and suffers from long standing vacancies, dilapidated units and a degraded environment. In its existing condition the Retail Park fails to provide a good shopping and leisure environment and presents a poor quality gateway to the City of Sunderland.
- 1.5 The proposed Scheme will secure the physical regeneration of the Retail Park through private sector investment and generate some 400 jobs in an area known to suffer from economic and social disadvantage. It is also considered that the development of this brownfield site will contribute to the wider regeneration of Monkwearmouth and central Sunderland, and to act as a catalyst for further transformational change.
- 1.6 Accordingly, the Acquiring Authority thinks that the Scheme is likely to achieve the promotion and/or improvements of the economic, social and environmental well-being of the area, as is explained later in this Statement of Reasons.

- 1.7 The Acquiring Authority's partner in the Scheme is Tesco Stores Limited ("the Developer"), who will be responsible for the Scheme's delivery. The Scheme was originally being promoted by Mountview Securities Limited ("Mountview") on the Developer's behalf, but Mountview recently disposed of its interest in the Site to the Developer who has essentially stepped into Mountview's shoes in progressing the Scheme, including land acquisitions, planning matters and agreements with the Acquiring Authority.
- 1.8 This Statement of Reasons has been prepared in accordance with the advice given in paragraphs 35 and 36 and Appendix R of ODPM Circular 06/04: Compulsory Purchase and the Crichel Down Rules ("the Circular").

2. **DESCRIPTION OF THE ORDER LAND**

Sunderland Retail Park

- 2.1 The Retail Park is situated to the north of the River Wear and the City Centre of Sunderland, Tyne and Wear.
- 2.2 The site of the Retail Park, which extends to 6.23 ha, is located approximately 1km to the north of Sunderland city centre. The site is bounded to the west by Newcastle Road, to the south by Monk Street, Shore Street, Roker Avenue and to the west and north by Portobello Lane.
- 2.3 The Retail Park comprises of 12 retail units, a bowling alley and former night club, a McDonalds "drive thru" restaurant and a former Reg Vardy car showroom. The site contains a mixture of buildings with varying scales, design and construction materials. Only three of the retail units are currently occupied (one of which is sub-divided) , the remaining units are vacant with closed security grills and removed advertisement signs. Of the other units, only the Macdonalds and Sunderland Bowl remain in occupation. The general visual appearance is therefore poor. There is also a lot a graffiti which exacerbates this poor appearance.
- 2.4 Ten of the retail units are situated in a linear arrangement which runs north/south along the eastern boundary of the application site. Service yards for the units are accessed from Portobello Lane. The entrance to the retail units faces onto the main central car parking area of the site.
- 2.5 These ten retail units are split into two blocks as shown on the existing site layout plan. Only one of the northern blocks of six units is currently occupied by Netto, the remaining units are vacant.
- 2.6 The southern block comprises four units and only one of these units is currently occupied by Topps Tiles.

- 2.7 The retail units along the eastern boundary of the Retail Park are all constructed in the same materials but vary in size. To the north of the Retail Park are visible signs of vandalism to the walkway canopy, fly tipping and also graffiti to the walls of the retail units.
- 2.8 The remaining retail block is situated within the centre of the Retail Park and has a similar design to the other retail units. The unit has been divided into two being occupied by Farmfoods and Blockbuster. The entrance to both stores is taken from the northern elevation facing towards the car park.
- 2.9 The existing buildings within the Order Land are also of generally poor quality and lack any significant attractiveness that would contribute towards the improvement and regeneration of Sunderland. There are large areas of hard standing and car parking across the Retail Park with very few landscaped features. The public realm around the Order Land is also of a very poor quality.
- 2.10 To the south west of the Retail Park is a McDonalds "Drive Thru" restaurant. Entrance into the restaurant is taken from the northern elevation and the restaurant has its own area of parking surrounding the building.
- 2.11 To the western boundary of the Retail Park adjacent to the entrance off Newcastle Road is the former Reg Vardy car show room. This building is three stories and constructed of metal cladding with a matt silver finish and glazing panels. This unit has a separate access point off Newcastle Road to the north of the entrance to the retail park and can also be accessed from the Retail Park internal road network.
- 2.12 To the north west of the Retail Park is the bowling alley and former nightclub which is a large, dated building constructed of facing brickwork, metal cladding with some wooden panelling. The bowling alley is built on stilts with the car parking area underneath.
- 2.13 To the west of the Retail Park beyond Newcastle Road is a mix of single storey and two storey terraced residential properties and some multi storey residential blocks. Further to the south west of the site is the Stadium of Light, home to Sunderland AFC.
- 2.14 Immediately to the south of the Retail Park is an area of industrial units. Some of the units are single storey flat roof red brick/ metal clad buildings whilst older multi storey red brick buildings with pitched roofs have also been utilised for industrial space. The area beyond Roker Avenue has some larger comparison retail stores such as Floors to Go and Franks Furniture Store. To the east, the Allied Carpet store is now operated by Aldi.
- 2.15 There are also two listed buildings to the east of the Retail Park; the church of All Saints and the vicarage of All Saints. In between the site and the listed

buildings is an area of residential properties comprising of two and three storey dwellings and a large two storey brick storage warehouse which is currently occupied by Low Fell Removals.

- 2.16 To the north of the church of All Saints is an area of housing comprising of a mixture of one, two and three storey dwellings with a variety of styles including detached, semi detached and terraced.
- 2.17 To the north of the site is the Metro Line with the Stadium of Light Metro station and a further area of parking which provides a park and ride scheme into Sunderland city centre. Beyond the parking area is Portobello Lane.
- 2.18 No part of the Retail Park is within any conservation area, nor does it contain any nationally listed buildings, although as described above, there are two listed buildings to the east of the Retail Park; the church of All Saints and the vicarage of All Saints.
- 2.19 A plan showing the location and extent of the Retail Park is attached to this Statement at **Appendix 1**.

The Order Land

- 2.20 The Order Land, which is shown shaded pink and edged red on the map that accompanies the Order, comprises;
 - 2.20.1 the retail block in the centre of the Retail Park site that is divided and occupied by Farmfoods Limited and Blockbuster Entertainment Limited;
 - 2.20.2 the unit to the south west of the site which is occupied by Macdonald's restaurants limited as a "drive thru" restaurant; and
 - 2.20.3 the unit occupied by Netto Foodstores Limited on the eastern side of the site.
- 2.21 The Macdonald's unit has its own car parking area whilst the Farmfoods/Blockbuster and Netto units share car parking with the other units within the Retail Park.
- 2.22 The Farmfoods/Blockbuster and Netto units are of brick construction with metal cladding. They are around three storeys in height, with a flat roof. The Macdonald's unit is also of brick construction containing large windows. It has a flat roof which is concealed by a low tiled hipped roof around the edge of the building and is single storey.

Transport

- 2.23 The Retail Park lies adjacent to major bus routes and has good public transport accessibility to the surrounding areas. The nearest bus stops for travel to the south (into Sunderland city centre) are located adjacent to the western boundary of the Retail Park on Newcastle Road and there are also bus stops located on North Bridge Street.
- 2.24 For travel to the north of the Retail Park the nearest bus stop is located on North Bridge Street. There are also bus stops to the south and east of the Retail Park which provide bus links to the residential areas to the north and east.
- 2.25 To the north of the Retail Park is the Stadium of Light Metro station which links the Retail Park to the wider Tyne and Wear region. At present there is no direct link from the Metro station into the Retail Park. Access to the Metro Station is taken via Portobello Lane to the east of the Retail Park.
- 2.26 The main vehicular access into the Retail Park is from Newcastle Road and this access is controlled by traffic signals. There is a smaller junction that provides access into the Retail Park from Shore Street/Roker Avenue to the south. Service access for the retail units within the Retail Park is taken from Portobello Lane.
- 2.27 Car parking on the Retail Park is available for the customers of the retail park. At present there are 463 car parking spaces including the provision of disabled customer parking bays. There is no car park management scheme currently used on the Retail Park.

Accessibility

- 2.28 The Retail Park lies within an urban area of Southwick approximately 1km from Sunderland City Centre. It is surrounded by large areas of residential development making it an accessible destination for a large number of people as detailed in the following sections.

Pedestrian links

- 2.29 Pedestrian access into the Retail Park can be taken adjacent to the vehicular access points from Newcastle Road and Shore Street/Roker Avenue. A pedestrian walkway is also provided from the east of the Retail Park linking the retail units and Portobello Lane. This walkway runs between the northern retail block and southern retail block and is partially covered by a canopy.

Environmental Quality

- 2.30 The majority of the Retail Park is dominated by medium to large commercial units of which only three (one of which is subdivided) of the twelve retail units on the site are occupied. The site currently shows signs of vandalism. This

combined with the high level of vacant units decreases the perception of safety within the Retail Park.

- 2.31 The remainder of the Retail Park is car parking with very limited landscaping of limited amenity value.

3. THE CPO POWERS

- 3.1 Section 226(1)(a) of the 1990 Act provides a local planning authority with the power to compulsorily acquire land where an acquiring authority thinks the acquisition will facilitate the carrying out of development, redevelopment, or improvement on or in relation to the Order Land. The power in section 226(1)(a) must only be used where the acquiring authority thinks the development, redevelopment or improvement is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of its area.
- 3.2 ODPM (now DCLG) Circular 06/2004 provides guidance to acquiring authorities on the use of compulsory purchase powers and the Council have taken full account of this guidance in making this Order. For the reasons set out in this Statement of Reasons, the Acquiring Authority thinks that the acquisition of the Order Land will facilitate the development, redevelopment and improvement of the Order Land. It is also considered that the redevelopment will lead to an improvement in the environmental, social and economic well being of the area as will be explained.
- 3.3 Paragraph 17 of the Circular sets out the key test that must be applied by the Council in considering whether to make a compulsory purchase order; that is to say that a *"compulsory purchase order should only be made where there is a compelling case in the public interest. An acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected. Regard should be had, in particular, to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights..."*. This guidance also encapsulates the test required to be applied to strike a fair balance under Article 1 of the First Protocol to the Convention to justify the deprivation of possessions in the public interest.
- 3.4 On 1 December 2010, the Acquiring Authority resolved in principle to use their CPO powers under section 226(1)(a) of the Town and County Planning Act 1990 to facilitate the development of a new supermarket at Sunderland Retail Park, and provide the associated infrastructure and public realm improvements and carry out all necessary preparatory work, including entering into appropriate agreements to deliver the Scheme. However, the Acquiring Authority resolved to only use their CPO powers if it became necessary after the Developer had

attempted to acquire the outstanding interests by negotiation and those interests could not be acquired.

4. **NEED, PURPOSE AND JUSTIFICATION**

Need for regeneration of Sunderland Retail Park

- 4.1 The physical appearance of the Retail Park is described in **Section 2** above. Notably, it contains a mixture of primarily dilapidated buildings with varying scales, design and construction materials. Although the Retail Park occupies a site which is a gateway to the City Centre, it is failing and only seven of the retail units are currently occupied, the remaining units are vacant with closed security grills and removed advertisement signs. The general visual appearance is therefore poor.
- 4.2 The lack of occupiers and the run down appearance of the Retail Park serves to exacerbate the perception of crime and has led to vandalism such as graffiti which worsens the appearance.
- 4.3 Whilst the Retail Park is in an accessible location, there are a few safe crossings over the surrounding highways network into the site and it suffers from poor permeability for pedestrians.
- 4.4 The Retail park currently has a high level of vacant units and therefore is not providing the maximum levels of employment opportunities that could be achieved.
- 4.5 A number of the wards surrounding SRP have some of the highest unemployment figures within Sunderland. Issues with the labour market in Sunderland are identified in Sunderland Economic Masterplan (adopted September 2010) ("the Economic Masterplan") which notes that Sunderland still suffers from high unemployment and a low skills base. The Economic Masterplan further notes that the situation is inextricably linked with deprivation, low educational attainment and low skills. Combined, these produce a major drag on Sunderland's ability to fulfil its economic potential. The area also experiences higher levels of poor health and crime than the national average.
- 4.6 The Indices of Multiple Deprivation 2007 published by DCLG measures overall multiple deprivation at a small area level (referred to as Lower Super Output Areas (LSOAs)). There are 188 LSOAs in Sunderland and 4 of the most 20 deprived LSOAs in the City are situated within close proximity to the Retail Park.
- 4.7 Within the North East Regional Economic Strategy (RES) Section D sets out the region's key challenges in relation to increasing employment and skills for people within the North East.

- 4.8 The second key challenge discussed within this section of the RES is to tackle worklessness through a variety of coordinated techniques in an aim to bring back many of the people in the North East on incapacity benefit back into the labour market. The RES goes on to state that by *'Linking areas of economic opportunity to deprived communities [could] address the concentrations of deprivation around the region.'*

Need for retail investment

- 4.9 In terms of access to facilities for local residents, The Sunderland Retail Needs Assessment produced by Roger Tym & Partners (published in September 2009) found that there is a localised deficiency in convenience goods provision in the north of the administrative area of Sunderland along with a qualitative need for additional food and grocery provision.
- 4.10 There is also currently significant trade leakage from the area of convenience expenditure to the Asda store at Boldon Colliery, which lies outside the Sunderland administrative area.
- 4.11 The Sunderland Economic Masterplan highlights the need in Sunderland for new and better shops. Whilst addressed in the context of the City Centre, the masterplan highlights the issues connected with the loss of trade to rival retail centres which has had a detrimental effect on the City economy. In the case of the Retail Park, there are no sites within the City Centre upon which the Scheme could be accommodated and impacts on the City Centre are acceptable. Accordingly, the only way to address trade leakage is to address the quality of retail provision at the Retail Park.

Need for compulsory acquisition

- 4.12 The Order Land is an urban area in multiple ownership. In order to assemble the land required for the Scheme, Mountview and the Developer, in advance of (and alongside) the CPO process, has made efforts to acquire all interests in the Retail Park by private treaty. This has been relatively successful and has resulted in the position that a significant proportion of the land is now in the ownership or control of the Developer.
- 4.13 Following the grant of planning permission for the Scheme, Mountview transferred its land interests at the Retail Park to the Developer.
- 4.14 Although the Developer owns the majority of the freehold interests in the Retail Park, there are three units within the retail park (one of which is sub-divided), subject to leases, that will need to be acquired in order to allow the Scheme to proceed. The drawing contained in **Appendix 2** overlays the proposed scheme on top of the existing units to be acquired to illustrate graphically why these units must be acquired.

- 4.15 The units are also described in the schedule of interests contained in **Appendix 3** and next to each plot there is a narrative explaining the reasons why the interest must be acquired to progress the Scheme.
- 4.16 In summary however, the car parking and access arrangements for the Macdonald's and Blockbuster/Farmfoods units must be rearranged as part of the redevelopment. The Blockbuster/Farmfoods unit will also require re-cladding because it would otherwise have a visually detrimental effect on the wider scheme. The other unit, occupied by Netto, is physically located in an area that is crucial car parking access arrangements and landscaping for the Scheme and accordingly will need to be demolished.
- 4.17 The Developer, through its agent GL Hearn, have led negotiations with the leasehold owners/occupiers of the properties required to implement the Scheme. The current proposal for Blockbuster, Farmfoods and Macdonalds is that the occupiers are retained within the units during and following the construction of the Scheme. The Netto unit would be demolished, but there is an offer to relocate the store to another unit within the development. Notwithstanding these offers, to date it has not been possible to acquire these interests through private treaty, although efforts are continuing.
- 4.18 It is hoped that agreements can be reached with each of the owners through negotiation. However, the use of compulsory purchase powers was required in the event that the attempts to acquire by agreement fail. The approach of making a CPO in parallel with conducting negotiations to acquire the relevant interests by agreement is in accordance with the guidance at paragraph 24 of the Circular.
- 4.19 It is important that all elements of the Scheme must be delivered as a whole and, all of the Order Land is needed to advance this. The range of public benefits and outputs described cannot be achieved through a piecemeal approach, nor through pursuing a lesser scheme, as has been established by the various options considered by the Developer, which are described in **Section 7** below. The Scheme provides a unique opportunity to capture a variety of public benefits which will contribute towards the achievement of the planning and regeneration objectives for the area. There are no other proposals which could realistically lead to a comparable regeneration. The Acquiring Authority therefore considers that there is a need for the Order to be confirmed in its entirety.
- 4.20 It should be noted that the Acquiring Authority and/or the Developer will continue negotiations with affected parties in an attempt to reach agreement throughout the CPO process, and contact details are provided in **Section 14** below.

Purpose

- 4.21 Planning permission has been granted for the Scheme (ref: 08/03336/OUT) described in **Section 9** below, which the Acquiring Authority believes will address the need for regeneration and retail investment described above.
- 4.22 The proposed compulsory acquisition of the Order Land will facilitate the carrying out of the comprehensive redevelopment of the wider Retail Park for the Scheme.
- 4.23 The Scheme will regenerate the Retail Park physically and economically, bringing with it new jobs, investment and positive environmental benefits. The proposed superstore will be designed to the highest quality to ensure that it complements its surroundings and that it is easily accessible for all users.
- 4.24 The Scheme will give rise to the following benefits:
- 4.24.1 The superstore element of the Scheme will meet the quantitative need for additional food and grocery provision in the Sunderland North area, and will reduce the leakage of convenience expenditure to the Asda store at Boldon Colliery. This will improve access to facilities for local people and will assist with the economic revitalisation of the area by ensuring that local trade is retained.
 - 4.24.2 It will improve the retail offer of Sunderland Retail Park by offering five retail units alongside the new foodstore and retaining the two retail units occupied by Farmfoods and Blockbuster as well as the Macdonald's restaurant. This will attract other businesses into the area and increasing footfall into the SRP thereby having a catalytic effect, which will further assist local economic conditions.
 - 4.24.3 It is estimated that the foodstore element of the Scheme alone will generate 400 full time and part jobs on the Site compared to the existing 50 jobs estimated to be on site at the moment. This excludes additional jobs created within the construction period. It is predicted that the majority of the jobs created on the site will go to residents within the surrounding local areas, which this report has noted are in much need of employment opportunities. Increasing the level of employment within the local area should in turn increase the income for local residents allowing them to have an increased disposable income.
 - 4.24.4 The retention of expenditure within the local area is likely to have a knock-on effect as a large superstore can act as an anchor for other businesses within the area, as a result of the increased likelihood of linked trips. The overall affect of the development can be a catalyst for

further regeneration of the surrounding area, North Bridge Street in particular.

- 4.24.5 The design of the new food retail store will incorporate sustainable design features to promote energy efficiency, minimise any impact on the environment and ensure the store is operated in as sustainable a manner as is currently possible.
 - 4.24.6 At present the Retail Park has a high level of vacant units, some of which have been vandalised and these factors detract from the visual appearance of the Retail Park and affect visitors' perspective of the safety of the Retail Park. The proposal will provide an enhanced landscape buffer around the perimeter of the Retail Park and throughout the car park. This landscaping buffer will also provide an improved habitat area for wildlife within the Retail Park and could also attract further wildlife found within the urban area to the Retail Park.
 - 4.24.7 The Scheme will improve visitors' perception of safety within the site through increased security measures, natural surveillance from the occupied retail units and increased visitor numbers. The proposed external lighting scheme will also improve the appearance of, and perception of safety within the Retail Park.
 - 4.24.8 The Scheme includes various improvements to the surrounding highway network and seeks to provide a number of safe crossings into the site from the surrounding area, thereby improving accessibility.
 - 4.24.9 The provision of a pedestrian walkway will significantly improve access to the Stadium of Light Metro station to the north of the Retail Park. The incorporation of a bus stop in a central location within the Retail Park will further enhance access to public transport in a site which is in close proximity to a Metro station and a range of bus services.
 - 4.24.10 Measures taken to improve pedestrian access to and within the Retail Park, the provision of cycle parking facilities, and improved access to public transport services aim to encourage the use of more sustainable modes of transport, and reduce the impact of the development on traffic congestion and pollution.
- 4.25 The development of the Scheme would substantially improve the visual appearance of the Retail Park which currently has several vacant units and suffers from vandalism. Increased occupancy, the provision of a new external lighting scheme and landscaping on the redeveloped Retail Park would reduce perceptions of crime. This would constitute a marked improvement to the environmental wellbeing of the area. The Scheme would provide an attractive retail environment of a contemporary design with much needed quantitative and

qualitative improvement to convenience and comparison goods provision. This will improve the public perception of the area with the effect of clawing back trade thereby stimulating economic growth and new jobs which would benefit local people. The Scheme will therefore stimulate improvements to the social and economic wellbeing of the area.

4.26 As a consequence, when applying the statutory tests in Section 226(1)(a) and s.226(1A) of the 1990 Act the Acquiring Authority considers that the proposed use of CPO powers in this instance is likely to contribute to the promotion or improvement of the economic, social and environmental well-being of the Acquiring Authority's area.

4.27 In addition, in the light of the substantial physical, social and economic benefits that would arise from the Scheme, the Acquiring Authority considers that there is a compelling case in the public interest to justify the use of CPO powers in order to facilitate the development of the Scheme.

5. **CONSULTATION**

5.1 As the Scheme has been revised, the amended proposals were displayed on 14 June 2010 at a public consultation event held at Monkwearmouth Library in Sunderland. The event was well attended and the applicants received a number of verbal comments in support of the application. Full details of the public consultation carried out for this proposal are contained within the revised 'Statement of Community Involvement' submitted as part of the planning application together with comments made via the feedback forms.

5.2 Mountview and the Developer also undertook extensive pre-application discussion with the local community and other stakeholders, including the Acquiring Authority. These discussions helped guide the proposals through a number of iterations to allow for comments and suggestions to be taken into consideration

6. **STATEMENT OF PLANNING POSITION RELEVANT TO THE SCHEME**

Planning Policy

6.1 The local development plan for the Sunderland area comprises the saved policies contained in the Council's Unitary Development Plan 1998, as revised by Alteration Number 2 to the Development Plan adopted in September 2007 ("the UDP").

6.2 The Retail Park is located on the inset plan for Monkwearmouth in the UDP proposals map. The UDP explains that an inset plan was required for Monkwearmouth because major change was anticipated in the locality including

significant new commercial and residential developments, environmental enhancements and improvements to transport infrastructure.

- 6.3 Parts of the Retail Park site are covered by saved Policy NA44 which allocates the land for a mixture of uses including retailing and other main town centre uses subject to the application of the sequential test and a retail impact assessment. This policy also identifies the need for development to contribute to a balanced distribution of facilities accessible to all sectors of the community, on foot and by a range of transportation.
- 6.4 The explanation to NA44 states that the locality is highly accessible from a wide area by bus and car and in future by a proposed Metro Station (which now exists at the northern end of the Retail Park). In addition, there is a large population within the densely populated residential areas to the north, west and east of the location. The UDP recognises that the area is highly suitable as a focus for retail and commercial activity and that there is a clear opportunity to regenerate this high profile, but presently unattractive, locality and to effect environmental improvements to this gateway site.
- 6.5 The south western corner of the Retail Park falls within saved Policy NA48 which seeks to promote environmental improvements to the commercial buildings in the area north of Roker Avenue and to upgrade the visual environment in this locality.
- 6.6 The key saved retail policy is S1 which seeks to enhance the City's shopping provision by encouraging a wide range of attractive, well distributed facilities to meet future shopping and related needs. The policy provides that new retail development will be based in existing centres whilst development elsewhere will be subject to the sequential test, be in accordance with other policies in the UDP, should complement existing facilities and be accessible to all groups by a variety of modes of transport.
- 6.7 Economic development policy EC1(iv) of the UDP provides that the Council will encourage development proposals and initiatives which target areas of economic and social deprivation.
- 6.8 Further, Policy EC3(iv) states that the Council will support new economic development which involves the re-use and enhancement of previously developed sites.
- 6.9 As part of the emerging Local Development Framework, the Council agreed a revised version of its Core Strategy Preferred Options in March 2010. Although relatively little weight can be given to the Strategy at this stage, it provides up to date and continued confirmation of the underlying principles behind the saved policies in the UDP.

6.10 The following preferred options policies are relevant to the proposed development at SRP: -

6.10.1 **CS1 Spatial Development, Growth and Regeneration in Sunderland**

6.10.2 This policy seeks to achieve a sustainable spatial distribution of economic development in the City including new retail development. It states that the priority for new convenience retailing will be focused towards the City Centre, Houghton-le-Spring Town Centre and North Sunderland.

6.10.3 The supporting text refers to the findings of the City wide Retail Needs Assessment for Sunderland produced in September 2009 as part of the evidence base for the LDF. This Assessment highlighted the localised qualitative deficiencies in convenience goods provision in North Sunderland and Houghton Town Centre.

6.10.4 In relation to North Sunderland, the Zone encompassing the Castletown, Monkwearmouth and Southwick areas (Zone 2) has the lowest convenience goods retention rate in the City with most residents in this Zone travelling to the Asda store in Boldon Colliery in neighbouring South Tyneside for their convenience shopping (Zone 9). As a consequence, there is a quantitative and qualitative need to clawback this substantial leakage of convenience expenditure out of the City to Boldon.

6.10.5 **CS8 Sunderland North**

6.10.6 This policy promotes the transformation of the Sunderland North area in the period up to 2026. The centre of Monkwearmouth will be revitalised and strong linkages will allow it to provide a complimentary retail and leisure role to the city centre.

6.10.7 The supporting text recognises the existing localised deficiency in convenience provision and that the current retail provision in North Sunderland is not well distributed. It provides that new retail development will be encouraged which provides high quality retail facilities to serve the sub-area.

6.11 In terms of national planning policy, the following are of particular relevance to the Scheme:

6.12 Planning Policy Statement 1: Delivering Sustainable Development (2005) sets out the Government's vision for planning and the key policies and principles which should underpin the planning system. PPS1 notes that one of the key objectives

of planning should be to make suitable land available for development in line with economic, social and environmental objectives to improve people's quality of life. It should contribute to sustainable economic development, ensure high quality development and ensure that development supports existing communities providing good access to jobs and key services for all members of the community.

- 6.13 PPS1 also states that planning authorities should promote urban regeneration to improve the wellbeing of communities and their facilities, including improved access to shops.
- 6.14 Planning Policy Statement 4 - Planning for Sustainable Economic Growth (2009) sets out the Government's overarching objective of achieving sustainable economic growth. It states that planning applications that secure such growth should be treated favourably.
- 6.15 For retail developments that are not in an existing centre and are not in accordance with an up to date development plan, PPS4 requires that the applicant undertakes a sequential assessment to determine whether an alternative, town centre or edge of centre site could accommodate the proposal and is available, suitable and viable. A retail impact assessment is also required to determine the level of impact that the proposal will have on existing centres and out of centre allocated sites.
- 6.16 In relation to regional planning policy, the Regional Spatial Strategy for the North East (2008) sets out a long term strategy for the scale, location and phasing of development in the region. The Strategy promotes an urban and rural renaissance, the sustainable development of the region and a sequential approach to development proposals. The Strategy includes the following specific references to Sunderland:
 - 6.16.1 The concentration of the majority of new development to be in Sunderland and Washington with development to meet local needs in Houghton and Hetton;
 - 6.16.2 Regeneration of central Sunderland is supported with economic, retail and leisure development to be focused on the city centre.
- 6.17 The Regional Economic Strategy 2006-2016 (Leading The Way) has at its primary objective an increase from 80% to 90% GVA (Gross Added Value) per head by 2016. This is to be achieved by:
 - 6.17.1 tackling worklessness and unemployment to increase economic activity;

- 6.17.2 creating 61,000 to 73,000 new jobs by 2016;
- 6.17.3 improving productivity;
- 6.17.4 raising GVA;
- 6.17.5 creating 18,500 to 22,000 new businesses by 2016.

Planning permission

- 6.18 Following public consultation, revisions to outline planning application (ref: 08/03336/OUT) were received by the Council on 5 August 2010 on behalf of Mountview.
- 6.19 The comprehensive redevelopment of the Retail Park in accordance with the revised planning application is supported by site specific policies NA44 and NA48 and economic policies EC1(iv) and EC3(iv) of the Council's UDP. In addition, the development accords with key retail policy S1 as it will meet the established need for additional convenience provision in Sunderland North and will seek to clawback the current substantial leakage of convenience expenditure from outside the City.
- 6.20 Further, the comprehensive redevelopment of SRP is also consistent with policies CS1 and CS8 of the emerging Core Strategy.
- 6.21 The Scheme is also supported by PPS1 and PPS4 since it will help to promote sustainable economic growth and provide local communities with better access to facilities such as shops. The retail assessment submitted with the planning application also satisfied the requirements of PPS4. In particular it has been demonstrated that there are no sequentially preferable sites in the town centre or on edge of centre sites to accommodate the need which the particular development at SRP is intended to meet, namely the established need for additional convenience provision in North Sunderland and to successfully clawback the retail expenditure currently lost from the Sunderland area. In addition, the retail impact assessment has concluded there is no clear evidence that the development proposals at SRP would have a significant adverse impact on existing centres
- 6.22 In addition the Scheme is also compatible with the RSS and the key objectives of the Regional Economic Strategy.
- 6.23 The Scheme is therefore in accordance with the development plan and the emerging planning framework for the area as well as relevant regional and national planning policy. Outline planning permission was therefore granted for the Scheme by the Council on 27 October 2010.

6.24 The Developer intends to submit an application for the approval of reserved matters imminently and the Acquiring Authority has already held pre-application discussions with the Developer in connection with the reserved matters submission.

6.25 It follows that there are no planning obstacles which are likely to prevent the implementation of the Order within a reasonable time of its confirmation.

7. THE SCHEME PROPOSALS

7.1 The proposed redevelopment of SRP has been through a number of design iterations prior to an outline planning application being made by the then owner of the site, Mountview, in August 2008. Various options were considered for the siting of the foodstore and its massing, and the scale and siting of the additional retail units, and account was taken of views expressed during public consultation.

7.2 A key consideration was the need for the foodstore to be of a sufficient scale to claw back trade from other stores outside of the City, and to be accompanied by a selection of thriving comparison retail units and/or leisure uses. Having established the scale of development required, the principal considerations for the location and composition of the development were:

7.2.1 The existing layout and the desire to retain existing retail units or to relocate existing occupiers within SRP.

7.2.2 The minimum size requirements of the proposed food retail store.

7.2.3 The highways network and access solution.

7.2.4 The need to provide a more efficient car parking layout and servicing solutions.

7.2.5 The need to ensure an attractive frontage onto key approaches to SRP in order to attract maximum footfall, particularly from the Metro station.

7.3 Following the submission of the initial planning application the Council released the Sunderland Retail Needs Assessment prepared by Roger Tym & Partners (September 2009) and Planning Policy Statement 4 was issued (December 2009). The Council's retail advisors RTP reviewed Mountview's retail assessment and recommended a reduction in the size of the superstore. At the same time, issues of site assembly and scheme content led the Mountview to revisit the scheme and reduce the scale of the foodstore.

- 7.4 Ultimately, despite various design solutions being considered, it was not possible to avoid impinging upon land in which third parties have an interest. The scheme selected was the least intrusive whilst maintaining the key components of the Scheme, notably the store size required to provide the necessary quantum and quality of convenience goods offer to claw back trade and avoid trade leakage, appropriate car parking and access arrangements and ensuring that comprehensive redevelopment was achieved through the creation or replacement of new retail units and the improvement of existing units.
- 7.5 The Scheme for which planning permission was ultimately obtained seeks to regenerate the Retail Park by replacing a number of outdated retail units (Use Class A1) with the construction of a new superstore which has been designed to provide a modern and environmentally friendly environment. An atrium to the western elevation of the store will provide active frontage onto Newcastle Road. The atrium will also house the traveller which will provide access to the foodstore sales area located at the first floor level.
- 7.6 A row of retail units adjacent the store will be retained and refurbished to attract further investment into the area. The scheme will also include provision of car parking, landscaping as well as a mean of access for a range of transport modes. The majority of the store's parking is provided under the store sales area, at ground floor level. In addition an existing Farmfoods, Blockbuster and McDonalds will be retained.
- 7.7 More particularly, the Scheme comprises:
- 7.7.1 The demolition of the majority of the existing buildings on the Retail Park site, including the Bowling Alley and former Reg Vardy car showroom;
 - 7.7.2 The construction of a new food superstore of 16,140m² gross external area (GEA) and net retail sales area of 8,378m²;
 - 7.7.3 The retention and recladding of an existing retail unit of 1,168 m² GEA and 934m² net retail sales area;
 - 7.7.4 The erection of four additional retail units totalling 2,661m² GEA and 2,129 m² net retail sales area;
 - 7.7.5 The retention and recladding of the existing Farmfoods/Blockbuster unit;
 - 7.7.6 The provision of 900 parking spaces to service the entire development;

- 7.7.7 The creation of new vehicular accesses to the site, the reopening of a section of highway to emergency vehicles, and the resurfacing/landscaping and the stopping up of the highway.
- 7.8 The Scheme will also involve a major highway improvement scheme in respect of the adjoining Wheatsheaf gyratory. These works will be carried out pursuant to an agreement between the Developer and the Highway Authority under s278 of the Highways Act 1980.
- 7.9 The Developer has prepared a submission to satisfy the matters reserved by the outline planning permission for the Scheme and has entered into pre-application discussions with the Acquiring Authority (as local planning authority) to discuss the detail of these proposals. It is expected that the Developer will submit its application for approval of reserved matters imminently.

8. DELIVERY AND FUNDING

- 8.1 The Developer will be responsible for the development of the Retail Park pursuant to the planning permission for the Scheme. Tesco has advanced countless retail schemes across the UK and has a huge amount of experience in regenerating brownfield sites. Tesco has already shown significant commitment to the scheme in acquiring the majority of the land comprising SRP as well as obtaining planning permission for the Scheme.
- 8.2 On [DATE] the Council entered into an agreement with the Developer to ensure that the Council is fully indemnified for all costs arising from the compulsory acquisition process, including the costs of acquiring the land and the expenses incurred by the Council in promoting the Order.
- 8.3 Finally, an agreement between the Council and Tesco will be reached pursuant to s. 278 of the 1980 Act, to ensure the delivery of the highway improvements associated with the Scheme.

9. IMPEDIMENTS TO IMPLEMENTATION

- 9.1 Paragraph 22 of the Circular provides:
- 9.2 *"22. In demonstrating that there is a reasonable prospect of the scheme going ahead, the acquiring authority will also need to be able to show that it is unlikely to be blocked by any impediments to implementation. In addition to potential financial impediments, physical and legal factors need to be taken into account. These include the programming of any infrastructure accommodation works or remedial work which may be required, and any need for planning permission or other consent or licence."*
- 9.3 The Developer has confirmed that it controls all land interests in SRP, except those included in the proposed CPO, that are necessary to enable the Scheme to proceed.

- 9.4 The Developer has obtained outline planning permission for the Scheme, described above, and intends to submit its application for approval of reserved matters imminently. The Acquiring Authority considers that there is no reason obvious reason why approval to such details would be withheld.
- 9.5 Other potential impediments are in the process of being resolved. Notably, the Developer required a stopping up order to be made in respect of certain highways affecting the Retail Park. An application was made by the Developer under s.247 of the 1990 Act and the Secretary of State made the stopping up order on 21 January 2001 (copy contained in **Appendix 4**). This was advertised on 7 February 2011.
- 9.6 An agreement under section 278 of the Highways Act 1980 is currently being negotiated in order to secure the improvement of the highways infrastructure around SRP and this is expected to be completed shortly.
- 9.7 Accordingly, the Scheme is not likely to be blocked by any impediment to implementation.

10. **NEGOTIATIONS**

- 10.1 Paragraphs 28 and 29 of the Circular provide:

"28. As compulsory purchase proposals will inevitably lead to a period of uncertainty and anxiety for the owners and occupiers of the affected land, it is essential that the acquiring authority keeps any delay to a minimum by completing the statutory process as quickly as possible. This means that the authority should be in a position to make, advertise and submit a fully documented order at the earliest possible date after having resolved to make it. The authority should also take every care to ensure that the order is made correctly and under the terms of the most appropriate enabling power.

29. An acquiring authority may offer to alleviate concerns about future compensation entitlement by entering into agreements with those whose interests are directly affected. These can be used as a means of guaranteeing the minimum level of compensation which would be payable if the acquisition were to go ahead (but without prejudicing any future right of the claimant to refer the matter to the Lands Tribunal), including the basis on which disturbance costs would be assessed."

- 10.2 The Developer, through its agent GL Hearn, has led negotiations with the leasehold owners/occupiers of the properties required to implement the Scheme. The current proposal for Blockbuster, Farmfoods and Macdonalds is that the occupiers are retained within the units during and following the construction of the Scheme. The Netto unit would be demolished, but there is an offer to relocate the store to another unit within the development. Notwithstanding these offers, to date it has not been possible to acquire these interests through private treaty, although efforts are continuing.

- 10.3 It is hoped that agreements can be reached with each of the owners through negotiation. However, the use of compulsory purchase powers is required in the event that the attempts to acquire by agreement fail. The approach of making a CPO in parallel with conducting negotiations to acquire the relevant interests by agreement is in accordance with the guidance set out in the above paragraphs of the Circular.
- 10.4 It is the Acquiring Authority's intention that negotiations be continued up to and following the inquiry in order to seek to reach agreement if reasonably possible.

11. HUMAN RIGHTS CONSIDERATIONS

- 11.1 Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way which is incompatible with rights protected by the European Convention on Human Rights ("the Convention").
- 11.2 The position is conveniently summarised in paragraph 17 of Part 1 of the Memorandum to ODPM Circular 06/2004, which states that a compulsory purchase order should only be made where there is *"a compelling case in the public interest"*. The Circular makes it clear that an acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected. In making this assessment, an acquiring authority should have regard, in particular, to the provisions of Article 1 of the First Protocol and Article 6 of the Convention and, in the case of a dwelling, Article 8 of the Convention. These are summarised and considered below.
- 11.3 ***Article 1 of the First Protocol states that:***
- "...Every natural or legal person is entitled to peaceful enjoyment of his possessions" and "no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by the law and by the general principles of international law..."*
- 11.4 Whilst occupiers in the Order Land will be deprived of an interest in their property if the Order is confirmed, this will be done in accordance with the law given the provisions of s. 226 and the Acquisition of Land Act 1981. The Order is being pursued in the public interest as required by Article 1 of the First Protocol. The public benefits associated with the Scheme are set out earlier in this Statement.
- 11.5 The European Court of Human Rights has recognised in the context of Article 1 of the First Protocol that *"regard must be had to the fair balance that has to be struck between the competing interests of the individual and the community as a whole"*. Both public and private interests are to be taken into account in the exercise of the Acquiring Authority's powers and duties.

- 11.6 In pursuing the Order, the Acquiring Authority has carefully considered the balance to be struck between the effect of acquisition on individual rights and the wider public interest in the redevelopment of Sunderland Retail Park. Interference with Convention rights is considered by the Acquiring Authority to be justified here, and proportionate, in order to secure the economic, social, environmental and public benefits which the Scheme will bring.
- 11.7 The Acquiring Authority considers that the Order will strike a fair balance between the public interest in the implementation of the Scheme and those private rights which will be affected by the Order. It should also be noted that it is the intention of the Developer to retain the affected occupiers within the Retail Park and to assist where possible in mitigating any disruption caused throughout the development of the Scheme.
12. **Paragraphs 7.1-7.4** above describe the various options that were considered by Mountview and Tesco prior to submitting the revisions to their outline planning application. It is clear for the reasons there set out that the option selected involves the least possible intervention whilst maintaining the integrity of the Scheme and delivery of the public benefits identified in this report.
- 12.1 As part of its planning application, Mountview and Tesco were required as part of a Retail Impact Assessment to consider alternative sites. This found that *“there are no suitable, viable or available in centre or edge-of centre sites for an appropriately scaled superstore to serve primarily the residents of North Sunderland”*. In any event the Retail Park is in need of regeneration and other than the Scheme, there are no competing proposals for its redevelopment or refurbishment. The Developer also owns the majority of the site and so it seems unlikely that another preferable proposal would come forward for the regeneration of the Retail Park. Indeed, if it were not for the Scheme, it is likely that the Retail Park would continue to fail and that the social, economic and environmental conditions of the surrounding area would worsen.
- 12.2 Consideration has also been given to whether the legitimate aim of securing the regeneration of the area can be achieved by means which are less interfering of individuals’ Convention rights. Alternative approaches to securing the regeneration of Sunderland Retail Park have been considered. For example, for the developer to seek to progress the development without the support of the Council’s CPO powers. However, there is no certainty that the Developer would be able to secure the necessary interests in the site to carry out the comprehensive redevelopment proposed and to acquire any third party interests that could potentially impede the development proposals, thereby putting at significant risk the delivery of this significant economic and physical regeneration project.

12.3 Those directly affected by the Order will also be entitled to compensation proportionate to any losses that they may incur as a result of the acquisition. Compensation will be payable in accordance with the Compulsory Purchase Code, assessed on the basis of the market value of the property interest acquired, disturbance, statutory loss payment and where appropriate home loss payments. The reasonable surveying and legal fees incurred by those affected will also be paid by the Acquiring Authority. The Compulsory Purchase Code has been held to be compliant with Articles 8 and Article 1 of the First Protocol.

12.4 Accordingly, the Acquiring Authority considers that such interferences as may occur with the pursuance of the Order are in accordance with the law, pursue a legitimate aim, namely the promotion and improvement to the environmental, social and economic wellbeing of the area, and are proportionate having regard to the public interest that the Scheme will bring.

12.5 **Article 6 of the Convention** provides that:

"In determining his civil rights and obligations...everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law"

12.6 The Scheme has been extensively publicised and consultation has taken place with communities and parties that will be affected by the Order. All those affected by the Order will be notified, will have the right to make representations and/or objections to the Secretary of State for Communities and Local Government, and to be heard at a public inquiry. There is also a right to seek a statutory review by the High Court of the Secretary of State's decision. It has been held that the procedures are compliant with Article 6.

SPECIAL CONSIDERATIONS

12.7 There are no ancient monuments or listed buildings within the Order Land. There are also two listed buildings to the east of the site; the church of All Saints and the vicarage of All Saints. However, these will not be detrimentally impacted by the proposed CPO or planning permission as implemented.

12.8 The Order Land is neither special category nor consecrated land and it does not fall within the boundaries of a conservation area.

13. VIEWS OF THE GOVERNMENT DEPARTMENTS

13.1 No specific views have been expressed.

14. RELOCATIONS

14.1 As explained elsewhere in this statement of reasons, the Developer has indicated its willingness to retain the current occupiers within the redeveloped Retail Park.

Each occupier has been invited to enter into discussion with the Developer on this basis. As such, it is not necessary to consider an alternative relocation strategy.

- 14.2 The Developer's agent David Napier of GL Hearn should be contacted in the first instance with regard to any queries relating to acquisitions and proposed agreements that would allow retention of the current occupiers within the Retail Park. G L Hearn's contact details are as follows:

David Napier

GL Hearn

20 Soho Square

London W1D 3QW

Tel: 0207851 4918

15. **RIGHTS, EASEMENTS, ETC**

- 15.1 It is intended that a General Vesting Declaration ("GVD") or Declarations will be made by the Acquiring Authority in respect of the Order Land in the event that the compulsory purchase powers are confirmed by the Secretary of State. It is also the intention of the Acquiring Authority that all easements, covenants, rights and other interests in the land included in such a GVD shall be acquired/overridden. Mortgages and rentcharges, save those that have been excluded from the Order expressly, are to be dealt with in accordance with Sections 14, 17 and 18 of the Compulsory Purchase Act 1965.

16. **RELATED ORDERS**

- 16.1 A stopping up order under section s247 of the Town and Country Planning Act 1990 is required to stop up highways within the Retail Park. This was advertised by Government Office North East on 20th December 2010, and the objection period has expired without any objections. The Secretary of State therefore made the stopping up order on 21 January 2011, a copy of which is contained in **Appendix 4**, and this was advertised on 7 February 2011. This will not therefore present an impediment to the Scheme proceeding.
- 16.2 The highways to be stopped up are shown on the plan that accompanies the stopping up order.

17. **REFERENCE TO THE INQUIRY RULES**

- 17.1 This Statement of Reasons is not a statement under Rule 7 of the Compulsory Purchase (Inquiries Procedure) Rules 2007 and the Council reserves the right to alter or expand it as necessary.

18. **LIST OF DOCUMENTS**

18.1 **Acquiring Authority reports**

18.1.1 Report to the Planning and Highways Committee dated 5 October 2010

18.1.2 Report to the Cabinet dated 1 December 2010

18.1.3 Report to the Cabinet dated 16 February 2011.

18.2 **Planning documents**

18.2.1 Design and Access Statement for Sunderland Retail Park dated June 2010 prepared by DPP LLP.

18.2.2 Retail Assessment dated 24 June 2010 prepared by DPP LLP.

18.2.3 Planning Statement dated June 2010 prepared by DPP LLP.

18.2.4 Review of Applicant's Retail Assessment dated September 2010 prepared by RTP.

18.2.5 Planning permission for the Scheme ref: 08/03336/OUT relating to Sunderland Retail Park

18.3 **Planning and economic policy documents**

18.3.1 City of Sunderland UDP adopted plan 1998

18.3.2 City of Sunderland UDP alteration No.2 (Central Sunderland) adopted September 2007.

18.3.3 Sunderland UDP Sunderland Economic Masterplan adopted [].

18.3.4 City of Sunderland Core Strategy draft revised preferred options (March 2010).

18.4 **Related orders**

18.4.1 Stopping up order made by the Secretary of State on 21 January 2011.

18.5 **Plans**

- 18.5.1 Plan showing Sunderland Retail Park
- 18.5.2 Illustrative Scheme layout drawing.
- 18.5.3 Plan showing the Scheme overlaid on the plots comprised within the Order Land.

APPENDIX

[TBC]

