

## **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 2015.

## **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 Economy and Place Directorate at the Customer Service Centre or via the internet at [www.sunderland.gov.uk/online-applications/](http://www.sunderland.gov.uk/online-applications/)

Peter McIntyre

Executive Director Economy and Place

**Reference No.:** 17/00386/FUL Full Application

**Proposal:** Demolition of existing buildings and Erection of 46no. dwellings with associated access, landscaping and infrastructure work, including stopping up of existing highway (Amended Description 13.07.17).

**Location:** Former Grangetown Autos Ryhope Road Sunderland SR2 0SP

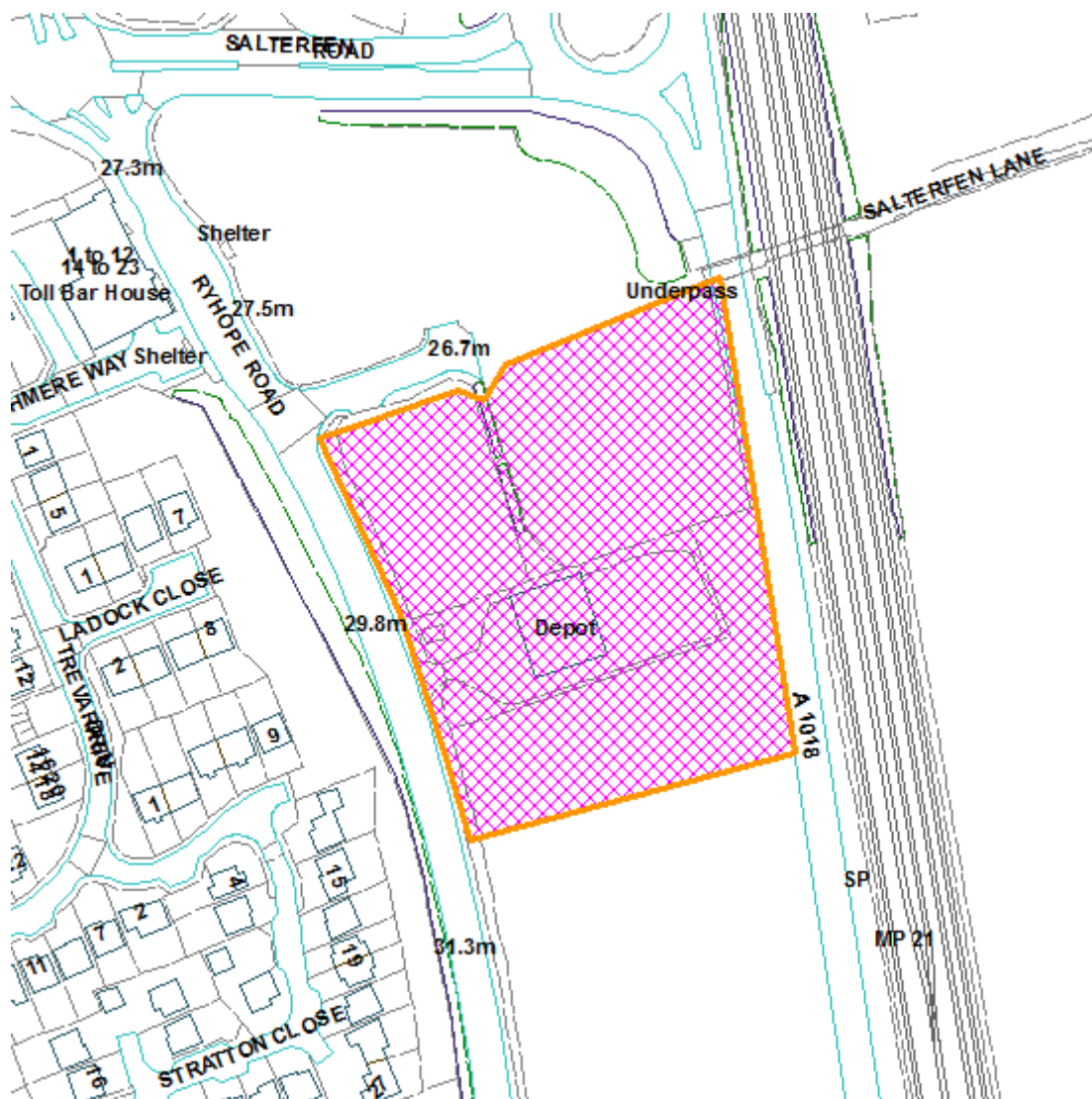
**Ward:** Ryhope

**Applicant:** Derwentside Homes Limited

**Date Valid:** 28 March 2017

**Target Date:** 27 June 2017

## Location Plan



## **PROPOSAL:**

The proposal seeks consent for the demolition of the existing buildings on the site and the erection of 46 no dwellings. The 1.28 hectare site is an area of land situated to the east of Ryhope Road opposite the Shirley Banks housing estate. Approximately one third of the site is occupied by the Grangetown Autos garage in the central portion; this mainly comprises two adjoining single storey buildings with a forecourt to the front and a yard to the rear. An electricity substation sits at this entrance and is excluded from the application site. The southern third of the site comprises open space currently set to rough grass. The remaining northern third of the site consists of scrubland to the west and a series of concrete slabs to the east, where once buildings previously stood. The A1018 Southern Radial Route lies immediately to the east of the site.

Part of the site has previously been the subject of an outline planning application, 15/01629/OU4, which Members may recall was approved, subject to conditions and a s106 legal agreement on 08 August 2016. This subsequent application is by a new applicant for a larger overall site and has been advertised accordingly, via neighbour consultations, and site notices and is accompanied with a suite of supporting information, including;

- Design and Access Statement
- Viability Information
- Wildlife and Ecology Surveys
- Flood Risk Assessment and Drainage Statement
- Air Quality Statement
- Noise Assessment
- Ground Investigation Reports
- Sustainability Assessment
- Open Space Assessment
- Transport Statement and Travel Plan

## **TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

## **CONSULTEES:**

Ryhope - Ward Councillor Consultation  
Network Management  
Northumbrian Water  
Environmental Health  
The Highways Agency  
Director Of Childrens Services  
Flood And Coastal Group Engineer  
Environment Agency  
Environmental Health  
Director Of Childrens Services  
Network Management

Final Date for Receipt of Representations: **04.05.2017**

## **REPRESENTATIONS:**

### **NEIGHBOURS**

No representations have been received as a result of the notification exercise.

### **CONSULTEES**

Highways England  
No Objections

Northumbrian Water

Advise that as the application does not provide sufficient detail for Northumbrian Water to be able to assess their capacity to treat the flows from the development, they would require a condition to be imposed in the order of any approval being issued.

## **POLICIES:**

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

B\_1\_Priority areas for environmental improvements  
B\_2\_Scale, massing layout and setting of new developments  
CN\_23\_Measures to conserve/ improve wildlife corridors  
CN\_16\_Retention and enhancement of existing woodlands, tree belts and hedgerows  
EC\_5\_Sites for mixed uses  
EC\_9\_Locations for Hotels and Conference centres.  
S\_13\_Resisting retail development on land allocated for industry  
CN\_6\_Retain / enhance important open breaks & wedges between / within settlements  
T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising  
T\_22\_Parking standards in new developments  
SA\_5\_Retention and improvement of existing mixed use site  
B\_3\_Protection of public/ private open space (urban green space)  
EN\_6\_Limit exposure of new noise/vibration sensitive developments to existing sources  
EN\_7\_Proposals for residential development in the vicinity of railway tracks  
EN\_12\_Conflicts between new development and flood risk / water resources  
EN\_14\_Development on unstable or contaminated land or land at risk from landfill/mine gas  
CN\_19\_Development affecting designated / proposed SAC's, SPAs and RAMSAR Sites  
H\_4\_Density of housing development to at least reflect that of the locality  
CN\_18\_Promotion of nature conservation (general)  
CN\_22\_Developments affecting protected wildlife species and habitats  
H\_21\_Open space requirements in new residential developments (over 40 bed spaces)

## **COMMENTS:**

### **ISSUES**

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

- Principle of development
- Design and amenity

- Ecology and biodiversity
- Highway considerations
- Environmental Factors - Drainage / flooding, Noise, contamination etc
- Other Considerations (including legal agreements)

## **Principle of Development**

In considering the proposal for residential development it is important to consider both National and Local Planning Policy.

### National Planning Policy

The National Planning Policy Framework (NPPF) represents Central Government's latest policy guidance and was issued in March 2012. The NPPF establishes the presumption in favour of sustainable development, balancing the economic, social and environmental aspects of development proposals. The NPPF calls for planning to be "a creative exercise in finding ways to enhance and improve the places in which we live our lives". Paragraphs 18-219 of the NPPF, sets out the Government's view of what sustainable development means in practice for the planning system. However, paragraph 119 of the NPPF states that the presumption in favour of sustainable development does not apply where appropriate assessment under the Habitats of Birds Directives is being considered, planned or determined. A Habitat Regulation Assessment (HRA) has been prepared by the applicant in order to comply with this legislation, which is discussed in detail in the following Ecology and Biodiversity Section.

### Local Planning Policy

The site straddles two areas of different land allocation policies as defined by the proposals map of Unitary Development Plan. The northern portion lies within an area subject to policies EC5 and SA5.3, which indicates that acceptable uses within the Salterfen mixed use employment site include food and drink (A3), light industry, office, research and development (B1), storage and distribution (B8), hotels (C1), bulky goods retailing and transport related businesses. The southern portion is subject to policy CN6 which identifies the site as part of a larger area that forms an important open break/wedge within and between settlements which will be retained and enhanced. The proposed use of the site for residential purposes is not in accordance with the above policies therefore the application has been advertised as a departure from the development plan.

Whilst it is accepted that the proposed development would be contrary to the safeguarding contained within policy SA5, evidence from the recent Employment Land Review (ELR) indicates that there is an oversupply of employment sites within the Sunderland South subarea. A Settlement Break Review was undertaken in 2013 to inform the emerging Local Plan, incorporating the Draft Principle of Development Summary. This concludes that this Settlement Break has maintained an important Green Infrastructure corridor in the centre of the Sunderland conurbation, and has enabled Ryhope village to generally retain its distinct identity. Importantly, the review identifies the southernmost portion of the application site as falling within the settlement break and that its removal from this would only have a minor adverse impact. This is due to its location, which forms an irregular edge to this part of the settlement break. As such, it is not considered that the change of this land to residential would compromise the integrity of the remaining settlement break. Upon inspection of the plan, it is clear, that if developed, this part of the site would in fact help create a stronger and more legible settlement break boundary than at present.

Notwithstanding this, it is also noted that from a wildlife perspective, the review notes that the corridor connects together a number of protected sites from Plains Farm eastwards to the coast and as such, there are implications with regards to Habitats Regulations Assessment (HRA) relating to the European-protected coast which need to be fully addressed. These matters are considered in the Ecology and Biodiversity section later in the report.

For the reasons set out above, and considering that the site is located within an area which already includes residential development, it is considered that the proposal is acceptable in this location and it would not adversely impact upon the required supply of employment land within the area or compromise the function of the settlement break. Subject to the satisfactory addressing of wildlife matters as described above, the principle of residential development is therefore considered to be acceptable in this instance.

## **Design and amenity**

Policy B2 of the UDP requires new development proposals to respect visual and residential amenity, whilst the core principles of the NPPF set out an objective for schemes to deliver high standards of design and amenity. Policy H4, meanwhile, states that new housing development should be of a density which reflects the existing density found in the locality.

In terms of the visual amenity of the locality, the site is situated opposite an area that consists of semi-detached and detached properties of predominately 2 storeys. The design, layout and appearance of the development is considered to be in-keeping with this prevailing surrounding context and would not unacceptably jar with the established pattern of built development in the area, nor would there be any adverse effect upon their amenities with the closest existing dwellings to the site being some 35m+ away, separated by Ryhope Road.

To conclude therefore, it is considered that the impact of the proposed development on visual and residential amenity is acceptable, in accordance with the requirements of policies B2 and H4 of the UDP, the Council's Residential Design Guide SPD and the core principles of the NPPF.

## **Ecology and Biodiversity**

The United Kingdom is bound by the terms of the Council Directive 79/409/EEC on the Conservation of Wild Birds (the Birds Directive) and the Council Directive 92/42/EEC on the conservation of natural habitats and wild flora and fauna (the Habitats Directive). These are implemented in the UK through the Conservation regulations which provide for the protection of areas of European importance for wildlife, in the form of Special Areas of Conservation (SAC's) designated under the Habitats Directive, and Special Protection Areas (SPA's) designated under the Birds Directive. Collectively, these are termed European sites, and overall network of European sites is termed Natura 2000. It is an offence under the legislation and regulations to carry out an act which may damage a qualifying species or habitat for which the site is designated. A Habitat Regulation Assessment (HRA) is the mechanism to be implemented to ensure the above legislation is complied with and determines whether a plan or project would adversely affect the integrity of any European site in terms of its conservation objectives. Where adverse effects are identified alternative solutions should be identified and the plan or project modified to avoid any adverse effects. The LPA, as the Competent Authority, can adopt the plan or approve the project only after having ascertained that it will not adversely affect the integrity of a European Site. Regulations require that HRA's must consider in-combination effects cumulatively, with all relevant plans and projects. If it can be concluded that no likely significant effects will arise from the plan or project, including in combination then no further stages of the HRA are required (on the basis that the proposal is screened out and appropriate mitigation if required is provided).

Policy CN19 of the UDP requires the protection of designated and proposed European and Ramsar sites.

There are two relevant designated sites within the vicinity of the proposal; the Northumbria Coast Special Protection Area and the Durham Coast Special Area of Conservation. The potential source of impact in this case would be from increased recreational visits to the coastal areas / European sites by new residents via an underground pass called Salterfen Lane which is located adjacent the Northern site boundary. Stage 1 of the HRA has identified that the project could affect the following European Sites:

- Durham Coast SAC (UK site code: UK0030140). At its nearest point, this site is located approximately 130 metres East of the proposed development.
- Northumbria Coast SPA (UK site code: UK9006131). At its nearest point, this site is located approximately 130 metres East of the proposed development.
- Northumbria Coast RAMSAR site (UK site code: UK11049). At its nearest point, this site is located approximately 130 metres East of the proposed development.

As the proposal results in residential development, there are no avoidance measures appropriate for the development and alternatively, mitigation is proposed by way of a contribution towards a seasonal warden to monitor the European Sites, enforce orders/by laws, manage publications/walking routes, educate the local community and organise volunteers in order to protect the European Sites conservation value and objectives. The contribution will complement the Strategic Access Management and Monitoring (SAMM) scheme which aims to encourage visitors to use the clifftops as walking routes instead of the coast.

In addition, It is recommended that some form of barrier is introduced to the easement such as a kissing gate or collapsible bollards (if vehicular access is necessary), and signage placed before the barrier providing advice on the European Sites, the wildlife they support and recommendations for reducing impacts such as staying on existing pathways, cleaning up dog foul and ensuring dogs are reasonably controlled. Information Packs will also be distributed to every new dwelling within the site boundary and will include but is not restricted to information such as; how the European Sites are protected; what wildlife they support; alternative walking routes in the area and control measures residents can implement to prevent disturbance. The information packs will also provide advice on how residents can include additional features within their plot of land to create wildlife friendly gardens if they so wish.

In terms of the impact of the development upon the biodiversity of the application site, it is recommended that the existing hedgerows along the east and west boundaries should be retained and improved as part of a landscaping scheme for the scheme. Wildflower seeding and native tree planting are proposed within the Phase 1 Habitat Survey but will also need to be detailed as part of the landscaping scheme, which can be achieved via the imposition of suitably worded conditions, should Members be minded to approve the application.

The Phase 1 Habitat Survey and the Bat Presence/Absence Survey recommends measures to avoid impacting upon nesting birds and bats, which include a lighting scheme to prevent light pollution spillage, and the provision of bird and bat boxes within the new development.

Subject to the provision of further checking surveys and details including the number and location of bird/bat boxes and a method statement for demolition contractors, it is considered that these measures should be sufficient in this case to minimise potential adverse impacts and secure mitigation and enhancements to deliver a net increase in biodiversity, in accordance with policies CN18 and CN22 of the UDP and chapter 11 of the NPPF.

To conclude, for the reasons set out above, the proposal is considered to be acceptable from an ecology and biodiversity perspective.

## **Highway considerations**

Policy T14 of the UDP states that new development proposals must not result in conditions which are prejudicial to highway and pedestrian safety, whilst policy T22 requires proposals to be afforded an appropriate level of dedicated vehicular parking.

The proposal is accompanied by a Transport Statement and Travel Plan which conclude that overall the development proposals are accessible by sustainable transport, have satisfactory access arrangements and would generate few trips at peak times and would therefore not have any significant impact on the surrounding transportation network.

The Network Management Team have considered the proposals and advise that the proposed priority junction access arrangements are considered to be appropriate for this scale of development. However, this is dependent on a proposed reduction in the speed limit from 40mph to 30mph. The proposed reduction in speed limit will be necessary in the interests of highway safety to accommodate the new residential traffic and associated vehicle turning movements generated by the development. The applicant will need to meet all costs associated with the implementation of a Traffic Regulation Order. In addition, the public right of way to the immediate north of the development should be upgraded and surfaced to a width of 3metres. These works will also be at the applicant's expense and will be undertaken through a Section 278 agreement. With the above measures in place, the proposed development is considered unlikely to lead to conditions that are prejudicial to highway and pedestrian safety and complies with policies T14 and T22 of the UDP.

## **Environmental considerations**

### Drainage and flooding

UDP policy EN12 stipulates that in assessing proposals for development, the Council, in conjunction with the Environment Agency and other interested parties, will seek to ensure that the proposal would not be likely to impede materially the flow of flood water, or increase flooding elsewhere, or increase the number of people or properties at risk from flooding and not adversely affect the quality or availability of ground or surface water, including rivers and other waters.

The NPPF requires an appropriate assessment to be made of any flood risks relating to proposed developments. The aim of the assessment is to ensure that the development is not at risk from flooding and does not increase flood risk elsewhere.

Accordingly, a Flood Risk Assessment Drainage report was submitted with the application to demonstrate how surface water from the development will be dealt with sustainably. The Councils Flood and Coastal Group Engineers are satisfied with these details provided that a condition is imposed on any approval issued, to request submission of final drainage design details and calculations before commencement. On this basis, the proposal is considered to comply with policy EN12 of the UDP and the requirements of the NPPF.

### Noise

Policy EN6 of the UDP states that, where noise sensitive development is proposed which is likely to be exposed to unacceptable levels of noise or vibration from sources such as roads and railways, the applicant should carry out an assessment of the nature and extent of likely problems



and to incorporate suitable measures in the design of the development. Policy EN7 requires proposals for residential development within 60m of a railway track to be accompanied by an assessment of the impact of vibration and to incorporate any necessary preventative or precautionary measures as part of the scheme.

Paragraph 123 of the NPPF states that planning decisions should aim to;

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development,
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.

A noise assessment has been undertaken by Environmental Noise Solutions in respect of the proposals. The main noise source is described as road traffic noise from Ryhope Road and the A1018, and intermittent rail noise from Durham coast railway line. The commercial land opposite the proposed site has also been identified as been a potential noise source having been granted permission for use as a furniture store and fast food restaurant, however this has been categorised as negligible compared to the traffic noise.

The report demonstrates that with the incorporation of the identified mitigation measures (Table 5.1 of the submitted noise report) appropriate internal noise criteria can be met. is a scheme of sound insulation works to allow for internal criteria to be met. A 2M high acoustic barrier (as illustrated in Appendix 2 of the report) shall be required as indicated in the report to ensure the attainment of appropriate external noise levels.

Subject to the relevant conditions outlined above, the proposed residential dwellings are unlikely to be exposed to unacceptable levels of noise or vibration; the proposal complies with policies EN6 and EN7 of the UDP, paragraph 123 of the NPPF and is considered to be acceptable in this regard.

#### Air Quality:

An Air quality assessment has been undertaken by Air quality consultants In April 2017. Existing air quality has been identified as being good and is below relevant air quality objectives.

Future air quality conditions at the site have been assessed, and are shown to be good, with concentrations of nitrogen dioxide, PM10 and PM2.5 expected to be well below the objectives throughout the site. The site of proposed development is therefore suitable for residential use.

#### Ground Conditions

Policy EN14 of the UDP requires the applicant to carry out adequate investigations to determine the nature of ground conditions below. Where the degree of instability, contamination, or gas migration would allow development subject to preventive, remedial, or precautionary measures within the control of the applicant, planning permission will be granted subject to conditions specifying the measures to be carried out.

Paragraph 121 of the NPPF requires planning decisions to ensure that;

- the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that development.

- after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990, and
- adequate site investigation information, prepared by a competent person, is presented.

Accordingly, the application is accompanied with a Phase I & II ground investigation reports, the most recent being a Phase II Report from ARC Environmental. The results of the exploratory holes that have been made on site appear to identify potential contamination of Made Ground. Due to the variability of the ground it was not considered by ARC that testing was representative of a single distribution therefore the maximum concentration of contaminants was used to indicate whether hotspots of contamination may occur. On this basis, ARC found that soils are not generally suitable for garden areas and therefore a cover layer is proposed in gardens and areas of soft landscaping with a thickness of 600mm. It is indicated that this layer would include 150mm of clean topsoil/subsoil over imported clay, or virgin quarried stone, or imported crushed stone/inert demolition type material (as a no-dig layer). Thicker topsoil may be required for planting of shrubs/trees. The specification of this cover layer including thickness and type of materials and incorporation of a no-dig layer will need to be agreed in further detail to ensure that the cover layer is suitable for purpose. This, along with a revised remediation strategy, including a watching brief for the demolition of the garage buildings and a revised gas risk assessment can be achieved via the imposition of appropriately worded conditions, should Members be minded to approve the application.

During construction, in order to ensure the environmental impact of the construction and demolition of the development is adequately managed and mitigated and in the interests of the amenity of nearby residents/occupiers in the vicinity of the site, it is recommended that a condition be attached to any granted consent which requires the provision of a Construction Environmental Management Plan. The CEMP should include details of how noise, lighting, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated.

To conclude environmental matters, for the reasons set out above, the application is considered to accord with all relevant policies and criteria.

## **Other Considerations (including legal agreements)**

### Affordable Housing

Chapter 6 of the NPPF requires local planning authorities to deliver a wide mix of housing, including identified affordable housing needs. Policy CS4.3 of the draft Core Strategy relates to housing needs, and normally requires 10% affordable housing, which would equate to 4 units as affordable rented housing to be provided on this site. However, over the course of considering the proposal, discussions with the applicant (who are a registered social landlord) have revealed that due to the financial model being utilised, which includes funding from the Homes and Community Agency (HCA), this will not be possible in this instance, as it would render the scheme unviable. Under the terms of the HCA funding (The Shared Ownership and Affordable Homes Programme 2016 - 2021), at least 36 of these units have to be made available to Rent to Buy. The scheme is specifically aimed at "Generation Rent" i.e. those persons who would desire to own their own homes but cannot do so because they do not have access to mortgage finance because they often have no deposit or have a poor credit history. Generation Rent is the fastest growing sector of the housing market, and are in housing need, having no access to the social and affordable rent housing stock, whilst at the same time not being able to obtain the finance needed to buy their own homes. As such they are forced to find accommodation in the private rented sector where competition for dwellings is growing and standards can often be poor. The applicant has explained that they proactively work with their tenants to secure them access to mortgage funding

by providing access to Financial Advisors, who can assist them in helping to make changes to their financial circumstances and allowing them to become "mortgage ready". This can involve them helping to repair their credit history, and helping them to save the deposit required for them to purchase their own homes. Whilst not the normal proposition for affordable housing in the city, as explained above, the scheme is indeed considered to provide affordable housing, albeit in a different manner and targeted towards a different target audience. Advice from the Councils Private Housing Team and Property Valuation Officers both acknowledge this and accept the model and proposition offered in this instance.

### Play Space

As members are aware, UDP policy encourages developers to locate equipped, Children's play areas within new residential development wherever possible. However, it was not considered that the location of a play area within the site is appropriate. Good practice indicates that play areas should be located centrally within new developments to ensure easy access to the areas for all surrounding occupiers. The developer has therefore agreed to provide a financial contribution, of (46 x £701) £32,246:00 as a Section 106 contribution, for the provision of new play facilities or the improvement of existing play facilities where appropriate, with funds being utilised to support on-going maintenance of the play facilities. This off site provision is considered acceptable and as such complies with policy H21 of the Unitary Development Plan.

### Ecology

As detailed above, the development can only be considered to be acceptable if the potential effects of increasing recreational use of the coast from increased resident numbers can be mitigated. The measures proposed, which entails the funding of a warden for is costed at a value amounting to £86,820:36. The total amount divided by the number of dwellings results in the proposed financial contribution amounting to £1887:40 per dwelling. This will be secured through the Section 106 agreement.

### Education

With regards education contributions, Children's Services have advised that a contribution will be required towards helping to contribute towards additional Primary School places and that the sum of £22,567:64 is acceptable in this instance.

### Conclusion

The fundamental issue in the consideration of the proposal is the impact of the development upon the European protected coastal sites. The NPPF states that the presumption in favour of sustainable development does not apply where appropriate assessment under the Habitats of Birds Directives is being considered, planned or determined. In this case, it is considered that the proposed mitigation measures as detailed above, to be secured by a section 106 agreement, will achieve a sustainable development in this respect. Without these mitigation measures, the development will be considered to be unacceptable. Otherwise, the principle of housing development is considered to be acceptable in this location when assessed against the other impact tests set out in the NPPF.

Consequently, it is recommended that the application is delegated to the Director of Commercial Development, who is minded to approve the application, subject to the draft conditions set out at the foot of this report and also subject to the signing of an agreement under the provisions of section 106 of the Town and Country Planning Act, 1990.

## Equality Act 2010 - 149 Public Sector Equality Duty

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:-

- o age;
- o disability;
- o gender reassignment;
- o pregnancy and maternity;
- o race;
- o religion or belief;
- o sex;
- o sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to-

- (a) tackle prejudice, and
- (b) promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

**RECOMMENDATION:** Delegate to the Director of Commercial Development who is minded to Grant Consent subject to the draft conditions set out below and the signing of an agreement under Section 106 of the Town and Country Planning Act 1990 (as amended).

## Conditions:

1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time.

2 Unless otherwise first agreed in writing with the Local Planning Authority, the development hereby granted permission shall be carried out in full accordance with the following approved plans and documentation:

- (00)100\_G Existing Site Plan with Topographical Survey
- (00)110\_A Site Location Plan
- (00)300\_B House Type 3 - Semi Detached Units
- (00)303\_B House Type 4 Detached Units
- (00)304\_B House Type 4 Semi Detached Units
- (00)306\_B House Type 5 Semi Detached Units
- (00)309\_C House Type 9 Detached Unit
- (00)312\_B House Type 7 - Detached Unit
- (00)313\_A House Type 10 Plans
- (00)314\_B House Type 10 Elevations
- (00)313A\_A GRD 2 ½ Storey 4 Bed Proposed Plans - attached (new drawing)
- (00)314A\_A GRD 2 ½ Storey 4 Bed Proposed Elevations - attached (new drawing)
- (00)600\_D Fence Types
- (90)300\_I Proposed Site Plan
- (00)335\_B Proposed FFL's - attached
- (90)340\_E Proposed Landscape Plan - attached
- (90)350\_G Boundary Treatment and Hard Surfaces
- (90)360\_C Proposed Street Elevations
- Habitat Regulations Assessment Report no E1310151139 version 9
- Extended Phase 1 Survey E13816 version 1
- Bat Presence / Absence Survey E1708151739 Version 1
- Geo Environmental Investigation Report by Opus
- Phase II Ground Investigation Report from ARC Environmental
- Flood Risk Assessment by Portland
- Noise Assessment by ENS
- Air Quality Assessment by Air Quality Consultants
- Transport Statement by Fairhurst
- Framework Travel Plan by Fairhurst

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

3 Prior to the commencement of works, the following details shall be submitted to and agreed in writing by the Local Planning Authority: Samples of all external materials and finishes, comprising roof cladding, wall facing materials, window glass, door and window frames (including a colour schedule), decorative features and rainwater goods etc. Sample panels of brickwork, demonstrating the colour, texture, face bond and pointing. Thereafter, the development shall not be carried out other than in accordance with the approved details; in the interests of visual amenity and in order to comply with policies B2 of the Unitary Development Plan.

4 Prior to the construction of the development above Damp-Proof-Course level, full details of both hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, these details shall include vehicle and pedestrian access and circulation areas, hard surfacing materials, and structures. All works shall be carried out in accordance with the agreed details, in the interests of visual amenity and to comply with policy B2 of the UDP.

5 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the buildings 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, unless the Local Planning Authority gives written consent to any variation, in the interests of visual amenity and to comply with policy B2 of the UDP.

6 Unless otherwise agreed in writing by the Local Planning Authority the development hereby approved shall be constructed in accordance with the recommendations within the approved Extended Phase 1 Survey and the Bat Presence/Absence Survey. If any protected or other significant species, including amphibians and invasive or non-native species are found, works shall cease immediately on the affected part of the site, the findings shall be reported to the Local Planning Authority and works shall not recommence until agreed in writing by the Local Planning Authority, in order to protect any wildlife or its habitat which may be present within the site, in accordance with policies CN18 and CN22 of the adopted Unitary Development Plan.

7 Prior to any works commencing on site, the building shall be checked by a suitably qualified ecologist to ensure that the site is not being used by bats or nesting birds. If any such species are found during construction, works shall cease immediately, the findings shall be reported to the Local Planning Authority and works shall not recommence until agreed in writing by the Local Planning Authority, in order to protect any wildlife or its habitat which may be present within the site, in accordance with policies CN18 and CN22 of the adopted Unitary Development Plan.

8 Notwithstanding any details provided within the approved Extended Phase 1 Habitat Survey and the Bat Presence/Absence Survey, and prior to works commencing on site, details of the specification of bat boxes and their precise locations on site, and/or a construction methodology to allow bats to gain access to and roost within suitable areas within the proposed buildings, shall be submitted to and approved in writing by the local Planning Authority. Thereafter the approved specifications/ methodology shall be implemented in accordance with the timings of the approved details unless otherwise agreed in writing with the local Planning Authority; in order to protect and enhance wildlife and its habitat which may be present within the site, in accordance with policies CN18 and CN22 of the adopted Unitary Development Plan.

9 Notwithstanding any details provided within the approved Extended Phase 1 Habitat Survey and the Bat Presence/Absence Survey, and prior to the commencement of works on site, a method statement that deals with birds, and includes details of the type and location of bird boxes to be installed on site shall be submitted to and approved in writing by the Local Planning Authority in the interest of ecology and in order to ensure a satisfactory form of development and to comply with policies CN18 and CN22 of the UDP.

10 Prior to the occupation of the first dwelling house, details of the Information Packs to be provided to residents regarding the European Sites, as recommended in the submitted HRA report will be submitted to and agreed in writing with the Local Planning Authority. Once approved, these packs will be distributed to every new dwelling within the site boundary and will

include but is not restricted to information such as; how the European Sites are protected, what wildlife they support, alternative walking routes in the area and control measures residents can implement to prevent disturbance in the interest of ecology and in order to ensure a satisfactory form of development and to comply with policies CN18 and CN22 of the UDP.

11 Prior to the installation of any external lighting, the exact siting, aspect and levels of lighting should be submitted to and approved in writing by the Local Planning Authority. Thereafter, development shall not be carried out other than in accordance with the approved details; in the interest of protecting any existing and new bat roost sites and to comply with policy CN22 of the UDP.

12 Prior to the occupation of the development a 2m acoustic barrier (as illustrated in Appendix 2 of the submitted Noise Assessment report by Environmental Noise Solutions) shall be installed to the gardens on the eastern boundary of the site directly overlooking the A1018. The barrier must be constructed from a material that has a mass per unit area of at least 10kg/m<sup>2</sup>. The panels shall be rigidly mounted and there shall be no gaps between adjacent panels, or the barrier and the ground. Once installed, the barrier shall then be retained and maintained for the life of the development, in order to protect the amenities of the occupiers of the development and to comply with Policies EN6 and EN7 of the Unitary Development Plan.

13 The development hereby approved shall not be occupied until a Traffic Regulation Order has been made to the Local Highway Authority to reduce the speed limit of Ryhope Road between Toll Bar and Ryhope Village from 40mph to 30mph and if granted implemented in the interests of highway safety and to comply with policy T14 of the Unitary Development Plan.

14 None of the dwellings hereby approved shall be occupied until the accesses to the site and internal road and footpath layout has been laid out to at least base course level, unless otherwise agreed in writing with the City Council as Local Planning Authority, in the interests of amenity and highway and pedestrian safety and to comply with the requirements of policy T14 of the Unitary Development Plan.

15 No construction works required for the development hereby approved shall be carried out outside the hours of 07:00 and 19:00 on Mondays to Fridays (excluding bank/public holidays) and between the hours of 07:30 and 14:00 on Saturdays and at no time on Sundays or Bank Holidays, unless otherwise first agreed in writing by the Local Planning Authority, in order to protect the amenities of the area and to comply with policies B2 and EN5 of the adopted Unitary Development Plan.

#### 16 CEMP Construction Environmental Management Plan

No development shall take place until a site specific Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The plan should include, but not be limited to:

- Procedures for maintaining good public relations including complaint management, public consultation and liaison;
- Arrangements for liaison with the Council's Pollution Control Team;
- Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works;
- Hours of construction, including deliveries;
- Control measures for dust and other air-borne pollutants;

- Measures for controlling the use of site lighting whether required for safe working or for security purposes;
- Erection and maintenance of security hoarding;
- Operation, loading and unloading of plant and materials;
- Storage of plant and materials used in constructing the development.

Once approved, the plan shall be fully adhered to thereafter, in the interests of the satisfactory management of the site and to comply with policies B2, EN1 and T14 of the Unitary Development Plan.

17 Before the development hereby approved is commenced details of the timetable and means of demolition shall be submitted to and approved by the Local Planning Authority. All works shall be carried out in accordance with the agreed details in order to protect the amenities of the area and to comply with policies B2 and CN22 of the Unitary Development Plan.

18 The development shall not commence until final details of the foul and surface water drainage have been submitted to and approved by the Local Planning Authority. For the avoidance of doubt, these details shall include the final connection point to Northumbrian water sewer, invert levels and proposed source control locations. The development shall then not 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 Unitary Development Plan.

19 Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions number 20 to number 22 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition number 21 has been complied with in relation to that contamination.

20 Unless otherwise agreed in writing by the Local Planning Authority development must not commence until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site (site characterisation), whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to: human health, property (existing or proposed) including building, crops, livestock, pets, woodland and service line pipes; adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments.
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR11.'

21 Unless otherwise agreed by the Local Planning Authority, development must not commence until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing



of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation.

22 The remediation scheme approved under Condition number 21 (Submission of Remediation Scheme) must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report, that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

23 In the event that contamination is found at any time when carrying out the confirmed development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition number 20 (Investigation and Risk Assessment), and when remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition number 21 (Submission of Scheme of Remediation), which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared which is subject to the approval in writing of the Local Planning Authority in accordance with condition number 23 (Implementation of Approved Remediation Scheme).

If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until this condition has been complied with in relation to that contamination.

24 Prior to the occupation of the development, details of the "Welcome Pack" information relating to sustainable travel (as per the submitted travel plan) should be submitted to and agreed in writing with the Local Planning Authority. Once such details have been approved, a copy shall be made available at each dwelling, prior to their occupation, in the interests of achieving a sustainable and satisfactory form of development, in order to comply with Policies T1, T2 and B2 of the Unitary Development Plan.

25 Notwithstanding the provisions of the current Town and Country Planning General Permitted Development Order, no gates or other means of access shall be formed in the boundary enclosures of plots 19 - 30 inclusive, without the prior written consent of the Local Planning Authority, in order that the Local Planning Authority may retain control over the development and to comply with policy T14 of the Unitary Development Plan. For the avoidance of doubt, plots 19 - 30 are those dwellings which front onto A1018 Ryhope Road.

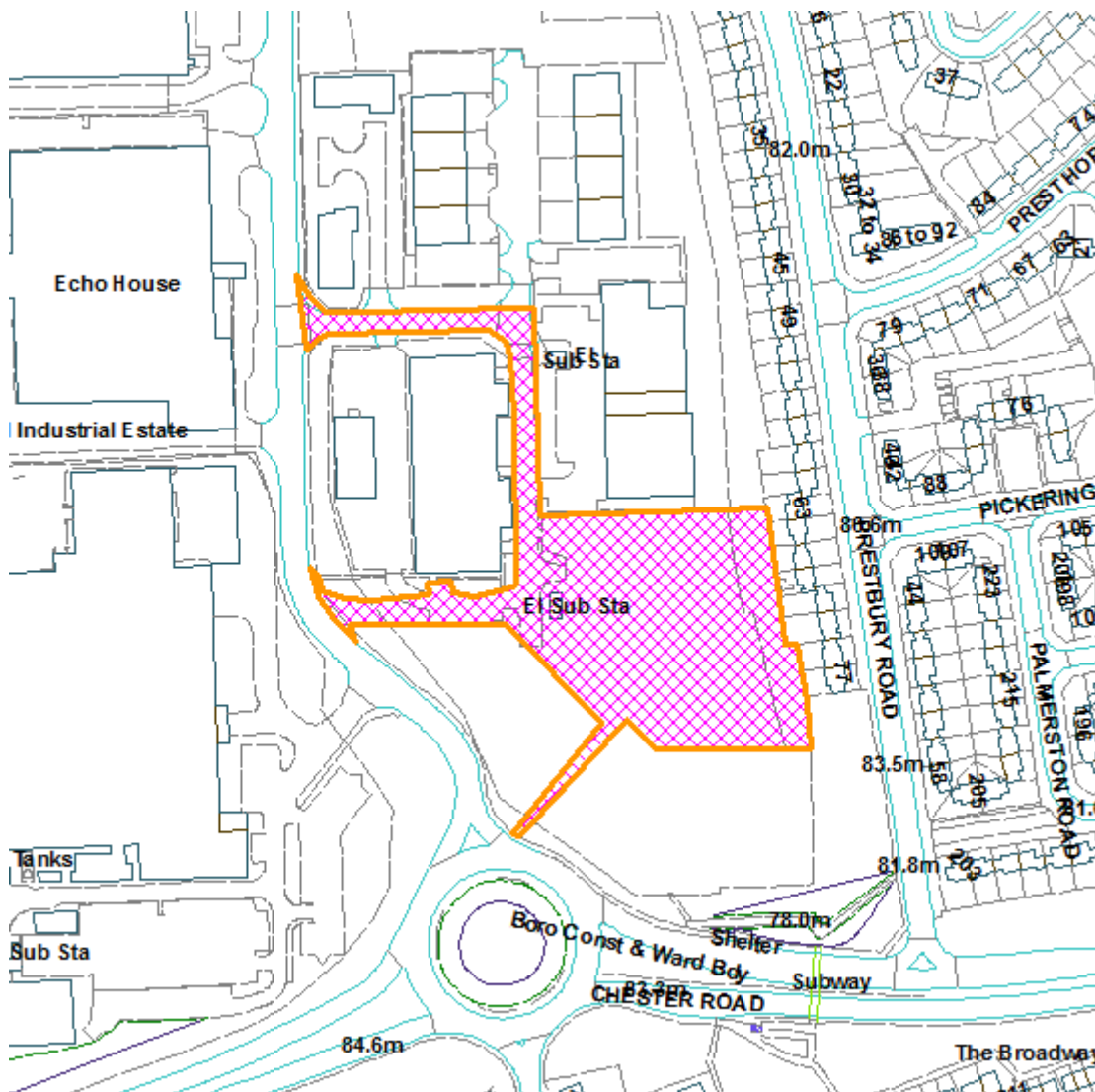
**Reference No.:** 17/00417/FUL Full Application

**Proposal:** **Erection of a foodstore with associated vehicular, pedestrian and cycle access, car parking and landscaping (as amended).**

**Location:** Former Dewhirst Factory Pennywell Industrial Estate Sunderland SR4 9EP

**Ward:** St Annes  
**Applicant:** Aldi Stores Ltd  
**Date Valid:** 6 March 2017  
**Target Date:** 5 June 2017

## Location Plan



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## **PROPOSAL:**

The application seeks full planning permission for the construction of a food store and associated works at the former Dewhirst Factory, Pennywell Industrial Estate, Sunderland.

The site forms part of an industrial estate to the south west of the City, to the north of the A183 and the east of the A19. There are a variety of land uses on the estate including general industrial and an office and there are also extant planning permissions, to the south / south east, for a KFC and a public house (refs: 13/02596/FUL and 16/01562/FUL). The land uses around the industrial estate include residential to the east and roads to the south and west (A183 and A19).

The site itself comprises an irregularly shaped piece of land covering approximately 9,500 square metres. The site has previously been used as a factory and now comprises an open piece of vacant land bounded by a wire mesh fence.

The proposed development comprises the construction of a food store and associated works. The proposed food store would have a broadly rectangular footprint covering around 1,250 square metres. The balance of the site would provide a loading bay, parking / turning space and landscaping to the eastern and western boundaries. The proposed access would be from a proposed road within the industrial estate.

The application form indicates that the opening times would be 8am-10pm Monday-Friday, 8am-10pm Saturdays and 10am-6pm Sundays and Bank Holidays. There would be up to four deliveries per day with two between 11pm-6:30am. The application form also identifies there would be 30 full time employees.

The submitted Statement of Community Involvement states that, before submitting the application, the applicant undertook a public consultation via a number of channels including a public exhibition in September 2016 (publicised by invitations and a press release to the Sunderland Echo and Newcastle Journal).

The agent recently submitted additional information covering matters including the marketing of the site, drainage and highways. The Local Planning Authority uploaded all of these documents onto the website upon receipt and then undertook a 14 day re-consultation exercise with the relevant consultees, the local residents and anybody else who had previously submitted a representation.

The application would be Major development and has therefore been referred to the planning committee for determination. The Local Planning Authority has issued a screening opinion confirming that the development would not be EIA development (issued, 26 May 2017). The application does not require referral to the Secretary of State; under the provisions of the Town and Country Planning (Consultation) (England) Direction 2009.

## **TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

## **CONSULTEES:**

St Annes - Ward Councillor Consultation  
Network Management  
Environmental Health  
Southern Area Command - Police  
Business Investment  
Northumbrian Water  
Network Management  
The Highways Agency  
Northumbrian Water  
The Highways Agency  
Environmental Health  
Flood And Coastal Group Engineer  
Northumbrian Water  
Network Management  
Tyne And Wear Archaeology Officer  
Flood And Coastal Group Engineer  
The Highways Agency

Final Date for Receipt of Representations: **12.07.2017**

## **REPRESENTATIONS:**

### Consultee responses

Archaeology - no comments to make.

Ecology - recommend a condition covering scrub / tree removal.

Environmental Health - upon receipt of additional information advise they have no further comments for ground conditions and that through the incorporation of appropriate mitigation, national noise guidelines are likely to be achieved in respect of noise generated by the operation of the proposed store.

Highway Authority - Support the proposed development; subject to conditions including a scheme of highway improvements (such as works to the subway and site management).

Lead Local Flood Authority - advise that the design can be approved in the form submitted.

Highways England - upon receipt of additional information, offer no objection.

Northumbrian Water - no issues; subject to the Flood Risk Assessment being one of the approved documents.

### Public responses

There have been 196 representations received. These are noted below, in terms of objections and supports.

## Summary of representations of objection:-

Principle - sequential assessment does not demonstrate flexibility. No need for proposal. Industrial land should be protected. Marketing has only been for the wider site and not the individual site in question. Site has not been properly marketed. Less jobs would be created than the equivalent Use Class B1 (128), B2 (50) and B8 (26). Impact upon town centre - lead to vacancies and capacity of existing centres. Impact upon existing firms on the industrial estate. Too many Aldi's already in City. Impact upon small shops. The applicant has given out vouchers in exchange for support.

Amenity - impact upon residents from noise. Litter / pollution. Security issues.

Design - ugly building.

Flood Risk - Increase in flood risk.

Highways - TRICS data not representative (food store, not discount food store), congestion / traffic. Application should include details of proposed highway works. Impact of traffic from new bridge and new housing estates should be taken into account. Impact upon existing firms on the industrial estate from a mix of industrial and commercial traffic. Errors within traffic reports. Make buses run late. Traffic data from 2012. Transport reports use incorrect catchment areas. Traffic problems caused by food van.

## Summary of representations of support:-

Principle - more shopping choice. Increased variety of food shops. Good for area. Create employment. Reduce travel distance for shopping, accessible for those without a car. Regenerate area. Use of derelict land. Site has been empty for a long time.

Design - improve appearance of site.

## **POLICIES:**

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

- Sunderland Employment Land Review (2016)
- Sunderland Retail Needs Assessment (2016)
- England and Lyle assessment of the health of town and district centres (2015)

The Cabinet on 19 July 2017 approved a Draft Plan for consideration and a public consultation on the first draft will commence on 7 August to 2 October 2017. The Framework, at paragraph 216 states that

"From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given)
- The extent to which there are unresolved objection to relevant policies (the less significant the unresolved objections, the greater the weight that may be given)

- The degree of consistency of the relevant policies in the emerging plan to the policies in the Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

In terms of the above advice within the Framework, the Draft Plan has been prepared after the publication of the Framework. The Cabinet has, however, only just approved for a first consultation beginning one day before the planning committee. The weight that can be given to the Draft Plan would therefore be extremely limited to the extent that consideration of the application in question, in terms of the development plan, will be made using the policies within the Unitary Development and any other material considerations.

R\_1\_Working towards environmentally sustainable development

R\_2\_Taking account of spare infrastructure / reduced travel / vacant & derelict land

R\_4\_Incorporation of energy saving measures

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

S\_1\_Provision of enhanced shopping service, including local provision, based on existing centres.

S\_2\_Encouraging proposals which will enhance / regenerate defined existing centres.

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

S\_7\_Design and requirements for new retail development

EN\_5\_Protecting sensitive areas from new noise/vibration generating developments

EN\_12\_Conflicts between new development and flood risk / water resources

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

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

CN\_17\_Tree Preservation Orders and replacement of trees

CN\_22\_Developments affecting protected wildlife species and habitats

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

T\_22\_Parking standards in new developments

## **COMMENTS:**

The main planning considerations, having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the relevant development plan policies, relevant guidance and all other material planning considerations (including representations received) are noted below:

- Principle of the development.
- Amenity
- Design
- Drainage
- Ecology
- Energy conservation
- Ground works
- Highway
- Trees

These considerations are expanded upon below.

## Principle of the Development

The provisions of the Planning and Compulsory Purchase Act 2004, at paragraph 38(6), states that the "determination of planning applications must be made in accordance with the (development) plan unless material considerations indicate otherwise". The National Planning Policy Framework (the Framework) forms a material consideration.

The Framework, at paragraph 12, states that the development plans form the starting point for decision making. The Framework, at paragraph 215, further states that "due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plans to the policies in the Framework, the greater the weight that may be given)".

The Council, subsequent to the advice within para 215 of the Framework undertook an assessment (hereafter "the assessment") to establish whether policies within the UDP were consistent with the Framework. The Planning & Highways Committee, in November 2012, gave consideration to the assessment and the associated minutes show that Members endorsed the conclusions' so that they could be applied accordingly to determine planning applications.

The site lies within an established industrial / business area where the UDP, at policy SA1(5) states that the site "will be retained and improved for the primary uses indicated below' Light industry, offices, research & development, general industry, storage & distribution (B1, B2, B8)". The provisions of UDP policy EC4 provide further guidance for existing business and industrial land stating that they "will be retained and improved for the following range of uses' offices, research & development, light industry (B1), general industrial (B2), warehouse and storage (B8)' Unacceptable uses (exclusions) would include other shops (A1), residential institutions (C2), housing (C3) and warehouse clubs".

The assessment, in terms of consistency with the Framework, states that the above policies would be "broadly complaint - continue to use policy subject to consideration be(ing) given to the latest evidence contained with the up to date Employment Land Review regarding the long term suitability of the city's allocated employment land portfolio and proposals for Town Centre uses on out of town centre sites will need to undertake sequential assessments. Proposals above 2,500 sqm will need to comply with the NPPFs impact test"

In terms of the first point, the Council has commissioned an Employment Land Review (March 2016). The Review provides an understanding of both the City's current position with respect to employment land supply (in both quantitative and qualitative terms) and anticipated future employment growth in the City and the study. The Review provides evidence to support the development of a Local Plan, rather than being a policy or strategy document.

The Review identifies sub-areas for employment land within the City - namely Washington, Sunderland North, Sunderland South (which the site lies within) and Former Coalfield. The Review identifies that Sunderland South, in terms of immediately available employment land, has an "11 year supply of immediately available employment land". The Review does, however, identify that the "market does not differentiate between Sunderland North and Sunderland South, viewing both as part of a wider "Sunderland City" market". The Review concludes that there "could be a need to release a further 39ha from the portfolio of land access the "Sunderland City" market area in order to bring demand and supply into balance".

The Review subsequently continues by identifying the "site(s) that are considered unlikely to make a meaningful contribution to the City's economic aspirations". The Review states that "14 sites covering 26.39ha of available employment land should be considered for potential removal

from the supply of employment land". The Review states that, in terms of the Sunderland South sub-area, there are "52.23ha of available employment land which would appear to represent an oversupply when considered against an indicative requirement for up to 14ha over the period 2015-2033". The Review accordingly recommends for the removal of certain sites from the City's future portfolio of employment land. The Review initially identifies four site for removal, but continues by stating that "additional reduction in the supply of land are likely to be required". The Review identifies further opportunities at ten other sites which includes the "South East Corner of Pennywell Ind Est". The Review states that

"Part of this cleared, former factory site has already been developed for non-B class commercial uses and it is understood that there are proposals for further commercial development on the remainder of the site. Taking this into account and mindful of the current oversupply in Sunderland South, it is suggested that SCC gives consideration to re-allocating this as a mixed-use site, in order to provide a more flexible approach to its future development."

The Framework, as noted above, forms a material consideration in the determination of the application in question. The Framework states, at para 17, that "planning should' proactively drive and support sustainable economic development". The Framework continues, at para 22, by stating that "Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose".

In summary, the site does benefit from an allocation within the UDP for employment use. The Framework, a material consideration subsequent to the adoption of the UDP, advises that planning should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. The site has been vacant for a substantial period of time and the recently commissioned Employment Land Review identifies as over-supply of employment land in the South of the City and specifically recommends re-allocating the site to mixed-use, to provide a more flexible approach for future development. On the basis of the above, the use of the site for non-employment uses can be supported as a departure from UDP policy EC4.

The Framework, as noted above in terms of avoiding the long term protection of sites allocated for employment use, does also add that in these situations "applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities".

The proposed use would be a food store, i.e. retail (Use Class A1). The Council has commissioned an independent consultant to provide advice upon the retail policy aspects of the application in question. The development plan policies of relevance for a retail development are S1, S2 and S3. These policies are consistent with the Framework, in terms of seeking to ensure the vitality of town centres. They seek to sustain and enhance the existing network of centres and incorporate the sequential test. They are, however, not fully up-to-date as they are not consistent with the impacts tests within the Framework for out-of centre retail development and, as a consequence, less weight can be given to these policies.

The UDP, at policy S1, states that

"The City Council will seek to enhance the role of the City's shopping service in the region and ensure it meets local needs by encouraging a wide range of attractive well distributed facilities to meet future shopping and related needs. Where appropriate, new development will be based on existing centres which will be improved wherever possible; development elsewhere should result from application of the sequential test' and complement existing facilities. Care will be taken to



ensure that shopping and related facilities are accessible to all groups by a variety of modes of transport."

The Framework, at para 24, states that

"Local Planning Authorities should apply a sequential test to planning application for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan."

The policy, in terms of the sequential test, can therefore be given consideration as being consistent with the Framework. The policy does, however, also include reference to complement existing facilities. The Framework does not include such a consideration of whether a retail development would complement existing facilities which means that there does exist some degree of conflict with the Framework.

The UDP, at policies S2 and S3, states that

"The City Council will give favourable consideration to proposals which will sustain and enhance the vitality, viability and appropriate diversification of the following centres and thereby facilitate their regeneration.

In addition to the centres identified in S2, the City Council will support the retention of other existing shopping centres, local groups and small shops providing for everyday needs' and will allow new provision in accord with S5, especially in (i) areas which do not have ease of access to a range of local shopping facilities at present' (ii) areas where substantial new residential development has taken place or is proposed."

The impact of the proposed development upon the matters covered by policies S2 and S3 will be given consideration below.

The Framework, at paragraph 24, states that

"Local Planning Authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre site should be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale."

The consultant has advised that the site, in terms of Annexe 2 of the Framework, lies within an out of centre location being located approximately 1km to the south west of Pennywell Local Centre. The agent has submitted a Planning Statement and Sequential Assessment that states Aldi stores typically serve a localised catchment area. The submitted sequential test covers sites within and on the edge of Pennywell Local Centre and Chester Road Local Centre. The agent subsequently submitted a map that shows Chester Road Local Centre lies beyond a five minute drive time.

The consultant has advised that, given the location of the existing Aldi stores at Castletown, Millfield and Doxford Park combined with the dividing effect of the A19, that a five minute off peak drive time would be a reasonable representation of the likely primary catchment area for the type and size of food store proposed by the application in question. The consultant, to verify these findings, produced their own five minute off peak drive time isochrone confirming that Chester

Road Local Centre lies just outwith the primary catchment area, but Thorndale Road Local Centre lies on the edge of the five minute isochrone. The consultant therefore concludes that these centres should be included in an assessment of sequentially preferable opportunities.

The submitted Planning Statement identifies that a number of criteria have informed their search for sequentially preferable sites which include - an existing building or site that can accommodate a gross floor area of 1,804 square metres with an associated car park providing a total of 100 spaces, the site should be no less than 0.9 hectares, the site must allow for level access for the car parking area to the store entrance, the site must be capable of accommodating a single storey building which can be served by 16.5 metre articulated vehicles and delivery vehicles must enter and exit in a forward gear with all manoeuvres within the site.

The consultant has advised that these criteria reflect the proposed development, rather than referring to any flexibility in terms of format and scale. The consultant has therefore advised the a reasonable requirement would be for the applicant to adopt a minimum site area of 0.6 hectare and a minimum unit size of 1,600 sq. m gross.

The submitted Planning Statement identifies a number of sequentially preferable opportunities within, and on the edge of, Pennywell Local Centre. The consultant has advised that the units in question would be too small to accommodate the proposed development and should be discounted. The Statement also identifies that there could be an opportunity for a new build retail unit of 465 sq m within the Pennywell Local Centre - however, the site would be too small, even when applying the appropriate degree of flexibility in terms of scale and format.

The submitted Planning Statement also identifies two opportunities on the edge of Pennywell Local Centre. The first being a vacant two storey building within 15 parking spaces (Springfield Sunderland) - however, the consultant has advised that the premises can be discounted given that the premises only measure 0.14 hectares much below the reasonable minimum requirement of 0.6 hectares and there also does not exist any evidence that the premises are being actively marketed. The second comprises the site of the former Eagle Pub - however, the consultant has again advised that the premises can be discounted given that the site at 1,500 sq. m would only be a quarter of the reasonable requirement of 0.6 hectares and an earlier grant of planning permission for residential indicates that development of the site may well be progressing. The progress would include recent applications to discharge the relevant planning conditions (refs: 16/02186/DDI and 16/02187/EDI).

The consultant has accordingly advised that they could not identify any out of centre sites that could be given consideration, as per paragraph 24 of the Framework, to be more accessible and better connected to the local centre than the application site which would be suitable, available and viable. They conclude that there are no suitable and available sites located within, or on the edge of, or near to, Pennywell Local Centre.

The submitted Planning Statement identifies that there are no identifiable sequentially preferable opportunities within or on the edge of Chester Road Local Centre. The consultant has advised that none of the seven vacant units identified would be large enough to accommodate the proposed development, even with an appropriate degree of flexibility. The consultant has further advised that they were also not able to identify any suitable opportunities located outside of the Chester Road Local Centre that would be accessible and well-connected.

The consultant has advised that, as noted above, Thorndale Road Local Centre lies on the edge of the five minute peak drive time for the proposed development. The consultant has advised that they were not able to identify any suitable and available opportunities within, or on the edge of, Thorndale Road Local Centre. The consultant has further advised that they were not able to

identify any suitable out-of-centre sites that are accessible and well-connected to Thorndale Road Local Centre.

The consultant concludes that there are no site or premises located within, on the edge of, or near to the Local Centres of Pennywell, Chester Road and Thorndale Road that are currently available and suitable for meeting the scale and form of the retail unit that will be created as a result of the application proposal. They have concluded that the applicant has satisfied the requirements of the sequential approach and that the application in question passes the sequential test provided by paragraph 24 of the Framework.

A further consideration, in terms of retail, would be the impact of the proposed development. The Framework, at paragraph 26, states that "When assessing applications for retail, leisure and office development outside town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m)". The floor space of the proposed development would be less than 2,500 sq m and the submitted Planning Statement notes that an impact assessment would not be required.

The consultant has, however, advised that there has recently been a High Court Judgment, in the case of Aldergate Properties Limited and Mansfield District Council and Regal Sherwood Oaks Limited (2016) EWHC 1670. The case in question relates to a Council whose Local Plan required an assessment of whether an out-of-centre development proposal would seriously affect the vitality and viability of any nearby centre, and whether there would be prejudice to any future investment in existing centres. The judge explained that

"The fact at least one of the criteria' relating to viability and vitality, had been superseded by the NPPF, did not affect the question of whether the proposal accorded with the development plan; it affected the weight to be given to the outcome of that exercise. The fact that the NPPF did not require an assessment of the impact on vitality and viability (because the store was less than 2,500 sq m) is not relevant to the interpretation of the development plan'. In reality the Council considered the weight to be given to the policy at the wrong stage."

The judge continued by noting that, even if the policy in question had been superseded by the Framework "The NPPF does not however on its face make the issues raised by the two criteria immaterial, simply because no assessment is required. It is removing the burden of doing a proper, researched assessment."

The applicant subsequently submitted an appraisal of the proposed development against the provisions of policies S1, S2 and S3 of the UDP. The consultant suggested that, given the size of the proposed store combined with the provisions of National Planning Policy Guidance paragraph 2b-015 and 2b-017 which urge a proportionate approach of the assessment, that a quantified assessment of the likely trade impacts would not be proportionate. The applicant submitted a qualitative appraisal of the extent to which the application would be likely to complement existing facilities (policy S1), affect the vitality and viability of Chester Road Local Centre (policy S2) and affect the vitality and viability of the Local Centres at Pennywell, Thorndale Road, Hylton Road and Pallion (policy S3).

The consultant has drawn attention to the results of the telephone survey of households undertaken for the Sunderland Retail Needs Assessment 2016 (SRNA). The site and Pennywell Local Centre lies within zone three. The SRNA identified that residents within zone three are currently spending approximately £19.2m of their convenience expenditure in the stores of discount retailers which equates to 23% of total convenience expenditure within zone three. The main convenience goods spending flows to stores outwith zone three stores within the City

Centre; such as Sainsbury's at Silksworth Lane and Asda at Leechmere Road. There also exists a significant flow of convenience spending to the Aldi Store at St Mark's Road, located on the periphery of zone three.

The consultant has advised that the proposed development would improve the localised retention level for convenience goods spending and, given the trade like with like principle, would reduce the amount of spending in the Aldi stores at Hylton Riverside Retail Park and St Mark's Road; both of which the SRNA shows to be over-trading. The two stores also lie beyond the five minute drive isochrones of the application site.

The consultant has advised that the application store would derive a significant proportion of its turnover from the over-trading Aldi stores at Riverside Retail Park and St Mark's Road which would, in turn, reduce the scope for there to be significant adverse impacts upon the various local centres within, and on the periphery of, the application store's likely catchment area.

The above findings from the SRNA can be given consideration in conjunction with an evaluation of the impacts in relation to various local centres submitted by the agent. The nearest centre to the application site would be Pennywell Local Centre, approximately 1km to the north east. The Local Centre comprises a purpose built centre, anchored by Asda and also contains an Iceland food store together with several smaller retail units including a butcher, newsagent and post office.

The SRNA suggests that Pennywell Local Centre has a convenience goods turnover of approximately £6.9m in 2015 with the Asda food store accounting for £4m. There should also be consideration given to the findings of England & Lyle's Report to the City Council of January 2015 which found Pennywell Local Centre to be the most vital and viable of the Local Centres. The consultant has advised that they would corroborate that view from their site visit with a busy car park, Asda and Iceland trading well and a reasonable level of footfall in the centre. The consultant has further advised that they would be of the view that Pennywell Local Centre remains vital and viable with a low vacancy rate.

The agent has stated that the proposed food store would "complement the existing facilities at Pennywell as Aldi has a unique offering and does not act as a one-stop shop with customers using independent retailers and other main food operators to complete their food shopping". The agent does, however, also state that "it is likely that some main food shopping trade will be diverted to the proposed new Aldi store given some of the residents will be located closer to it".

The consultant has advised that whilst the application proposal will improve the range and choice of convenience goods shopping for local residents, they consider the proposed food store would be likely to compete with some of the existing retailers within Pennywell Local Centre, rather than being complementary to them; as required by Policy S1 of the UDP. The consultant has advised that the proximity of Pennywell Local Centre to the application site means that the Centre would be the one most impacted upon by the proposed food store; particularly the existing Asda and Iceland stores.

The consultant has, however, advised that they do not consider that the application proposal would have a significant adverse impact upon Pennywell Local Centre, or its existing retailers, for a wide range of factors, including - the Asda store in Pennywell Local Centre trades well commanding a strong trading position that accounts for 58% of the total convenience expenditure within the Local Centre, there have not been any objections to the proposed food store from Asda or Iceland, the Pennywell Local Centre had the highest convenience turnover out of all the Local Centres within the City of Sunderland, the Local Centre has a strong mix of retail and service users providing the opportunity for linked trips that would retain the attractiveness of the shopping

location, the Local Centre benefits from a location with a residential area in proximity to nearby community uses (such as a school and medical centre) and that the proposed food store would be likely to derive much of its trade from the Aldi stores at Hylton Riverside Retail Park and St Mark's Road.

A further Local Centre would be Chester Road which lies approximately 3.4km to the east of the application site. The SRNA found the centre has experienced a small increase in the overall number of service units combined with a reduction in the number of convenience and comparison units, the number of vacancies has risen from three in January 2015 to ten in March 2016 (albeit a visit in May 2017 identified seven vacant units), the centre performs a localised top-up shopping role, the supermarket offers are limited to Premier and Spar and the centre benefits from good accessibility from the surrounding residential areas. The SRNA found Chester Road to be a healthy local centre, showing some signs of weakness. The consultant has advised that Chester Road serves a localised top-up shopping role and that residents living in proximity to the Local Centre use other centres for main food shopping (such as the existing Aldi at St Mark's Road). The consultant concludes that the proposed development would be unlikely to have a significant adverse impact upon Chester Road Local Centre; in terms of the two tests provided within paragraphs 26 and 27 of the Framework.

A further Local Centre would be Hylton Road, an elongated, narrow street on a primary route into the City Centre. The Local Centre lies approximately 3.8km from the application site. The assessment undertaken by England & Lyle in 2015 made a range of points including - one of the larger local centres (comprising 123 units), a reasonable representation of goods retailers (the main food store being an Aldi and remaining provision being independent retailers), comparison goods provisions tends to be focused towards the sale of bulky goods, a shortfall in the representations of national multiple retailers, a vacancy rate of 19% and a fair environmental quality. The England & Lyle assessment found the Centre to be a moderately performing one that caters for top-up shopping and service requirements. The consultant has advised that the application proposal would have an impact upon the existing Aldi food store within the Local Centre given, given a trade like with like principle. The Aldi food store at the Hylton Road Centre substantially overtrades and would be the closest Aldi food store to the application site.

The agent has stated that the Aldi at St Mark's Road has been trading since 1997 and during that time the Local Centre has continued to function successfully. The consultant has advised that they consider the proposed food store would serve its own distinctive catchment area and, given the findings of the SRNA that the Aldi food store at Hylton Road substantially overtrades, there would unlikely to be a significant adverse impact upon the vitality and viability of Hylton Road Local Centre or on existing committed and planned investment in the centre.

A further Local Centre to consider would be Pallion which lies approximately 3.7 km north east of the application site. The England & Lyle survey of January 2015 found the Local Centre to be well-used and a moderately healthy Local Centre and performing an important local top-up shopping and service role. The England & Lyle survey found that the Local Centre had three vacancies in January 2015 which, at the time of a site visit in May 2017, had increased to seven (albeit three of the seven vacant units were undergoing fit out works, so they can reasonably be expected to be occupied soon).

The consultant has advised that the Local Centre does not function as a destination of main food shopping trips and performs a local top-up shopping role. The consultant has also advised that the proximity of the Aldi food store at St Mark's Road (Hylton Road Local Centre) means that residents would continue to use that Aldi; rather than the proposed store further away. The consultant has advised that they consider the proposed development would be unlikely to have a

significant adverse impact on the vitality and viability of Pallion Local Centre or on existing, committed and planned investment in the centre.

A final Local Centre to consider would be Thorndale Road Local Centre which lies approximately 2.25km to the south east of the application site, on the periphery of the likely primary catchment area of the proposed development. The Centre has 11 retail and service units, being the smallest Local Centre within the administrative area of the City. The England & Lyle survey found the Centre to be well-used and reasonably vital and viable. The SRNA notes that "it is debatable whether Thorndale Road is a Local Centre, or merely a small parade of shops of purely local significance". The SRNA recommended that the Council should consider downgrading the Local Centre to a parade which, if that were to occur, would remove any policy protection afforded to Thorndale Road Local Centre. The consultant has advised that the proposal would be unlikely to have a significant adverse impact upon the vitality and viability of the Local Centre, or on existing, committed and planned investment in the Local Centre.

There also exists a small parade of shops located approximately 800m to the north east of the application site, on Hylton Road. The parade comprises a small Premier retail unit, a take away and a vacant unit previously used as a funeral director. The consultant has advised that the Framework only provides policy protection for town centres and specifically excludes "small parades of shops of purely neighbourhood significance". The consultant has, in any case, advised that the proposed development would be unlikely to have a significant adverse impact upon the Premier convenience store which serves purely a neighbourhood role.

In summary for the impact tests, the consultant has advised that the proposed development would be unlikely to cause a significant adverse impact on existing, committed or planned investment in Pennywell Local Centre, or in any of the other Local Centre within, or immediately beyond, the primary catchment area of the application proposal. The consultant has also summarised that there exists no evidence to suggest that the proposed development would cause a significant adverse impact upon the vitality and viability of Local Centres within, or immediately beyond, the primary catchment area of the application proposal; nor would there likely be a significant adverse impact upon consumer choice in any of these Local Centres, or on their overall trading levels.

There are also general policies within the development plan which are relevant to the principle of the development. These are noted below.

The UDP, at policy R1, states that

"The City Council will work towards environmentally sustainable development which meets the economic and social needs of the city. All proposals for development will be considered in relation to achieving a satisfactory balance between accommodating change of protected valued and important aspects of the natural and built environment. The impact of development will be considered against the need to respect the long term welfare of the environment by (i) Making the most efficient use of land, energy and other resources (ii) reducing reliance on the use of the private motor car (c)avoiding the risk of serious environmental damage"

The assessment, in terms of consistency with the Framework, states "fully compliant no conformity issue". In terms of the above policy, a comprehensive assessment has been undertaken above detailing the potential impacts upon the economic and social needs of the City. The sections below will cover the impacts of the proposal upon ecology (i.e. the natural environment) and the design (i.e. the built environment). The proposed development would be an efficient use of a vacant piece of land and the impact of the development upon the use of the motor car will be given consideration in the highway section below. The potential risk for

environmental damage will be given consideration in the ecology and ground works sections below.

The UDP, at policy R2, states that

"In considering proposals for new development, the Council will take into account the extent to which they (i) make use of existing and proposed service and social infrastructure, taking advantage of known spare capacity (ii) minimise the need for travel (iii) make use of vacant and derelict land."

The assessment, in terms of consistency with the Framework, states "fully compliant continue to use policy". In terms of the above policy, the impact upon existing infrastructure has been given consideration above in terms of the supply of industrial land and the impacts upon drainage and highway infrastructure can be seen below. The highway section below will give consideration to the need for travel. The proposed development, in terms of the final point, would make use of a currently vacant piece of land.

In conclusion, the site does benefit from an allocation within the UDP for employment use. The Framework, a material consideration subsequent to the adoption of the UDP, advises that planning should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. The site has been vacant for a substantial period of time and the recently commissioned Employment Land Review identifies as over-supply of employment land in the South of the City and specifically recommends re-allocating the site to mixed-use, to provide a more flexible approach for future development. On the basis of the above, the use of the site for non-employment uses can be supported as a departure from UDP policy EC4.

The consultant has advised that there are no sites or premises located within, on the edge of, or near to, the Local Centres of Pennywell, Chester Road and Thorndale Road that are currently available and suitable for the scale and form of retail unit that will be created as a result of the application proposal. They have concluded that the applicant has satisfied the requirements of the sequential approach.

The consultant has advised that the application proposal would be unlikely to have a significant adverse impact upon existing, committed or planned investment in Pennywell Local Centre, or in any of the other Local Centres within, or immediately beyond the primary catchment area of the application proposal. The consultant has also advised that there does not exist any evidence to suggest that the application proposal would cause a significant adverse impact upon the vitality and viability of any Local Centres within, or immediately beyond the primary catchment area of the application proposal; nor is there likely to be a significant adverse impact on consumer choice in any of these Local Centres or on their overall trading levels.

On the basis of the above, the use of the site for a retail store of the scale and nature proposed can be supported.

In summary, the use of the site for a non-industrial use can be supported, the requirements of the sequential approach have been satisfied and there does not exist any evidence to suggest that there would be a significant adverse impact upon vitality and viability of any Local Centres within or immediately beyond the primary catchment area; nor would there likely be a significant adverse impact on consumer choice of these Local Centres or their overall trading levels.

The principle of the development can therefore be supported and consideration needs to be given to any detailed impacts. These can be seen below.

## Amenity

The UDP, at policy EN5, states that

Where development is likely to generate noise sufficient to increase significantly the existing ambient sound or vibration levels in residential or other noise sensitive areas, the Council will require the applicant to carry out an assessment of the nature and extent of likely problems and to incorporate suitable mitigation measures in the design of the development. Where such measures are not practical, permission will normally be refused.

The assessment, in terms of consistency with the Framework, has identified the policy to be fully compliant, no conformity issue.

The submitted application form, at box 20, identifies that the opening hours of the proposed food store would be 8am-10pm Monday-Friday, 8am-10pm on Saturdays and 10am-6pm on Sunday and Bank Holidays. The agent has recently submitted a briefing note which advises that there would be up to four deliveries of goods within a 24 hour period and that two of them would be 11pm-6:30am. The location plan shows the loading bay being approximately 15 metres from the boundary of the properties to the east and around 25 metres from the dwelling houses themselves.

The submitted noise impact assessment identifies that the nearest noise sensitive receptors would be the dwelling houses to the east on Prestbury Road. The assessment states that a baseline noise survey identified that the noise climate in the vicinity of the application site included road traffic and a distant anonymous plant. The assessment continues by identifying that the principal noise sources associated with a proposed food store would be noise from - fixed external refrigeration plant, servicing arrangements (deliveries) and the car park.

The assessment subsequently notes that BS 4142 identifies the cumulative rating of external plant operating during opening times should not exceed 46 LAeq T in a free field position at the nearest noise sensitive receptor and that the cumulative rating level of external plant operating outside the opening times of the store should not exceed 40 dB LAeq T in a free field position at the nearest noise sensitive receptor.

The assessment identifies that the external refrigeration / heating plant compound would consist of 1 x Arctic Circle Freeheat Pack (to provide cooling for units / heating for store), 2 x LT Units (serving the freezer coldroom) and 1 x HT Unit (serving the chiller coldroom). The assessment identifies that the nearest noise sensitive receptor lies circa 22 metres away from the plant compound and that, subject to certain assumptions, the sound pressure level of the external plant should not exceed 47 dB(A) at 10 metres, so that at night time the level would not exceed 40 dB LAeq T.

The assessment subsequently identifies, in terms of deliveries, that a 2.4 metre high acoustic fence would be installed alongside the service yard. The assessment continues by identifying that the noise rating level at the nearest noise sensitive receptor has been calculated at circa 39 dB Lar T which would compare to a night time background noise level of 40 dB LA90 T. The assessment also identifies that there would not be sleep disturbance even with a partially open window. The assessment concludes that there would be no observed adverse effect meaning that no specific measures would be required.

The assessment further identifies that, in terms of noise associated with the customer car park, that based on previous measurements at similar food stores, the noise from a row of car parking bays has been measured as being less than 48 dB LAeq T. The assessment notes that for the



proposed development the nearest rows of car parking bays are circa 17 metres from the nearest noise sensitive receptors and would be screened by the proposed 1.8 metre close board fence. The assessment, taking these factors into consideration alongside the relevant guidance in BS 5228:2009 Part 1, considers that the noise level from a row of car parking bays can be calculated at less or equal to 37 dB LAeq T at the nearest sensitive noise receptor. The assessment concludes that such levels are below the existing evening ambient and background noise climate at the nearest noise sensitive receptors which means the noise associated with the customer car would be negligible.

The assessment concludes overall that the ambient noise climate across the application site can be attributed to road traffic on the A183 and a distant anonymous plant. The assessment advises that provided the recommendations are implemented noise would not be a constraint to the proposed store; including 24 / 7 deliveries.

The Environmental Health Officer has examined the submitted application and has advised that the submitted documentation suggests that through the incorporation of appropriate mitigation, national noise guidelines are likely to be achieved in respect of noise generated by the operation of the proposed store. They have, however, also advised that compliance with these limits does not mean that noise, particularly that associated with deliveries where higher levels of impact noise are anticipated, will be completely inaudible at nearby residential premises and that residents may, on occasions, be able to hear noise associated with the operation of the premises, particularly that generated externally; such as the movement of HGV wagons and the unloading of delivery vehicles. The Environmental Health Officer has further advised that these comments are an important consideration when determining the appropriateness of permitting deliveries during the night time period, given the proximity of residential premises to the proposed loading bay.

The Environmental Health Officer has recommended conditions to safeguard existing residents, protecting them as far as reasonably practicable from excessive levels of noise and facilitating a mechanism by which any adverse noise that may arise would be capable of being addressed. The detailed conditions include a validating noise survey being undertaken within 28 days and further noise surveys being undertaken within a six month period if any noise complaints are received.

The proposed development, subject to the above conditions, would have an acceptable impact upon amenity; in accordance with UDP policy EN5.

## **Design**

The UDP, at policy B2, states

"The scale, massing, layout or setting of new developments and extensions to existing buildings should respect and enhance the best qualities of nearby properties and the locality' Large scale schemes, creating their own individual character, should relate harmoniously to adjoining areas."

The assessment has identified, in terms of consistency with the Framework, the policy to be "fully compliant, no conformity issue".

The proposed development would be sited in a manner that faces onto the A183 with an area of car parking to the front. These provisions would be similar to the layout of other plots on the industrial estate and also the recently consented KFC and public house.

The proposed building would have a modern appearance featuring a glazed frontage which would integrate successfully with the other commercial / industrial development (including the recently consented KFC and public house). There would also be a small amount of landscaping to the eastern and western boundaries.

The main views of the application site would be when approaching from the east on the A183 where the proposed development would be viewed against a backdrop of existing commercial and industrial development. There would be a similar view when approaching from Sevenoaks Drive to the south. The proposed development would therefore not have a significant impact upon these short range, local viewpoints.

The view when approaching from the east on the A183 and the industrial estate to the north would be of both commercial / industrial development and of residential. The dwelling houses closest to the site are two storey properties with a linear layout on a north-south axis. The proposed development would, however, not be higher than the existing dwelling houses and would be separated to an extent by a landscaped area. The proposed development would therefore not have a significant impact upon these short range, local viewpoints.

In terms of medium to long distance views, the submitted cross section drawings show that the proposed building would not be substantially higher than any of the nearby buildings and the layout, as noted above, would be similar to other developments on the industrial estate. The proposed development would therefore not have a significant impacts upon medium to long range viewpoints.

The proposal would therefore accord with the above policies and would have an acceptable impact in terms of design.

## **Drainage**

The UDP, at policy EN12, states

"In assessing proposals for development' the Council will' seek to ensure that the proposal would' not be likely to impede materially the flow of flood water, or increase the risk of flooding elsewhere"

The assessment has identified that the above policy to be "broadly compliant - continue to use policy though consideration should be given the NPPF which requires

1. the use of up to date Strategic Flood Risk Assessments
2. applying a sequential approach to steer development to areas of the lowest probability of flooding and / or
3. applying an exceptions test to demonstrate why certain proposals must be accommodated within a flood risk area
4. requiring the submission of site specific flood risk assessments"

The site lies within Flood Zone 1 which means that applying the first three points are not necessary as they relate to land with a medium to high risk of flooding (i.e. Flood Zones 2 and 3); whilst the agent has submitted a site specific flood risk assessment (FRA).

The FRA identifies the proposed development has an impermeable area of approximately 0.56 hectares and would not be suitable for disposal of surface water by infiltration methods. The FRA subsequently states that water attenuation would be provided within the site (including porous

paving within the car park) and surface water would thereafter continue into public combined sewer. The FRA, in terms of foul water, identifies that the connection would be to the existing system.

The proposed drainage arrangements have been given consideration by the Flood and Coastal Team who have stated that the "design can be approved in the form that it has been submitted". The proposed drainage arrangements have also been given consideration by Northumbrian Water who have advised that they have "no issues with the application, provided the application is approved and carried out within strict accordance with the submitted Flood Risk Assessment".

The proposal therefore accords with the above policies and would have an acceptable impact in terms of drainage.

## **Ecology**

The UDP, at policy CN22, states that

"Development which would adversely affect any animal or plant species afforded special protection by law, or its habitat, either directly or indirectly, will not be permitted unless mitigating action is achievable by the use of planning conditions' and the overall effect will not be detrimental to the species and the overall biodiversity of the City".

The assessment has identified, in terms of consistency with the Framework, the policy to be "fully compliant, no conformity issue".

The agent has submitted a Phase 1 Report which identifies that nine main habitat land categories were identified on site are amenity grassland, scattered scrub, scattered trees, poor semi-improved grassland / hardstanding, poor semi-improved grassland, hardstanding, buildings, bare ground and tall ruderal. The Report continues by identifying that there are not any controlled invasive species within the site boundary (such as Japanese knotweed) and that several bird species were seen during the walk-over survey, including blackbirds and magpies. The Report further identifies that none of the trees on site have the potential to provide roosting opportunities for bats and that reptiles would not be a constraint to the proposed development. The Report concludes by recommending that landscaped areas should be designed to maximise biodiversity.

The Council's Ecologist has examined the submitted details and has advised that a condition should be attached covering scrub / tree removal.

The proposal therefore accords with the above policies and would have an acceptable impact in terms of ecology.

## **Energy conservation**

The UDP, at policy R4, states

"In assessing proposals for development' the Council will have regard to evolving Government policy on the efficient use of energy and use of non-fossil fuel sources. Development proposals will be encouraged which incorporate energy savings measures by virtue of the grouping and orientation of buildings, the provision of shelter and energy saving technology."

The assessment, in terms of consistency with the Framework, states "fully compliant, no conformity issue".

The agent has submitted a sustainability statement which explains that the applicant has an Environmental Management Policy. The statement notes that, in terms of the proposed building, elements would include a minimum standard for air permeability, specifying certain types of seals on external access doors to limit the ingress of cold air and system which re-circulates heat from the refrigerator units. There would also be measures to reduce energy demand including best use of natural ventilation, LED illumination and a Building Management System.

The proposed development would therefore take energy conservation into account and accords with the above policies.

## **Ground works**

The UDP policy relating to ground conditions, EN14, has not been saved. The Framework, at para 109, states that "The planning system should prevent both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil pollution."

The submitted Ground Investigation Report identifies that there are no significantly elevated levels of contaminants in the samples tested for a commercial end use. The Report advises that no remediation would be necessary. The Environmental Health Officer has advised that, upon receipt of further information covering asbestos, that they do not have any further comments.

The proposal would therefore have an acceptable impact in terms of ground works; in accordance with the above part of the Framework.

## **Highway**

The UDP, at policies T14 and T22, states

"Proposals for new development should

- (i) be readily accessible by pedestrians and cyclists as well as users of public and private transport from the localities which they are intended to serve
- (ii) Not cause traffic congestion or highways safety problems on existing roads.
- (iii) Make appropriate safe provision for access and egress by vehicles, pedestrians, cyclists and other road users, paying particular attention to the needs of people with mobility impairment.
- (iv) Make provision for the loading and unloading of vehicles
- (v) Indicate how parking requirements will be met

In deciding the appropriate level of car and cycle parking to be provided in connection with a development proposal, the Council will have regard to

- (i) Development type.
- (ii) Locational characteristics."

The assessment, in terms of consistency with the Framework, has identified that policy T14 remains "broadly compliant with the Framework, though consideration should be given to requiring transport statements or traffic assessments for major trip generating development proposals should not be refused on transport grounds unless the residual cumulative impacts of the proposal are severe

incorporating facilities for charging plug-in and other ultra low carbon vehicles."

In terms of the above points, the agent has submitted a transport statement and the assessment below will be made on the basis of a refusal only being possible where the residual cumulative impacts are severe. There does, however, not currently exist an adopted policy for the provision of charging plug-in and other ultra-low carbon vehicles.

The assessment has identified policy T22 as "being broadly compliant with the Framework, though consideration should be given to:

- The Supplementary Planning Guidance Note "Development Control Guidelines (1998) which sets out both minimum and maximum parking standards in line with the then PPG13.
- Requiring Transport Statements or Traffic Assessment for major trip generating development.
- Proposals should not be refused on transport grounds unless the residual impacts of the proposal
- area "severe"
- Incorporating facilities for charging plug-in and other ultra low carbon vehicles."

In terms of the above points, the Development Control Guidelines from 1998 can only be given extremely limited weight given that they are nearly 20 years old. In terms of the other points - the agent has submitted a transport statement, the assessment below will be made on the basis of a refusal only being possible where the residual cumulative impacts are severe and, as noted above, there currently does not exist an adopted policy for the provision of charging plug-in and other ultra-low carbon vehicles.

The agent has submitted a Transport Statement which identifies the trips for the proposed development with 78 arrivals and departures during weekday PM peak of 4-5pm and 124 arrivals and departures during the Saturday peak of 1-2pm. These times are the identified network peak hours or the closest full hour in the case of the weekday PM peak. The Transport Statement subsequently refers to an earlier traffic assessment that assessed the proposed development alongside other potential developments in the south eastern corner of the industrial estate which identified that the analysis indicates that the Hylton Road/ A183 roundabout junction is predicted to operate within practical capacity in the total traffic situation with slight increases to queuing and delay when compared to the base situation. The site access junction is predicted to operate well within practical capacity in both the total traffic situation with minimal increases in levels of delay and queuing.

The Transport Statement continues by identifying that the proposed development could be accessed on foot by the proposed footways to the southern and western sides to the development. The Transport Statement identifies that a reasonable assumption would be that journeys on foot would be up to 1km which would include a significant number of households within the Pennywell and Grindon residential areas. The agent has also recently agreed to provide guard rails to the south western edge of the development site to direct pedestrians towards the subway; rather than crossing the road near the roundabout. The agent has further agreed to provide improvements to the subway, including painting, repairs to lighting and barriers / steps.

The Transport Statement subsequently identifies that a 5km catchment area for cyclists would cover an area including Sunderland to the east, Washington in the west, Downhill in the north and

New Herrington in the south. The Statement identifies that four cycle stands would be provided underneath the proposed store's glazed canopy.

The Transport Statement further identifies that the site lies close to local bus stops with one on the eastbound side of the A183 approximately 190 from the site and a second one on Hylton Road approximately 150-190 metres from the site. The Statement identifies a good level of frequency with typically seven buses an hour in each direction, equating to one bus every eight or nine minutes.

The Transport Statement then identifies that a travel plan would be provided to promote the use of sustainable travel modes when travelling to the store, particularly amongst staff. The Statement identifies that the applicant would appoint a Travel Plan Co-ordinator who would be responsible for overseeing the travel plan measures.

The Statement concludes by considering that "development is acceptable in transport and highway terms".

The application would access the local highway network initially, but could then also have an impact upon the character and volume of the Trunk Road Network given that the A19 lies to the west. The Local Planning Authority therefore undertook consultation with both the Local Highway Authority and Highways England (the body responsible for the Trunk Road Network).

The Highways England initially recommended that planning permission should not be granted for a specified period of six months given the requirement for further assessment. They advised that whilst accepting the trip generation undertaken by the applicant's transport consultant, no details or evidence had been supplied to indicate how the proposed level of reduction had been derived. They also advised that no supporting detail or evidence had been provided to demonstrate the trip distribution for the consented KFC and the proposed development and that no assessment of the A19 / A183 junction had been undertaken.

The agent subsequently submitted a Transport Note to provide the information sought by Highways England. The Note covered matters including the catchment area. The Highways England, upon consideration of the Note, advised that the catchment area should be widened to take into account the existing distribution of Aldi stores to provide a more accurate trip distribution. They also sought full details of the calculations for review.

The agent subsequently submitted an additional Transport Note that covering matters such as trip distribution, noting that the potential for new trips would be reduced by the existence of Aldi stores within the five minute catchment (such as the store at Doxford Park). The Note identifies that there would be a maximum of three trips in the weekday PM peak and five in the Saturday peak hour on the slip roads with the A19, a maximum of 19 eastbound trips in the weekday PM peak and 30 in Saturday peak hour from Chester Road approaching the interchange roundabout and a maximum of 24 westbound trips in the weekday PM peak hour and 38 in the Saturday peak hour from Chester Road approaching the interchange roundabout. The Note concludes that the likelihood of attracting new trips along the A19 would be very low and that the impact upon the A19 would be minimal to the extent that there would be unlikely to be an impact upon the Strategic Road Network.

The Highways England examined the Transport Note stating that they were satisfied that the trip distribution would be acceptable for the purposes of assessing the impact of the proposed development and that they were satisfied there would be unlikely to be a significant impact upon the Strategic Road Network. The Highways England withdrew their earlier holding direction, confirmed they were satisfied for the application to proceed and offered no objections.

The Local Highway Authority, in terms of the impact upon the local highway network, examined the initially submitted Transport Note described above. The Highway Authority advised that the Transport Statement and Travel Plan covered all relevant traffic and transport considerations. The Highway Authority made detailed comments covering matters including access, servicing / deliveries and scheme of work.

The agent subsequently submitted a Transport Note stating seeking to address the matters raised by the Highway Authority in their initial comments. The Note covered matters such as the site layout and car parking, access and servicing / deliveries. The agent also submitted a further letter that provided additional information; including an update to the traffic surveys initially included within the application that dated from 2012. The letter states that the updated survey shows limited changes to traffic flows which means the initial assessment remains valid.

The Highway Authority has recently examined all of the submitted documents and have stated that the proposed development can be supported; subject to conditions covering a scheme of highway improvements (including works to the subway) and a scheme of work to include management of the site and construction activities.

The proposal therefore accords with the above policies and would not, in transport terms, have a cumulative impact that could be described as severe.

## **Trees**

The UDP, at policy CN17, states

The City Council will encourage the retention of trees which make a valuable contribution to the character of an area by the making of Tree Preservation Orders' The retention of trees, hedges and landscape features in all new development will be required where possible.

The assessment, in terms of consistency with the Framework, states that fully compliant, no conformity issue.

The submitted Arboricultural Impact Assessment identifies that a series of trees would be removed on the eastern boundary; including two ash trees and two Poplars. There would, however, still be a reasonable tree coverage in the north eastern corner closest to the nearest dwelling houses where five trees would be retained. The submitted plan planting schedule also identifies that new shrubs would be provided on the eastern and western boundaries.

The proposal would therefore not lead to the loss of trees that make a materially valuable contribution to the character of the area; in accordance with the above policies.

## **Conclusion**

The use of the site for a non-industrial use can be supported, the requirements of the sequential approach have been satisfied and there does not exist any evidence to suggest that there would be a significant adverse impact upon vitality and viability of any Local Centres within or immediately beyond the primary catchment area; nor would there likely be a significant adverse impact on consumer choice of these Local Centres or their overall trading levels. The principle of the proposed retail development can therefore be supported.

There are not any detailed impacts, in terms of amenity, design, ecology, ground works or highway safety, that indicate planning permission should be refused.

The application has therefore been recommended for approval; subject to the draft conditions noted below.

### **Equality Act 2010 - 149 Public Sector Equality Duty**

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:-

- o age;
- o disability;
- o gender reassignment;
- o pregnancy and maternity;
- o race;
- o religion or belief;
- o sex;
- o sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to-

- (a) tackle prejudice, and
- (b) promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.



**RECOMMENDATION:** Approve the application subject to the draft conditions listed below:-

**Conditions:**

1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time

2 The development hereby granted permission shall be carried out in full accordance with the following approved plans:

- Flood Risk Assessment, Report ref 15568-3E-XX-RP-C-9000, Issue 3
- Proposed Site Plan (PLANNING), Drawing Number 0364-PL(0)04, Revision P4
- Proposed Store Plan (PLANNING), Drawing Number 0364-PL(0)05, Revision P2
- Proposed Elevations (Planning), Drawing Number 0364-PL(0)07, Revision P3
- Proposed Roof Plan (PLANNING), Drawing Number 0364-PL(0)06, Revision P1
- Proposed Streetscape Elevations (PLANNING), Drawing Number 0364-PL(0)07, Revision P3
- Arboricultural Method Statement For Trees At Aldi, Chester, Pennywell, Sunderland - Revision A
- Sustainability Statement June 2015

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

3 No development shall commence until a construction management plan has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure, in accordance with Unitary Development Plan Policy T14, the development hereby approved makes appropriate safe provision from the outset for access and egress of vehicles during the construction phase.

4 No development shall commence above damp proof course level until details or samples of the construction materials have been submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall thereafter be constructed from the approved materials.

Reason: To ensure, in accordance with Unitary Development Plan Policy B2, the development hereby approved respects the nearby properties and the locality.

5 No development shall commence above damp proof course level until the a plan showing the final levels of the development hereby approved has been submitted and approved in writing by the Local Planning Authority. The plan shall show the final levels of the site and the floor level and roof levels of the building hereby approved. The plan shall also show these levels as a cross section drawing showing the adjacent buildings. The development shall thereafter be undertaken in accordance with the approved levels.

Reason: To ensure, in accordance with Unitary Development Plan Policy B2, the development hereby approved respects the nearby properties and the locality.

6 The development hereby approved shall not open for trading until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall, where possible, maximise the biodiversity potential of the site by incorporating areas of species rich grassland and the use of native shrub and trees planting. The landscaping scheme shall also include details of any means of enclosure, such as any retaining walls and fences. The approved landscaping shall thereafter be provided within the first planting season following completion of the development hereby approved and shall be maintained for a period of at least five years including watering during dry periods and replacing any plants or shrubs that do not survive.

Reason: To ensure, in accordance with Unitary Development Plan policy CN22, the development hereby approved would not be detrimental to the species and overall biodiversity of the City.

7 The development hereby approved shall not open for trading until a detailed scheme of works for the subway to the south of the site and a pedestrian guard rail to the north eastern side of Hylton Road / Chester Road has been submitted to and approved in writing by the Local Planning Authority. The approved scheme of works shall thereafter be fully implemented before the development hereby approved first opens for trading.

Reason: To ensure, in accordance with Unitary Development Plan Policy T14, the development would be readily accessible by pedestrians and cyclists as well as users of public and private transport, would not cause highway safety problems and would make appropriate safe provision for access and egress by vehicles.

8 The one-way access point into the site from Hylton Road and the associated measures necessary to deter vehicles from exiting the permitted development at this point shall be laid out and implemented in full accordance with the details of the plan entitled 'Traffic Signs and Road Markings' (Drawing No. C.950.G.004) of the Pennywell Industrial Estate Masterplan Traffic Impact Assessment undertaken by Arup and dated 27 May 2015, prior to the commencement of the use hereby permitted.

Reason: In the interests of highway safety and to accord with policy T14 of the Unitary Development Plan.

9 The development hereby approved shall not open for trading until the details of a scheme of offsite highway improvement works have been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt such works shall include;

- A plan indicating the laying out of yellow hatching across the in-only access point into the site and across the junction of the Calsonic Kansei factory as outlined within Section 6 of the Pennywell Industrial Estate Masterplan Traffic Impact Assessment undertaken by Arup dated 27 May 2015.
- A scheme of offsite highway improvement works for Hylton Road informed by drawing C.900.SK001 Issue P4 of the Pennywell Industrial Estate Masterplan Traffic Impact Assessment undertaken by Arup dated 27 May 2015.

The approved works shall be fully undertaken in accordance with the approved details before the development hereby approved first opens for trading.

Reason: In the interests of highway safety and to accord with policy T14 of the Unitary Development Plan.

10 The development hereby approved shall not open for trading until the car parking and turning space has been fully provided on site, in accordance with the details shown on the approved site plan (Proposed Site Plan (PLANNING), Drawing Number 0364-PL(0)04, Revision P4). The car parking and turning space shall thereafter be kept clear of obstruction and shall only be used for the parking and turning of vehicles associated with the development hereby approved.

Reason: To ensure, in accordance with Unitary Development Plan Policy T14, the development would be readily accessible by pedestrians and cyclists as well as users of public and private transport, would not cause highway safety problems and would make appropriate safe provision for access and egress by vehicles.

11 The development hereby approved shall not open for trading until all mitigation measures identified in the submitted noise assessment and subsequent documentation have been installed on site as documented and shall thereafter be maintained in accordance with any management recommendations for the lifetime of the development.

Reason: To ensure, in accordance with Unitary Development Plan Policy EN5, would not be likely to generate noise sufficient to increase significantly the existing ambient sound levels.

12 The development hereby approved shall not open for trading until the cycle stands have been fully provided on site, in accordance with the details shown on the approved site plan (Proposed Site Plan (PLANNING), Drawing Number 0364-PL(0)04, Revision P4). The cycle stands shall thereafter be retained.

Reason: To ensure, in accordance with Unitary Development Plan Policy T14, the development would be readily accessible by cyclists.

13 The development hereby approved shall not open for trading until details of any external lighting has been submitted to and approved in writing by the Local Planning Authority. The lighting shall thereafter be provided in accordance with the approved and details and retained in accordance with any associated management recommendations.

Reason: To ensure, in accordance with the National Planning Policy Framework, the development hereby approved ensures a good standard of amenity for existing and future occupiers of buildings and land.

14 i) Within 5 working days of the first operation of the A1 use, the site operator shall provide written confirmation of the start of operation of the A1 use to the Local Planning Authority (LPA).

ii) The hours in which the A1 use can be serviced, for the purposes of activities within the service yard (i.e. the area to the east of the proposed building and the west of Prestbury Road), such as loading/unloading of goods, shall be unrestricted for a period no longer than 6 months from the start of operation. These hours may continue beyond the 6 month period following written confirmation by the Local Planning Authority (LPA) that there have been no substantiated complaints in respect of noise from deliveries.

iii) Should the LPA receive substantiated complaints in respect of activities within the service yard such as loading/unloading of goods within the initial 6 month period, and on notification of this to the operator, the operator shall submit a noise assessment of activities within the service yard such as loading/unloading of goods within 28 days in accordance with a methodology agreed with the LPA. If this assessment is submitted to

and approved by the LPA and shows that noise emissions from activities within the service yard such as loading/unloading of goods do not exceed a rating level as determined in accordance with the procedures described in BS4142:2014 'Methods for rating and assessing industrial and commercial sound' of 42 dB LAr (15min) and/or a maximum noise level of 60dB LAFMax more than 15 times per evening (23:00 to 07:00) when assessed at the nearest noise sensitive property outside of the hours described in (iii), these unrestricted hours may continue.

iv) If this assessment shows that the rating levels defined in (iii) above exceed 42 dB LAr (15min) or 60dB LAFMax more than 15 times per evening, the operator shall, as part of the noise assessment noted in (iii) above, identify further physical or managerial measures to control activities within the service yard such as loading/unloading of goods. Any approved physical or managerial measures proposed in the noise assessment shall be fully implemented / provided within a maximum of 14 days following the written approval of the LPA and shall thereafter be managed and retained in accordance with the approved details.

v) Following the introduction of the physical or managerial measures within iv) above measures, a further noise assessment shall be carried out within 28 days in accordance with iii) above, and if the rating levels defined in iii) above do not exceed 42 dB LAr (15min) or 60dB LAFMax more than 15 times per evening, the unrestricted activities within the service yard such as loading/unloading of goods can continue.

vi) If following iii) and iv), a noise assessment as approved by the LPA pursuant to v) above demonstrates that rating levels defined in iv) above exceed 42 dB LAr (15min), the following hours of operation for activities within the service yard such as loading/unloading of goods can continue, shall be observed: deliveries to take place between 06:30 to 23.00 Monday to Sunday.

Reason: To ensure, in accordance with Unitary Development Plan Policy EN5, would not be likely to generate noise sufficient to increase significantly the existing ambient sound levels.

15 A validating noise monitoring and assessment exercise shall be carried out within 28 days of the commencement of on-site operations to demonstrate that the noise limits referred to condition 14(iii) above are complied with. Should noise exceed these limits, then the operator shall submit a noise assessment of activities within the service yard (i.e. the area to the east of the proposed building and the west of Prestbury Road) such as loading/unloading of goods, within 28 days. Any approved physical or managerial measures proposed in the noise assessment shall be fully implemented / provided within a maximum of 14 days following written approval from the LPA. The approved physical or managerial measures shall thereafter be retained and managed in accordance with the approved details.

Reason: To ensure, in accordance with Unitary Development Plan Policy EN5, would not be likely to generate noise sufficient to increase significantly the existing ambient sound levels.

16 Following the introduction of the physical or managerial measures within condition 5 above, a further noise assessment shall be undertaken within 28 days in accordance with the levels mentioned in condition 14(iii) above, and if the rating levels defined in condition 14(iii) above do not exceed 42 dB LAr (15min) or 60dB LAFMax more than 15 times per evening, then unrestricted activities within the service yard such as loading/unloading of goods can continue. If the noise assessment demonstrates that the rating levels defined in this condition

exceed 42 dB LAr (15min), then the following hours of delivery shall be observed - deliveries to take place between 06:30 to 23:00 Monday to Sunday.

Reason: To ensure, in accordance with Unitary Development Plan Policy EN5, would not be likely to generate noise sufficient to increase significantly the existing ambient sound levels.

17 The hours of opening for the food store hereby approved shall be 0800 to 2200 Monday to Friday, 0800 to 2200 Saturdays and 1000 to 1800 Sundays.

Reason: To ensure compliance with the submitted details.

18 The total sales area of the food store hereby approved shall not exceed 1,254 square metres, including any mezzanine floor space used for sales.

Reason: To ensure compliance with the submitted details and to protect the vitality and viability of nearby Local Centres.

19 The comparison goods sales area of the new food store shall not exceed 250 square metres and the convenience sales area shall not exceed 1,100 square metres.

Reason: To ensure compliance with the submitted details and to protect the vitality and viability of nearby Local Centres.

20 The gross external floor area of the new food store shall not exceed 1,804 square metres.

Reason: To ensure compliance with the submitted details and to protect the vitality and viability of nearby Local Centres.

21 The below ground gravity drainage shall be maintained in accordance with the general maintenance & Inspection Recommendations made within the submitted Flood Risk Assessment (Report ref 15568-3E-XX-RP-C-9000, Issue 3).

Reason: To ensure, in accordance with Unitary Development Plan Policy EN12, the development hereby approved does not materially impede the flow of flood water, or increase the risk of flooding elsewhere.