

**DEVELOPMENT CONTROL (SOUTH SUNDERLAND)  
SUB-COMMITTEE**

**AGENDA**

**Meeting to be held in Committee Room No. 2 on Tuesday 26<sup>th</sup>  
February, 2013 at 4.45 p.m.**

ITEM		PAGE
1.	<b>Receipt of Declarations of Interest (if any)</b>	
2.	<b>Apologies for Absence</b>	
3.	<b>Applications made under the Town and Country Planning Acts and Regulations made thereunder</b>	1
	Report of the Deputy Chief Executive (copy herewith).	
4.	<b>Response To The Department For Communities And Local Government Consultation On Planning Performance And The Planning Guarantee</b>	22
	Report of the Deputy Chief Executive (copy herewith).	

**E. WAUGH,  
Head of Law & Governance.**

Civic Centre,  
SUNDERLAND.

18<sup>th</sup> February, 2013



# Item 3

**Development Control (South Sunderland)  
Sub-Committee**

**26 February 2013**

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## **REPORT ON APPLICATIONS**

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### **REPORT BY THE DEPUTY CHIEF EXECUTIVE**

#### **PURPOSE OF REPORT**

This report includes recommendations on all applications other than those that are delegated to the Deputy Chief Executive for determination. Further relevant information on some of these applications may be received and in these circumstances either a supplementary report will be circulated a few days before the meeting or if appropriate a report will be circulated at the meeting.

#### **LIST OF APPLICATIONS**

Applications for the following sites are included in this report.

##### **South & City Centre Area**

1. 68 - 84 Hylton Road Sunderland SR4 7BA
2. Land Off Leechmere Road Grangetown Sunderland
3. Sunderland Royal Hospital (Site Of Car Park C Opposite 24 - 38 Kayll Road) Chester Road/Kayll Road Sunderland SR4 7TP
4. Former Bakery, 150 Cleveland Road, Sunderland

#### **COMMITTEE ROLE**

The Sub Committee has full delegated powers to determine applications on this list. Members of the Council who have queries or observations on any application should, in advance of the above date, contact the Sub Committee Chairman or email Development Control [dc@sunderland.gov.uk](mailto:dc@sunderland.gov.uk)

## **DEVELOPMENT PLAN**

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

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

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

## **STANDARD CONDITIONS**

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

## **SITE PLANS**

The site plans included in each report are illustrative only.

## **PUBLICITY/CONSULTATIONS**

The reports identify if site notices, press notices and/or neighbour notification have been undertaken. In all cases the consultations and publicity have been carried out in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010

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

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

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

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

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

Janet Johnson  
Deputy Chief Executive

Reference No.: 12/02901/FUL Full Application

**Proposal:** Refurbishment and extension of ground floor retail units, creation of new ground floor flat, enlarged entrance and new link access to flats. Reconfiguration and extension of first floor student accommodation and installation of new windows to front and rear at first floor level.

**Location:** 68 - 84 Hylton Road Sunderland SR4 7BA

**Ward:** Millfield  
**Applicant:** Woodstone Property Ventures Ltd  
**Date Valid:** 25 October 2012  
**Target Date:** 20 December 2012

### Location Plan



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### PROPOSAL:

The site to which the application relates is a terrace of properties at 68-84 Hylton Road, Millfield. The application indicates that the properties currently comprise nine commercial units at ground floor level, with bedrooms, together with ancillary communal areas, kitchens, showers, and W.C. facilities above.

Adjacent uses on Hylton Road are predominantly commercial at ground floor, although immediately opposite the site is Ashlea Lodge, a residential home. To the rear of the site, residential properties prevail, with Lime Street and Ravensworth Street being closest to the site. These are characterised by terraced cottage properties.

Planning permission is sought for the refurbishment and extension of the ground floor retail units, the creation of a new ground floor flat, provision of an enlarged entrance and a new link access to the flats. The proposal also includes the reconfiguration and extension of the first floor student accommodation and the installation of new windows to the front and rear of the property at first floor level.

The proposed extensions to the properties include a single storey extension to the rear of number 68 and a single storey extension erected to the rear of number 80. A narrow single storey rear link building would be erected across the rear of the majority of properties in the terrace, meaning that the properties are internally connected. A two storey extension would be erected with a flat roof and would be across the rear elevation of number 74 to adjoin the previously existing rear offshoot of number 72, being erected with a flat roof to match. Additionally, a new flat roof is proposed over the rear offshoot of number 78. The extensions to the rear would be clad in timber.

The ground floor retail units would be altered to comprise six units with numbers 76-78 and 80-84 combined into larger single units than is presently the case.

The submitted plans indicate that the that a total of 25 bedrooms would be provided within the property as extended and that these would be divided into five flats, six bedrooms in flat A, five in flat B, six in flat C, six in flat D and two in flat E, which is to be provided at ground floor level to the rear of the property. Each flat would benefit from shared living and kitchen space and each bedroom would have ensuite W.C. and shower facilities.

Alterations are also proposed to the building fenestration to reflect the proposed works, with the upper floor windows renewed and in some cases altered.

At the time of a site visit on 5 November 2012, it was evident that works to carry out the development were ongoing and these have continued to date. On 11 December 2012, the works had reached the point that the two storey extension to the rear of the property was substantially complete.

This application would normally have been determined under the Council's Scheme of Delegation, but has been referred to the Sub-Committee for determination at the request of Councillor Price.

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

Site Notice Posted  
Neighbour Notifications

#### **CONSULTEES:**

Network Management  
Street Scene (Environmental Service)  
County Archaeologist

Final Date for Receipt of Representations: **26.11.2012**

## **REPRESENTATIONS:**

### **Neighbours**

Two individual letters and a petition signed by 72 residents of Lime Street and Ravensworth Street have been received in objection to the proposal. The individual letters of objection were from the occupiers of 55 Lime Street and 25 Ravensworth Street. The objections raise the following concerns:

- The application description is not accurate as the premises have not had planning permission for change of use from offices to residential. The objector has not received any notice of any application for change of use of the upper floor.
- About 12 years ago, the owner of the building at that time was making structural changes to the upper floors of the building and following discussions with the Planning Department and Local Councillors, the objector was advised that no residential use of the building was allowed.
- There were occasions around 5-6 years ago that it was evident that someone was in residence for about 10-12 months as they could be observed cooking. A family then lived in the premises for about two years, but around two years ago, a notice prohibiting the use of the upper floors for residential purposes was posted on the property and the family disappeared. Details of this were provided in the legal pack when the property was recently auctioned.
- Parking spaces for six cars have been indicated on the plans, this is inadequate for use by six commercial units and up to 25 residences in the bed site rooms, particularly as there is no parking adjacent to the building which has single yellow line restrictions to both sides and the rear.
- There will be an increase in vehicles parking in Ravensworth Street and Lime Street which will have a knock on effect down the street, particularly as the streets were not designed for the number of vehicles using them today. Emergency services would have difficulty gaining access to the streets with further parked vehicles.
- A new larger roller shutter door is shown on the plans for deliveries, entering from Lime Street, which will involve delivery vehicles turning and crossing in a very narrow street and crossing a public footpath for access to the rear yard.
- A larger roller shutter is proposed to replace an existing door at the rear which will leave very little turning space to enter or exit from the garage at 55 Lime Street.
- At least 3 windows in the bed sits will have direct views in the rear yard and kitchen window of 55 Lime Street.
- As there is a surfeit of student accommodation in Sunderland, the 25 bed sit rooms will likely be let to any available single person able to produce the rent. There are many elderly residents in the vicinity of the site who

would not look forward to an influx of 25 new residents some of who may have dubious backgrounds.

- There would be a lot more household waste coming from this development. If the waste bins are to be placed in the back lane on collection day, this will be hazardous on the back lane which is the main access to Ravensworth Street.
- The proposals would detrimentally impact upon property values.

The majority of these issues are considered below, but it must be noted that the character of the potential any future occupants of the building and the impact of the proposal upon private residential property values are not material considerations in the determination of an application for planning permission.

## **Consultees**

### **Network Management Team**

The Network Management Team has advised that it is understood that the existing first floor student accommodation does not benefit from planning consent, however in the event that it is deemed to be lawful through the passage of time; the guideline parking ratios within the City of Sunderland Design Guide would suggest that the proposal would be marginally more intensive than the existing use, with on street parking demand increasing by one vehicle. In the event that the first floor use is not deemed to be lawful; the original use is assumed to be ground floor retail with first floor residential. Based upon the guideline parking ratios within the City of Sunderland Design Guide, the proposed use would appear to be comparable or even intensive than that of the original use.

It is noted that the applicant has identified the in-curtilage as 'Customer Parking' however it is apparent that customers would be required to park their vehicles and walk on the carriageway of the rear lane in order to access the retail units, which is undesirable from a pedestrian safety aspect. It is therefore recommended that the in curtilage parking provision be made available for the residential element of the development. A planning condition to this effect would be requested in the interest of highway safety.

### **Tyne and Wear Archaeology Officer**

The County Archaeologist has offered no comments with regard to the application.

## **POLICIES:**

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

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

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

H\_18\_Proposals for provision/ conversion of dwellings for multiple occupation

SA\_10\_Maximisation of benefits (open space/community facilities) in developments

SA\_12\_Improvements to the environment of older private residential areas

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

T\_22\_Parking standards in new developments

## **COMMENTS:**

The main issues to be considered in determining this application are:-

- 1) Principle of the Development.**
- 2) Layout, siting and design.**
- 3) Highway Issues.**

### **1) Principle of the Development.**

As of 27 March 2012, the National Planning Policy Framework (NPPF) became a material consideration in the determination of planning applications and superseded a large number of previous planning policy guidance notes and statements. Paragraph 11 of the NPPF states that planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 expands upon this and advises that the NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved.

The site in question is not allocated for any specific land use within the Council's Unitary Development Plan and, as such, is subject to policy EN10. This policy dictates that, where the UDP does not indicate any proposals for change, the existing pattern of land use is intended to remain.

In addition, site specific policies SA10.1 and SA12.2 are relevant. SA10.1 states that the City Council will seek to maximise benefits in the form of additional open space and community facilities from sites to be developed or redeveloped in the Millfield/Pallion area. Policy SA12.2 states that the City Council will seek to improve the environment in the area north of Hylton Road in Millfield/Pallion by way of Environmental Works.

Policy H18 of the UDP states that proposals for the provision or conversion of dwellings into bed-sitting rooms, self-contained flats or multiple shared accommodation will normally be approved where the intensity of use will not adversely affect the character and amenity of the locality and appropriate arrangements are made to secure the maintenance of gardens and external spaces. The conversion of non-residential buildings which are vacant or under-used will normally be approved where they will not conflict with other policies and proposals of the plan. In all cases, proposals must include satisfactory provision for parking, servicing and other design aspects.

The principle of the proposed development is being given further consideration with due regard to the planning policies set out above.

### **2) Layout, siting and design of the building.**

Paragraph 17 of the NPPF sets out 12 core planning principles identified by the Government as being important. Within these principles, it is identified as being

important that Local Planning Authorities should always seek to secure high quality design.

As an expansion of this, paragraph 56 of the NPPF identifies that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. Furthermore, paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Policy B2 of the UDP dictates that the scale, massing, setting and layout of new developments should respect and enhance the best qualities of nearby properties and the locality and retain acceptable levels of privacy.

The issues regarding layout, design and siting are being given further consideration with due regard to the planning policies set out above.

### **3) Highway Issues.**

UDP Policy T14 aims to ensure that new developments are easily accessible to both vehicles and pedestrians, should not cause traffic problems, should make appropriate provision for safe access by vehicles and pedestrians and indicate how parking requirements will be met. In addition, policy T22 seeks to ensure that the necessary levels of car parking provision will be provided.

The highway issues are being given further consideration with due regard to the policies set out above and the comments of the Network Management Team.

### **Conclusion**

The acceptability of the proposals is currently being given further consideration and it is anticipated that a recommendation will be made through the preparation of a supplementary report.

**RECOMMENDATION: Deputy Chief Executive to Report**

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**Reference No.:** 12/03152/OUT Outline Application

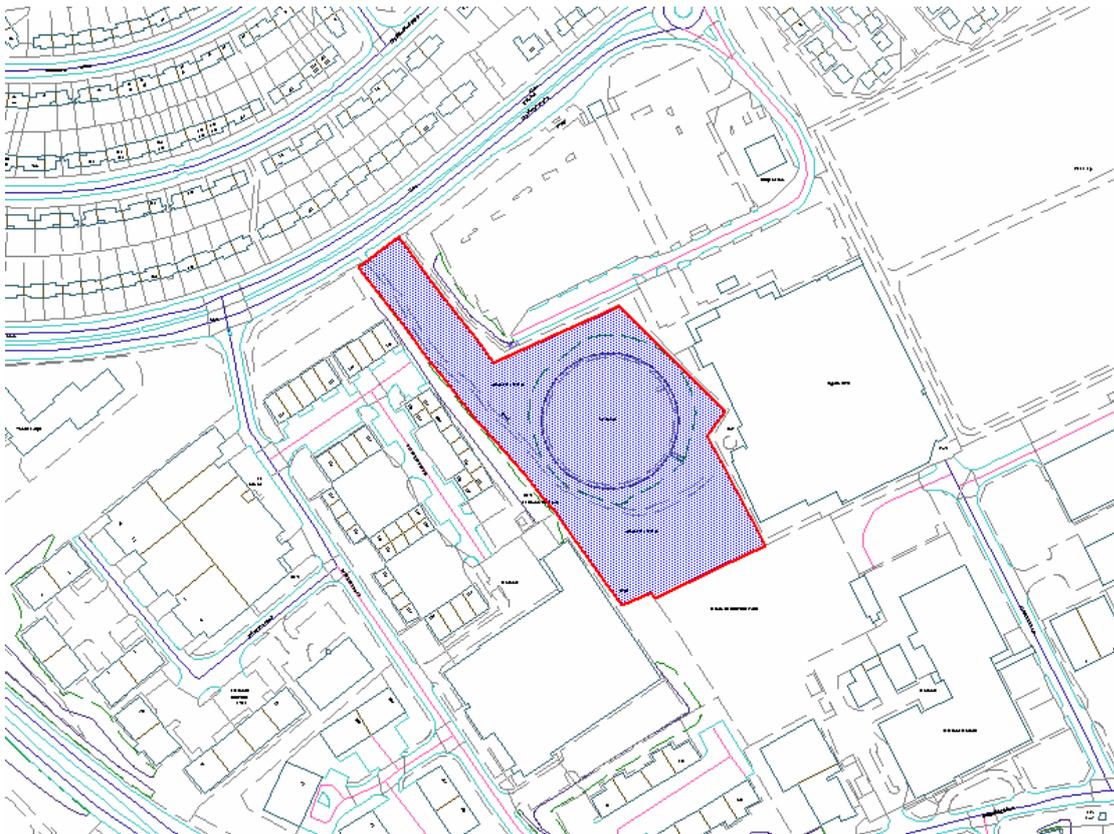
**Proposal:** **Outline application for the erection of a new bingo club with associated access (appearance, landscaping, layout and scale all reserved).**

**Location:** Land Off Leechmere Road Grangetown Sunderland

**Ward:** Silksworth  
**Applicant:** Edward Thompson  
**Date Valid:** 18 January 2013  
**Target Date:** 19 April 2013

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### Location Plan



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### PROPOSAL:

The proposal is for outline planning permission for the erection of a new bingo club with associated access (appearance, landscaping, layout and scale all reserved).

The proposal is seeking a development in principle decision, with only the highway issues to be considered as part of the submitted application.

The application is accompanied with the following documents:-

- Travel Framework Plan
- Retail Statement
- Transport Assessment
- Flood Risk Assessment
- Proposed Site Layout.

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

Press Notice Advertised  
Site Notice Posted  
Neighbour Notification

#### **CONSULTEES:**

Environment Agency  
City Services - Network Management  
Business Investment  
Fire Prevention Officer  
NE Ambulance Service NHS Trust  
Street Scene (Environmental Service)  
Nexus  
Northumbrian Water

Final Date for Receipt of Representations: **01.03.2013**

#### **REPRESENTATIONS:**

##### **Neighbours**

One letter of representation has been received to the proposed development the objectors concerns are listed below:-

- 1 Traffic Safety and Highway issues
- 2 Visual aspect of the proposed building
- 3 Proposed illumination of the building
- 4 If the building was to close what would happen to the land and building
- 5 Devaluation of properties

In respect to point 1, the objectors concerns will be addressed in the supplementary report.

With regard to points 2 and 3, this application is only to consider the principle of development and as such the scale, massing and layout would be considered as part of the reserved matters application should members be minded to grant planning permission. In respect of point 4 signage on the building this would be the subject of a separate advertisement consent application.

It should be noted that devaluation of properties is not a material consideration in the determination of planning applications.

### **Consultee Response:-**

**Nexus** - Awaiting response

### **Environment Agency Response**

The proposed development will be acceptable if a planning condition is included requiring the following drainage details.

#### Condition

Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

#### Reason

To prevent the increased risk of flooding, to improve and protect water quality and improve habitat and amenity.

### **Surface Water**

The proposed development is within Flood Zone 1 with a low risk of flooding. There are no watercourses in the immediate vicinity for surface water to discharge into. The FRA mentions two options for surface water management, infiltration drainage and a connection to Northumbrian Water Limited (NWL) sewers.

If infiltration drainage is feasible, the local authority will need to assess the surface water management proposals. If surface water drainage is directed to NWL sewers, all discharge rates, storage and attenuation requirements will need to be agreed between the LPA, developer and NWL.

Surface water run-off should be controlled as near to its source as possible through a sustainable drainage approach to surface water management (SUDS). SUDS are an approach to managing surface water run-off which seeks to mimic natural drainage systems and retain water on or near the site as opposed to traditional drainage approaches which involve piping water off site as quickly as possible. SUDS involve a range of techniques including soakaways, infiltration trenches, permeable pavements, grassed swales, green roofs, ponds and wetlands. SUDS offer significant advantages over conventional piped drainage systems in reducing flood risk by attenuating the rate and quantity of surface water run-off from a site, promoting groundwater recharge absorbing diffuse pollutants and improving water quality. Ponds, reedbeds and seasonally flooded grasslands can be particularly attractive features within public open spaces.

## **Car Parking Areas Draining to Ground**

Drainage to soakaway from car parking areas for >50 spaces should be passed through an oil interceptor before discharging to ground. The Environmental Permitting Regulations make it an offence to cause or knowingly permit any discharge that will result in the input of pollutants to groundwater.

## **Foul Drainage**

The application documents indicate that foul drainage is to be disposed of via mains sewer. The Sewerage Undertaker should therefore be consulted by the Local Planning Authority and be requested to demonstrate that the sewerage and sewage disposal systems serving the development have sufficient capacity to accommodate the additional flows, generated as a result of the development, without causing pollution.

## **Northumbrian Water - Waiting Response**

Environmental Health - No objections in principle to the development, subject to appropriate conditions in respect of ground contamination, noise, dust and debris and a site management plan.

## **POLICIES:**

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

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

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

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

T\_20\_Manage the highways system by regulation and physical improvement.

## **COMMENTS:**

The key issues which need to be considered are:-

- 1) Proposed land use of the site
- 2) Flooding
- 3) Ecology
- 4) Highway Issues

## **Proposed Land Use of the site.**

The land is currently allocated as EN 10, the policy states "all proposals for new development (including changes of use) will be judged in accordance with the policies and proposals of this plan. where the plan does not indicate any proposals for change, the existing pattern of land use is intended to remain; proposals for development in such areas will need to be compatible with the principal use of the neighbourhood."

The proposed development is considered to be in conformity with the policy, as the site is located between an existing industrial estate and Asda supermarket.

The proposed development will regenerate the previously developed site in a location accessible to the surrounding communities. The proposed land use is considered acceptable in principle as it complies with policy EN10 of the adopted Unitary Development Plan.

The National Planning Policy Framework advises to take a positive approach towards economic development, including leisure and makes clear that application which secure sustainable economic growth should be looked upon favourable. As the proposed bingo hall is located out of the centre a sequential test and impact has been submitted as part of the application. The comprehensive report submitted concludes that the proposed bingo hall would not have any significant impact on the vitality and viability of any existing centres.

### **Flooding**

The proposed development is within Flood Zone 1 with a low risk of flooding. There are no watercourses in the immediate vicinity for surface water to discharge into.

The proposed development is considered acceptable in terms of flooding and is considered to comply with policy EN12 of the adopted Unitary Development Plan.

### **Ecology**

The site is currently vacant and comprises of burnt grass and shrubs, the site is considered to be of extremely low ecological value as such no survey work had been undertaken.

### **Highway**

Options are currently under consideration by Network Management is it is anticipated that full response to the highways section of the report will be contained within the supplementary report.

**RECOMMENDATION: Deputy Chief Executive to Report**

**Reference No.:** 12/03404/FUL Full Application

**Proposal:** **Erection of a multi-storey car park to provide 766 spaces(including 28 disabled spaces).**

**Location:** Sunderland Royal Hospital (Site Of Car Park C Opposite 24 - 38 Kayll Road) Chester Road/Kayll Road Sunderland SR4 7TP

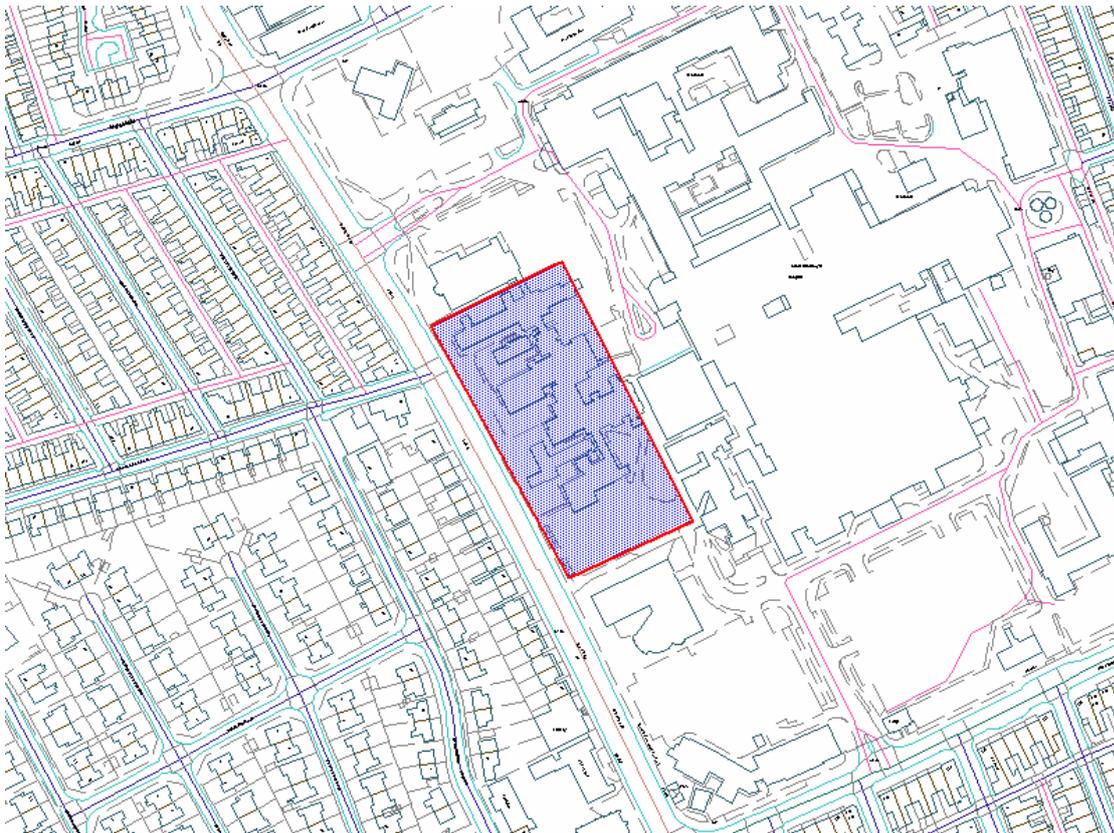
**Ward:** Millfield

**Applicant:** City Hospitals Sunderland NHS Foundation Trust

**Date Valid:** 21 December 2012

**Target Date:** 22 March 2013

### Location Plan



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### PROPOSAL:

This application seeks permission for a Multi Storey Car Park within the site of Sunderland Royal Hospital plus the retention of some existing surface level car parking. The proposal is for a three storey car park at the boundary of the site with Kayll Road rising up to four storeys, and then four storeys plus roof level as it reaches the centre of the hospital site.

The car park will comprise a steel and concrete structure incorporating a buff-brick and metal finish on the external appearance. The proposal will provide a total of 766 spaces in total (including 28 disabled parking spaces). The car park itself will be located on part of the existing surface level car park on Kayll Road closest to the Education Centre (Car Park C). The surface car park where the Multi Storey Car Park will be located currently provides 360 spaces (including 34 disabled parking spaces). The net increase in parking spaces on site will therefore be approximately 406 spaces. The total floor area for all four levels is approximately 14163 metres squared albeit that Level 0 is the existing surface car park. The net increase in floor area is therefore 9511 metres squared.

Access to the car park is proposed from two points off the existing internal hospital estate that already provides access to the existing Car Park C.

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

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

#### **CONSULTEES:**

Millfield - Ward Councillor Consultation  
Network Management  
Street Scene (Environmental Service)  
Force Planning And Police Architectural Liaison Officer  
Fire Prevention Officer  
County Archaeologist  
NE Ambulance Service NHS Trust

Final Date for Receipt of Representations: **01.03.2013**

#### **REPRESENTATIONS:**

1 Letter of representation has been received in connection with the proposed development on the grounds of:

- Loss of light/overshadowing
- Overlooking/loss of privacy
- Visual amenity
- Traffic generation
- Noise and disturbance resulting from use
- Smells
- Loss of trees
- Layout and density of building
- Design, appearance and materials
- Landscaping
- Road Access
- Adverse impact upon local regeneration
- Pollution and impact upon health

## **POLICIES:**

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

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

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

SA\_18\_Requirements for further redevelopment of Sunderland Royal Hospital

EN\_1\_Improvement of the environment

EN\_14\_Development on unstable or contaminated land or land at risk from landfill/mine gas

## **COMMENTS:**

The main issues to consider in the determination of this application are:

- The principle of the development.
- The impact of the proposal upon residential amenity.
- Highway Impact.

All of the above issues remain under consideration and several consultation responses in connection with the proposed development remain outstanding. It is anticipated that consideration of the issues outlined above will be concluded prior to the meeting of the Development Control Sub-Committee and will be reported on a Supplementary report accordingly. Similarly it is anticipated that the outstanding consultation responses will be received prior to the meeting of the Sub-Committee and will be reported accordingly.

## **RECOMMENDATION: Deputy Chief Executive to Report**

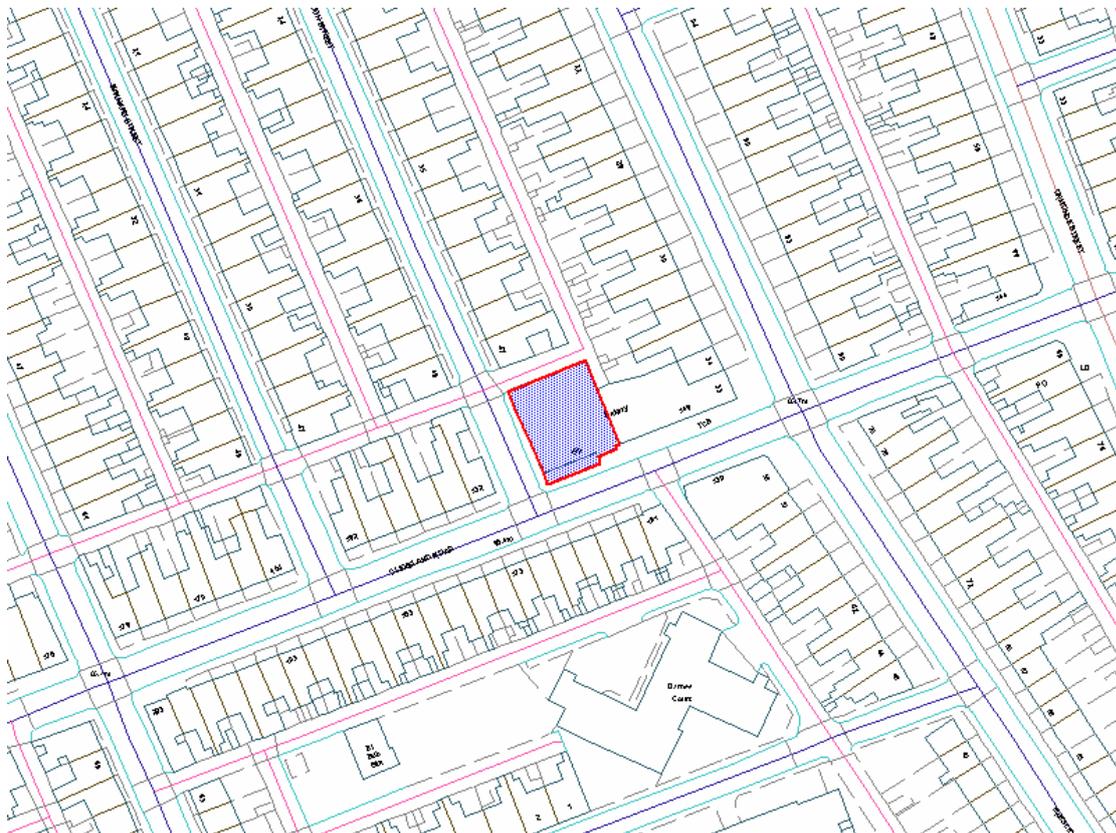
**Reference No.:** 13/00025/FUL Full Application

**Proposal:** **Change of use from bakery (B1) to retail shop (A1) and provision of new shopfront (AMENDED DESCRIPTION)**

**Location:** Former Bakery 150 Cleveland Road Sunderland SR4 7PT

**Ward:** Barnes  
**Applicant:** Mr Baljit Singh  
**Date Valid:** 4 January 2013  
**Target Date:** 1 March 2013

### Location Plan



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### PROPOSAL:

Planning permission is sought to change the use of the host building from a currently vacant bakery factory, which is considered to fall within Class B1 of the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005, to a single retail unit, which falls within Class A1 of the Order. The upper floor of the building is also currently vacant and was most recently used as offices, which

also fall within Use Class B1; this floor of the building is not included as part of the current application so its use would not be altered.

Applications of this nature are normally determined under the powers delegated to the Deputy Chief Executive, however this application has been referred for determination by the relevant Development Control Sub-Committee at the request of Councillor Rebecca Atkinson, citing concerns over the level of local opposition to the proposal.

Internally, a shop floor with an area of approximately 247sq.m would be provided whilst a separate stock room and office, to contain a chiller, would be situated to the rear. Externally, the existing frontage of the building onto Cleveland Road would be replaced with a modern shopfront comprising large glazing panels and uPVC frames whilst an additional external doorway would be installed to afford independent access to the upper floor of the building. The submitted plans indicate that a new sign would be provided, however this is not currently being considered and will require a separate application for advertisement consent, which has not been submitted to date.

The applicant estimates that 8no. full-time and 4no. part-time members of staff would be employed at the premises and operating hours of 07:00 to 22:00 daily are proposed. Deliveries would be taken from the existing roller shutter in the side of the building onto Abingdon Street and, whilst no dedicated parking spaces are proposed, the applicant has indicated that on-street parking is available to the front, side and rear of the property.

The property to which the application relates comprises 3no. converted and extended former terraced houses which are currently vacant and in a poor state of repair which, together with the adjoining residential properties, was previously used as a bakery factory. The site is located on the north side of Cleveland Road within a predominantly residential area, although there are commercial properties to the east within close proximity, in particular the Spar on the opposite side of Cleveland Road. Vehicular highway runs along the front, side and rear of the premises and Abingdon Street, which runs along the side of the site, contains single-storey residential terraces beyond the alleyway which runs along the rear of the site. A two-storey residential terrace fronting Ewesley Road exists to the east of the alleyway which runs behind the eastern terrace in Abingdon Street.

Having regard to the planning history of the site, permission was granted in December 2009 (ref. 09/04066/FUL) to demolish the host building and erect 4no. new dwellings. This consent was extended through application ref. 12/03263/EXT1 for an additional 3no. years in January 2013. Planning permission (ref. 93/00665/10) was granted to convert the eastern section of the former bakery to 5no. self-contained flats and 3no. terraced houses in 1993.

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

Site Notice Posted  
Neighbour Notifications

#### **CONSULTEES:**

Barnes - Ward Councillor Consultation

Final Date for Receipt of Representations: **21.02.2013**

### **REPRESENTATIONS:**

Numerous representations have been received from local residents and on behalf of the nearby Spar shop in opposition to the proposal. However, the final date for the receipt of representations is 21 February 2012, subsequent to the preparation of this report but prior to the Sub-Committee meeting. Therefore, all representations which are received will be reported on a supplementary report to the Sub-Committee.

### **POLICIES:**

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

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

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

S\_3\_Support to other existing centres, local groups and small shops, including new provision

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

T\_22\_Parking standards in new developments

### **COMMENTS:**

The main issues to consider with regard to the proposed development are:

- the principle of the proposed change of use;
- the impact of the proposed development on residential amenity
- the impact of the proposal on visual amenity and the accessibility of the premises;
- any parking / highway implications; and
- the potential for the generation of litter.

Given that the period for the receipt of representations does not expire until 21 February 2012, it is anticipated that these issues will be addressed on a supplementary report to the Sub-Committee, which will include consideration of any representations already received and those received in the interim and a recommendation on the application.

### **RECOMMENDATION: Deputy Chief Executive to Report**



# ITEMS FOR INFORMATION

LIST OF OTHER APPLICATIONS CURRENTLY ON HAND BUT NOT REPORTED ON THIS AGENDA WHICH WILL BE REPORTED WITH A RECOMMENDATION AT A FUTURE MEETING OF THE SUB COMMITTEE

APPLICATION NUMBER AND WARD		ADDRESS	APPLICANT/DESCRIPTION	DATE SITE VISIT REQUESTED	LAST ON AGENDA	COMMENTS
2.	12/00948/FUL  Hendon	Port Of Sunderland Capstan House Barrack Street Sunderland SR1 2BU	<b>Mr Barry Scott</b>  Extraction of previously tipped aggregate above the Mean High Water Springs (MHWS) including the construction of temporary compound areas, car parking and weighbridge; the processing of extracted aggregate; storage of imported infill material and re-contouring of the land.	N/A	N/A	Environment Agency Objection – Awaiting submission of additional information

## **DEVELOPMENT CONTROL (SOUTH SUNDERLAND) SUB-COMMITTEE**

**26 FEBRUARY 2013**

### **RESPONSE TO THE DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT CONSULTATION ON PLANNING PERFORMANCE AND THE PLANNING GUARANTEE.**

#### **REPORT BY THE DEPUTY CHIEF EXECUTIVE**

#### **1.0 PURPOSE OF THE REPORT**

- 1.1 To endorse the response to the DCLG consultation of November 2012, "Planning Performance and the Planning Guarantee" which is appended to this report.

#### **2.0 BACKGROUND**

- 2.1 The Growth and Infrastructure Bill which was introduced to Parliament on 18 October 2012 contains a number proposals which build upon existing planning reforms.
- 2.2 The intent of the Bill is to help deliver more new homes and more jobs and to "*cut through rigid processes and unnecessary paperwork*". It is expected that the Bill will be enacted by April 2013.
- 2.3 The consultation period which ended on 17 January 2013 seeks the views of local planning authorities (LPAs) and others over proposals that the performance of LPAs should be assessed on the basis of speed and quality of decisions in relation to planning applications.
- 2.4 The consultation also sets out and seeks views on proposals for introducing a planning guarantee whereby a maximum period of 12 months for determination of a planning application, including any appeal would be introduced.

#### **3.0 ANALYSIS OF THE KEY ISSUES IN THE CONSULTATION**

- 3.1 The most significant proposal within the consultation is in respect of major planning applications, and the proposal that an applicant be able to apply to the Planning Inspectorate to get planning permission in the first instance, thus effectively bypassing the Council, as the statutory LPA. The proposal is intended to apply where an LPA has been placed in special measures and is formally designated by the Secretary of State as "very poor".

- 3.2 The grounds for such a designation are proposed to be where;
- 30% or fewer major applications have been determined within 13 weeks over a two-year period or
  - the proportion of major decisions overturned on appeal is greater than 20 per cent over two years.
- 3.3 The Government anticipates that the proposed legislation will stimulate an increased focus on performance within LPAs and will help to ensure that the proposal to introduce a planning guarantee (ie a planning decision within 12 months including time taken for any appeal) will be met.
- 3.4 As a further means of ensuring that decisions are made within the guarantee period the Government also proposes amendment of secondary legislation to require a refund of the planning application fee if no decision has been made on a scheme within 26 weeks. This proposal in respect of LPAs impacts upon all 3 categories of planning application *ie* major, minor and other applications and applies also to the Planning Inspectorate in relation to major applications
- 3.5 Other main details from the consultation document outline that:
- Designations would be made annually and would last for one 1 year. A designated authority would need to demonstrate a sufficient degree of improvement before the designation is lifted.
  - Thresholds for the speed of decisions made would be raised after the first year to ensure that there is "a strong but achievable incentive for further improvement"
  - Any LPA with a whole year of planning decisions data missing would automatically be designated as "very poor" performing
  - In return for carrying out the decision making element, the Planning Inspectorate would receive the fee normally gathered by the designated LPA. Notwithstanding the loss of fee income the designated LPA would still be expected to carry out all technical administrative support (such as consultations) together with any negotiations on Section 106 agreements.
  - Applications would be exempt from any statistical return where they are undertaken under a Planning Performance Agreement or are the subject of post application agreements to extend the timescale for determination
  - In the case of designated LPAs, Government would monitor performance in determining the remaining applications and consider the steps taken by the LPA to improve in its capacity and capability before making a judgment as to whether the improvements were sufficient to warrant removal from the special measures.
  - In choosing to opt for submission directly to the Planning Inspectorate, where allowed, the developer loses any right of appeal.

- 3.6 It is proposed that initial designations will be made in October 2013 using performance data from the financial years 2011/12 and 2012/13.
- 3.7 Placing LPAs under special measures based upon poor planning performance is not new. This Council was identified as a Standards Authority for 2005/06 in respect of minor and other applications and in 2006/07 for major applications. However under previous administration poor performance was penalised by inability to share in the windfall of Planning Delivery Grant. Poor performance under current proposals cuts to the heart of the planning budget by potentially taking away estimated fee income.
- 3.8 Sunderland's performance against the suggested thresholds over the 2011/2012 and 2012/2013 period is as follows :
- Major planning applications determined (up to Nov 2012 ie 20 months) is 66.3% - well above the suggested benchmark of 30%
  - There have been no major planning appeals overturned so as it currently stands there would be no measurement against the quality of decision making criteria.
- 3.9 However, the proposal to bypass the LPA as the first point of the decision making process is entirely new and raises some key issues of both principle and practicality:
- Democratic control of planning is one of the founding principles of the planning system. The proposal would introduce a new kind of planning where the substantive right to have a decision taken by a democratically elected LPA is transferred to an unelected body.
  - Invariably, most major applications are the subject of pre-application discussions between the LPA and the prospective applicant (which in Sunderland's case generates a fee). This front loading of applications is a major factor in reducing the time taken in the decision making process. It is unclear as to whether the Planning Inspectorate would take on this pre application advisory role.
  - Adequate resourcing of the LPA is a critical factor in terms of performance. Any loss of the application fees to the Planning Inspectorate would result in less investment in the service and merely perpetuate poor performance.
  - There is a danger in the sole use of metrics to measure planning performance as the bare figures are unable to tell the whole story of why planning applications get delayed which in many cases is down to circumstances outside the control of the LPA
  - To meet performance targets, there could be a temptation to determine applications quickly rather than work with applicants to address issues. The National Planning Policy Framework requires LPAs to "*look for solutions and not problems*" implying the quality of the development could rank higher than the speed of the decision.
  - There could be a major disconnect between the decision-making on applications dealt with by the Planning Inspectorate and any Section 106 negotiations which would still be undertaken by the LPA. Invariably, it can be the slow turnaround of Section 106 Agreements

that is often the main reason for slow decision-making in the first place.

#### **4.0 THE NEXT STEPS**

- 4.1 It is intended that after consideration of the consultation responses a summary of those responses will be published. The consultation responses will help inform debate as the Bill passes through Parliament. Any intended implementation of proposals arising would be enacted through policy and secondary legislation, the final form of which would need to reflect Parliament's decisions on the Bill.

#### **5.0 RECOMMENDATIONS**

- 5.1 Committee is recommended to note comments highlighted within this report and endorse the response to DCLG which is contained within Appendix 1.

#### **6.0 BACKGROUND PAPERS**

- 6.1 *Planning performance and the planning guarantee* – DCLG November 2012

**Response of Sunderland City Council and the North East Councils to:**

**Planning Performance and the Planning Guarantee: Consultation**

**Question 1: *Do you agree that local planning authority performance should be assessed on the basis of the speed and quality of decisions on planning applications?***

Agree that speed of decision making is important but needs to be balanced against ensuring that quality of development is not compromised as a result.

Local Planning Authorities are well used to performance targets and they do have a place within the planning system focussing the attention of both the LPA and also the applicant when the requirement for additional information arises as a result of the consultation process.

It must be recognised that some proposals do take longer than others and the complexity of cases can vary enormously requiring differing degrees of engagement to ensure a quality decision.

Agree with the intention of maintaining the current statutory time limits for determining planning applications, unless an extended period has been agreed in writing between both parties.

Agree that in identifying and addressing poor performance Government focus only on major applications as these types of application are the most important for stimulating growth, encouraging redevelopment and creating employment.

It should however be noted that most LPAs frequently work with applicants beyond the 13 weeks when necessary in an attempt to find solutions to issues, balancing the benefits of the scheme against the impacts (as stated in the National Planning Policy Framework).

Where this has led to planning permission being granted the developer is often happier with a positive outcome at say week 15 as opposed to a refusal or pressure to withdraw an application at week 13.

Also many major schemes by their nature require a Section 106 Agreement and planning decisions can not be issued until these are signed. The drafting and checking of such agreements can take time even when schemes have

had pre application discussions. This delay often takes applications beyond the 13 week threshold.

When attempting to assess the quality of decision it is important to take account of the whole of the decision making process from pre application engagement to determination and not focus solely on the final outcome.

The proposal to determine quality based upon the success rate at appeal is not a true reflection or way of assessing LPAs as the trigger only assesses those LPAs who have refused applications and does not attempt to measure quality in all of the decision making process. ie including approvals.

In the case of a refused application taken to appeal it must be recognised that the fact an Inspector may come to a different view to a LPA does not mean the decision was incorrect, equally if an appeal is dismissed by an Inspector it does not follow that the applicants scheme was without merit and poorly made.

Planning is ultimately about judgements and subjectivity and what weight a decision maker gives to component elements of a scheme weighing up benefits and impacts. To potentially designate a LPA as poorly performing due to having lost a number of appeals even though the judgements made were fair and reasonable (but ultimately not agreed by an Inspector) would seem wrong when compared to the alternative of approving all major applications (in 13 weeks) irrespective of their quality and impacts.

**Question 2: Do you agree that speed should be assessed on the extent to which applications for major development are determined within the statutory time limits, over a two year period?**

There are no objections over assessment of speed of determination of major applications over a 2 year period.

**Question 3: Do you agree that extensions to timescales, made with the written consent of the applicant following submission, should be treated as a form of planning performance agreement (and therefore excluded from the data on which performance will be assessed)?**

Agree that applications with planning performance agreements are all excluded from the data on which performance is assessed. However the means of recording this information will need to be established.

**Question 4: Do you agree that there is scope for a more proportionate approach to the form and content of planning performance agreements?**

Agree due to the differing complexity of major schemes.

Some major schemes are strategic and very complex and as such it follows a planning performance agreement will need to reflect that in its nature.

**Question 5: Do you agree that quality should be assessed on the proportion of major decisions that are overturned at appeal, over a two year period?**

The proposal to determine quality based upon the success rate at appeal is not a true reflection or way of assessing LPAs as the trigger only assesses those LPAs who have refused applications and does not attempt to measure quality in all of the decision making process. ie including approvals.

There needs to be more clarity around how the measure would be calculated. Is the proposal that the quality of decision be assessed solely against the number of appeals over a 2 year period which are overturned, or is it the number of appeals overturned expressed as a percentage of the total number of major planning application decisions determined by the LPA?

In the case of a refused application taken to appeal it must be recognised that the fact an Inspector may come to a different view to a LPA does not mean the decision was a poor one, equally if an appeal is dismissed by an Inspector it does not follow that the applicants scheme was without merit and poorly made.

Planning is ultimately about judgements and what weight a decision maker gives to component elements of a scheme weighing up benefits and impacts. To potentially designate a LPA as poorly performing due to having lost a number of appeals even though the judgements made were fair and reasonable (but ultimately not agreed by an Inspector) would seem wrong when compared to the alternative of approving all major applications (in 13 weeks) irrespective of their quality and impacts.

Another issue that needs clarification is in the case of a split decision, whereby the substantive reason for refusal of the scheme is accepted but whereby the Inspector has the power to allow a discreet element of a scheme (a power the LPA does not have). In such cases where a split decision is made this should not be counted as an allowed appeal and instead should be recorded as a split decision.

**Question 6: Do you agree with the proposed approach to ensuring that sufficient information is available to implement the policy?**

Agree that this seems appropriate and should ensure information submissions are made in a timely way.

The minimum standard suggested will provide certainty to LPAs around actions necessary to address poor performance.

**Question 7: Do you agree that the threshold for designations should be set initially at 30% or fewer of major decisions made on time or more than 20% of major decisions overturned at appeal?**

Agree in respect of the threshold for speed of determination but do not agree with the approach to the way in which quality of decisions are intended to be determined as described above.

**Question 8: Do you agree that the threshold for designation on the basis of processing speeds should be raised over time? And, if so, by how much should they increase after the first year?**

In principle yes but it would appear reasonable to first see how many authorities are designated under the proposed initial thresholds and then assess performance nationally so that a body of evidence can be assessed to judge average performance before setting new absolute thresholds This will prevent artificially high or low thresholds being set.

The other key issue is the capacity of the Planning Inspectorate to handle increased workload, as potentially the proposals will simply move the problem to a different determining body.

**Question 9: Do you agree that designations should be made once a year, solely on the basis of the published statistics, as a way to ensure fairness and transparency?**

Agree.

**Question 10: Do you agree that the option to apply directly to the Secretary of State should be limited to applications for major development?**

Agree. Again there is a concern over the capacity of the Planning Inspectorate to deal with the potential number of applications.

**Question 11: Do you agree with the proposed approaches to pre-application engagement and the determination of applications submitted directly to the Secretary of State?**

Further clarity is required in respect of the pre application process and how it is to be co-ordinated by the Secretary of State to ensure all relevant matters are dealt with including community and Member engagement and cost recovery for LPAs who are engaged in the process.

LPAs should be fully reimbursed for carrying out all administrative duties.

Further clarity is needed around S106 agreements including all negotiations and costs associated with their completion.

**Question 12: Do you agree with the proposed approach to supporting and assessing improvement in designated authorities? Are there specific criteria or thresholds that you would propose?**

Agree. No objections to the proposed approach for support and assessment of designated authorities

**Question 13: Do you agree with the proposed scope of the planning guarantee?**

Agree

**Question 14: Do you agree that the planning application fee should be refunded if no decision has been made within 26 weeks?**

Do not agree with the proposal that the planning fee should be refunded if a decision is not made within the 26 week period as significant resources will have been committed to the application at this point.