

DEVELOPMENT PLAN

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

Unitary Development Plan - current status

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

STANDARD CONDITIONS

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

SITE PLANS

The site plans included in each report are illustrative only.

PUBLICITY/CONSULTATIONS

The reports identify if site notices, press notices and/or neighbour notification have been undertaken. In all cases the consultations and publicity have been carried out in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION

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

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

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

These reports are held on the relevant application file and are available for inspection during normal office hours at the Economy and Place Directorate at the Customer Service Centre or via the internet at www.sunderland.gov.uk/online-applications/

Peter McIntyre

Executive Director Economy and Place

Reference No.: 17/00500/VA4 Variation of Condition (Reg 4)

Proposal: Variation of condition 2 (plans) attached to planning approval 16/00748/FU4 - alterations to elevations (including amendments to previously approved balconies and windows and construction materials) increase height of building by 200mm and internal alterations (including provision on ground floor of three retail units, cycle store and bin store)

Location: 42 - 45 Nile Street Sunderland SR1 1ES

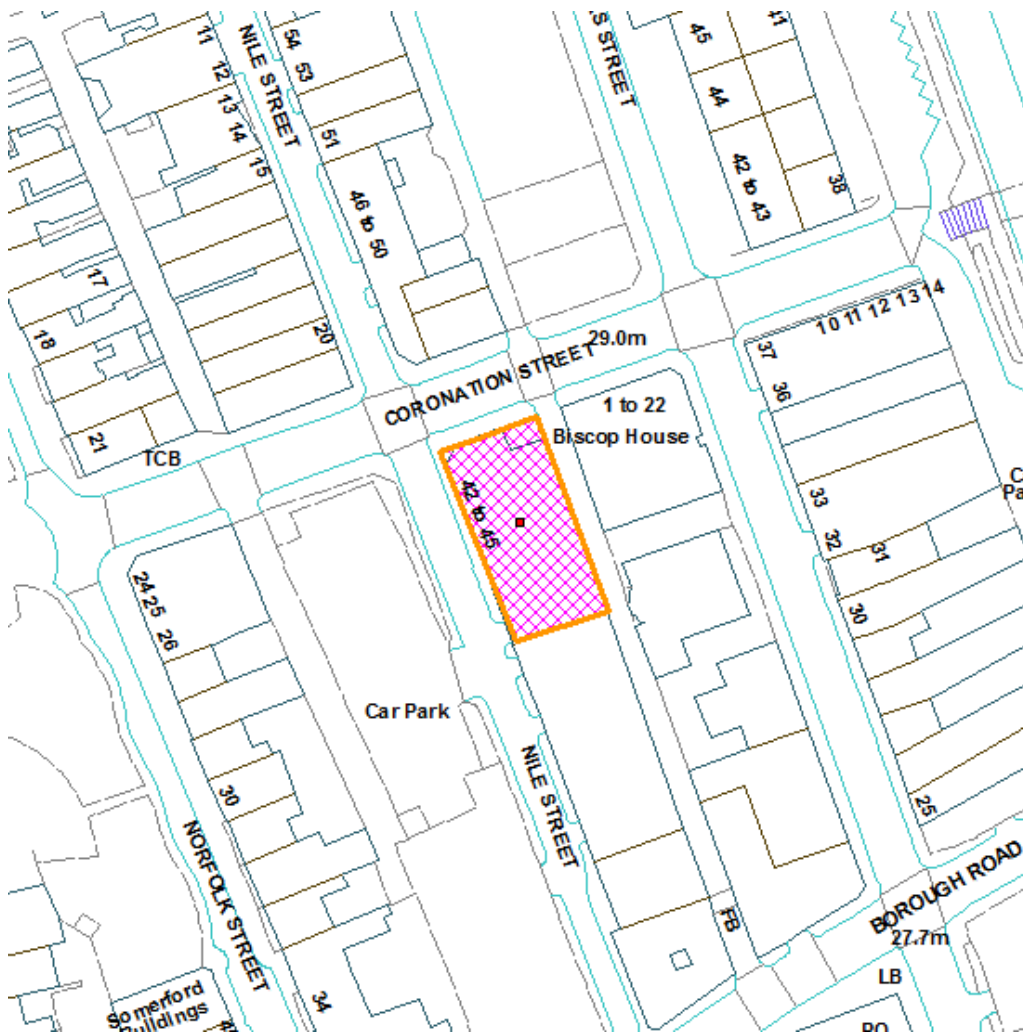
Ward: Hendon

Applicant: Mr Andrew Anderson

Date Valid: 20 March 2017

Target Date: 19 June 2017

Location Plan



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PROPOSAL:

The application, owing to being Major development, has been referred to Members for determination.

The application seeks to vary a condition attached to an earlier grant of planning permission for a six storey building at 42-45 Nile Street, Sunderland (ref: 16/00748/FU4). The previously approved development provided, at ground floor level, three retail units and ancillary space (including a bin store cycle store and lobby); with the storeys above providing 54 apartments (spread between studios through to three bed units).

The proposed development seeks to amend the approved plans and the main changes include -
Ground floor: reduction in the number of retail units from three to two (a reduction in floor space from 442m² to 375m) with the space used for facilities associated with the residential development (such as a meter cupboard) and general re-configuration of circulation space.

First to sixth floor: number of apartments remains the same with a general re-configuration of the internal layouts.

Exterior of building: increase in height by circa 200mm, use of different finishing materials (i.e. buttermilk render / brick for the walls rather than the previously approved glazed brick "Corten" for the ground floor and polished coloured concrete bricks for the upper floors).

The agent has amended the application, in response to responses from the Conservation Officer, Design Officer, Highway Authority and Lead Local Flood Authority, through the submission of amended ground floor and roof plans and details of construction materials. These amended details/ plans were the subject of re-consultation with the relevant consultees. The Local Planning Authority did not undertake a public re-consultation as the additional information sought to address technical concerns; rather than making substantive material changes to the scheme itself.

The site lies within a Conservation Area and a Grade II listed building lies immediately to the south east at 19-20 Villers Street.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Network Management
Flood And Coastal Group Engineer
Northumbrian Water
Flood And Coastal Group Engineer
Hendon - Ward Councillor Consultation
Network Management
Flood And Coastal Group Engineer
Director Of Childrens Services
Environmental Health

Fire Prevention Officer
NE Ambulance Service NHS Trust
Northumbrian Water
Southern Area Command - Police
Tyne And Wear Archaeology Officer
English Heritage
Network Management

Final Date for Receipt of Representations: **06.10.2017**

REPRESENTATIONS:

Archaeologist:
No comments.

Conservation and Urban Design:
No objection.

Environmental Health:
No objection.

Highway Authority:
Upon receipt of amended plans, provide comments covering Section 278 agreement, the existence of car parking / parking restrictions, cycle store, refuse store, servicing arrangements and temporary works.

Lead Local Flood Authority:
No objection, but require additional detail/clarification prior to the detailed drainage design being fully agreed.

Tyne & Wear Fire Service:
Seek clarification upon whether timber framed construction and make no objections subject to the provisions of an enclosed Building Regulations report.

Historic England:
Do not wish to offer any comments.

Northumbrian Water:
Refer to their earlier letter of 6 July 2016. The letter in question sought a condition covering disposal of foul and surface water.

POLICIES:

B2, EN12, B6, B10, T14, T22
Sunniside Planning & Design Framework (2008)
Sunniside Conservation Area Appraisal and Management Strategy (2009)
Central Area Urban Design Strategy (2008)

COMMENTS:

Principle of the Development

The site, as noted above, has an extant planning permission for a six storey building with retail on the ground floor and 54 apartments on the storeys above (ref: 16/00748/FU4). The associated section 106 agreement, which provides Equipped Play Contribution of £7,010 upon commencement of development, contains a specific clause which means the agreement applies to any subsequent variation (such as the application in question). The principle of the development has therefore been established.

The key issues for consideration in determining the current application are accordingly any detailed impacts arising from the proposed amendments. Officers consider the relevant detailed impacts are design, drainage, heritage highways and living conditions. These are expanded upon below.

Design

The Unitary Development Plan (UDP), at policy B2, states

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

In terms of material considerations, the National Planning Policy Framework (the Framework) forms a material consideration. The Framework advises, at paragraph 215, that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plans to the policies in the Framework, the greater the weight that may be given).

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

The assessment, in terms of consistency with the Framework, states the above development plan policy to be "fully compliant no conformity issue - continue to use policy".

The proposed amendment, as noted above, would have a very similar footprint to the previously approved development, approximately the same height (albeit the maximum height has increased by around 200mm) and a comparable pattern of windows. The main difference would be that the construction materials for the walls have changed, as noted above, from glazed bricks to a mixture of buttermilk render and bricks.

There have been extensive discussions between the Council's Conservation Officer, design officer, planning officer and the architect around the issue of the proposed construction materials. The Conservation Officer and design officer initially explained that the original application had received support on the basis of securing a high

"quality building with good quality materials that reflected the aspiration for design and raised the quality of the built form in the conservation area".

The Conservation Officer and design officer had concern that the proposed materials "fails to achieve these desired levels of design quality and as such should be resisted".

A meeting took place between the Conservation Officer, design officer, planning officer and the architect that resulted in the submission of material samples. The Conservation and design officer subsequently advised that the proposed brick "is not appropriate for the location of the property. The originally approved scheme used a contemporary material pallet which sat comfortably within the historic context of the site. The variation submitted does not provide this and should be amended to either provide a more contemporary design or provide a red brick which reflects the surrounding built form."

These concerns were relayed to the architect who subsequently submitted details of a brick which had been used in other Conservation Areas; together with site photographs. The Conservation Officer and design officer have examined the proposed material and advised that they would now have no objections.

The above narrative has been provided to demonstrate that there has been a great deal of scrutiny given by officers to the proposed materials; through various meetings and submission details of different options for the finishing materials. Given the support of the relevant Conservation and design officers, and in the absence of any material considerations to the contrary, the design of the scheme can be given consideration as having an acceptable impact upon the character and appearance of the area; in accordance with the above development plan policies.

Drainage

The UDP, at policy EN12, states that

In assessing proposals for development, the Council will seek to ensure that the proposal would not be likely to 'increase the risk of flooding elsewhere.

The assessment identifies the above policy to be broadly compliant with the Framework; but that consideration should be given to requiring the submission of site specific flood risk assessments.

The proposal, being Major development, needs to be given consideration by both the Council's Lead Local Flood Authority and Northumbrian Water.

The architect has recently submitted additional details of the roof for the consideration of the Lead Local Flood Authority (LLFA). The LLFA have considered the updated roof plan and consider it to be acceptable with regard to demonstrating access for maintenance of the green roof. However, further drainage details are required in respect of the proposed access routes for maintenance/cleaning of the underground tank, sealed manhole and level alarm to ensure no flooding of the internal building occurs.

Given the fact that the LLFA have no objection to the development from a flood risk and drainage perspective, and similar to the earlier approval (ref: 16/00748/FU4), it is considered necessary, at the present time, to re-impose the detailed drainage design condition, should Members be minded to approve. Nevertheless, should additional details be forthcoming that clarify and satisfy the outstanding elements then this will negate the need for such a condition to be imposed. An update will be provided to Members at the Committee meeting should anything change in this regard.

Northumbrian Water has commented that they would refer to their earlier letter of 6 July 2017 (i.e. their response for the initial grant of planning permission). The letter in question sought a condition ensuring the submission of a detailed scheme for the disposal of foul and surface water. The architect has subsequently submitted details to satisfy the condition in question, with Northumbrian Water commenting that "the drainage plans submitted are satisfactory to Northumbrian Water" (ref: 17/00501/EDI).

The proposal would therefore, in the absence of any other material considerations, have an acceptable impact upon drainage; in accordance with the above development plan policies.

Heritage

There are Grade II listed buildings to the west of the site on Norfolk Street and to the east on Villers Street. Officers consider that the proposed development could have an impact on the setting of the listed building on Villers Street.

The Planning (Listed Buildings and Conservation Areas) Act 1990, at section 66(1), states

In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority' shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

The UDP, at policy B10, states that

The City Council will seek to ensure that development proposals in the vicinity of listed buildings do not adversely affect their character or setting.

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

The Conservation Officer has advised that the harm caused to the setting of the listed building by the proposed development would be "minimal".

The Framework does, however, state at para 134 that

"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use".

The Conservation Officer has, to an extent, identified such public benefits noting the "importance of regenerating the Conservation Area for the benefit of the wider public". A further public benefit from the proposed development would be that the provision of 54 apartments would make a substantial contribution towards the current shortfall of housing land within the City.

Officers therefore consider that the public benefits of regenerating a currently vacant site within the Conservation Area combined with the substantive contribution the scheme would make towards addressing the shortfall of housing land within the City would outweigh the less than substantial harm that would be caused to the significance of the designated heritage asset (i.e. the nearby Grade II listed building).

The UDP, at policy B6, states that

"The Council will preserve and enhance the character and appearance of Conservation Areas".

The assessment, in terms of consistency with the Framework, states that

"broadly compliant - continue to use policy with cognisance to new NPPF requirement regarding proposals that enhance or better reveal heritage significance."

There has, as noted above, been detailed discussions between the Conservation Officer, design officer, planning officer and the architect which ultimately led to the submission of an amended scheme of construction materials. The Conservation Officer has advised that they now do not have any objections to the proposed scheme. Officers therefore consider that the proposed development can be given consideration as preserving the character and appearance of the Conservation Area; in accordance with the above development plan policies.

Highways

The UDP, at policies T14 and T22, states

"Proposals for new development should

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

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

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

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

In terms of the above points, a transport assessment would not be necessary given that the proposed amendment would not lead to a materially different volume or character of traffic when compared to the extant approval. The assessment below will be made on the basis of a refusal only being possible where the residual cumulative impacts are severe but there are not currently any adopted policies for the provision of charging plug-in and other ultra-low carbon vehicles.

The assessment has identified policy T22 as "being broadly compliant with the Framework, though consideration should be given to The Supplementary Planning Guidance Note "Development Control Guidelines (1998) which sets out both minimum and maximum parking

standards in line with the then PPG13. Requiring Transport Statements or Traffic Assessment for major trip generating development. Proposals should not be refused on transport grounds unless the residual impacts of the proposal area "severe" Incorporating facilities for charging plug-in and other ultra-low carbon vehicles."

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

The proposed development, as noted above, would not lead to a materially different character or volume of traffic given that the number of apartments remains the same and the ground floor re-arrangement actually reduces the amount of retail space. The Highway Authority upon the receipt of an amended plan has made a series of comments (rather than having any concerns or objections). The proposal can therefore be given consideration, in the absence of any material considerations to the contrary, as having an acceptable impact upon highway safety; in accordance with the above policies.

Living conditions

The UDP, at policy B2, states that

"'New development' should retain acceptable levels of privacy"

The assessment, in terms of consistency with the Framework, states that

"fully compliant no conformity issue"

The increase in height of circa 200mm would not lead to a material impact upon the occupiers of adjoining land or buildings given that the building has an approved height of six storeys. The window arrangement on the northern, eastern and western elevations would be similar to those which have already been approved. There would be less overlooking of Biscop House given that the eastern elevation would not have any windows at all, compared to the previously approved layout which had seven windows.

The proposal would therefore have an acceptable impact upon living conditions; in accordance with the above development plan policies.

Other

The Fire Service has sought clarification upon whether the building would be timber framed and have subsequently referred to a section of the Building Regulations. These matters would be given consideration by Building Control or an Approved Inspector; rather than being planning considerations.

Conclusion

The principle of the development has been established by the extant consent (ref: 16/00748/FU4). The associated section 106 agreement, which provides Equipped Play Contribution of £7,010 upon commencement of development, contains a specific clause which means the agreement applies to any subsequent variation (such as the application in question).

The report above has given consideration to any detailed impacts arising from the proposed amendment in terms of the impacts upon design, drainage, heritage, highway safety and living conditions.

Draft Conditions

Three Years:

The development to which this permission relates must be begun not later than three years beginning with the date on which the original permission was granted (9 December 2016).

Reason: To ensure that the development is carried out within a reasonable period of time.

Plans:

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

- Elevations (Drg. No. GA_200_10)
- Roof Layout (Drg. No. GA_200_09A)
- Fifth Floor Layout (Drg. No. GA_200_08)
- Fourth Floor Layout (GA_200_07)
- Third Floor Layout (Drg. No. GA_200_06)
- Second Floor Layout (Drg. No. GA_200_05)
- First Floor Layout (Drg. No. GA_200_04)
- Ground Floor Layout (Drg. No. GA-200_03A)
- Ground Level Site Plan (Drg. No. GA_200_02)

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

Ground Servicing:

The ground floor retail units hereby approved shall not be brought into use until the servicing and delivery arrangements have been submitted to and approved in writing by the Local Planning Authority. The approved servicing and delivery arrangements shall thereafter be adhered to.

Reason: To ensure, in accordance with Unitary Development Plan policy T14, the development hereby approved does not cause traffic congestion or highways safety problems.

Land contamination & Drainage:

The architect has submitted an application to discharge the contamination and drainage conditions attached to the earlier grant of planning permission (ref: 17/00501/EDI). An update will be provided to Members in terms of whether these conditions should be attached to the amendment application in question or whether they have been satisfactorily discharged.

Informatives

For any temporary works on the highway, such as skip or scaffold permits, the application should contact Caroline Gair, Network Operations (0191 - 561 5102).

The proposed development will entail alterations to the existing highway to re-instate the existing access point to the footway on Nile Street. The developer will be required to enter into an agreement, before commencing any work in the highway, with the Council under Section 278 of the Highway Act 1980. Alterations to the street lighting layout may also be required. The developer should confirm intent to enter into such an agreement and that they will meet the Council's reasonable costs for the legal and technical work involved. For further information please contact Graeme Hurst, Highways Adoption Engineer (0191 - 561 1566).

A City Centre Residents parking scheme available for residents with cars. The applicant should contact Amanda Dowell, Parking Service (0191 - 561 7836).

EQUALITY ACT 2010 - 149 PUBLIC SECTOR EQUALITY DUTY

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

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

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

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

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

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

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

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

RECOMMENDATION:

It is recommended that Members are minded to grant consent under Regulation 4 of the Town and Country General Regulations Order 1992 and subject to the draft conditions listed below:-

Conditions:

- Three Years from original permission

The development to which this permission relates must be begun not later than three years beginning with the date on which the original permission was granted (9 December 2016).

Reason:

To ensure that the development is carried out within a reasonable period of time.

- Accordance with approved plans

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

- Elevations (Drg. No. GA_200_10)
- Roof Layout (Drg. No. GA_200_09A)
- Fifth Floor Layout (Drg. No. GA_200_08)
- Fourth Floor Layout (GA_200_07)
- Third Floor Layout (Drg. No. GA_200_06)
- Second Floor Layout (Drg. No. GA_200_05)
- First Floor Layout (Drg. No. GA_200_04)
- Ground Floor Layout (Drg. No. GA-200_03A)
- Ground Level Site Plan (Drg. No. GA_200_02)

Reason:

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

- Ground Servicing

The ground floor retail units hereby approved shall not be brought into use until the servicing and delivery arrangements have been submitted to and approved in writing by the Local Planning Authority. The approved servicing and delivery arrangements shall thereafter be adhered to.

Reason: To ensure, in accordance with Unitary Development Plan policy T14, the development hereby approved does not cause traffic congestion or highways safety problems.

- Land contamination & Drainage:

The architect has submitted an application to discharge the contamination and drainage conditions attached to the earlier grant of planning permission (ref: 17/00501/EDI). An update will be provided to Members in terms of whether these conditions should be attached to the amendment application in question or whether they have been satisfactorily discharged.

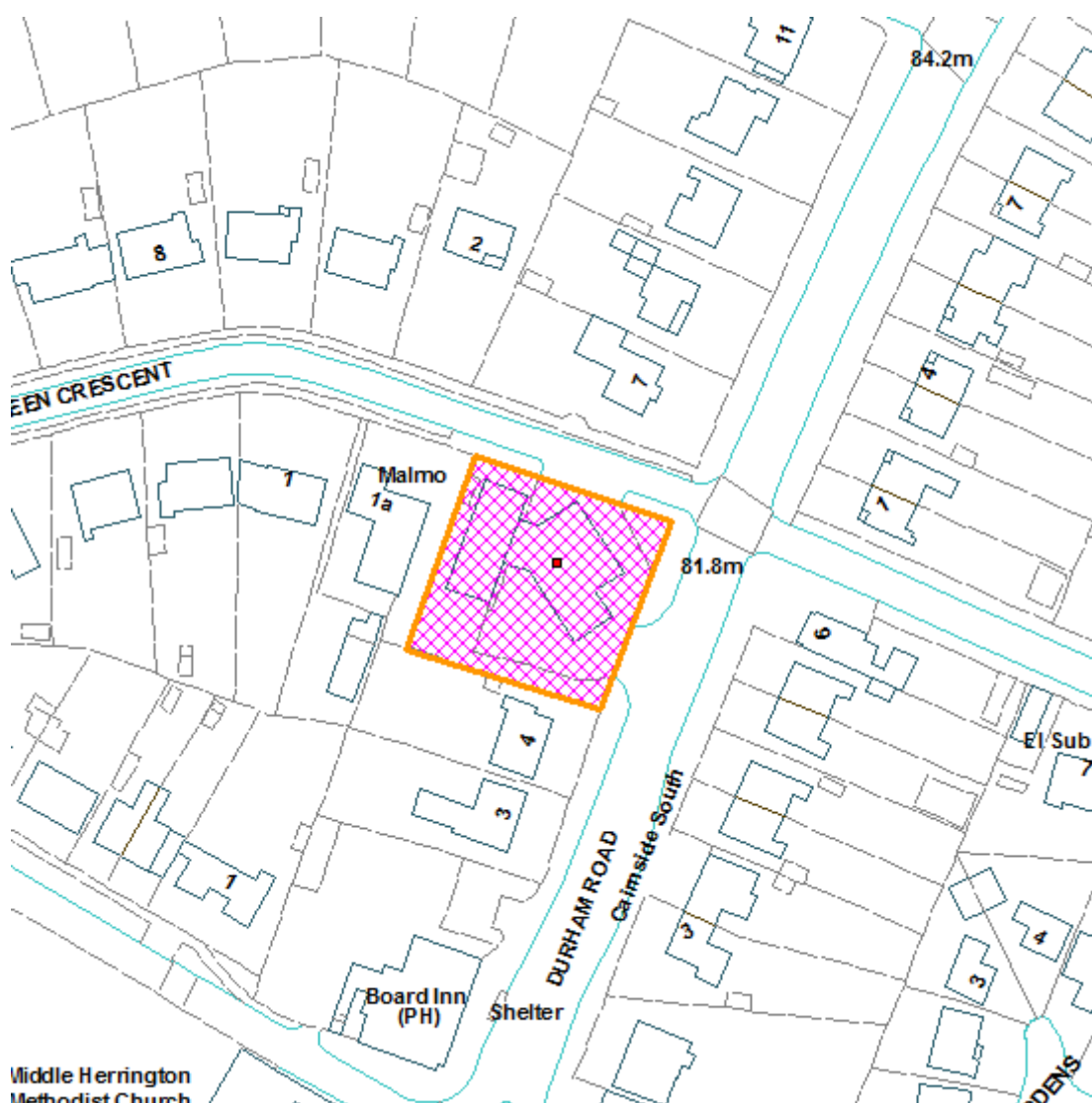
Reference No.: 17/01336/FUL Full Application

Proposal: Erection of single storey extension to side to provide
Subway sandwich outlet

Location: Fox Cover Filling Station Durham Road Sunderland SR3 3NS

Ward: St Chads
Applicant: Mr Kevin Pryle
Date Valid: 9 August 2017
Target Date: 4 October 2017

Location Plan



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PROPOSAL:

Site Description

The site to which this application relates exists as a petrol filling station (PFS) and is situated on the west side of Durham Road on the corner with Careen Crescent. The site has an area of 1280sq.m (according to the submitted application form) and contains covered fuel pumps, signage, an ancillary shop, air and cleaning facilities for customer cars, an ATM and a detached modular self-service launderette. The site has a relatively open-plan frontage, the western boundary and part of the northern boundary comprises high close-boarded timber fencing and this section of fencing along the northern boundary encloses a series of relatively mature trees. Access and egress is afforded from Durham Road and Careen Crescent, both of which include parking restrictions, and informal car parking is afforded within the site.

The local area is predominantly residential in character, with the curtilages of bungalows adjoining the site to its south and west. Careen Crescent, which runs along the north of the site, is entirely residential with the exception of the current application site and trees which are protected by a Tree Preservation Order (TPO) exist directly opposite within the curtilages of nos. 2 Careen Crescent and 7 Durham Road. On Durham Road there are residential properties on both sides and opposite the application site, although there are also other commercial uses nearby including the Board Inn Public House, a hairdressing salon and a bookmaker's which backs onto a Tesco shop and an Esso filling station.

Planning History

Planning permission was granted in 1975 (ref. 75/0732) for the redevelopment of this site to provide a new petrol filling station and detached dwellinghouse. Condition 5 of this consent prohibited the cleaning, repair, hire or display of motor vehicles, the parking of such vehicles except those of customers or employees and the sale of goods except motor vehicle accessories within the site.

This Condition was varied in 1984 (application ref. 84/0792) to allow the sale of convenience goods from the filling station shop, however Condition 3 of this consent limits retail sales to an area of no more than 77sq.m.

A further planning permission was granted in 1986 (ref. 86/1002) to carry out alterations to the sales building and petrol sales forecourt area, for the installation of a 4,000 gallon underground fuel storage tank and to extend the canopy. This consent did not include a condition restricting sales from the building.

Member may recall that planning permission (ref. 17/00857/FUL) was granted in retrospect following the Sub-Committee meeting of 04.07.2017 to provide modular self-service launderette facilities on this site.

Proposal

Planning permission is sought to erect a single-storey extension to the north side of the existing filling station shop to provide an area for the preparation and sale of sandwiches with ancillary storage.

The proposed extension has a depth of 9585mm, to be set some 650mm back from the front and protrude 2525mm beyond the rear building line of the existing shop, and a width of 3450mm when measured across the front and 3770mm when measured across the rear elevation, to be set

150mm from the northern boundary of the site onto Careen Crescent. A flat roof would be provided to a height of approximately 3.4m, level with that of the existing shop building, and facing brickwork matching that of the existing building is proposed for the external walls. The proposed extension would contain no openings, so would be accessible only via the existing shop.

Daily operating hours of 06:00 to 22:00 are proposed, bins would be stored in front of the proposed extension, two dedicated in-curtilage car parking spaces are indicated to the northeast part of the site and the applicant anticipates that the proposal would create five additional jobs, although only two members of staff would work during any one shift.

TYPE OF PUBLICITY:

Site Notice Posted
Neighbour Notifications

CONSULTEES:

Network Management
St Chads - Ward Councillor Consultation
Environmental Health

Final Date for Receipt of Representations: **11.10.2017**

REPRESENTATIONS:

Representations from Publicity

This application has been publicised by means of site notices and letters to neighbouring properties, as a result of which two petitions and separate representations from 11no. neighbouring occupants have been received.

Both petitions set out that, over the last 20 years, the use of the site has expanded and now comprises a convenience shop selling all manner of items, a car wash, a newsagent, a fast food takeaway, an off-licence, a centre for cash withdrawals and a laundrette, which has significantly increased the scale of activity around Careen Crescent. The petitions raise concerns that such activity has resulted in increased volume of traffic, which damages the highway, litter, noise and pollution from cars and these problems would be exacerbated by the currently proposed development. Each petition provides detailed commentary in respect of traffic and safety, parking, noise pollution, litter, refuse, smell, services and environmental concerns. A summary of each of these points is provided as follows:

Traffic and Safety - additional traffic onto Careen Crescent and Durham Road which already experience significant highway safety problems. These points are addressed in the "Parking and Highway/Pedestrian Safety" section of this report.

Parking - Careen Crescent is already used for parking by staff and customers of a nearby hairdressers' and betting shop, staff of Doxford International Business Park and parents picking up and dropping off children for school and such parking would be exacerbated by the current proposal. The area on which two in-curtilage staff parking spaces are proposed is already used

for staff parking. These points are addressed in the "Parking and Highway/Pedestrian Safety" section of this report.

Noise Pollution - from additional youths and adults loitering around the premises, loud music played by drivers, engines from vehicles and consuming sandwiches near to the site. These points are addressed in the "Residential Amenity" section of this report.

Litter - an existing litter problem would be exacerbated by customers of the proposed Subway. In response to this, the LPA notes that littering is a criminal offence, so is covered by another regulatory regime, and a condition could reasonably be imposed requiring bins to be provided within the site

Refuse - it is queried whether appropriate facilities would be provided to dispose of food waste. The LPA would note that the requirement to appropriately dispose of food waste is regulated by environmental health legislation and the applicant has confirmed that refuse bins would be provided in front of the extension.

Smell - it is queried whether food will be cooked on the premises and if extraction would be provided and concerns are raised that such extraction would not completely eradicate smells. The LPA is of the view that cooking would be largely limited to heating products whilst issues of extraction and smells are discussed in the "Residential Amenity" section of this report.

Services - it is queried whether existing drains and power supplies are sufficient to accommodate the proposed use. The LPA notes that such considerations are not material to the planning merits of the proposal given its limited scale and the developer and/or residents should contact the relevant undertaker directly for further details on such matters.

Environmental - the existing trees are of positive value and provide a screen to the filling station whilst the proposed extension would appear as an eyesore within Careen Crescent. A response to these points is provided in the "Residential Amenity" section of this report.

The first received petition, which contains 122no. signatures, also raises concerns in respect of health implications from an additional food outlet, noting that there are currently five shops / food outlets nearby including the host filling station shop, and provides an extract from a Subway franchise application form.

The second received petition, which contains 262no. signatures, also queries how the proposed Subway would be advertised and various sections of the application form. In particular, it is pointed out that the proposed parking spaces are already used by existing staff and customers, no details are provided in respect of tree/hedge removal, it is stated that 5no. additional staff would be employed but no corresponding parking provision is proposed, no hours of operation are proposed (the applicant has since confirmed that daily operating hours of 06:00 to 22:00 are proposed) and no details of plant/machinery are provided. It is also noted that, within approximately 150 yards and less than 50 yards apart, there already exists two filling stations selling snacks, alcohol and coffee, one coffee/sandwich shop with internal and external seating, three mini-supermarkets (the host filling station shop, Nisa and Tesco) and the Board Inn Public House which sells hot food throughout the day.

The LPA's response to such points are set out in corresponding sections of the report below and it is noted that any signage may require a separate application under the Town and Country Planning (Control of Advertisements) Regulations 1992. It is also noted that the Council has no existing policy restricting the number of food outlets in this part of the City, however consideration

of any need to demonstrate that there are no sequentially preferable sites is set out in the "Retail Policy" section of this report.

The concerns raised by the individual representations which have been received are summarised as follows:

1. The proposed development will increase traffic in an already very congested area including along Careen Crescent and Crow Lane, particularly during mornings, lunchtime and evenings
2. The existing forecourt cannot accommodate the number of motorists using the existing ATM, so it is unclear where customers and staff of the proposed Subway would park
3. Existing parking restrictions are not observed or policed, so such restrictions would not overcome additional traffic generation and parking demand, and existing "give way" markings are barely visible and should be replaced/enhanced
4. The existing egress onto Careen Crescent is dangerous and there have been numerous "near miss" collisions, which would increase as a result of the proposal; it is suggested that this access/egress be closed should planning permission be granted
5. The proposed use would attract school children who would have to cross the busy A690 to access the site
6. The proposal would increase noise by additional custom and deliveries
7. The proposal would generate additional smells, adding to those already emanating from the Board Inn Public House
8. The local area is already sufficiently served by food outlets, the proposed use would be more appropriately situated next to existing facilities at North Moor Service Station and there is an existing Subway in Doxford Park
9. Littering on adjacent streets would be increased by customers consuming sandwiches from the proposed Subway on adjacent streets and it is unclear where bins would be stored to serve the proposed development
10. The proposed Subway would detract from trade using Mills Newsagent at no. 9 Cairnside South, resulting in potential job losses
11. The proposal may devalue local properties
12. Many residents have not received a letter notifying of this application and a resident (no. 10 Durham Road) was issued with a letter on 28.08.2017 allowing only three days to reply

Points 1-5 are addressed in the "Parking and Highway/Pedestrian Safety" section of this report, points 6 and 7 are addressed in the "Residential Amenity" section and the LPA offers the following comments in response to the remainder of the above points:

8. There LPA has no existing policy restricting the number of food outlets in this part of the City, however consideration of any need to demonstrate that there are no sequentially preferable sites is set out in the "Retail Policy" section below

9. Littering is a criminal offence, so is covered by another regulatory regime, and a condition could reasonably be imposed requiring bins to be provided within the site whilst the applicant has since confirmed that commercial bins would be stored in front of the proposed extension
10. The planning system is not to regulate competition between businesses and, as such, this is not considered to be a material planning consideration
11. The impact of a proposal on local properties values is not, in itself, a material planning consideration
12. The publicity of this application has been carried out beyond statutory requirements and the LPA did not send a letter directly to no. 10 Durham Road; all letters issued by the LPA allowed 21 days for the receipt of representations

Consultee Responses

The Council's Network Management section has recommended that the application be refused. It is noted that the site is situated on a busy distributor road (the A690 Durham Road) in a primarily residential area and the proposed creation of a sandwich outlet within a site of limited size which already provides a filling station, shop, car wash, ATM and launderette, is considered to be over-intensive. Network Management advises that there is insufficient in-curtilage parking to accommodate the number of staff and visitor likely to be generated by the proposed use and, in the absence of appropriate parking for staff, servicing / delivery drivers or visitors, it is likely that the proposed use will result in illegal parking in the vicinity of the premises including nearby residential streets, to the detriment of road safety.

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

EN_10_Proposals for unallocated sites to be compatible with the neighbourhood

S_1_Provision of enhanced shopping service, including local provision, based on existing centres.

S_2_Encouraging proposals which will enhance / regenerate defined existing centres.

S_3_Support to other existing centres, local groups and small shops, including new provision

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

T_22_Parking standards in new developments

COMMENTS:

ISSUES

The main issues to consider in assessing the proposal are as follows:

- Land Use and Sustainability
- Retail Policy
- Parking and Highway/Pedestrian Safety
- Residential Amenity

- Visual Amenity

Land Use and Sustainability

Chapter 1 of the National Planning Policy Framework (the "NPPF") is concerned with delivering sustainable development to which, as set out by NPPF paragraph 7, there are three dimensions: economic, social and environmental. To achieve sustainable development, gains should be sought jointly and simultaneously in each of these dimensions; whether the current proposal achieves this will be discussed throughout this report.

The current application site is not allocated for any specific land use by the Council's adopted Unitary Development Plan (the "UDP") and, as such, is subject to policy EN10, which requires new development proposals to respect the existing pattern of land use in areas where there is no specific land use allocation. Therefore, proposals for development in such areas must be compatible with the principal use of the neighbourhood.

In this instance, the local area is predominantly residential in character and, as such, the proposal does not accord with the principal pattern of land use. However, it is noted that the application site is an established commercial facility and the current proposal would not fundamentally change the nature of the existing use. Whilst a new facility would be introduced, given that this would extend the existing filling station shop and would not be independently accessible whilst providing a service to visiting members of the public, it is considered that the proposal broadly maintains the existing pattern of land use.

Retail Policy

Paragraph 23 of the NPPF requires any policies drawn up by Local Planning Authorities to foster and support competitive town-centre environments.

Paragraph 24 sets out that a "sequential test" must be applied to planning applications for main town centre uses (which includes retail development) that are not to be located within an existing centre and are not in accordance with an up-to-date Local Plan. Applications for such uses should firstly be located in town centres, then in edge-of-centre locations and, only if suitable sites are not available, should out-of-centre sites be considered. When considering edge- and out-of-centre sites, preference should be given to accessible sites that are well-connected to the town centre.

Paragraph 26 sets out the impact tests for applications for town-centre development located in out-of-centre locations and which is not in accordance with an up-to-date Local Plan and where a gross external floorspace of 2500sq. m (or a locally set threshold) would be created.

Paragraph 27 of the NPPF goes on to advise that "where an application fails to satisfy the sequential test or is likely to have a significant adverse impact on one or more of the above factors (i.e. in paragraph 26), it should be refused". However, recent Court decisions (such as Zurich Assurance) suggest that paragraph 27 is not necessarily determinative, if material considerations indicate otherwise.

On a local level, policies S1 to S3 of the UDP seek to sustain and enhance the City's network of existing centres and incorporate the sequential test to the consideration of development proposals. Policy S1 states that, where appropriate, new town centre development will be based on existing centres and that development elsewhere should result from the application of the sequential test, be in accordance with other policies of the UDP and complement existing facilities. UDP policy S2 sets out that favourable consideration will be given to proposals which

will sustain and enhance the vitality, viability and appropriate diversification of existing centres whilst policy S3 states that the Council will support the retention of existing shopping centres, local groups and small shops catering for everyday needs. However, these are strategic and aspirational policies which do not address the up-to-date development management tests for retail development which is located outside town centres, as set out in paragraphs 26 and 27 of the NPPF, so it is considered that more weight be given to the up-to-date tests in the NPPF.

Given that the resultant gross external floorspace would not exceed 2500sq.m and the Council has no locally set threshold, an impact assessment on existing local centres is clearly not required in this instance.

In respect of the requirement for a sequential test, it is necessary to ascertain the Use Class of a proposal, given that this is only required for "main town centre uses" as specified by the glossary of the NPPF. Paragraph 3.30 of the former PPS6, which has been superseded by the NPPF but still provides some useful guidance, advises that whether a shop is ancillary to a petrol filling station will be a matter of judgement for the decision maker and will depend on factors such as the scale of development involved, the range of goods sold and the proportion of turnover from goods sold which are not directly related to the main use.

In this case, as noted by local residents, it is observed that the site currently provides a range of offers including car wash facilities, an ATM and a laundrette. In respect of the filling station shop, which has a net retail floorspace of some 83sq.m according to the submitted plans, having visited the premises it is noted that it offers a range of goods including groceries, alcohol, hot and cold drinks, newspapers and snacks. The current proposal would increase the net retail floorspace of the shop to 105sq.m and would introduce a separate franchise which would be accessible only via the existing shop.

With this increased retail space and additional non-vehicle related offer, it is clear that the proposal constitutes an intensification of the existing use which would bring the use of the shop closer to Class A1. However, in the absence of details of the proportion of existing and projected turnover from the business, the Use Class of the existing premises and proposed development cannot be established with an appropriate degree of certainty at this time. Such details have been requested but have yet to be received and it is anticipated that this matter will be reported subsequently in further detail to the Sub-Committee.

Notwithstanding this, for the reasons set out subsequently in this report, it is not considered that the particular Use Class of the existing and proposed facility is a determining factor in the assessment of this application.

Parking and Highway/Pedestrian Safety

Paragraph 32 of the NPPF states that "development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe" whilst paragraph 75 states that "planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails".

Policy T14 of the UDP 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 whilst policy T22 seeks to ensure that the necessary levels of car parking provision will be provided.

As set out above, the Council's Network Management section has recommended that the application be refused on the basis that the proposal represents an over-intensification of the site with insufficient car parking provision to accommodate the likely demand. Indeed, there is no formal parking arrangements and the site is accessed/egressed from the particularly busy A690 (Durham Road) and the residential Careen Crescent which includes parking restrictions.

Considering the representations submitted by local occupants and having visited the site on several occasions, it is noted that the site is particularly well used by not only customers purchasing petrol but also visitors in car and on foot who purchase convenience goods from within the shop and use the ATM. Given the current retail/service offer, it is considered that the site is already operating at capacity and such capacity is likely to be exceeded at peak times.

The current proposal, by virtue of increasing the retail floorspace alone, would result in a notable intensification in the use of the site. In addition, the applicant has explicitly set out that the proposed extension would accommodate a further convenience offer of a separate franchise. Whilst customers purchasing petrol may wish to use the proposed facility, it is considered that such an offer would attract a separate custom to that of a petrol filling station and, as such, it is likely that the number of customers visiting the shop on foot and by vehicle would significantly increase, particularly during meal times when the site already operates beyond its capacity. In addition, as noted by local residents, many patrons travelling by foot, including school children, would be required to cross the busy A690 to access the proposed facility.

Given the size of the proposed facility, the applicant's assertion that no more than two members of staff would work at the premises at any one time is accepted. However, as noted by local residents, the two car parking spaces shown on the submitted site plan are already used by existing staff.

Whilst the site has no dedicated car parking provision, given the limited amount of space which could be used for car parking it is not considered that the site could realistically accommodate the number of car borne visits to the site which are likely to be generated by the existing and proposed facilities on offer. Such lack of parking would be exacerbated by the additional deliveries to the site which are likely to be required on a daily basis. Therefore, cars will have no option but to park illegally/indiscriminately on surrounding streets and, whilst separate legislation exists to enforce against illegal parking, in this particular instance it is considered that this would be difficult to enforce, particularly in respect of the likely short-stay nature of visits to takeaway food outlets.

As residents have expressed, the existing highway conditions around this site are often dangerous by virtue of the volume of traffic which is particularly busy during periods in mornings, lunchtime and evenings, with anecdotal evidence provided of numerous "near miss" collisions. It is therefore considered that the intensification of parking and the use of nearby roads which would be brought about by the proposed development are likely to result in severe detrimental impacts on the safe and free passage of traffic.

Residential Amenity

One of the core principles of the NPPF, as set out by paragraph 17, is that planning should "always seek to secure a good standard of amenity for all existing and future occupants of land and buildings". Paragraphs 56 and 57 expand upon this principle, highlighting the importance Central Government place on the design of the built environment, including individual buildings, public and private spaces and wider area development schemes.

UDP policy B2 reflects the above, stating that the scale, massing, layout and/or setting of new developments should respect and enhance the best qualities of nearby properties and the locality

whilst large scale schemes, creating their own individual character, should relate harmoniously to adjoining areas.

It is noted that the site is bordered by residential properties on two sides, however an offshoot and high boundary wall exists along the northern boundary of no. 4 Durham Road to the south and high screening separates the site from no. 1a Careen Crescent to the west. As such, the proposed extension, by virtue of its position and limited height, would not be prominently visible from the curtilage of neighbouring dwelling.

However, for the reasons set out in the previous section of this report, it is considered that the proposed use represents a notable intensification in the use of the site, resulting in a significant increase in the number of visitors to the site. Given that the site is situated within a predominantly residential area and is surrounded by dwellings, it is considered that such an increase of footfall and car borne visits, from 06:00 to 22:00 daily, would pose a notable increase in disturbance to neighbouring residents in the form of noise from cars (i.e. engines, the playing of music and the slamming of doors) and delivery vehicles as well as from visitors on foot who would often consume food bought from the premises near to the site.

In addition, whilst the proposal does not constitute a hot food takeaway, based on other existing establishments it is apparent that Subway facilities typically generate odorous emissions. No extraction, filtration or ventilation details are proposed, however some form of, at least, ventilation is likely to be required and, given the prominent position of the extension, it is not apparent where such apparatus could be positioned. As such, there are concerns that neighbouring residents would be exposed to odorous emissions from the proposed facility, in particular no. 1a Careen Crescent to the west.

Visual Amenity

One of the core principles of the NPPF, as set out by paragraph 17, is that planning should "always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings". Paragraphs 56 and 57 expand upon this principle, highlighting the importance Central Government place on the design of the built environment, including individual buildings, public and private spaces and wider area development schemes. Paragraph 64 of the NPPF goes on to state that "permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions". In addition, NPPF paragraph 118 sets out that "planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss".

Policy B2 of the UDP is reflective of such aims, as set out above, whilst UDP policy CN17 encourages the retention of trees which make a valuable contribution to the character of an area.

The proposed extension would require the removal of a row of relatively mature trees which, whilst not high quality individual specimens, are considered to make a particularly positive contribution to the street scene of Careen Crescent. An amenity assessment of these trees has been commissioned by the LPA which concludes that these trees are in fair condition with a likely life span of 10 to 20 years and highly visible.

It is noted that all built development along Careen Crescent, with the exception of boundary treatments, is set away from the street and this arrangement is reflected by the application site. The proposed extension, whilst limited to a single storey, would practically abut the boundary onto

Careen Crescent. It is considered that this would represent an alien feature to the street which would appear at odds with the predominant character and built form of the Crescent.

For such reasons, in particular the loss of attractive trees together with the position of the proposed extension, it is considered that the proposal would be harmful to the street scene of Careen Crescent.

Equality Act 2010: Public Sector Equality Duty

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

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

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

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

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

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

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

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

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

Conclusion

As set out above, gains must be sought jointly and simultaneously in economic, social and environmental roles in order to achieve sustainable development. Whilst the proposal would provide limited economic gains by employing additional staff and providing an additional offer to the local area, it is considered that the proposal would have negative social and environmental impact in terms of highway safety and residential and visual amenity. As such, it is not considered that the proposal represents sustainable development.

For the reasons set out in this report, it is not considered that the proposal accords with the provisions of the UDP, taken as a whole, and no overriding material considerations are apparent to indicate that the proposal is acceptable. It is therefore recommended that Members refuse planning permission.

The reasons for refusal are set out below, however these are subject to change subject to further consideration of the issues set out in the "Retail Policy" section of this report.

RECOMMENDATION:

Members are recommended to Refuse the application subject to the draft reasons given below:-

Reasons:

1 The proposed use would generate a significant increase in car-borne visits and short-term parking on and within the vicinity of the site which already experiences significant levels of on-street parking and traffic problems, resulting in severe residual cumulative impacts, contrary to paragraph 32 of the National Planning Policy Framework, policies S12, T14 and T22 of the adopted Unitary Development Plan and section 9 of the Development Control Guidelines Supplementary Planning Guidance.

2 The proposal, by virtue of its intensification in the use of the site and resultant additional footfall and car borne visits and in lieu of the submission of any details of how a suitable extraction system could be accommodated on the host building, would pose an unacceptable level of disturbance to neighbouring residents and result in the generation of odorous emissions which would not be adequately mitigated, to the detriment of the local environment and the amenity of nearby residents and contrary to policy B2 of the adopted Unitary Development Plan and paragraphs 17 and 64 of the National Planning Policy Framework.

3 The proposed development, by virtue of its position, would result in the loss of trees which make a positive contribution to the amenity of the local area and would result in the introduction of an uncharacteristic feature to the street scene of Careen Crescent, contrary to policies B2 and CN17 of the adopted Unitary Development Plan and paragraphs 14, 17, 56, 57, 64 and 118 of the National Planning Policy Framework.