

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 (General Development Procedure) Order 1995.

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 Development and Regeneration Directorate Services in the Civic Centre.

Philip J. Barrett

Director of Development and Regeneration Services.

Reference No.: 08/04691/FUL Full Application

Proposal: Installation of a mezzanine floor to the existing store.

Location: Asda Superstore Leechmere Road Sunderland

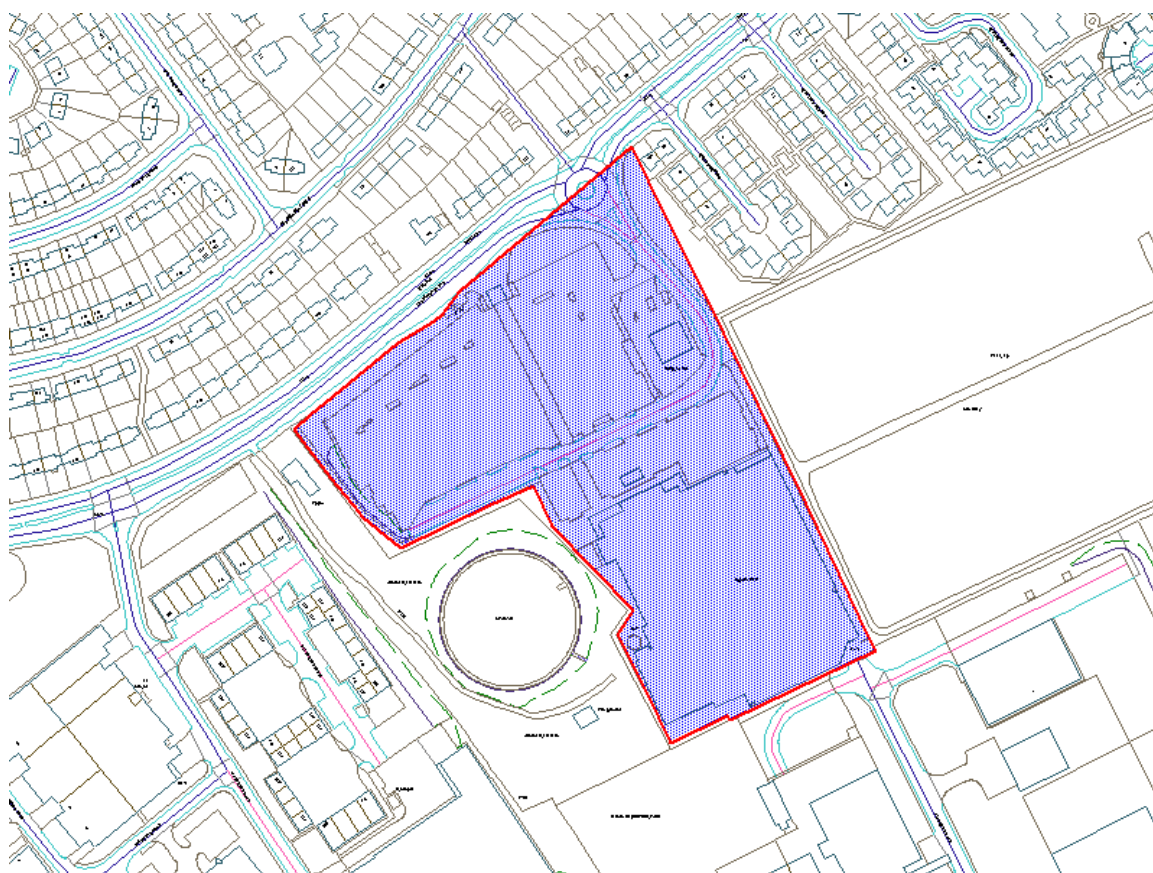
Ward: Ryhope

Applicant: Asda Stores Ltd

Date Valid: 27 January 2009

Target Date: 24 March 2009

Location Plan



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PROPOSAL:

Members will recall that this application was presented to them at the Sub Committee meeting on 21 April 2009 and 30 June 2009, where it was resolved to defer the application pending further consideration of the three issues raised at the meeting by members including Councillor Tye. Those matters were:

1. That Asda reroute any deliveries to the store associated with the new floorspace created by the development away from Leechmere Rd.
2. Staff Car Parking Controls be introduced to ensure that staff park away from the store entrance to increase the likelihood of shoppers using on-site parking spaces and not park on Leechmere Rd.
3. Regardless of the step above an off-site parking management scheme should be introduced if the new development caused increased shopper parking on Leechmere Rd.

The proposal relates to the erection of an internal mezzanine floor within the existing Asda retail store at Leechmere and a small extension to the existing storage mezzanine with associated access facilities including travellators, lift and escape stairs. No external works are proposed other than the provision of an additional lift shaft and fire escape stairwell to the east elevation.

The proposed new mezzanine floor will provide an additional 15,500 sq.ft net of new retail floor space whilst the proposed extension to the existing storage mezzanine will provide a further 5,400 sq.ft of storage space.

Asda's existing store has a total gross floorspace of 109,970 sq.ft, with a net sales areas of 44,930 sq.ft. The proposed store will offer in total approximately 131,360 sq.ft gross with 59,500 sq.ft net sales area. In this regard it is not considered that the proposal meets the criteria for referral to the Government Office for the North East as set out in the Town and Country Planning (Shopping development) (England and Wales) (No. 2) Direction 1993. It should be noted that the application is not subject to the provisions of the new Town and Country Planning (Consultation) (England) Direction 2009 owing to the fact that the application was received before 20 April 2009.

The purpose of the installation is to increase the sales area for non food goods as well as improving and enhancing the environment of the store.

The application is accompanied by a Design & Access Statement, Planning & Retail Statement, Transport Assessment and Statement of Community Involvement and has been advertised accordingly by way of site press and neighbour notification.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Director Of Community And Cultural Services
Northumbrian Water

Final Date for Receipt of Representations: **03.03.2009**

REPRESENTATIONS:

No further representation has been received.

POLICIES:

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

B_2_Scale, massing layout and setting of new developments

SA_1_Retention and improvement of existing employment site

SA_3_Development of Doxford International

T_14_Accessibility of new developments, need to avoid congestion and safety problems arising

COMMENTS:

As stated in the report tabled on 30 June 2009 only those issues which are directly related to the current application are material in determining the application. Accordingly the current application cannot be used to attempt to control existing concerns, perceived or actual, such as noise, HGV traffic generation and congestion associated with the existing store. If the extension proposals are considered to be likely to increase those problems, the increase could be a material consideration in determining the application. While there may be some concerns arising from the existing store and surrounding industrial units, in terms of HGV movements, there are no restrictions on highway usage at Leechmere Rd, because the road has been designed to carry high traffic flows and HGV movements. Furthermore the application for the existing store was refused permission by the Council but was subsequently approved at appeal with no conditions imposed on the grant of consent by the Inspector that limited the hours of delivery to or from the store, or restricted the number of HGV movements during the night.

A copy of all previous reports, including supplements and reports for circulation, which was presented to the Sub-Committee on 21 April and 30 June respectively are appended to this report. This report therefore concentrates upon the three outstanding issues raised at the last Sub-Committee meeting relating to delivery routes, staff parking and on-street parking management.

Following the meeting on 30 June, Councillor Tye provided details of the delivery route (as provided by the AA Route Planner) which he would like Asda delivery vehicles to use. This information was forwarded to the agent acting on behalf of Asda who have considered the request and provided the following response.

1. Delivery Routes

Service vehicles currently access the site from the distribution depot in Washington via Pattinson Road, Sunderland Highway (A1231), A19 (Southbound), Chester Road/The Broadway (A183), Springwell Road, Premier Road, Essen Way, Leechmere Road, Toll Bar Road and Carrmere Road and Claymere Road.

The existing route is 9.9 miles from the distribution depot to the Asda service yard and involves the delivery vehicle travelling through 18 major junctions.

The proposed route is detailed as follows:-

Service vehicles would leave the depot in Washington and travel via Pattinson Road, Sunderland Highway (A1231), Wessington Way (A1231), Northern Way (A1231), Pallion New Road, Trimdon Street, St Michaels Way, Stockton Road, Park Road, Ryhope Road, Toll Bar Road, Carrmere Road and Claymere Road.

The above proposed route is 9.7 miles from the distribution depot to the Asda service yard. However, the proposed delivery route would result in service vehicles having to travel through 28 major junctions, including Sunderland City Centre and a number of residential areas.

Asda also state that the proposed route, in certain locations, may not accommodate the turning manoeuvres associated with 16.5m articulated vehicles. In addition there may be existing weight restrictions preventing service vehicles from travelling along certain sections of the route.

In terms of distance, the difference between the existing and proposed routes are negligible, with the AA Route Planner being around 322m shorter. However, this route would involve delivery vehicles going through the City Centre and residential areas. In addition, the proposed route would result in delivery vehicles having to negotiate a further 10 major junctions, which will result in longer journey times, greater fuel consumption and fuel emissions brought about by additional stopping and starting of vehicles at the additional junctions. Furthermore, the additional waiting times of such vehicles at junctions may also give rise to increased traffic noise, which may cause noise disturbance in sensitive locations.

As such, Asda consider that the existing route is the most direct route to the store, which is more sustainable in terms of vehicle emissions and potential noise. It is again reiterated that the delivery vehicles travelling to the store in connection with this development will be delivering non-fresh goods and therefore there will be no requirement for deliveries during the night.

For the reasons given above Asda consider that there are no reason valid planning grounds to change the existing delivery route. As such Asda do not propose to change their delivery route.

2. Staff Car Parking Controls

Asda propose to control staff car parking through the use of a permit system. Any staff member who wishes to park at the store would be issued with a permit, which would have to be displayed. Car parking for the general public is currently restricted to 2 hours per visit and enforced by Town and City Parking Ltd. A penalty charge of £60 is imposed on anyone who exceeds the maximum 2 hour stay and it is proposed that in the future this will include staff who fail to display their permit. This procedure will ensure that staff park in the designated area and display their permit, which will free up the remainder of the car park for customers.

Notwithstanding the above proposal, the car park accumulation surveys undertaken at the store demonstrate that there are a minimum of 130 spaces available during the Friday and Saturday peak periods. Therefore, Asda consider that following the opening of the proposed development, there would be sufficient

car parking available to accommodate any increase in customer numbers and duration of stay.

3. Off Site Parking Management Scheme

Asda have acknowledged that during peak periods there may be a risk of customers choosing to park on Leechmere Road as the parking spaces closest to the store entrance become more fully occupied. As a consequence Asda have agreed to enter into a Section 106 Agreement with the Council whereby a sum of money, £20,000, would be paid to fund the introduction of a parking management scheme on Leechmere Road. Details of the agreement are detailed further in this report.

HIGHWAYS

The above information has been considered and the following response is provided by Highways.

1. Delivery Routes

The existing route as taken by Asda delivery vehicles, that is the route which starts at the Asda depot on Staithes Road and goes via the A1231, A19, A183, B1405 and end at the service depot on Claymere Road has been measured by two separate methods as 8.5 miles.

The route provided by the AA Route Planner has not been updated since 2007 and therefore fails to make reference to the Southern Radial Route, which did not open until 2008. Indeed, the AA Route Planner still refers to Ryhope Road as being the A1018, and advises drivers to use this route. The route as recommended by the Route Planner (see details above) measures 9.5 miles. Whilst a route which incorporates the Southern Radial Route measures a distance of 9.8 miles from the Asda depot in Washington to the service depot on Claymere Road.

Leechmere Road has the design capacity to accommodate HGVs and the Engineers would not recommend trying to make any road user take a different route for environmental reasons. This would be especially so in this case, when it would involve trying to move vehicles using an acceptable route from a depot in the west of the city to a destination south west of the City Centre and moving it to a route which goes through the city centre and south east of the city centre along Ryhope Rd where it would pass through more residential areas than the original route. There is concern that if the additional HGV traffic to Asda was indeed a problem, the new route would just displace it to a more vulnerable area.

Government Circular 11/95 on The Use of Conditions in Planning Permissions specifically advises against using conditions to control the right of passage over public highways, because they would be unenforceable and probably unreasonable. If the route is substandard the circular would recommend use of a TRO to restrict use as the mechanism to tackle the problem.

Taking into consideration the above information it is felt that on a day to day basis, vehicles following the existing route would be subject to less congestion and delay than if they were to use other routes as suggested above, which would have to travel around or near to the City Centre. In this regard it is considered

that based on the above information the existing route as used by Asda delivery vehicles is acceptable in highway terms and therefore there are no justifiable planning grounds to warrant changing that route.

2. Staff Car Parking Controls

The proposed parking scheme as detailed above, are considered to be satisfactory. The scheme involves the identification of more distant parking areas for employee parking and the issue of employee parking permits which must be displayed. The Council's Highway Engineers consider this to be an appropriate means for managing the car park and as such no further information is required in this regard.

3. Off Site Parking Management Scheme

As stated above the Council considers that notwithstanding the results of the car park accumulation surveys, there is a risk that some customers may decide to park on the adjacent highway of Leechmere Road owing to the complex nature of the existing car park layout. As such, it is considered reasonable in this instance to require Asda to enter into a S106 agreement with the Council whereby a sum of money would be paid to the Council on first occupation of the mezzanine floor and used to fund a scheme of parking management on a defined section of Leechmere Road, if required. By entering into such an agreement the Council can ensure that any resulting problems on the adjacent highway network, as a direct result of the Asda store, could be satisfactorily addressed at the expense of Asda.

The key principles for the proposed S106 Agreement have been agreed with Asda and are detailed as follows.

1. Asda shall pay the commuted sum prior to the opening of the mezzanine to the public. In the event that Asda default on the payment, then the mezzanine floor may not be brought into use.
2. The Council shall hold the monies for up to a period of five years from receipt, to be used for any purpose in connection with the initial assessment and (if necessary) the making and implementation of a Traffic Regulation Order (TRO) on a section of Leechmere Road to be defined.
3. The Council, before publishing its intention to make such an order, will inform Asda as to their intention and provide them with copies of all reasonable evidence gathered in support of its decision to make the order. Asda will thereafter be able to make representation to the proposal during the statutory process.
4. The decision as to whether or not to proceed to make such an order shall rest solely with the Council.
5. The balance of any unexpended monies shall be returned to Asda after a period of five years from the date the payment was made or the date the mezzanine floor was first brought into use, whichever is the later.

The above measures have been agreed in principle by both City Council officers and Asda and the agreement is currently being progressed.

Conclusion

In conclusion it is recommended that in the light of the above information, and that contained within previous reports appended, that Members approve the application subject to the conditions listed below and the signing of the Section 106 Agreement made in respect of off-site parking management.

RECOMMENDATION: Approved subject signing Section 106

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 No development shall take place until a scheme of working has been submitted to the satisfaction of the local planning authority; such scheme to include days and hours of working, siting and organisation of the construction compound and site cabins, routes to and from the site for construction traffic, and measures to ameliorate noise, dust, vibration and other effects, and so implemented, in the interests of the proper planning of the development and to protect the amenity of adjacent occupiers and in order to comply with policy EN5 of the UDP.
- 3 During the construction of the mezzanine extension hereby approved no deliveries shall be taken at or despatched from the site outside the hours of 07:00 and 19:00 Monday to Friday, 07:30 and 14:00 Saturdays, nor at any time on Sundays, Bank or Public Holidays to ensure that nearby properties are not adversely affected by the development and that highway safety is not compromised and to comply with policy EC12, EC13 of the UDP.
- 4 No external noise generating construction works required for the development hereby approved shall be undertaken outside the hours of 07.00 and 19.00 Monday to Friday and between the hours of 07.30 and 14.00 on Saturdays and at no time on Sundays or Bank Holidays in order to protect the amenities of the area and to comply with policy EN5 and B2 of the UDP.
- 5 Notwithstanding the plans hereby approved and submitted information the mezzanine floor extension shall not be brought into use until a management plan which identifies the relocation of staff parking to the north-west corner of the car park and measures to ensure staff conform to this has been submitted to and approved in writing by the Local Planning Authority. The car park shall then be laid out in complete accordance with the agreed details and shall remain thereafter, in the interests of highway and pedestrian safety in accordance with policy T14 of the UDP.
- 6 Notwithstanding the plans hereby approved and submitted information the mezzanine floor extension shall not be brought into use until a scheme of improvements for the area adjacent to the internal service access/egress

point on Claymere Road has been submitted to and approved in writing by the Local Planning Authority. The improvements shall then be completed in full accordance with the agreed details and implemented prior to the mezzanine extension being brought into use, in the interests of highway and pedestrian safety and ensure a satisfactory highway arrangement, in accordance with policy T14 of the UDP.

- 7 Before the development commences details of the method of containing the construction dirt and debris within the site and ensuring that no dirt and debris spreads on to the surrounding road network shall be submitted to and approved by the Local Planning Authority. These details shall include the installation and maintenance of a wheelwash facility on the site. All works and practices shall be implemented in accordance with the agreed details before the development commences and shall be maintained throughout the construction period in the interests of the amenities of the area and highway safety and to comply with policies B2 and T14 of the approved UDP.
- 8 Before the development commences a Travel Plan to reduce the number of employees arriving by car and increase the number of employees using public transport, walking and cycling as a means of travelling to/ from their place of work shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall then be implemented in complete accordance with the agreed details, in the interests of traffic mitigation and environmental sustainability and to comply with policy T14 of the UDP.
- 9 The internal service area shall be laid out in complete accordance with plan ref: 'SK-20-02 rev E' - Back of House Sketch prior to the mezzanine floor hereby approved being brought into use, in the interests of highway safety and to ensure a satisfactory form of development in accordance with policy T14 of the UDP.

Report from 21 April 2009

PROPOSAL:

The proposal relates to the erection of an internal mezzanine floor within the existing Asda retail store at Leechmere and a small extension to the existing storage mezzanine with associated access facilities including travellators, lift and escape stairs. No external works are proposed other than the provision of an additional lift shaft and fire escape stairwell to the east elevation, however modifications may need to be made the existing car park but this is something that is currently being debated.

The proposed new mezzanine floor will provide an additional 15,500 sq.ft net of new retail floor space whilst the proposed extension to the existing storage mezzanine will provide a further 5,400 sq.ft of storage space.

Asda's existing store is in total 109,970 sq.ft gross, with a net sales area of 44,930 sq.ft. The proposed store will offer in total approximately 131,360 sq.ft gross with 59,500 sq.ft net sales area. The development is not large enough to have to comply with the Shopping Directive and will therefore not need to go to the Government Office for the North East.

The purpose of the installation is to increase the sales area for non food goods as well as improving and enhancing the environment of the store.

The application is accompanied by a Design & Access Statement, Planning & Retail Statement, Transport Assessment and Statement of Community Involvement and has been advertised accordingly by way of site press and neighbour notification.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Director Of Community And Cultural Services
Northumbrian Water

Final Date for Receipt of Representations: **03.03.2009**

REPRESENTATIONS:

Internal Representation

Environmental Services - In view of the close proximity of the proposed development to nearby residential premises it is recommended that noisy on-site operations should not commence before 07:00hrs and cease at or before 19:00hrs Monday to Friday inclusive, and 07:30 and 14:00 Saturdays. No noisy works shall be permitted to take place on Sundays or Bank Holidays at any time without prior approval from Environmental Services (Pollution Control). Approval

will only be given for such working in exceptional circumstances for example on the grounds of safety and public protection.

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

Dust suppression by water should use a dispersal point close to the position of dust generation in order to be more effective in both dust suppression and minimising the volume of water used, and thus run-off.

Adult Services - No objection to the proposal.

Third Party Representation

3 letters of objection have been received. (See main report).

POLICIES:

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

B_2_Scale, massing layout and setting of new developments

SA_1_Retention and improvement of existing employment site

SA_3_Development of Doxford International

T_14_Accessibility of new developments, need to avoid congestion and safety problems arising

COMMENTS:

The main issues to consider in the assessment of the application are:

The suitability of the proposal in the context of national and local planning policy.
The demonstration of need and impact of the proposal on other local retail centres.

The impact of the proposal on residential amenity.

Traffic, parking and access implications.

Policy

The proposal is subject to the following National and Local Planning Policies.

Planning Policy Statement 1 (PPS1)

PPS1 sets out the Governments main objectives for the planning system, which are in the main based on the principals of sustainable development. The Statement sets out the Governments commitment to develop strong, vibrant and sustainable communities that promote community cohesion in urban areas. In this regard Local Planning Authorities should seek to ensure that they have suitable locations available for industrial, commercial, retail, public sector, tourism and leisure developments that enable the economy to prosper.

In support of PPS1, policy S1 of the UDP aims to achieve a well balanced distribution of shopping facilities to meet future needs; it emphasises the need to locate development within existing shopping centres or elsewhere through the application of the sequential test. Shopping facilities should be accessible by a variety of modes of transport. Policy S2 identifies the range of main Town Centres and Local Centres where shopping development should be focused. Note: policy S5 of the UDP was not saved as a development plan policy.

As an unallocated out of centre site, the proposal must be considered in the context of Planning Policy Statement 6. Chapter 3 of the guidance sets out the criteria for assessing retail proposals, namely:-

1. Assessing need
2. Identifying the appropriate scale of the development
3. Applying a sequential approach to site selection
4. Assessing impact
5. Ensuring locations are accessible

Furthermore, the guidance contains specific advice on the matter if extensions to existing development in out-of-centre locations, highlighting the requirement to carefully assess need (where additional classes of goods are proposed to be sold) and, in particular considering the impact on existing town centres.

The application is accompanied by a Planning and Retail Statement (P&RS) which addresses the issues highlighted in PPS6 in relation to assessing applications for extensions to existing development.

1. Assessing need

Quantitative Need - In line with PPS6 the P&RS highlights changes in population levels, forecast expenditure in comparison goods along with efficiency in floorspace as a baseline guide to need. The P&RS establishes that comparison expenditure will continue to rise within the catchment area from £247m to £294m by 2013, although it highlights that the population will continue to decline.

The P&RS highlights that the turnover of the proposed extension will only amount to 2.3% of available comparison goods expenditure in the Primary Catchment Area. The statement also indicates that the additional turnover (£6.9m) will be absorbed at the store through 'overtrading' and as such there should be no trade diverted from elsewhere.

Qualitative Need - This aspect relates to the improvement and enhancement of the overall shopping environment of the store.

In considering out-of-centre comparison goods development, the Council's 2006 Retail Study focuses on retail warehouses; it does not specifically refer to free-standing superstores. The Study concludes that there is no need for any additional retail warehouse floorspace throughout the City within the forecasting period i.e. to 2010.

The Retail Study indicated that whilst by 2010 there could be a need for approximately 4,800m² of additional comparison floorspace in non-central areas, existing commitments were in the region of 9,600m² and this effectively results in an 'oversupply' of comparison floorspace of 4,700m². The Study concludes that

should applications come forward, then these should be considered on their individual merits against the criteria of PPS6.

A new retail needs assessment is currently being carried out to inform the Local Development Framework and this will be reporting back in the near future.

2. Identifying the appropriate scale of the development

The proposed floorspace will increase the size of the store by approximately 34% (net). External changes to the physical appearance of the store will not be unduly excessive and development will take place within the footprint of the building.

3. Applying a sequential approach to site selection

Having considered the extent of the primary catchment area as documented in the statement it is considered that the P&RS tests only a very limited range of alternative sites; only district centres within Sunderland are considered. The advice contained in PPS6 suggested that other centres within the catchment should be examined for completeness, namely any available or suitable sites within Easington District.

In response to this issue Asda have prepared a statement which deals with this issue and conclude that based on the mapping programme used to produce the plan the postcode areas includes an entire postcode sector as opposed to individual areas within that sector. As such, the map includes centres such as Seaham, whereas in reality these could be excluded as it will only be the northern extent of the SR7 postcode that will attract customers as indeed both Seaham and Peterlee both have Asda stores that cater specifically for the needs of customers in the central and southern parts of the sector. In this regard Asda states that it is not in their interests to adversely affect the trading position of their existing stores and for this and the reasons stated above they do not consider it necessary to undertake a sequential test for sites in Easington.

In response to Asda's justification it is considered that the proposal accords with the sequential testing requirements of PPS6.

4. Assessing impact

PPS6 states that when considering extensions to existing development, the impact on existing town centres should be given particular weight, especially if new and additional classes of goods are proposed for sale.

The P&RS states that the actual level of trade diversion will be minimal as in the main the comparison goods will be purchased by customers who already shop at the Asda Leechmere store as the improved offer will not be so attractive as to attract those shoppers who will continue to use the City Centre for comparison purchases. This notion is justified by the information submitted which indicates the changes in transactions arising from extensions to other Asda stores around the country; the average increase being in the region of 4.5%. However it should be noted that those stores where mezzanine developments were introduced attracted a higher level of additional trade, between 5 & 10%, than those store where more conventional extensions took place (0.6% - 6.6%).

Paragraph 7.9 of the statement makes reference to the level of vacancies in the City Centre. The 2007 GOAD figure (14.5%) is highlighted as being marginally

above the average UK vacancy rate of 9.2%. The Council's 2008 Annual Monitoring Report indicates that the level of vacancy is higher: 18% of units and 13% of floorspace, which is significantly above the national average. Since the preparation of the report, additional units have become vacant in the City Centre. In this regard it is important that the health of the City Centre is maintained and that developments that could further affect its viability and vitality are carefully scrutinised, particularly in the light of the current economic climate and changes within the retailing industry.

When examining the effect on future investment, the emphasis in the P&RS is on the Vaux Brewery site, however it is unlikely that this proposal will affect this development given that it is a residential and employment led scheme. Of greater concern in this regard is the retail-led development on the Holmeside Triangle. The development of this site is a proposal in the adopted UDP Alteration for Central Sunderland (policy SA55A.1) and is a key element in the Council's strategy for the City Centre and it is vital that its implementation is secured. Guidance as set down in PPS6 refers specifically to the impact of proposed developments on existing centres and as such it is considered that the P&RS should provide detail in accordance with this requirement.

Whilst the proposal does not relate to a new retail destination, there are no significant comparison facilities elsewhere in this part of the City and it is therefore considered likely that the enhanced choice through the introduction of an expanded / enhanced range of goods will result in the store attracting additional customers over and above those who already use the convenience service.

In this regard Asda have supplied additional justification and information regarding the impact of the development on the Holmeside Triangle, in response to the above. The main points raised by Asda are that (1) their proposal does not relate to a new standalone foodstore unlike that proposed for the Holmeside Triangle, (2) Asda consider that retail space in Holmeside would be better served by the higher end niche comparison floorspace as this would complement the Council's aspirations for the area and (3) Asda's other format store 'Living' would not be viable in terms of the floorspace proposed, further Asda's George range is no longer pursued as standalone retail stores.

Turning to the wider aspirations for the City Centre, Asda state that they fully endorse and encourage regeneration and reinvestment in the City and do not consider that the proposals for the Leechmere store will prejudice these aspirations.

Again this information regarding assessing impact is accepted by the LPA.

5. Ensuring locations are accessible

The issue of accessibility is not covered in the P&RS however the application is accompanied by a Transport Assessment (TA). From the TA it is apparent that the majority of the trips to the store will continue to be by private car, although the actual increase in car movements generated following the installation of the mezzanine floor is not predicted to be significant.

It is considered that the store is not well served by public transport, in particular bus routes, given that the TA claims only 4 buses per hour pass by the store.

With regards to cycle parking the currently makes no provision for such use however 20 cycle stands are proposed for customer use along with 10 spaces for staff use. A Travel Plan is proposed which will aim to heighten awareness of the public transport service.

In conclusion the P&RS submitted along with the additional supporting documentation addresses a range of issues highlighted in PPS6 and as such from a policy perspective the proposal is considered to be acceptable.

Design

Design and Access Statement - The application has been accompanied by a D&A Statement, which describes the proposal in terms of context, amount, layout, scale, external appearance & landscape and access.

In terms of design and alteration to the appearance of the existing building given that the mezzanine floor will be contained fully within the building minimal changes are proposed. The works proposed relate solely to minor alterations to the external lift shaft and fire escape stairway.

Conclusion - To conclude this section given that all of the major works are to be contained within the existing building with no significant works proposed to the external appearance, the application raises no urban design concerns.

Highways

Original Submission

From the information provided and observations made it is considered that the north-west corner of the car park is not fully utilised due to shortcomings in the layout i.e. the remoteness and long travel distance both from the store entrance and the site entrance.

Peak demand at the existing store already appears to be constrained by the availability of parking. There are 566 car parking spaces on site which, according to the assessment submitted, are approximately 77% full during peak trading hours. Allowing for the submitted assessment of 10.5% increase in use due to the extension, and the 3.3% increase in traffic at the design year, the car park would increase to 88% full. In this regard as there are already concerns over the layout of the car park and the utilisation of the spaces, it is likely that this level of usage would result in a risk of overspill parking being generated on the highway. Therefore it is recommended that the car parking layout is reviewed and additional spaces provided to accommodate the increase in traffic and/or rationalise its use.

The development will also undoubtedly lead to a rise in service vehicles accessing the site, however no assessment has been made on the suitability of the current access, or where the extra vehicles will be accommodated on site. Further information is therefore required as to the proposed servicing arrangements to avoid service/delivery vehicles being forced to wait on the highway to access the site.

Having regard to the above it is considered that in its current form the proposal fails to accord with policy T14 of the UDP.

Revised Information

In response to the above the applicant has provided additional information which has been considered and the following highway observations are made.

Car Park

The revised information would appear to agree with the Council's calculations on the current level of usage at the peak trading hour (77%). However the revised information has not dealt with the major concern that, when increased vehicle movements and traffic growth are factored in, the usage increases to 88%. It is therefore still considered that this, coupled with the poor layout of the existing car park, would result in overspill onto the highway.

This concern is further compounded by the comments from the store customer services manager that 'the only time the car park is near capacity is during the Christmas period'. If this is the case, an addition of 10.5% extra vehicles directly resulting from the extension and 3.3% from natural traffic growth would push the car park that is already 'near capacity', over it resulting in overspill onto the highway.

Whilst the relocation of staff parking to the north-west corner of the site may help the car park utilisation, no evidence base has been provided to demonstrate the number of spaces that this will 'free up', nor how they will be enforced. Therefore little weight can be attached to this argument.

In light of the above the view remains that the parking arrangements for the store are not sufficient.

Service Vehicles

The revised information states that there will be no new deliveries to the store and that the existing deliveries are staggered to avoid more than one HGV being on site at any one time. However, from site observations it has been seen that the current arrangements for service vehicles are not acceptable.

There is frequently delivery vehicles parked on the grass verges surrounding the service entrance, as can be seen from site photographs and by looking at the damage caused to the verges. These vehicles tend to be the 'home delivery' vans rather than HGV's, but the increase in store area will no doubt lead to an increase in the use of these vehicles. To date these vehicles do not seem to have been considered but cause not only a highway safety concern, but also one of amenity to other users of the surrounding routes.

On the site visits undertaken by the highway officer it has been witnessed that HGV's park on the highway waiting to access the store while another is still being unloaded. Whilst it is acknowledge that this may be a rare occurrence, the road leading to the service entrance is not of a sufficient quality or layout to support waiting HGV's. Under normal practice it would be expected that a waiting area would be provided within the site boundaries for a store of this size.

Therefore in light of the above it is considered that the service arrangements for the store are not acceptable.

Conclusion

Having regard to all of the above it is considered the proposal in its current form is unacceptable and fails to comply with policy T14 of the UDP. The above comments have been forwarded to the applicant who will no doubt respond in due course. It is anticipated that further information will be made available in advance of the meeting and this will be documented in a supplement report.

Representation

Three letters of objection have been received to date. The main grounds for opposing the development relate to unacceptable levels of noise and disturbance between the hours of 22:00 and 08:00, failure to accord with national and local planning policies in terms of retail need, quantitative & qualitative need, retail impact, sequential testing and accessibility and finally increased traffic resulting in congestion on the surrounding highway network. The concerns will be addressed as follows.

Unacceptable levels of noise and disturbance - In response to this concern Environmental Services (Pollution Control) have recommended that any grant of consent should be subject to a condition which restricts noisy on-site operations between the hours of 07:00hrs and 19:00hrs Monday to Friday and 07:30 to 14:00 Saturdays and at no time on a Sunday or Bank Holiday unless first agreed in writing by the Local Planning Authority and Environmental Services (Pollution Control). Approval for working outside of the restricted hours will only be given in exceptional circumstances. In this regard it is considered that such a condition would satisfactorily address this concern.

Failure to accord with policy - The issues raised with regards to compliance with Planning Policy Statement 6, namely retail need, quantitative & qualitative need, scale, retail impact, sequential test, scale and accessibility have not been taken into account. However in light of the Planning and Retail Statement submitted as part of the original application and additional supporting information provided in response to policy comments made to the P&RS it is not considered that this is a valid objection. A full justification of the policy position, which addresses these concerns, is contained at the beginning of this report.

Increased traffic resulting in congestion on the surrounding highway network - Following consultation with the highway engineer regarding this concern it has been confirmed that the proposed car park arrangements as existing are not suitable and therefore following the installation of the mezzanine floor there is a strong possibility that there will be an overspill of traffic onto the surrounding highway network. Therefore based on the information available to date this concern is a valid objection to the proposal. It is however anticipated that the revised information which has been requested will address the concerns relating to car park and therefore this objection.

CONCLUSION

In conclusion it is considered that whilst the proposal raises no policy or urban design concerns there remains a number of outstanding highway concerns that

require further consideration before a decision can be made on the application. As such it is anticipated that a supplement report will be prepared which hopefully addresses the outstanding issues.

RECOMMENDATION: Dir.of Dev. and Regeneration to Report

Supplement Report 21.04.09

Further to the main agenda report revised highway information is still awaited relating to the proposed car parking and service arrangements at the store. It is anticipated that these will be submitted in advance of the meeting and a recommendation will therefore be made on a report to be circulated at the meeting.

RECOMMENDATION: Director of Development and Regeneration to Report

Report for Circulation 21.04.09

Additional information has been submitted in respect of the outstanding highway issues and the following officer response is provided.

Highways

Car Parking – The latest information submitted states that during peak periods there are approximately 50 employees cars parked in the vicinity of the petrol filling station. In this regard it is considered that the implementation of a management plan, which will be imposed by way of condition to any grant of consent, will require these cars to be parked in the north-west corner of the car park which is currently under utilised. It is considered that introducing this measure will improve the effective use of the car park for customers, and also improve the flow of vehicles entering the site.

Notwithstanding the above there remains the possibility that customers may chose to park on the highway, Leechmere Road, during peak periods and therefore it is considered necessary that a planning condition requiring the introduction of a scheme to control on-street parking within an agreed timescale be imposed on any grant of consent. The financing for such a measure will be required to come from the applicant.

Travel Plan – In accordance with national policies which seek to encourage alternative modes of transport to the car, it is agreed that the implementation of a Travel Plan for the site should be used to reduce dependence on car use by employees travelling to the store.

Service Vehicles – The existing delivery arrangements for the site primarily involve the use of the internal service yard which can accommodate 2 articulated vehicles at any one time. However, it is recommended that the access road (Claymere Road) to the site should be improved with the provision of an adjacent area of hardstanding which could be used by a delivery vehicle or vehicles (including home delivery vans) waiting to access the store. The verge areas are not owned by the applicant and therefore it is proposed that a Grampian condition be imposed on any grant of consent that requires an agreed scheme of improvements to be implemented prior to the occupation of the Mezzanine floor.

Outstanding Neighbour Objection

With regards to the issue of congestion, it is considered that the existing highway network is adequate to accommodate the increase in traffic which may be generated. The application is supported by a Transport Assessment. The specific issue of access into the car park should be improved following with the relocation of employees vehicles to the north-west corner of the car park, which will improve customer access to the bays as they enter the site.

Recommendation: APPROVE subject to the conditions listed below.

- 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 No development shall take place until a scheme of working has been submitted to the satisfaction of the local planning authority; such scheme to include days and hours of working, siting and organisation of the construction compound and site cabins, routes to and from the site for construction traffic, and measures to ameliorate noise, dust, vibration and other effects, and so implemented, in the interests of the proper planning of the development and to protect the amenity of adjacent occupiers and in order to comply with policy EN5 of the UDP.
- 3 During the construction of the mezzanine extension hereby approved no deliveries shall be taken at or despatched from the site outside the hours of 07:00 and 19:00 Monday to Friday, 07:30 and 14:00 Saturdays, nor at any time on Sundays, Bank or Public Holidays to ensure that nearby properties are not adversely affected by the development and that highway safety is not compromised and to comply with policy EC12, EC13 of the UDP.
- 4 The construction works required for the development hereby approved shall only be carried out between the hours of 07.30 and 19.00 Monday to Friday and between the hours of 07.30 and 14.00 on Saturdays and at no time on Sundays or Bank Holidays in order to protect the amenities of the area and to comply with policy EN5 and B2 of the UDP
- 5 Notwithstanding the plans hereby approved and submitted information the mezzanine floor extension shall not be brought into use until a management plan which identifies the relocation of staff parking to the north-west corner of the car park has been submitted to and approved in writing by the Local Planning Authority. The car park shall then be laid out in complete accordance with the agreed details and shall remain thereafter, in the interests of highway and pedestrian safety in accordance with policy T14 of the UDP.
- 6 Notwithstanding the plans hereby approved and submitted information the mezzanine floor extension shall not be brought into use until a management plan which identifies the relocation of staff parking to the north-west corner of the car park has been submitted to and approved in writing by the Local Planning Authority. The car park shall then be laid out in complete accordance with the agreed details and shall remain thereafter, in the interests of highway

and pedestrian safety in accordance with policy T14 of the UDP.

- 7 Notwithstanding the information submitted, details of a scheme of on-street parking controls/measures should be submitted to the Local Planning Authority for formal approval within 12 months of the date of this consent. Should such measures be considered necessary then the approved scheme of on-street parking controls shall be implemented within a timescale to be agreed by the Local Planning Authority in order to ensure a satisfactory form of development, in the interests of highway safety and to comply with policy T14 of the UDP.
- 8 Notwithstanding the plans hereby approved and submitted information the mezzanine floor extension shall not be brought into use until a scheme of improvements for the area adjacent to the service access/egress point on Claymere Road has been submitted to and approved in writing by the Local Planning Authority. The improvements shall then be completed in full accordance with the agreed details and implemented prior to the mezzanine extension being brought into use, in the interests of highway and pedestrian safety and ensure a satisfactory highway arrangement, in accordance with policy T14 of the UDP.
- 9 Details of the proposed location of the site office and construction compound shall be submitted to and approved in writing by the local planning authority in order to ensure a satisfactory form of development and to comply with policy B2 of the UDP.
- 10 Before the development commences details of the method of containing the construction dirt and debris within the site and ensuring that no dirt and debris spreads on to the surrounding road network shall be submitted to and approved by the Local Planning Authority. These details shall include the installation and maintenance of a wheelwash facility on the site. All works and practices shall be implemented in accordance with the agreed details before the development commences and shall be maintained throughout the construction period in the interests of the amenities of the area and highway safety and to comply with policies B2 and T14 of the approved UDP.

Report from 30 June 2009

PROPOSAL:

Members will recall that this application was presented to them at the Sub Committee meeting on 21 April 2009, where it was resolved to defer the application pending further consideration of the issues raised by Councillor Tye.

The proposal relates to the erection of an internal mezzanine floor within the existing Asda retail store at Leechmere and a small extension to the existing storage mezzanine with associated access facilities including travellers, lift and escape stairs. No external works are proposed other than the provision of an additional lift shaft and fire escape stairwell to the east elevation.

The proposed new mezzanine floor will provide an additional 15,500 sq.ft net of new retail floor space whilst the proposed extension to the existing storage mezzanine will provide a further 5,400 sq.ft of storage space.

Asda's existing store has a total gross floorspace of 109,970 sq.ft, with a net sales areas of 44,930 sq.ft. The proposed store will offer in total approximately

131,360 sq.ft gross with 59,500 sq.ft net sales area. In this regard it is not considered that the proposal meets the criteria for referral to the Government Office for the North East as set out in the Town and Country Planning (Shopping development) (England and Wales) (No. 2) Direction 1993. It should be noted that the application is not subject to the provisions of the new Town and Country Planning (Consultation) (England) Direction 2009 owing to the fact that the application was received before 20 April 2009.

The purpose of the installation is to increase the sales area for non food goods as well as improving and enhancing the environment of the store.

The application is accompanied by a Design & Access Statement, Planning & Retail Statement, Transport Assessment and Statement of Community Involvement and has been advertised accordingly by way of site press and neighbour notification.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Director Of Community And Cultural Services
Northumbrian Water

Final Date for Receipt of Representations: 03.03.2009

REPRESENTATIONS:

Environmental Services - The suggested condition relating to hours of working has been reviewed in light of the Health and Safety issues it poses for ASDA and it is considered that such hours should relate only to external noise generating works.

Third Party Representation

2 further objections have been received to the proposal from Councillors Peter Gibson and Philip Tye. The main concerns raised relate to:-

1. The additional strain on the existing car park.
2. The additional traffic use on Leechmere Road.
3. The additional service vehicles using the site.
4. The additional traffic use on Leechmere Road by Asda vehicles.

These concerns are covered in the consideration of the highway and noise / HGV movement issues below.

POLICIES:

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

B_2_Scale, massing layout and setting of new developments
SA_1_Retention and improvement of existing employment site
SA_3_Development of Doxford International
T_14_Accessibility of new developments, need to avoid congestion and safety problems arising

COMMENTS:

Before setting out the main issues to be taken into consideration when assessing the current proposal it must be stressed that only issues directly related to the current application can be taken into account and that the current application cannot be used as a tool to attempt to control existing concerns such as noise, traffic generation and congestion. Whilst it is acknowledged that there may be some issues arising from the existing store and surrounding units, in terms of HGV movements, it must be remembered that there are no restrictions on highway usage. Furthermore it should be borne in mind that the application for the existing store was refused permission by the Council and the decision being subsequently overturned at appeal with no conditions imposed on the grant of consent by the Inspectorate that related to hours of deliveries or restrictions on the number of HGV movements during the night.

A copy of the report, including the supplement and report for circulation, which was presented to the Committee on 21 April is contained in an appended supporting document. This report therefore only considers the outstanding issues relating to increased traffic movements on Leechmere Road namely HGV movements, the resulting noise from increased HGV movements and servicing and parking arrangements.

HIGHWAYS

The applicant has prepared and submitted a Transport Assessment (TA) in support of their application which is assessed below.

1. Predicted Increase in Customers

The TA includes data acquired from many similar developments which have already been built, in an attempt to predict the likely increase in customer transactions which may occur at this site. The applicant has concluded in their statement that this development would lead to a 6.1% increase, with a proportionate increase in car trips of 6.1%. It was agreed at the pre-application stage that, for robustness, any analysis of traffic or parking usage would use a figure of 10.5% increase in demand, to test the sensitivity of the conclusions.

2. Traffic Flows

Since the 21 April meeting of the Sub Committee the applicant has carried out traffic surveys on Leechmere Road (Friday and Saturday peak periods) which indicate peak flows of approximately 1,200 veh/hour. Leechmere Road is a two lane dual carriageway, which has a capacity of 2,000 veh/hour even allowing for any parked vehicles in the nearside lanes.

A scheme has recently been introduced elsewhere on Leechmere Road to regularise parking along the residential frontages, and reduce the running carriageway to one lane in each direction.

The TA included a junction assessment for the existing roundabout which serves the Asda car park. In this regard assuming that the development will generate the higher figure of 10.5%, the assessment concludes that the junction will be able to cope with this additional traffic, operating at 62% of its capacity. Junctions are normally able to operate at up to 85% of their capacity before motorists are unduly delayed.

In this regard it is considered that the survey information indicates that the Asda HGV flows on Leechmere Road will not increase to such an extent to result in conditions prejudicial to highway safety. As such, based on the information submitted by the applicant, it is considered that any potential increase in vehicular traffic on Leechmere Road could be satisfactorily accommodated on the existing highway network. Consequently, the concerns expressed in this regard from Councillors P.Gibson and P.Tye are not considered to be sufficient to sustain a refusal of planning permission.

3. Car Park Capacity (566 spaces)

The applicants survey indicated peak demand of the car park as 53% (301 spaces) and 77% (434 spaces) during the Friday and Saturday periods respectively.

Using the figure of 10.5% increase in traffic as a worst case situation, this predicts that peak demand with the development will be for 480 spaces (85%) during Saturday peak period. In this regard the applicant considers that the existing parking provision will be sufficient to accommodate existing demand and also an increase in duration of stay associated with customers shopping in the extended store. Information provided subsequent to the preparation of the TA states that, in peak periods, there are approximately 50 employees cars parked in the car park. The implementation of a management plan can be controlled by a suitably worded condition, which will require these cars to be parked in the north-west corner of the car park, which is currently under utilised. It is considered that this will improve the effective use of the car park by customers, and also improve the flow of vehicles entering the site.

In view of the above it is not considered that the concerns of Councillors P.Gibson and P.Tye are supported by the on-site facts and therefore the inadequacy of the car parking facilities could not form the basis of a ground for refusal.

In periods of heavy demand, there may always be a risk that one or more customers may choose to park on the highway. It is therefore considered appropriate to introduce a suitable worded planning condition that requires the introduction of a parking control scheme on Leechmere Road, if the issues arise. The applicant would be required to fund these proposals and has agreed to contribute £20,000 if this scheme is required. The potential need for an agreement made under Section 106 of the Town and Country Planning Act 1990 to enable this is currently being investigated with the City Solicitor and it is anticipated that further details in this regard will be reported on a supplement report to the main agenda should an agreement be required.

4. Travel Plan

In accordance with national policy to encourage alternative modes of transport other than the private car, the applicant proposed to introduce a travel plan for the site to reduce dependence on car use by their employees. As such any grant of consent will be subject to a suitably worded condition.

5. Service Vehicles

The delivery vehicles serving the Asda store take place at the rear of the store, which is accessed through Leechmere Industrial Estate and at the end of Claymere Road. Officer site visits to this area have highlighted that the grassed area situated adjacent to the 'internal' delivery entrance is being used by Asda delivery vehicles, namely home delivery vans, which has resulted in damage to the verge. It is considered that this area should be improved and formalised by constructing an area of hardstanding to be used by vehicles waiting to access the store. This area is not within the control of Asda and therefore it is recommended that a Grampian condition be imposed to any grant of consent that requires this work to be implemented in accordance with a scheme to be agreed by the LPA prior to the mezzanine being brought into use. With the imposition of such a condition on any consent issued it is considered that the concerns of Councillors P.Gibson and P.Tye would be satisfactorily addressed.

Concluding Highway Comments

It is considered that the proposals represent a diversification of use of the site, with the increase in floor area being utilised for non-food sales. These sales are likely to increase turnover at times other than at the peak times for food retailing. In these circumstances, the main change would be an increase in use of the car park at times other than the peak periods on Fridays and Saturdays. It is also notable that the site operator could achieve an increased retail floor area by converting part of the existing internal layout which is currently utilised for storage and warehousing, without the need for planning permission. This option would have the effect that there could be significant increase in the need for deliveries to the site. As such having had full regard to all of the above it is not considered that there is any reason to resist or refuse planning permission on highway grounds. A refusal of planning permission would more than likely result in an appeal and it is considered if this were to happen then the Inspector would be highly likely to find in favour of the applicant. The proposal is considered to accord with policy T14 and T22 of the UDP.

NOISE AND HGV MOVEMENTS

The applicant has undertaken a 'Road Traffic Noise' and 'Construction Noise' assessment on Leechmere Road. The findings of the surveys have been assessed by the Environmental Health section and the following comments are offered.

Road Traffic Noise

The proposed installation of a mezzanine floor to the existing Asda store on Leechmere Road is intended to provide floor space for non-food items only. The applicant has advised that such provision is likely to generate an additional 5no. Heavy Goods Vehicle deliveries per week. These will take place Monday to Friday between the hours of 08:00 and 21:00 hours and as such there will be no impact on existing night time deliveries. The additional daytime vehicle

movements are not anticipated to have a significant adverse impact for local residents and hence would not support a refusal on such grounds as suggested by Councillors P.Gibson and P.Tye. .

Construction Noise

The following condition, relating to hours of working, was proposed to be imposed on any grant of consent, however following concerns raised by the applicant the situation has been reviewed and the findings are detailed below.

'The construction works required for the development hereby approved shall only be carried out between the hours of 07.00 and 19.00 Monday to Friday and between the hours of 07.30 and 14.00 on Saturdays and at no time on Sundays or Bank Holidays in order to protect the amenities of the area and to comply with policy EN5 and B2 of the UDP'.

The imposition of the construction noise condition was recommended during the construction phase as a result of previous complaints from local residents regarding the night time noise disturbance from previous external works on the site. It is understood however that all of the works proposed in connection with the mezzanine floor are internal and cannot be undertaken during daytime hours due to health and safety reasons in connection with the use of the existing store. The inclusion of this condition was intended to be prohibitive in terms of the development, but was designed to afford protection to residents from potentially unreasonable levels of noise. Given the distance of the store building to residential premises and in light of the health and safety constraints which apply to daytime working, it is considered reasonable that the condition be amended so that it relate solely to external noise generating works. The revised condition is worded as follows.

'No external noise generating construction works required for the development hereby approved shall be undertaken outside the hours of 07.00 and 19.00 Monday to Friday and between the hours of 07.30 and 14.00 on Saturdays and at no time on Sundays or Bank Holidays in order to protect the amenities of the area and to comply with policy EN5 and B2 of the UDP'.

Conclusion

In conclusion it is considered that in light of survey and assessment works undertaken by the applicant and the suggested conditions in respect of car parking, servicing, travel plan and construction hours the proposed mezzanine floor is considered to be an acceptable form of development and as such it is recommended that Members be minded to approve the application subject to the conditions listed below.

RECOMMENDATION: Approve

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 No development shall take place until a scheme of working has been submitted to the satisfaction of the local planning authority; such scheme to include days and hours of working, siting and organisation of the construction compound and site cabins, routes to and from the site for construction traffic, and measures to ameliorate noise, dust, vibration and other effects, and so implemented, in the interests of the proper planning of the development and to protect the amenity of adjacent occupiers and in order to comply with policy EN5 of the UDP.
- 3 During the construction of the mezzanine extension hereby approved no deliveries shall be taken at or despatched from the site outside the hours of 07:00 and 19:00 Monday to Friday, 07:30 and 14:00 Saturdays, nor at any time on Sundays, Bank or Public Holidays to ensure that nearby properties are not adversely affected by the development and that highway safety is not compromised and to comply with policy EC12, EC13 of the UDP.
- 4 No external noise generating construction works required for the development hereby approved shall be undertaken outside the hours of 07.00 and 19.00 Monday to Friday and between the hours of 07.30 and 14.00 on Saturdays and at no time on Sundays or Bank Holidays in order to protect the amenities of the area and to comply with policy EN5 and B2 of the UDP.
- 5 Notwithstanding the plans hereby approved and submitted information the mezzanine floor extension shall not be brought into use until a management plan which identifies the relocation of staff parking to the north-west corner of the car park has been submitted to and approved in writing by the Local Planning Authority. The car park shall then be laid out in complete accordance with the agreed details and shall remain thereafter, in the interests of highway and pedestrian safety in accordance with policy T14 of the UDP.
- 6 Notwithstanding the plans hereby approved and submitted information the mezzanine floor extension shall not be brought into use until a scheme of improvements for the area adjacent to the internal service access/egress point on Claymere Road has been submitted to and approved in writing by the Local Planning Authority. The improvements shall then be completed in full accordance with the agreed details and implemented prior to the mezzanine extension being brought into use, in the interests of highway and pedestrian safety and ensure a satisfactory highway arrangement, in accordance with policy T14 of the UDP.
- 7 Before the development commences details of the method of containing the construction dirt and debris within the site and ensuring that no dirt and debris spreads on to the surrounding road network shall be submitted to and approved by the Local Planning Authority. These details shall include the installation and maintenance of a wheelwash facility on the site. All works and practices shall be implemented in accordance with the agreed details before the development commences and shall be maintained throughout the construction period in the interests of the amenities of the

area and highway safety and to comply with policies B2 and T14 of the approved UDP.

- 8 Before the development commences a Travel Plan to reduce the number of employees arriving by car and increase the number of employees using public transport, walking and cycling as a means of travelling to/ from their place of work shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall then be implemented in complete accordance with the agreed details, in the interests of traffic mitigation and environmental sustainability and to comply with policy T14 of the UDP.
- 9 The internal service area shall be laid out in complete accordance with plan ref: 'SK-20-02 rev E' - Back of House Sketch prior to the mezzanine floor hereby approved being brought into use, in the interests of highway safety and to ensure a satisfactory form of development in accordance with policy T14 of the UDP.

Supplement from 30 June 2009

As members will recall this application was presented to the Sub-Committee on the 21 April when it was decided to defer a decision pending further information being provided by Asda in respect of the potential for increased HGV movements and the resulting increase in noise on Leechmere Road, which were concerns raised by Councillors P.Gibson and P.Tye.

In response to the above, Asda have provide information relating to the anticipated use of HGV's in association with the store following the completion of the mezzanine floor and undertaken a noise assessment on Leechmere Road. As is documented in the main agenda report the additional information submitted by Asda has been considered and it is not considered that either aspect poses a concern to residential amenity or highway safety.

As stated in the main report the requirement for a S106 agreement in respect of funding a scheme of parking control measures on Leechmere Road, which may be necessitated through increased parking on that road associated with the development, was being discussed. The conclusion of the discussions was that the issue would be best addressed by way of a unilateral agreement and not a condition as previously proposed at the meeting of 21 April requiring. Under the agreement Asda would pay to the Council the sum of £20,000 prior to grant of consent. The money would then be held in a bank account for a period to be agreed by both parties, during which time it would either be spent on implementing the restrictions, if it was decided that the scheme was necessary, or following which time the money would be re-paid in full and with interest if the restrictions prove not to be necessary. Essentially if an increase is witnessed in Asda customers choosing to park on Leechmere Road as opposed to using the store car park, then the money will be used to introduce parking restrictions on the store side of Leechmere Road. The precise areas of Leechmere Road where the restrictions would apply will be determined by the incidence of on street parking by Asda customers, should it occur.

The requirement for a unilateral undertaking has been raised with Asda and written confirmation has been received from Asda agreeing to the obligation. Detail's of the unilateral undertaking, which is to be prepared by Asda, and

agreed by the Council is still awaited. Should the obligation be received in advance of the meeting then further details will be provided in a report to be circulated at the meeting. It should be noted that without such an obligation being entered into the proposal would be considered to be unacceptable and the application would be recommended for refusal on highway grounds.

The final issue to consider is a request made by Councillor Tye that Asda delivery vehicles should use the Southern Radial Route on an evening and during the night in order to prevent possible noise nuisance for local residents. Councillor Tye considers that this would be a shorter route for the vehicles when travelling from the Asda distribution centre at Washington.

This request has been put to Asda and the following response has been provided. Asda have given careful consideration to the delivery arrangements at the store. Following the last Committee, surveys have been undertaken around the site at night to monitor traffic movements. The results of the surveys undertaken show that HGV movements make up only a small percentage of overall traffic activity on Leechmere Road. In addition, owing to the nature of the floorspace proposed, these movements will not change as a result of the proposed extension, which relates to non-food goods. In this regard it is considered that Asda will better utilise their existing delivery vehicles by filling the trailer more efficiently.

To add to the above response provided by Asda it should be noted that there are no planning restrictions on the route currently used by existing Asda delivery vehicles and therefore it would not be possible to ascertain which vehicles were associated with the existing use and which were serving the mezzanine floor should separate vehicles be used. Also there are no restrictions on the use of Leechmere Road by HGV's serving Leechmere Industrial Estate and therefore it would be unreasonable to impose such a restriction on Asda given that the results of the traffic and noise surveys do not raise any highway or environmental concerns.

CONCLUSION

As concluded in the main agenda report the development proposal which is the subject of this application is considered to be acceptable subject to the conditions detailed on the main report and signing of the above detailed unilateral undertaking. It is therefore recommended that Members be minded to approve the application subject to the conditions listed in the main report and the signing of the unilateral undertaking.

RECOMMENDATION:

(i) Grant Permission subject to the conditions listed in the main report and subject to completion of a Unilateral Undertaking by 24 July 2009, or such other date as agreed by the Director of Development and Regeneration.

Or

(ii) Refuse permission should the obligation not be completed by 24 July 2009, or such other date as agreed by the Director of Development and Regeneration.

Report for Circulation 30 June 2009

Following the preparation of the main agenda and supplement reports further clarification in respect of the planning obligation to be entered into by Asda has been received. The draft Heads of Terms as provided by Asda are detailed as follows.

'It is hereby agreed that planning permission will be granted, subject to the applicants (Asda) first entering into a Section 106 Agreement with Sunderland City Council (SCC) which shall relate to suitable highway controls on Leechmere road, should these be considered necessary. Specifically, the legal agreement shall require the applicant to pay Sunderland City Council £20,000 prior to the first use of the mezzanine floor approved by the application for the purposes of implementing parking restrictions on the highway network in the immediate vicinity of the store if these are deemed necessary. The Legal Agreement shall allow for the monies to be spent undertaking parking controls on Leechmere Road, if these are deemed necessary within a period of one year, beginning with the first use of the mezzanine floor. If the improvements are not necessary, then the monies (with appropriate interest) shall be returned to the applicants'.

In response to the above, whilst the broad principles of the agreement are accepted by the Council, namely the nature of the works (parking restrictions) proposed on Leechmere Road and the sum of money required in order to implement the works (£20,000), there are two fundamental concerns relating to the detail of the agreement being proposed by Asda.

Firstly, with regards Asda's proposal to make the payment of £20,000 to the Council prior to the mezzanine floor being brought into use there is a concern that if the Council agrees to this timing then there is the possibility that the mezzanine store may be brought into use and open for public trading prior to the money being received. It is therefore considered that the most appropriate trigger mechanism for payment would be for Asda to make the payment prior to any grant of consent being given. This approach would guarantee that the money was available for use by the Local Highway Authority, if so required.

The second point of contention with the draft Heads of Terms as submitted by Asda relates to the period of time that the money will be held by the Council. In this regard Asda are proposing that the Council will hold the money for a period of 12 months commencing on the date of the first use of the mezzanine floor. However, taking on board all of the survey and assessment work that will be required along with the required consultation period and legal processes to be undertaken it is not considered that a period of 12 months would be a sufficient length of time to fulfil all of the necessary requirements. Furthermore, what also needs to be taken into account is the possibility of resident objection or third party legal objection to the proposal which could significantly delay the process. As such the Council considers that the money should be held for a period of up to four years, which will provide sufficient time for the impacts, if any, of the mezzanine floor to become apparent and the necessary works undertaken by the Council in order to assess whether or not parking restrictions are required on Leechmere Road.

Having regard to the above it is considered that the details of that the agreement, whether it be via a Section 106 Agreement or unilateral undertaking, should stipulate the following.

The obligation relates to a scheme of parking restrictions to be introduced on Leechmere Road, on the frontage of the store, which is a dual carriageway of approximate 180m in length. The scheme which will include the introduction of 'no waiting at any time' parking restrictions on the highway in the vicinity of the store is to be initiated and implemented at the discretion of the City Council, as local highway authority.

The payment of £20,000 should be made prior to the grant of planning permission and may be expended as necessary on legal costs, works and other fees associated with the implementation of a scheme. Any monies not expended shall be refunded to Asda not later than four years after the opening of the Mezzanine floor.

CONCLUSION

As concluded in the main agenda and supplement reports the development proposal which is the subject of this application is considered to be acceptable subject to the signing of the above detailed agreement. It is therefore recommended that Members be minded to approve the application subject to the conditions listed in the main report and the signing of the agreement.

RECOMMENDATION:

(i) Grant Permission subject to the conditions listed in the main report and subject to completion of an obligation by 24 July 2009, or such other date as agreed by the Director of Development and Regeneration.

Or

(ii) Refuse permission should the obligation not be completed by 24 July 2009, or such other date as agreed by the Director of Development and Regeneration.

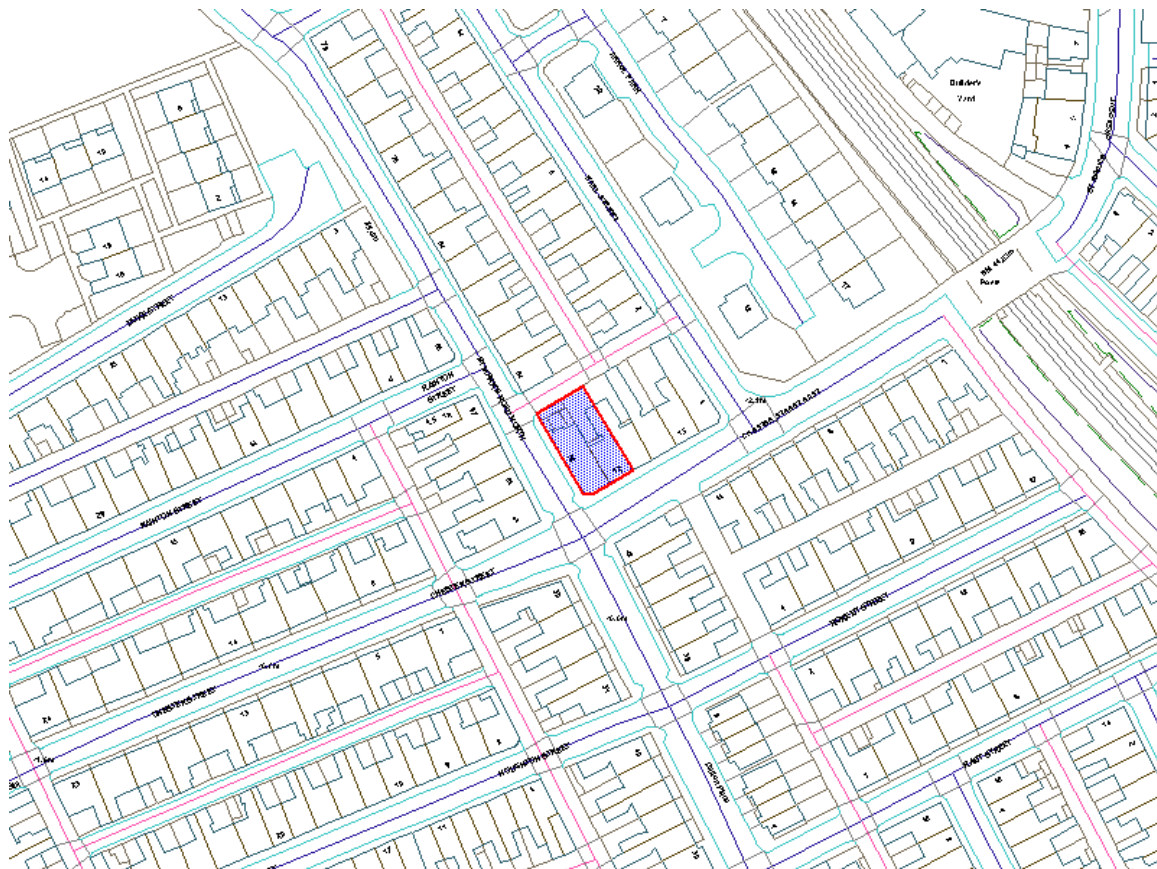
Reference No.: 09/01069/FUL Full Application

Proposal: Change of use from shop and dwelling house to mosque and social/educational centre (Class D1) and flat (Class C3) to include demolition of rear boundary wall and provision of 3 car parking spaces.

Location: 52 Saint Marks Road And 12 Chester Street East
Millfield Sunderland

Ward: Millfield
Applicant: Mr Afzaal Mehdi
Date Valid: 5 June 2009
Target Date: 31 July 2009

Location Plan



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PROPOSAL:

Retrospective planning permission is sought for the change of use of 52 Saint Mark's Road and the ground floor of 12 Chester Road East, Millfield, into a mosque and social/education centre. The upper floor of 12 Chester Road would remain in residential use. Previously, 52 Saint Mark's Road was used as a cafe on the ground floor with residential accommodation above and this part of the site has been in use as mosque since 2005. No. 12 Chester Road has been used for meeting purposes only in more recent times and was previously a dwelling house.

A retrospective planning application (Ref: 05/04402/FUL) seeking to retain the unauthorised use of 52 Saint Mark's Road was previously refused by the LPA on 19 January 2006 on the following grounds:

'This unauthorised change of use has increased the level of traffic visiting the premises and the lack of in curtilage parking facilities results in additional vehicles being parked in nearby side streets, causing congestion and creating conditions prejudicial to highway safety, contrary to Policy T14 of the Council's adopted Unitary Development Plan and Supplementary Planning Guidance Topic 13.'

A subsequent appeal to the Planning Inspectorate (Ref: 06/00085/COU) against this refusal of planning permission was dismissed on 24 November 2006 due to the lack of parking identified above. Enforcement action was therefore instigated against the unauthorised use.

During 2008 an enforcement appeal relating to the above was dismissed by the Planning Inspectorate. The terms of the notice required the appellants to cease using the premises by 26th March 2009. Prior to this taking place, however, the applicant contacted the Local Planning Authority in an attempt to overcome the above highway reasons for refusal. This has resulted in the submission of the current planning application.

The current proposal involves a mosque, prayer area, kitchen and wash facilities on the ground floor of 52 Saint Mark's Road, with two after school classes and bathroom on the upper floor. The ground floor of 12 Chester Street East involves two ladies prayer areas with wash facilities and a flat with two bedrooms on the upper floor. There is no physical connection between the two premises internally.

It is proposed to provide three car parking spaces within the rear yard area of no. 12. There is no available space to the rear of 52 Saint Mark's Road for off street parking.

TYPE OF PUBLICITY:

Site Notice Posted
Neighbour Notifications

CONSULTEES:

Northumbrian Water
Director Of Community And Cultural Services

Final Date for Receipt of Representations: **30.06.2009**

REPRESENTATIONS:

Neighbours

Six letters of objection have been received as a result of the consultation process. The concerns raised relate, in summary to the following:

- The application site is located on a junction, which has restricted visibility and is narrow in width. Gatherings at the premises create car parking that obstructs all four sides of the junction causing dangerous conditions. The occupants also provide themselves with 'private on street parking' by placing cones on the highway as they see fit.
- Anything up to 35 cars may be parked outside the premises at any one time during meetings, which is a nuisance to other road users and also causes noise and disturbance due to car doors slamming/revving engines. Cars often park on the pavement, which impedes the passage of pedestrians.
- There are no insufficient parking spaces available for the use.
- The well being of residents is badly affected by the agitation caused by the use.
- There has been a blatant disregard of planning/appeal decisions and the use continues regardless.
- The property is joined to residential dwellings and the mosque causes noise many times a day. It is unsuitable to be used as a mosque due to its location and small size.
- People arrive from Seaham and other outlying areas and it does not only serve the local community.
- There is another mosque in Chester Road, a short walk away.
- Adding 3 car spaces will not overcome the previous objections relating to car parking and a learning centre will make it worse still.
- The people who visit have no regard for those that live in surrounding streets and, especially on Fridays and other religious festivals, park indiscriminately preventing residents from emptying shopping or arriving from work. The meetings may last until 10 p.m. at night and some parents drop off children then wait outside with their engines running, which disturbs rest.
- The proposed parking area would block access into the rear lane, which is heavily used, adjacent dwellings, as well as other road users, including the emergency services. A rear car park would cause noise and disturbance to adjoining bedrooms, especially during Ramadan.

In addition a petition bearing 255 signatures has been received from residents in the Millfield area objecting to the mosque, in summary, for the following reasons: those living near the use feel that it is in the wrong place because of traffic and parking, residential conflict, etc. The mosque has been put in by stealth and was not noticeable until the number of visitors, car problems and noise coming from it became obvious.

Highway Engineers

Recommend refusal as the proposal represents an intensification of use and does not adequately address the demand for parking. Increased traffic movements in the area and demand for on street parking would be detrimental to highway safety. There is insufficient information relating to the operating times of the proposed educational facility to properly assess the application. This has been requested from the applicant.

Northumbrian Water

No objection

Community and Cultural Services

The proposal involves a mosque, prayer area, kitchen and wash facilities on the ground floor of 52 St Mark's Road, with 2 after school classes and bathroom on the upper floor. The ground floor of 12 Chester Street East involves 2 ladies prayer areas with wash facilities and a flat with 2 bedrooms on the upper floor. Although there is no physical connection between the two premises internally, a tannoy/amplification system allows prayers to be heard throughout both buildings.

It is understood that that prayers will typically take place at 04:00 hrs 14:00 hrs, 19:15 hrs, 21:50 hrs and 23:15 hrs although these times may vary throughout the year subject to seasons. It is further understood that although there are no weekly events as such, there will be a gathering once per month for special prayers on Sunday evenings and extra ceremonies in the month of Ramadan and an Eid festival once per year.

The development is located within a predominantly residential area and is indeed adjoined to 13 Chester Street East. In view of the location of the development and its proximity to residential properties there are concerns regarding the potential for unreasonable noise disturbance, particularly if the premises are to be at night. There are two primary areas of concern.

In the first instance, it is possible that given the time and frequency of use of an internal tannoy system, nearby residents may experience unreasonable levels of noise disturbance, particularly at night and in the early hours of the morning. In order to mitigate against this the applicant should be asked to provide sufficient proofing to the premises to ensure that noise from internal activities are inaudible both inside and outside adjoining and nearby residential dwellings. Furthermore, the applicant should be asked to provide a scheme covering the internal use of amplification equipment to be approved by the Planning Authority. This could be dealt with by way of a condition, should planning permission be forthcoming

In the second instance it is anticipated that the mosque may attract reasonably large numbers of people, some of whom may arrive extremely early or stay very late. It is therefore possible that local residents may suffer noise disturbance as a result of the associated comings and goings to the mosque, in particular noise generated by those people together with the noise of vehicles starting up and car doors slamming etc. As this noise is itself inherently difficult to control and may only be controlled by way of a restriction in the time period over which the

mosque is permitted to operate in order to minimise potential noise disturbance of this type at unreasonable times.

POLICIES:

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

CF_12_Encourage provision of cultural, religious and social facilities not currently available

EN_10_Proposals for unallocated sites to be compatible with the neighbourhood

B_2_Scale, massing layout and setting of new developments

T_14_Accessibility of new developments, need to avoid congestion and safety problems arising

SA_10_Maximisation of benefits (open space/community facilities) in developments

COMMENTS:

The key issues to consider in this case are:-

The principle of the use.

Impact on residential amenity.

Impact on highway safety/parking.

Clearly, the proposal has been amended since the previously submitted application and an assessment will be made as to whether these changes overcome previous objections to the proposal, or introduce new planning concerns.

PRINCIPLE OF THE USE

Policy CF12 states that proposals for the provision of social, religious and cultural facilities, which are not currently available, will normally be permitted subject to normal planning control measures. Policy EN10 states that all proposals for development and change of use will be judged in accordance with the policies of the UDP. Where the plan does not indicate any proposals for change, the existing pattern of land use within the area is intended to remain and that proposals in such areas should be compatible with the principal use of the neighbourhood. Policy SA10 identifies the Millfield and Pallion areas of the City as areas in which the Council will seek to maximise benefits, in the form of additional open space and community facilities, from sites to be developed or redeveloped.

IMPACT ON RESIDENTIAL AMENITY

The current proposal includes the part of use of no. 12 Chester Street East as a prayer area for women. The applicant states that the ground floor of this property has been used for such a purpose for at least four months. The introduction of a non residential use on the ground floor has noise implications for the adjacent terraced dwelling both in terms of noise transmission through the party wall, as well as the overall numbers of visitors arriving at and leaving the property in close proximity to a single family residence. Policy B2 of the UDP requires that all new development should respect and enhance the best qualities of nearby properties

and the locality and retain acceptable levels of privacy. It against this policy that the new proposal must be assessed.

HIGHWAYS AND PARKING

Policy T14 relates to the highways and transport implications for new developments. It seeks to ensure that proposals for new development are readily accessible, should not cause traffic congestion or highway safety problems, should make provision for access and egress from sites, make provision for the loading and unloading of vehicles and indicate how parking requirements will be accommodated.

The aim of the Supplementary Planning Guidance Topic 13 is to ensure that adequate parking provision is made for various developments. Particularly pertinent in this instance are the parking requirements for places of worship or religious institutions (Use Class D1 Non-Residential Institutions), which require the provision of 1 in curtilage parking space per 5 seats or per 10 sqm of public floor area.

The application proposal makes provision for three car parking spaces to the rear of no. 12 Chester Street East that were not provided as part of the previous refusal of planning permission. However, the amount of floor space proposed has also increased by the addition of the ground floor of no. 12 and this would negate the provision of off street spaces to overcome previous highway concerns. The current proposal would allow for an increase in the numbers of visitors to the premises, particularly as an educational facility has been introduced and segregated prayer areas in both properties. Based upon floor area City of Sunderland Design Guide would suggest 15 spaces, which would tie into previous observations. However recent observations (since the occupation of No.12 Chester Street) showed a peak demand of 29 vehicles, indicating a requirement for 20 to 30 spaces (see below).

In order to assess the parking implications of the use two parking surveys have been carried out on consecutive days during July 2009, the results of which show the following:-

Thursday 9th July 2009 12:41 to 13:15

There was no apparent activity associated with the mosque.

There were a small number of vehicle movements in the area during the survey period, again with no apparent association to the mosque.

Friday 10th July 2009 12:11 to 13:55

There were a total of 29 Vehicles associated with the mosque. It was apparent that there were possibly more vehicles, however these fell outside of our field of vision and therefore have not been included as they can't be fully confirmed.

5 worshipers appeared to arrive on foot.

Worshipers arrived between 13:00 and 13:35, with people beginning to leave the mosque at 13:50.

It was noted that persons from the mosque placed road cones on the highway at 13:14 hours.

The numbers recorded on Friday 10th July represent an increase in previous numbers - the highest of which were 17 and 19 recorded as part of the previous planning and enforcement appeals.

CONCLUSION

The applicant has provided additional information regarding the nature and intensity of use of the mosque and this has been assessed in relation to the impact of the use on nearby residents and the highway.

The proposal would represent an intensification of use of the premises compared to the previous application, which involved the use of 52 St. Mark's Road only as a mosque. The current proposal also involves the part use of the adjoining dwelling at no. 12 Chester Street East and introduces an educational facility and ladies prayer areas, thus increasing the capacity of the mosque for visitors. Whilst the current proposal provides for three parking spaces within the rear yard area of no. 12, this in no way addresses the demand for parking for the numbers of visitors and results in an increased demand for on street parking, increased traffic movements in the area and is detrimental to highway safety and the convenience of other road users. The proposal is therefore contrary to policy T14 of the UDP and also causes inconvenience to the residents in the vicinity of the premises.

The current proposal introduces a second planning issue that was not present in the previous application. The proposed part use of no. 12 Chester Street East would create a non residential use alongside a residential property with the likelihood of noise transmission through party walls and general disturbance in Chester Street East as a result of the comings and goings by visitors to the mosque. Whilst noise transmission through the party wall may be overcome by noise mitigation measures, the general noise and disturbance caused by large numbers of visitors to the premises, particularly at night or during the early hours or weekends, may not. The applicants have indicated that it would not be practical for them to accept a condition to restrict the hours of opening as prayers take place throughout the day and night and the mosque would need to be open for Ramadan and other festivals. In this densely populated area the use of two terraced properties for a use that attracts large numbers of visitors is not ideal and does not comply with policies B2 and EN10 of the UDP that seeks to ensure that uses should be compatible with the principle use of the neighbourhood and respect and enhance the best qualities of the locality. Members of the sub-committee undertook a site visit at 13:30 on 7th August 2009, which coincided with the time of prayers, to help them judge whether the use was compatible with the principle use of the area and in particular to consider the matter of on street parking generated by and car trips to the Mosque

Policy CF12 permits the development of social, religious and cultural facilities, subject to normal planning control measures. However, in this case the detrimental effect on highway safety and on residential amenity identified earlier in this report are such that members are recommended to refuse planning permission for the reasons stated below:

RECOMMENDATION: Refuse

Reasons:

- 1 The change of use would lead to an increase in traffic visiting the premises without adequate parking facilities being provided on site. This would result in additional vehicles being parked in nearby residential streets, where parking is at a premium, creating conditions prejudicial to highway safety and inconvenient to other road users and as such is contrary to policy T14 of the UDP.
- 2 The proposed use, due to its proximity to residential dwellings and the numbers of visitors it attracts, would have a detrimental effect on the amenities of nearby residents by reason of noise, loss of privacy and disturbance during the evening, at night and in the early hours of the morning, and as such is contrary to policy EN10 and B2 of the UDP which seek to ensure that all new uses are compatible with the principle use of the neighbourhood and respect the best qualities of the locality.

3.

South
Sunderland

Reference No.: 09/02274/LAP Development by City(Regulation 3)

Proposal: Erection of single storey extensions to the north and eastern side of the property, conversion of existing garage to day lounge and construction of single storey extension to South West side of property (Amended description 19.08.2009).

Location: Millenium Bungalow, 10 Sea View Road, Sunderland

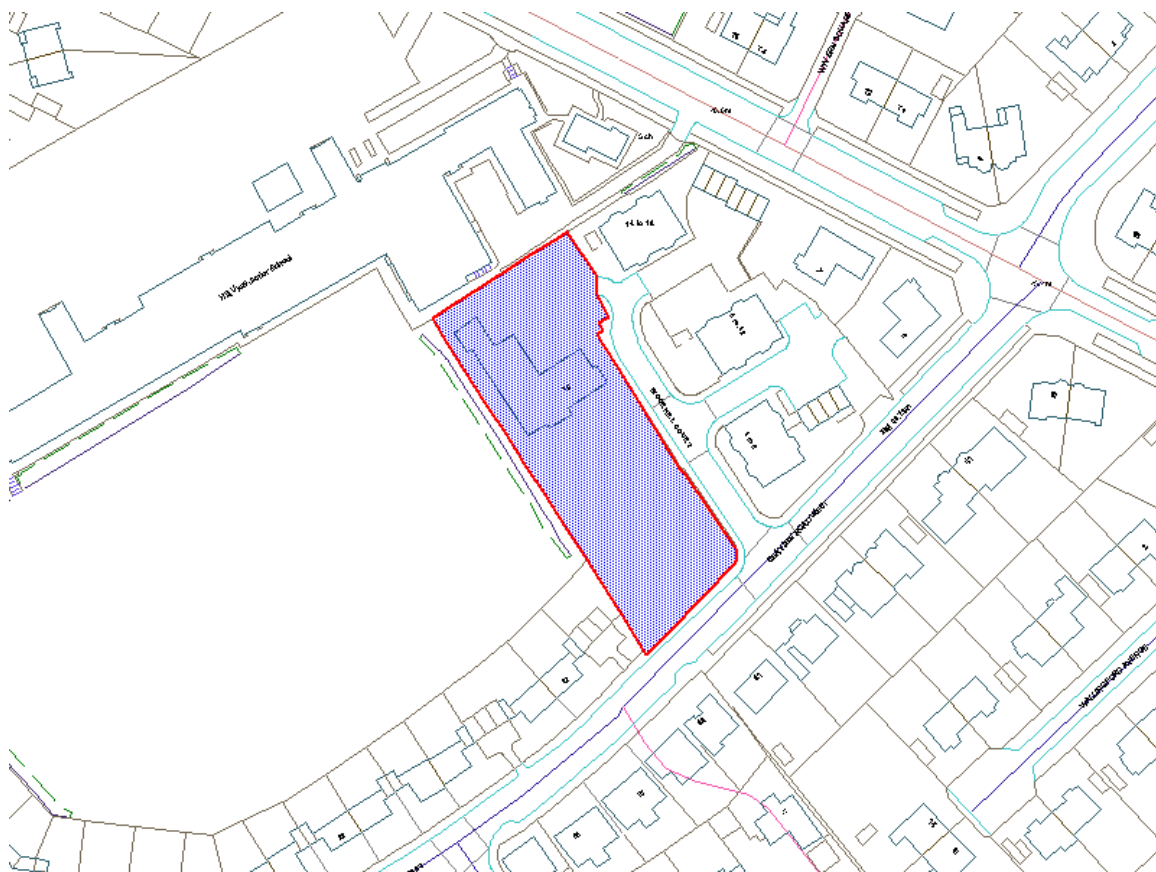
Ward: St Michaels

Applicant: Childrens Services Directorate

Date Valid: 7 August 2009

Target Date: 2 October 2009

Location Plan



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PROPOSAL:

The application relates to the erection of a single storey extension to the northern elevation, conversion of the existing garage to a day lounge and construction of

single storey extension to the south west elevation at Millennium Bungalow, 10 Sea View Road West.

The existing building is operated as a respite care centre for children. The building is setback from the main road and occupies a position between the two storey residential dwellings of Sea View Road West and the three storey Hill View Junior School.

It is indicated that the proposed works will specifically upgrade the building to provide new Day Rooms, Lounges, Toilets, Store, Meeting Room and Office. It is apparent that the need for these additions has arisen from health and safety issues and upon completion will allow the care centre to deliver a safer and more pleasant environment for children. In addition, the facility has been designed in such a way to ensure that the extensions are compliant with The Disability Discrimination Act (DDA).

The proposal will see the conversion and extension of the existing garage, which is located on the northern/south-eastern edge of the site, to accommodate a day lounge, meeting room, store and office. The proposed extension in this area would measure 11.4 metres in length, 13 metres in width and 5 metres in height. The extension to the eastern edge will provide for a new toilet and day lounge and will see the creation of a flat roofed link building which will adjoin the main dining room and provide access into the new day lounge. The flat roofed link building will measure 4.8 metres in length, 3.7 metres in width and 2.6 metres in height. The building will link into the new day lounge which is hexagonal in shape and measures 6.5 metres in width and 4.7 metres in height. The hexagonal building will cover an area of 36 square metres, not including the link building. The extensions are designed to reflect the existing building in relation to the roof structures and construction materials.

The site is subject to Tree Preservation Order (TPO) 134. The proposed development would see the removal of Trees 2, 3, 4, 5 and 8 which are detailed within the submitted Arboricultural Impact Assessment. Only three of these trees are covered by the aforementioned Order, specifically trees 2, 4 and 5 which are numbered T61, T60 and T59 respectively.

TYPE OF PUBLICITY:

Site Notice Posted
Neighbour Notifications

CONSULTEES:

Director Of Health, Housing And Adult Services

Final Date for Receipt of Representations: **17.09.2009**

REPRESENTATIONS:

To date, no representations have been received, although it should be noted that the period for public consultation has yet to expire. Should any objections be received in advance of the Sub-Committee Meeting, these will be reported through preparation of a supplementary report.

POLICIES:

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

B_2_Scale, massing layout and setting of new developments
CN_17_Tree Preservation Orders and replacement of trees
CN_18_Promotion of nature conservation (general)
CN_22_Developments affecting protected wildlife species and habitats
EN_10_Proposals for unallocated sites to be compatible with the neighbourhood
T_14_Accessibility of new developments, need to avoid congestion and safety problems arising
T_22_Parking standards in new developments

COMMENTS:

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

Principle of the Development.

The impact of the proposal on the surrounding properties.

The impact of the development on protected trees and protected species

Highway Issues

PRINCIPLE OF THE DEVELOPMENT

The site in question is not allocated for any specific land use within the Council's Unitary Development Plan and, as such, is subject to policy EN10. This policy dictates that, where the UDP does not indicate any proposals for change, the existing pattern of land use is intended to remain. As the proposal is aimed at improving the facilities available to the existing care centre, the proposed works are considered to accord with the requirements of policy EN10.

DESIGN, SITING AND EXTERNAL APPEARANCE

Policy B2 of the UDP dictates that the scale, massing, setting and layout of new developments should respect and enhance the best qualities of nearby properties and the locality and retain acceptable levels of privacy. In this regard, the proposed extension is offset from the curtilage of the nearest residential property at 12 Sea View Road West by over 30 metres. This separation distance is considered to be acceptable in order to protect the amenities of surrounding residential properties.

The materials proposed to be used in construction replicate those used in the existing centre and it is considered that should members be minded to grant consent, a condition could be imposed requiring that suitable materials are used to ensure compliance with the requirements of policy B2.

IMPACT ON PROTECTED TREES AND PROTECTED SPECIES

In order to provide sufficient space/amenity for the development it has been proposed to remove 5 trees, 3 of which are protected by TPO's. The trees to be removed are sycamores and are located on the southwest boundary of the site, adjacent to the proposed day lounge. To mitigate the loss of the trees it has been proposed to plant 5 ash trees, 2 being planted on the eastern boundary and 3 planted on the southwest boundary. It is considered that ash trees represent an improvement on the species to be removed and as such it is considered that the mitigation measures proposed are acceptable and the proposal accords with UDP Policy CN17. The new trees are to be semi-mature and will be required to be replanted should they die within 5 years.

The submitted ecological survey found no evidence of any protected species on the site, with very limited wildlife habitats present within the site. However, it is considered that there is the opportunity to encourage breeding birds and wildlife by installing a number of bird boxes in the remaining trees and by improving the planting around the site with species that provide nectar sources for butterflies and bees. It is suggested that, if members are minded to approve the application, a condition be attached to the permission to ensure that sufficient provision is made for breeding birds and wildlife in order to accord with UDP Policies CN18 and CN22.

HIGHWAY ISSUES

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

In this regard, it has been confirmed that the proposed works are not designed to extend the capacity of the care centres, nor will there be any extra staff employed. As such, the proposal is considered to accord with UDP policies T14 and T22, with no alteration to the parking or servicing arrangements proposed.

CONCLUSION

The period for the receipt of representations does not expire until 16 September 2009, after the Sub-Committee Meeting. Accordingly the recommendation is to be minded to grant consent subject to no objections being received and subject to the conditions below. This decision would allow the application to be determined within the 8 week period, providing no objections are received following this meeting. If objections are received the application will be reported back to the next available Sub-Committee Meeting.

RECOMMENDATION: Members be minded to Approve subject to no new objections being received.

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 Notwithstanding any indication of materials which may have been given in the application; the external materials to be used, including walls, roofs, doors and windows shall be of the same colour, type and texture as those used in the existing building, unless the Local Planning Authority first agrees any variation in writing; in the interests of visual amenity and to comply with policy B2 of the Unitary Development Plan.
- 3 No trees shall be felled within the bird breeding season (April to August) in the interests of nature conservation and to comply with policy CN17 of the Unitary Development Plan.
- 4 No tree shown to be retained on the approved plans shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 "Tree Work", in the interests of visual amenity and to comply with policy CN17 of the UDP.
- 5 If any retained tree is removed, uprooted, destroyed or dies, another tree shall be planted at the same place and that tree shall be of such a size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority, in the interests of visual amenity and to comply with policy CN17 of the UDP.
- 6 The erection of fencing for the protection of any retained trees shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority, in the interests of visual amenity and to comply with policy CN17 of the UDP.
- 7 Before the development commences a method statement shall be submitted to the Local Planning Authority detailing the method of construction for any works to be undertaken within the crown spread of any trees on the site. Such details to include methods of excavation. All works shall be carried out in accordance with the agreed details in the interests of visual amenity and to comply with policy CN17 of the UDP.
- 8 Before the trees which are the subject of this application are felled, details of the location, size and species of the replacement planting shall be submitted to and agreed with the Local Planning Authority along with a timescale for the replanting, in the interests of visual amenity and to comply with policy CN17 of the UDP.

- 9 If within a period of five years from the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted, destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation, in the interests of visual amenity and to comply with policy CN17 of the UDP.
- 10 Prior to the commencement of any development on site, precise details of the recommendations set out in Section 4 (Mitigation) of the Ecology Survey (August 2009), shall be submitted to and approved in writing by the Local Planning Authority. Following approval, all works shall be carried out entirely in accordance with Section 4 of the Ecology Report and the approved details in the interests of nature conservation and to ensure a satisfactory form of development and to comply with policies CN18 and CN22 of the UDP.

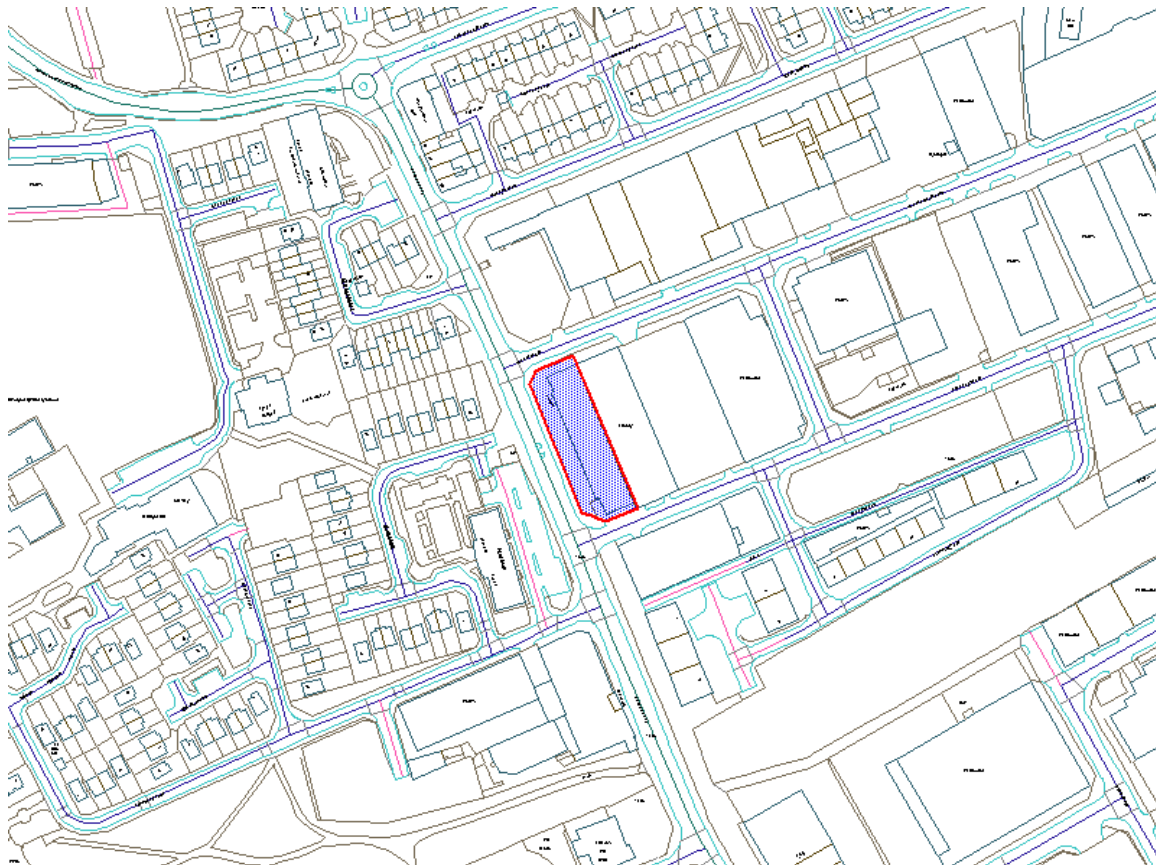
Reference No.: 09/02378/FUL Full Application

Proposal: Change of use from warehouse to retail showroom and alterations to west elevation (retrospective). (RETROSPECTIVE)

Location: Furniture 2 Go (Formerley Barringtons) Hendon Road
Hendon Sunderland

Ward: Hendon
Applicant: Mr Paul Downey
Date Valid: 30 June 2009
Target Date: 25 August 2009

Location Plan



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PROPOSAL:

Planning permission is sought for a change of use from a warehouse to a retail showroom and alterations to west elevation (retrospective) at Furniture 2 Go (formerly Barringtons), Hendon Road, Hendon, Sunderland, SR1 2JD.

The proposed change of use and associated external alterations affect a flat roofed, single-storey commercial unit standing in the Hendon Industrial area. The unit has a long and narrow footprint, measuring 68 metres in width by 16 metres in depth and fronts the busy Hendon Road, now part of the Southern Radial Route, from which it is separated by a narrow grass verge. To its north is Woodbine Street, to its south is Hendon Street, whilst adjoining it to the east (rear) is a unit used for commercial storage. A total of 16 parking spaces are provided at the site, with 8 adjacent to the north elevation and accessed from Woodbine Street and a further 8 adjacent to the south elevation and accessed from Hendon Street.

The area to the west of Hendon Road, known as the Hendon Industrial area, is characterised by commercial and industrial development, with units used for light industry and storage and distribution. The area to the east of Hendon Road is, however, residential in character and the flats of D'Arcy Court stand directly opposite the application site.

The application proposes a change of use of the building from a warehouse (use class B8 of the Use Classes Order) to a retail showroom for furniture (use class A1). The use of the unit as a retail showroom was begun August 2003 without any planning approval and so this application is retrospective. The Design and Access Statement submitted with the application states that for the three years prior to 2003, the unit had been used for a combination of warehousing/storage and retailing. Approximately 800 sq. metres of the 1000 sq. metres of floorspace is used as a showroom, with the remainder used for storage and office space and WC's.

The unit had been subject to an application in 1986 (app. ref. SD/305/86DN), when it was in use as a textiles factory, to allow the sale of some goods from the premises. The application was approved on the condition that only 450 sq. ft. (approximately 42 sq. metres) of the unit was used for retail sales and that a minimum of 80% of the goods retailed from the premises was manufactured on the premises. The approval was also granted on the condition that the permission related only to the sale of textiles goods and for no other purpose.

The external alterations amount to the removal of windows and piers in the front elevation and the installation of new white-framed UPVC windows. Planning permission was granted for external alterations to the front elevation of the building, including a small entrance feature, in June 2003 (application reference 03/00806/FUL), but the completed work does not accord with the approved plans, hence retrospective planning approval for this element of the proposal also being sought.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Port Manager
Director Of Community And Cultural Services

Final Date for Receipt of Representations: **30.07.2009**

REPRESENTATIONS:

No letters of representation have been received in response to consultation.

POLICIES:

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

B_2_Scale, massing layout and setting of new developments
EC_3_Support for new and existing economic activity
EC_4_Retention and improvement of existing business and industrial land
S_13_Resisting retail development on land allocated for industry
SA_1_Retention and improvement of existing employment site
T_14_Accessibility of new developments, need to avoid congestion and safety problems arising
T_22_Parking standards in new developments

COMMENTS:

The main issues to consider with regard to this application are:

The principle of the proposed development;
The impact of the proposed development on visual and residential amenity
The impact of the proposed development on highway safety

PRINCIPLE OF DEVELOPMENT

The development site lies within the Hendon Industrial area, which is allocated as land to be retained and improved for economic development by the proposals map of the City Council's adopted Unitary Development Plan (1998). As such, the proposal is subject to policy EC2 of the UDP, which states that, through the allocation of some 1250ha, the City Council will seek to ensure an adequate supply of land and premises to meet the City's economic development needs, maximising choice by identifying a wide range of sites (by size, type and location).

Policy EC4 states that existing business and industrial land amounting to some 1215ha will be retained and improved for a range of primary and ancillary uses. The specific uses considered acceptable at the Hendon Industrial area are defined by policy SA1, which states that uses falling within use classes B1 (offices, research and development and light industry), B2 (general industry) and B8 (storage and distribution) are appropriate at that location. Policy SA1 also states that the list of unacceptable uses provided by policy EC4 should apply to the Hendon Industrial area. Uses falling within class A1 (retail) are only acceptable if providing an ancillary facility (floor area of no more than 50 sq. metres) to meet the needs of each site.

Also of relevance is policy S13 of the UDP, which states that retailing on land allocated for industry and/or mixed use on the proposals map will only be permitted if it accords with the requirements of policy EC4.

It should be noted at this stage that an assessment and review of the City's employment land is currently being undertaken. However, the results and conclusions of that review are not yet available and so, at this time, the UDP policies outlined above still provide the relevant framework for the consideration of this application.

In addition to the above UDP policies, Planning Policy Statement 6 (PPS6) provides national planning policy guidance for town centre development. PPS6 states that the Government's key objective for town centres is to promote their vitality and viability by planning for the growth and development of existing centres and promoting and enhancing existing centres by focusing development in such areas and encouraging a wide range of services in a good environment. PPS6 provides a list of uses, including retail, which are considered to most appropriate in town centres.

In determining planning applications for town centre uses, including changes of use, the Local Planning Authority should require applicants to demonstrate:

- (i) the need for development;
- (ii) that the development is of an appropriate scale
- (iii) that there are no more central sites for the development
- (iv) that there are no unacceptable impacts on existing centres
- (v) that locations are accessible

Local Planning Authorities are advised to assess planning applications for town centre uses in edge-of-centre (i.e. 300m from a primary shopping area) or out-of-centre locations on the basis of the above key considerations and the evidence presented. As a general rule, the development should satisfy all these considerations.

The application has not been accompanied by any supporting information in relation to the above considerations. A letter (dated 6th August 2009) was issued to the applicant inviting the submission of a statement covering the above considerations in support of the proposed change of use. To date, no such supporting statement has been received.

The proposed change of use of the unit to a retail showroom is not considered to comply with the requirements of policies EC4, S13 and SA1 of the UDP in that it will lead to the presence of a retail use within an area allocated for uses associated with light and heavy industry and storage and distribution. Although the aforementioned approval from 1986 (app. ref. SD/305/86DN) granted planning permission for retailing at the premises, it only allowed approximately 4% of the floor area of the unit to be used for such a purpose, with the vast majority of the unit remaining in manufacturing use. As such, it is not considered that this approval sets any kind of precedent for retailing of the extent proposed by this application.

The proposal will also lead to the presence of a 'town centre use' in an out of centre location, an arrangement contrary to the advice of PPS6. Therefore, in the absence of any supporting statement addressing the key considerations set out in PPS6, the principle of the proposed change of use is not considered to be acceptable.

IMPACT OF PROPOSAL ON VISUAL AND RESIDENTIAL AMENITY

UDP policy B2 requires that the scale, massing and layout of new development should respect and enhance the best qualities of nearby properties and the locality.

The alterations to the exterior of the unit are minor in nature and do not harm the appearance of a building which is of low architectural and aesthetic value. The external alterations are therefore considered to be acceptable in terms of their impact on the existing streetscene and visual amenity.

The proposed use of the building as a retail showroom is not considered to be one which will lead to significant levels of noise and disturbance in relation to nearby dwellings, especially those opposite the development site at D'Arcy Court. The proposal site lies within a well-established and busy commercial and industrial area which generates significant activity throughout the day. Although the proposed use will generate further activity (i.e. from vehicular journeys to and from the site, comings and goings of customers), it is not considered this will be a particularly noticeable increase in comparison to that already encountered at the locality.

With regard to the above, the proposed change of use is not considered to be harmful to visual amenity or the residential amenity of nearby dwellings and as such the proposal accords with the requirements of policy B2 of the UDP.

IMPACT OF PROPOSAL ON HIGHWAY SAFETY

Policy T14 requires proposals for new development to be readily accessible by pedestrians, cyclists and users of public transport; not cause traffic congestion or highway safety problems on existing roads; make appropriate safe provision for access and egress by vehicles, pedestrians, cyclists and other road users; make provision for the loading and unloading of commercial vehicles and indicate how parking requirements will be accommodated. Policy T22 states that 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: development type (e.g. scale, use, catchment, user characteristics) and locational characteristics (e.g. accessibility by modes other than private car, population density, historic character).

Section 13 of the City Council's Supplementary Planning Guidance (SPG) to the adopted Unitary Development Plan states that the parking standard for uses falling into Use Class A1 is one space per 50 sq. metres of floor area. Given that the unit has a floor area of 1000 sq. metres, the proposed change of use would require a minimum of 20 spaces. Although the plans accompanying the application identify 16 parking spaces for customer use, the six southernmost bays extend onto the public highway (Hendon Street), an arrangement that is considered to be unacceptable. As such, the proposal is considered to offer only half the number of parking spaces normally required for such a use.

Furthermore, the parking bays identified on the site plan are all positioned perpendicularly to the adjacent carriageway. Such an arrangement is undesirable for frequently used parking spaces, especially given the proximity of the bays to the junctions between Woodbine Terrace/Hendon Street and the busy Hendon Road.

With regard to the above, it is considered that the proposal does not provide the level of parking normally required by Supplementary Planning Guidance for a retail use occupying a unit of this size. The proposed change of use may therefore lead to unacceptable levels of on-street parking in the vicinity of the unit. Additionally, the parking spaces proposed for the unit are not considered to be adequately arranged for the expected level of use and the manoeuvring of vehicles in to and out of the spaces in proximity to busy junctions may create conditions prejudicial to highway safety.

As such the proposed development is not considered to comply with the requirements of policies T14 and T22 of the UDP.

CONCLUSION

The proposed change of use is not considered to accord with the requirements of policies EC4, S13, SA1, T14 and T22 of the adopted Unitary Development Plan or the advice of Planning Policy Statement 6. However, a full assessment of the proposal is reserved until the applicant submits the aforementioned supporting statement addressing the considerations set out in PPS6.

It is anticipated that any supporting statement to be submitted by the applicant will be received prior to the meeting of the Development Control Sub-Committee. An analysis of the content of any such report and a subsequent recommendation will be reported on a Supplementary Report accordingly.

Alternatively, should a supporting statement not be forthcoming, a recommendation will be made on a Supplementary Report in accordance with the aforementioned UDP policies and in line with the advice of PPS6.

RECOMMENDATION: Dir.of Dev. and Regeneration to Report

Reference No.: 09/02704/FUL Full Application

Proposal: Amendments to previously approved applications 05/02829/LEG, 07/00727/FUL and 07/04252/FUL for the conversion of Brookfield House into 5 apartments and erection of 11 dwellings. (Retrospective)

Location: 1-5 Brookfield House, 1-11 Brookfield Gardens Ashbrooke Road Sunderland, ,

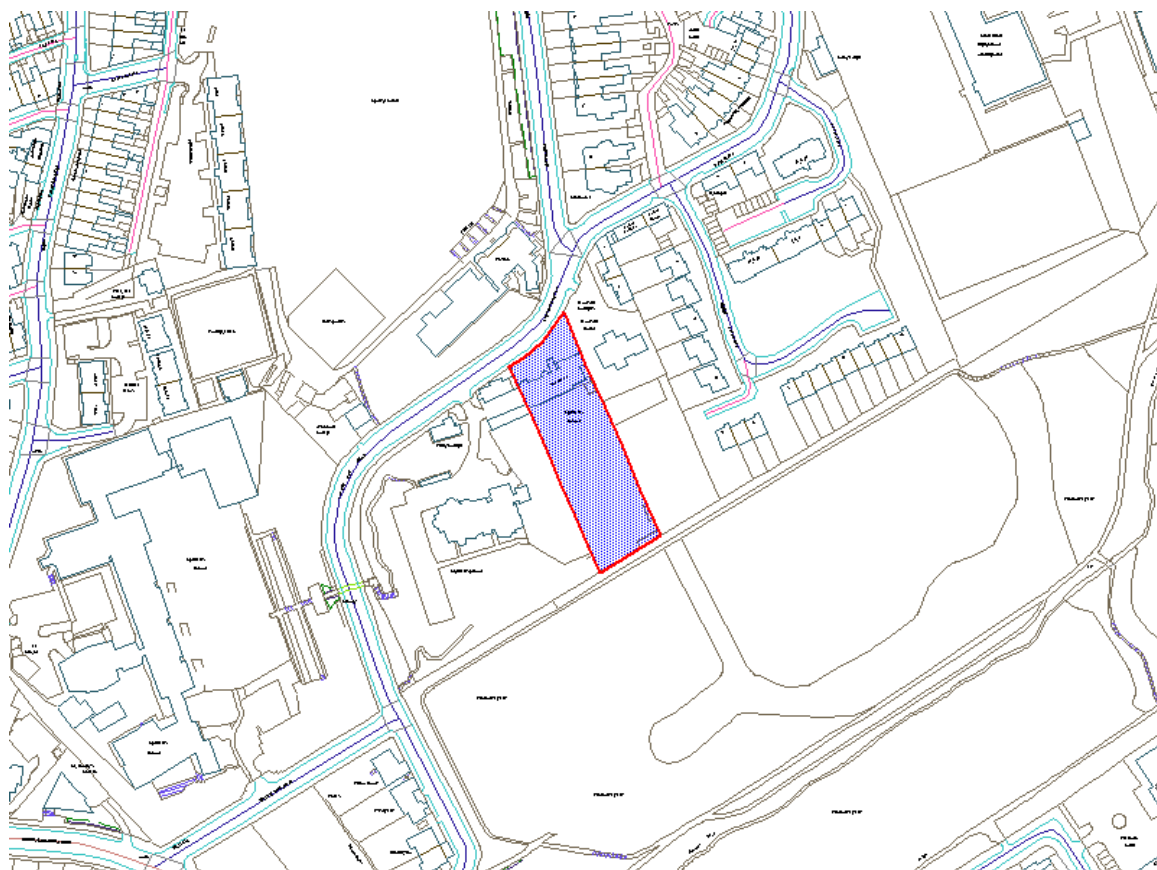
Ward: St Michaels

Applicant: Grange Developments

Date Valid: 17 July 2009

Target Date: 11 September 2009

Location Plan



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PROPOSAL:

Members may be aware that an application (ref; 05/02829/LEG) for the redevelopment of this site was presented before the Sub Committee back in

2005 where it was resolved to approve the application subject to the signing of a Section 106 Agreement made in respect of children's play provision. The application was subsequently approved in April 2006 subject to a series of conditions. The application as submitted in 2005 related to the conversion of the existing Brookfield House to provide 4no. two bedroom apartments and 1no. one bedroom and the erection of 9no. four bedroom townhouses and 2no. six bedroom villas to the rear with associated access, parking and landscaping.

Two subsequent applications have also been made on the site in 2007 (ref: 07/00727/FUL _ 07/04252/FUL) which also relate to the above development and were concerned with the refurbishment and modernisation of Brookfield House to create 5no apartments, to include demolition of redundant garage block with regards to the former and amendments to previously approved application 05/02829/LEG to relocate roof balconies to rear of house on 3 no. town houses in respect of the latter.

The need for the current application has arisen following a site visit undertaken by an Enforcement Officer who whilst on site noticed that the development as built did not accord with the approved plans. On closer inspection it was noted that there were a number of anomalies between the approved plans and the development as built and hence a new planning application was requested in an attempt to rectify the unauthorised works.

A list of the amendments from the original permission included in the current application, as supplied by the applicant, are detailed as follows.

BROOKFIELD HOUSE

Replacement of all leaded windows for plain glazed timber sash frames, these replace the metal frames on the south elevation and timber windows on the north elevation with a style original to the house following the discovery of sash boxes.

- Two additional roof lights on southern elevation.
- Communal satellite dish and aerial added to east elevation roof.
- Revised access to level 1 and 2, one door changed to window.
- Utilise area under access steps for meter store removing meters off front elevation, step arrangement in a straight flight.
- Exterior lights added.
- Reduce chapel chimney stack height for stability reasons.
- Reduce area of intended rendering to the exposed gable and reinstate brickwork. The retained outcrop was seen as original to the house and necessary for stability of the gable.
- Reconfigure each apartment plan to simplify retention of existing walls and better co-ordinate services.
- Revised windows on dormers, number and form of dormers unchanged.

- Restore W25 to a window from doors retained initially from original building.
- Amend south facing window on outcrop on level 2.

TOWNHOUSE (Brookfield Gardens)

- Clarification of roof ridge, eaves and outcrop heights.
- Amendments to roof lights, one added to front.
- Amendments to front and rear fenestration.
- Amendment to porch roof, extended but location unchanged.
- Added exterior lights to front and rear.
- Clarification of balcony style, rear roof balcony to be glass panel type, lower rear balcony metal railing type.
- Confirmation of materials, no change except artificial slate to real slate, brick name stated.
- Extended hard paving in front of no11 to assist resident access.
- Addition of screen walls between first floor rear balconies.
- Roof balconies access from sliders to patio doors.
- Dimensional variations to front 'tower' feature.
- Style changes to doors of house and garage.
- Removal of utility room on ground floor and dressing room on 3rd floor.

VILLA (Brookfield Gardens)

- Clarification of roof ridge, eaves and outcrop heights.
- Amendments to roof lights, one additional to side elevation, three to front.
- Amendments to fenestration to front and rear, size changes, sunroom changes to patio door, reduced to one set of patio doors facing east.
- Amendment to roof lights of sunroom to raised type.
- Clarification of front first floor balcony, reduction in length showing side screen facing Brookside House.
- Added exterior lights to front and rear.
- Confirmation of materials, no change except artificial slate to real slate, brick name stated.

- Increased height of sunroom extension to rear following adoption of warm roof construction and retaining flush ceiling line internally.
- Style changes to doors of house and garage
- Revised layout of 2nd floor attic plan

EXTERNAL WORKS

- No changes made in the position of the road and dwelling locations approved under condition on the original permission
- Paths amended around Brookfield House and garden, revised front paved areas and landscape to accommodate revised access into house, rear patios extended to improve light, original wall poor quality and location
- Revised gateway arrangement off Ashbrooke Road, location not amended. Single gate replaces paired gate and pedestrian gate position
- Amendments to rear patios, paths and gates of new houses
- Clarification to location of refuse areas, two designated areas at the east and west of the service road for the town house except No.3 and No.11 and Villas, in curtilage bin stores.
- Confirmation of surface materials to be used.
- Add retaining wall to substantiate existing wall following excavation for wall and proximity of existing wall footings.
- Adjustment in parking at the front of Brookfield House.
- Arrangement of central lawn and gardens subject to conditional approval on original permission revised to increase lawn area. West path retained and improved, other paths removed to improve privacy to south side of Brookfield House.
- Tree survey allowed retention of more trees on the west boundary, subsequent new tree planting revised. New tree in front of villas retained and position changed, only one other tree added on west side of new road so no to distract from feature copper beech in centre of site, all shrubs removed from around lawn to enhance scale and impact of lawn.
- 3 additional car parking bays added to the west end of access road to comply 1:3 ratio for visitor parking requirement along with bay to the east end of road and 2no. spaces in a bay south-east of Brookfield House.

The development is nearing completion on site and therefore it is not expected that there will be any further changes to the scheme.

The application is accompanied by a Design and Access Statement, Daylight and Sunlight Analysis, Statement of Community Involvement, Desk Study and Site Investigation and has been advertised by way of site, press and neighbour notifications.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Northumbrian Water
Director Of Community And Cultural Services
County Archaeologist

Final Date for Receipt of Representations: **14.08.2009**

REPRESENTATIONS:

One letter of objection has been received. The grounds raised for opposing the development and justification of these points are detailed below. For reference, a copy of the objection letter and supporting material is appended to the main Committee agenda.

POLICIES:

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

B_2_Scale, massing layout and setting of new developments
B_3_Protection of public/ private open space (urban green space)
B_6_Measures to preserve and enhance conservation areas
B_18_Protecting the character/ setting of historic parks and gardens
CN_22_Developments affecting protected wildlife species and habitats
HA_21_Proposed designation of Local Nature Reserves
T_14_Accessibility of new developments, need to avoid congestion and safety problems arising

COMMENTS:

A site visit was conducted by the case officer and technical manager on 27 August 2009.

Firstly, it should be noted that whilst the current application is for full planning permission the principle, layout and general scale and massing of the development has previously been approved under application ref: 05/02829/LEG and therefore only those changes which are noted above are under consideration. As such the main issues to consider in the assessment of the application are:-

Brookfield House

Alterations to the design and fenestration of the house.
Insertion of 2no. additional rooflights to the southern elevation.
Revised pedestrian access arrangements to house from the front.
Erection of external lighting.
Reconfiguration of apartments.

Town Houses

Clarification of the height of the town houses.
Alterations to the design and fenestration of the town houses.
Addition of exterior lights to the front and rear.
Clarification of balcony detail.
Confirmation of materials.
Extension to hard surface areas.
Internal reconfiguration.

Detached Villas

Clarification of the perceived increase in height of the villas.

Amendments to roof lights, with one additional light added to side elevation.
Alterations to the design and fenestration of the villas.
Increase in height of the sunroom to the rear.
Revision to the type of roof light proposed to the sunroom.
Reduction in size of the first floor balcony to the front and clarification of details.
Clarification of materials.
Internal alterations to attic.

External Works

Paths amended around central lawned feature.
Revised landscape proposals.

POLICY

The site subject of this application is not allocated for any specific purpose on the Unitary Development Plan Proposals Map and is therefore subject to the provisions of UDP policy EN10. Policy EN10 states that all proposals for new development will be judged in accordance with the policies and proposals of the plan, where the plan does not indicate any proposals for change, the existing pattern of land use is intended to remain, proposals for development in such areas need to be compatible with the principal use of the neighbourhood. In light of the policy requirement, the proposal is deemed acceptable as the use is compatible with the principle use of the neighbourhood.

The site has also been identified in the Strategic Housing Land Availability Assessment (SHLAA), March 2009, as being a deliverable housing site within the next 1-5 years. Furthermore, the SHLAA states that the Brookfield House site has a capacity for 16 dwellings, which is the same number as that proposed as part of the current application.

Whilst there are external aesthetic differences and differences in scale between the completed dwellings and approved schemes, they do not conflict with existing policy and are not of a strategic nature. As such the proposal does not raise any strategic policy issues.

URBAN DESIGN

It is considered that the scale, massing and layout of the proposal does not raise any significant urban design concerns and as such the proposal should be assessed accordingly to the policies contained within the documents set out below.

Unitary Development Plan (B2, B3, B4, B6, B18, T14, CN22 and H21)
Residential Design Guide Supplementary Planning Document (B2A, Section 10A, 10B and 10C, 10H)
Household Alterations and Extensions Supplementary Planning Document
Design and Access Statements Supplementary Planning Document

Alterations to Brookfield House - The proposed amendments (as detailed above) to Brookfield House are considered to be minor material alterations to the existing house which are sympathetic to the architectural and historic interest of the building. In particular, the proposed replacement of leaded windows to plain glass timber sliding sash and the removal of the large flat roof box dormer and its

replacement with 3no. smaller dormers and 2no. conservation style roof lights are welcome amendments to the previously approved scheme and further enhance the architectural quality of this element of the proposal.

Alterations to Proposed Town Houses - As with the amendments detailed for Brookfield House, the proposed alterations to the town houses to the rear of the site are considered to be minor revisions to the previously approved scheme, which do not adversely impact on the design quality of the new build units. In terms of the proposed increase in height of these units, 0.2m (previous height 12.7m proposed height 12.9m), it is considered that this increase is minimal and will not adversely impact upon the residential amenity (outlook, privacy) of existing occupants given that the nearest residential property directly overlooked by the units, Brookside, is approximately 54.8m away when measured from the single storey rear sun lounge and the front elevation of town house No.54. Furthermore, direct views of Brookside are partially screened by the presence of the two detached villas.

Alterations to the Proposed Detached Villas - As with the amendments proposed to Brookfield and the town houses the revisions to each of the two villas are considered to be minor in nature and do not significantly alter the appearance of the dwellings. Specifically, with regards to the perceived increase in height of the proposed villas from 10.1m to 10.5m, the applicant has provided plan documentation to illustrate that whilst the brickwork is higher than previously approved the level at which the villas have been constructed is lower by approximately 0.8m and hence the villa will appear to be lower when viewed from adjacent residential properties. Furthermore, the applicant has commissioned a daylight and sunlight assessment in respect of No.1 Brookfield Gardens, which is the northernmost dwelling, and Brookside. The assessment was carried out in accordance with BRE 209 publication 'Site Layout Planning for Daylight and Sunlight - A Guide to Good Practice'. The results of this assessment conclude that the existing building of Brookside House will continue to receive enough skylight and daylight and will not be affected by the proposed villa to the south.

In this regard the role of the Planning system is to protect amenity and the environment as seen from the point of view of the broader public interest. One important source of guidance to Local Planning Authorities is the policies contained within the development plan and those contained within supplementary planning documents. Only where there are compelling reasons to do so will the Council diverge from its own policies. As there are no laws set down which stipulate minimum distances between buildings or acceptable angles of shadow, LPA's will rely on their design guidelines to govern acceptable levels. In this case the Supplementary Planning Guidance and Supplementary Planning Document.

Therefore, having considered all of the information submitted it is considered that whilst the site to the north (Brookside), may experience some loss of sunlight (winter months) the proposed amendment, whilst being higher when measured from ground to ridge level, is in fact lower when viewed on site owing to the fact that a considerable amount of material was removed from the site prior to the building being erected and as such the impact on Brookside will be reduced. In addition, having viewed plans and aerial photography of the property to the north, Brookside, it would appear that the layout and design of the sun room already adversely impacts on the amount of natural light received into the rooms on either side with a shadow being cast. This can be demonstrated by undertaking the 45 degree angle test from both windows positioned at either side of the sun

room. Finally, the rear boundaries of Brookside is planted with semi-mature and mature trees, which themselves cause overshadowing of the rear garden area.

Taking into account all of the above it is not considered that the proposed northernmost villa would result in an unacceptable loss of light to Brookside. Indeed through the removal of material from the site of the villa, the impact may be less than would have been the case if the works had been built in accordance with the existing permission.

The amendments made to the height of the sun room to the rear of the villas and the insertion of raised roof lights is not considered to be significant either in terms of residential amenity or architectural quality given the distance away from adjacent properties and the means of enclosure that border the curtilage of the properties.

The revised proposal now intends to reduce the size of the first floor balconies to the front of the villas and incorporate a screen at the northern end in order to protect the privacy of both the occupants of the villas and also Brookside. Previously the balconies extended 5.7m across the top of the double garages, however this has since been reduced to 5m, thus further moving the impact of the balcony away from the northern gable elevation of the villas by 0.4m (7.1m to 7.5m away). Therefore, it is considered that in terms of residential amenity the revised balcony detail offers a more acceptable design solution, whilst the impact in terms of design quality is negligible.

The final revision considered worthy for comment in respect of the proposed villas is the proposed insertion of additional roof light within the southern roof slope. The purpose of roof light is to permit a greater level of natural light into the attic and given its position and size it is not considered that the addition of one roof light (3 in total) would pose any adverse impacts either in terms of residential or visual amenity. In addition, the dwelling to the north, Brookside, has 2no. roof lights inserted within the rear roofscape and as such the roof lights proposed are not considered to be out of keeping with the design of the dwellings in the immediate area.

External Areas - The majority of the revision works proposed to the external areas involve the relocation of car parking spaces and bin stores, extension to areas of hard surfacing and repositioning of gates and footpaths within the site. Such works do not pose any significant change to the previously approved scheme and do not adversely impact on the overall quality of the development now under consideration. As such the works to the external areas are considered to be acceptable, according with UPD and SPG/SPD policies.

Urban Design Conclusion - The revisions as detailed earlier in this report constitute only minor changes to the approved scheme and therefore it is considered that the impact on the overall development will not be significant or detrimental to the overall quality of the development. In this regard the proposed amendments are considered to be acceptable in design terms and accord with policies B2, B3, B4, B6, B18, T14 and H21 and Residential Design Guide policies B2A, Section 10A, 10B and 10C, 10H.

HIGHWAYS

The principles of the highway arrangements remain as approved under application ref: 05/02829/LEG, albeit with a few minor variations to location of parking bays and pedestrian access within the site and as such accords with the provisions of UDP policy T14 and T22. As such the proposed amendments made to planning consent 05/02829/LEG are considered to be acceptable from a highway perspective.

ENVIRONMENTAL HEALTH

The Contamination Assessment prepared by Ian Farmer Associates submitted with the application is currently being considered, however given that the site has already been developed it is not considered that any issues should arise. Should any issues be raised then these will be reported in a supplement to the main agenda.

LANDSCAPE

The lawned area to the rear of Brookfield is both historically and visually significant, providing evidence of the original development pattern of Brookfield as a villa set within attractive landscaped grounds. The garden is afforded protection as an important green space in the Ashbrooke Conservation Area Character Study. Therefore, it is imperative that the lawn area is retained. The proposed minor amendments to the previously approved scheme, namely the reconfiguration of the lawned area to the rear of the main house, the repositioning of footpaths around the lawn and tree _ shrub planting, continue to provide a pleasant setting to the historic building and an attractive central landscape feature of the development as a whole. As such the current landscape proposals for the development are considered to be acceptable and accord with policies B3 and B18 of the UDP.

ECOLOGY

The application states that both a desk based assessment and site survey has been undertaken to ascertain the likely presence of protected species, i.e. bats, which concluded that there are no known bat roosts recorded at the Brookfield site.

Ordinarily, a full and detailed ecological report would be required for such a development, however given that the main building, Brookfield House, has already been substantially altered and the proposed dwellings erected, it is not considered that the proposed 'minor' alterations to the previously approved scheme would impact on protected species should they be present either on the site or in the immediate area. The proposal is therefore considered to accord with UDP policy CN22

SECTION 106 AGREEMENT

UDP policy H21 'Open Space in Residential Areas' aims to provide open space in new residential developments appropriate to the needs of the local population and to assist in creating more open space in areas of deficiency. In instances where it is not considered to be appropriate or the developer chooses not to create an area of open space/play area within a development site then one

possible solution would be to enter into a Section 106 Legal Agreement, whereby the money would be spent in an existing play facility or area of open space within the surrounding area.

In this regard whilst it is acknowledged that the proposal does intend to retain and enhance the grassed lawned area to the rear of Brookfield House, it is considered that the provision of equipped play facilities on this space would have a detrimental impact on the quality of this space and a more appropriate alternative in this instance was for the developer to enter into a Section 106 Agreement with the Council. Therefore in line with the provisions of policy H21 the developer chose as part of planning application 05/02829/LEG to enter into a Section 106 Agreement with the Council whereby a financial contribution to the sum of £9,195 was paid in 2007.

With regard to the current application given that the current proposal does not alter the quantum or form of development proposed it is considered that only the difference between the sum payable at the 2005 rates (£613 per unit) and that applicable today (£701 per unit) would be required. Also to be added to the previous payment of £9,195 is the interest that the money has since accrued whilst being held in an account by the Council and in total the shortfall equates to £60.23.

REPRESENTATION

1no. letter of objection has been received, a copy of which is appended to the main report. The main concerns of the objector of Brookside House relate to the effect of the six bedroom villa on his property. In particular the concerns relate to obstruction to light, noise and overlooking from the balcony and habitable windows, over domineering effect of the gable end wall and additional velux windows in the roof.

Please note that a plan and photographs support the objection and are attached to the back of the appended objection letter.

For ease of reference each of the above concerns will be addressed in turn below.

1. Obstruction to Light

The complainant has commissioned a building surveyor to check the angles from the ridgeline of the proposed villa in relation to Brookside House and the distances from the gable end wall, balcony and windows from Brookside House.

The following findings are based on the height of the previously approved six bedroom villa and assume that this dwelling would be 10m when measured from ground floor to ridge line. Using this information a 45 degree angle was taken from each of the windows on the rear elevation for summer sunlight and it showed that there was no impediment to the sun light received to the rear of Brookside House.

However, during the winter months the sun is at a lower level in the sky and the calculation was therefore based on a 35 degree sunlight zone of light as taken from the cill of any window. What is concluded from this assessment is that the uppermost roof of the proposed villa would cross through part of the sight lines at

35 degrees so that during the day time the adjoining six bedroom villa would cause overshadowing for 2 to 3 hours of the day to ground floor rooms, conservatory and the garden on the south side of Brookside House. If the height of the villa 10m plus 350mm (perceived increase) then the above hazardous effect is exacerbated and will result in overshadowing for 5 to 6 hours of the day.

It must be remembered that day time in the winter months is short and sunlight is a valuable commodity in winter for everybody. It may be that we are receiving enough sunlight during the summer months but this does not mean that we should live in darkness during the day time in winter. To prevent my family from getting the sunlight for 5 to 6 hours during winter months seem to be cruel, unjust and inflict injury on us and this would cause depression, growth of fungus and moss will occur in the garden during the winter months due to the dampness and would be a factor for ill health. My daughter is seriously ill at present and house bound and by preventing her to get at least some sunlight during the winter months is extremely unfair this adds further misery to her life.

It may be argued that the building has been built from a ditch. But you do not notice any soil marking on the boundary brick wall if a ditch has been dug. This ground was a playing field for St Aidan's Boys before this development. It was a plan and levelled surface.

The authority should be mindful of the fact that once the retrospective approval is given to one builder in this conservation area who has illegally added 350mm to the already approved plan the it may be that other occupiers of houses living in this area would ask for planning permission to add another floor or so tot eh already existing floors in their house and do you think you would be able to refuse such an application?

Also if the occupiers of houses in this area add different heights to their already existing house then this would present an architectural disaster for this area.

I strongly object to the request to approve the retrospective application in order to increase the height of the villa and wish you to refuse the permission.

Response to point 1

Obstruction to Light

As stated above a Right to Light is protected in England and Wales under common law, adverse possession or by the Prescription Act 1832. Unlike right to freedom from smell and noise, a Right to Light has to be acquired before it can be enforced. Once a window has received over 20 years of unobstructed daylight, it automatically earns itself a Right to Light.

The role of the Planning system is to protect amenity and the environment as seen from the point of view of the broader public interest. One important source of guidance to Local Planning Authorities is the policies contained within the development plan and those contained within supplementary planning documents. Only where there are compelling reasons to do so will the Council diverge from its own policies. As there are no laws set down which stipulate minimum distances between buildings or acceptable angles of shadow, LPA's will rely on their design guidelines to govern acceptable levels.

In this regard whilst the Councils does not have any prescriptive guidelines on a Right to Light it does have guidelines regarding the space, light, outlook and privacy between dwellings. Therefore, the Council must give due consideration to spacing guidelines set out in both section 2.7 of the Development Control SPG and Section 10 of the Residential Design Guide SPD. Section 2.7 of the SPG states that the spacing between dwellings will normally be required to meet the minimum standards of 21m for single and two storey dwellings with main facing windows and 14m for single and two storey dwellings where a main facing window faces a gable elevation with only secondary or no windows.

This advice has since been revised and incorporated into the Residential Design Guide which states that 'planning standards are usually expressed as minimum requirements and most of them concentrate on suburban estate developments. There is always a risk that they will become the basis of housing layouts, creating homogenous estates. The Council acknowledges that a rigid adherence to spacing standards can stifle creativity in design and result in uniformity of development. The Council is looking to encourage imaginative design solutions and in doing so it accepts the need for a flexible approach to privacy distance between buildings.

As a result whilst the proposed villa may appear to be a higher structure when measure from ground level to ridge line, the actual position of the dwelling has not changed from the previously approved scheme. Furthermore, when measured on site and from the plans submitted the distance between the main two storey rear elevation of Brookside and the gable elevation of villa is 16m, which more than exceeds the minimum requirement of 14m given that there are no habitable windows proposed within the gable of the villa. Whilst it is acknowledged that the gable elevation of the villa has one small bathroom window at first floor level, this window is obscurely glazed and has a restrictive opening mechanism which prevents the window from being fully opened and hence views of the adjacent property and garden are greatly restricted.

The distance between the conservatory and the gable elevation measures 13m on site which does compromise the recommended spacing standard however, what must be remembered is that the above spacing standards are guidelines only and need to be considered in light of site circumstances and the proposed detailing of the overlooking element of the scheme, in this instance the gable elevation of the villa. In this regard Section 7 of the Household Alterations and Extensions SPD states that where an adjacent house already been extended, the distance considered will be that to which the wall of that house as originally built. Also given the freedoms afforded to home owners through the use of permitted development rights it is considered that a similar type development could be erected to this property without the need for planning permission and hence it would be unreasonable in this instance to take the measurement from the single storey rear conservatory.

A second point to raise in this regard is the fact that the survey work commissioned by the objector is based on the previously approved plan and not the current plan, which is a true representation of the situation on site. Therefore, the validity of the recommendations as made in the report is questionable.

Notwithstanding the inaccuracies of the information used to base the daylight assessment on, the conclusions of the assessment show that during the summer months there will be no adverse impact in terms of light received on Brookside

House. The assessment does however suggest that during the winter months the rear of the property will be impacted upon for 2 to 3 hours of the day and it is predicted that this will increase to 5 to 6 hours of the day following the increase in height of the villa. In response to this claim it is considered that given the fact that the assessment has been based on outdated plans and the claimed loss of light for 5 to 6 hours during the winter months fails to take into account the changes to the ground level, it cannot be accepted based on the information provided that the proposed amendment to the detached villa would give rise to such a loss of sunlight.

In addition, what should also be noted is the fact that the single storey rear conservatory to Brookfield House already adversely impacts on the windows within the rear two storey property as is apparent having conducted a 45 degree angle test from the windows on either side of the conservatory and evident from aerial photography. In this regard it is considered that the existing conservatory to the rear of Brookside House already has an adverse impact on the amount of sunlight and overlooking to the rear of this property.

With regards to the loss of sunlight to the rear garden it is considered that whilst the dwelling may cause some overshadowing of the rear garden area, the presence of semi-mature trees along and within the southern boundary of Brookside House already results in a level of overshadowing and it is therefore not considered that the proposed villa would have such an impact whereby refusal of the application would be warranted. (Note: It has been drawn to our attention that trees along the southern boundary of Brookside House have recently been cut down without the consent of the LPA, which is required as the tree(s) is afforded protection due to the site being situated within a Conservation Area and this issue is currently being investigated by the Council's Enforcement team).

Finally, while the family circumstances of the complainant (ill health of his daughter) are regrettable, the planning system cannot take this into account, for example by asking for spacing distances greater than what would normally required.

however it is not considered that the planning system is not the appropriate arena for health issues to be taken into account and therefore no further comment can be made in this regard.

A copy of the surveyors report has been requested from the objector and this is awaited.

2. Noise and Overlooking from the Balcony and habitable windows.

The complainant claims that since the original plan was approved further modifications to the balcony have been made. The objector claims that the balcony on the west face of the villa and the distance from his house is 19.72m from his bedroom window, 17.22m from the conservatory, 20.22m from the living room window and 18m from the patio. The objector is concerned that people standing on the balcony will be able to see into their bedroom, living room, patio and sun lounge. It is claimed that the objector will lose their privacy as a result. The complainant further states that if he is in his garden then the presence of the balcony will be intimidating and will render his patio area unusable.

You can say that by fitting a barrier people are unable to see down to our house and privacy would not be lost. But when you have a balcony people don't stand straight only and see the sky and the surroundings. They always lean over the balcony and see. The barriers don't prevent people to look down our garden, bedroom, living room, conservatory and patio. So our privacy is lost.

The balcony is not meant for a single person to stand. A number of people are able to stand or sit on the balcony at any one time. So the noise would interfere with our privacy.

There is a window on the gable end wall. This window is higher than the approved plan due to the illegally extended height of the villa. This window opens from the top end. Though the window has opaque glass but people can see down our patio and garden, our bedroom when the window is open. This further affects our privacy. It may be that the developers have the right to develop their land in whatever way they like and at the same time we have the right to our privacy as well.

The Chapter 8 of the ECHR gives right to every citizen to live their life without loss of privacy. But in this case we are losing our privacy so this infringes our human rights.

Response to point 2

Noise and Overlooking from the Balcony and habitable windows.

As stated above the current application does intend to make amendments to the position and screening of the proposed balconies to the front of the villas. However, what the objector fails to recognise is that the size of the balcony is in fact being reduced from 5.7m across the top of the garages to 5m, which further moves the impact of the balcony away from the northern gable elevation of the villas by 0.4m (7.1m to 7.5m away). In relation to Brookfield House the distance from the rear elevation of the two storey dwelling to the balcony proposed to the front of the northernmost villa is 23.3m, which is far in excess of the spacing guidance. In addition, the proposed balcony is situated to the front of the villa and therefore overlooks the central lawned area and not Brookside House. Whilst the claims made by the objector are acknowledged it is not considered that the presence of a balcony to the front of the villa will result in unacceptable levels of overlooking or loss of privacy given the position and size of the balcony and the proposed erection of a privacy screen on the northern side of the balcony. Furthermore, whilst it is accepted that the balcony is of a size that could accommodate more than one person, given that it leads out from the master bedroom of the villa and therefore it is not considered that such an area will be used by large numbers of people given that ordinarily this room is a private domain used only by the occupants of the dwelling.

In terms of noise, in addition to the above justification it is also considered that any noise generated from the balcony area could equally be generated from the garden areas to the front and rear of the dwelling and as such is not considered to be a valid reason to warrant removal of this feature or refusal of the application.

Privacy - It is considered that the level of privacy maintained and created between dwellings is acceptable given the design, layout and fact that the

relationship and spacing between the proposed villa and main two storey element of Brookside House accords with the minimum spacing guidance as set down in the supplementary planning documentation.

Gable End Window - Further, with regards to the height of the obscurely glazed bathroom window within the gable elevation of the villa, the claims made by the objector make no reference to the fact that the villa is actually lower than the previously approved villa owing to the changes to the ground level brought about following the removal of material prior to construction. As such the height of this window will therefore be lower and not higher as claimed. Also when conducting the officer site visit it was demonstrated that the obscurely glazed gable end window has safety restrictors fitted which prevents the window from being opened to any great degree whereby views of Brookside could be permitted. Therefore for the reasons set out above it is not considered that the gable end window poses any adverse impact on the adjacent property of Brookside House in terms of loss of privacy.

3. Over domineering effect of the gable end wall.

Can you imagine how you would feel when you are sitting in the patio or in the conservatory to relax but you see a huge 30 foot wall next to you preventing you to see the skyline and blocking sunlight? Can you enjoy such situation even when staying in your own home? This is really a depressing situation and the city authority should have given a little thought about this as we are people who live here in our own home.

Response to point 3

Over domineering effect of the gable end wall.

As previously stated above when considering the original application full regard was given to the spacing between the gable elevation for the northernmost villa and the rear elevation of Brookside House. A distance of 16m is created between the main two storey rear elevation of the dwelling and the gable elevation of the villa, whilst a distance of 13m is created between the conservatory of Brookside and the gable elevation of the villa. In this regard whilst the distance between the two storey element of Brookside and the gable elevation of the villa is in excess of the recommended guideline of 14m, the distance between the conservatory and villa is 1m less. However, for the reasons provided in the above sections it is not considered that the spacing between the aforementioned dwellings is unacceptable. Indeed the guidelines are developed to take account of any affect the new building would have on daylight and sunlight.

4. Additional Velux windows on the roof.

This is Ashbrooke Conservation Area. Can you think how lighted this area would look if every occupier living in this new development switch on their roof lights? Don't you think that this is unfair to the nearby Park goers, detrimental to the birds nesting on the trees in the park? This would drive away the wildlife from the park. This situation cause further restriction and intrusion of the quality of living for my family. Further exacerbation of this situation would also occur if other house owners request you to permit them to install additional velux windows on their roof and every resident switches on their roof lights can you imagine how lighted this area would be?

Response to point 4

Additional Velux windows on the roof.

Firstly, it should be explained that the main purpose of a roof light is to permit natural light into a room, only on an evening would artificial light be required. With regard to the complaint raised it is not understood how the roof lights inserted within the southern roof slope of the villa would adversely impact on the quality of life of the objector (Brookside House) given their position. Further, whilst it is acknowledged that roof lights are installed within the front roof slope of the town houses, given the distance away from Brookside House (54.8m) and the installation height of the roof lights, it is not considered that these features would have any adverse impact on the quality of life of the complainant.

Complainants Concluding Comments

I must say that my original objections were overruled and now I am being asked to live with an even higher building, altered balcony, adding another velux window on the roof. I strongly object to this retrospective planning application on the above grounds and wish this retrospective application to be refused.

CONCLUSION

In conclusion, the proposed external alterations made to the previously approved units are considered to be an acceptable and accord with the relevant UDP, SPG and SPD policies. Whilst it is acknowledged that a number of the conditions listed below have already been discharged as part of the 2005 permission, it is considered that given that the 2005 consent is no longer valid given that the proposal has not been built in accordance with the approved plans, such conditions will again have to be discharged as part of the current proposal, should consent be forthcoming. Therefore Members are recommended to delegate the decision to the Director of Development and Regeneration who is minded to approve the application providing subject to the signing of the S106 Agreement by 16th October 2009 or alternatively refuse the application if the agreement is not signed by this date.

1) Grant Permission subject to the receipt of satisfactory revised plans and information, appropriate conditions and subject to completion of a Section 106 agreement by 16th October 2009 or such other date as is agreed by the Director of Development and Regeneration.

2) Refuse permission should the legal agreement not be completed by 16th October 2009 or such other date as is agreed by the Director of Development and Regeneration.

RECOMMENDATION: Approved subject signing Section 106

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 No deliveries shall be taken at or despatched from the site outside the hours of 08:00-18:00 Monday to Friday, 08:00-13:00 Saturdays nor at any time on Sundays, Bank or Public Holidays to ensure that nearby properties are not adversely affected by the development and that highway safety is not compromised and to comply with policy EC12, EC13 of the UDP.
- 3 The construction works required for the development hereby approved shall only be carried out between the hours of 08.00 and 18.00 Monday to Friday and between the hours of 08.00 and 13.00 on Saturdays and at no time on Sundays or Bank Holidays in order to protect the amenities of the area and to comply with policy B2 of the UDP
- 4 No dwelling hereby approved shall be occupied until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping and treatment of hard surfaces which shall include indications of all existing trees and hedgerows on the land, and details for their protection during the course of development, in the interests of visual amenity and to comply with policy B4 and B6 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 B4 and B6 of the UDP.
- 6 Notwithstanding the plans submitted, no dwelling shall be occupied until details of the proposed rooflights have been submitted to and approved in writing by the local planning authority, to ensure a satisfactory form of development, to accord with policy B4 and B6 of the UDP.
- 7 Details of all walls, fences or other means of boundary enclosure to be erected or reinstated shall be submitted to and approved by the Local Planning Authority prior to any dwelling being occupied. The agreed boundary treatment shall be completed before occupation or in accordance with an agreed timetable, in the interests of visual amenity and to comply with policy B4 and B6 of the UDP.
- 8 Notwithstanding any indication of materials which may have been given in the application, no dwelling hereby approved shall be occupied until a schedule and/or samples of the materials and finishes to be used for the external surfaces, including walls, roofs, doors, windows and balconies has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details; in the interests of visual amenity and to comply with policy B2 of the Unitary Development Plan
- 9 Notwithstanding the provisions of the current Town and Country Planning General Permitted Development Order, no extensions or other development

shall be undertaken to any dwelling hereby permitted 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 B2, B4 and B6 of the UDP.

- 10 Notwithstanding the provisions of the current Town and Country Planning General Permitted Development Order, no gates, fences, walls or other means of enclosure shall be erected beyond the forwardmost part of any wall of the dwellinghouse or flat which fronts onto a highway 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 B2, B4 and B6 of the UDP.
- 11 Notwithstanding the provisions of the current Town and Country Planning General Permitted Development Order, no windows or openings shall be inserted in any elevation of the dwellings hereby permitted, in order to achieve a satisfactory form of development and to comply with policy B2 of the UDP.
- 12 Before the development, hereby permitted, is occupied a plan showing the provision of adequate facilities for the storage of refuse within the site shall be submitted to and approved by the Local Planning Authority, and shall be so installed and maintained thereafter in order to ensure a satisfactory form of development and to comply with policy EN1 of the UDP.
- 13 Notwithstanding the submitted drawings, the first floor gable end bathroom window of the proposed villas shall be fitted with top hung or non-opening obscure glazing and shall be maintained as such thereafter, in order to achieve a satisfactory form of development and to comply with policy B2 of the UDP.
- 14 No dwelling hereby approved shall be occupied until details of the method of containing the construction dirt and debris within the site and ensuring that no dirt and debris spreads on to the surrounding road network shall be submitted to and approved by the Local Planning Authority. These details shall include the installation and maintenance of a wheelwash facility on the site. All works and practices shall be implemented in complete accordance with the agreed details and shall be maintained throughout the construction period in the interests of the amenities of the area and highway safety and to comply with policies B2 and T14 of the approved UDP.
- 15 Details of the proposed location of the sales/ site office and construction compound shall be submitted to and approved in writing by the local planning authority in order to ensure a satisfactory form of development and to comply with policy B2 of the UDP.

Representation - Objection.

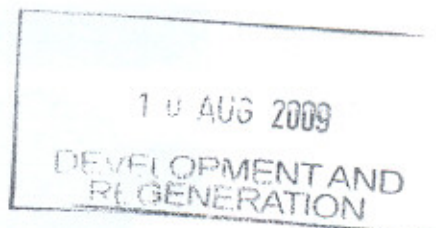
Ack
DPE

Ack 10.08.09
JS

Dr S N Patnaik
Brookside House
Ashbrooke Road
Sunderland
SR2 7HH

Date 7th Aug 2009

The Head Of Planning and Environment
Development and Regeneration Services
P.O. BOX 102. Civic Centre
Sunderland
SR2 7DN



Dear Sir,

Ref: 09/02704/FUL

Thank you for your letter dated 20th July 2009 in which you have asked us to comment on the amendments to previously approved planning applications 05/02829/LEG, 07/00727/FUL and 07/04252/FUL (Retrospective). I would like to point to you that the proposal of Residential development of 9 No. 4 bed townhouses 2 No. 6 bed villas and conversion of existing house to provide 4 No. 2 bed apartments and 1 No. 1 bed apartment and the application No 05/02829/FUL was given planning permission after the consultation process. I submitted my objections but my objections were disregarded and the proposals went ahead. I was not even informed of the Planning department's decision in time so that I lost my right to request for a Judicial review of the planning decision. I hope the same mistake does not happen this time.

I am very much concerned due to the effect of the six bed villa next to my house (Brookside House) which is going to affect our life and living in our house. Therefore my objections are mostly concerning the six bed villa which is next to my house. I strongly objected to this fact to be informed that no habitable windows or viewing platforms would overlook my property.

I understand from the Enforcement Team Leader Mr Dave Evans that

- (1) The Grange Developments have built the six bed villa with illegally adding a height of 350mm to the height they were given permission to build
- (2) The porch on the back of the villa is higher by more than a foot than the planning permission was given- it looks to me that this is the result of increasing the height of villa
- (3) So also the door on the gable end wall is higher by more than a foot than the approved planning permission
- (4) The Grange Developments have fitted 3 velox windows on the roof but the permission was given to fit 2 windows.
- (5) I find that the floor of the balcony on the west of the villa is extended and a request is made to put a clear barrier on the side of the balcony.

I wish to lodge my objections to this retrospective planning application in the strongest possible terms.

For this purpose I had engaged a Chartered Building Surveyor who checked out the angles from the proposed ridgeline overlooking my dwelling, the distances from the gable end wall, the balcony and windows from my house. Please note the following:

(A) Obstruction to Lights-

The Surveyor commented that according to the plan already approved and having superimposed the height of the six bed room villa which is supposed to be 10metres from the ground level to the top ridge line and by taking a 45 degree angle from each of the windows on the rear elevation for summer sunlight there is no impediment to the sun light. However during winter months the sun is at a lower level and one calculates at 35 degree sunlight zone of light taken from the sill of any window. The uppermost roof would cross through part of the sight lines at 35 degrees so that during the day time the adjoining six bed villa would cause overshadowing for 2 to 3 hours of the ground floor, conservatory and the garden on the south side of my house. This damaging effect happens when the villa should be 10metre high. If the height of the villa is 10metre plus 350mm high then the above hazardous effect is exacerbated as you can see that the uppermost roof cross the 35 degree site line almost completely and the overshadowing would last 5 to 6 hours. It must be remembered that day time in the winter months is short and sunlight is a **valuable commodity** in the winter for everybody. It may be that we are getting enough sun light during the summer months but this does not mean that we should live in darkness during the day time in the winter. To prevent my family from getting the sunlight for 5 to 6 hours during winter months seem to be cruel, unjust and inflict injury on us and this would cause depression, growth of fungus and moss will occur in the garden during the winter months due to the dampness and would be a factor for ill health. My daughter is seriously ill at present and house bound and by preventing her to get at least some sunlight during the winter months is extremely unfair this adds further misery to her life.

It may be argued that the building has been built from a ditch. But you don't notice any soil marking on the boundary brick wall if a ditch has been dug. This ground was a playing field for the St Aidan's Boys before this development. It was a plane and levelled surface.

The authority should be mindful of the fact that once the retrospective approval is given to one builder in this **conservation area** who has illegally added 350mm to the already approved plan then it may be that other occupiers of houses living in this area would ask planning permission to add another floor or so to the already existing floors in their house and do you think you would be able to refuse such an application?

So also if the occupiers of houses in this area add different heights to their already existing house then this would present an architectural disaster for this area.

I strongly object to the request to approve the retrospective planning application in order to increase the height of the villa and wish you to refuse the permission.

(B) Noise and Overlooking from the Balcony and habitable windows-

Since the original plan was approved further modifications in the balcony has been added. The balcony on the west face of the villa and the distances from our house is 19.72metre from our bed room window, 17.22metre from the sun lounge, 20.22metre from our living room window, 18metre from the patio.

I have told you that my daughter is seriously ill with heart and lungs problem and has learning disability. Most of the time she stays in the upstairs bed room and the city council has built a wet room for her in the bed room. Due to her low mental age she does not realise that when her clothes have come off her body. Her day to day care and nursing are all done in the bed room. You can understand how people standing on the balcony are able to see down our bed room, living room, patio, sun lounge. **We lose our Privacy by this way.** I attach a photograph for you to see and appreciate the situation.

If we are sitting and sun bathing or having a drink or doing a barbeque in the patio-people are watching us from the balcony which is only few feet away, can you imagine how intimidating this is? I think this should not be allowed to happen in a civilised country like Britain. This situation will make us unable to use our patio.

You can say that by fitting a barrier people are unable to see down our house and privacy would not be lost. But when you have a balcony people don't stand straight only and see the sky and the surrounding. They always lean over the barrier and see. The barriers don't prevent people to look down our garden, bed room, living room, sun lounge and patio. **So our Privacy is lost.**

The balcony is not meant for a single person to stand. A number of people are able to stand or sit on the balcony at any one time. So the **noise would interfere with our privacy.**

There is a window on the gable end wall. This window level is higher than the approved plan due to the illegally extended height of the villa. This window opens from the top end. Though the window has opaque glass but people can see down our patio and garden, our bed room when the window is open. This further affects our Privacy. It may be that the developers have the right to develop their land in whatever way they like and at the same time we have the right to our privacy as well.

The **Chapter 8 of the ECHR** gives right to every citizen to live their life without the loss of Privacy. But in this case we are losing our Privacy so this **infringes our Human Rights.**

(C) Over Domineering effect of the Gable End Wall-

Can you imagine how you would feel when you are sitting in the patio or in the sun lounge to relax but you see a huge 30 foot wall next to you preventing you to see the sky line and blocking sun light? Can you enjoy such situation even when staying in your own home? This is really a depressing situation and the city authority should have given a little thought about this as **we are people** who live here in our own home.

Additional Velux windows on the Roof

This Ashbrooke area is a conservation area. Can you think how lighted this area would look if every occupier living in this new development switch on their roof lights? Don't you think that this is unfair to the nearby Park goers, detrimental to the birds nesting on the trees in the park? This would drive away the wild life from the park. This situation cause further restriction and intrusion of the quality of living for my family. Further exacerbation of this situation would also occur if other house owners request you to permit them to install additional velux windows on their roof and every

resident switches on their roof lights- Can you imagine how lighted this area would be?

In conclusion I must say that my original objections were overruled and now I am being asked to live with an even higher building, altered balcony, adding another velux window on the roof. I strongly object to this retrospective planning application on the above grounds and wish this retrospective planning application be refused.

Yours Sincerely



S N Patnaik

N:B Please note that the previous occupiers of the houses Nos 4 and 5 in the Corby Hall Drive have moved away due to the effect of the development.

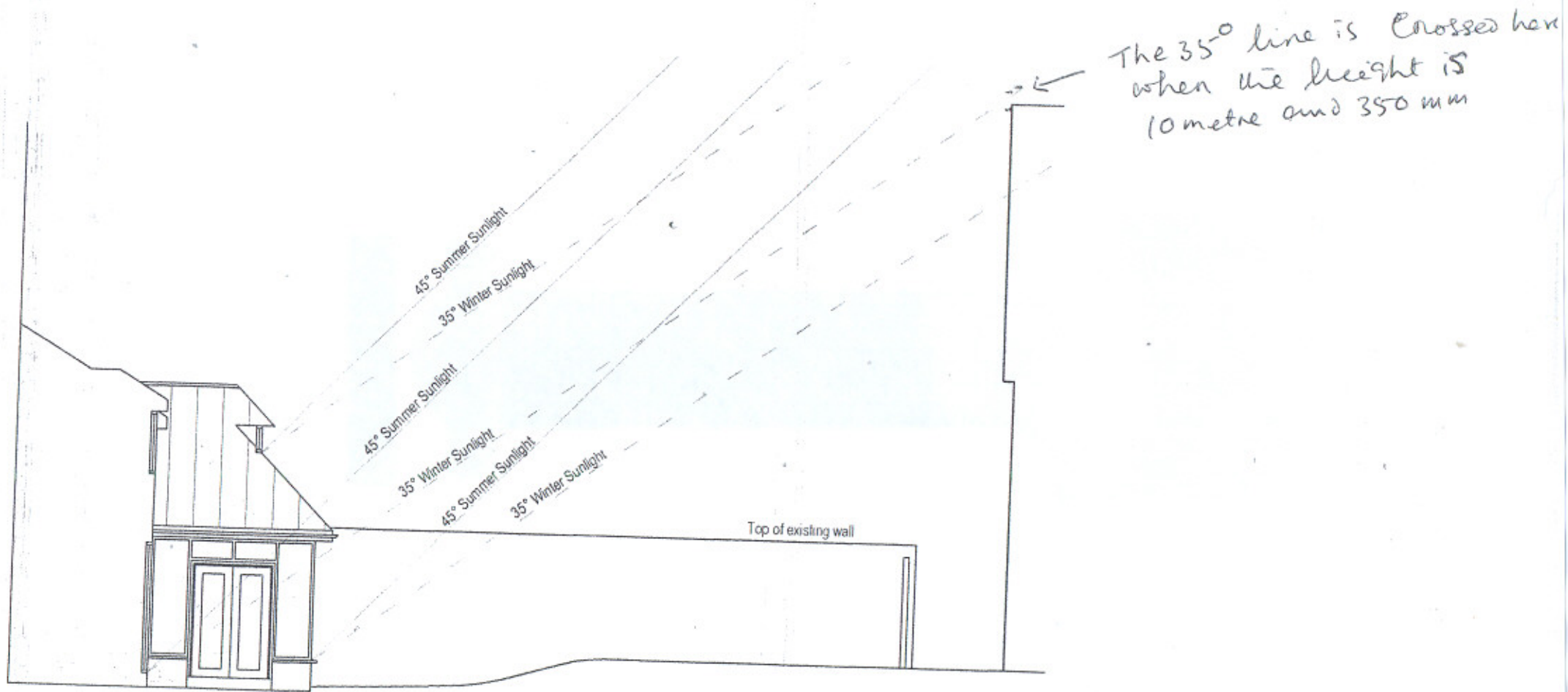
I attach a copy of the photograph of the balcony and the drawing of the chartered surveyor showing the line for the summer and winter sun light zone.

Is it possible to invite me when members visit the site?



S N Patnaik

Fig. 5



Client	Dr S N Patnaik			
Project	Brookside House			
	Ashbrooke Road, Sunderland			
Title	Proposed Section			
Date	Scale	Drawn By	Rev	Drawing No.
16-01-07	1:100	P.A.		1462/5

ASP ASSOCIATES

ARCHITECTURE, SURVEYING & PLANNING

Vega House, 8 Grange Road

Hartlepool TS26 8JA

Tel: (01479) 244220 Fax: (01479) 244221



This Photograph is Taken from our
living room and the balcony is
identified by the crosses.

The town houses are seen on
the side of the balcony, you can
see their big windows on the
side of the balcony



upstair Bed: ; room.

The Balcony is indicated by
(X) across marks

This photograph is Taken
in the upstair Bed room
8 foot from the Window inside
the bed room. Please note
how vividly one can see the
inside of our bed room while
standing on the Balcony.

Reference No.: 09/02913/SUB Full Application

Proposal: **Redevelopment and extension to existing store, service area and adjacent retail units with associated works to car park and landscaping (RESUBMISSION).**

Location: **J Sainsbury's Plc, Silksworth, Sunderland**

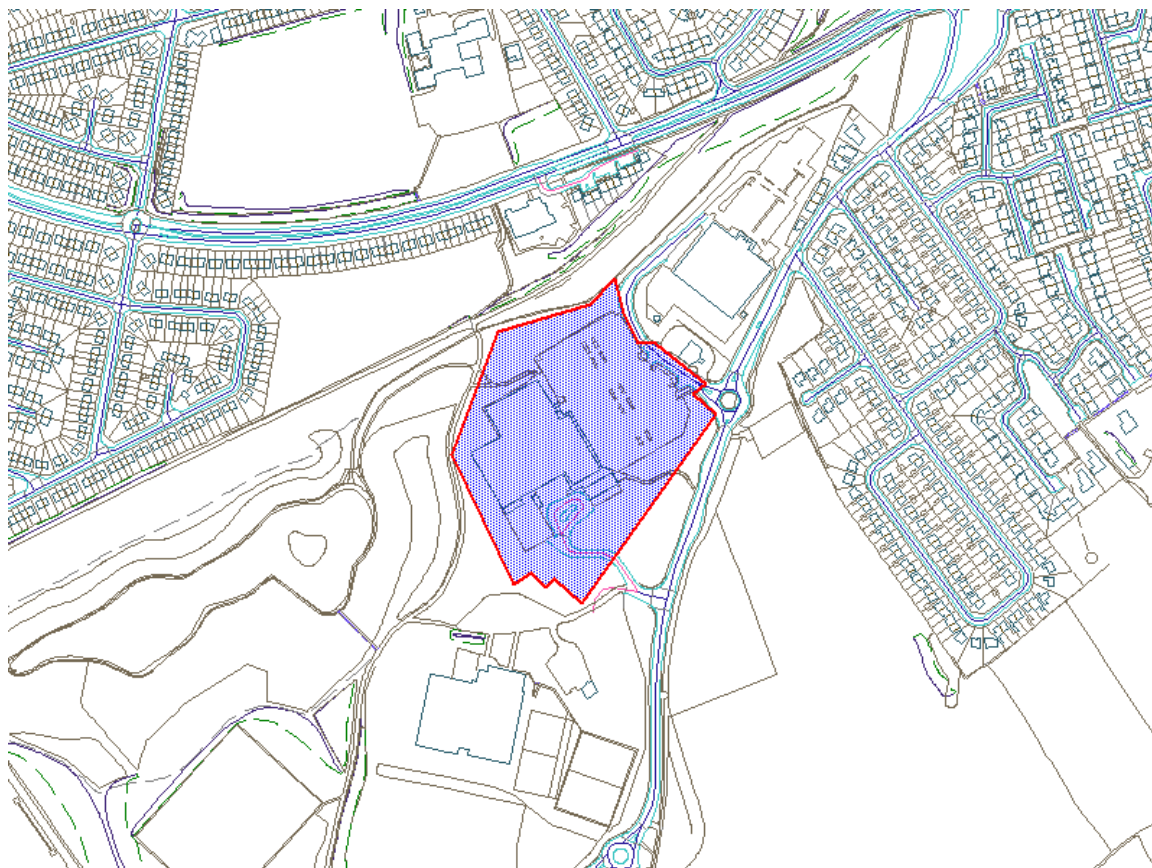
Ward: **Silksworth**

Applicant: **Sainsbury's Supermarkets Limited**

Date Valid: **3 August 2009**

Target Date: **28 September 2009**

Location Plan



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

PROPOSAL:

Members may recall that this proposal was submitted for consideration in April of this year. However following the receipt of a late objection from the Council's Countryside team the application was withdrawn until such time that the additional survey work and assessments had been carried out.

The proposal currently under consideration relates to an extension to the existing store which will increase the gross external area from 7,332sq.m to 11,484sq.m and the gross internal retail area from 4,301sq.m to 7,616sq.m. The net sales area will increase by 3,098 sq.m to 7,013 sq.m. The increase is made up of 791 sq.m convenience and 2,307 sq.m comparison goods.

A new Direction has recently been issued by Central Government, which came into force on 20 April 2009. This replaced a number of previous Directions covering retail 'shopping' development, development on playing fields, development within the green belt and development in flood risk areas. Under the new Direction, depending upon their size and other caveats, these types of development require consultation with the Secretary of State, if the Local Planning Authority is minded to grant permission. However, in the case of retail/shopping development the proposal has to meet one of a number of size thresholds, which in the case of the current proposal it does, and not accord with one or more provisions of the development plan in force at the time.

In this regard it is not considered that the proposal meets the criteria for referral to the Secretary of State as set out in the Town and Country Planning (Consultation) (England) Direction 2009 owing to the fact that the application is proposed on 'white' land in the UDP and as such the proposal accords with the saved policies of the development plan and it does not conflict with any of the relevant policies contained within the Regional Spatial Strategy (RSS).

The main store extension proposals relate to two areas of the store and together, with other internal re-arrangements, the extensions will increase the sales area, provide a straight shop frontage and relocate the ATM's. A new enclosed customer entrance lobby will also be created below the existing entrance gable.

1. South Extension

The existing customer café, pedestrian covered walkway and independent retail units to the south of the existing store will be replaced by an extension to provide increased sales and bulkstock with a new customer café and WC's. The customer café will be located at first floor level, towards the south-east corner of the store, next to the customer entrance and directly above the customer toilets. Access to the first floor will be via a staircase and lift.

Two new independent retail units are also proposed. The units will be located in the far south-east corner of the store and face onto the customer car park.

2. North-East Extension

The existing shop front will be extended forward by approximately 9.4m to provide a straight shop frontage, with a 4.2m projecting secure cash office and ATM room.

The extension will complete the straight shop front line, providing a more spacious internal environment, improved customer circulation and clearer retail offer.

3. Customer Entrance

The proposed new customer entrance lobby is to be created below the existing entrance gable and as such it is located in the same position as the current entrance, albeit 3.4m further forward, to provide consistency for regular users of the store.

4. General Layout Changes

A total of 478no. car parking spaces will be provided, including 24no. disabled customers and 18no. for parents with children.

The existing surface level car park is to be re-laid to improve circulation and to maximise parking numbers. This will be achieved by the extension of the car park to the south and the removal of the central circulation road.

Specialist parking bays will be located close to the new store entrance; 24no. disabled customers and 18no. for parents with children.

The recycling centre is proposed to be located within the customer car park.

New customer cycle parking will be introduced, close to the customer entrance lobby and under the shop front canopy.

The service yard and unloading bays are located to the rear of the store and will be accessed via Silksworth Lane, which is the present arrangement.

The existing petrol filling station will not be affected by the proposal.

The application is accompanied by a Design and Access Statement, Sustainability Statement, Extended Phase 1 Habitat Survey March 2009, Bat Survey July 2009, Water Vole Mitigation Strategy July 2009, Water Vole Survey July 2009, Landscape Appraisal May 2009, Summary of Consultation 31 July 2009, Flood Risk Assessment 24 July 2009, Economic Statement, Draft Site Waste Management Plan, Town Centre Uses Statement July 2009, Phase 1 Desk Study March 2009, Lighting Statement 20.02.09, Transport Assessment July 2009, Draft Travel Plan & Parking Provision Statement July 2009, and has been advertised accordingly by way of site, press and neighbour notification.

TYPE OF PUBLICITY:

Site Notice Posted
Neighbour Notifications

CONSULTEES:

County Archaeologist
Director Of Community And Cultural Services
Environment Agency
Northumbrian Water

Final Date for Receipt of Representations: **03.09.2009**

REPRESENTATIONS:

Environment Agency

The development would only be considered to be acceptable if conditions relating to surface water drainage, risks associated with contamination, verification report/remediation strategy, details of any contamination previously not identified were to be imposed on any grant of consent.

County Archaeologist

No comment.

NOTE: The above comments were made in respect to the previous application 09/01273/FUL, however it is considered that they remain applicable given the relatively short period of time that has lapsed between the two submissions and the fact that the current application is identical to that previously applied for and on which the comments were based. Should however any further or revised comments be made in either respect then these will be reported in a Supplement report to the main agenda.

Third Party

1no letter of support and 2no. letters of objection have been received to date (see main report).

POLICIES:

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

B_2_Scale, massing layout and setting of new developments

SA_1_Retention and improvement of existing employment site

B_13_Sites and monuments of local importance affected by development

B_14_Development in areas of potential archaeological importance

CN_14_Landscaping schemes and developments prominent from main transport routes

T_14_Accessibility of new developments, need to avoid congestion and safety problems arising

T_22_Parking standards in new developments

CN_22_Developments affecting protected wildlife species and habitats

COMMENTS:

The final date for the receipt of representation is not until 3 September which follows the preparation of the main agenda report. As such should any further representation be received then these will be reported verbally at the meeting.

The main issues to consider in the assessment of the application are:-

The suitability of the proposal in the context of national and local planning policy.
The demonstration of need and impact of the proposal on other local retail centres.

The impact of the proposal on the character and appearance of the existing store.

Traffic, parking and access implications.

The impact of the development on protected species.

POLICY

The proposal is subject to the following National and Local Planning Policies.

Planning Policy Statement 1 (PPS1)

PPS1 sets out the Governments main objectives for the planning system, which are in the main based on the principals of sustainable development. The Statement sets out the Governments commitment to develop strong, vibrant and sustainable communities that promote community cohesion in urban areas. In this regard Local Planning Authorities should seek to ensure that they have suitable locations available for industrial, commercial, retail, public sector, tourism and leisure developments that enable the economy to prosper.

In support of PPS1, policy S1 of the UDP aims to achieve a well balanced distribution of shopping facilities to meet future needs; it emphasises the need to locate development within existing shopping centres or elsewhere through the application of the sequential test. Shopping facilities should be accessible by a variety of modes of transport. Policy S2 identifies the range of main Town Centres and Local Centres where shopping development should be focused. Note: policy S5 of the UDP was not saved as a development plan policy.

As an unallocated out of centre site, the proposal must be considered in the context of Planning Policy Statement 6 (Planning for Town Centres). Chapter 3 of the guidance sets out the criteria for assessing retail proposals, namely:-

1. Assessing need
2. Identifying the appropriate scale of the development
3. Applying a sequential approach to site selection
4. Assessing impact
5. Ensuring locations are accessible

Furthermore, the guidance contains specific advice on the matter if extensions to existing development in out-of-centre locations, highlighting the requirement to carefully assess need (where additional classes of goods are proposed to be sold) and, in particular considering the impact on existing town centres.

The application is accompanied by a Planning Statement (July 2009) which addresses the issues highlighted in PPS6 in relation to assessing applications for extensions to existing developments.

Need

Quantitative need - In line with the guidance in PPS6, the Planning Statement highlights changes in population levels, forecast expenditure in comparison goods along with efficiency in floorspace as a baseline guide to need. The planning statement states that the catchment population is projected to rise over the period from 122,000 in 2009 to 124,000 in 2014. The Planning Statement establishes that within the catchment area comparison expenditure will continue to rise - from £302m to £350m by 2014. Convenience expenditure will also rise from £182m to £192m. These figures are based on up to date retail expenditure projections published by Pitney Bowes in their Briefings Update 'Retail Spending Outlook' (March 2009). The expenditure growth rates (2006 - 2013) have been applied to the likely expenditure in the catchment and based on the recent figures the Council considers that the forecasts demonstrate that there is sufficient capacity to support the proposed store. The figures take into account the Mountview proposal at Sunderland Retail Park.

The Councils 2006 Retail Study indicated that whilst by 2010 there could be a need for some 4,800m² for additional comparison floorspace in non-central areas, existing commitments were in the order of 9,600m² and this effectively results in an oversupply of comparison floorspace of 4,700m². The Study concludes that should applications come forward, these should be considered on their merit and assessed against PPS6. In this regard it is considered that the 2006 retail study is now 3 years old and therefore does not accurately represent the current retail situation and as such a new retail needs assessment is currently being carried out to inform the Local Development Framework, however the results will not be available in time for the determination of this application. Furthermore, as this extension relates purely to the retailing of comparison goods and the 2006 retail study refers to additional foodstore provision in the City, it is considered that the study relates to a completely different dynamic to comparison goods retailing where there is a strong annual growth.

Qualitative need - this primarily relates to the improvement and enhancement of the overall shopping environment of the store for the benefit of shoppers. The anticipated increase in employment (70 new jobs) is an important factor in this respect.

Sequential testing

The applicant has undertaken an assessment of other potential sites within the wider catchment area including the City Centre, namely Crowtree Leisure Centre and Holmeside Triangle, details of which are included in the Planning Statement. The assessment concludes that whilst the Holmeside Triangle site is considered to be an appropriate site for retail development, owing to site assembly and Compulsory Purchase issues it is not considered that this site would be available within a reasonable period of time to meet the identified retail need (see above). As such this argument is accepted by the Council as a reasoned justification for the proposed development.

Scale

The current proposal reflects the design advice given as part of the previous application and it is therefore considered that the proposed extension by reason of its siting, scale, design and external appearance is a satisfactory form of

development that respects the visual appearance and character of the existing store.

Assessing Impact (How the proposal relates to the Council's Strategy for Retail Development)

The impact of the proposed extension on the vitality and viability of defined centres has been examined in detail and it is concluded that the calculations show that the proposed extension will have a negligible impact on convenience sales turnover in the defined centres in the catchment. In terms of impact on comparison sales turnover the proposed development is expected to have a 4.5% impact on the centres turnover in 2012 improving to 2.9% in 2014. This assessment is accepted and it is therefore considered that the impact, particularly on the City Centre - will be minimal.

Policy Conclusions

Having considered the Planning Statement and the assessments contained within it, it is considered that the information adequately addresses the requirements of PPS6 and as such the proposal is seen to accord with both national and local plan policies.

URBAN DESIGN

Policy B2 of the UDP is concerned with the scale, massing, layout and setting of new developments and extensions. The policy goes on to state that new developments and extensions should respect and enhance the best qualities of nearby properties and the locality as well as retaining acceptable levels of privacy.

The proposed development is considered to be of a scale, massing, layout and appearance that site comfortably with the existing building. Whilst it is acknowledged that the existing building is not of any exceptional architectural quality it is felt that the proposed extension whilst reflecting the character and appearance of the existing store, will add interest and definition to the facades and roofscape. The palette of materials proposed (brickwork and cladding) is in keeping with that used for the construction of the existing store and is therefore accepted as being appropriate in this instance.

In conclusion it is considered that the proposed extension represents a well designed extension to the existing store in terms of scale, massing design and external appearance and as such accords with policy B2 of the UDP.

HIGHWAYS

A Transport Assessment (TA) has been submitted to accompany the application. It is clear from this that the majority of trips to the store will continue to be by private car, although it is stated that the actual increase in car movements generated by the extension will not be significant. Whilst acknowledging that as a result of the extension there will be an intensification of use of the car park resulting in parking levels being at or near operational capacity for much of the day, this justification is accepted on its own, however no details have been provided as to how the Sunderland NHS Foundation Trusts Park and Ride Shuttle Bus will be accommodated within the site and as such the arrangements

to allow for the continued operation of the Park and Ride scheme need to be provided and agreed prior to the new extension being brought into use. This issue will be dealt with by way of condition should consent be granted.

The only other outstanding issue relates to the preparation of a Travel Plan, details of which have not been submitted and as such will be dealt with by way of condition should consent be granted.

As such having regard to the information submitted it is considered that the proposed extension to the existing store is an acceptable form of development which accords with the provisions of the development plan, namely T14, and supplementary planning documents.

ECOLOGY

The Bat Survey, Extended Phase 1 Habitat Survey, Water Vole Mitigation Strategy and Water Vole Survey have been reviewed and it is considered that the information contained within them is acceptable subject to the imposition of a series of conditions which relate to:- (1) Section 5 of the Bat Survey 'Recommendations', namely (a) if any bat species are discovered during the course of any works on site, all works should cease immediately and a licensed bat worker consulted _ (b) if development does not commence before the end of July 2010 then an additional bat survey will be required, (2) the detail contained within the Water Vole Mitigation Strategy Report, in particular the control of works (Section 4), (3) a detailed Water Vole Method Statement detailing the control of pollution during and post site construction will be required prior to any works commencing on site, and (4) Section 6 'Recommendations' of the Extended Phase 1 Habitat Survey, which relates to the protection of wildlife habitats, trees, species (birds and bats).

A request has also been made for the payment of £15,000 which will be used to fund a Wildlife Officer post to help maintain and improve the potential Silksworth Lake Local Wildlife Site, situated adjacent to the site. The post will be used to improve the general landscape of the area. However, having considered this request it is not felt that such a payment could be justified as a result of the development proposed given that the proposal relates to previously developed land within the confines of the existing site and it is not considered that as a result of the works there will be any adverse effects on the wider area.

LANDSCAPE

Whilst it is acknowledged that the proposal will have minimal impact on the area of landscaping which surrounds the existing store and car park, the proposal does intend to remove the avenues of trees which are currently situated within the car park as part of the proposals to improve the circulation of this space. As such a landscaping scheme has been proposed to the east (car park) and south (service area) which reintroduces two avenues of trees, one along the pedestrian avenue serving the two rows of disabled parking bays, the other along the pedestrian avenue serving the parent/child parking bays in respect of the former and a series of smaller trees in respect of the latter. The tree species proposed to the car parking area, *alnus sparthii*, is considered to be an appropriate and acceptable specie for this location whilst the tree planting landscaping proposed around the service yard area is less substantial but nonetheless acceptable given that it is not highly visible from any well used public vantage point.

REPRESENTATION

1no. letter of support has been submitted in respect of the proposed development, however the representation does raise that the existing vehicular entrance to the store (after the roundabout) is too narrow and restrictive and should be modified as part of the proposals. In response to this issue it is considered that a thorough assessment of the site layout, local highway network serving the development site and potential resulting impacts of the proposal has been undertaken and the findings documented in the Transport Assessment. The findings of the TA conclude that the proposed development will result in only a minimal percentage increase in traffic and as such it is considered that the existing vehicular arrangement could satisfactorily accommodate the predicted increase in vehicular movements.

2no. letters of objection have also been received, one from Morrisons, the other from a local resident. The main grounds for opposing the development are as follows.

Morrisons

Retail Need (Quantitative) - There is no capacity to support the additional floorspace and the proposal would be harmful to on the City Centre and Local Centres.

Retail Need (Qualitative) - Granting permission for the proposal is unlikely to assist in attracting new retailers into the City Centre and may strengthen the retail position of Newcastle City Centre and the Metro Centre.

Scale - Given that it is not considered that there is either a quantitative or qualitative need for the proposed extension, it is considered that the proposal is inappropriate in terms of scale and size.

Sequential Approach - Holmeside Triangle is sequentially more viable site than the existing Sainsbury's site.

Retail Impact - Lack of sufficient retail impact assessment by the applicant.

Need to control the level of net sales area (comparison / convenience retail floorspace) given it is an out of town location.

Retail Need (Quantitative) - Firstly it should be noted that the Council's Retail Needs Study is now 3 years old and does not reflect the impact of the current economic recession. It also fails to provide the longer term vision of possible expenditure in the City as it only runs to 2010. A revised Retail Needs Assessment is currently being prepared and this will provide a longer term vision based on more recent and up to date information however this document has not yet been finalised.

The Town Centre Uses Statement (TCUS) submitted as part of the application was based on information contained within both MapInfo Information Brief 08/02 and a revised assessment based on Pitney Bowes Briefing Update 'Retail Spending Outlook' (March 2009), the latter reflecting the current economic downturn.

The information based on the latest forecasts (Pitney Bowes Briefing Update) used to calculate retail expenditure concludes that the total amount of convenience good expenditure in the catchment will increase by £7.3m to £189.45m by 2012 and £10.43m to £192.58m by 2014. The total amount of comparison goods expenditure in the catchment is estimated to increase by £30.65m to £333.14m by 2012 and by £49.46m to £351.95m by 2014.

Therefore having regard to all of the information submitted in this regard it is considered that there is a quantitative need for floorspace to serve £50.6m of convenience goods sales and £140.8m of comparison goods sales by 2012. On the basis that the proposed store will turn over an estimated £6.1m of convenience goods and £14.5m worth of comparison goods in 2012 it is considered that there is sufficient capacity to support the proposed extension to the store.

Retail Need (Qualitative) - The TCUS has undertaken an assessment of the Holmeside Triangle site and Crowtree Leisure Centre site, which are located within the City Centre. This assessment concludes that whilst the Holmeside Triangle site is considered to be an appropriate site for retail development, owing to site assembly and Compulsory Purchase issues it is not considered that this site would be available within a reasonable period of time to meet the identified retail need (see above). Furthermore as this extension relates mostly to the retailing of comparison goods, the 2006 retail study refers to additional foodstore provision in the City, this has a completely different dynamic to comparison goods retailing where there is a stronger annual growth rate. As such this argument is accepted by the Council as a reasoned justification for the proposed development.

Scale - The current proposal reflects the design advice given as part of the previous application and it is considered that the proposed extension by reason of its siting, scale, design and external appearance is a satisfactory form of development that respects the visual appearance and character of the existing store.

Sequential Approach - As already detailed above there is an identified and accepted quantitative and qualitative 'need' for the proposed extension and the sequential assessment is therefore not merely an academic exercise as referred to in the representation. The information submitted as part of the current application acknowledges the need to consider City Centre sites, including the Holmeside Triangle sites as well as existing vacant units within the City and local centres. As such the applicant considers that with regards to the Holmeside Triangle this site is not available with a reasonable time period, viable or suitable for the proposed development - as is set out in national planning policy guidance (PPS6) - whilst the identified vacant units are not considered suitable for the development that is currently proposed. Having regard to this statement the Council considers that the comparison goods offered by the proposed extension would not appear to be a 'destination' in their own right but rather it would appeal more to impulse buys by shoppers already undertaking food shopping in the store. In this regard it is considered that the impact on the City Centre will be minimal.

Retail Impact - The information and calculations submitted detail how the proposal relates to the Council's Strategy for Retail Development within the City Centre. This information has been considered by officers and the arguments put

forward, namely that the extension will appeal to existing users of the store rather than attracting in new customers who may have alternatively shopped for comparison goods in other more central location, are accepted as it is the officers view that this store will not serve as a destination in its own right.

Need to Control Net Sales Area - For the reasons given above, namely the identified quantitative and qualitative and considered minimal impact on the City Centre and other identified, it is not considered necessary in this instance to control the ratio of convenience to comparison floorspace within the store.

Local Resident

The proposed extension to Sainsburys will increase the traffic on Silksworth Lane, especially in light of the nearby swimming pool development. Silksworth Lane is already very busy at times and a right turn manoeuvre from Nursery Road is difficult. Consideration should be given to reducing the speed limit down to 30 m.p.h.

Having regard to the data contained within the Transport Assessment submitted in support of the application it is considered that the additional traffic as a direct result of the proposed development will be minimal with any queues on site being dispersed within the peak hour. As such it is considered that the proposed development can be satisfactorily accommodated within the existing highway network. With regards to the reduction in traffic speeds on Silksworth Lane it is not considered that there is an existing problem with speeding on this road and having researched the incidence of reported road traffic accidents on Silksworth Lane over the last three years it would appear that during this time there has only been two reported 'slight' incidents, neither of which were related to traffic speeds and as such it is not considered that the proposed development would increase the risk of accidents on Silksworth Lane.

CONCLUSION

Having considered all of the information submitted in respect of this application it is considered that the proposed development represents a satisfactory form of development and therefore it is recommended that Members approve the application subject to the conditions listed below.

RECOMMENDATION: Approve

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 No development shall take place until a scheme of working has been submitted to the satisfaction of the Local Planning Authority; such scheme to include days and hours of working, siting and organisation of the construction compound and site cabins, routes to and from the site for construction traffic, and measures to ameliorate noise, dust, vibration and

other effects, and so implemented, in the interests of the proper planning of the development and to protect the amenity of adjacent occupiers and in order to comply with policy B2 and T14 of the UDP.

- 3 During the construction of the extension hereby approved no deliveries shall be taken at or despatched from the site outside the hours of 07:00 and 19:00 Monday to Friday, 07:30 and 14:00 Saturdays, nor at any time on Sundays, Bank or Public Holidays to ensure that nearby properties are not adversely affected by the development and that highway safety is not compromised and to comply with policy EC12 and EC13 of the UDP.
- 4 No external noise generating construction works required for the development hereby approved shall be undertaken outside the hours of 07.00 and 19.00 Monday to Friday and between the hours of 07.30 and 14.00 on Saturdays and at no time on Sundays or Bank Holidays in order to protect the amenities of the area and to comply with policy EN5 and B2 of the UDP.
- 5 No development shall commence until details of the 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 policy B2 of the UDP.
- 6 Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstanding shall be passed through an oil interceptor installed in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. Roof water shall not pass through the interceptor, in order to prevent pollution of the water environment in accordance with policy EN14 of the UDP.
- 7 No development shall commence until the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the Local Planning Authority:
 - (i) A preliminary risk assessment which has identified:

All previous uses
Potential contaminants associated with those uses
A conceptual model of the site indicating sources, pathways and receptors
Potentially unacceptable risks arising from contamination at the site
 - (ii) A site investigation scheme, based on (1) to provide information for a detailed assessment of risk to all receptors that may be affected, including those off site.
 - (iii) The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - (iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and

identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the Local Planning Authority and the scheme shall be implemented in complete accordance with the agreed details, in order to ensure that the risks posed by the site to controlled waters are assessed and addressed as part of the redevelopment in accordance with policy EN14 of the UDP.

- 8 No development shall commence until a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority, in order to ensure that the risks posed by the site to controlled waters are assessed and addressed as part of the redevelopment, in accordance with policy EN14 of the UDP.
- 9 If during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority, in order to prevent the risk of contamination to controlled waters in accordance with policy EN14 of the UDP.
- 10 No development shall commence until details of the foul and surface water drainage have been submitted to and approved by the Local Planning Authority and the development shall 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 UDP.
- 11 Notwithstanding any indication of materials which may have been given in the application, no development shall take place until a schedule and/or samples of the materials and finishes to be used for the external surfaces, including walls, roofs, doors and windows has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details; in the interests of visual amenity and to comply with policy B2 of the Unitary Development Plan.
- 12 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.

- 13 Before the development commences details of the method of containing the construction dirt and debris within the site and ensuring that no dirt and debris spreads on to the surrounding road network shall be submitted to and approved by the Local Planning Authority. These details shall include the installation and maintenance of a wheelwash facility on the site. All works and practices shall be implemented in accordance with the agreed details before the development commences and shall be maintained throughout the construction period in the interests of the amenities of the area and highway safety and to comply with policies B2 and T14 of the approved UDP.
- 14 No development shall commence until a Travel Plan to reduce the number of employees arriving by car and increase the number of employees using public transport, walking and cycling as a means of travelling to/ from their place of work shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall then be implemented in complete accordance with the agreed details, in the interests of traffic mitigation and environmental sustainability and to comply with policy T14 of the UDP.
- 15 No development, including demolition, shall commence on site until details of the servicing arrangements for the Sunderland NHS Foundation Trusts Park and Ride Shuttle Bus has been submitted to and approved in writing by the Local Planning Authority. The car park shall then be laid out and the Park and Ride Shuttle Bus operated in complete accordance with the approved details, to comply with policy T14 of the UDP.
- 16 Details of the proposed location of the sales/ site office and construction compound shall be submitted to and approved in writing by the local planning authority in order to ensure a satisfactory form of development and to comply with policy B2 of the UDP.
- 17 No development shall commence on site until details of a scheme of site investigation and assessment to test for the presence and likelihood of gas emissions from ground gases, shall be submitted to and agreed in writing by the Local Planning Authority, in order to check for gas emissions from underground sources and ensure that the details of the development are satisfactory to prevent the adverse effects of underground gas emissions, in accordance with policy EN14 of the UDP.
- 18 The erection of fencing for the protection of any retained trees shall be undertaken in accordance with the plans and particulars to be submitted to and approved by the Local Planning Authority, before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority, in the interests of visual amenity and to comply with policy CN17 of the UDP.

- 19 No tree shown to be retained on the approved plans shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 5837:2005 "Trees in relation to construction", in the interests of visual amenity and to comply with policy CN17 of the UDP.
- 20 If within a period of two years from the date of the planting of any tree, that tree, or any tree planted in replacement for it, is removed, uprooted, destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation, in the interests of visual amenity and to comply with policy CN17 of the UDP.
- 21 The development hereby approved shall be carried out in complete accordance with Section 5 'Recommendations' of the Bat Survey Report July 2009 in the interests of nature conservation and to ensure a satisfactory form of development in accordance with policies CN18 and CN22 of the UDP.
- 22 Prior to the commencement of development, copies of this Section 4 'Discussion & Conclusions' and 5 'Recommendations' as detailed in the Bat Survey Report July 2009 shall be formulated into a method statement and issued to the developer and building contractors working on site. All works shall be carried out entirely in accordance with the method statement in the interests of nature conservation and to ensure a satisfactory form of development and to comply with policies CN18 and CN22 of the UDP.
- 23 The development hereby approved shall be carried out in complete accordance with the details contained within the Water Vole Mitigation Strategy Report July 2009 in the interests of nature conservation and to ensure a satisfactory form of development in accordance with policies CN18 and CN22 of the UDP.
- 24 Prior to the commencement of any development or demolition on site, a detailed Water Vole Method Statement detailing the control of pollution during and post construction shall be submitted to and approved in writing by the Local Planning Authority. Following approval, all works shall be carried out entirely in accordance with the approved details in the interests of nature conservation and to ensure a satisfactory form of development and to comply with policies CN18 and CN22 of the UDP.
- 25 The development hereby approved shall be carried out in complete accordance with the details contained within Section 6 'Recommendations' of the Extended Phase 1 Habitat Survey March 2009, to ensure a satisfactory form of development in accordance with policies CN18 and CN22 of the UDP.
- 26 No development shall commence until a detailed scheme for the diversion of Northumbrian Waters apparatus or redesign of the proposal to avoid

building over by the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water. Thereafter the development shall be carried out in complete accordance with approved details, in order to ensure a satisfactory form of development in accordance with policy B24 of the UDP.