



## THE CABINET

### AGENDA

**Meeting to be held in the Civic Centre (Committee Room No. 1) on  
Wednesday 7 December 2011 at 2.00 p.m.**

#### Part I

ITEM		PAGE
1.	<b>Minutes of the Meeting of the Cabinet held on 2 December 2011 Part I</b>  (Copy to follow).	
2.	<b>Receipt of Declarations of Interest (if any)</b>	
3.	<b>Apologies for Absence</b>	
4.	<b>Report of the Meeting of the Personnel Committee held on 24 November 2011 Part I</b>  (Copy herewith).	1
5.	<b>Annual Audit Letter 2010/11</b>  Report of the Chief Executive (copy herewith).	5
6.	 <b>Land at Sunderland Retail Park, Monkwearmouth, Sunderland</b>  Report of the Deputy Chief Executive (copy herewith).	25

7.  **Smarter Working Project – Capital Works** 175

Report of the Deputy Chief Executive (copy herewith).

8. **Old Sunderland Townscape Heritage Initiative: Award of Grant** 181

Report of the Deputy Chief Executive (copy herewith).

9. **Parking Services Annual Report 2010 - 2011** 187


Report of the Executive Director of City Services (copy herewith).

**N.B. Members are requested to note that copies of the Parking Services Annual Report 2010 - 2011 document are available for inspection in Members' Services or alternatively the document can be viewed on-line at:-**

**<http://www.sunderland.gov.uk/committees/cm5/Meetings/tabid/73/ctl/ViewMeetingPublic/mid/410/Meeting/7220/Committee/1485/Default.aspx>**

10.  **Procurement of Specialist Grass Cutting and Horticultural Equipment** 191

Report of the Executive Director of City Services (copy herewith).

11.  **Community Equipment Service (CES) – Tender for provision of riser recliner and bespoke chairs** 195

Report of the Executive Director of Health, Housing and Adult Services (copy herewith).

## **Local Government (Access to Information) (Variation) Order 2006**

The reports contained in Part II of the Agenda are not for publication as the Cabinet is considered likely to exclude the public during consideration thereof as they contain information relating to any individual, which is likely to reveal the identity of an individual, the financial or business affairs of any particular person (including the Authority holding that information) and to consultations or negotiations in connection with labour relations matters arising between the Authority and employees of the Authority (Local Government Act 1972, Schedule 12A, Part I, Paragraphs 1, 2, 3 and 4).

### **Part II**

- |     |   |     |
|-----|---|-----|
| 12. | <b>Minutes of the Meeting of the Cabinet held on 2 December 2011 Part II</b>                      |     |
|     | (Copy to follow).   |     |
| 13. | <b>Report of the Meeting of the Personnel Committee held on 24 November 2011 Part II</b>          | 201 |
|     | (Copy herewith).  |     |
|     | (For approval of the recommendations on executive functions and to note the remaining decisions). |     |
| 14. | <b>Disposal of Council Property in Hind Street Sunderland</b>                                     | 211 |
|     | Report of the Deputy Chief Executive (copy herewith).   |     |
| 15. | <b>Old Sunderland Townscape Heritage Initiative: Award of Grant</b>                               | 217 |
|     | Report of the Deputy Chief Executive (copy herewith).   |     |

 **Denotes Key Decision.**

**\* Denotes Rule 15 Notice issues – item which is a key decision which is not included in the Forward Plan.**

ELAINE WAUGH  
Head of Law and Governance

Civic Centre  
SUNDERLAND.  
29 November 2011.



**CABINET MEETING – 7<sup>TH</sup> DECEMBER 2011**  
**EXECUTIVE SUMMARY SHEET – PART I**

**Title of Report:**

Report of the meeting of the Personnel Committee, Part I held on 24 November 2011

**Author(s):**

Head of Law and Governance

**Purpose of Report:**

Presents the report of the meeting of the Personnel Committee, Part I

**Action Required:**

The Cabinet is requested to note the report of the meeting held on 24<sup>th</sup> November 2011



**At a meeting of the PERSONNEL COMMITTEE held in the CIVIC CENTRE on THURSDAY, 24<sup>th</sup> NOVEMBER, 2011 at 5.30 p.m.**

**Present:-**

Councillor Errington in the Chair

Councillors Gofton, Speding, D. Smith, D. Trueman, H. Trueman P. Watson, A.Wilson and Wood.

**Part I**

**Apologies for Absence**

Apologies for absence were submitted to the meeting on behalf of Councillor S. Watson.

**Declarations of Interest**

There were no declarations of interest.

**Report of the Meeting of the Personnel Committee, Part I**

The report of the meeting of the Personnel Committee held on 20<sup>th</sup> October, 2011 Part I (copy circulated) was submitted and consideration given thereto.

(For copy report – see original minutes).

1. RESOLVED that the report of the meeting be noted, confirmed and signed as a correct record.

**Report of the Meeting of the Appeals Panel, Part I**

The report of the meeting of the Appeals Panel held on 4 November, 2011 Part I (copies circulated) was submitted and consideration given thereto.

(For copy reports – see original minutes).

2. RESOLVED that the report of the meeting be noted for information.

## **Local Government (Access to Information) (Variation Order) 2006**

At the instance of the Chairman, it was:-

3. RESOLVED that in accordance with Section 100(A)4 of the Local Government Act 1972, the public be excluded during consideration of the remaining business as it is considered to involve a likely disclosure of exempt information relating to an individual or information which is likely to reveal the identity of an individual or information relating to any consultations or negotiations, or contemplated consultations or negotiations in connection with any labour relations matters arising between the Authority and its employees (Local Government Act 1972, Schedule 12A, Part I, Paragraphs 1, 2 and 4).

(Signed) D. ERRINGTON,  
Chairman.

### **Note:-**

The above minutes comprise only those relating to items during which the meeting was open to the public.

Additional minutes in respect of other items are included in Part II.



**CABINET MEETING – 7th December 2011**

**EXECUTIVE SUMMARY SHEET- PART 1**

<b>Title of Report:</b>	
Audit Commission Annual Audit Letter 2010/2011	
<b>Author:</b>	
Executive Director of Commercial and Corporate Services	
<b>Purpose of Report:</b>	
This report details the Audit Commission's (AC) Annual Audit Letter (AAL) covering the year 2010/2011. A copy is attached.	
<b>Description of Decision:</b>	
Cabinet is recommended to: <ul style="list-style-type: none"> <li>• Note and comment on the contents of this report, and</li> <li>• Refer the report to Council for their consideration</li> </ul>	
<b>Is the decision consistent with the Budget/Policy Framework? Yes</b>	
<b>If not, Council approval is required to change the Budget/Policy Framework</b>	
<b>Suggested reason(s) for Decision:</b>	
To enable Cabinet to consider and comment on the contents of the independent report together with any actions the Council is undertaking in response to it.	
<b>Alternative options to be considered and recommended to be rejected:</b>	
No alternative options are considered appropriate.	
<b>Is this a "Key Decision" as defined in the Constitution?</b>	<b>Relevant Scrutiny Committee:</b>
No	Management
<b>Is it included in the Forward Plan?</b>	
No	



## **Cabinet Meeting – 7<sup>th</sup> December 2011**

### **AUDIT COMMISSION ANNUAL AUDIT LETTER 2010/11**

#### **Report of the Executive Director of Commercial & Corporate Services**

#### **1.0 Purpose of the report**

1.1 This report details the Audit Commission's (AC) Annual Audit Letter (AAL) covering the year 2010/2011. A copy is attached.

#### **2.0 Description of Decision**

2.1 Cabinet is recommended to:

- Note and comment on the contents of this report, and
- Refer the report to Council for their consideration.

#### **3.0 Introduction / Background**

3.1 The Audit Commission's Code of Audit Practice requires auditors to prepare an AAL and issue it to each audited body. The purpose of preparing and issuing AALs is to communicate to the audited body and key external stakeholders, including members of the public, the key issues arising from the auditors' work, which auditors consider should be brought to the attention of the audited body.

3.2 The AAL summarises the findings of the 2010/11 audit, which comprises two elements:

- An audit of the Council's financial statements
- An assessment of the Council's arrangements to achieve value for money in the use of resources

3.3 The AAL also provides an update on the position relating to the objections to the Accounts for 2007/08, 2008/09 and 2009/10.

#### **4.0 Overall Position**

4.1 The AAL is extremely positive overall providing a strong endorsement of the financial management and planning and governance arrangements in place across the Council.

4.2 The report provides an unqualified opinion on the financial statements and an unqualified VFM conclusion. The report confirms that the Council:

- Has robust arrangements in place to ensure its financial resilience.
- Has a history of good financial management, robust systems of corporate governance and internal control, and a strong record in the delivery of budgets.
- Had prepared for the economic challenges facing public services through the Sunderland Way of Working.

- Is committed to improvements in service delivery and outcomes, and has also identified significant savings.

### **4.3 Financial Statements and Annual Governance Statement**

- 4.3.1 The District Auditor (DA) issued an unqualified opinion on the Council's financial statements on 30 September 2011.
- 4.3.2 The DA commented that *"the financial statements presented for audit were of good quality, they complied with the new requirements of International Financial Reporting Standards (IFRS) and officers have once again been helpful in dealing with the audit and with our queries. This is a considerable achievement, as compliance with IFRS created significant problems across the country and some authorities were unable to meet the statutory deadlines."*
- 4.3.3 The DA also reported that financial statements have been streamlined where possible, key controls within the Council's main financial systems were operating as designed and there were no significant issues to raise with the Council. The DA will work with the Council over the next year to help address the small number of areas for improvement that were identified during the audit.

### **Resolution of Objections from Earlier Years**

- 4.3.4 Previously, the DA was unable to issue a final certificate for the 2009/10 accounts as outstanding objections to the Council's accounts for 2007/08 and 2008/09 had yet to be decided, and a legal issue had arisen which had led to further delays in issuing the final certificates for the three accounting years.
- 4.3.5 Following the conclusion of legal issues the DA has determined that no further action is required in response to the objections raised to the 2007/08 and 2008/09 accounts. As a result, he issued final certificates on 30 September 2011 to formally close the audits for 2007/08, 2008/09 and 2009/10, as well as that for 2010/11.

### **4.4 Value for Money**

- 4.4.1 The DA issued an unqualified conclusion stating that the Council had proper arrangements in place to secure economy, efficiency and effectiveness in its use of resources on 30 September 2011.
- 4.4.2 The DA reported that *"the Council has robust arrangements in place to ensure its financial resilience. The Council has a history of good financial management, robust systems of corporate governance and internal control, and a strong record in the delivery of budgets. The Council had prepared for the economic challenges facing public services through the Sunderland Way of Working. The Council is committed to improvements in service delivery and outcomes, and has also identified significant savings."*

4.4.3 In undertaking the value for money conclusion the DA also gave consideration to areas that had been previously identified as areas for improvement (i.e. asset management and natural resources). The DA commented upon the progress that is being made and the importance of these agendas in supporting the Council to deliver value for money.

### **Current and Future Challenges**

4.4.4 The AAL highlights the challenges the Council faces due to the economic downturn and the subsequent pressure on the public sector; as well as the need to cut costs yet maintain and improve key services. The Letter acknowledges the Council is prioritising its resources within tighter budgets, by achieving cost reductions and by improving efficiency and productivity.

4.4.5 In highlighting the challenges the DA has identified the Council's service reviews, the "innovative" SWITCH programme, and the consideration of alternative forms of service delivery and new and innovative ways of working as being key mechanisms to help meet the challenges.

4.4.6 The DA has commented that the key challenges for the Council are to:

- Closely monitor the 2011/12 budget and take early action if budget savings are not being delivered
- Monitor service delivery and governance arrangements to ensure that standards are maintained during a period of significant change

## **5.0 Relevant Considerations / Consultations**

5.1 Government regulations require the AAL to be published. In addition to publication as part of the Cabinet, Management Scrutiny Committee and Council Agendas, and its publication on the AC website it is proposed to place the full report on the Council website.

## **6.0 Reasons for Decision**

6.1 To enable Cabinet to consider and comment on the contents of the independent report together with any actions the Council is undertaking in response to it.



# Annual Audit Letter

Sunderland City Council

Audit 2010/11



# Contents

---

<b>Key messages</b>	<b>3</b>
Audit opinion and financial statements	3
Value for money	3
Resolution of objections from earlier years	3
<b>Current and future challenges</b>	<b>4</b>
<b>Financial statements and annual governance statement</b>	<b>5</b>
Overall conclusion from the audit	5
Resolution of objections	6
<b>Value for money</b>	<b>7</b>
<b>Closing remarks</b>	<b>11</b>
<b>Appendix 1 – Fees</b>	<b>12</b>
<b>Appendix 2 – Glossary</b>	<b>13</b>



# Key messages

**This report summarises the findings from my 2010/11 audit and provides an update on the position relating to objections to the accounts for 2007/08 and 2008/09. My audit for 2010/11 comprised:**

- **the audit of the Council's financial statements; and**
- **my assessment of arrangements to achieve value for money in the use of resources.**

	<b>Our findings</b>
Unqualified audit opinion	✓
Proper arrangements to secure value for money	✓

## **Audit opinion and financial statements**

I issued an unqualified opinion on the financial statements on 30 September 2011.

The financial statements presented for audit were of good quality, they complied with the new requirements of International Financial Reporting Standards (IFRS) and officers have once again been helpful in dealing with the audit and with our queries. This is a considerable achievement, as compliance with IFRS created significant problems across the country and some authorities were unable to meet the statutory deadlines

## **Value for money**

I also issued an unqualified conclusion stating that the Council has proper arrangements in place to secure economy, efficiency and effectiveness in its use of resources on 30 September 2011.

The Council has robust arrangements in place to ensure its financial resilience. The Council has a history of good financial management, robust systems of corporate governance and internal control, and a strong record in the delivery of budgets. The Council had prepared for the economic challenges facing public services through the Sunderland Way of Working. The Council is committed to improvements in service delivery and outcomes, and has also identified significant savings.

## **Resolution of objections from earlier years**

Following the completion of legal cases in the Courts, I have now determined the objections to the 2007/08 and 2008/09 accounts. I concluded that I did not need to take any formal audit action and I issued final certificates on 30 September 2011 to formally close the audits for 2007/08, 2008/09 and 2009/10 as well as that for 2010/11.

# Current and future challenges

---

## Challenges

Economic downturn and pressure on the public sector  
Cutting costs but maintaining and improving key services

## Key Issues

The 2011/12 budget was one of the most difficult the Council has faced. The outcome of the comprehensive spending review in the autumn of 2010 was that there would be significant cuts in central government funding. In Sunderland's case, this meant an overall reduction of £58m, with further cuts to follow in 2012/13.

The Council is committed to improving service delivery and outcomes, and needs to make savings. Further activity is underway through several tranches of service reviews; recognising that further savings will be required in 2012/13 (estimated at £26.2m) and beyond.

The Council has established its innovative SWITCH programme (Staff Working in Transition and Change). This aims to support the delivery of the Council's business operating model and support the associated restructuring issues by finding displaced workers alternative employment in the Council as part of a wider set of measures in place to manage the position. The Council has made a commitment to seek to avoid mass redundancies.

The key challenges for the Council are to:

- closely monitor the 2011/12 budget, taking early action if budget savings are not being delivered; and
- monitor service delivery and governance arrangements to ensure that standards are maintained during a period of significant change.

The Council is also actively developing a range of alternative forms of service delivery and new and innovative ways of working. As this is a key focus for Community Leadership, decisions on delivery models will be based on grounds of service improvement and value for money. The Council is engaging with key stakeholders about where alternative service delivery models can demonstrate significant community and organisational benefits.

# Financial statements and annual governance statement

---

**The Council's financial statements and annual governance statement are an important means by which the Council accounts for its stewardship of public funds.**

## **Overall conclusion from the audit**

The financial statements were approved by the Audit and Governance Committee on 30 September 2011. I issued an unqualified audit opinion on that date.

The financial statements presented for audit were of good quality, they complied with the new requirements of International Financial Reporting Standards (IFRS) and officers have once again been helpful in dealing with the audit and with our queries. This is a considerable achievement, as compliance with IFRS created significant problems across the country and some authorities were unable to meet the statutory deadlines.

Some amendments to the draft accounts were agreed with officers as a result of our audit work.

I am pleased to report that despite the significant challenge of implementing IFRS accounts which require more disclosures, the financial statements have been streamlined where possible, meaning that the length of the accounts has reduced overall and the disclosures are more focused than previously.

There is still scope to further improve working papers, and we will work with officers to secure further improvement for next year's audit.

I considered aspects of your accounting practices, accounting policies, accounting estimates and financial statements disclosures. There were no significant issues to raise with the Council.

I concluded that, in general, the key controls within the Council's main financial systems were operating as designed.

## Resolution of objections

Objections were made to the Council's accounts for 2007/08 and 2008/09. This meant that I was unable to issue my certificate for those accounts and also that I was unable to issue my final certificate for the 2009/10 accounts until the objection was decided.

I have now reached a decision on the objections, which related to income and expenditure in respect of car parking, sharing my decision and statement of reasons with the Council and the objector on 18 August 2011.

My decision is:

- not to make an application to the court for a declaration that there is an unlawful item of account in the Council's accounts under section 17 of the Audit Commission Act 1998; and
- not to make a report in the public interest under section 8 of the Audit Commission Act 1998.

I issued certificates to close the 2007/08, 2008/09 and 2009/10 audits on 30 September 2011.

Although not requiring formal audit action, there were three areas where Council processes could have been improved. I have suggested the following actions to avoid challenge in the future, which have been agreed by officers:

- the formal novation of contracts should be carried out promptly;
- records need to be kept to demonstrate decisions made under delegated powers; and
- when introducing new car parking regulations and arranging signage, care must be taken to ensure that this is done properly.

# Value for money

---

**I considered whether the Council is managing and using its money, time and people to deliver value for money. I assessed performance against the criteria specified by the Audit Commission and have reported the outcome as the value for money (VFM) conclusion.**

My overall conclusion was that the Council has proper arrangements to secure, economy, efficiency and effectiveness in its use of resources. I issued an unqualified value for money conclusion on 30 September 2011.

I reviewed the two criteria specified by the Audit Commission and undertook follow up work in two other areas where I had previously identified scope for improvement. My key findings and conclusions on each of these areas are set out on the following pages:

- financial resilience;
- securing economy efficiency and effectiveness;
- asset management follow up work; and
- natural resources follow up work.

---

## Value for money criteria and key messages

Criterion	Key messages
<p><b>1. Financial resilience</b></p> <p><b>The organisation has proper arrangements in place to secure financial resilience.</b></p> <p>Focus for 2010/11:</p> <p>The organisation has robust systems and processes to manage effectively financial risks and opportunities, and to secure a stable financial position that enables it to continue to operate for the foreseeable future.</p>	<p><b>Criteria met</b></p> <p>The Council has robust arrangements in place to ensure its financial resilience. The Council has a history of good financial management, robust systems of corporate governance and internal control, and a strong record in the delivery of budgets. During 2008/09 and 2009/10, the Council delivered £22.9m of efficiency savings for reinvestment in service priorities.</p> <p>In 2010, the new Government signalled its intention to address the growing national budget deficit with significant reductions in public spending. An Emergency Budget required savings of over £9m to be made by the Council during 2010/11.</p> <p>The 2010/11 outturn shows that the Council not only made these savings, but only drew on £2.3m of its general reserve, rather than the £7.2m that had been originally planned, without impacting adversely on front line services. The Council was also able to set aside some £8m of resources for future commitments.</p> <p>At 31 March 2011, the Council's general reserve which is available to meet unforeseen circumstances stood at £12m, whereas total usable reserves were £169m. Although the majority of these are earmarked for specific purposes, they do provide the Council with enhanced flexibility to manage its financial position in the current difficult economic environment.</p> <p>The 2011/12 budget was one of the most difficult the Council has faced. The outcome of the comprehensive spending review in the autumn of 2010 was that there would be significant cuts in central government funding. In Sunderland's case, this meant an overall reduction of £58m, with further cuts to follow in 2012/13.</p> <p>The Council had prepared for the challenges it faced through the Sunderland Way of Working (SWOW) and its business transformation programme. This helped the Council balance its 2011/12 budget.</p> <p>Although there has been a focus on the immediate priority of making savings for 2011/12, the Council has already refreshed (in draft form) its medium term financial plan:</p> <p>The key challenges for the Council are to:</p> <ul style="list-style-type: none"><li>■ closely monitor the 2011/12 budget, and take early action if budget savings are not being delivered; and</li><li>■ monitor service delivery and governance arrangements to ensure that standards are maintained during a period of significant change.</li></ul>

## Criterion

### 2. Securing economy efficiency and effectiveness

**The organisation has proper arrangements for challenging how it secures economy, efficiency and effectiveness.**

Focus for 2010/11:

The organisation is prioritising its resources within tighter budgets, for example by achieving cost reductions and by improving efficiency and productivity.

## Key messages

### Criteria met

The Council had prepared for the economic challenges facing public services through the SWOW. SWOW is the umbrella term covering Authority Improvement Programmes including the areas of Business Transformation, Community Leadership, Economic Regeneration, Reputation and Influencing as well as Directorate Improvement Programmes. This has helped the Council identify the £58m savings required in the 2011/12 budget round:

- £19m area based and specific grant cuts passported to relevant activities; including major cuts, such as £9.9m loss of working neighbourhood funding previously used to strengthen the local economy;
- Business Transformation Programme savings – £26m (£8m from strategic and shared services, £2.5m from customer services, IT and property, £5m from procurement, and the remainder from a programme of service reviews); and
- remainder of savings found from one off use of surpluses and reserves (£5.5m), increased income (£2.8m) and other savings.

The Council is committed to improving service delivery and outcomes, but needs to make savings. Further activity is underway through several tranches of service reviews; recognising that further savings will be required in 2012/13 (estimated at £26.2m) and beyond.

The Council has established its innovative SWITCH programme (Staff Working in Transition and Change). This aims to support the delivery of the Council's business operating model and support the associated restructuring issues by finding displaced workers alternative employment in the Council as part of a wider set of measures in place to manage the position. The Council has made a commitment to seek to avoid mass redundancies.. The Council stopped external recruitment some time ago, created an Internal Jobs Market and has some flexibility in moving from agency staffing in some areas.

A key priority for the Council is to closely monitor the overall implementation of savings plans and impact of SWITCH. Robust monitoring arrangements are in place as reflected in the budget monitoring reports to Cabinet. Officers are closely monitoring the position and taking actions to mitigate any shortfall in order to achieve a positive outcome.

The Council's service assessments approach has delivered a range of new approaches to service provision. The Council is also actively developing a range of alternative forms of service delivery and new and innovative ways of working. As this is a key focus for Community Leadership, decisions on delivery models will be based on grounds of service improvement and value for money. The Council is engaging with Members and other key stakeholders about where alternative service delivery models can demonstrate significant community and organisational benefits.

### **Asset management follow up**

A key area for potential Council efficiencies is property rationalisation.

The Smarter Working project was set up with a focus on space utilisation targets and desk density ratios combined with increased home and mobile working is enabling increased efficiency in building use. Some buildings have already been vacated and a total of 12 buildings are anticipated to have been taken out of use by the end of 2011. The current anticipated savings of the project are £3.3m by the end of 2013/14.

The Council is considering the means by which to increase developments and investment in Sunderland through the use of its own assets.

### **Natural resources follow up**

The Council has adopted a Sustainability Policy and is progressing plans to improve sustainability, however, some momentum has been lost due to restructuring.

The Council had originally intended to develop a Sustainability Board to oversee delivery of the Sustainability Policy. However, the streamlined Council and governance structure has led the Council to reconsider whether this is the most appropriate mechanism to take the agenda forward.

Whilst the creation of a Board is under review, the Council is looking to establish a Communities of Interest Group to promote and drive the sustainability agenda across the Council's directorates, building on the work currently ongoing at a delivery level. This group would then feed into the Council's existing governance arrangements via the Deputy Chief Executive.

It is important that service reviews come up with sustainable solutions, and sustainability should consequently be reflected more prominently in the service review process.



# Closing remarks

I have discussed and agreed this letter with the Chief Executive and the Executive Director of Commercial and Corporate Services. The letter will be presented to a number of key committees and a copy will be provided to all Members. Further detailed findings, conclusions and recommendations in the areas covered by our audit are included in the reports issued to the Council during the year.

Report	Date issued
Fee Letter	April 2010
Opinion Audit Plan	March 2011
Review of Internal Audit	May 2011
IT Risk Assessment	June 2011
Interim Opinion Report	July 2011
Annual Governance Report	September 2011
Opinion on the financial statements	September 2011
Value for Money conclusion	September 2011
Annual Audit Letter	November 2011

The Council has taken a positive and constructive approach to our audit. I wish to thank the Council and its staff for their support and co-operation during the audit.

Steve Nicklin  
District Auditor

November 2011

# Appendix 1 – Fees

	Actual	Proposed	Variance
Audit fee	339,858 <sup>i</sup>	332,522	7,336
Grant claims and returns	43,960 <sup>ii</sup>	43,960	0
Non-audit work	0	0	0
<b>Total</b>	<b>383,818</b>	<b>376,482</b>	<b>7,336</b>

<sup>i</sup> The actual fee includes an additional fee of £7,336, which reflects the cost of additional work undertaken to resolve the objection. These figures do not reflect the fee rebates that have been paid back to the Council, following savings made by the Audit Commission, and rebated to audited bodies on a national basis.

<sup>ii</sup> This remains our best estimate for grant claims and returns. This work is not likely to be completed until the end of December 2011.

# Appendix 2 – Glossary

---

## **Annual governance statement**

Governance is about how local government bodies ensure that they are doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner.

It comprises the systems and processes, cultures and values, by which local government bodies are directed and controlled and through which they account to, engage with and where appropriate, lead their communities.

The annual governance statement is a public report by the Council on the extent to which it complies with its own local governance code, including how it has monitored the effectiveness of its governance arrangements in the year, and on any planned changes in the coming period.

## **Audit opinion**

On completion of the audit of the financial statements, I must give my opinion on the financial statements, including:

- whether they give a true and fair view of the financial position of the audited body and its spending and income for the year in question; and
- whether they have been prepared properly, following the relevant accounting rules.

## **Opinion**

If I agree that the financial statements give a true and fair view, I issue an unqualified opinion. I issue a qualified opinion if:

- I find the statements do not give a true and fair view; or
- I cannot confirm that the statements give a true and fair view.

## **Value for money conclusion**

The auditor's conclusion on whether the audited body has put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources based on criteria specified by the Audit Commission.

If I find that the audited body had adequate arrangements, I issue an unqualified conclusion. If I find that it did not, I issue a qualified conclusion.

If you require a copy of this document in an alternative format or in a language other than English, please call:  
**0844 798 7070**

© Audit Commission 2011.

Design and production by the Audit Commission Publishing Team.

Image copyright © Audit Commission.

The Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission explains the respective responsibilities of auditors and of the audited body. Reports prepared by appointed auditors are addressed to non-executive directors, members or officers. They are prepared for the sole use of the audited body. Auditors accept no responsibility to:

- any director/member or officer in their individual capacity; or
- any third party.



## CABINET MEETING – 7 DECEMBER 2011

### EXECUTIVE SUMMARY SHEET – PART I

**Title of Report:**

ACQUISITION OF LAND AT SUNDERLAND RETAIL PARK, NEWCASTLE ROAD FOR PLANNING PURPOSES

**Author(s):**

THE DEPUTY CHIEF EXECUTIVE AND THE EXECUTIVE DIRECTOR OF COMMERCIAL AND CORPORATE SERVICES

**Purpose of Report:**

The purpose of this report is to obtain approval for the use of the Council's power under section 237 of the Town and Country Planning Act 1990 ("the Act") to override third party interests and rights to enable the proposed comprehensive redevelopment of Sunderland Retail Park ("SRP") by Tesco Stores Ltd ("Tesco") to proceed as quickly as possible and in advance of the implementation of The Council of the City of Sunderland (Sunderland Retail Park) Compulsory Purchase Order 2011 ("the CPO"). The relevant interests and rights and the ability to rely upon section 237 of the Act in respect of these interests and rights are described later in this report. It is considered that there remains a compelling case in the public interest, reinforced by the recent decision of the Secretary of State dated 28<sup>th</sup> November 2011 to confirm the CPO, which justifies reliance on the Council's powers under section 237 of the Act in this case. The compelling case in the public interest is described in more detail later in this report.

**Description of Decision:**

Cabinet is requested to:

1. Reaffirm the authorisation given by Cabinet at its previous meeting on 16th February 2011 to acquire and dispose of any land or interests required in order to enable the proposed development of Sunderland Retail Park ("SRP") to proceed in order to permit the acquisition of Tesco Stores Ltd's freehold interest to SRP by the Council under section 227 of the Town and Country Planning Act 1990 for planning purposes in order that section 237 of the 1990 Act may be relied upon.
2. Consider and agree, as part of the reaffirmation, that the powers to override interests and rights under section 237 of the 1990 Act may be utilised in respect of SRP to allow the implementation of the Scheme proposals to proceed as soon as reasonably possible in the public interest.
3. Authorise the Deputy Chief Executive, the Executive Director of Commercial and Corporate Services and the Head of Law and Governance to take all necessary action in order to implement (1) and (2) above.

Note that the financial implications associated with the proposal are cost neutral to the Council as set out in paragraphs 42 and 43 of this report.

**Is the decision consistent with the Budget/Policy Framework? Yes**

**If not, Council approval is required to change the Budget/Policy Framework**

**Suggested reason(s) for Decision:**

Following the making of the CPO, a public local inquiry has been held and the Secretary of State has now confirmed the CPO. However, it will be approximately 3 to 4 months until the CPO procedures will allow vesting of the Plot 2 Land to take place. Notwithstanding the need to compulsorily acquire leasehold interests within the Plot 2 Land to enable the Scheme to be implemented in its entirety, the Scheme could be substantially progressed in advance of the implementation of the CPO by relying upon the Council's power under section 237 of the Act to override the interests and rights enjoyed by the Plot 2 Land tenants, Blockbuster and Farmfoods. Tesco has informed the Council that it wishes to commence the implementation of the Scheme as soon as possible in January 2012 and has given notice to the Council that it requires the Council to acquire the freehold to SRP in order that the Council's power under section 237 of the Act may be relied upon. It is considered that the rights enjoyed by Blockbuster and Farmfoods in relation to service access, service media, car parking (in part) and quiet enjoyment of the Plot 2 land unit are capable of being overridden under section 237 of the Act and that there is a compelling reason in the public interest to the override these rights in accordance with the planning permission in view of the substantial economic, social and environmental benefits of the Scheme and to allow the early implementation of the Scheme ahead of vesting under the CPO. Without the use of the Council's power under section 237 of the Act, the implementation of the Scheme and the public benefits (recently recognised by the Secretary of State) that will flow will be delayed. As a consequence, it is appropriate to use the section 237 power so that the Scheme can be substantially progressed as quickly as possible in advance of reliance on the CPO.

**Alternative options to be considered and recommended to be rejected:**

Since the CPO has been confirmed, the alternative option in this case would be to await the completion of the CPO procedures for notification and vesting and allowing the statutory time for challenge to expire, and then acquire Blockbuster's and Farmfoods' interests in the Plot 2 Land in order to carry out the works to, and in the vicinity of, the Plot 2 Land to enable the implementation of the Scheme. Tesco's preference is to rely upon the power contained within section 237 of the Act in order that it may commence work to implement the Scheme immediately in January 2012 and deliver the public benefits that will follow. On the basis that Cabinet has previously authorised the acquisition of the Plot 2 Land for the purpose of enabling the delivery of the Scheme and that section 237 of the Act may be relied upon to override Blockbuster's and Farmfoods' rights in relation to service access, service media, car parking (in part) and quiet enjoyment, it is considered that the use of the power under section 237 of the Act is appropriate in this case. The failure to rely upon the power under section 237 of the Act would only serve to delay the comprehensive Scheme. That public interest in the delivery of the Scheme has been supported by the Secretary of State. Indeed, at para. 36 of her decision, the Inspector referred to the need to avoid delay and while that was a reference to using powers under section 237 of the Act alone, a parallel point can be made for advancing the Scheme as quickly as possible now that confirmation has been given.

<b>Is this a “Key Decision” as defined in the Constitution?</b> Yes	<b>Relevant Scrutiny Committee:</b>
<b>Is it included in the Forward Plan?</b> Yes	<b>Prosperity and Economic Development</b>





**ACQUISITION OF LAND AT SUNDERLAND RETAIL PARK, NEWCASTLE ROAD FOR PLANNING PURPOSES****REPORT OF THE DEPUTY CHIEF EXECUTIVE AND THE EXECUTIVE DIRECTOR OF COMMERCIAL AND CORPORATE SERVICES****Purpose of Report**

The purpose of this report is to obtain approval for the use of the Council's power under section 237 of the Town and Country Planning Act 1990 ("the Act") to override third party interests and rights to enable the proposed comprehensive redevelopment of Sunderland Retail Park ("SRP") by Tesco Stores Ltd ("Tesco") to proceed as quickly as possible and in advance of the implementation of The Council of the City of Sunderland (Sunderland Retail Park) Compulsory Purchase Order 2011 ("the CPO"). The relevant interests and rights and the ability to rely upon section 237 of the Act in respect of these interests and rights are described later in this report. It is considered that there remains a compelling case in the public interest, reinforced by the recent decision of the Secretary of State dated 28<sup>th</sup> November 2011 to confirm the CPO, which justifies reliance on the Council's powers under section 237 of the Act in this case. The compelling case in the public interest is described in more detail later in this report.

**Description of Decision**

Cabinet is requested to:

1. Reaffirm the authorisation given by Cabinet at its previous meeting on 16th February 2011 to acquire and dispose of any land or interests required in order to enable the proposed development of Sunderland Retail Park to proceed in order to permit the acquisition of Tesco Stores Ltd's freehold interest to SRP by the Council under section 227 of the Town and Country Planning Act 1990 for planning purposes in order that section 237 of the 1990 Act may be relied upon.
2. Consider and agree, as part of the reaffirmation, that the powers to override interests and rights under section 237 of the 1990 Act may be utilised in respect of SRP to allow the implementation of the Scheme proposals to proceed as soon as reasonably possible in the public interest.
3. Authorise the Deputy Chief Executive, the Executive Director of Commercial and Corporate Services and the Head of Law and Governance to take all necessary action in order to implement (1) and (2) above.

4. Note that the financial implications associated with the proposal are cost neutral to the Council as set out in paragraphs 42 and 43 of this report.

## **Background**

### Need for regeneration of SRP

1. SRP is located approximately 1 km to the north of Sunderland City Centre. It occupies a prominent gateway site on the principal approach to the City Centre from the north, bounded to the west by Newcastle Road, to the south by Monk Street, Shore Street and Roker Avenue and to the east and north by Portobello Lane. It extends to 6.23 hectares and its boundary is shown edged red on the plan attached as Appendix 1.
2. SRP comprises of 12 retail units, a bowling alley and former night club, a McDonalds' "Drive thru" restaurant and a former Reg Vardy car showroom, all with associated parking. However, only three of the retail units are currently occupied (one of which is subdivided) and only two of the other units (McDonalds and Sunderland Bowl) remain in occupation. The extent of the vacancies and the under utilisation of the car parking give the appearance of a predominantly poorly performing retail offer. The vacant units are characterised by closed security shutters, an increasing proliferation of graffiti and a general air of neglect. It is a failing and unattractive retail facility that lacks any vibrancy and vitality. It is no longer a retail destination of choice which exacerbates its poor appearance.
3. Whilst SRP is in an accessible location for car borne traffic and for users of bus and Metro services, there are few safe crossings over the surrounding highways network into the site. In particular, it has poor permeability for pedestrians who have been dropped off by public transport outside of SRP or for those accessing the site from nearby residential areas. Overall, it does not provide a retail offer which makes best use of the level of accessibility that it enjoys.
4. 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 the Sunderland Economic Masterplan (adopted by the Council on 29 September 2010), which notes that Sunderland still suffers from high unemployment and a low skills base. These produce a major drag on Sunderland's ability to fulfil its economic potential. The Monkwearmouth area also experiences higher levels of poor health and crime than the national average. The effect of the predominance of vacant units within SRP is that the site fails to provide the maximum levels of employment opportunities that could be achieved in response to the high unemployment rates.

## Need for retail investment

5. In terms of access to shopping facilities for local residents, the Sunderland Retail Needs Assessment produced by Roger Tym and Partners on behalf of the Council (published in September 2009) found that there is a localised deficiency in convenience goods provision in the north of Sunderland along with a qualitative need for additional food and grocery provision.
6. There is also currently significant trade leakage from the Sunderland North area of convenience expenditure to the Asda store at Bolden Colliery in South Tyneside.
7. Members are referred to the attached reports to the Planning and Highways Committee (Appendix 2 in respect of the planning application) and the Cabinet report (Appendix 3 in respect of the making of the CPO) and the Statement of Reasons (Appendix 4) for the public interest reasons in favour of this investment and development at SRP. It is not considered that those reasons have changed significantly since the original decisions were taken by the Council to grant planning permission and authorise the making of the CPO.

## Cabinet Meeting, 16 February 2011

8. At its meeting on 16 February 2011, Cabinet considered a report on proposals for the comprehensive redevelopment of SRP to provide a new retail superstore, additional retail units and improvements to existing retail units, associated public realm improvements and highway infrastructure ("the Scheme") and resolved to:

*"1. Authorise the making of a Compulsory Purchase Order ("CPO") to be known as The Council of the City of Sunderland (Sunderland Retail Park) Compulsory Purchase Order 2011 under section 226(1)(a) of the 1990 Act to acquire land and under section 13 of the Local Government (Miscellaneous Provisions) Act 1976 ("the 1976 Act") in order to acquire new rights at Sunderland Retail Park in order to facilitate the carrying out of its comprehensive redevelopment"; and*

*"6. Authorise the Deputy Chief Executive and Head of Law and Governance to acquire and dispose of any land or interests required to enable the proposed redevelopment of the Sunderland Retail Park to proceed, subject to appropriate indemnity provisions being in place with the developer."*

### Making of the CPO

9. On 24 February 2011 the Council made the CPO and on 4 March 2011 served and published notices of the making of the CPO and posted notices on site at SRP. Four statutory objections were received in relation to the CPO. A copy of the CPO is included at Appendix 5.

### The CPO Public Local Inquiry

10. The Inquiry was held on 4 October 2011 by an inspector appointed by the Secretary of State for Communities and Local Government to consider the Council's case for making the CPO, consider the grounds of objection and make a recommendation to the Secretary of State on whether the CPO should be confirmed.
11. Prior to the holding of the Inquiry, the objection to the CPO by Netto, in relation to the acquisition of Plot 3, was withdrawn and their unit has now been acquired by agreement. During the course of the Inquiry the objection to the CPO by McDonalds, in relation to the acquisition of Plot 1, was also withdrawn and an agreement has now been completed in order to vary the existing McDonalds' lease. The agreements reached by Tesco with Netto and McDonalds allow the Scheme to be implemented in respect of Plot 1 and Plot 3 without their compulsory acquisition. An amended Schedule to the CPO and Order Map were provided to the inspector. These are contained in Appendix 6. The land contained within the amended CPO is restricted to the Plot 2 Land.

### The Secretary of State's decision

12. On 28 November 2011 the Secretary of State confirmed the CPO, following the recommendation of the Inspector who held the Inquiry, making only such modifications to the Order as had been suggested by the Council. The Inspector found that the Council had acted properly in pursuing the CPO, had provided a convincing case for the scheme and had acted reasonably in its negotiations with affected landowners and occupiers (see paras. 28-38 of the Inspector's report). The objections made by the remaining objectors were not upheld.
13. The Council must now publicise the notice of confirmation of the CPO under s. 15 of the Acquisition of Land Act 1981 and give notice to the affected landowners/occupiers. S. 23 allows a statutory challenge to be made to the CPO but only if brought within 6 weeks of the first publication of the notice of confirmation. Even then, a challenge may not be brought on the substance of the reasons for confirmation but only on limited judicial review grounds (s. 23(2)).

## **Put Option Agreement**

14. On 24 February 2011 the Council entered into a Put Option with Tesco which confers a right on Tesco to require the Council to acquire the freehold to SRP for planning purposes in order that section 237 of the Act may be relied upon. The Agreement provides that on completion of the acquisition of the freehold, the Council will grant to Tesco a 250 year lease of the SRP site containing an option in favour of Tesco to acquire the freehold reversion back from the Council.

## **CPO Indemnity Agreement**

15. The Council entered into the Indemnity Agreement with Tesco on 16 February 2011 which provides for all costs incurred by the Council in respect of the voluntary or compulsory acquisition of land and interests and costs associated with overriding any third party interests or rights which are required to enable the implementation of the Scheme shall be met in full by Tesco. Under the Indemnity Agreement Tesco may request that the Council accepts a transfer of any part of SRP for planning purposes subject to the Council being satisfied that the statutory grounds in relation to the use of section 237 of the Act may be relied upon.

## **Request to the Council to utilise its powers under section 237 of the Act**

16. Tesco has submitted notice to the Council that it requires the Council to acquire the freehold to SRP and to utilise the Council's powers under section 237 of the Act to override third party interests and rights.
17. As a consequence of the agreements reached by Tesco with Netto and McDonalds, the only interests and rights which prevent the implementation of the Scheme are those of the tenants of the Plot 2 Land, Blockbuster and Farmfoods. Whilst the leasehold interests of Blockbuster and Farmfoods are required in order to implement the Scheme proposals in their entirety, substantial elements of the Scheme could be progressed quickly in advance of implementation of the CPO by relying upon the Council's power under section 237 of the Act to override the interests and rights enjoyed by Blockbuster and Farmfoods. Tesco has informed the Council that it wishes to commence the implementation of the Scheme as soon as possible during January 2012 in order that the regeneration of SRP and the ensuing public benefits may be secured without delay. Those public benefits have been recently upheld by the Secretary of State and his Inspector when confirming the CPO. Even though the CPO has been confirmed, it will take time, approximately 3 to 4 months to complete the procedures, for the confirmation to be out of the statutory challenge period and for vesting of land to take place.

### **The third party rights affecting the Plot 2 Land**

18. The Plot 2 Land comprises of a retail unit, the freehold to which is owned by Tesco, which is subject to a lease dated 18 August 1994 made between Granchester Shopping Centres Limited and Blockbuster Entertainment Corporation Limited and Blockbuster UK Group Limited (“the Lease”). The unit has been sub-divided and Blockbuster occupies part of the unit. The Lease expires on 24 March 2019. The remaining part of the unit is subject to an underlease dated 27 June 2002 made between Blockbuster Entertainment Limited and Farmfoods Limited (“the Underlease”), and is occupied by Farmfoods. The Underlease expires on 21 March 2019.
19. The implementation of the Scheme proposals could impact upon a number of rights granted to Blockbuster and Farmfoods in respect of the wider SRP site. The relevant rights and the potential effect of the implementation of the Scheme on these rights are set out below.

#### Service access

20. The implementation of the Scheme proposals would involve the redevelopment of the land adjoining the Plot 2 Land unit and the formation of a new purpose built service bay to the south of the units. It is intended that rights to use the new service bay will be granted by Tesco to Blockbuster and Farmfoods. However, it is possible that the interference with the existing service arrangements and the provision of the new service bay may amount to a breach of the terms contained in the Lease and Underlease.

#### Service media

21. It may be necessary to reposition some of the service media (e.g. cabling and connections) in order to implement the Scheme proposals. In addition it is conceivable that an interruption to service may be experienced by Blockbuster and Farmfoods. It is possible that the repositioning of the service media and any interruption to service may amount to a breach of the rights enjoyed by Blockbuster and Farmfoods.

## Quiet enjoyment

22. The carrying out of works to implement the Scheme proposals will necessarily impact to some degree upon the use and enjoyment of the Plot 2 Land retail units, notwithstanding the right which Tesco enjoys to build upon the land adjoining the Plot 2 Land provided that it does not materially adversely affect the use and enjoyment of the Plot 2 Land by Blockbuster and Farmfoods. It is possible that the nature and extent of the works and the manner in which they are managed by Tesco may not result in a materially adverse impact on Blockbuster's/Farmfoods' use and enjoyment. However, for the avoidance of any doubt and in order for the Scheme to be delivered as soon as possible it is necessary to enable the tenants' rights to quiet enjoyment to be overridden if required for the purpose of the Scheme.

## Car parking

23. Under the terms of the Lease and Underlease, customers and employees of Blockbuster and have a legal right (in common with all other existing units) to park within any part of the SRP car park. The Scheme proposals comprise the formation of dedicated car parking areas to serve each part of the Plot 2 Land unit to the east and west of the unit. It is intended that the proposed amended Lease and Underlease to be granted by Tesco will include rights permitting customers and employees of Blockbuster and Farmfoods to park within the two new dedicated car parking areas, together with the right (in common with other units) to park in the car park on the eastern half of SRP, but will not grant express proprietary rights over the car park serving the new superstore.
24. Whilst the proposed amendments to the Lease and Underlease would restrict the proprietary rights enjoyed to park within certain areas of SRP, customers of Blockbuster and Farmfoods will, in any event, be entitled to park within the main superstore car park under the arrangements to be formalised through the approval of a car park management scheme under Condition 16(vii) of the outline planning permission for the Scheme. The Transport Assessment which was submitted with the planning application provides for car parking throughout SRP, including the main superstore car park, to be made available to customers of the superstore and the other retail units. The car park management arrangements to be submitted by Tesco for approval under this planning condition should reflect the Transport Assessment. Accordingly, it is not anticipated that the creation of new car parking as part of the Scheme and the subsequent management of the car parking will interfere with the ability of customers of Blockbuster and Farmfoods to use whatever car parking is most convenient to them.

## Recladding of the Plot 2 Land retail unit

25. The Scheme proposals incorporate the recladding of the Plot 2 Land unit. The carrying out of the recladding works would directly impact upon the premises demised in the Lease and Underlease rather than interfering with rights granted in the Lease and Underlease in relation to the wider SRP site. As a consequence, the power under section 237 of the Act cannot be used to enable the recladding works to be carried out. However, the right to carry out these works will be secured by agreement through the proposed variations to the Lease and Underlease or, if required, through the implementation of the CPO. It is also a condition of the outline planning permission that the Scheme shall be carried out in accordance with the approved plans which include the recladding works (unless agreed in writing with the Local Planning Authority).

### **The power contained within Section 237 of the Act**

26. The power contained in section 237 of the Act allows the carrying out of development of, and use of, land in accordance with planning permission notwithstanding the fact that the carrying out of that development of or use of land might breach or interfere with a third party's interests or rights attached to the land. The power may be relied upon by a local authority or by a person deriving title under them.
27. A number of requirements must be met in order for the Council to rely upon its power under section 237 of the Act. The land must be capable of being acquired under the Act for planning purposes by the Council to enable the development to go ahead. The carrying out of the development must be in accordance with a planning permission which has been granted. The interests and rights must be the type of interests or rights that are capable of being overridden under section 237 of the Act. These requirements are considered in relation to each of the rights affecting the implementation of the Scheme below.
28. Where an interest or right is overridden by section 237 of the Act, the party with the benefit of the interest or right is entitled to compensation. In this case the Council has entered into the Indemnity Agreement with Tesco. The Indemnity Agreement provides for the payment by Tesco of all costs incurred by the Council in relation to compensation payable as a result of the use of section 237 of the Act.



## **Justification for using the power under section 237 of the Act in relation to SRP**

29. The first matter to be considered by Members is whether the land is capable of being acquired by the Council for planning purposes to enable the Scheme to proceed. Cabinet has previously authorised the use of compulsory purchase powers to assemble land contained within SRP under section 226(1)(a) of the Act. In making that decision, Cabinet was satisfied that the Scheme would facilitate the carrying out of the redevelopment of the land and would be likely to contribute to the achievement of the promotion or improvement of the economic, social and environmental wellbeing of the area.
30. In this case, the freehold to SRP held by Tesco would be acquired by agreement pursuant to section 227 of the Act. However, the tests relating to voluntary acquisition for planning purposes under section 227 of the Act are the same as those relating to compulsory acquisition under section 226(1)(a) of the Act. The acquisition by the Council of the freehold to SRP would be for planning purposes to enable the Scheme proposals for the redevelopment of SRP to proceed. The Scheme would deliver a number of important public benefits. These include meeting the quantitative need for additional food and grocery provision in the Sunderland North area and thereby improving access to facilities for local people and assisting with the economic revitalisation of the area; improving the retail offer within SRP; generating up to 400 full time and part time jobs which will be available to local people; the physical regeneration of this important gateway site; acting as a catalyst for further regeneration of the local area surrounding SRP; the delivery of a development incorporating sustainable design features which will minimise its impact upon the environment; the visual improvement of SRP through the removal of vacant units with knock-on improvements to the perception of safety at the site; the enhancement of the landscaped buffer with the potential to attract further wildlife to the area; improvements to the highways network; and measures to enhance pedestrian and cycle linkages with the surrounding area. It is considered that the delivery of these public benefits would result in improvements to the economic, social and environmental wellbeing of the area.
31. The next requirement is that the carrying out of the development and its subsequent use must be in accordance with planning permission which has been granted. In this case, outline planning permission was granted for the Scheme proposals on 27 October 2010 and approval of reserved matters were subsequently granted on 26 May 2011. The works to be carried out by Tesco to construct the Scheme and its subsequent use will be in accordance with this planning permission. The interference with service access, service media, Blockbuster's and Farmfoods' quiet enjoyment and the reclading of the Plot 2 Land unit are a necessary consequence of the implementation of the planning permission. To a degree the interference with the existing rights of Blockbuster and Farmfoods to park within SRP is also an inevitable consequence of the implementation of the planning permission. However, it is not a necessary consequence of the

planning permission for Blockbuster and Farmfoods to be restricted in their ability to use the new superstore car park, save as set out in the car park management plan to be submitted. This will not therefore be achieved in its entirety by section 237 of the Act. This point was accepted by the Secretary of State in confirming the CPO.

32. Members must also be satisfied that the interests and rights must be of the type that are capable of being overridden under section 237 of the Act. The interests and rights to which section 237 of the Act applies are: “... *any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.*” The rights enjoyed by Blockbuster and Farmfoods to obtain service access, use service media and benefit from quiet enjoyment of the premises are considered to be rights falling within the definition contained in section 237 of the Act. As explained above, the potential interference with these rights is necessary to enable the Scheme to be carried out. The proposed recladding of the Plot 2 Land involves works which would amount to a direct interference with the premises demised in the Lease and Underlease, rather than interference with the type of interest or right defined in section 237 of the Act. Accordingly, the recladding works could not benefit from the protection afforded by section 237 of the Act as the Secretary of State has found. However, as explained above, these works can be carried out by Tesco at a future date, either by agreement or if necessary through the implementation of the CPO.
33. In summary, it is considered that the rights enjoyed by Blockbuster and Farmfoods in relation to service access, service media and quiet enjoyment of the Plot 2 land unit are capable of being overridden under section 237 of the Act and that the overriding of these rights in accordance with the planning permission is justified. However, the restriction on the legal right of customers of Blockbuster and Farmfoods to park within the main car park to serve the superstore and the recladding of the unit are not capable of being overridden under section 237 of the Act.

### **Alternative options**

34. Since the CPO has been confirmed, the alternative option in this case would be to await the completion of the CPO procedures for notification and vesting and allowing the statutory time for challenge to expire, and then acquire Blockbuster’s and Farmfoods’ interests in the Plot 2 Land in order to carry out the works to, and in the vicinity of, the Plot 2 Land to enable the implementation of the Scheme.

35. Tesco's preference is to rely upon the power contained within section 237 of the Act in order that it may commence work to implement the Scheme immediately in January 2012 and deliver the public benefits that will follow. On the basis that Cabinet has previously authorised the acquisition of the Plot 2 Land for the purpose of enabling the delivery of the Scheme and that section 237 of the Act may be relied upon to override Blockbuster's and Farmfoods' rights in relation to service access, service media, car parking (in part) and quiet enjoyment, it is considered that the use of the power under section 237 of the Act is appropriate in this case. The failure to rely upon the power under section 237 of the Act would only serve to delay the comprehensive Scheme. The substantial public interest in the delivery of the Scheme has been recognised by the Secretary of State. Indeed, at para. 36 of her decision, the Inspector referred to the need to avoid delay and while that was a reference to using powers under section 237 of the Act alone, a parallel point can be made for advancing the Scheme as quickly as possible now that confirmation has been given.

### **Human Rights considerations**

36. Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way which is incompatible with the European Convention of Human Rights ("ECHR").
37. The potential use of the power under section 237 of the Act will impact upon two ECHR rights. Article 1 of the First Protocol contains the right to peaceful enjoyment of one's possessions and the right not to be deprived of one's possessions. This right can be interfered with in the public interest and subject to the conditions provided for by law. That interference is only justified if the fair balance of the factors, which comprise a proportionate interference, is in favour of the public interest against the private interests to be acquired. Article 6 of the ECHR contains the right to a fair and public hearing by an impartial tribunal.
38. The Secretary of State has not found there to be any Human Rights considerations which prevent the making and confirmation of the CPO and the same must also hold true of the exercise of powers under section 237 of the Act, pending the completion of the CPO procedures.

## Article 1

39. Whilst Blockbuster and Farmfoods will be deprived of their rights under the Lease/Underlease these rights will be interfered with in accordance with the law. This would be achieved in the public interest as required by Article 1 of the First Protocol. The public benefits arising from the Scheme are set out earlier in this report. It is considered that the reliance upon the power under section 237 of the Act will strike a fair balance between the public interest in the implementation of the comprehensive redevelopment of SRP and those private rights which will be affected by the use of the power.

## Article 6

40. Blockbuster and Farmfoods have been informed of the Council's power to rely upon the effect of section 237 of the Act to override rights that they currently enjoy. Blockbuster and Farmfoods will therefore have an opportunity to make representations to the Council. However, unless there is anything they can add to the points made before the Inspector, they have already made their objections known in the context of the CPO and have been unsuccessful in persuading the Secretary of State to their view.
41. Blockbuster and Farmfoods will also be entitled to compensation proportionate to any losses that they have incurred. In this case, compensation will be based on the diminution in value between the land which has the benefit of the rights and without the rights in place, in accordance with the Compulsory Purchase Compensation Code. The Compensation Code has been held to be compliant with Article 6.

## **Financial implications to the Council**

42. As explained above, the proposed transaction would involve the Council acquiring Tesco's freehold interest to SRP for planning purposes pursuant to its powers under section 227 of the Act. Upon completion of the acquisition of the freehold, the Council would grant to Tesco a 250 year lease containing an option in favour of Tesco to acquire the freehold reversion. Tesco would then be in a position to implement the Scheme and rely on section 237 of the Act to override the relevant interests and rights in relation to service access, service media, quiet enjoyment and car parking (in part) for the Plot 2 Land.
43. The Council has entered into the Indemnity Agreement with Tesco in respect of all costs, liabilities and expenses arising from the exercise of the power under section 237 of the Act. These include all costs associated with the acquisition of the freehold to SRP and the payment of all compensation to Blockbuster and Farmfoods. Accordingly, the provisions of the Indemnity Agreement ensure that the use of the power under section 237 of the Act and the overall process is cost neutral to the Council.

## **Reasons for Decision/ Conclusion**

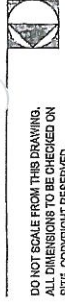
44. Following the making of the CPO, a public local inquiry has been held and the Secretary of State has now confirmed the CPO. However, it will be approximately 3 to 4 months until the CPO procedures will allow the vesting of the Plot 2 Land to take place.
45. Notwithstanding the need to compulsorily acquire leasehold interests within the Plot 2 Land to enable the Scheme to be implemented in its entirety, the Scheme could be substantially progressed in advance of the implementation of the CPO by relying upon the Council's power under section 237 of the Act to override the interests and rights enjoyed by the Plot 2 Land tenants, Blockbuster and Farmfoods.
46. Tesco has informed the Council that it wishes to commence the implementation of the Scheme as soon as possible in January 2012 and has given notice to the Council that it requires the Council to acquire the freehold to SRP in order that the Council's power under section 237 of the Act may be relied upon.
47. It is considered that the rights enjoyed by Blockbuster and Farmfoods in relation to service access, service media, car parking (in part) and quiet enjoyment of the Plot 2 land unit are capable of being overridden under section 237 of the Act and that there is a compelling reason in the public interest to the override these rights in accordance with the planning permission in view of the substantial economic, social and environmental benefits of the Scheme and to allow the early implementation of the Scheme ahead of vesting under the CPO.
48. Without the use of the Council's power under section 237 of the Act, the implementation of the Scheme and the public benefits (recently recognised by the Secretary of State) that will flow will be delayed. As a consequence, it is appropriate to use the section 237 power so that the Scheme can be substantially progressed as quickly as possible in advance of reliance on the CPO.

## **APPENDICES**

- |            |   |
|------------|---|
| Appendix 1 | Plan showing extent of Sunderland Retail Park   |
| Appendix 2 | Report to Cabinet dated 16 February 2011  |
| Appendix 3 | CPO, Schedule of Interests and Order Map  |
| Appendix 4 | Report to Planning and Highways Committee dated 5 October 2010                              |
| Appendix 5 | Statement of Reasons for the making of the CPO  |
| Appendix 6 | Amended Schedule of Interests and Order Map submitted to CPO Inquiry on 4 October 2011      |
| Appendix 7 | Decision of Secretary of State dated 28 November 2011 on the the CPO and Inspector's report |



NOTES ORIGINAL A3



DO NOT SCALE FROM THIS DRAWING.  
ALL DIMENSIONS TO BE CHECKED ON  
SITE. COPYRIGHT RESERVED.

KEY

PLANNING APPLICATION SITE BOUNDARY



DEVELOPMENT CONTROL  
RECEIVED  
2 16 2008  
SUNDERLAND CITY COUNCIL

REV P1 02.08.08 DR ISSUED FOR PLANNING.

REVISIONS

CLIENT

Mountview Securities

PROJECT

Sunderland Retail park  
Newcastle Road  
Sunderland

TITLE

Parameter Plan 1  
Site Location Plan

SCALE

1:1250 @A3

DATE

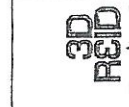
02.08.08

DRAWN

DR

CHECKED

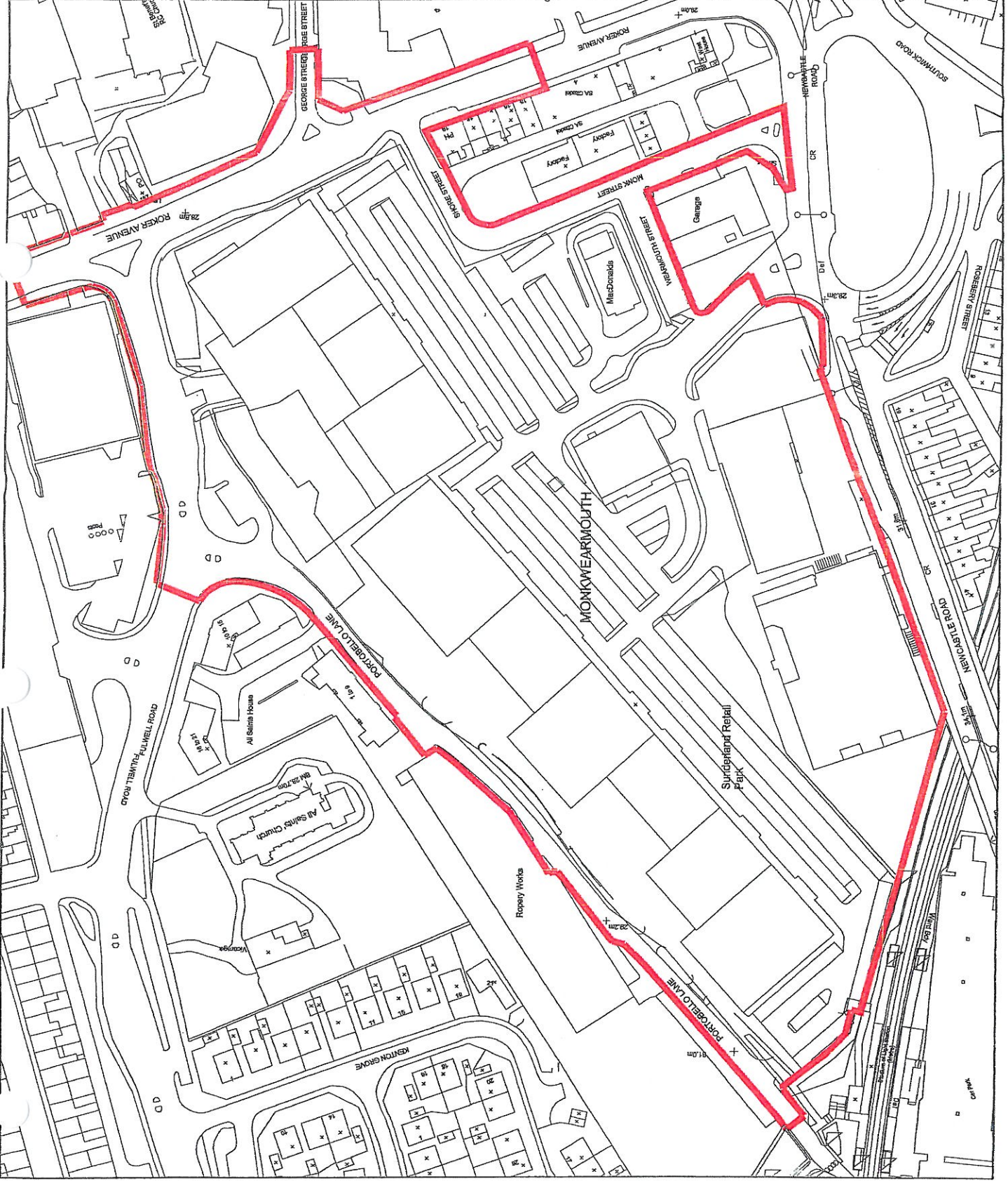
SA



3DPSD  
12 Carolina Street  
Birmingham  
B3 7JX  
T+44(0)121 212 2221  
F+44(0)121 239 2709  
www.3dpsd.com  
Birmingham, Edinburgh, Falkirk,  
Glasgow, London, Manchester, Belfast

DRAWING No.

073023 - D - 01 P1







ADDENDUM REPORT

Planning and  
Highways  
Committee  
5<sup>th</sup> October  
2010

---

**Reference No.:** 08/03336/OUT Outline Application

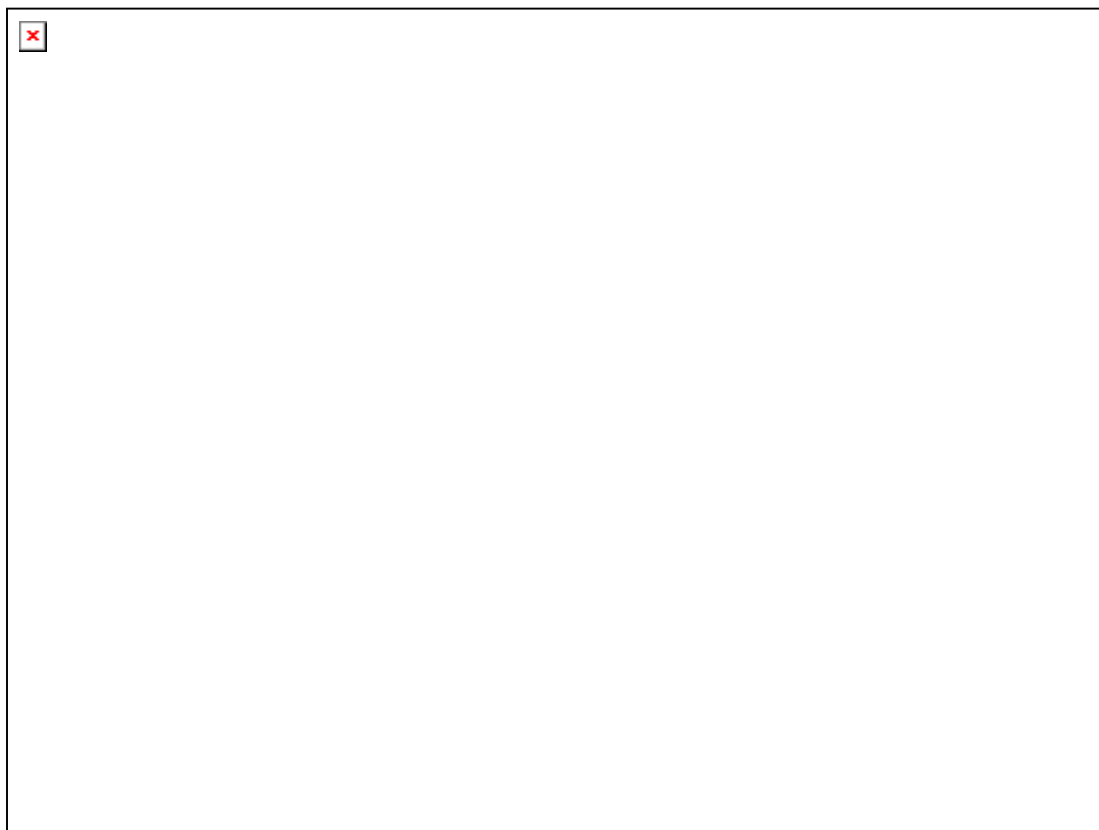
**Proposal:** Revised outline planning application, received 5<sup>th</sup> August 2010, for erection of superstore (A1); retention and recladding of an existing unit; erection of four additional retail units; retention and recladding of the existing Farmfoods/Blockbuster unit ; new vehicular accesses; reopening of section of highway to emergency vehicles; resurfacing/landscaping and stopping up of a highway.

**Location:** Sunderland Retail Park Sunderland

**Ward:** St Peters  
**Applicant:** Mountview Securities  
**Date Valid:** 5 September 2008  
**Target Date:** 31 October 2008

---

**Location Plan**



\*This map is based upon the Ordnance Survey material with the permission of the Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence No. 100018385. Date 2008.

## **CONTENTS**

- Purpose of report
- Description of decision
- Background
- Proposal
- Publicity
- Representations
- Policies
- Commentary
- Conclusions
- Appendices – Appendix A1 Summary of Consultation Responses on Original Scheme.  
Appendix A2 A1 Summary of Consultation Responses on Amended Scheme.  
Appendix B1 Report of Council's Retail Consultants on Original Scheme.  
Appendix B2 Report of Council's Retail Consultants on Amended Scheme.

### **Purpose of Report**

The purpose of this report is to make a recommendation to Committee on an outline planning application submitted on behalf of Mountview Securities in respect of Sunderland Retail Park for the erection of a superstore (A1); retention and recladding of an existing unit; the erection of four additional retail units; retention and recladding of the one other existing Farmfoods/Blockbuster unit; new vehicular accesses; reopening of a section of highway to emergency vehicles; resurfacing/landscaping and the closure of a highway.

### **Description of Decision**

The Committee is recommended to resolve:-

- 1) that it is minded to approve the outline application for a retail development, subject to the conditions listed in the Recommendation section and to the completion of an agreement under Section 106 of the Town and Country Planning Act 1990, heads of terms for which are outlined in the Section headed Proposed Section 106 Agreement below and,
- 2) to refer the application to the Secretary of State under the terms of the Town and Country Planning (Shopping Development) (England and Wales) (No. 2) Direction 1993.

### **Background.**

The application was originally submitted on 22<sup>nd</sup> August 2008, although not validated until 5<sup>th</sup> September 2008, when the ownership of the site had been clarified. It was for the erection of a superstore (A1) (gross external floorspace 22,355 sq m. 12,260 sq m. net), four retail units (A1)(2,036 gross external floorspace 1,637 sq m. net) and petrol filling station (sui generis), alterations to

existing vehicular accesses and creation of new vehicular accesses; associated landscaping, car parking and ancillary development. Although a detailed Retail Assessment accompanied the original application, it was largely founded on the results of a household survey carried out in 2002. It was considered that this was both out of date and, in view of the relatively small sample size, a less than satisfactory basis on which to determine the site specific proposal. The applicant was therefore asked to review and update the Assessment either by carrying out his own household survey or by using the results of a survey to be carried out on behalf of the City Council as part of the Council's Local Development Framework information gathering exercise. The applicant chose the latter course and, following the completion of the household survey in the first week of December 2008, a revised Retail Assessment was submitted on 16th February 2009 which superseded the earlier Assessment produced on 11<sup>th</sup> November 2008. Subsequently, updated forecasts of growth in retail expenditure have been published which are significantly lower than those used in the February 2009 Assessment. The applicant was therefore requested to revisit the proposals and, as a result, has amended the application with the submission of revised proposals which are the subject of this report.

## **Proposal**

The application is in outline only with all matters reserved for subsequent approval apart from the means of access and the layout of the buildings. The application is for:-

- 1) The demolition of the majority of the buildings on the Sunderland Retail Park, including the Bowling Alley and the former Reg Vardy car showroom, save for the the McDonalds restaurant, the Farmfoods/Blockbuster unit and the most northerly of the five units in the south-east corner of the site, which are to be retained.
- 2) The retention and recladding of the existing Farmfoods/Blockbuster unit (593 sq m gross external floorspace; 474 sq m net retail area) and the most northerly of the five units (1,168 sq m gross external floorspace; 934 sq m net retail area).
- 3) Construction of a superstore of 16,140 sq m gross external floorspace, 8,378 sq m net retail area. This would be a large two storey building 13.5 metres high, located on the northern part of the site. The retail area would be at first floor level, accessed by travelators, with undercroft car parking and a surface level car park adjoining to the north. It would front Newcastle Road with servicing to the rear accessed from Portobello Lane near its junction with Fulwell Road. Additional pedestrian and emergency vehicle access is also proposed from the northern end of Portobello Road (which is the subject of an Extinguishment of Vehicular Rights order, but that does not apply to emergency vehicles).
- 4). 4 smaller retail units of 2,661 sq m gross external floorspace, 2,129 sq m net retail area. These would be single storey units located in the south-east corner of the retail park, on the site of units to be demolished, and serviced from Roker Avenue and Fulwell Road.
- 5). McDonalds restaurant to be retained on its existing site (375 sq m gross external floorspace).

6). 900 parking spaces, including 45 disabled and 28 parent and child bays are proposed to serve the entire development. These would be located at ground floor level throughout the site, including beneath the superstore.

The landowner, Mountview Securities, have indicated that their preferred operator for the superstore is Tesco Stores Ltd and that the smaller units are likely initially to be occupied by some of the existing occupants of the retail park.

The site extends to 6.23 ha including some adjoining roadways but not the large Wheatsheaf gyratory immediately to the west. The scheme no longer includes a petrol filling station. Excluding the retained McDonalds unit (375sq m gross external floorspace), which is not a shop, the total retail floorspaces produced by the development proposed is as follows:

	<b>Gross external floorspace</b>	<b>Net retail area</b>
<b>Total Retail Floorspace</b>	20,562 sq m	11,916 sq m
<b>Total New Retail Floorspace</b>	18,801 sq m	10,507 sq m

The site is approximately 1km to the north of Sunderland city centre, bounded to the west by Newcastle Road, to the south by Monk Street, Shore Street, and Roker Avenue and to the east and north by Fulwell Road and Portobello Lane.

The main access to the site is to be taken from Newcastle Road with other pedestrian and vehicular accesses from Portobello Lane (near its junction with Fulwell Road), Roker Avenue and Shore Street. As well as access from surrounding roads, a direct pedestrian link is proposed to the south bound platform of the adjoining Stadium of Light metro station.

The applicant intends to fund and implement a slightly enhanced version of the City Council designed major highway improvement scheme for the adjoining Wheatsheaf gyratory as part of the development. In the event Members are minded to approve the application a planning condition preventing the opening of the new superstore before the implementation of this scheme could be imposed.

The site is currently occupied by 12 retail units, 10 in two blocks along the eastern boundary and 2 in the centre. 5 units are currently vacant. The existing units have a total gross external floor space of 12,714sq m, 11,628sq m net internal area and 9,478sq m net retail area. In addition there is a bowling alley and night club, a vacant car showroom and a McDonalds drive through restaurant. The latter building is intended to remain. The total gross external floorspace of the existing units including the McDonalds and the demolished bowling alley and car showroom is 20,642 sq m.

If developed, the proposal will result in an increase in net retail floorspace on the site of 2,438 sq m, made up of a reduction of 648 sq m comparison floorspace and an increase of 3,086 sq m convenience floorspace, compared with the existing net retail provision at the Retail Park.

The revised application is accompanied by a number of other documents which provide supporting information. These are:-

- a Design and Access Statement
- a Transport Assessment including a framework for a Travel Plan
- a Sustainability Statement

- a Flood Risk Assessment
- a Retail Assessment
- an Archaeological Desk Based Assessment
- a Geo-Environmental Desk Study
- an Acoustics Assessment Technical Report and
- a Statement of Community Involvement.

#### **TYPE OF PUBLICITY:**

Press Notice Advertised  
 Site Notice Posted  
 Neighbour Notifications

#### **CONSULTEES:**

County Archaeologist  
 Council for The Disabled  
 The Council for British Archaeology  
 Chief Executive  
 Commission for Architecture In The Built Environment  
 The Coal Authority  
 Business Investment  
 Northern Electric  
 English Heritage  
 Environment Agency  
 UK Gas Business  
 One North East  
 Director of Community And Cultural Services  
 Force Planning And Police Architectural Liaison Officer  
 Sunderland arc  
 Northumbrian Water  
 Nexus  
 Gone Office North East - Transportation Issues  
 North East Regional Assembly  
 South Tyneside MBC

#### **REPRESENTATIONS:**

##### **Publicity**

Prior to the submission of the original application Mountview Securities undertook significant consultations which are detailed in the Statement of Community Involvement. These involved the following; a range of stakeholder meetings with, amongst others, officers of the City Council, Nexus and occupiers of units within the Retail Park; a public exhibition held in one of the vacant units from 4pm to 7pm on 23rd July 2008. This was advertised by a press release to local papers and a flyer delivered to over 1,500 local households. It was staffed by members of the project consultant team and attended by approximately 150 people who returned 54 feedback forms; a website with details of the proposal and which asks for feedback and an advertisement in the Sunderland Echo.

Further public consultation was undertaken by the applicant in June 2010 in advance of the submission of the amended proposal and detailed in the further

Statement of Community Involvement. This involved a public exhibition held in Monkwearmouth Library on the afternoon and evening of Monday 14<sup>th</sup> June 2010. It was advertised by a press release, by the project specific website and by a flyer delivered to over 1,000 households. Approximately 60 people attended this exhibition and 11 feedback forms were returned.

The Council has also advertised both the original and the amended application via a press notice, a notice posted on the site and extensive neighbour consultations.

## **Representations**

The overall response from the first public exhibition was positive with 39 of the 54 feedback forms indicating the scheme was “about right” and only 8 suggesting it needed generally minor change. Members of the project team who attended the second exhibition felt there was a high level of public support whilst, on the feedback forms, 5 said the scheme was about right, 5 said it needed some change and 2 gave it qualified support.

The comments from neighbours and statutory and non-statutory consultees are set out in Appendices A1 (comments on the original scheme) and A2 (comments on the amended scheme).

One local resident has expressed concerns over potential traffic hazards and the potential effect on local shops and solicitors acting on behalf of a local company have requested that no access be taken from Portobello Lane. However, since the submission of the amended scheme, further discussions have taken place with this company and they are now satisfied providing access is maintained to their building via Portobello Lane during the construction works and at all times thereafter.

One objection, made in two letters dated 3<sup>rd</sup> November 2008 and 22<sup>nd</sup> April 2009 have been received in relation to the original scheme on behalf of Wm Morrison Supermarkets plc recommending the application be refused as it does not meet the tests set out in PPS6. However, at the time this report was written no updated objections had been received on behalf of Wm Morrison in relation to the amended scheme. It should also be noted that since the original submission PPS6 has now been superseded and replaced with a new PPS4 against which the amended scheme has been assessed and the new PPS4 does not require the applicant to demonstrate the “need” for the proposal.

None of the statutory and non-statutory consultees object in principle although ONE North East and the North East Assembly point out in relation to the original scheme that the City Council needs to be satisfied that the development would not affect the vitality and viability of the City Centre and other centres in the vicinity, in accordance with the requirements of PPS4. ONE North East have commented further in relation to the amended scheme by generally welcoming the regeneration potential of the scheme and asking that, through the discharge of reserved matters, a high quality of design, reduction in carbon emissions through energy efficiency and the potential for electric vehicle infrastructure be sought.

Sunderland Arc supports the outline proposals for the redevelopment of Sunderland Retail Park for the following reasons. The proposal is in broad

accordance with the saved policies of the adopted UDP. The Sunderland Retail Needs Assessment 2009 identifies a need to improve the quantitative and qualitative convenience goods retail provision in this area and as an established retail site Sunderland Retail Park is appropriate to meet much of this need. They agree with the overall conclusions of the sequential assessment and they acknowledge the employment benefits, the clawback of retail expenditure leakage from the north of the city and the promotion of economic and physical regeneration of the area.

None of the statutory or non-statutory consultees have asked for the application to be called in for a decision by the Secretary of State.

## **POLICIES:**

### a) National

The application has to be assessed against the following national planning policy guidance:-

- Planning Policy Statement (PPS) 1 Creating Sustainable Communities
- Planning Policy Statement (PPS) 4 Planning for Sustainable Economic Growth
- Planning Policy Statement (PPS) 5 Planning for the Historic Environment
- Planning Policy Guidance Note (PPG) 13 Transport
- Planning Policy Guidance Note (PPG) 16 Archaeology
- Planning Policy Statement (PPS) 22 Renewable Energy
- Planning Policy Statement (PPS) 23 Planning Pollution Control
- Planning Policy Guidance Note (PPG) 24 Planning and Noise
- Planning Policy Statement (PPS) 25 Development and Flood Risk

### b) Regional

At the time the original scheme was submitted the North East Regional Spatial Strategy (RSS) issued by the Secretary of State in July 2008 formed the regional tier to the Council's Development Plan. However, on 6<sup>th</sup> July 2010 the new Coalition Government announced the revocation of the RSS with immediate effect so the RSS is no longer a material consideration in the determination of planning applications.

Nevertheless the Regional Economic Strategy 2006-2016, Leading the Way does remain a material consideration, although it has never formed part of the Development Plan. This has as its primary aim to move from 80% to 90% of national average GVA (Gross Value Added) per head by 2016. This is to be achieved by:-

#### Increasing participation

- Tackling worklessness and unemployment to increase economic activity.
- Creating 61,000 to 73,000 new jobs by 2016.

## Improving productivity

- Raising GVA
- Creating 18,500 to 22,000 new businesses by 2016.

In its section concentrating on people, the second key challenge involves utilising the talents of those who are economically inactive by, amongst other things, tackling worklessness, taking areas of economic opportunity to deprived communities and promoting equality and diversity.

## c) Local

The City of Sunderland Unitary Development Plan (UDP) was adopted in 1998. The policies in the UDP that are most relevant to the site are set out below. They include policies added to the UDP by Alteration Number 2 (Central Sunderland) adopted on 26<sup>th</sup> September 2007.

- 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
- 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.
- S2 which encourages proposals which sustain and enhance the vitality, viability and appropriate diversification of centres including the City Centre (this policy does not apply to retail parks as they are not classed as shopping centres).
- S7 which requires a high standard of design for new retail development.
- 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.
- EN5 which requires applicants to carry out noise and vibration assessments where a development is likely to generate significant increases of noise or vibration in sensitive areas.
- 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.
- B11 protecting the City's archaeological heritage



- B14 which requires the submission of an archaeological assessment where development proposals affect sites of known archaeological importance.
- B16 which provides for the recording or preservation of historic sites
- B19 which seeks to achieve a 'user-friendly' environment in all developments to which the public, including those with impaired mobility, have access.
- B20 which encourages the provision of works of art in association with major developments.
- CN14 which requires developments prominent from main transport routes to be designed to enhance the image of the City.
- T1 which gives priority to measures that promote walking, cycling and public transport, stimulate economic development and regeneration, improve road safety and protect and improve the environment.
- T2 which seeks to promote the role of public transport.
- T8 giving a high priority to the needs of pedestrians in planning new development.
- T9 (iv) which encourages the provision of secure cycle parking facilities.
- T14 which states that new development should, amongst other things, be readily accessible by pedestrians and cyclists and not cause congestion or safety problems on existing roads.
- T21 which requires parking provision to take into account the need to maintain safe road conditions; to reduce travel demand; to ensure the economic viability of existing centres and to promote more environmentally sensitive modes of transport.
- NA44 which allocates a number of small areas around the retail units at Sunderland Retail Park for a variety of purposes, including retail, providing there are no alternative locations in or on the edge of the City centre and this does not detract from the vitality and viability of other centres.
- NA48 which seeks environmental improvements in the commercial and industrial buildings in the area north of Roker Avenue.
- EC10A (Alteration No. 2) Which seeks to support of the regeneration of Central Sunderland and to resist developments which detract from efforts to encourage regeneration within the area or have a negative impact upon vitality and viability of the city centre.
- S2A (Alteration No. 2) Which seeks to direct new retail development to the city centre retail core. Retail developments outside the retail core will need to demonstrate proven need, that proposal is of a scale appropriate to the site, there are no suitable sites within the retail core, there would be no unacceptable impacts on the vitality and viability of the retail core or the Grove local centre and will need to show accessibility by a choice of means of transport and no adverse impact on the development plan strategy or LDF strategy.
- T23A (Alteration No. 2) Which covers maximum parking standards for residential and business (B1) uses.

Work has begun on the preparation of a Local Development Framework (LDF) for the City which will replace the UDP. In particular, a document setting out the preferred options for the City's Core Strategy was published for comment in December 2007. However, there was a need to revisit the approach taken to outlining possible spatial alternatives for the development of the City and as a result a document setting out four possible spatial Alternative Approaches for the Core Strategy was published for public consultation in September 2009. As a

result of this consultation a revised version of the Core Strategy Preferred Options was published in March 2010. This document featured five overarching City-wide policies and five sub-area policies. The following Preferred Options policies are relevant to this application:-

- CS1 which seeks to provide for an improved spatial distribution of employment, housing and other uses by, amongst other things, concentrating new development along the River Wear corridor within Central Sunderland; maximising growth along the Metro corridor; giving priority to reusing suitable and sustainable previously developed land and supporting the role of the city, town and district centres.
- CS3 which seeks to secure the highest possible quality of built environment by, amongst other things, ensuring new development is of the highest quality of sustainable design, makes efficient use of land and is well integrated within its local environment.
- CS6 which seeks to develop the main district and local centres into vibrant and economically buoyant facilities and directs large-scale main town centre uses towards the main centres of Sunderland, Washington and Houghton.
- CS8 which seeks to foster accessibility and social inclusiveness by focussing development in built up areas with good access to public transport, walking and cycling; by reducing the need to travel and by improving public transport, walking and cycling access to existing built up areas.
- CS15 which seeks to reduce the city's carbon emissions and to help deliver and exceed RSS renewable energy targets by ensuring, amongst other things, that all major developments supply 10% of the site's energy consumption from renewable sources located on site, meet BREEAM Very Good construction standards and provide evidence of feasibility work into the potential for on-site renewable energy and combined generation of heat, power and cooling.
- CS16 which encourages development in Flood Zones 1 and 2 (those at least risk of flooding) and those that demonstrate a positive contribution to managing or reducing flood risk.
- CS19 relating to pollution and the condition of land which requires the City Council to refuse proposals which could cause inappropriate levels of air, noise and light pollution.
- CS20 which seeks, via planning obligations, contributions from developers to assist in achieving the wider aims and objectives of the LDF.
- Whilst relatively little weight can yet be given to the Strategy, it does provide up to date confirmation of the principles behind many existing UDP policies.

An LDF Topic Paper on Retailing and Town Centres was prepared in December 2007 as one of a series making up the evidence base for the Core Strategy and the LDF in general. It was subsequently updated in September 2009 to reflect the outcomes of the Retail Needs Assessment commissioned by the Council specifically to inform the emerging Local Development Framework.

The Topic Paper notes that the shopping patterns identified in the earlier 2006 study remain largely unchanged; the urban part of Sunderland and Washington retain their own catchment and markets whilst shoppers in the Coalfield travel out of their area for their shopping requirements.

In terms of Sunderland North, the 2002 Retail Study highlighted a significant outflow of expenditure from the residential estates in the north-west and more generally to the ASDA store at Boldon in neighbouring South Tyneside. The Topic Paper notes that this leakage is again highlighted in the 2009 Study and concludes that this would suggest the need for further convenience provision in this locality, however, the site identified in the UDP (NA12) is now no longer available for development. The Topic Paper states that it remains the case that need has been established for convenience retail in this area but an appropriate site has yet to be found. The Topic Paper refers to emerging proposals at the Roker Retail Park.

The Topic Paper makes reference to the Department of Communities and Local Government (CLG) document 'Under-served Markets: Retail and Regeneration', which highlights the importance of retailing as a regeneration tool in deprived areas by providing direct employment, additional investment and changing peoples' perception of an area.

Finally the Sunderland Retail Needs Assessment, September 2009, produced by consultants for the Council, contained a number of key findings relevant to the determination of this application. In particular it found that the zone encompassing the Castletown, Monkwearmouth and Southwick area (Zone 2) has the lowest convenience goods retention rate in the City with most residents travelling to the ASDA store in Boldon Colliery in neighbouring South Tyneside for their convenience shopping. This highlights a localised deficiency in convenience goods provision and suggests a need to clawback the current substantial leakage of convenience expenditure out of the City to Boldon (Zone 9).

The Assessment therefore concluded that in relation to retail need, there was a quantitative need for new convenience floorspace in two broad parts of the catchment area (namely the area surrounding Houghton-le-Spring and the area to the north of Sunderland city centre) and a qualitative need for more convenience floorspace in the city centre.

The Community Strategy, Sunderland 2008-2025 sets out a vision for the City with five strategic priorities of creating a prosperous, learning, healthy, safe and attractive and inclusive City. It provides an overarching context within which local policies/strategies, including those mentioned above, sit.

## **COMMENTS:**

### Commentary

The key issues to consider in the determination of the application are:-

- a) Compliance with policies and national guidance
- b) Regeneration impact
- c) Environmental impact
- d) Traffic/transport/road safety
- e) Design
- f) Deliverability

### **a) Compliance with Policies and National Planning Guidance**

In considering the merits of this application, regard must first be had to the Development Plan, although it should be noted that this assessment is to be a balancing exercise with compliance with the Development Plan considered as a whole as opposed to compliance with each and every policy and that a lack of compliance with one, or more, individual policies alone does not, of itself lead to a conclusion that the application is a departure from the Plan. The Development Plan comprises the adopted City of Sunderland UDP (including Alteration No.2) following which account should be taken of the various national, regional and local policies outlined in this report.

#### Location.

The proposed development is located within the built up area of Sunderland, close to the City Centre, at the intersection of major radial routes north of the City centre. It is well served by numerous bus routes and by the Tyne and Wear Metro system, access to which would be improved as part of the proposed development. It is currently developed, although with a number of vacant buildings, and the proposal would slightly intensify that development by increasing the amount of floorspace on the site by some 295 sq m (gross external floorspace). It is within Flood Zone 1, which is the lowest flood risk rating provided by the Environment Agency. It is therefore considered to be consistent with UDP policies R1, R2, and EC3, Core Strategy policies CS1 (locational strategy) and CS16 (flooding) and consistent with the principles of sustainable development set out in PPS1.

#### Uses

The proposal is for a main town centre use (retail) in an out of centre location and therefore all the requirements of PPS4 apply in addition to policies in the UDP. The key retail policies in the UDP in respect of this application, namely Policies S1 and NA44 reflect and incorporate the sequential and impact tests for out of centre retail development contained in PPS4.

The latest revised Retail Assessment for the application, submitted in June 2010, replaces the earlier document which accompanied the original submission. The revised Retail Assessment has taken on board the findings of a recent (November 2008) household survey, undertaken on behalf of the City Council, to determine shopping patterns throughout the City as part of the Local Development Framework. The Retail Assessment also reflects updated population and retail expenditure figures.

The Council has appointed an independent firm of planning consultants, Roger Tym & Partners (RTP), to assess and review the Applicants Retail Assessment. RTP also undertook the Council's City-wide Retail Needs Assessment in September 2009 for the purposes of the emerging LDF. Appendix B1 to this report gives the conclusions of RTP on the earlier Retail Assessment and Appendix B2 provides their review of the latest Retail Assessment submitted with the revised application.

All the data inputs, e.g. shopping patterns, expenditure growth rates, population projections etc have been agreed by the Applicant and RTP.

The study area identified for the Applicant's Retail Assessment is based on the household survey zones (1,2,5,6 and 9) which cover the administrative area of

the City east of the A19 together with Boldon in adjoining South Tyneside MBC. This catchment area is considered satisfactory and has been agreed by RTP. This area is realistic and well related to the size and function of the proposed development and takes account of competing centres.

The Applicant's Retail Assessment identifies existing shopping patterns and lists the most popular stores, by percentage of household expenditure, divided into convenience and comparison goods in each of the selected zones. It points out that 4 of the 7 most popular stores for convenience goods are located outside defined centres. It then proceeds to describe the methodology used in the Assessment and address policy issues and the tests set out in PPS4.

Applicants for retail developments outside established town centres no longer have to demonstrate a need for that development under the new PPS4. However, in order to satisfy local and national policies aimed at protecting the vitality and viability of existing centres and to demonstrate no harm to such centres, it is necessary to assess the likely amount of future retail expenditure available in the catchment area to support new development and the likely turnover of the proposed development. Forecasts have been made for the development up to the year 2016 in accordance with advice given in Policy EC 14.7 of PPS 4

The forecasts of population (a decline from 2008) and growth in expenditure adopted by the Applicant have been agreed with RTP and are considered reasonable as is the turnover estimate of the development. The Retail Assessment also suggests there is a qualitative need for the development. There is a significant outflow of expenditure from the residential estates north of the river and especially those in the north-west of the City, particularly to Boldon Colliery, beyond the City boundary. The development would therefore provide a main food shopping destination for many residents of north Sunderland which is closer and better served by public transport than Boldon Colliery. It would also provide greater choice in a particularly deprived area of the City as well as potentially contributing to reducing the outflow of comparison expenditure from the City.

Based on the forecasts there is an estimated surplus of convenience expenditure in 2016 of £58.84M and a surplus of £72.29M in comparison expenditure. Whereas in 2016 the convenience turnover of the development is estimated at £57M whilst its comparison turnover is estimated at £48.66M leaving a theoretical surplus of £1.84m and £23.63M in convenience and comparison expenditure after the opening of the development i.e. there is sufficient projected growth in expenditure within the catchment area to support the proposal. That remains the view of RTP despite the fact that the most recent estimates of expenditure growth for 2009 to 2015, published by Pitney Bowes in September 2010, show a slight reduction in annual growth of convenience goods expenditure from 0.6% to 0.4% per capita, per annum. These figures also show an increase in comparison goods expenditure from 2.9% to 3.8% per capita, per annum.

This, together with the consideration of the proposal in relation to policies in PPS4 will enable a judgement to be made on whether the proposal complies with the UDP.

PPS4 Policy EC10.2 Criteria d and e

These require an assessment of the impact of an application on the physical and economic regeneration in an area and on local employment. Regeneration is dealt with more fully in the next section of this report but, in summary, the proposal represents a significant private sector investment in a run-down site at an important gateway to the City. It is also highly likely to act as a catalyst to further investment in the area. It is estimated that it will generate up to 400 new jobs (full and part-time) compared to the existing 50 estimated to be on site at present. However, there is a need to take into account leakage and displacement in assessing the net job gain from the proposed development. As a consequence, RTP have advised that a net gain of up to 200 jobs (full time and part time) as a result of the development is a reasonable estimate.

#### PPS4 Policy EC15

In the case of a planning application for a main town centre use which is not in an existing centre but on an out of centre the applicant must demonstrate that there are no town centre sites or edge of centre sites to accommodate the proposed development. In addition, potential sites must be assessed for their availability, suitability and viability for the proposed development.

In this case, RTP agree that there is only one site in a sequentially preferable location suitable for a large retail use and that is Holmeside in the City centre. However, whilst this site is available, it is not of a sufficient size to accommodate a superstore of the same scale as this proposal, without the provision of a third access from Burdon Road, which is likely to render it unviable given the time and likely costs involved in securing the third access.

The applicant was asked to consider the size of foodstore that could be accommodated on Holmeside without a third access. The response suggests that the maximum store size, including a mezzanine, would be about 4,700 sq. m net trading area (in comparison to the application proposal of 8,400 sq m).

Further, the applicant has argued that a store of this size on Holmeside would not satisfy the established need for additional convenience provision for the north of the City as identified by the Sunderland Retail Needs Assessment 2009. It would not compete with the large stores elsewhere in the catchment area and would not successfully clawback the leaked expenditure currently lost from the Sunderland Area.

As a consequence, Holmeside does not represent a suitable or viable site for this particular development proposal, even if the superstore were to be disaggregated from the remainder of the development.

Sunderland Leisure Centre (in the town centre) and the former Vaux Brewery (potentially an edge of centre site), also identified by the applicant as part of the sequential test, are not available or suitable for a large floor plate retail use.

#### PPS4 Policy EC16

This sets out six impact tests which planning applications for town centre uses that are not in a centre must be assessed against.

- i) impact on existing, committed and planned public and private investment in centres.

No at risk committed expenditure has been identified. The only relevant planned expenditure relates to Sunderland arc and ONE North East's proposals for the Holmeside site. However, following the insolvency of the

developer, Thornfield, the current development agreement is due to be terminated. The current development proposals are to be revisited before a new developer procurement process is undertaken. As a consequence there is no clear evidence that development proposals at SRP would have a significant adverse impact on prospective investment at Holmeside.

ii) and iii) impact on town centre vitality and viability and on in-centre trade/ turnover and on trade in the wider area.

These two impact tests are closely related. The submitted Retail Assessment sets out the likely trade diversion from existing superstores, the city centre and other district (in particular Boldon and Doxford Park) and local centres (in particular Fulwell and Southwick). The Assessment concludes that there is no clear evidence that the proposal is likely to lead to significant adverse impacts on town centre vitality and viability and on in centre trade/turnover and on trade in the wider area. This conclusion is agreed by RTP.

iv) impact on allocated sites outside town centres.

The only allocated site is a very small site of 1 ha at Hylton Lane/Washington Road and it is therefore considered that the proposal would not have a significant impact on this site.

v) (if located on the edge of a centre) the scale of the proposal in relation to the centre.

As this is an out of centre proposal this criterion does not apply.

v) Any other locally important impacts on centres.

Thus far, no locally important impacts have been identified through the Local Development Framework process so this criterion cannot be applied.

It is therefore considered that the applicant has followed the sequential approach and demonstrated that there are no sequentially preferable sites for the development under Policy EC15 of PPS4. Further there is also no clear evidence that the proposal will have any significant adverse impacts in terms of any of the impacts referred to in Policies EC10.2 and 16 of PPS4

In terms of the proposed uses it is considered that the proposal satisfies the requirements of PPS4; complies with UDP Policies S1 and NA44, having satisfied the sequential test and there being no clear evidence of a significant adverse impact on the vitality and viability of other centres; complies with UDP policies EC1 and EC3 being in an area of economic and social deprivation and re-using already developed land; complies with Policies R1 and R2 being environmentally sustainable and using existing infrastructure and accords with the supporting text to emerging Core Strategy CS6 which provides for out of centre retail provision where there is a lack of such facilities and there are no sequentially preferable sites available. Further the application does not conflict to any material extent with other land use policies. (NB, The Applicant also refers to compliance with UDP Policy S5 but this no longer exists, not having been saved by a direction from the Secretary of State under the Planning and Compulsory Purchase Act).

Other relevant policies of the UDP will be referred to in the following sections of the report.

## **b) Regeneration Impact.**

Regeneration is a recurring theme of national and local policy. PPS1 encourages planning authorities to promote urban regeneration as part of their drive to ensure sustainable development and the development would go some way towards satisfying the Statement's aims relating to social progress and the maintenance of high and stable levels of economic growth and employment. PPS4 acknowledges that physical regeneration, growth in employment, economic growth and social inclusion are considerations that should be taken into account when assessing retail proposals. The report "Under-Served Markets: Retail and Regeneration" produced by the charity, Business in the Community, sponsored by the DCLG, highlights the importance of retailing as a regeneration tool in deprived areas by providing direct employment, additional investment, and changing peoples' perception of an area.

The Regional Economic Strategy aims to tackle worklessness and unemployment in a bid to improve economic activity.

The Community Strategy seeks to create a prosperous City and policies EC1 and EC3 of the UDP encourage developments targeted at areas of economic and social deprivation and which involve the re-use of previously developed land. The site of the application is largely occupied by buildings with little architectural merit, many of which are vacant and therefore do not provide employment and are also beginning to suffer from vandalism. In addition the development proposals will result in the physical regeneration of the SRP, which is beside a gateway approach to the city centre.

The Indices of Multiple Deprivation 2007 have been produced at Lower Super Output Area (LSOA) level which is generally smaller than wards. Of the 188 LSOAs in Sunderland, 4 of the 20 most deprived are within close proximity to the application site. They have some of the lowest levels of employment in Sunderland, high levels of poor health and high crime rates.

As explained above it is estimated that the development would generate a net gain of 200 full time and part time jobs. In addition further jobs will be created during the construction of the units. Increasing employment levels should increase local disposable income levels so providing greater opportunities for other local businesses. Completion of the development could also act as a catalyst for further regeneration in the area, notably north of Roker Avenue in accordance with UDP policies NA44 and NA48.

In addition, the applicant has agreed in principle to provide, via a planning obligation, a suite of employment and training measures to help local people, particularly those who have been unemployed for more than twelve months and individuals in receipt of income support and sickness related benefits to gain employment and training opportunities at the superstore when it has opened. This helps towards social regeneration. The applicant has also agreed to provide a permanent work of public art on site. to the value of £50,000 as part of the proposed development.

The development will also include significant road improvements to the existing Wheatsheaf gyratory system which will improve traffic movements over a wider area and thereby contribute to regeneration. Thus, construction and completion of the development should have a significant positive impact on the regeneration of the local area.



## **c) Environmental Impact**

### Townscape

There are no national or locally designated landscapes/townscapes in the immediate vicinity of the site. The existing retail units are single storey, approximately 7.5m in height with red and cream breeze blocks beneath grey metal cladding. The bowling alley/night club is on stilts with car parking beneath. It is constructed of facing brickwork and metal cladding and has a somewhat dated appearance. The car showroom is a three storey building with external cladding and large glazing panels. The McDonalds restaurant is a modern, low, single storey building of facing brickwork with extensive glazing to the front, northern, elevation. None of the buildings are considered to have any particular architectural merit.

To the west of the site are residential areas with a mixture of single and two storey terraced housing and with two multi-storey blocks. To the north are the modern Stadium of Light metro station and an area of car parking. To the east, beyond Portobello Lane, are a removal warehouse, one, two and three-storey dwellings and retail and trade units. To the south-east is the listed St Peters Church, whilst to the south is the small retail centre of Monkwearmouth. The Stadium of Light is some distance away to the south-west.

The Sunderland Central Urban Design Strategy SPD identifies the site as a key entrance and approach to the City Centre, although the site itself is outside the central area. Redevelopment of the site provides an opportunity to significantly enhance the townscape of this important gateway in accordance with UDP policy B2, providing design, detailing and materials are of the highest quality. Whilst the application is in outline with appearance as a reserved matter indicative designs are the subject of discussion below.

### Renewable energy/sustainable construction

The application has been accompanied by a Sustainability Statement which notes the Government's policy on renewable energy, expressed in PPS22, requiring 10% of the development's energy supply to come from decentralised and renewable or low-carbon sources. This requirement is echoed in Core Strategy policy CS15.

The Statement sets out various means by which energy could be saved in the development and suggests that, from the information presently available, the buildings will achieve a BREEAM "Good" rating, as opposed to the "Very Good" rating required by policy CS15. It also proposes a feasibility study into the viability of on-site renewable energy once detailed building design has commenced. It is considered that these issues could be satisfactorily covered by a condition were Members minded to approve the application.

### Archaeology.

There are no Scheduled Ancient Monuments within the site but part of the site is designated as an Area of Potential Archaeological Importance in the UDP as the medieval village of Monkwearmouth may extend into the southernmost part of the site. An archaeological desk-based assessment has been provided with the application in accordance with PPG16 and UDP policy B14. The assessment

concludes that repeated and extensive construction activity as well as previous excavation and remediation works to remove contaminants will have severely impacted and truncated any archaeology. The proposed development will therefore not have any adverse affect on any archaeological remains and no further work is necessary.

Whilst accepting the majority of the report, the County Archaeologist is concerned that there may still be important remains in parts of the site, notably beneath the bowling alley and the car showroom which may warrant investigation, preservation or recording in accordance with policies B11 and 13 of the UDP. These concerns can be dealt with by way of conditions should Members be minded to approve the application.

### Geology and Hydrology

The Geo-Environmental desk study, submitted with the application, indicates made ground 1m to 2m thick covers the entire site with glacial deposits beneath.

The site is not within a groundwater protection area. It has no existing water courses and there is no history of flooding of any significance at the location. The site as existing is almost fully covered by impermeable surfaces and, as such, the permeability will not lessen as a result of the development. Northumbria Water Ltd has confirmed that, if the existing connections to the adopted sewers within the site are used and there is no increase in the discharge rate, NWL's consent is not required.

### Nature Conservation.

The majority of the site is extensively developed with buildings and hard standings with a small amount of landscaping at the edges and a number of immature trees scattered within the site. Given this situation, the presence of any protected species is highly unlikely and the site does not contain any of the vulnerable habitats described in "The validation of Planning Applications in Tyne and Wear 2008".

Details of the landscaping of the site as a reserved matter would be submitted at a later date but, from the information currently provided, there is the opportunity to improve the existing landscaping of the site.

### Noise/vibration.

#### Operational Noise

A consultant's noise assessment has been submitted with the application which considers the impacts of the proposed retail development. Potential noise associated with car parking, servicing yards and mechanical plant has also been assessed.

The assessment quantifies the existing ambient and baseline noise levels at identified noise receptor locations around the site both during the day and at night. Four locations were selected as representative sites and a 3D acoustic model constructed to enable the prediction of noise incidence on nearby sensitive receptors as a function of noise generated by on site activities. The principal noise sources identified as requiring prediction were operational noise related to traffic movements and noise generated by fixed mechanical plant.

### Plant Noise

As this is an outline application details of fixed noise generating plant, such as air conditioning and refrigeration, are not yet been known. Therefore appropriate noise emission limits could be conditioned to control noise generated by this aspect of the development.

### Service Yard Noise and HGV access/Car Parks

The dominant noise source in the service yard areas will be HGV's and, associated purely with the store service yard area, additional daytime only van movements associated with the home delivery area.

During the night time period, due to the short assessment period noise levels are likely to be dominated by single HGV movement. Noise levels have been calculated using the acoustic model for both daytime and night time scenarios, using the 'Haul Road' methodology of BS5228. Operational on site noise has been assessed in line with the methodology of BS4142 which indicated that complaints as a result of such operations are unlikely both during the day and at night at all but 1 location. Good/reasonable internal conditions as detailed in the British Standard are demonstrated as being achievable in this context and indicates that the development would not result in a perceptible change in the existing  $L_{Aeq}$  noise levels inside the assessed residential receptors.

### Traffic noise levels on surrounding routes

Traffic flow data for a number of road links surrounding the development site has been provided within the report in terms of 2 way 18-hour annual average weekly traffic both with and without the development.

The percentage increase in traffic on a number of most affected routes around the site have been calculated and presented within the report and used to predict the change in noise level as a result of traffic associated with the development. The typical change in noise level is less than +1dB. This is typically imperceptible to the human ear. An increase of 2.3 dB is predicted at Roker Avenue (east of junction with George Street North) but changes of up to + 3 dB are considered to be minor. Consequently, the majority of routes have been identified as having a negligible or minor impact due to changes in traffic noise levels on public highways.

### Construction Noise

In view of the close proximity of the proposed development to nearby residential properties, 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 the prior approval of the Council.

### Air Quality

An air quality assessment has been produced for the development by consultants for the redesigned superstore and associated development. The results indicated that it was unlikely that the Air Quality Objectives for both  $PM_{10}$  and  $NO_2$  at relevant receptors would be exceeded.

Dust from the construction phase could be controlled by way of a planning condition.

## Contamination

The Applicant has submitted an assessment in respect of ground contamination. This is currently under review. Notwithstanding that, if planning permission is granted the situation could be controlled through standard planning conditions, one of which would require that no works other than site 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.

## Waste and Pollution.

The applicant has stated that a Waste Management Plan would be produced at reserved matters stage and this could be covered by a planning condition. The proposal does not include any manufacturing or industrial processes and therefore will produce no chemical pollution. Potential light pollution would be dealt with via an external lighting scheme as part of a reserved matters submission and, again, this could be dealt with by a planning condition. The applicant has also indicated an intention to provide recycling facilities on site.

### **d) Traffic, Transport and Road Safety.**

Although the application is in outline only, Mountview Securities are seeking approval to the means of access to the development and have submitted a detailed Transport Assessment with the application.

The main vehicular access is proposed to be taken from Newcastle Road via a junction that will be significantly altered from the current position i.e. the Wheatsheaf gyratory system. It is intended that the current Newcastle Road/Southwick Road/Roker Avenue roundabout be converted into a signal controlled junction under a scheme prepared by the City Council to reduce traffic congestion and improve bus journey times. Implementation of the scheme would be funded by the developer but would be carried out by the Council.

If planning permission were to be granted the new buildings (as opposed to the retained buildings) would not be permitted to open prior to the completion of the highway works through the imposition of a Grampian planning condition.

Service vehicle access to the foodstore and the majority of the other retail units is proposed from Fulwell Road and the southern end of Portobello Lane with a pedestrian access at the northern end of Portobello Lane but which would also be capable of providing access for emergency vehicles.

Frequent bus services pass the site (some 47 in a typical weekday hour) with stops to the south, east and west. Provision would be made for a bus stop within the site should bus operators wish to make use of it. However, direct access for pedestrians from the relocated bus stops on Newcastle Road would need to be provided.

The Stadium of Light Metro Station adjoins the site approximately 130m from the proposed superstore entrance. It is proposed to provide a covered walkway to the southbound platform of the station. No additional covered link is suggested to the north bound platform, access to which from the east involves crossing the pedestrianised Portobello Lane overbridge. However, an additional pedestrian

link, via stairs, would be provided to the Newcastle Road overbridge. It is also proposed to install a Real Time Passenger Information display within the store which would replicate the information displayed at the metro station.

Nexus have welcomed these improvements but would wish further consideration be given to improving access to the northbound platform and discussion with operators on the diversion of commercial bus services through the site.

A taxi drop-off/collection point adjacent to the travelator atrium, accessed from Newcastle Road and Roker Avenue, is proposed.

Directional signs in the vicinity of the site to guide cyclists to National Cycle Route 7 located 500m to the west of the site are proposed and secure cycle storage would be provided. This is to promote cycle accessibility.

In general the proposed access arrangements are considered satisfactory although there are some issues with the indicative internal layout, the pedestrian links into and across the site and the need for/ location of a pedestrian crossing on Roker Avenue which need to be resolved. However, these can be dealt with by a planning condition.

In terms of traffic, the Transport Assessment has demonstrated that the scheme would operate satisfactorily.

900 car parking spaces, including 45 disabled and 28 parent and child bays are proposed to serve the entire development. These would be located at ground floor level throughout the site, including beneath the superstore. This number is less than that permitted by PPG13 and is in accordance with UDP policy T21.

The applicant has accepted the need to produce a Travel Plan in accordance with guidance in PPG13 once the occupants of the development are known. This can be secured by a planning condition.

There are no highway safety issues with the proposal that cannot be addressed through the imposition of planning conditions. A section of Wearmouth Street will require stopping up through an order under Section 247 of the Town and Country Planning Act 1990.

Implementation of the proposals will require various traffic regulation orders which would be dealt with at detailed design stage.

#### **e) Design.**

The application is in outline with details of the design as a reserved matter. However, the applicant has submitted a Design and Access Statement which is intended to demonstrate the approach to the overall design of the development. This includes a description of the site's context, photographs of the existing buildings, design objectives and basic illustrative plans, elevations and sections to demonstrate the potential appearance of the development.

The main design objectives are said to be to provide a high quality store and layout that meets customer needs and accords with sustainable design principles; a contemporary attractive design with gateway features and to provide a range of uses that provide surveillance through the day and into the evening. A

further key objective is to encourage the use of transport modes other than the private car.

A stated fundamental element of the design philosophy is to ensure that visitors to the site feel comfortable to walk in a safe and clean environment. By placing the majority of the car parking underneath the superstore, the aesthetics of the scheme are optimized and the visual dominance of the parking areas is reduced.

The major element of the scheme, the superstore, is proposed to be located towards the northern end of the site. It would be approximately 15.5m high 134m wide and 137m deep fronting onto Newcastle Road. It would be approximately the same height as the existing Bowling Alley, because of a reduction in ground levels, and set back farther from the road but with a significantly greater mass. It is intended to have a contemporary appearance including large areas of floor to ceiling glazing.

The block of 5 smaller units (including the retained unit) are to be located in the southern portion of the site. They would be single-storey buildings no more than 9m high and measuring approximately 103m by 36m. The retained Farmfoods/Blockbuster unit is 9m high and 28m by 21m in area.

It is intended to line stretches of the two major vehicle access routes through the site with semi mature specimen trees and to provide soft landscaping and further tree planting around the periphery of the site.

A visually attractive hard surfaced area is proposed adjacent to the superstore entrance within which it may be possible to incorporate feature paving, artwork and seating areas.

Given the prominent location of the scheme at a 'gateway' to the City and the scale of the development, it is essential that it presents attractive high quality architecture to the adjoining highways as required by UDP policy CN14 and promoted by PPS1. As well as the external frontages of all the proposed buildings, particular care will need to be taken with the southern elevation of the superstore which would overlook the main access to the site.

It is equally essential that a high quality palette of external materials is used throughout the scheme and that the opportunity is taken to incorporate significant elements of public art.

All elements of the design are reserved for further discussion and could be controlled through planning conditions.

#### **g) Deliverability.**

The likelihood of the scheme being delivered is relevant, particularly in the context of securing the potential regeneration benefits. The applicant, Mountview Securities owns the freehold interest in the site and is understood to be in advanced negotiations with its preferred operator for the superstore. In addition, a number of existing businesses are understood to wish to remain on site and to occupy some of the smaller units. The Applicant is in discussions with those tenants of the Retail Park who may be displaced as a consequence of the development. One North East has already resolved in principle to use its CPO

powers if necessary in respect of any outstanding interests to support the scheme in light of its regeneration and economic benefits.

In this context there would appear to be good reasons to believe that, were planning permission to be granted, the development would proceed. The applicant has suggested it would be delivered in one phase and be substantially complete and operational within 4 to 5 years.

### **PROPOSED SECTION 106 AGREEMENT**

It is proposed to address two policy issues relating to the development through a section 106 agreement.

The first relates to Policy EC10.2 (criteria e).of PPS4 which refers to the impact of the proposed development on local employment. It is considered that the development has the potential to positively impact on local employment and to secure this it is proposed to impose a planning obligation on the foodstore operator to provide employment and training opportunities to the most socially and economically disadvantaged in the local area, in particular those who have been unemployed for more than twelve months and individuals in receipt of income support and sickness related benefits.

The second is to require the developer to provide public art provision on site to the value of £50,000 as part of the proposed development in accordance with policy B20 of the UDP, which states that the City Council will encourage the provision of works of art, craft or decoration in major new developments.

Conclusions.

The application involves the redevelopment of an existing out of centre retail park approximately 1km north of the City Centre with a large superstore, the retention and recladding of two existing retail units, the erection of 4 smaller retail units, and the retention of an existing drive through restaurant. The superstore component has a gross external floor area of 16,140 sq m and a net retail floor area of 8,378 sq m. The location is an existing retail park, with no restrictions on the balance of convenience or comparison goods which may be sold there and the net increase in retail floorspace on the site as a result of the proposal is only some 2,438 sq m. This comprises an increase in net convenience floorspace of 3,086 sq m and a decrease in net comparison floorspace of 648 sq m.

A detailed retail assessment of the proposal has been carried out, based on up to date household survey information and the most recently available estimates of population levels and expenditure patterns. This has been reviewed by specialist retail planning consultants RTP on behalf of the Council. The application has been assessed against the impacts set out in Policies EC10.2 and 16.1 as follows:-

1. The buildings should achieve BREEAM “Very Good” rating and this can be secured by condition.
2. The accessibility of the site is excellent and highway improvement measures to deal with any increased traffic are acknowledged and can be covered by condition.
3. The applicants intention is for high quality inclusive design as indicated in the Design and Access Statement and this can be secured through conditions.

4. There would be considerable economic and physical regeneration benefits.
5. The development would generate a net increase in employment of 200 full and part-time jobs.
6. There would be no substantial adverse impact on existing, committed and planned public and private investment in centres.
7. It has no substantial adverse impacts on town centre vitality and viability and on in-centre turnover and on trade in the wider area.
8. It has no substantial adverse impact on allocated sites outside town centres.
9. The scale of the proposal in relation to the centre (this criterion does not apply).
10. There are no other locally important impacts.

The application site is in a highly accessible location capable of being served by a wide range of transport modes. Major road improvements, to the Council's specification, are proposed as part of the development which will ensure no detrimental impacts on traffic or road safety.

Public transport will benefit from enhanced facilities for buses and taxis as well as from a direct pedestrian link to the southbound platform of the Stadium of Light metro station.

There are no environmental concerns in relation to the scheme which will result in improvements to the appearance of the area as well as bringing regeneration benefits in terms of increased employment and investment in a deprived area of the City.

Economic and public art benefits are to be secured by way of an agreement under Section 106 of the Town and Country planning Act 1990.

There are no planning policy objections to the application which has general public support with only one objection on behalf of a competing retailer alleging an overall failure to demonstrate compliance with previous PPS6. The PPS has been replaced with PPS4 since then and the size of the development has been reduced. At the date this report was published no further objections had been received from this source.

The proposals pass the sequential test contained in policy EC15 of PPS4 and there are no suitable, available and viable sites for this development proposal in the centre or on the edge of centre.

The proposals have been assessed in terms of the balancing of positive and negative impacts as required by Policy EC17.2 and the positive benefits in terms of employment and physical and social regeneration more than offset the any potential negative trade diversions.

In addition the proposals comply with policies in the UDP, particularly policies S1 and NA44.

Accordingly it is therefore recommended that the Committee indicates that it is minded to grant planning permission for the development subject to:- a) the conditions listed below and b) the completion of an agreement under Section 106 of the Town and Country Planning Act 1990, for the following reasons.



- The proposal accords with UDP policy and in particular policies S1 and NA44
- It meets the requirements of PPS4 and
- It has no adverse environment impacts but
- would have significant regeneration benefits.

Given the scale of the development, it will be necessary to refer the application to the Secretary of State under the terms of the Town and Country Planning (Shopping Development) (England and Wales) (No. 2) Direction 1993. The Secretary of State will then have 21 days in which to decide whether or not to call in the application.

**RECOMMENDATION: Minded to approve subject to the conditions outlined below and to the completion of an Agreement under Section 106 Town and Country Planning Act 1990 and that the application be referred to the Secretary of State**

Conditions:

**A) Implementation and Phasing**

1. Application for approval of the following reserved matters shall be made in writing to the Local Planning Authority before the expiration of three years from the date of this permission: Appearance, Scale, Landscaping. The development hereby permitted shall be begun before the expiration of two years from the date of final approval of the last of the reserved matters to be approved.

Imposed pursuant to the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

**B) Design**

2. The total net retail sales area of the entire Development hereby permitted shall not exceed 11,916 sqm including any mezzanines. This is to safeguard the vitality and viability of the City Centre and other local centres in accordance with Government policy.
3. The total net retail sales area of the Superstore hereby permitted shall not exceed 8,378 sqm including any mezzanines. This is to safeguard the vitality and viability of the City Centre and other local centres in accordance with Government policy.
4. The total net retail sales area of the Superstore hereby permitted shall not exceed 4,189 sqm net retail convenience floorspace and 4,189 sqm net retail comparison floorspace including all mezzanines. This is to safeguard the vitality and viability of the City Centre and other local centres in accordance with Government policy.

For the purposes of conditions 2, 3 and 4:

“the Superstore” means that part of the development comprising a food superstore of 16,140 sqm gross external area and 8,378 sqm net retail

sales area.

“net retail sales area” means the sales area within a building (i.e. all internal areas accessible to the customer) but excluding checkouts, lobbies, concessions, restaurants, customer toilets and walkways behind the checkouts.

“comparison floorspace” means those parts of the net retail sales area used for the sale and display for sale of comparison goods.

“convenience floorspace” means those parts of the net retail sales area used for the sale and display for sale of convenience goods.

“comparison goods” means those categories of comparison goods as identified in the Appendix A to the PPS4 Practice Guidance (December 2009)

“convenience goods” means those categories of convenience goods as identified in Appendix A to the PPS4 Practice Guidance (December 2009).

5. Before the development hereby permitted is commenced, details of the following matters shall be submitted to and approved in writing by the Local Planning Authority:- the siting, design and external appearance of the buildings and the landscaping of the site; and the development shall be carried out as approved. This is to ensure a satisfactory form of development as the details submitted as part of the application are incomplete and for illustrative purposes only.
6. The development hereby approved shall be carried out in accordance with the following approved plans unless otherwise agreed by the Local Planning Authority.  
073023D 09 P2; 073023D 10 P3; 073023D 05 P3; 073023D 06 P3; 073023D 07 P3; 073023D 24 P4.
7. Before the development hereby permitted is commenced, a schedule and sample of all materials and finishes, including walls, roofs, doors, windows, rainwater goods, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details, to secure a satisfactory form of external appearance to comply with policy B2 of the UDP.
8. Before the development hereby permitted is commenced, details of any floodlighting/ exterior lighting for the buildings shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall be installed in accordance with the approved plans before the buildings within the relevant phase of the development to which the lighting relates are occupied, in order to ensure a satisfactory form of development and to comply with policies B2 and T8 of the UDP.
9. Before the development hereby permitted is commenced, details of all walls, fences or other means of boundary enclosure shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with approved details before the buildings within the relevant phase of the development to which the boundary treatment relates are occupied or otherwise in accordance with

an agreed timetable, in the interest of visual amenity and to comply with policy B2 of the UDP.

10. All planting, seeding or turfing included in the approved details of landscaping for the development shall be carried out in the first planting season following the first occupation of any of the buildings within the relevant phase of the development to which the landscaping relates or the completion of the development, whichever is the sooner, and any trees or plants, which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, in the interests of visual amenity and to comply with policies B2 and CN18 of the UDP.

#### C) **Sustainability**

11. Before the development of the superstore hereby permitted is commenced, a schedule demonstrating the means incorporated within the design of the proposals by which the development addresses the aims of Sustainable Development in accordance with the City Council's Charter 2000, shall be submitted to the Local Planning Authority for written approval and the approved measures shall thereafter be incorporated in the superstore, in order to ensure a satisfactory form of development and to comply with policy R1 of the UDP.
12. Before the development of the superstore hereby permitted is commenced, measures shall be submitted to and approved in writing by the Local Planning Authority to ensure that the superstore is designed to achieve high energy efficiency and minimise water and energy consumption and achieves BREEAM "very good" rating. The details approved shall thereafter be incorporated in the development in order to ensure an environmentally sustainable development in accordance with policy R1 of the UDP.
13. Before the development of the superstore hereby permitted is commenced, measures to ensure 10% (*or such other proportion as approved in writing by the Local Planning Authority*) of the store's energy requirements are produced from embedded renewable energy sources shall be submitted to and approved in writing by the Local Planning Authority. The details approved shall be implemented prior to the occupation of the superstore and retained as operational thereafter unless otherwise agreed in writing by the Local Planning Authority in order to ensure an environmentally sustainable development in accordance with policy R1 of the UDP.

#### D) **Storage of Refuse**

14. Before the development hereby permitted is commenced, a plan showing the provision of adequate facilities for the storage and collection of refuse including provision for onsite separation of items for recycling collection within the site shall be submitted to and approved in writing by the Local Planning Authority, and shall be so installed and maintained thereafter in order to ensure a satisfactory form of development and to comply with

policy EN1 of the UDP.

**E) Highways and Transport**

15. Notwithstanding the plans hereby approved, details of the design of all roads, footways, footpaths and cycleways and a scheme for external lighting and street furniture (litter bins, seating, planters etc) shall be submitted to and agreed in writing by the Local Planning Authority prior to works commencing on site, in the interests of highway safety and to comply with policy T14 of the UDP. Thereafter, no part of the development hereby permitted shall be carried out or implemented other than in accordance with such agreed details.

16. The following highway improvements, in accordance with detailed designs to be submitted to and approved in writing by the Local Planning Authority shall be completed as part of the development. The superstore shall not be occupied until the said highway improvements have been completed in accordance with these approved details:-

(i) major improvements to the junction of Newcastle Road/Roker Avenue/Southwick Road

(ii) improvements to Roker Avenue east of its junction with George Street to its junction with Fulwell Road.

(vi) details of a signal controlled pedestrian crossing at Roker Avenue or full traffic lights incorporating pedestrian phases in the vicinity of Shore Street/George Street North.

(vii) ramped access from the site to the Stadium of Light Metro Station

(viii) notwithstanding the presently submitted details, bus stops, bus shelters and bus laybys adjacent to the site at Newcastle Rd and Roker Avenue

(ix) notwithstanding the presently submitted details, pedestrian routes from Newcastle Rd, Roker Avenue and Portobello Rd, including from any bus stops and pedestrian crossings located on these roads.

(x) notwithstanding the presently submitted details, provision of on-site vehicular circulation.

(xi) A scheme for the management of on site car parking.

Reason: In the interests of highway safety and in accordance with policy T14 of the UDP.

17. The superstore shall not be occupied until the pedestrian way linking the site with the Stadium of Light Metro Station as shown on the approved plans has been completed and made available to members of the public and shall remain available thereafter for public use, in accordance with policy T14 of the UDP.

18. Before the superstore hereby permitted is occupied, a detailed Travel Plan shall be submitted to and approved in writing by the Local Planning Authority and subsequently implemented, in the interests of highway safety and in accordance with policies T2 and T14 of the UDP.

**F) Parking and Servicing**

19. No building shall be occupied until the off street parking provision has been constructed, surfaced, sealed and made available in accordance with the approved plans. This parking area shall then be retained and permanently reserved for the parking of vehicles, to ensure that adequate and satisfactory provision is made for the off street parking of vehicles and to comply with policies T14 and T22 of the UDP.
20. Before the foodstore development hereby permitted is commenced, details of the space and facilities for bicycle and motor cycle parking shall be submitted to and approved in writing by the Local Planning Authority. The facilities shall be laid out in accordance with the approved details before any of the buildings are occupied and subsequently retained, in order to ensure that adequate provision is made for cycle and motor cycle parking and to comply with policies T14 and T22 of the UDP.
21. Before the foodstore development hereby permitted is commenced, details of the facilities to enable servicing of the buildings shall be submitted to and approved in writing by the Local Planning Authority. Such facilities shall be provided in accordance with the approved details before any of the buildings are occupied and such facilities shall be retained and kept unobstructed at all times, in the interests of highway safety and to comply with policy T14 of the UDP.

G) **Scheme of Working**

22. Before the development hereby permitted is commenced a scheme of working shall be submitted to and agreed in writing by the Local Planning Authority; such scheme shall include days and hours of working, siting and organisation of the construction compound and site cabins, routes to and from the site for construction traffic, and measures to ameliorate noise, dust, vibration and other effects, and be so implemented, in the interests of the proper planning of the development and to protect the amenity of adjacent occupiers and in order to comply with policies EN1 and T14 of the UDP.
23. Before the development hereby permitted is commenced, details of the method of containing the construction dirt and debris within the site and ensuring that no dirt or debris spreads on to the surrounding road network shall be submitted to and approved in writing by the Local Planning Authority. These details shall include the installation and maintenance of a wheel cleaning facility on the site. All works and practices shall be implemented in accordance with the agreed details and shall be maintained throughout the construction period, in the interests of the amenities of the area and highway safety and to comply with policies EN1 and T14 of the UDP.
24. Before the development hereby permitted is commenced, arrangements for setting up appropriate systems for monitoring and controlling dust emission arising from construction work shall be submitted to and agreed in writing by the Local Planning Authority and implemented thereafter, in the interest of amenity in accordance with policy EN1 of the UDP.
25. Before the development hereby permitted is commenced, a scheme shall be submitted to and agreed in writing by the Local Planning Authority to

ensure that smoke, dust or litter shall not be allowed to drift across the adjoining railway; that no crane jib shall swing suspended loads over the adjoining railway, without the prior approval in writing of the Local Planning Authority, and no illumination shall cast a glare over the adjoining railway and such a scheme shall be implemented thereafter during construction, in the interests of railway safety in compliance with policies EN1 and T14 of the UDP.

#### H) **Archaeology**

26. Before the construction of the development hereby permitted is commenced, a second phase of archaeological investigation shall take place in accordance with a programme of work to be agreed with the County Archaeologist, to permit the recording of any archaeological features exposed in accordance with policy B11 and B14 of the UDP.
27. Before any works are commenced on site, the County Archaeologist must be informed, in order that arrangements can be made for an archaeologist with a watching brief, to be present on site while foundation trenches are dug and overburden removed, in order that potential archaeological information can be recovered and to comply with policy B11 and B14 of the UDP.
28. The foodstore shall not be occupied until the final report of the results of the archaeological fieldwork undertaken in pursuance of condition 24 has been submitted to and approved in writing by the Local Planning Authority to ensure that archaeological remains on site can be preserved wherever possible and recorded in accordance with PPS5 and UDP policy B14.

#### I) **Drainage**

29. Before the foodstore development hereby permitted is commenced, details of the foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority and no building shall be occupied until these facilities have been provided and installed in accordance with the approved details, to ensure satisfactory drainage to the site and to comply with policy B24 of the UDP.
30. Prior to being discharged into any watercourse, surface water sewer or soakway systems, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies installed in accordance with a scheme submitted to and approved in writing by the Local Planning Authority before the relevant phase of the development is commenced, in order to prevent pollution of the water environment and to comply with policy EN12 of the UDP.
31. None of the foodstore buildings shall be occupied until any existing sewers which are to be abandoned have been grouted up or removed, in order to prevent drainage problems in the future in accordance with policy EN12 of the UDP.

#### J) **Land Contamination**

32. 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 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.

2) 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.

3) 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 multiple potentially contaminative land-uses. The environmental setting of the site is sensitive as it lies on the magnesian limestone, a principal aquifer. This condition will ensure that the risks posed by the site to controlled waters are assessed and addressed as part of the redevelopment.

33. 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 multiple potentially contaminative landuses. The environmental setting of the site is sensitive as it lies on the Magnesian Limestone, a principal aquifer. This condition will ensure that the risks posed by the site to controlled waters are assessed and addressed as part of the redevelopment.

34. 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.

35. Prior to being discharged into any watercourse, surface water sewer or soak away system, all surface water drainage from parking areas and hard standings 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.

**E) Noise from Mechanical Plant**

36. Prior to the installation of any fixed mechanical plant at the site a detailed acoustic assessment of such plant must be submitted to and approved by the Local Planning Authority. The assessment shall examine noise levels generated by the plant, how these would affect adjacent residential amenity and specify, if shown to be necessary, details of noise reduction measures to ensure appropriate noise levels are achieved at adjacent dwellings. Any necessary noise reduction measures shall be installed, only in accordance with the approved details and prior to the occupation of any of the new buildings.  
Reason: For the protection of residential amenity of dwellings adjacent to the site in accordance with Policy EN5 of the UDP.



## APPENDICES

### Appendix A1 Summary of Consultation Responses on the Original Application

#### a) Technical

##### 1, Government Office for the North East.

Whilst the Office is ready to advise on any specific questions of national [policy or process it would be inappropriate for us to comment on the application itself. This is because the Secretary of State has a quasi-judicial role in the planning process and we must not prejudice that position.

##### 2 Regional Development Agency One North East.

Site would benefit from a comprehensive redevelopment scheme and the Agency welcomes the initiative which has the potential to contribute to the regeneration of this area of Monkwearmouth to the benefit of the proposals currently being rolled out by Sunderland arc in the adjoining Central Sunderland area.

However, the City Council must be satisfied that the proposal will not have a detrimental impact upon the vitality and viability of the city centre or other existing centres within the vicinity.

The agency requests the Council to encourage the developer to pursue the highest standards of quality; to require the developer provide details regarding the provision of renewable energy measures in the scheme and also to provide skills training.

##### 3. North East Assembly.

The site is already developed in an urban area with transport links located within the Tyne and Wear conurbation and is therefore consistent with RSS policies 4 and 6. However. RSS policy 25 directs the majority of new retail and leisure development to the defined urban centres of Newcastle and Sunderland and, since the site is outside these areas, the council need to be confident that the development would not compromise the vitality and viability of Sunderland city centre and other surrounding town centres.

The provision of only 927 parking spaces is within the guidelines set out in PPG 13 and reflects RSS objectives to reduce reliance on car travel.. It is also consistent with RSS policies 2,7,and 54 which seek to reduce the impact of travel demand although the design and layout of the scheme will need to provide safe and convenient pedestrian and cycle routes to existing public transport facilities. Inclusion of renewable energy generation methods are required by RSS policy 39 as is the promotion of energy efficiency measures which would assist meeting the objectives of RSS policies 3 (climate change) and 38 (reducing energy consumption).

The applicant does not mention the provision of Sustainable Drainage Systems which are encouraged by RSS policy 34 and therefore needs to justify why such measures are inappropriate for this development.

The local authority should be satisfied that the design and layout of the scheme contributes to sustainable communities in line with RSS policies 8 and 24 and should ensure that a travel plan as required by RSS policy 54 is provided.

The principle of the development in this location is in general conformity with the RSS. However, this is subject to the council being satisfied that its scale and nature is acceptable and that it will not adversely affect the vitality and viability of surrounding centres in line with RSS policies 9 and 25.

4. English Heritage

Do not wish to offer any comments.

5. Tyne & Wear County Archaeologist

If the application is approved, requests a condition be imposed to require a programme of archaeological work to be carried out in accordance with a specification to be provided by the County Archaeologist prior to any works commencing.

6. CABE

Are unable to review the scheme due to lack of resources.

7. Environment Agency

No objection to the development provided conditions are attached to any consent protecting controlled, ground and surface waters from any contamination. The Agency also notes that sustainable urban drainage systems should be adopted and that the development should incorporate sustainable construction and renewable energy generation principles.

8. Northumbrian Water.

Request a condition requiring details of the methods to be used to dispose of surface water to be agreed prior to development commencing. Also request a copy of the decision notice.

9. National Grid.

Have concluded that the development would pose a negligible risk to operational electricity and gas transmission networks.

10. Nexus

No objection in principle. However, would like to see a more direct access from platform 2 (northbound) of the adjoining Metro station being examined.

Methods of work need to be agreed to ensure that no danger is presented to the safe operation of the adjoining railway.

Nexus is not convinced that commercial bus operators will be willing to divert services through the site, other than those heading east onto Roker Avenue/Fulwell Road/Gladstone Street, and suggest further discussions with operators.

11. Coal Authority

No observations other than to provide the authority's standard advice that it is within a coal mining area with its associated hazards.

#### 12 Sunderland arc.

The arc supports the outline proposals for the redevelopment of Sunderland Retail Park for the following reasons. The proposal is in broad accordance with the saved policies of the adopted UDP. The Sunderland Retail Needs Assessment 2009 identifies a need to improve the quantitative and qualitative convenience goods retail provision in this area and as an established retail site SRP is appropriate to meet much of this need. They agree with the overall conclusions of the sequential assessment and they acknowledge the employment benefits, the clawback of retail expenditure leakage from the north of the city and the promotion of economic and physical regeneration of the area. They consider that weight should be accorded to considerations contained in PPS4 relating to carbon footprint of the development, accessibility to and within the site, high quality inclusive design, the regeneration of an established retail park in a gateway location and the net employment benefits of the scheme.

#### 13. Planning Implementation Manager.

Acknowledges the significant changes in scale, design and appearance of the amended scheme which now represents a scheme more in keeping with its context and therefore acceptable. Implementation Manager has commented on a number of design issues including amount of development and car parking, indicative layout and scale, but appreciates that this is an outline application and that many of these matters can be covered in the reserved matters or by specific conditions.

Further comments have been made on the access arrangements but these are covered in those from the Highways and Transportation Manager below.

#### 14. Highways and Transportation Manager

The Transport Assessment has demonstrated that, subject to the resolution of a number of queries, the scheme would operate satisfactorily in conjunction with the proposed highway improvement scheme for the Wheatsheaf junction, however, the latter is outside the application redline and will need to be covered by a Grampian style condition, which would be finally discharged through an Agreement under section 278 of the Highways Act, requiring that the development not open until these and the proposed alterations to Roker Avenue have been completed. The queries referred to above have now partly been resolved to the extent that they could be covered by inclusion in the condition referred to above.

Traffic Regulation Orders will be required to stop up a length of Wearmouth Street within the site. Direct access from the proposed bus stops on Newcastle Road to the main entrance of the superstore also needs to be provided and these too could be covered by condition.

#### 15 Director of Community and Cultural Services

The City has 4 continuous automatic air quality monitoring stations and 48 diffusion tubes located throughout the district, all of which measure nitrogen dioxide concentrations, whilst 2 of the automatic stations also measure PM10 levels. Data from these has been released to the applicant although, whilst 8 diffusion tubes are within 1km of the site, none are sufficiently close to provide specific local background monitoring data. The applicant has therefore used empirically derived national background estimates of air quality.

Sunderland has no air quality management areas and no areas likely to exceed air quality objective standards including the area around the site. All predicted 2011 background concentrations of NO<sub>x</sub>, NO<sub>2</sub> and PM10 without the development are below the objective limit of 40ug/m<sup>3</sup>, although these levels do not include concentrations from local sources of pollution. With the development in place, receptors (houses) on Roker Avenue are likely to experience an increase in PM10 and NO<sub>2</sub> concentrations although levels of air quality will remain satisfactory and below the annual mean objective of 40ug/m<sup>3</sup>. This is not considered to be a significant impact although mitigation measures will be required during the construction phase to ensure that PM10 emissions are minimised.

The City has 4 continuous automatic air quality monitoring stations and 48 diffusion tubes located throughout the district, all of which measure nitrogen dioxide concentrations, whilst 2 of the automatic stations also measure PM10 levels. Data from these has been released to the applicant although, whilst 8 diffusion tubes are within 1km of the site, none are sufficiently close to provide specific local background monitoring data. The applicant has therefore used empirically derived national background estimates of air quality.

Sunderland has no air quality management areas and no areas likely to exceed air quality objective standards including the area around the site. All predicted 2011 background concentrations of NO<sub>x</sub>, NO<sub>2</sub> and PM10 without the development are below the objective limit of 40ug/m<sup>3</sup>, although these levels do not include concentrations from local sources of pollution. With the development in place, receptors (houses) on Roker Avenue are likely to experience an increase in PM10 and NO<sub>2</sub> concentrations although levels of air quality will remain satisfactory and below the annual mean objective of 40ug/m<sup>3</sup>. This is not considered to be a significant impact although mitigation measures will be required during the construction phase to ensure that PM10 emissions are minimised.

The applicant carried out a baseline noise assessment at four locations within the study area and calculated future noise levels with the development in place at the 4 locations and at a further 8 representative receptor sites. At 9 of the locations, noise is predicted to decrease moderately but on Roker Avenue and the adjacent residential streets, minor increases in the region of 2.6dB are expected. That level is a minor change and will not be perceptible. It is also anticipated that noise levels are unlikely to rise above 68dB(A), the level specified under the Noise Insulation Regulations above which residents may be entitled to sound insulation. Potential noise levels predicted for the worst year in the first 15 years after opening as recommended in the Highways Agency's Design Manual for Roads and Bridges have not been provided.

There is potential for noise disturbance from the construction phase but this can be controlled via a condition as can potential vibration.

At this outline stage there are no details of air conditioning and refrigeration plant but this could be controlled by a suitable condition.

b) Neighbours and Others.

1. Mr B Price

Concerned that the relocation of bus stops either side of Newcastle Road outside the development may cause a traffic hazard. Buses will have to wait a long time to allow customers with large amounts of shopping to board and southbound sightlines are restricted because of the rail/Metro overbridge. Suggests bus stops should be within the development or in lay-byes.

Also concerned about the effect the development will have on local shops, particularly those in Sea Road, Fulwell and The Green, Southwick.

2. Mr G Lundle.

Requests more information on traffic generation and plans of access arrangements.

3. Peter Dunn & Co Solicitors on behalf of Messrs. Chapman and Ellen.

Clients are removal and storage contractors with premises in Portobello Lane and are concerned that, during the course of construction and, when opened, the development could obstruct their access. Not opposed in principle to the development but request a condition on any approval preventing access from the site onto Portobello Lane. Following the submission of the amended proposal a meeting was held with Messrs Chapman and Allen and providing HGV access to their property via Portobello Rd is maintained both during construction period and after the opening of the development to the public they have no objections to the proposal.

4. Peacock and Smith on behalf of Wm Morrison Supermarkets plc.

Peacock and Smith's objections to the original scheme were as follows.

Letter dated 3<sup>rd</sup> November 2008

Their clients operate an in centre store at Doxford Park and a further store at Ocean Park, Seaburn. Proposal is an out of centre application to which all the key tests of PPS 6 apply.

The Sunderland Retail Study 2006 identified a convenience capacity of 1177sqm net but that the commitment for additional floorspace at the Asda store in adjoining Boldon Colliery will result in an over-supply of floorspace through to 2016. Similarly, the Retail Study identifies an "overprovision" of out-of-centre retail floorspace of 4,750sqm. There is therefore no justification for the floorspace at the application site.

Concerned that the quantitative need assessment submitted by the applicant is flawed in that:-

a) the study area is unrealistic, extending far to the south of central Sunderland beyond a 15min drive time, but not to the north. It fails to include the area around Boldon Colliery from which, it is claimed, significant "claw-back" would occur.

b) it does not take account of draws upon expenditure generated within the study area by stores located outside that area e.g. Asda at Boldon Colliery, Asda and Sainsburys at Washington. Consider that an up-to-date household survey to better understand expenditure flows is essential.

c) it does not confirm the convenience and comparison elements of the superstore despite knowing the likely operator is Tesco whose company averages could have been used.

Consider that the qualitative need has been overstated. The Council's Retail Study only identifies the need for a small City Centre foodstore. The fact that there is a significant outflow of expenditure from the north-west of the City does not justify the provision of a major new foodstore on the application site. Morrisons at Ocean Park helps to meet main shopping needs of this part of the City. The provision of a wide range of goods typically found in a Tesco Extra store would be unlikely to assist the attraction of new retailers to the City Centre or to strengthen its relative position.

Consider that, at 12,260sqm net, the scale of the superstore will considerably exceed that of other foodstores in the region. Asda is the largest locally at 9,397 sqm. It is out of scale particularly in view of the limited need for additional foodstore development in the Sunderland catchment.

The sequential test is largely academic as there is no need for this store. Mountview could redevelop the Retail Park without the superstore which could be considered for the council's preferred location for retail development, Holmeside. The retail impact assessment provides very little analysis as to how the proposed development will affect the health of the City Centre and other defined centres. The 2001 household survey is out of date and should be repeated. The estimated trade diversion from the City Centre of £15.8 million will lead to a material loss of activity in the centre. The trade diversion from Doxford Park, Boldon Colliery and Washington will represent a significant loss of activity to these centres whilst the application scheme is unlikely to materially reduce non-food shopping trips to Newcastle or the Metro Centre.

Consider that the application should be refused.

Letter dated 27<sup>th</sup> April 2009

There is no need for a superstore of the scale proposed by Mountview and it would have a detrimental impact on the health of the City Centre and district centres in the area. Therefore the application should be refused.

The only quantitative and qualitative deficiency identified by the Council's retail study is for a small foodstore in the City Centre. It is well known that Tesco operates a number of smaller format stores that could remedy this need. Such a facility would be more likely to fit onto a site in or on the edge of the City Centre and generate activity and other investor interest in the centre. Indeed it could kick start developer interest in an extension to the existing shopping centre.

## **Appendix A2 Summary of Consultation Responses on the Amended Application**

a) Technical

1. Government Office for the North East.  
No further comments

2. Regional Development Agency One North East.

Site would benefit from a comprehensive redevelopment scheme and the Agency welcomes the initiative which has the potential to contribute to the regeneration of this area of Monkwearmouth to the benefit of the proposals currently being rolled out by Sunderland arc in the adjoining Central Sunderland area.

However, the City Council must be satisfied that the proposal will not have a detrimental impact upon the vitality and viability of the city centre or other existing centres within the vicinity.

The agency requests the Council to encourage the developer to pursue the highest standards of quality; to require the developer provide details regarding the provision of renewable energy measures in the scheme and also to provide skills training.

3. North East Assembly.

4. English Heritage

The application(s) should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

5. Tyne & Wear County Archaeologist

If the application is approved, requests a condition be imposed to require a programme of archaeological work to be carried out in accordance with a specification to be provided by the County Archaeologist prior to any works commencing.

6. CABA

No further comments

7. Environment Agency

No objection to the development provided conditions are attached to any consent protecting controlled, ground and surface waters from any contamination. The Agency also notes that sustainable urban drainage systems should be adopted and that the development should incorporate sustainable construction and renewable energy generation principles.

8. Northumbrian Water.

Request a condition requiring details of the methods to be used to dispose of surface water to be agreed prior to development commencing. Also request a copy of the decision notice.

9. National Grid.

Have concluded that the development would pose a negligible risk to operational electricity and gas transmission networks.

10. Nexus  
No further comment

11. Coal Authority

No observations other than to provide the authority's standard advice that it is within a coal mining area with its associated hazards.

12. Sunderland Arc

The arc supports the outline proposals for the redevelopment of Sunderland Retail Park for the following reasons. The proposal is in broad accordance with the saved policies of the adopted UDP. The Sunderland Retail Needs Assessment 2009 identifies a need to improve the quantitative and qualitative convenience goods retail provision in this area and as an established retail site SRP is appropriate to meet much of this need. They agree with the overall conclusions of the sequential assessment and they acknowledge the employment benefits, the clawback of retail expenditure leakage from the north of the city and the promotion of economic and physical regeneration of the area. They consider that weight should be accorded to considerations contained in PPS4 relating to carbon footprint of the development, accessibility to and within the site, high quality inclusive design, the regeneration of an established retail park in a gateway location and the net employment benefits of the scheme.

13. Planning Implementation Manager.

Acknowledges the significant changes in scale, design and appearance of the amended scheme which now represents a scheme more in keeping with its context and therefore acceptable. Implementation Manager has commented on a number of design issues including amount of development and car parking, indicative layout and scale, but appreciates that this is an outline application and that many of these matters can be covered in the reserved matters or by specific conditions.

Further comments have been made on the access arrangements but these are covered in those from the Highways and Transportation Manager below.

14. Highways and Transportation Manager

The Transport Assessment has demonstrated that, subject to the resolution of a number of queries, the scheme would operate satisfactorily in conjunction with the proposed highway improvement scheme for the Wearsheaf junction, however, the latter is outside the application redline and will need to be covered by a Grampian style condition, which would be finally discharged through an Agreement under section 278 of the Highways Act, requiring that the development not open until these and the proposed alterations to Roker Avenue have been completed. The queries referred to above have now partly been



resolved to the extent that they could be covered by inclusion in the condition referred to above.

Traffic Regulation Orders will be required to stop up a length of Wearmouth Street within the site. Direct access from the proposed bus stops on Newcastle Road to the main entrance of the superstore also needs to be provided and these too could be covered by condition.

#### 15. Director of Community and Cultural Services Operational Noise

A consultant's noise assessment has been submitted with the application which considers the impacts of the proposed retail development. Potential noise associated with car parking, servicing yards and mechanical plant has also been assessed.

The assessment quantifies the existing ambient and baseline noise levels at identified noise receptor locations around the site both during the day and at night. Four locations were selected as representative sites and a 3D acoustic model constructed to enable the prediction of noise incidence on nearby sensitive receptors as a function of noise generated by on site activities. The principal noise sources identified as requiring prediction were operational noise related to traffic movements and noise generated by fixed mechanical plant.

#### Plant Noise

As this is an outline application details of fixed noise generating plant, such as air conditioning and refrigeration, are not yet been known. Therefore appropriate noise emission limits could be conditioned to control noise generated by this aspect of the development.

#### Service Yard Noise and HGV access/Car Parks

The dominant noise source in the service yard areas will be HGV's and, associated purely with the store service yard area, additional daytime only van movements associated with the home delivery area.

During the night time period, due to the short assessment period noise levels are likely to be dominated by single HGV movement. Noise levels have been calculated using the acoustic model for both daytime and night time scenarios, using the 'Haul Road' methodology of BS5228. Operational on site noise has been assessed in line with the methodology of BS4142 which indicated that complaints as a result of such operations are unlikely both during the day and at night at all but 1 location. Good/reasonable internal conditions as detailed in the British Standard are demonstrated as being achievable in this context and indicates that the development would not result in a perceptible change in the existing  $L_{Aeq}$  noise levels inside the assessed residential receptors.

#### Traffic noise levels on surrounding routes

Traffic flow data for a number of road links surrounding the development site has been provided within the report in terms of 2 way 18-hour annual average weekly traffic both with and without the development.

The percentage increase in traffic on a number of most affected routes around the site have been calculated and presented within the report and used to predict the change in noise level as a result of traffic associated with the development. The typical change in noise level is less than +1dB. This is typically

imperceptible to the human ear. An increase of 2.3 dB is predicted at Roker Avenue (east of junction with George Street North) but changes of up to + 3 dB are considered to be minor. Consequently, the majority of routes have been identified as having a negligible or minor impact due to changes in traffic noise levels on public highways.

#### Construction Noise

In view of the close proximity of the proposed development to nearby residential properties, 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 the prior approval of the Council.

#### Air Quality

An air quality assessment has been produced for the development by consultants for the redesigned superstore and associated development. The results indicated that it was unlikely that the Air Quality Objectives for both PM<sub>10</sub> and NO<sub>2</sub> at relevant receptors would be exceeded.

Dust from the construction phase could be controlled by way of a planning condition as could the operation of the proposed petrol filling station (If it is deemed necessary to use a condition for this purpose) which will be regulated under the provisions of the Pollution Prevention and Control Act 1999.

#### Contamination

The Applicant has submitted an assessment in respect of ground contamination. This is currently under review. Notwithstanding that, if planning permission is granted the situation could be controlled through standard planning conditions, one of which would require that no works other than site 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.

- b) Neighbours and Others
- 1. Mr B Price

Concerned that the relocation of bus stops either side of Newcastle Road outside the development may cause a traffic hazard. Buses will have to wait a long time to allow customers with large amounts of shopping to board and southbound sightlines are restricted because of the rail/Metro overbridge. Suggests bus stops should be within the development or in lay-byes.

Also concerned about the effect the development will have on local shops, particularly those in Sea Road, Fulwell and The Green, Southwick.

- 2. Mr G Lundle.

Requests more information on traffic generation and plans of access arrangements.

- 3. Peter Dunn & Co Solicitors on behalf of Messrs. Chapman and Ellen.

Clients are removal and storage contractors with premises in Portobello Lane and are concerned that, during the course of construction and, when opened, the

development could obstruct their access. Not opposed in principle to the development but request a condition on any approval preventing access from the site onto Portobello Lane. Following the submission of the amended proposal a meeting was held with Messrs Chapman and Allen and providing HGV access to their property via Portobello Rd is maintained both during construction period and after the opening of the development to the public they have no objections to the proposal.

4. Peacock and Smith on Behalf of Morrisons.  
No representation received on revised application.

## Appendix B1 Report of Consultants Engaged by the Council on the Original Application

# 6 OVERALL CONCLUSIONS AND RECOMMENDATION

## Retail Policy Aspects of the Development Plan

### Conclusion in Relation to the RSS

6.1 Despite its 'out-of-centre' location, the application proposal is in broad accord with the locational strategy of the RSS (Policy 6) and with the sequential approach (Policy 4). There is a degree of conflict with Policy 25, given the availability of a sequentially preferable site at Holmeside in Sunderland city centre, but overall we consider that there is broad compliance with the RSS component of the development plan when it is considered as a whole.

### Conclusion in Relation to the UDP's Retail Policies

6.2 The existence of Holmeside means that there is some degree of conflict, also, with Policy S1 of the UDP. Nevertheless, it is clear that the land use policies for the area covered by the Monkwearmouth inset plan envisage major change, including significant new commercial and residential developments; the location is highly accessible, it forms an important gateway and already enjoys a comparatively strong retail emphasis.

6.3 Thus, given the provisions of the Rochdale judgment referred to in the introduction to Section 3, a partial breach of Policy S1 does not prevent the City Council from reaching a conclusion that the application is in accord with the UDP when it is considered as a whole. Moreover, the UDP gives strong emphasis to urban regeneration and the re-use and enhancement of previously developed sites, particularly in areas such as Monkwearmouth

### The PPS6 Tests

6.4 Paragraph 3.5 of PPS6 states that '...as a general rule the development should satisfy all these considerations [the five key tests]. In making their decision local planning authorities should also consider relevant local issues and other material considerations.' (our emphasis). Thus, the phrase 'as a general rule' means that there will be circumstances where material considerations are given such weight as to overcome the failure of one or more of the key tests in PPS6.

Sunderland City Council

Redevelopment of Sunderland Retail Park (ref: 08/03338/OUT) - Review of the Applicant's Retail Assessment

Roger Tym & Partners

M9307, April 2009 – FINAL

34

### Need

6.5 We consider that a significant quantitative retail need will arise by 2013 and that the Sunderland Retail Park is an appropriate established retail location for meeting some of this need. There is, however, a case for the City Council to seek to negotiate with the applicant on a reduction in the size of the food superstore element of the application, given that the projected turnover in the convenience goods sector exceeds the surplus capacity, and given the opportunity to meet some of the need at Holmeside.

6.6 We accept, also, that there is a qualitative need to improve the provision of convenience goods shopping for the residents of North Sunderland (Zones 1 and 2). We recognise, also, the qualitative benefits that would arise from the improvement in convenience goods provision for the deprived residential areas that are in close proximity to the Retail Park. Similarly, we accept that there is a qualitative need to redevelop the existing retail park, to improve its environment and visual appearance and to improve pedestrian linkages to the Metro Station. Thus, we accept that there are qualitative factors which weigh in favour of the application proposal.

### Scale

6.7 Given the 'out-of-centre' location of the application proposal and the quantum and scale of development which already exists at the Sunderland Retail Park, we

consider that the application raises no issue in relation to the PPS6 test of scale.

### Sequential Approach

6.8 We conclude that the food superstore element of the application for Sunderland Retail Park could be accommodated as part of a mixed-use scheme at Holmeside, if the operator displays the flexibility required by PPS6. As a consequence, there is a technical failure of the sequential test. Nevertheless, we consider that such a failure should not be determinative in this case because of the qualitative need to redevelop the established Sunderland Retail Park, for which the foodstore element will provide much of the funding.

### Impact

6.9 Our overall conclusion in relation to impact is that there is unlikely to be significant material harm to any centre within the terms of the factors set out in paragraph 3.22 of PSS6. Nevertheless, it is important for the City Council to protect the Holmeside investment opportunity in the city centre and to protect the nearby local and district centres. Such considerations represent good reasons for the Council to seek to

Sunderland City Council

Redevelopment of Sunderland Retail Park (ref: 08/03338/OUT) - Review of the Applicant's Retail Assessment

Roger Tym & Partners

M9307, April 2009 – FINAL

35

negotiate some reduction in the food superstore component of the application. The impact on the J Sainsbury store in Fulwell, at 9.2 per cent, is potentially damaging to its anchor role in that centre. The Council should also be concerned to protect the independent traders in the City Centre, given the recent rise in vacancies associated with the recession.

### Accessibility

6.10 We conclude that the application proposal is accessible by a choice of means of transport and on foot, so that this aspect of the PPS6 accessibility test is met. However, we are not instructed in relation to impact on travel demand.

### Material Considerations

6.11 In our assessment, the material considerations identified in paragraph 2.51 of PPS6, to which significant weight should be given are:

- i) the regeneration of an established retail park in a key gateway location that is in need of functional, physical and environmental improvements;
- ii) the contribution of the application to the Government's social inclusion agenda by improving the provision and choice of convenience goods shopping in close proximity to high density, deprived, residential areas; and
- iii) the net employment impact of the application proposal, taking account of displacement, and the provision of jobs in a sector that offers relatively easy entry to those suffering from worklessness.

### Recommendation

6.12 There is some degree of conflict with the retail aspects of the development plan and with the sequential test. There is also likely to be insufficient quantitative need to support the full quantum of floorspace proposed at the Sunderland Retail Park and we are concerned with the size of the food superstore component. We are also concerned about the need to protect the investment opportunity at Holmeside and to reduce the risk of harm to independent traders in the City Centre and in the nearby district and local centres.

6.13 Nevertheless, we consider that the regeneration policy aspects of the development plan weigh in favour of the redevelopment of the Sunderland Retail Park, and we recommend that the City Council indicates its support for the principle of the application scheme. However, for the reasons set out in Paragraph 6.12, we consider that the Council should seek to negotiate with the applicant to reduce the size of the food superstore component of the application.

## Appendix B2 Report of Consultants Engaged by the Council on the Amended Application

### 5 CONCLUSIONS AND RECOMMENDATIONS

#### *The Requirements of PPS4*

**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. I confirm that I have taken full account of the development plan (as explained in Section 3 of my Proof), and my assessment of the application scheme has also been informed by my recent health checks of the centres in the catchment area and also other relevant local documents.**

#### *RTP Assessment*

**We consider that the applicant has followed the sequential approach, and that there is no sequentially preferable opportunity which meets the ‘available’, ‘suitable’ and ‘viable’ tests, even allowing for the flexibility required by Policy EC15.1.d. As a consequence, we consider that the applicant has demonstrated compliance with the sequential approach.**

**Similarly, we consider that there is no clear evidence that the proposal is likely to lead to any significant adverse impacts in terms of the tests set out in Policies EC10.2 and EC16.1.**

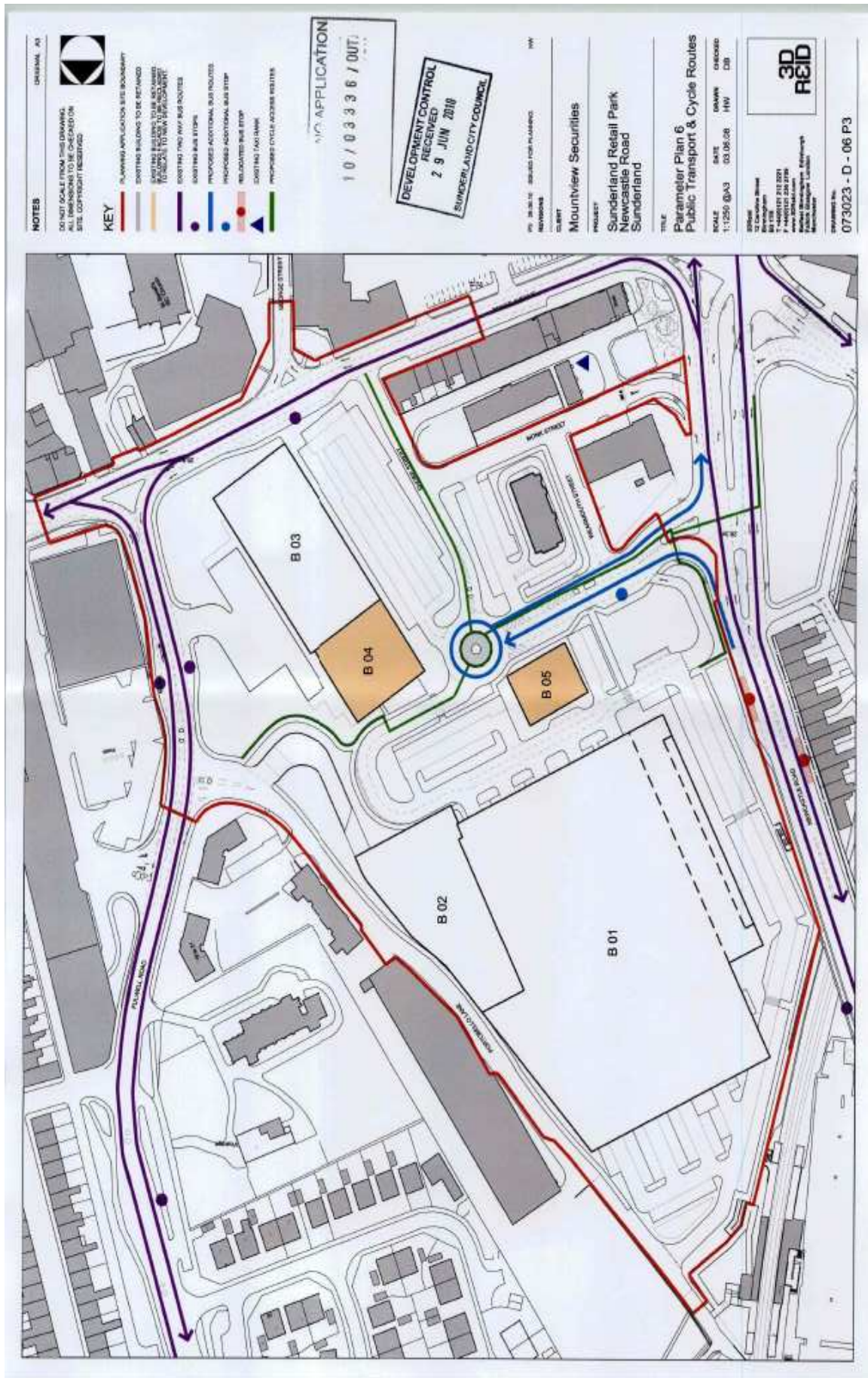
**Thus, given these conclusions, the decision maker has to enter the balancing exercise required by Policy EC17.2. In our assessment, the positive regeneration and employment impacts, and the substantial private investment levered by the application proposal more than offset the negative trade diversion impacts. In coming to this conclusion, we have taken account of the health of Sunderland City Centre, and other vitality and viability indicators, as required by Policy EC17.3.**

### ***Recommendations***

From the perspective of retail and regeneration policies, we recommend that the Council supports the application in principle. There will need for conditions which control the total sales area of the retail park (including any mezzanine floorspace), the total sales area of the food superstore component (including any mezzanine floorspace), and the total sales areas devoted to comparison and convenience goods within the food superstore (again including any mezzanine floorspace).

We also recommend that the Council engages with the applicant, and seeks to persuade it to operate the food superstore as one of its regeneration stores, which will encourage, by condition or legal agreement, the take-up of the job opportunities by those most socially and economically disadvantaged in the local area.

# APPENDIX 3 PROPOSED SITE LAYOUT





## SUPPLEMENTARY REPORT

Planning and  
Highways  
Committee  
5<sup>th</sup> October  
2010

---

**Reference No.:** 08/03336/OUT Outline Application

**Proposal:** Revised outline planning application, received 5<sup>th</sup> August 2010, for erection of superstore (A1); retention and recladding of an existing unit; erection of four additional retail units; retention and recladding of the existing Farmfoods/Blockbuster unit ; new vehicular accesses; reopening of section of highway to emergency vehicles; resurfacing/landscaping and stopping up of a highway.

**Location:** Sunderland Retail Park Sunderland

**Ward:** St Peters

**Applicant:** Mountview Securities

**Date Valid:** 5 September 2008

**Target Date:** 31 October 2008

---

### PURPOSE OF REPORT

The purpose of this report is firstly to address, in the interests of completeness, an editing error contained in Appendices A1 and A2 to the Addendum Report and to comment further on the proposed Section 106 agreement.

First Appendix A1 contains the summary of consultation responses on the Original Scheme, while Appendix A2 contains the summary of consultation responses on Amended Scheme. However both entries for Sunderland Arc (Consultation response no. 12) refer to the comments made in response to the amended scheme. The response from the Arc on the original scheme is summarised below.

Having regard to the exceptional scale of the proposed development and the capacity deficit revealed by the applicant's own retail assessment Sunderland Arc considered that It would be premature and inappropriate to evaluate this scheme until the new city-wide Retail Study is available and agreed. However, the following provisional comments were provided [*with officer comments in italics*].

### Key issues

Sunderland arc considered that the key issues raised by the application were :

- (i) The regeneration and economic benefits arising from the redevelopment of the site — for the locality and the city as a whole.
- (ii) Transport considerations, notably the degree of accessibility by various forms of transport, particularly public transport.
- (iii) The extent of the quantitative and qualitative need for a superstore on the scale proposed.
- (iv) The adequacy of the sequential assessment.
- (v) Potential impacts on the vitality and viability of existing centres, particularly the city centre, including: the extent of the effect on the spatial planning strategy

for the city as a whole; and on future public and private sector investment in the city centre.

(vi) The degree of consistency with the development plan and government planning policy.

### Regeneration benefits and accessibility

In relation to matters (i) and (ii), this is a prominent inner urban site that provides a significant regeneration opportunity. It is highly accessible and with a densely developed residential areas adjoining. The area suffers from a poor environment combined with economic and social disadvantage and the case for comprehensive regeneration is compelling. In principle, comprehensive redevelopment of the Sunderland Retail Park also provides an opportunity to strengthen the retail offer in Sunderland generally which is an important material consideration. It may also assist in limiting the leakage of expenditure from north-west Sunderland to retail locations outside the city.

### Need

The Arc had a number of concerns with respect to the assessment of need. It was apparent from the applicant's own revised Retail Assessment that a quantitative need for the proposal has not been adequately demonstrated. The Arc concluded that it would be inappropriate to determine an application of this magnitude in an out-of-centre location, ahead of the city-wide retail study subsequently carried out for the Council by Roger Tym & Partners. *[This study has now been completed and used by RTP in their assessment of the amended application.]*

### Sequential assessment

With regard to the sequential assessment In relation to Holmeside, the Arc considered that this remained flawed in several important respects. Key among these is that the assessment did not recognise that a major foodstore on Holmeside is fully consistent with the adopted 1998 UDP and with PPS6, as well as with the adopted UDP Alteration, since the site is already within the Retail Core. *[As set out in the main report the development at Holmeside cannot be delivered in the same time frame as SRP as the preferred developer has now gone into administration.]*

In this context, the Arc agreed that the implications of the scale of the proposed superstore development needed to be carefully evaluated with a need to examine the case for reducing the scale of the proposed superstore. It was noted that upwards of some 12,000sqm of retail floorspace already exists on the site which would be replaced by the proposed development, resulting in a net increase of around 10,000sqm. However, at 22,355sqm gross, the scale of the superstore is exceptional, certainly the largest in the region and believed to be possibly the largest in the UK. Whilst the applicant was asked to provide further information on stores of comparable size, comparatively little has emerged apart from the comparison with Kingston Park. The extent of the difference between the proposed gross and net floorspace is also quite remarkable and in the arc's view the applicant's justification was unconvincing. *[The revised scheme has significantly reduced the scale of the proposal and hence the Arc's comments on that scheme are considerably more favourable.]*

## UDP Policy S5

Finally, the Arc noted that there were a number of references in the Retail Assessment to UDP Policy S5, which were quoted in support of the scheme. However, as the Council is aware this particular policy was not saved by the Secretary of State's Direction under paragraph 1(3) of Schedule B to the Planning and Compulsory Purchase Act 2004 - and has therefore expired. *[This matter has been addressed in the assessment relating to the amended scheme.]*

## PROPOSED SECTION 106 AGREEMENT

As explained at Page 23 of the Addendum Report, it is proposed to address two policy issues relating to the development through a Section 106 Agreement under the Town and Country Planning Act 1990.

Firstly, it is proposed to impose a planning obligation on the operator of the superstore to provide employment and training opportunities at the store to the most socially and economically disadvantaged in the local area, in particular those who have been unemployed for more than twelve months and individuals in receipt of income support and sickness related benefits. This obligation is necessary to secure the positive impact of the development on local employment as identified by the impact assessment under EC10.2(e) of PPS4.

Secondly, it is proposed to impose a planning obligation on the developer to provide on site public art provision to the value of £50,000 as part of the proposed development. Policy B20 of the UDP provides that the Council will encourage the provision of public art, craft or decoration in major new developments as part of the enhancement of the built environment and the open landscapes of the city. This obligation is necessary to achieve an enhanced development at this important gateway site to the City. The level of this contribution to public art is considered proportionate to the scale and nature of the entire development.

Both planning obligations are therefore considered necessary to make the development acceptable in planning terms. In addition, both obligations directly relate to the development and fairly and reasonably relate to the scale and nature of the development in accordance with the tests contained in Regulation 122 of the Community Infrastructure Regulations 2010.

## RECOMMENDATION

Committee is recommended to resolve:-

- 1) That it is minded to approve the outline application for retail development subject to the conditions outlined in the Addendum Report and to the completion of a Section 106 Town and Country Planning Act 1990 Agreement for the following reasons:-
  - The proposed development accords with UDP policy and in particular strategic retail policy S1 and site specific policy N44.(having satisfied the sequential test and there being no clear evidence of a significant adverse impact on the vitality and viability of other centres); policies EC1 and EC3 (being in an area of

economic and social deprivation and re-using already developed land); policies R1 and R2 (being environmentally sustainable and using existing infrastructure) and accords with the supporting text to emerging Core Strategy CS6 (which provides for out of centre retail provision where there is a lack of such facilities and there are no sequentially preferable sites available).

- The proposed development satisfies the requirements of the sequential approach set out in Policy EC15 of PPS4 and there being no sequentially preferable sites for the development. Further there is also no clear evidence that the proposal will have any significant adverse impacts in terms of any of the impacts referred to in Policies EC10.2 and 16 of PPS4.
  - The proposed development has been assessed taking account of the positive and negative impacts of the proposal and other material considerations and the positive impacts in terms of employment and physical and social regeneration more than offset any potential negative trade diversions.
- 2) to refer the application to the Secretary of State under the terms of the Town and Country Planning (Shopping Development) (England and Wales) (No 2) Direction 1993.

CABINET

16<sup>th</sup> FEBRUARY 2011

### COMPULSORY PURCHASE ORDER: LAND AT SUNDERLAND RETAIL PARK, NEWCASTLE ROAD

### REPORT OF THE DEPUTY CHIEF EXECUTIVE AND THE EXECUTIVE DIRECTOR OF COMMERCIAL AND CORPORATE SERVICES

#### Purpose of Report

This report follows on from the previous report considered by Cabinet on 1st December 2010 (copy at Appendix 7), when the Cabinet approved, in principle, the use of compulsory purchase powers under section 226(1)(a) of the Town and County Planning Act 1990 ("the 1990 Act") in respect of land at Sunderland Retail Park ("SRP"). Approval is now sought to progress with land assembly and to implement the use of these powers for the purpose of facilitating the carrying out of the comprehensive redevelopment of SRP, as shown on the plan at **Appendix 3**. This redevelopment will provide a new retail superstore, associated public realm improvements and infrastructure, with the aim of achieving the promotion and improvement of the economic, social and environmental well-being of the area. An application for outline planning permission for this redevelopment Scheme was considered by the Planning and Highways Committee on 5th October 2010. A copy of the report to the Planning and Highways Committee on the planning application is contained in **Appendix 8**. Outline planning permission was subsequently granted for the Scheme on 27 October 2010 (copy at **Appendix 9**). It is considered that there is a compelling case in the public interest which justifies the use of CPO powers in this case. The compelling case in the public interest and the economic, social and environmental benefits to the well-being of the area are summarised in this report and set out more fully in the draft statement of reasons for the CPO which is attached at **Appendix 4**. Members should also read the Planning and Highways Committee report dated 5th October 2010 and the Cabinet report dated 1st December 2010, and the draft statement of reasons in conjunction with this report.

#### Description of Decision

Cabinet is recommended to:

1. Authorise the making of a Compulsory Purchase Order ("CPO") to be known as The Council of the City of Sunderland (Sunderland Retail Park) Compulsory Purchase Order 2011 under section 226(1)(a) of the 1990 Act to acquire land and under section 13 of the Local Government (Miscellaneous Provisions) Act 1976 ("the 1976 Act") in order to acquire new rights at Sunderland Retail Park in order to facilitate the carrying out of its comprehensive redevelopment;
2. Authorise any of the following officers:- the Chief Executive, Executive Director of Commercial and Corporate Services or the Head of Law and Governance to make minor amendments, modifications or deletions to the CPO schedule of interests and map, should this be necessary; and to finalise and make the CPO comprising the CPO and Schedule of interests and CPO map;

3. Authorise the Head of Law and Governance to serve notice of making of the CPO on all owners and occupiers of the site and all land interests identified.
4. Authorise the Deputy Chief Executive and the Head of Law and Governance to take all necessary actions to secure confirmation of the CPO by the Secretary of State for Communities and Local Government (“the Secretary of State”), including promoting the Council’s case at public inquiry if necessary and to continue negotiations with a view, in tandem with the exercise of CPO powers, to attempt to reach agreement with affected landowners.
5. Subject to confirmation of the CPO by the Secretary of State, authorise the Deputy Chief Executive and Head of Law and Governance to acquire title and/or possession of the CPO land, including as appropriate, by:-
  - a. Serving Notice of Confirmation of the CPO on owners and occupiers;
  - b. Serving Notice of Intention to Execute a General Vesting Declaration on owners and occupiers to transfer the title of the land included in the CPO to the Council;
  - c. Executing the General Vesting Declaration;
  - d. Serve Notices to Treat and/or Notices of Entry; and,
  - e. Acquiring land and interests through negotiation.
6. Authorise the Deputy Chief Executive and Head of Law and Governance to acquire and dispose of any land or interests required to enable the proposed redevelopment of the Sunderland Retail Park to proceed, subject to appropriate indemnity provisions being in place with the developer.

## **BACKGROUND**

### **Sunderland Retail Park**

#### Need for regeneration

1. Sunderland Retail Park (“SRP”), shown edged red on the plan contained in **Appendix 2**, extends to 6.23 ha and is located approximately 1km to the north of Sunderland city centre. It 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. SRP occupies a prominent gateway site on the principal approach to the City Centre from the north. It comprises 12 retail units, a bowling alley and former night club, a McDonalds “drive thru” restaurant and a former Reg Vardy car showroom, all with associated parking. The site contains a mixture of vacant and occupied buildings but gives the appearance of a predominantly poorly performing retail offer. In particular all but 3 of the retail units (one of which is subdivided) are vacant. The only other occupiers remaining are Macdonalds and Sunderland Bowl. Consequently large areas of car parking are un-used. The vacant units are characterised by closed security shutters, an increasing proliferation of graffiti, and a general air of neglect. The site lacks any vibrancy and vitality and is no longer a retail destination of choice which exacerbates its poor appearance.

3. Whilst SRP is in an accessible location, for car borne traffic and for users of bus and Metro services, it does not provide a retail offer that maximises its accessibility. In particular it has poor permeability for pedestrians who have been dropped off by public transport outside of SRP or for those accessing the site from nearby residential areas.
4. 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 by Full Council on 29 September 2010), which notes that Sunderland still suffers from high unemployment and a low skills base. The Masterplan 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 Monkwearmouth area also experiences higher levels of poor health and crime than the national average.

#### Need for retail investment

5. In terms of access to shopping 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 Sunderland along with a qualitative need for additional food and grocery provision.
6. There is also currently significant trade leakage from the Sunderland North area of convenience expenditure to the Asda store at Boldon Colliery in South Tyneside.

#### **Cabinet Meeting, 1 December 2010**

7. At its meeting on 1 December 2010, Cabinet considered a report on proposals to regenerate SRP through a new retail development including a new food retail superstore. Members are advised to remind themselves of the terms of this report, a copy of which is contained in **Appendix 7**.
8. Cabinet resolved in principle to use the Council's compulsory purchase powers under section 226(1)(a) of the 1990 Act and, if necessary, to ensure that all relevant interests in SRP are brought into the ownership of the Council in order to enable the delivery of the Scheme.
9. The following approvals were also granted:
  - a. The Deputy Chief Executive was authorised to appoint suitable property and legal advisers in respect of the CPO process;
  - b. The Deputy Chief Executive and Head of Law Governance, in consultation with the Portfolio Holder, were authorised to agree and enter into appropriate indemnification arrangements with the developer in respect of the costs to the Council of the CPO process;
  - c. The Deputy Chief Executive and the Head of Law and Governance were authorised to undertake a land referencing exercise to identify all owners, tenants, occupiers and others with a legal interest in the Site and serve requisitions for information under s. 16 of the 1976 Act on all potential owners of legal interests in the site.

The progress achieved following these approvals is described later in this report at **paragraph 84** .

## **THE COMPULSORY PURCHASE POWERS**

10. For the reasons set out in this report and in the draft Statement of Reasons contained in **Appendix 5**, Cabinet is requested to authorise the use of the Council's compulsory purchase powers in order to assemble land and interests to allow the comprehensive redevelopment of SRP to proceed. In considering whether to exercise such powers, it is important that Members understand both the statutory provisions from which the powers derive as well as Government guidance on the use of the powers which is set out in ODPM Circular 06/2004 Compulsory Purchase and the Crichel Down Rules ("the Circular").
11. Section 226(1)(a) of the 1990 Act gives the Council the power to acquire land compulsorily in its area if the authority thinks the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land. This can include the assembly of a site to facilitate either a public or private sector development.
12. However, under s.226(1A) of the 1990 Act, before exercising the power under s.226(1)(a), the Council must also be satisfied that the proposals are likely to "contribute to the achievement" of any one or more of the following objects—
  - 1) the promotion or improvement of the economic well-being of Sunderland;
  - 2) the promotion or improvement of the social well-being of Sunderland; or
  - 3) the promotion or improvement of the environmental well-being of Sunderland.
13. Advice on the exercise of the s. 226(1) powers is set out in Appendix A to the Circular.
14. 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...*"
15. The requirement of a compelling case in the public interest in paragraph 17 encapsulates the key requirement of proportionality under the European Convention on Human Rights as explained further in Paragraphs 87- 91 below.



## **PLANNING, REGENERATION AND ECONOMIC POLICY**

16. 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.
17. SRP 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.
18. Parts of the SRP 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.
19. 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 SRP). 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.
20. The south western corner of SRP 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.
21. 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.
22. 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.
23. 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 SRP.

24. Further, Policy EC3(iv) states that the Council will support new economic development which involves the re-use and enhancement of previously developed sites.
25. The Sunderland Economic Masterplan also 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 SRP, there are no sites within the City Centre upon which the Scheme for SRP could be accommodated and the impacts of the Scheme on the City Centre are acceptable. Accordingly, the only way to address the current trade leakage and the localised deficiency in convenience floorspace in North Sunderland is to address the quality of retail provision at SRP.
26. The Masterplan also states that public areas need to be improved and areas that are currently at risk of decline need to be upgraded so that they remain attractive areas to walk through.
27. As part of the emerging Local Development Framework (LDF), 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.
28. The following preferred options policies are relevant to the proposed development at SRP:-

- CS1 Spatial Development, Growth and Regeneration in Sunderland

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.

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.

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.

- CS8 Sunderland North

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.

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.

29. In terms of national planning policy, the following are of particular relevance to the Scheme:
30. 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.
31. PPS1 also states that planning authorities should promote urban regeneration to improve the wellbeing of communities and their facilities, including improved access to shops.
32. 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 economic growth should be treated favourably.
33. For retail developments that are not in an existing centre (such as SRP) and are not in accordance with an up to date development plan, PPS4 requires that the applicant undertakes a sequential assessment to determine whether there is an alternative, town centre or edge of centre site that could accommodate the particular development proposal which is available, suitable and viable. In addition, 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. These sequential and retail impact tests are also incorporated within the UDP policies relevant to SRP and the development.

34. 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:-
- The concentration of the majority of new development to be in Sunderland and Washington with development to meet local needs in Houghton and Hetton;
  - Regeneration of central Sunderland is supported with economic, retail and leisure development to be focused on the city centre.
35. 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:
- tackling worklessness and unemployment to increase economic activity;
  - creating 61,000 to 73,000 new jobs by 2016;
  - improving productivity;
  - raising GVA;
  - creating 18,500 to 22,000 new businesses by 2016.

## **SCHEME PROPOSALS**

### **Evolution of the Scheme and consideration of alternatives**

36. 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 Securities Limited ("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
37. 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:
- a. The existing layout and the desire to retain existing retail units or to relocate existing occupiers within SRP.
  - b. The minimum size requirements of the proposed food retail store.
  - c. The highways network and access solution.
  - d. The need to provide a more efficient car parking layout and servicing solutions.
  - e. The need to ensure an attractive frontage onto key approaches to SRP in order to attract maximum footfall, particularly from the Metro station.

38. 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 Mountview to revisit the scheme and reduce the scale of the foodstore.
39. 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.

### **Planning position**

40. 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.
41. The comprehensive redevelopment of SRP 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 referred to above. 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.
42. The comprehensive redevelopment of SRP is also consistent with policies CS1 and CS8 of the emerging Core Strategy.
43. 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.
44. In addition the Scheme is also compatible with the RSS and the key objectives of the Regional Economic Strategy.

45. Outline planning permission was granted for the Development by the Council on 27 October 2010 which comprised:
- 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;
  - 2) The construction of a new food superstore of 16,140m<sup>2</sup> gross external area (GEA) and net retail sales area of 8,378m<sup>2</sup>;
  - 3) The retention and recladding of an existing retail unit of 1,168 m<sup>2</sup> GEA and 934m<sup>2</sup> net retail sales area;
  - 4) The erection of four additional retail units totalling 2,661m<sup>2</sup> GEA and 2,129 m<sup>2</sup> net retail sales area;
  - 5) The retention and recladding of the existing Farmfoods/Blockbuster unit;
  - 6) The provision of 900 parking spaces to service the entire development;
  - 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.
46. For further detail, Members should read the report to the Planning and Highways Committee in respect of the outline planning application which was considered on 5 October 2010 and is contained in **Appendix 8**.
47. The Development 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 Council under s278 of the Highways Act 1980.
48. The Developer has applied to the Secretary of State for an order under s.247 of the 1990 Act to stop-up the areas of public highway in order to enable the Scheme to proceed. This stopping-up order has now been made and a copy is contained in **Appendix 10**.
49. Together these components constitute the comprehensive redevelopment of SRP ("the Scheme").

## **REASONS FOR THE DECISION**

### **Issues for the making and confirmation of the CPO**

50. Members first need to be satisfied that the requirements of s. 226(1)(a) and (1A) of the 1990 Act will be met for the purposes of making of the CPO. In this respect, it is considered that s. 226(1)(a) will be satisfied because the acquisition of the relevant interests at SRP will facilitate the redevelopment of the site by Tesco for the Scheme. Further, in light of the significant environmental improvements that result from the physical redevelopment of SRP, the economic benefits of the Scheme in clawing back retail expenditure and generating new employment as well as the improved access to facilities for local people, it is considered that the requirements of s.226(1A) will be

satisfied; that is to say that it is considered that the Scheme would be likely to contribute to the achievement of the promotion or improvement of the economic, social and environmental wellbeing of the area.

51. The Circular provides advice, both generally and at paragraph 16, Appendix A, on the key factors which the Secretary of State can be expected to consider when deciding whether to confirm an order made under section 226(1)(a) of the 1990 Act. Members must consider these factors now in considering whether to make the CPO and so they are set out below, with reference to the relevant sections of the Circular together with an analysis in relation to the proposed use of CPO powers to deliver the Scheme.

52. Paragraph 20-21, Resources Implications of the Scheme

53. A CPO indemnity agreement has been negotiated with Tesco, under which Tesco is required to indemnify the Council for all costs, liabilities and expenses in promoting the proposed CPO, for the costs of any land acquisition and for all compensation payable pursuant to a CPO. At the time of the preparation of this report the CPO indemnity agreement is being circulated for signature and will be completed imminently. Tesco is also responsible for implementation of the Scheme at its own cost and there is no need for any public sector funding.

54. Tesco has made it clear, both in its statements and by its actions in progressing land acquisitions at SRP and its planning application for the Scheme, that obtaining a trading position in the city is a priority objective. Tesco has also confirmed that it wishes to progress with the Scheme as soon as possible once the relevant interests at SRP have been acquired.

55. Paragraph 22-23, Impediments to implementation

56. Tesco 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.

57. Tesco has obtained outline planning permission for the Scheme, described above, and intends to submit its application for approval of reserved matters imminently. The Council has already held pre-application discussions with Tesco in connection with the reserved matters submission.

58. Other potential impediments are in the process of being resolved. Notably, Tesco require a stopping up order to be made in respect of certain highways affecting the site. An application has been made by Tesco under s.247 of the 1990 Act and an order has been made by the Secretary of State (copy at **Appendix 10**). An agreement under section 278 of the Highways Act 1980 is also currently being negotiated in order to secure the improvement of the highways infrastructure around SRP and this is expected to be completed shortly.

59. Accordingly, the Scheme is not likely to be blocked by any impediment to implementation.

60. Paragraph 24-25, Negotiation

61. Tesco, 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.

62. 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.
63. Paragraph 16 (i) of Appendix A, whether the purpose for which the land is being acquired fits in with the adopted and/or emerging planning framework
64. As set out in the section on the planning position of the Scheme at **paragraphs 40-49** above, the Scheme is in line with the adopted and emerging development plan. This is borne out by the fact that the Council has granted planning permission for the Scheme and this Report should be read together with the report to the Planning and Highways committee on the planning application (**Appendix 8**).
65. Paragraph 16 (ii) of Appendix A, the extent to which the proposed purpose will contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the area
66. The proposed compulsory acquisition of the Order Land will facilitate the carrying out of the comprehensive redevelopment of SRP as part of the Scheme.
67. The Scheme will regenerate SRP 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.
68. The Scheme will give rise to the following benefits:
  - a. 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.
  - b. It will improve the retail offer of Sunderland Retail Park by offering five retail units alongside the foodstore and retaining the two retail units occupied by Farmfoods and Blockbuster. 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.
  - c. 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.

- d. The design of the 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.
  - e. At present the site has a high level of vacant units, some of which have been vandalised and these factors detract from the visual appearance of the site and affect visitors' perspective of how safe the site is. The proposal will provide an enhanced landscape buffer around the perimeter of the site and throughout the car park. This landscaping buffer will also provide an improved habitat area for wildlife within the site and could also attract further wildlife found within the urban area to the site.
  - f. 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 site.
  - g. The Scheme includes various improvements to the surrounding highway network and seeks to provide a number of safe crossings into SRP from the surrounding area, thereby improving accessibility.
  - h. The provision of a new and direct pedestrian walkway will significantly improve access from SRP to the Stadium of Light Metro station to the north of the site. The incorporation of a bus stop in a central location within the site 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.
  - i. Measures taken to improve pedestrian access to and within the site, 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 Scheme on traffic congestion and pollution.
69. The development of the Scheme would substantially improve the visual appearance of SRP which currently has largely vacant units and suffers from vandalism. Increased occupancy, the provision of a new external lighting scheme and landscaping on the redeveloped site 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 by clawing back trade thereby stimulating economic growth and new jobs would benefit local people. The Scheme will therefore stimulate improvements to the social and economic wellbeing of the area.

70. As a consequence, when applying the statutory tests in Section 226(1)(a) and s.226(1A) of the 1990 Act it is considered 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 Council's area.
71. In addition, in the light of the substantial physical, social and economic benefits that would arise from the proposed development, it is considered 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.
72. Paragraph 16 (iii) of Appendix A, the potential financial viability of the scheme for which the land is being acquired;
73. The financial viability of the scheme is not in question, given the identity of the developer and the nature of the end use. 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.
74. Paragraph 16 (iv) of Appendix A, whether the purpose for which the acquiring authority is proposing to acquire the land could be achieved by any other means, having regard to alternative locations and alternative proposals for the site itself.
75. **Paragraphs 36-39** 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 set out above 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.
76. 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, as this report has shown, SRP is in need of regeneration and other than the Scheme, there are no competing proposals for its redevelopment or refurbishment. Tesco also own the majority of SRP and so it seems unlikely that another preferable proposal would come forward for the regeneration of SRP. Indeed, if it were not for the Scheme, it is likely that SRP would continue to fail and that the social, economic and environmental conditions of the surrounding area would worsen.

## The need for the Order Land

77. Mountview initially indicated that the preferred operator for the superstore component of the scheme would be Tesco. Following the grant of the planning permission, Mountview transferred its land interests at SRP to Tesco, who will be the developer of the Scheme and the operator of the foodstore.
78. Although Tesco owns the majority of the freehold interests in SRP, there are three units within the retail park (one of which is subdivided), subject to leases, that will need to be acquired in order to allow the Scheme to proceed. The drawing contained in **Appendix 6** overlays the proposed scheme on top of the existing units to be acquired to illustrate graphically why these units must be acquired.
79. The units to be acquired through the CPO are also described in the schedule of interests contained in **Appendix 4**, whilst **Appendix 11** provides a narrative in respect of each plot explaining the reasons why the interest must be acquired to progress the Scheme.
80. In summary, the car parking and access arrangements for Macdonalds and Blockbuster/Farmfoods units must be rearranged as part of the redevelopment. The Blockbuster/Farmfoods units will also require re-cladding because it would otherwise have a visually detrimental effect on the Scheme. The other unit occupied by Netto is physically located in an area that is crucial for car parking and access provision for the new Scheme and will need to be demolished.
81. Tesco, 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 Scheme. Notwithstanding these offers, to date it has not been possible to acquire these interests through private treaty, although efforts are continuing.
82. It is hoped that agreements can be reached with each of the owners through negotiation. However, it is now considered that 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 at paragraph 24 of the Circular.
83. The extent of SRP to be the subject of the compulsory purchase order (“the CPO”) is shown shaded pink on the draft CPO Map contained in **Appendix 4**, which will accompany the CPO (“the Order Land”).

## Preliminary Steps Taken

84. Following the Cabinet Meeting of 1 December 2010, the following preliminary work has been undertaken:
- a. The Council has negotiated appropriate CPO indemnity provisions with the developer, Tesco, to ensure that the Council is fully indemnified for all costs arising from the proposed compulsory acquisition process, including the costs of acquiring the land, the compensation payable and the expenses incurred by the Council in appointing appropriate property and legal advisers in taking the CPO forward. This agreement will be completed imminently;
  - b. The Council instructed through its external legal advisers land referencing agents, Persona Associates, to obtain accurate information regarding the current land interests in the Order Land. Formal requests for information were served on those known to have an interest in the Order Land pursuant to Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 in order to establish the exact nature of their interest in the property. These notices were served on 14 January 2011 and responses were required by 31 January 2011. All but one response has been received. This process along with Persona's site visit and title investigations have assisted in the production of an accurate schedule of the relevant interests to be acquired through the proposed CPO as contained in **Appendix 4**. Whilst this is an advanced draft, it is recommended that the Chief Executive, Executive Director of Commercial and Corporate Services or the Head of Law and Governance should be authorised to make minor amendments, modifications or deletions to the CPO schedule of interests and map, should this be necessary in light of any new information received after the date of the Cabinet meeting;
  - c. A draft CPO has been prepared, a copy of which is contained in **Appendix 4**.
  - d. A draft statement of reasons to accompany the proposed CPO has been prepared and is contained in **Appendix 5**. This should be read alongside this report.

## Alternative Options

85. The alternative option in this case would be for Tesco to seek to progress the development without the support of the Council's CPO powers. However, there is no certainty that it would be able to secure the necessary interests in the Order Land to carry out the comprehensive redevelopment proposed and to acquire any third party interests that would otherwise impede the development proposals, thereby putting at risk the delivery of this significant economic and physical regeneration project.

86. It is considered that the use of Compulsory Purchase powers is necessary in the circumstances in order to achieve the required assembly of the remaining interests at SRP and in turn deliver the comprehensive redevelopment and regeneration of SRP. If the Scheme did not proceed, then the economic, social and environmental benefits set out in this report are very unlikely to be achieved.

### **Compliance with the Human Rights Act 1998**

87. Section 6 of the Human Rights Act 1998 (“the HRA 1998”) prohibits public authorities such as the Council from acting in ways incompatible with the European Convention on Human Rights (“ECHR”). The potential use of compulsory purchase powers in this case will involve two ECHR rights:

- a. Article 1 of the First Protocol of the ECHR: the right to peaceful enjoyment of one’s possessions and the right not to be deprived of one’s possessions. This right can be interfered with in the public interest and subject to the conditions provided for by law. That interference is only justified if the fair balance of the factors (which comprises a proportionate interference) is in favour of the public interest against the private interests to be acquired;
- b. Article 6 of the ECHR: the right to a fair and public hearing by an impartial tribunal.

88. **Article 1:** the law requires that before a CPO is made, the Council must be satisfied that there is a compelling case in the public interest for a CPO, and that this public interest in the development scheme proceeding sufficiently outweighs the interference with the affected party’s human rights. As a consequence, Cabinet must be satisfied that the benefits of the Scheme, set out in **paragraphs 68-69** above justify the compulsory acquisition of the outstanding interests at SRP.

89. The ECHR requires a “fair balance” to be struck between the public interest in securing a development proposal and an individual or legal person’s human rights under Article 1 of the First Protocol. This means that any interference with these rights must be proportionate. It is considered that there is a compelling case in the public interest to justify the use of CPO powers to facilitate the comprehensive redevelopment of SRP in the light of the substantial economic, social and environmental benefits that would arise from this redevelopment. In weighing these issues, the Council will also need to consider that parties whose interests are acquired are entitled to receive compensation for the losses they incur, calculated under the CPO compensation code, itself held to be compliant with Article 1.

90. The use of CPO powers in this instance is therefore considered to be proportionate.

91. **Article 6:** this confers on those whose civil rights are affected the right to a hearing before an independent and impartial tribunal. This is provided since any affected party is entitled to object to the CPO in which case the Secretary of State will hold a public inquiry to consider whether the CPO should be confirmed and such a decision would then be open to review before the High Court. The right to a fair hearing is therefore fully met as has been established before the Courts. Moreover, those directly affected by the CPO will be entitled to compensation proportionate to any losses that they have incurred as a result of the acquisition. Compensation will be payable in accordance with the Compulsory Purchase Code, assessed on the basis of market value of the property interest acquired, disturbance and statutory loss payment. The assessment of that compensation can be referred to the independent decision of the Lands Tribunal (the Lands Chamber of the Upper Tribunal). The reasonable surveying and legal fees incurred by those affected will also be paid by the Council. The CPO compensation code has also been held compliant with Article 6.

### **The CPO Process**

92. A summary of the process involved in securing a confirmed CPO and transfer of title to the Council thereafter is included at **Appendix 12**.
93. The draft CPO schedule at **Appendix 4** will potentially be amended if further or new information is obtained regarding land interests. The schedule will be finalised at the time the CPO is made. Similarly the Statement of Reasons will be finalised at the same time. The CPO and Notice of Making the CPO will be served on all land interests identified and noted in the CPO schedule.

### **Financial Implications to the Council**

94. As explained above, the Council has agreed appropriate indemnity arrangements with the Scheme Developer, Tesco in respect of all costs, liabilities and expenses arising from the CPO process including the costs of acquiring the relevant interests at SRP and for all compensation payable pursuant to the CPO. The objective of these indemnity arrangements is to ensure that the CPO process is cost neutral to the Council.

### **CONCLUSION**

95. Section 226(1)(a) of the 1990 Act gives local authorities the power to acquire land compulsorily in order to facilitate the assembly of a site for private sector development.
96. The development at SRP for which planning permission has been granted is expected to contribute to the achievement of the promotion and improvement of the economic, social and environmental well-being of Sunderland, as required under s.226(1A) of the 1990 Act.

97. In addition, in the light of the substantial physical, social and economic benefits that would arise from the proposed development at SRP, it is considered that there is a compelling case in the public interest to justify the use of CPO powers in order to facilitate the development.
98. As described above, planning permission has already been granted for the Scheme (ref: 08/03336/OUT) and the proposals are in accordance with the national and regional planning policy, the Unitary Development Plan and the emerging Core Strategy.
99. Alternative proposals would not achieve the regenerative benefits required.
100. Negotiations have been attempted with the owners and occupiers of the land needed to be acquired but it has not proved possible to date to reach a concluded agreement. It is proposed to continue negotiations in tandem with the exercise of CPO powers in accordance with the Circular.
101. Finally, without the CPO and the Scheme, it is likely that SRP would continue to fail and that economic, social and environmental conditions in the area would worsen.

## **APPENDICES**

Appendix 1	Background papers/documents
Appendix 2	SRP site plan
Appendix 3	Scheme layout drawing
Appendix 4	Draft CPO, Schedule of interests and Order Map
Appendix 5	Draft Statement of Reasons
Appendix 6	Plan showing the Scheme overlaid onto the properties to be acquired
Appendix 7	Report to the Cabinet on 1 December 2010
Appendix 8	Report to the Planning and Highways Committee on 5 October 2010
Appendix 9	Outline planning permission for the Scheme
Appendix 10	Stopping up Order
Appendix 11	Summary justifications for acquisitions
Appendix 12	Summary of CPO process and procedure



## **APPENDIX 1: Background papers (not appended)**

In addition to the appendices, the following materials have been used to inform this report:

- 1) Design and Access Statement for Sunderland Retail Park dated June 2010 prepared by DPP LLP.
- 2) Retail Assessment dated 24 June 2010 prepared by DPP LLP.
- 3) Planning Statement dated June 2010 prepared by DPP LLP.
- 4) Review of Applicant's Retail Assessment dated September 2010 prepared by RTP.
- 5) City of Sunderland UDP adopted plan 1998.
- 6) City of Sunderland UDP alteration No.2 (Central Sunderland) adopted September 2007.
- 7) Sunderland UDP Sunderland Economic Masterplan adopted September 2010.
- 8) City of Sunderland Core Strategy draft revised preferred options (March 2010).
- 9) The Sunderland Strategy 2008 - 2025.
- 10) Sunderland City Council - Sunderland Retail Needs Assessment September 2009.
- 11) OPDM Circular 06/2004 "Compulsory Purchase and the Crichel Down Rules".



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

---

STATEMENT OF REASONS

---

# CONTENTS

<b>Clause</b>		<b>Page</b>
1	INTRODUCTION.....	2
2	DESCRIPTION OF THE ORDER LAND .....	3
3	THE CPO POWERS .....	7
4	NEED, PURPOSE AND JUSTIFICATION .....	8
5	CONSULTATION.....	13
6	STATEMENT OF PLANNING POSITION RELEVANT TO THE SCHEME.....	13
7	THE SCHEME PROPOSALS.....	18
8	DELIVERY AND FUNDING.....	20
9	IMPEDIMENTS TO IMPLEMENTATION.....	20
10	NEGOTIATIONS .....	21
11	HUMAN RIGHTS CONSIDERATIONS.....	22
12	SPECIAL CONSIDERATIONS .....	24
13	VIEWS OF THE GOVERNMENT DEPARTMENTS .....	24
14	RELOCATIONS.....	24
15	RIGHTS, EASEMENTS, ETC.....	25
16	RELATED ORDERS .....	25
17	REFERENCE TO THE INQUIRY RULES.....	25
18	LIST OF DOCUMENTS .....	25
<b>Appendices</b>		
1	Sunderland Retail Park Plan .....	27
2	Scheme Overlay drawing .....	28
3	Schedule of Interests .....	29
4	Stopping up Order .....	30

## 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 at Sunderland Retail Park for the purposes of providing a new retail foodstore, additional retail units and making improvements to existing retail units, associated public realm and highway infrastructure ("the Scheme"). The Acquiring Authority consider that the development is likely to contribute to the achievement of the promotion and 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 occupies a prominent gateway site on the main approach to the City Centre 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 an un-attractive 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.
- 1.5 The proposed Scheme will secure the physical regeneration of the Retail Park through private sector investment and generate approximately 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 acquisition for the purposes of 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 the 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), whilst the remaining retail 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 retail units within the Order Land are also of generally poor quality, are unattractive, and cannot be said to 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, unattractive and poorly maintained building constructed of facing brickwork, metal cladding with some wooden panelling. The bowling alley is built on stilts with the car parking area underneath and dominates the approach to the Site from the north.
- 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 Lidl.

- 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 the 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 unit to the south west of the site which is occupied by Macdonald's restaurants limited as a "drive thru" restaurant (Plot 1); and
- 2.20.2 the retail block in the centre of the Retail Park site that is divided and occupied by Farmfoods Limited and Blockbuster Entertainment Limited (Plot 2);
- 2.20.3 the unit occupied by Netto Foodstores Limited on the eastern side of the site (Plot 3).
- 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 the 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 Monkwearmouth approximately 1km from the 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 retail units on the site are occupied in addition to the fast food restaurant. 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 low 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 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 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 has 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 economic, social and environmental 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 superstore 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 buildings, some dilapidated, 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 three 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 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 Sunderland North area 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, in South Tyneside.
- 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 the impacts of the Scheme 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 In order to assemble the land required for the Scheme, Mountview and the Developer, in advance of (and alongside) the CPO process, have 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 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 required for the proposed new superstore, and accordingly will need to be demolished.
- 4.17 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.
- 4.18 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 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 for the Retail Park 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 7** 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 as a result of 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 the 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 compared to the existing 50 jobs estimated to be on the Retail Park at the moment. This excludes additional jobs created within the construction period. It is predicted that the majority of the jobs created on the Retail Park 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 number 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 new and direct pedestrian walkway from the Retail Park will significantly improve access to the Stadium of Light Metro station to the north of the site. 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 substantial 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 in the

North area. 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 which is available, suitable and viable for the development proposal. 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. These sequential and retail impact tests are also incorporated within the UDP policies relevant to the Retail Park and the Scheme.
- 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 as 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 and carrying out of the Scheme within a reasonable time of the confirmation of the Order.

## 7. **THE SCHEME PROPOSALS**

- 7.1 The proposed redevelopment of the Retail Park 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 the Retail Park.

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 the Retail Park in order to attract maximum footfall, particularly from the Metro station.

- 7.3 Following the submission of the initial planning application the Council commissioned 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 initial 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.
- 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 16,140m<sup>2</sup> gross external area (GEA) and net retail sales area of 8,378m<sup>2</sup>;
  - 7.7.3 The retention and recladding of an existing retail unit of 1,168 m<sup>2</sup> GEA and 934m<sup>2</sup> net retail sales area;
  - 7.7.4 The erection of four additional retail units totalling 2,661m<sup>2</sup> GEA and 2,129 m<sup>2</sup> 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 16<sup>th</sup> February 2011 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 concluded shortly pursuant to s. 278 of the Highways Act 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 is not aware of any 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.
- 11.8 **Paragraphs 7.1-7.4** above describe the various options that were considered by Mountview and the Developer 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.
- 11.9 As part of its planning application, Mountview and the Developer 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.
- 11.10 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.
- 11.11 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.

11.12 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.

11.13 **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"*

11.14 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.

## 12. **SPECIAL CONSIDERATIONS**

12.1 There are no ancient monuments or listed buildings within the Order Land. There are however two listed buildings to the east of the Retail Park; the church of All Saints and the vicarage of All Saints. However, these will not be detrimentally impacted upon by the proposed CPO or the Scheme.

12.2 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 20<sup>th</sup> 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 Economic Masterplan adopted September 2010.
- 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 1**

### **Sunderland Retail Park Plan**

## **APPENDIX 2**

### **Scheme Overlay drawing**

## **APPENDIX 3**

### **Schedule of Interests**



## **APPENDIX 4**

### **Stopping up Order**

THE COUNCIL OF THE CITY OF SUNDERLAND  
(SUNDERLAND RETAIL PARK)  
COMPULSORY PURCHASE ORDER 2011

The Town and Country Planning Act 1990 and the Acquisition of Land Act 1981

The Council of the City of Sunderland (in this Order called the "Acquiring Authority") makes the following order:-

1. Subject to the provisions of this order, the Acquiring Authority is, under section 226(1)(a) of the Town and Country Planning Act 1990, hereby authorised to purchase compulsorily the land described in paragraph 2 for the purpose of facilitating the carrying out of development, re-development or improvement of land at Sunderland Retail Park for the purposes of providing a new retail food store and additional retail units and making improvements to existing retail units, associated public realm and highway infrastructure thereby achieving the promotion and/or improvement of the economic, social and environmental well-being of the area.
2. The land authorised to be purchased compulsorily under this Order is the land described in the Schedule and delineated and shown coloured pink and edged red on a map prepared in duplicate, sealed with the seal of the Acquiring Authority and marked "Map referred to in The Council of the City of Sunderland (Sunderland Retail Park) Compulsory Purchase Order 2011."
3. In this order, all measurements of area stated in any description of the land shall be construed as if the words "or thereabouts" were inserted after each such measurement of area.

**SCHEDULE**

**Table 1**

Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 - name and address (3)					
Number on Map (1)	Extent, description and situation of the land (2)	Owners or reputed owners	Lessees or reputed lessees	Tenants or reputed tenants (other than lessees)	Occupiers
1	All interests, other than (a) mines and minerals (b) those of Tesco Stores Limited and (c) rent charges, in 2213 square metres of retail premises, landscaped areas and parking known as McDonalds, Sunderland Retail Park, Roker Avenue	Tesco Stores Limited Tesco House Delamare Road Cheshunt EN8 9SL	McDonald's Restaurants Limited 11/59 High Road East Finchley London N2 8AW	-	J M Partners Limited Nucleus House 3 Brookside Terrace Sunderland SR2 7RN <i>(trading as McDonalds)</i>
2	All interests, other than (a) mines and minerals and (b) those of Tesco Stores Limited, in 595 square metres of retail premises known as Units 10 and 10A Sunderland Retail Park, Roker Avenue	Tesco Stores Limited Tesco House Delamare Road Cheshunt EN8 9SL	J M Partners Limited Nucleus House 3 Brookside Terrace Sunderland SR2 7RN <i>(trading as McDonalds)</i>	-	Blockbuster Entertainment Limited Harefield Place The Drive Uxbridge UB10 8AQ <i>(in respect of Unit 10)</i>

Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 - name and address (3)					
Number on Map (1)	Extent, description and situation of the land (2)	Owners or reputed owners	Lessees or reputed lessees	Tenants or reputed tenants (other than lessees)	Occupiers
2 cont			Farmfoods Limited 7 Greens Road Blairfinn Cumbernauld G67 2TU (in respect of Unit 10A)		Farmfoods Limited 7 Greens Road Blairfinn Cumbernauld G67 2TU (in respect of Unit 10A)
3	All interests, other than (a) mines and minerals and (b) those of Tesco Stores Limited, in 979 square metres of retail premises known as Unit 11 Sunderland Retail Park, Roker Avenue	Tesco Stores Limited Tesco House Delamare Road Cheshunt EN8 9SL	Netto Foodstores Limited Elmsall Way South Elmsall Near Pontefract WF9 2XX	-	Netto Foodstores Limited Elmsall Way South Elmsall Near Pontefract WF9 2XX  Station Taxis (Sunderland) Limited Taxi Kiosk Central Station Sunderland SR1 3HR (in respect of taxi freephone facility)

**Table 2**

Number on Map (4)	Other qualifying persons under section 12(2A)(a) of the Acquisition of Land Act 1981 (5)	Other qualifying persons under section 12(2A)(b) of the Acquisition of Land Act 1981 shown in Tables 1 & 2 (6)
Name and address	Description of Interest to be acquired	Name and address
Description of the land for which the person in adjoining column is likely to make a claim		
1	The Royal Bank of Scotland plc 36 St Andrew Square Edinburgh EH2 2YB <i>(mortgagee of a charge in respect of McDonalds, Sunderland Retail Park) (mortgagor J M Partners Limited)</i>	Mortgage
2	-	-
3	-	-

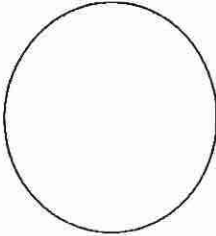
THE SEAL OF THE COUNCIL OF THE CITY OF SUNDERLAND

was hereunto affixed this 24<sup>th</sup> day of February 2011

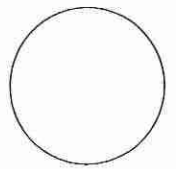
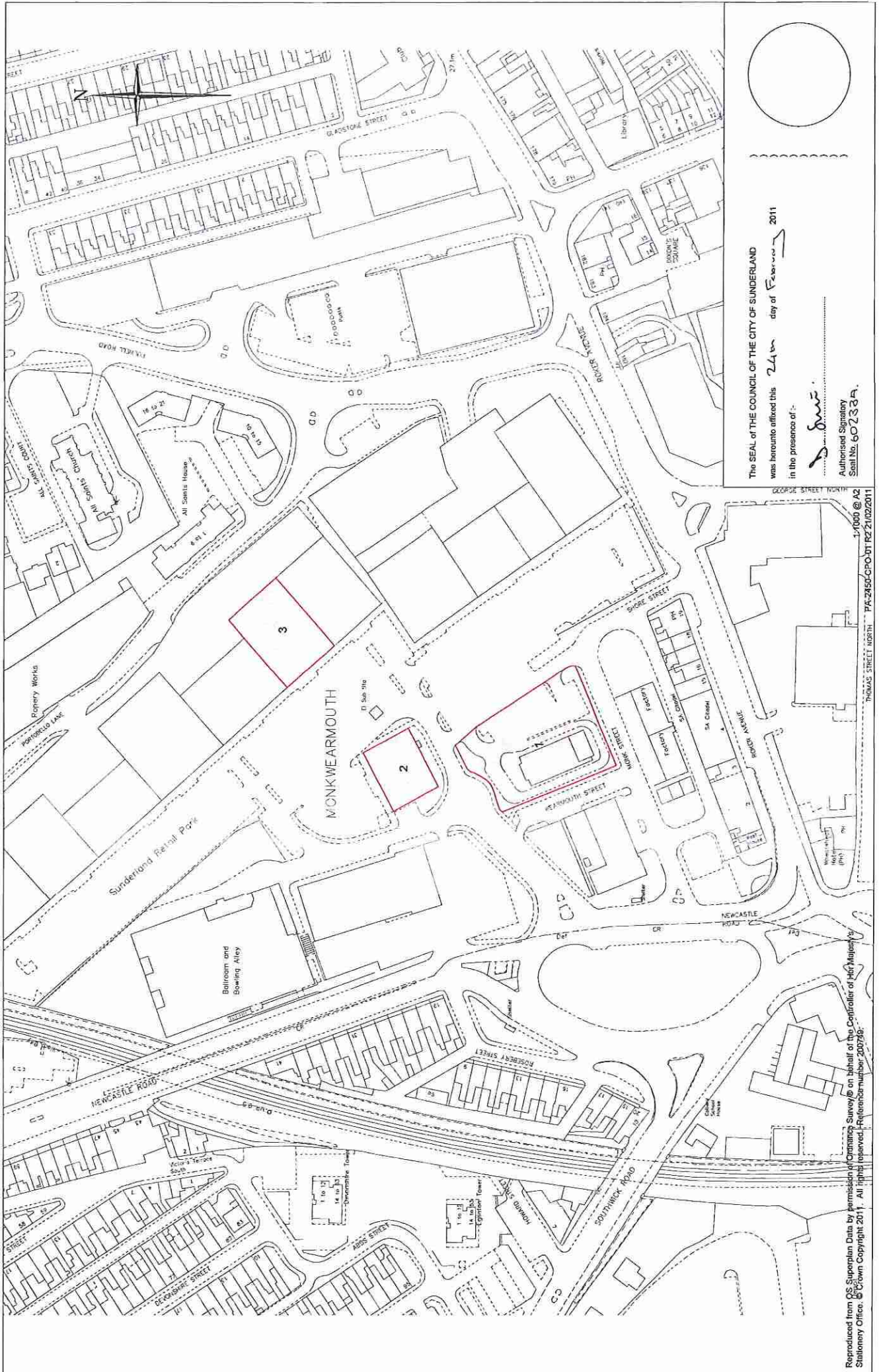
in the presence of :-

*D. G. ...*

Authorised Signatory  
Seal No. 60233A



MAP REFERRED TO IN THE COUNCIL OF THE CITY OF SUNDERLAND (SUNDERLAND RETAIL PARK) COMPULSORY PURCHASE ORDER 2011



The SEAL of THE COUNCIL OF THE CITY OF SUNDERLAND  
was hereunto affixed this 24th day of February 2011  
in the presence of:-

*[Signature]*  
Authorised Signatory  
Seal No. 60233A.

Reproduced from OS Support Data by permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. © Crown Copyright 2011. All rights reserved. Reference number: 200796.  
1/1000 @ A2  
PA 2856-CPO-DT P2 21022011  
THOMAS STREET NORTH



## SCHEDULE

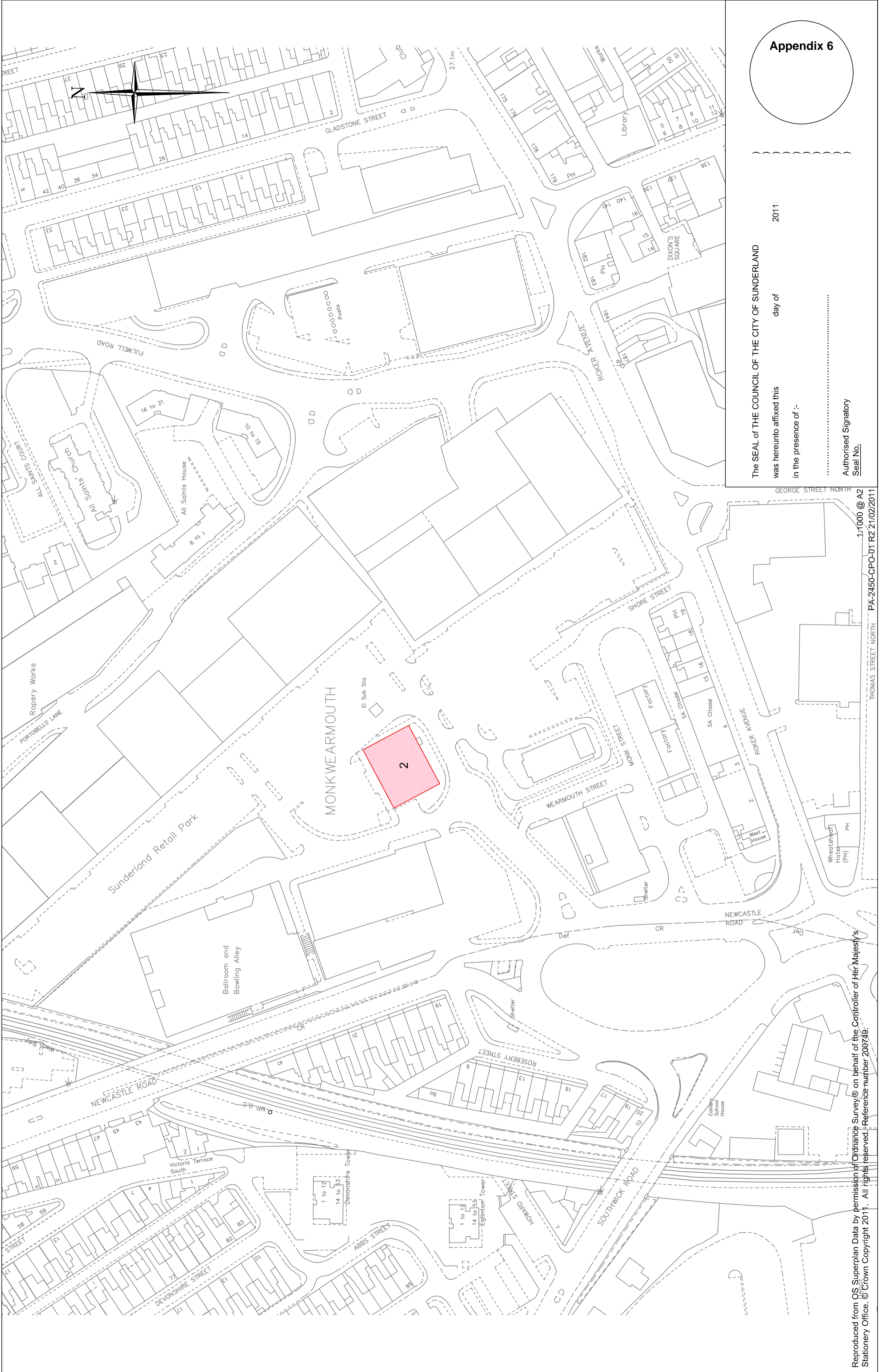
Table 1

Number on Map (1)	Extent, description and situation of the land (2)	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 - name and address (3)			
		Owners or reputed owners	Lessees or reputed lessees	Tenants or reputed tenants (other than lessees)	Occupiers
1	Deleted	Deleted	Deleted	–	Deleted
2	All interests, other than (a) mines and minerals and (b) those of Tesco Stores Limited, in 595 square metres of retail premises known as Units 10 and 10A Sunderland Retail Park, Roker Avenue	Tesco Stores Limited Tesco House Delamare Road Cheshunt EN8 9SL	Blockbuster Entertainment Limited Harefield Place The Drive Uxbridge UB10 8AQ	–	Blockbuster Entertainment Limited Harefield Place The Drive Uxbridge UB10 8AQ <i>(in respect of Unit 10)</i>



Number on Map (1)	Extent, description and situation of the land (2)	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 - name and address (3)			
		Owners or reputed owners	Lessees or reputed lessees	Tenants or reputed tenants (other than lessees)	Occupiers
2 cont			Farmfoods Limited 7 Greens Road Blairlinn Cumbernauld G67 2TU <i>(in respect of Unit 10A)</i>		Farmfoods Limited 7 Greens Road Blairlinn Cumbernauld G67 2TU <i>(in respect of Unit 10A)</i>
3	Deleted	Deleted	Deleted	—	Deleted  Deleted

MAP REFERRED TO IN THE COUNCIL OF THE CITY OF SUNDERLAND (SUNDERLAND RETAIL PARK) COMPULSORY PURCHASE ORDER 2011



Appendix 6

The SEAL OF THE COUNCIL OF THE CITY OF SUNDERLAND  
was hereunto affixed this \_\_\_\_\_ day of \_\_\_\_\_ 2011  
in the presence of :-  
.....  
Authorised Signatory  
Seal No. \_\_\_\_\_

Reproduced from OS Superplan Data by permission of Ordnance Survey® on behalf of the Controller of Her Majesty's Stationary Office. © Crown Copyright 2011. All rights reserved. Reference number 200749.

THOMAS STREET NORTH PA-2450-CPO-01 R2 21/02/2011 1:1000 @ A2



Peter Nesbit Esq.  
Eversheds LLP  
Central Square South  
Orchard Street  
Newcastle upon Tyne  
NE1 3XX

Our Ref: LDN023/J4525/006/0001  
Your Ref: NESBITP/110703.011713

28 November 2011

Dear Sir

**THE TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 226 (1)(A)  
THE COUNCIL OF THE CITY OF SUNDERLAND (SUNDERLAND RETAIL PARK)  
COMPULSORY PURCHASE ORDER 2011**

Introduction

1. The report of the Inspector, Susan Heywood BSc (Hons) MCD MRTPI, who held a public local inquiry into the above order on 4th October 2011 has been considered. A copy of the Inspector's report is enclosed. References in this letter to paragraphs in the Inspector's report are indicated by the abbreviation IR, followed by the relevant paragraph number.

2. The order, if confirmed, would authorise the compulsory purchase of 3 retail units and surrounding land located within the Sunderland Retail Park for the purposes of providing a new retail food store, additional retail units and making improvements to existing retail units, associated public realm and highway infrastructure.

Objections

3. Five relevant objections to the order were received, but three were withdrawn. The main grounds of objection were that the acquiring authority's offers to occupiers to move to alternative units made on favourable terms had been withdrawn and subsequent offers were on inferior terms; questions were also raised in relation to links with another site previously within the ownership of Tesco and subsequently sold to the Council; there is no need for the CPO and the redevelopment and re-cladding could be done under the terms of the existing lease; re-cladding is not necessary for the redevelopment scheme to go ahead; and concerns were raised about the loss of parking and awkward access.

Procedural matters

4. The original order included 3 retail units, the occupiers of which were McDonalds (unit identified as 1 on the original order map); Blockbuster and Farmfoods (unit 2) and Netto (unit 3). The objection from Netto was withdrawn prior

to the inquiry and the objections from McDonalds and the franchisee J M Partners Ltd were withdrawn before the inquiry close (the latter two objections were treated as being the one objection by the inquiry inspector). In view of the withdrawal of these objections, the acquiring authority have requested that the order be amended to include only the remaining objectors' interests (Blockbuster and Farmfoods) and that the order schedule and order map be revised to include only unit 2.

5. Outline planning permission for the redevelopment of the retail park was granted in 2010 and reserved matters approval granted in May 2011. This redevelopment scheme involves the erection of a Tesco superstore and 4 new retail units, together with the re-cladding of two existing units, including the Blockbuster and Farmfoods unit.

6. The Inspector's report summarises the submissions made at the local inquiry by the Council (IR 5 – 17, and 23 – 26) and those made by the remaining objectors (IR 18 - 22).

#### Recommendation

7. The Inspector has recommended that the order be confirmed subject to the requested amendment of the order and map described in paragraph 4 above.

#### Consideration

8. The Secretary of State for Communities and Local Government has carefully considered whether the purposes for which the compulsory purchase order was made sufficiently justify interfering with the human rights of the qualifying persons under section 12(2A) of the Acquisition of Land Act 1981 and he is satisfied that such interference is justified. In particular he has considered the provisions of Article 1 of the First Protocol to the European Convention on Human Rights. In this respect the Secretary of State is satisfied that in confirming the compulsory purchase order, a fair balance would be struck between the public interest and interests of the qualifying persons.

9. The Secretary of State has given careful consideration to the Inspector's report and the submissions of the parties. He accepts the Inspector's findings of fact and agrees with his conclusions. In particular, the Secretary of State agrees with the Inspector's conclusion that the permitted scheme is in accordance with the development plan and national advice and would secure economic, social and environmental improvements (IR 38).

#### Decision

10. The Secretary of State accepts that a compelling case in the public interest for confirming the order has been made. He has therefore decided to accept the Inspector's recommendation and confirm The Council of the City of Sunderland (Sunderland Retail Park) Compulsory Purchase Order 2011 subject to the following modifications:-

- (i) the deletion of plots numbered 1 and 3 from the order schedule and order map.

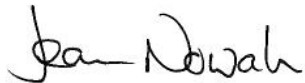
11. I enclose the confirmed order and the map to which it refers. Your attention is drawn to section 15 of the Acquisition of Land Act 1981 about publication and

service of notices now that the order has been confirmed. Please inform us of the date on which the notice of confirmation of the order is first published in the press.

12. Copies of this letter and the Inspector's report are being sent to the remaining objector whose representations were considered at the inquiry.

13. This letter does not convey any other consent or approval in respect of the land to which the order relates.

Signed by authority of the Secretary of State for Communities and Local Government

A handwritten signature in black ink that reads "Jean Nowak". The signature is written in a cursive style with a large initial 'J'.

**Jean Nowak**





---

# **CPO Report to the Secretary of State for Communities and Local Government**

**by Susan Heywood BSc(Hons) MCD MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Date 2 November 2011**

---

**THE TOWN AND COUNTRY PLANNING ACT 1990**

**ACQUISITION OF LAND ACT 1981**

**THE COUNCIL OF THE CITY OF SUNDERLAND  
(SUNDERLAND RETAIL PARK)  
COMPULSORY PURCHASE ORDER 2011**

Inquiry held on 4 October 2011  
Inspections were carried out on 3 and 4 October 2011.  
Sunderland Retail Park, Sunderland

File Ref: LDN023/J4525/006/0001

---



**File Ref: LDN023/J4525/006/0001**  
**Sunderland Retail Park, Sunderland**

- The Compulsory Purchase Order was made under section 226(1)(a) of the Town and Country Planning Act 1990 and the Acquisition of Land Act 1981 by The Council of the City of Sunderland on 24 February 2011.
- The purposes of the Order are for the development, redevelopment or improvement of land for the purposes of providing a new retail food store, additional retail units and making improvements to existing retail units, associated public realm and highway infrastructure.
- When the inquiry opened there were 3 remaining objections. 1 objection was withdrawn prior to the inquiry and 1 withdrawn before the inquiry closed. 2 objections therefore remain.

**Summary of Recommendation: The Order be confirmed.**

---

**Procedural Matters and Statutory Formalities**

1. At the inquiry it was confirmed that all statutory formalities had been complied with. The inquiry sat on 4 October. I carried out unaccompanied site visits on 3 and 4 October.
2. The original Order included 3 retail units and surrounding land. The Occupiers of those units were McDonalds (unit identified as 1 on the original Order Map, Document 9), Blockbuster and Farmfoods (unit identified as 2 on the original Order Map) and Netto (unit identified as 3 on the original Order Map). The objection from Netto was withdrawn prior to the inquiry and that from McDonalds at the inquiry. In view of the withdrawal of these objections, the Acquiring Authority (the Council) requested that the Order be amended to include only the remaining objectors' interests (Blockbuster and Farmfoods) and that the Order Map be revised to include only unit 2. Updated versions of the Schedule and Order Map were submitted. [Document 3]
3. Outline planning permission for the redevelopment of the retail park was granted in 2010 and reserved matters approval granted in May 2011. [CDs 4.1 and 4.2] The redevelopment scheme involves the erection of a Tesco superstore and 4 new retail units, together with the re-cladding of two existing units, including the Blockbuster and Farmfoods unit.

**The Order Lands and Surroundings**

4. The land is located within the Sunderland Retail Park. The remaining unit which is included within the CPO (unit identified as 2 on the Order Map) sits in a central position within the retail park. It is a single unit, sub-divided into two stores, occupied by Blockbuster and Farmfoods. The retail park comprises former retail units, a former nightclub and bowling alley, a former car showroom, a fast food unit and surface car park. Newcastle Road forms the western boundary of the retail park and the Stadium of Light Metro station is located to the north.

**The Case for the Council [Acquiring Authority]**

5. The main points are:

***Regeneration***

6. The site occupies a gateway position on the approach to the city centre from the north. It is a failing retail park with only three units still trading. It has a

generally run down and poor appearance. The retail park is surrounded by densely populated residential areas which have some of the highest unemployment figures within Sunderland. [CD4.4] The need for employment generating development in the area is identified in The Economic Masterplan [CD2.7] and The North East Regional Economic Strategy 2006-2016 [CD2.8].

7. The number of full and part-time jobs created by the superstore alone is estimated to be 400, excluding construction jobs. This will result in a net gain of 200 jobs (after displacement). The developers have entered into a planning obligation [CD4.3] to secure a number of employment and training measures for local people to enable them to benefit from the employment generation on the site. [Documents 12 and 13]

### **Quantitative & Qualitative Need**

8. The retail park benefits from planning permission for comprehensive redevelopment. This has been the subject of widespread public consultation and discussion, following which the proposals were amended to reduce the size of the superstore, in line with planning policies to protect existing town centres. The Sunderland Retail Needs Assessment [CD2.5] identified a local deficiency in convenience goods provision in the Sunderland North area, together with a qualitative need for additional food and grocery provision. There is currently a significant 'leakage' of convenience expenditure to the Asda store in Boldon Colliery, in South Tyneside and a need to claw back this expenditure out of the City. [Document 12]

### **Compliance with Policy**

9. The redevelopment scheme complies with relevant policies in the North East Spatial Strategy, July 2008 (RS) [CD2.1] and the relevant saved policies in the Sunderland Unitary Development Plan (UDP) [CD2.2]. It also complies with the emerging Local Development Framework (LDF) Core Strategy (CS) [CD2.3]. Topic Papers and retail studies carried out as background documents for the LDF highlight the need for convenience retail in this area and the leakage of expenditure out of the City. [CDs 2.4 and 2.5] The Sunderland Retail Needs Assessment [CD2.5] acknowledges that the proposed development would meet the localised need. [Document 12]
10. The scheme complies with relevant national planning policy. Although an out-of-centre site, it is in an accessible location, well served by bus routes and the Metro. It therefore complies with the principles of sustainable development in Planning Policy Statement 1: *Delivering Sustainable Development* (PPS1) and Planning Policy Guidance Note 13: *Transport* (PPG13). [Document 12]
11. Whilst there is a sequentially preferable site at Holmeside in the city centre, this site does not meet the localised quantitative and qualitative need for additional convenience provision. Furthermore, in order to be accommodated on the Holmeside site, the store would have to be substantially reduced in size, to the point where it would not compete with other large stores in the catchment area and would not claw back the currently 'leaked' expenditure. [Document 12]
12. There is sufficient expenditure within the catchment area to support the scheme proposals. Whilst the proposals would divert trade from other centres, this is not 'significant' for the purposes of PPS4. There is no clear evidence that the scheme

proposals would have an adverse impact on town centre vitality and viability and in-centre trade. The proposals therefore comply with the sequential and impact tests for retail development set out in Planning Policy Statement 4: *Planning for Sustainable Economic Growth* (PPS4). [CD2.9] [Document 12]

### **Environmental Matters**

13. As noted above, the retail park is currently run-down and unattractive. The proposal for which planning permission has been granted will lead to a comprehensive redevelopment. It will provide new, high quality, well designed buildings and enhanced landscaping, creating an attractive environment. [Plans at CD4.5]
14. The Blockbuster / Farmfoods unit occupies a prominent location in the centre of the retail park. It currently has a dated appearance. The scheme intends the refurbishment of this unit with new external cladding and modification to its design to bring it in line with the remainder of the units in the proposed scheme. The exclusion of this unit from the scheme proposals would jeopardise the comprehensive nature of the proposed redevelopment. [Document 12]
15. The superstore will incorporate sustainable design features to promote energy efficiency. Highway improvements are proposed, for which a Stopping Up Order has been made and a S.278 Agreement completed. A new pedestrian walkway from the Metro station direct to the retail park will also be provided. [Document 12]

### **Other Factors**

16. The site is currently owned by Tesco Stores Ltd although they do not currently occupy the site. Tesco is committed to the development and has so far invested some £35m in assembling the site. Apart from the 2 remaining objectors to the CPO, there are no impediments to the delivery of the scheme. Subject to confirmation of the CPO, Tesco would aim to commence works on site in 2012 and be trading in 2013. [Appendix A, Document 15]
17. Tesco and the Council have been reasonable in their negotiation with tenants of the premises and those negotiations have been successfully concluded with most of the occupiers.

### **The Objection to the CPO by Farmfoods Ltd [Document 20]**

18. Notwithstanding the Statement of Reasons, no offers had been made to Farmfoods other than offers made in 2008 and 2009, which had been withdrawn. Those previous offers involved Farmfoods moving to an alternative unit on favourable terms. Farmfoods would fare better against the large Tesco superstore if they were in a larger unit. Subsequent offers to relocate to an alternative unit were on inferior terms. The negotiations were therefore unfair and statements made in the Statement of Reasons were misleading. Questions are also raised in relation to links with another site (the Vaux Brewery Site) previously within the ownership of Tesco and subsequently sold to the Council.
19. The regeneration benefits of the redevelopment are not disputed. It is contended that there is no need for the CPO to include Farmfoods as the redevelopment and re-cladding of the building could be done under the terms of the existing lease.

20. Objections were put forward in relation to the loss of parking spaces in the redevelopment scheme. It is recognised that the impact of this would not be as significant as first thought, but there remains a concern in relation to collection of trolleys.

### **Objection to the CPO by Blockbuster Entertainment Ltd [Document 19]**

21. The re-cladding of the unit is not necessary for the redevelopment scheme to go ahead and it is contended that Tesco has no intention to re-clad. In any event, powers exist under S.237 to the Town and Country Planning Act 1990 to alter the existing rights without the need for a CPO.
22. Original objections in relation to the loss of parking have been allayed to an extent, although difficulties may still arise on match-days given the proximity of the site to the Stadium of Light. Concerns remain in relation to the more awkward access and parking arrangements. It ought to be possible to redesign the scheme to avoid the CPO. Questions are raised over the links with the Vaux Brewery site.

### **Response by the Council**

23. In relation to Farmfoods, an offer had been made prior to the making of the Order, but this didn't include specific figures in terms of compensation. In any case, Circular 06/2004 *Compulsory Purchase and the Crichel Down Rules* (Circular 06/04) advises that negotiations should be progressed together with a CPO. Earlier offers made to relocate Farmfoods to a different unit were in the context of a different scheme. There is no need to relocate Farmfoods or Blockbuster in the current scheme. An offer to relocate to a different unit has been made on market terms. [Documents 15 and 18]
24. The re-cladding is necessary and important to the scheme. Tesco intend to carry it out and the planning permission requires it to be done. Under the existing lease, there is no right to re-clad the premises. The re-cladding works and work to the car park surrounding the premises could be claimed to cause a breach of the lease, due to the impact on the tenants' quiet enjoyment of their premises. In these circumstances, the objectors could seek an injunction to obstruct or delay the development. S.237 would not be appropriate in this instance as the re-cladding would not involve the overriding of rights under S.237 but the creation of rights to alter the terms of the lease. In the absence of agreement between the parties, the only route which will secure the comprehensive redevelopment of the site is through a CPO. [Documents 14 and 18]
25. All shoppers using Farmfoods and Blockbuster will be able to use the main car park. This was the basis of the Transport Assessment (TA) submitted with the planning application [Document 6] and the Council would expect Condition 16 (viii) of the outline permission (requiring the submission of a car parking management plan) to accord with the TA. The situation on match-days would be no worse than currently exists. There are good public transport links and coach drop off facilities at the stadium. It would be possible to introduce a time limited system on match-days if necessary, but there is no intention to introduce charging. The situation regarding trolleys and the car park configuration are planning matters not a matter for the CPO. The highway authority would have concerns with additional access off the main route through the site. [Document 14 and evidence to inquiry]

26. The negotiations for the Vaux Brewery Site have no bearing on the CPO in this case. [Document 13]

### **Conclusions**

*In this section the numbers in square brackets refer to paragraphs in the preceding section.*

27. Much of the evidence put forward by the Council as Acquiring Authority is unchallenged by either objector.
28. A convincing case has been made for the need for regeneration of the site. There is no doubt that the scheme would be beneficial in terms of job creation and the S.106 agreement seeks to ensure that the local community would benefit from the scheme in terms of training and recruitment. The retail park is currently run down and unattractive and the redevelopment would significantly improve the appearance and vitality of the park. Improved landscaping and pedestrian links with the Metro station to the north would also be beneficial. Having regard to these factors, I am satisfied that the scheme would contribute to the improvement of the economic, social and environmental well-being of the area and no objector has sought to demonstrate otherwise. [6, 7, 13, 15]
29. In order to create a unified appearance across the park the re-cladding of the existing retail unit is an important element of the scheme, given the prominent location of that unit and its dated appearance. The planning permission requires the development to be carried out in accordance with the approved details, which includes the cladding of the central retail unit. Although no timescale was given for the re-cladding to take place, the Council are satisfied that conditions could be enforced if not complied with. I see no reason to doubt this view. The unit is in a central location to the side of the Tesco store on entering the site. It would be in Tesco's own interests to ensure that this unit is of a design and standard that does not detract from the appearance of the site in general and their store in particular. [14]
30. Turning to the quantitative and qualitative need for the development. The Sunderland Retail Needs Assessment identifies a further need for convenience retailing in the north of the administrative area, in which area the retail park sits. The study identifies the current 'leakage' to other stores, particularly the Asda store at Boldon Colliery, outside the administrative boundary of Sunderland. This development would help to claw back the expenditure from outside the City. [8, 9]
31. Although outside the city centre, the site has good accessibility by bus and Metro. The development would comply with a number of regional and local policies designed to encourage sustainable economic development and suitably located retail development. The evidence demonstrates that there is no sequentially preferable site for a development of this size, which would meet the objectives of additional convenience provision in this area and which would be of sufficient size to claw back the 'leaked' expenditure. The Retail Assessment carried out as part of the consideration of the planning application indicates that any impacts on existing centres would not be 'significant' in terms of PPS4 and the benefits of the scheme would outweigh any disbenefits in this regard. The development would be supported by the advice in PPS4. I conclude that the development would fit in with the planning framework for the area. [10, 11, 12]

32. The car parking layout has been designed to the satisfaction of the highway authority. Car parking is provided for both Blockbuster and Farmfoods close to their retail premises, but the remainder of the car park would also be available to customers of those stores. A car park management plan is to be produced under a condition of the outline planning permission. Although the scheme involves the removal of a direct link to the front of the Blockbuster / Farmfoods unit from the main spine road, the replacement link will not be significantly longer or more tortuous for customers. The car park layout does not appear to be unduly restrictive or inconvenient for customers of either Blockbuster or Farmfoods. [20, 22]
33. There is no evidence to suggest that car parking on the site would be difficult on match-days. The Council indicated that parking / coach drop-off is available nearer to the stadium and public transport facilities are good. The car park management plan could include measures to discourage use of the car park during match-days. The management of shopping trolleys from Farmfoods' store is unlikely to be an insurmountable problem, particularly as the car park is not to be segregated. [20, 25]
34. Whilst Farmfoods may wish to be relocated to a larger store on more favourable terms than they have been offered, there is no evidence to suggest that they would not be able to operate from the existing store. Indeed it seems to me that they may well benefit from the general increase in vitality and consumer activity at the redeveloped park. [18, 23]
35. It is clear that the scheme is likely to be delivered if the CPO is confirmed. Planning permission has been granted for the scheme, a Stopping Up Order has been made and a S.278 Agreement has been completed. There is no dispute that the developer has a track record of this type of development, that a realistic programme of works has been set out, and that there would be no financial matters which may stand in the way of the redevelopment. [15, 16]
36. It is apparent from the evidence submitted, and the fact that there are only 2 remaining objectors, that the Council and their development partner have been reasonable in their approach to negotiations, as advised by Circular 06/04. Even if it were possible to undertake the works under the terms of the existing leases, or under S.237 of the Town & Country Planning Act, this could lead to a delay in the implementation of the comprehensive redevelopment of the site. In the absence of a negotiated solution I am therefore satisfied that the case has been made for the confirmation of the CPO. [17-19, 21]
37. The case for this CPO stands on its own merits. The Council indicate that there are no links between this site and the Vaux Brewery Site and no evidence was submitted to the contrary. [18, 22]

### **Conclusion**

38. I find that the Order land is both suitable for and required in order to secure the carrying out of development, redevelopment or improvement. The scheme permitted is in accordance with the development plan and national advice and would secure economic, social and environmental improvements. There are no material considerations or objections which would outweigh the matters in support of the CPO and I conclude that there is a compelling case in the public

interest in favour of its confirmation. It would also be reasonable to amend the Order and Map as requested.

### **Human Rights**

39. I heard no evidence that the human rights of any tenant would be affected by the CPO and I am satisfied that there would be no interference with such rights.

### **RECOMMENDATION**

40. Subject to the requested amendment to the Order and Map noted in paragraph 2 above, I recommend that The Council of the City of Sunderland (Sunderland Retail Park) Compulsory Purchase Order 2011 be confirmed.

*Susan Heywood*

**INSPECTOR**

## **APPEARANCES**

### **FOR THE ACQUIRING AUTHORITY:**

David Elvin QC He called	Instructed by Eversheds LLP
Colin Clark	Head of Land and Property, Sunderland City Council
Michael Mattok	Technical Manager, Development Control Team Sunderland City Council
David Napier	GL Hearn

### **FOR FARMFOODS:**

Willie McCreddie	Property Director, Famfoods
------------------	-----------------------------

### **FOR BLOCKBUSTER**

Hywel G Hughes	Leighton Goldhill
----------------	-------------------

## **INQUIRY DOCUMENTS**

- 1 List of Appearances on behalf of the Acquiring Authority
- 2 Notice of Inquiry, submitted by the Acquiring Authority
- 3 Amended Schedule and Order Map, submitted by the Acquiring Authority
- 4 Letter from Montagu Evans dated 4 October 2011, withdrawing the objection on behalf of McDonalds Restaurants Ltd, submitted by the Acquiring Authority
- 5 Bundle of correspondence relating to the objection by Farmfoods, submitted by the Acquiring Authority and Farmfoods
- 6 Extract from the Transport Assessment submitted with the planning application, submitted by the Acquiring Authority

## **ACQUIRING AUTHORITY DOCUMENTS**

- 7 Opening submissions of Mr Elvin
- 8 Original Order
- 9 Original Order Map
- 10 Statement of Reasons
- 11 Statement of Case
- 12 Evidence and appendices of Mr Mattok
- 13 Evidence and appendices of Mr Clark
- 14 Rebuttal statement of Mr Clark
- 15 Evidence and appendices of Mr Napier
- 16 Summary of evidence of Mr Napier
- 17 Rebuttal statement of Mr Napier
- 18 Closing submissions of Mr Elvin



## **OTHER DOCUMENTS**

- 19 Evidence and appendices of Mr Hughes for Blockbuster
- 20 Evidence and appendices of Mr McCreddie for Farmfoods

## **CORE DOCUMENTS**

- CD1.2 Statement of Reasons
- CD1.3 Statement of Case
- CD1.4 Notice of Making of Order
- CD1.5 The Stopping Up of Highways (North East) (No.3) Order 2011
  
- CD2.1 North East Spatial Strategy, July 2008
- CD2.2 Sunderland Unitary Development Plan 1998, as revised by Alteration No 2 to the UDP adopted 2007 (Saved Policies)
- CD2.3 Sunderland Core Strategy Preferred Options, March 2010
- CD2.4 LDF Topic Papers on Retailing and Town Centres, September 2009
- CD2.5 Sunderland Retail Needs Assessment, Roger Tym and Partners, September 2009
- CD2.6 Sunderland Central Urban Design Strategy, July 2008 (SPD)
- CD2.7 Sunderland Economic Masterplan, September 2010
- CD2.8 North East Regional Economic Strategy 2006-2016 (Leading the Way)
- CD2.9 Redevelopment of the Sunderland Retail Park: Review of Applicant's Retail Assessment, Roger Tym & Partners, September 2010
  
- CD3.1 Planning Policy Statement 1 Creating Sustainable Communities (PPS1)
- CD3.2 Planning Policy Statement 4 Planning for Sustainable Economic Growth (PPS4)
- CD3.3 Planning Policy Statement 5 Planning for the Historic Environment (PPS5)
- CD3.4 Planning Policy Guidance 13 Transport (PPG13)
- CD3.5 Planning Policy Statement 22 Renewable Energy (PPS22)
- CD3.6 Planning Policy Statement 23 Planning and Pollution Control (PPS23)
- CD3.7 Planning Policy Guidance 24 Planning and Noise (PPG24)
- CD3.8 Planning Policy Statement 25 Development and Flood Risk (PPS25)
  
- CD4.1 Outline planning permission reference 08/0336/OUT
- CD4.2 Approval of Reserved Matters reference 11/00560/REM
- CD4.3 5.106 Agreement dated 27 October 2010
- CD4.4 Planning Statement, DPP, June 2010
- CD4.5 Bundles of approved plans, at A3 size and A1 size
- CD4.6 Completed agreement under S278 of the Highways Act 1980







**SMARTER WORKING PROJECT – CAPITAL WORKS**

**REPORT OF THE DEPUTY CHIEF EXECUTIVE**

**1. Purpose of Report**

- 1.1 This report seeks approval to the release of capital contingencies to fund building improvement works to the administrative buildings that are being retained as part of the Smarter Working Project.

**2. Description of Decision**

- 2.1 Cabinet is recommended to:

- i) Release the capital contingencies that are set aside for 2011/12 and 2012/13 to support building improvement and demolition works that are required for the delivery of the Smarter Working Project.

**3. Background**

- 3.1 The Smarter Working Project is being taken forward with the twin aims of reducing the councils office accommodation to four principal administrative buildings by 2014 and to have 20% of the Councils office staff 'working smarter' by the end of the current financial year. The project will deliver revenue savings by rationalising the Council's administrative portfolio and making more efficient use of the remaining office accommodation.

- 3.2 The project commenced in September 2010 and to date the following administrative buildings have been closed;

- Houghton Broadway
- Stannington Centre
- 11,15,16 and 17 John Street
- 19 Villiers Street
- East Cross Street

- 3.3 The following buildings are planned for closure by the end of the calendar year;

- 50 Fawcett Street
- Gilpin House, Houghton
- Penshaw House
- Grindon Broadway
- Dock Street

- 3.4 The long term future of Council offices at Leechmere are also under consideration, although the possible closure of South Hylton House and the transfer of its operations to Jack Crawford House and Parsons depot is unlikely given current and future service requirements.
- 3.5 Members will be aware that the Council's call centre operation is located at Moorside. The call centre operation currently consists of some 88 spaces and its current location does not allow for future expansion space. As a consequence it is proposed to re-locate the call centre to two floors of Cassaton House which can accommodate some 150 call centre staff if required in an improved office environment within the City Centre. The Council paid a premium for Cassaton House in 2001 for a 999 year lease at nil rent. Cassaton House will also continue to accommodate Children's Services staff.
- 3.6 It is also proposed to retain the Council's ICT facility at Moorside with a view to realising its full potential as a data handling facility and in doing so identifying future partnership commercial opportunities that may present themselves. The building will therefore remain as the Council's ICT headquarters but with the existing ICT staff utilising less office space thereby making additional space available for commercial purposes. The re-location of the call centre will also double the size of the space currently available for data handling, thereby improving the commercial prospects for the building.
- 3.7 In addition, the Smarter Working Project has also established Children's Services locality bases at Bunnyhill and the Sandhill Centre and staff "touchdown zones" to facilitate mobile and agile working have been established at Bunnyhill, the Hetton Centre, Leechmere and the Civic Centre. In all, over 2,500 staff moves have taken place in the last 12 months. The projected revenue saving from the Smarter Working Project over 3 years, including property rationalisation, is £3.3m.
- 3.8 The closures that have taken place, together with those that remain to be implemented, have released assets for disposal and these will be taken to the market at the appropriate time depending upon the site and the expected level of demand for the end use. It is estimated that these capital receipts, excluding Leechmere, will be in the region of £5m at current market value. However where property is not considered suitable for conversion and re-use it will be necessary to demolish so as to reduce risk and holding costs. The vacated sites can therefore be marketed as and when required and on a site by site basis if necessary.

## **4.0 Proposal**

- 4.1 In order to maximise the use of space in our retained administrative buildings, and as a consequence release assets, it is necessary on occasion to carry out building improvement or refurbishment works so as to upgrade or adapt the space into which staff are re-locating. Some enabling works and removal costs have been funded to date from existing budget allocations, as have demolition costs.
- 4.2 However more significant building improvement and demolition works will be required in order to facilitate the following planned moves;
- Improvement works to accommodation at Sandhill View so as to enable staff re-location into the building and the subsequent closure and disposal of Gilpin House and Penshaw House
  - Re-configuration of Civic Centre accommodation adjacent to the Registrars Office to provide a new Coroners Court facility which will in itself, make significant revenue savings.
  - Improvement works at Cassaton House to facilitate Children's Services accommodation and the re-location of the Council Call Centre from Moorside
- 4.3 Provision of £750,000 in 2011/12 and £500,000 in 2012/13 has been made in capital contingencies to fund these works. As the Smarter Working Project progresses it will be necessary to carry out works in advance of staff re-locations and as a consequence approval is now sought for the release of this contingency so as to enable commitments to be met.

## **5.0 Reason for Decision**

- 5.1 To ensure that building improvement and refurbishment works can be undertaken in order to deliver efficiencies through the Smarter Working Project.

## **6.0 Alternative options to be considered but not recommended**

- 6.1 To not release the capital contingency. This would not enable the necessary building works to be undertaken and consequential efficiencies to be delivered. This option has therefore been considered but rejected.

## **7.0 Financial and Legal Implications**

7.1 The Executive Director of Commercial and Corporate Services has been consulted and his comments are contained in the report.

## **8.0 Background Papers**

8.1 Smarter Working Project papers held by the Head of Planning and Property.



**CABINET MEETING – 07 DECEMBER 2011**

**EXECUTIVE SUMMARY SHEET – PART 1**

**Title of Report:**

**OLD SUNDERLAND TOWNSCAPE HERITAGE INITIATIVE: AWARD OF GRANT TO ASSIST WORKS TO RESTORE 49 & 50 HIGH STREET EAST, SUNDERLAND**

**Author(s):**

Deputy Chief Executive

**Purpose of Report:**

To obtain authorisation to delegate to the Deputy Chief Executive the award of grant to enable the restoration of 49 & 50 High Street East, Sunderland.

**Description of Decision:**

Cabinet is recommended to;

- (i) Delegate to the Deputy Chief Executive the award of grant from the Townscape Heritage Initiative Budget to assist in the delivery of a restoration project at 49 and 50 High Street East to enable the building to be returned to full and beneficial use as ground floor retail with two apartments above.

**Is the decision consistent with the Budget/Policy Framework?**

**\* Yes**

**If not, Council approval is required to change the Budget/Policy Framework**

**Suggested reason(s) for Decision:**

The contribution of the proposed grant towards the overall cost of the renovation of the building will assist in advancing the Council's objectives of securing the regeneration of the Old Sunderland THI area through the refurbishment of a vacant and derelict historic building currently at risk. An award of THI grant will assist in bringing back into beneficial use an important heritage asset of the East End.

**Alternative options to be considered and recommended to be rejected:**

Not to offer a grant. Without the offer of the grant, there is a risk that the scheme will not be carried out and works that will contribute to the regeneration of Old Sunderland will not proceed and the building will continue to deteriorate.

**Is this a “Key Decision” as defined in the Constitution?**  
**No**

**Is it included in the Forward Plan?**  
**No**

**Relevant Scrutiny Committee:**

Sustainable Communities Scrutiny Committee



**OLD SUNDERLAND TOWNSCAPE HERITAGE INITIATIVE: AWARD OF GRANT TO ASSIST WORKS TO RESTORE 49 & 50 HIGH STREET EAST, OLD SUNDERLAND CONSERVATION AREA**

**REPORT OF THE DEPUTY CHIEF EXECUTIVE**

**1. Purpose of the Report**

- 1.1 To obtain authorisation to delegate to the Deputy Chief Executive the award of grant to enable the restoration of 49 & 50 High Street East, Sunderland.

**2. Description of Decision**

- 2.1 Delegate to the Deputy Chief Executive the award of grant from the Townscape Heritage Initiative Budget to assist in the delivery of a restoration project at 49 and 50 High Street East to enable the building to be returned to full and beneficial use as ground floor retail with two apartments above.

**3. Background**

- 3.1 The Council's participation in the Old Sunderland Townscape Heritage Initiative (THI), in partnership with Heritage Lottery Fund (HLF), was approved at Cabinet in October 2005. The initiative aims to deliver financial assistance to suitable schemes that will contribute to the heritage led regeneration of the historic East End. Grants that will contribute to the costs of works to restore vacant historic buildings and return them to beneficial use are calculated on the basis of 'conservation deficit' (a gap funding basis) in accordance with a formula provided by HLF that takes into account the cost of the restoration works compared to the anticipated increase in value of the building. The Old Sunderland THI had initially a lifespan of five years that was due to finish on the 30 June 2011 however HLF have recently agreed to an extension to the scheme to at least 30 June 2012 to enable projects such as this to benefit from the funding available.
- 3.2 The progress of the THI has been very slow in recent years as the initial interest by property owners in improving their property has been seriously prejudiced by the economic downturn and loss of confidence in the property market. Hence many of the schemes that had been initiated in the early years of the THI's operation have been held back by their owners for viability reasons as the prospects of finding end-users for the accommodation provided has been poor.

- 3.3 The property in question is believed to date from around 1780 with double shop front added in the late nineteenth century between stone quoined reveals. The elevation to Union Lane is also rich in history and character. The sum budgeted for in the THI Action Plan to be made available for a suitable scheme is £107,570.

#### **4. Proposal**

- 4.1 The proposal comprises a comprehensive schedule of works to repair the building. Extensive structural repairs are required to make the building stable, wind and water tight. Works are also required to repair or re-instate architectural features to the exterior of the building. The end use will be ground floor retail with two apartments above. The proposal is well designed and is considered to represent a significant improvement; it will make a valuable and very welcome contribution to the regeneration of Old Sunderland.
- 4.2 The property has been vacant for a number of years and was recently purchased by the applicant. He has submitted an application for Listed Building Consent which at present is under consideration. The external restoration works include re-roofing, new windows, re-pointing, new shop front etc for which the grant will be applicable and the internal works will be carried out without the support of the grant award.

#### **5. Reasons for the Decision**

- 5.1 The contribution of the proposed grant will assist in advancing the Council's objectives of securing the regeneration of the Old Sunderland THI area through the refurbishment of a vacant and derelict historic building currently at risk. An award of THI grant will assist in bringing back into beneficial use an important heritage asset of the East End.

#### **6. Alternative Options**

- 6.1 Not to offer a grant. Without the offer of the grant, there is a risk that scheme will not be carried out and works that will contribute to the regeneration of Old Sunderland will not proceed and the building will continue to deteriorate.

#### **7. Relevant Consultations**

- 7.1 The Head of Law and Governance has considered the application and is satisfied with the applicant's title to the building.
- 7.2 HLF is aware that this application has been submitted and is supportive of the proposals.

## **8. Financial Implications**

- 8.1 The approved THI Action Plan makes provision for a sum up to £107,570 to be made available to this project, based upon an estimation of the likely 'conservation deficit.
- 8.2 Any award of grant will be funded from the THI joint grant pool with 50% coming from the Council's contribution; and 50% coming from the HLF.

## **9. Background Papers**

- Grant Submission
- Schedule of works and associated drawings.
- Old Sunderland THI Action Plan

<p><b>CABINET MEETING – 7<sup>TH</sup> DECEMBER 2011</b></p> <p><b>EXECUTIVE SUMMARY SHEET</b></p>	
<p><b>Title of Report:</b> Parking Services Annual Report 2010 – 2011</p>	
<p><b>Author(s):</b> Executive Director of City Services</p>	
<p><b>Purpose of Report:</b> To present to Cabinet the Parking Services Annual Report 2010- 2011 which has been produced in accordance with Section 4 of the Operational Guidance to Local Authorities : Parking Policy Enforcement, Traffic Management Act 2004</p>	
<p><b>Description of Decision:</b> Cabinet is recommended to approve Parking Services Annual Report 2010 – 2011 and for it to be submitted to the Department for Transport (DfT) in accordance with the DfT’s operational guidance.</p>	
<p><b>Is the decision consistent with the Budget/Policy Framework?</b> <span style="float: right;">Yes</span></p>	
<p><b>If not, Council approval is required to change the Budget/Policy Framework</b></p>	
<p><b>Suggested reason(s) for Decision:</b> A Parking Services Annual Report is required to be published in accordance with Section 4 of the Operational Guidance to Local Authorities: Parking Policy and Enforcement, Traffic Management Act 2004.</p>	
<p><b>Alternative options to be considered and recommended to be rejected:</b> The report is required in order for the Council to fulfil its responsibilities under the Civil Parking Enforcement regulations in accordance with the Traffic Management Act 2004. Publishing the report demonstrates that the Council is operating a civil parking enforcement scheme satisfactorily and transparently and will aide the public’s understanding of and confidence in the Council’s approach to parking enforcement.</p>	
<p><b>Is this a “Key Decision” as defined in the Constitution?</b> No</p>	<p><b>Relevant Scrutiny Committee:</b> Environment and Attractive City Scrutiny Committee</p>
<p><b>Is it included in the Forward Plan?</b> No</p>	





**PARKING SERVICES ANNUAL REPORT 2010 – 2011**

**REPORT OF THE EXECUTIVE DIRECTOR OF CITY SERVICES**

**1.0 PURPOSE OF REPORT**

- 1.1 To present to Cabinet Parking Services Annual Report 2010 – 2011 which has been produced in accordance with Section 4 of the Operational Guidance to Local Authorities: Parking Policy and Enforcement, Traffic Management Act 2004.

**2.0 DESCRIPTION OF DECISION**

- 2.1 Cabinet is recommended to approve Parking Services Annual Report 2010 – 2011 and for it to be submitted to the Department for Transport (DfT) in accordance with the DfT's operational guidance.

**3.0 BACKGROUND**

- 3.1 The Traffic Management Act 2004 and associated regulations states that Enforcement Authorities should produce an annual report in relation to their enforcement activities and as a minimum this report should cover financial, statistical and other data.

**4.0 OBJECTIVES AND OUTCOMES OF THE PARKING SERVICES ANNUAL REPORT**

- 4.1 The report, shown in Appendix A, provides financial and statistical and other information relating to parking enforcement during the 2010 – 2011 financial year. The latest joint report of the Parking Adjudicators for England and Wales provides comparative statistical information reproduced in the Annual Report that clearly indicates that the Council is one of the country's top performers with regard to defending parking appeals.
- 4.2 It is proposed to place the Parking Services Annual Report 2010 - 2011 on the Council's website.

**5.0 REASONS FOR THE REPORT**

- 5.1 The report is required in order for the Council to fulfil its responsibilities under the Civil Parking Enforcement regulations in accordance with the Traffic Management Act 2004. Publishing the report helps to show that the Council is operating a civil parking enforcement scheme satisfactorily and transparently which will aide the general public's understanding of and confidence in the enforcement regime

**6.0 ALTERNATIVE OPTIONS**

- 6.1 There are no other alternative options.

## **Background Papers**

- i) Traffic Management Act 2004
- ii) Operational Guidance to Local Authorities: Parking Policy and Enforcement, Traffic Management Act 2004

**CABINET MEETING - 7 DECEMBER 2011**

**EXECUTIVE SUMMARY SHEET - PART 1**

**Title of Report:**

Procurement Of Specialist Grass Cutting And Horticultural Equipment

**Author(s):**

Executive Director of City Services

**Purpose of Report:**

To approve the procurement of up to 20 specialist grass cutting and horticultural machines.

**Description of Decision:**

Cabinet is recommended to approve the procurement of up to 20 specialist grass cutting and horticultural machines to replace the equivalent number for use in the Council's grounds maintenance services as part of the planned replacement programme.

The number of items which were due for replacement was 41 but after review this number was reduced due to either lease extensions or the items no longer being required.

**Is the decision consistent with the Budget/Policy Framework** \*~~Yes/No~~

**If not, Council approval is required to change the Budget/Policy Framework**

**Suggested reason(s) for Decision:**

In accordance with the Constitution, Cabinet approval is required to the principle of letting a contract exceeding £250,000 in value.

**Alternative options to be considered and recommended to be rejected:**

No alternative options are offered for consideration

**Is this a "Key Decision" as defined in the Constitution?** Yes/~~No~~

**Is it included in the Forward Plan?** Yes/~~No~~

**Relevant Scrutiny Committee:**

Environmental and Planning



**REPORT OF EXECUTIVE DIRECTOR OF CITY SERVICES**

**PROCUREMENT OF SPECIALIST GRASS CUTTING AND HORTICULTURAL EQUIPMENT**

**1. PURPOSE OF THE REPORT**

- 1.1 To approve the procurement of up to 20 specialist grass cutting and horticultural machines.

**2. DESCRIPTION OF DECISION**

- 2.1 Cabinet is recommended to approve the procurement of up to 20 specialist grass cutting and horticultural machines to replace the equivalent number for use in the Council's grounds maintenance services as part of the planned replacement programme.

**3. BACKGROUND**

- 3.1 Street Scene has a planned replacement programme for specialist grass cutting and horticultural machines. Machines are replaced on a 5- year cycle, from the date of acquisition, as they become uneconomic to maintain and create risks in respect of service delivery and health and safety..
- 3.2 Driven by the Fleet and Transport Service Review, Street Scene evaluated the 41 items on leases due to expire to determine if they need to be replaced. The review has identified that only 20 items out of the 41 need replacing the remaining items can either have their lease extended or not required, resulting in an efficiency of c.£31k contributing to the service review. The 20 specialist grass cutting and horticultural machines that require replacing under this programme during 2011/ 2012 have a total procurement cost of approximately £292k. This is translated into an annual revenue cost of c.£85,000 based on the previous lease charges.
- 3.3 An Open Tender process will be used and each type of equipment will be offered as a separate lot to ensure best value is achieved.
- 3.4 The method of financing the acquisition will be determined by the Executive Director of Commercial and Corporate Services upon receipt of tenders and may take the form of an Operating or Finance lease or loan.

**4. PROCEDURE**

- 4.1 Discussions have indicated that, due to the diversity of the grass cutting and horticultural machinery, more than one supplier may be required to achieve 'Best Value'. It is recommended that each type of equipment is indicated as a 'lot' during the tender process and that tenders are sought for one or a number of lots from potential contractors.

- 4.2 The total value of the machines is estimated at £291.900 and is, therefore, subject to the procurement regulations and Official Journal of the European Union (OJEU) procedures.
- 4.3 The successful contractor(s) will supply the specialist grass cutting and horticultural machinery in accordance with the Council's requirements.
- 4.4 A schedule of procurement costs along with machine reliability and suitability and delivery times will provide the basis on which the supply will be evaluated.

## **5. REASON FOR DECISION**

- 5.1 In accordance with the Constitution, Cabinet approval is required to the principle of letting a contract exceeding £250,000 in value.

## **6 ALTERNATIVE OPTIONS**

- 6.1 Replacing the equipment 'like for like' was discounted in order to achieve efficiencies..

## **7. RELEVANT CONSIDERATIONS/CONSULTATIONS**

- 7.1 The views of the City Services Department and Corporate Procurement have been incorporated in this report.
  - a) **Financial considerations**  
Provision for the procurement is made within the 2011/12 budgets for the parks and grounds maintenance.
  - b) **Legal Implications**  
The machines are required to enable the Council to comply with operational health and safety responsibilities, policy and service level agreements covering all aspects of horticultural work.
  - c) **Procurement**  
The Corporate Procurement Manager has been consulted in respect of the procurement procedure.

## **8. BACKGROUND PAPERS**

- 8.1 No background papers were relied upon in the preparation of this report.

**CABINET MEETING – 7 DECEMBER 2011**

**EXECUTIVE SUMMARY SHEET – PART I**

**Title of Report:**

Community Equipment Service (CES) – Tender for provision of riser recliner and bespoke chairs

**Author(s):**

Executive Director of Health, Housing and Adult Services

**Purpose of Report:**

To seek Cabinet's approval to invite suppliers to tender for the provision of riser recliner and bespoke chairs and to award the contract to the supplier who has the most advantageous tender.

**Description of Decision:**

Cabinet is asked to approve:

- i) The invitation of suppliers to tender for the provision of riser recliner and bespoke chairs
- ii) Awarding the contract to the supplier who provides the most economically advantageous tender

**Is the decision consistent with the Budget/Policy Framework? Yes**

**If not, Council approval is required to change the Budget/Policy Framework**

**Suggested reason(s) for Decision:**

The introduction of a contract for the provision of riser recliner and bespoke chairs means that a standard specification will be developed. The specification along with the contract will enable CES to improve timescales, reduce costs and in time develop a portfolio of recycled chairs.

**Alternative options to be considered and recommended to be rejected:**

There are no alternative options for consideration.

**Is this a "Key Decision" as defined in the Constitution?** Yes

**Relevant Scrutiny Committee:**  
Health and Well Being

**Is it included in the Forward Plan?**  
Yes





**REPORT OF THE EXECUTIVE DIRECTOR OF HEALTH, HOUSING AND ADULT SERVICES**

**COMMUNITY EQUIPMENT SERVICE (CES) – PROVISION OF RISER RECLINER AND BESPOKE CHAIRS**

**1. PURPOSE OF THE REPORT**

- 1.1 To seek Cabinet's approval to invite suppliers to tender for the provision of riser recliner and bespoke chairs and to award the contract to the supplier who has the most advantageous tender.

**2. DESCRIPTION OF DECISION**

- 2.1 Cabinet is asked to approve:

- i) The invitation of suppliers to tender for the provision of riser recliner and bespoke chairs
- ii) Awarding the contract to the supplier who provides the most economically advantageous tender

**3. BACKGROUND**

- 3.1 CES is a jointly funded partnership between Sunderland City Council and Sunderland Teaching Primary Care Trust (STPCT). CES is delivered by Sunderland City Council and provides community equipment and simple aids for daily living to meet the clinical and social needs of the residents of Sunderland, following assessment by a health or social care professional. The equipment loaned is designed to promote personal independence, safety and mobility and is also supplied to social and health care practitioners to help in their course of work in the community. Sunderland CES provides a procurement, storage, delivery, installation, demonstration, collection, cleaning, refurbishment and recycling service.

- 3.2 The increase in demand for equipment and minor adaptations shows a continuing trend in recent years. In 2010-11, 36168 items of equipment were delivered. It is thought that this is as a result of a number of factors outlined below:

- An increase in the number of children with disabilities surviving into adulthood, particularly due to increased birth rates in the 1990s;
- An increase in older people, particularly those with functional dependencies because of ill-health who need help with daily living.
- An increase in the number of customers experiencing significant trauma i.e. head injury, amputation or surviving injury and being supported to live at home.

- More people aspire to stay in their homes for as long as possible rather than, as an alternative, admission to institutional care and is a key objective in the Sunderland Strategy.

#### **4. CURRENT POSITION**

- 4.1 CES has put a number of measures in place to manage demand within existing resources whilst ensuring that an effective and efficient service is still delivered to customers. A procurement exercise took place in 2010 to put a framework agreement in place for standard items of equipment which helped to contribute to the overall financial performance of CES.
- 4.2 The procurement exercise outlined within this report is the first of a series of tenders to put contracts in place for bespoke and special order items of equipment.

#### **5. REASONS FOR DECISION**

- 5.1 Formal contractual arrangements for the provision of riser recliner and bespoke chairs will bring numerous benefits to the Council and its Customers as outlined below:
- I. Reduced waiting times for provision of a chair resulting in improved customer experience
  - II. Reduced costs achieved through economies of scale
  - III. Increase in the amount of chairs (and components of chairs) that can be recycled and as such in the longer term reduce the number of new chairs that are purchased at full cost
  - IV. Contribute to personalisation objectives by providing customers with the option of 'trading up' if they would like to request a colour or fabric other than those within the specification
- 5.2 The procurement exercise for the supply of riser recliner and bespoke chairs needs to be completed and a contract awarded by 1<sup>st</sup> April 2012.
- 5.3 The contract term will be for 1 year with an option to extend for up to a further 2 x 12 months.

#### **6. ALTERNATIVE OPTIONS**

- 6.1 No alternative options have been considered.

## **7. RELEVANT CONSIDERATIONS/CONSULTATION**

### **7.1 Legal and Procurement Implications**

Legal services and Corporate Procurement have and will continue to be consulted throughout the procurement process.

### **7.2 The Public**

Service Users will be consulted regarding the specification for the chair.

### **7.3 Sustainability**

In the longer term the contract will result in more chairs being included within a recycling programme, meaning that less new chairs need to be purchased at full cost, less chairs need to be scrapped than is currently the case and as such less materials are used and less are wasted.

A Sustainability Impact Appraisal undertaken for this cabinet report found that the riser recliner chair contract would help improve the council's sustainability and recorded no negative impacts.

## **8. BACKGROUND PAPERS**

The National Health Service and Community Care Act (1990)

The Chronically Sick and Disabled Persons Act (1970)

Statement of Purpose for the Provision of Equipment and Wheelchairs  
Revised October 2010

Department of Health, Guide to Integrating Community Equipment  
Services

