

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/16/01506/FPA
FULL APPLICATION DESCRIPTION:	Erection of a 1,114 sq.m mezzanine floor
NAME OF APPLICANT:	Wm Morrison Supermarkets Plc
ADDRESS:	B&Q Warehouse, Unit 1, McIntyre Way, Durham City Retail Park, Gilesgate Moor, Durham
ELECTORAL DIVISION:	Belmont
CASE OFFICER:	Colin Harding, Senior Planning Officer, 03000 263945, colin.harding@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site:

1. The application site comprises the existing B&Q retail warehouse at Durham City Retail Park. At present, only part of the unit is occupied by B&Q, with the remainder currently unoccupied. To the north of the site lies residential housing, and Bannatyne Health Club and Spa, to the east lies Just Car Clinic, with the A1(M) beyond, to the south lie other units on the retail park, Currys PC World, Argos and Sports Direct, amongst others. To the west is car parking, with car dealerships beyond.
2. There are no Public Rights of Way in the vicinity, and The Scrambles Local Wildlife Site lies approximately 1km to the east of the site, Durham City Centre Conservation Area lies 1km to the west of the site, and an Area of High Landscape Value lies 300m to the south east.

The Proposal:

3. Planning permission is sought for the erection of a 1114 sq.m mezzanine floor within the vacant part of the existing retail unit, at its eastern end. The applicant has advised that they no longer wish to develop the vacant retail unit as a foodstore, and are instead intending to subdivide the unit into two units to allow the occupation of The Range, and Go Outdoors.
4. The proposed mezzanine floor would be associated with the Go Outdoors unit, and would be intended to facilitate the display of camping and outdoor equipment, such as tents.
5. A separate application has been submitted in relation to external alterations required to facilitate the subdivision of the unit. This is currently being considered and is due to be determined under delegated powers.

6. This application is being reported to Central and East Planning Committee as it constitutes a major retail development proposal involving the creation of more than 1000 sq.m of additional floor space.

PLANNING HISTORY

7. The retail park was originally approved on appeal, following the refusal of application 4/02/00526. Since then, there have been a number of planning applications and applications for advertisement consent;
8. DM/15/01652/FPA - Proposed external substation, Re painting of existing cladding, re-painting of the curtain wall mullions and alterations to the service yard canopy design - Approved 24/07/2015
9. DM/15/01132/AD - 2No Internally Illuminated Signs, 3No Non-Illuminated Panel Signs and 2No Banner Signs - Approved 22/05/2015
10. DM/14/02769/FPA - External alterations to the existing retail unit and site, including removal of builders yard roof, ground works to builders yard, erection of new lighting columns, trolley shelters, bollards, service yard gates and new fire exit doors on the building's northern elevation – Approved 24/10/2014 – This application comprised the external changes that would allow Morrisons to operate a foodstore.
11. DM/14/01588/COL - Application for a Lawful Development Certificate for proposed A1 Use – Approved 04.08.2014 – This application confirmed that the unit can operate as a general A1 retail unit, with no restrictions on goods sold.
12. CE/13/01118/FPA - External alterations including new canopies to front, sides and rear elevations – Approved 13/07/2014
13. 4/10/00957/AD - Erection and display of 10 no. signs comprising non-illuminated and internally illuminated fascia and individual letter signs to north and east elevations of existing building (amended plan). – Approved 17/02/2011
14. 4/04/01333/FPA - Installation of external air conditioning equipment within a secure cage – Approved 25/01/2005
15. 4/04/01156/AD - Erection and display of illuminated and non-illuminated fascia and freestanding site signs – Approved 01/12/04
16. 4/04/01154/FPA - Erection of greenhouse and open canopy within garden centre area – Approved 01/12/2004

PLANNING POLICY

NATIONAL POLICY

17. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF). The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'.

18. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
19. *NPPF Part 1 – Building a Strong, Competitive Economy*. The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf>

20. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; retail development and highways impacts.

<http://planningguidance.planningportal.gov.uk/>

LOCAL PLAN POLICY:

City of Durham Local Plan (2004) (CDLP)

21. *Policy S1A (Retail Hierarchy)* - seeks to protect and promote the vitality and viability of all centres within the local retail hierarchy.
22. *Policy S8 (Retail Warehousing Outlets)* – states that new retail warehouse development will be permitted on designated sites, providing, amongst other things, that there is demonstrable need, a sequential test has been carried out, and the vitality and viability of existing centres would not be adversely affected.
23. *Policy S9B (Major Out of Centre Proposals)* – states that where an identified need for large-scale retail cannot be met through existing allocations, preference should be given to sites within the city centre, followed by district centres at Sherburn Road/Dragon Lane and the Arnison Centre, and then local shopping areas within the built up area of Durham City. Where such development cannot be accommodated in these locations, it will only be acceptable elsewhere if; it satisfies a demonstrable need and conforms to the sequential approach, does not adversely affect the viability and viability of any existing centre within and outside of the district, would not give rise to serious access problem, would not result in a substantial increase in car usage, and it can be shown that the site is accessible by a choice of means of travels.
24. *Policy EMP8 (General Industrial Sites)* - This policy designates general industrial sites, and identifies the site of Durham City Retail Park as being suitable for B1, B2 and B8 development.
25. *Policy T1 (Transport – General)* – states that developments that would generate traffic which would be detrimental to highway safety or amenity of adjoining occupiers will be resisted.
26. *Policy CCI (Vitality and Viability)* – states that the Council will seek to protect and enhance the vitality and viability of the city centre by promoting a mix of uses, and sustaining the city centre shopping centre in accordance with other retail policies.

RELEVANT EMERGING POLICY:

The County Durham Plan (CDP)

27. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at:
<http://www.durham.gov.uk/media/3396/City-of-Durham-local-plan-saved-policies/pdf/CityOfDurhamLocalPlanSavedPolicies.pdf>
<http://durhamcc-consult.limehouse.co.uk/portal/planning/> (County Durham Plan)

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

28. *Belmont Parish Council* – No objections raised. The prospect of two new stores, and their employment potential is welcomed.
29. *Highway Authority* – No objection raised - The addition of floor space will result in additional footfall to a development and therefore additional parking demand. Whilst it is accepted the addition of a mezzanine floor would not result in a pro rate increase in parking demand (per GFA); research has suggested that there would be an increase of up to 20% in footfall. It is accepted that a significant proportion of trips to such development are linked and not primary trips. An additional 9 parking spaces would be required to meet the likely peak period demands for the development.
30. The shortfall in supply is likely lead to drivers entering then leaving site without finding space at peak periods, however this shortfall would not be significant enough to support an objection on the grounds of severe impacts.

INTERNAL CONSULTEE RESPONSES:

31. *Spatial Policy* – No objections. The applicants have provided a sequential assessment which passes the test outlined in the NPPF. Given that there no current restrictions to goods which can be sold at the unit, it would be unreasonable to seek to restrict the mezzanine floor in this respect.

PUBLIC RESPONSES:

32. The application has been advertised by means of press and site notices. No letters of representation have been received.

APPLICANTS STATEMENT:

33. The applicant, Morrisons, have planning permission to operate a foodstore from the northern part of the unit. However, Morrisons no longer wishes to implement this permission nor does it wish to occupy the unit as a foodstore and is instead seeking permission to erect a Mezzanine Floor to allow the unit to be sub-divided for two new retailers: The Range and Go Outdoors.
34. A separate application is currently pending with the Local Authority which proposes a number of external alterations required to allow the unit to be sub-divided into two individual retail units.
35. Go Outdoors sells a wide range of outdoor and camping equipment and therefore require suitable amounts of floorspace in order to fully stock and display often bulky items. As a result, the additional floorspace is proposed via the introduction of a Mezzanine Floor, providing the retailer with the floorspace required in order for them to accommodate the vacant unit.
36. The proposed additional floorspace provided through the Mezzanine Floor will allow the retailer to stock and display larger items of stock, for example tents and outdoor sports equipment, therefore, increasing the range of goods available to consumers and ensuring that prices remain affordable.
37. The principle of the development has been considered within the planning application and it has been demonstrated that the proposals would not pose any adverse impacts. A Sequential Approach has also been taken to site selection which demonstrates that there are no preferable alternative locations in which to locate the development.
38. The proposed development will bring about benefits including job creation, enhanced consumer choice and maintenance of the presence of national retailers at Durham City Retail Park.
39. In short, the application accords with all relevant and national policy and there are no other relevant issues or material considerations which would pose an unacceptable harm as a result of the development. The considerable benefits of the scheme significantly and demonstrably outweigh the limited impacts.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at:

<http://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

40. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of the development, and its impact upon highway safety.

Principle of Development

41. Within the CDLP, this site benefits from dual allocation, with Policy EMP8 allocating the site for employment purposes, whilst CDLP Policy S8 allocates it for Retail Warehouse use. Policy EMP8 is considered to be NPPF compliant, so weight can continue to be afforded to it, whilst Policy S8 is only partially compliant, insofar that NPPF does not explicitly reference bulky goods, nor does it require an assessment of need, however the requirement of Policy S8 for a sequential assessment to be carried out is NPPF compliant. Consequently, a degree of weight can continue to be afforded to this policy.
42. Durham City Retail Park was originally developed in line with Policy S8, in that occupiers were restricted to bulky goods. However, following an application relating to Unit 9 of the Retail Park in 2002, it was accepted that the condition attached to the original planning permission for Retail Park, which sought to restrict goods to be sold did not adequately serve this purpose, and that a restriction on goods did not apply to the Retail Park.
43. In 2014, the applicant submitted an application for a Certificate of Lawfulness in relation to this particular unit, and it was confirmed that there is no restriction on the goods to be sold. Therefore, the use of the unit by Morrisons, or indeed The Range and Go Outdoors does not fall within the remit of this application. The subdivision, in itself is not considered to be development, and therefore does not require planning permission.
44. In this context, the matter of principle centres around whether the provision of an additional 1114sq.m of A1 retail floorspace in this location, is acceptable, and whether it would unreasonably impact upon Durham City Centre, or other defined Local Centres.
45. CDLP Policy S9B advocates a retail heirarchy approach to locating new major retail development, and requires, where out of centre retail proposals are forthcoming, that they be subject to a sequential test. This is consistent with the NPPF, which at Paragraph 24 states that a sequential test to planning applications for main town centre uses should be applied where they are not in accordance with an up-to-date Local Plan. It goes onto state that applications for main town centre uses should 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. It also states that when considering out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.
46. In addition to this, NPPF also states that when assessing applications for retail, leisure and office development outside of town centres, an impact assessment should be required. LPAs should require an impact assessment if the development is over a proportionate, locally set threshold. Where there is not a locally set threshold, the NPPF gives a default threshold of 2,500sqm. As there is currently no locally set threshold, the NPPF threshold applies in this instance, and therefore there is no requirement for an impact test to be carried out as the additional floorspace is only 1,114sq.m. However, a sequential assessment has been carried out.
47. Planning Practice Guidance (PPG) confirms that it is for the applicant to demonstrate compliance with the sequential test and the application of the test should be proportionate and appropriate for the given proposal. It goes on to state that in determing whethar a proposal complies with the sequential test, the following considerations should be taken into account:
 - With due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the

proposal would be located in an edge of centre or out of centre location, preference should be given to accessible sites that are well connected to the town centre.

- Is there any scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.
 - If there are no suitable sequentially preferable locations, the sequential test is passed.
48. The applicant has identified two alternative potential development sites that are within, or close to a defined a centre. They comprise Unit C (former Homebase) at Arnison Retail Park, and Prince Bishop's Shopping Centre in Durham City. For the purposes of the sequential assessment, the gross floor space of the existing unit, and the proposed mezzanine floor are considered to comprise the required unit size. This amounts to 3,381sq.m. It is further considered that it would not be reasonable to expect the applicant to disaggregate the business for the purposes of the sequential assessment.
49. Unit C at the Arnison Centre is due to be replaced with four smaller units, of between 1,150sq.m and 4,666sq.m gross floor area. Of these units, three would be too small to accommodate the retailer's needs, and with no little scope for extension. Whilst the fourth unit would be of sufficient size, the sequential assessment finds that the unit is not on the market, and does not appear to be available. This assessment corralates with information held by the Local Planning Authority, and it is accepted that the unit is not currently available.
50. With regards to the Prince Bishop's Shopping Centre in the city centre, the conclusions of the sequential assessment that the site is heavily constrained in terms of size, and with extremely limited opportunity for extension, and therefore are not suitable, are accepted.
51. Having regards to the above, it is considered that the sequential test has been passed, and this element of CDLP Policy S9B has been met. Additionally, as there are no sequentially preferable sites available, the vitality and viability of the city would, it is considered, be maintained, in accordance with Policy CC1.
52. It is considered that in the strictest terms, that the proposal would be contrary to CDLP Policy S8 in that it would not constitute a retail warehouse. However, given that it has been previously accepted that there is no current restriction on the range of goods that can be sold at present from the application site, and further that the weight can be afforded to Policy S8 is reduced due to it's only partial compliance with the NPPF, it is considered that it would be unreasonable to resist this proposal on this basis, particularly as the submitted sequential assessment has demonstrated that there are no suitable sequentially preferable sites available.
53. Having regards to the above therefore, the principle of the development is accepted.

54. Durham City Retail Park is considered to be in a sustainable location, with good pedestrian, cycle and public transport access, in accordance with the requirements of Policy S9B in this respect.
55. The County Highways Authority acknowledge that the additional proposed floorspace will result in additional footfall, and therefore will increase parking demand. It is also accepted that the mezzanine floor would not result in a pro rata increase in parking demand, although footfall would be expected to increase by up to 20%. However, it is expected that many of these trips will be linked. On the basis of the proposed floor area, an additional 9 parking spaces would normally be required to meet the peak period demand, and shortfall is likely to lead to drivers circulating.
56. CDLP Policy T1 states that planning permission will not be granted for development generating traffic that would be significantly detrimental to highway safety. This is considered to be only partially NPPF compliant, with paragraph 32 stating that development should only be prevented or refused on transport grounds where residual cumulative impacts are severe. Consequently only reduced weight can be afforded to Policy T1.
57. Whilst the Highway Authority consider that there would be a shortfall in parking provision to serve the proposed mezzanine floor, they also consider that this shortfall is minor, and that it would not constitute a severe impact, for the purposes of paragraph 32 of the NPPF, and consequently the proposal is considered to be acceptable in this respect.

Other Issues

58. With regards to other issues, the potential impacts of the development are considered to be minimal, with the proposed works being entirely internal to the existing building. Any external alterations are subject to a separate application which is currently under consideration. This separate application will fully consider the potential design and heritage implications of the subdivision works.
59. The site is located within Flood Risk Zone 1, which is the lowest level of risk. Additionally, the proposed floorspace is at mezzanine level, so flood risk would not be increased at the site, or elsewhere.

CONCLUSION

60. Although Durham City Retail Park through CDLP Policies EMP8, S8 and S9B, was originally envisaged as a employment and retail warehousing site, the way the Retail Park has developed has led to it become a more general retail outlet, with it being accepted that there are no restrictions on the type of goods to be sold.
61. In this context, it is considered that weight to apportioned to Policies EMP8 and S8 is diminished, although a sequential assessment in accordance with Policy S9B to ensure that there are no sequential preferable suitable sites available, is still necessary. The sequential assessment has been carried out, and its conclusion that there are no available preferable sites is considered to be reasonable.
62. In terms of highways impact, it is accepted that there may be some minor adverse impacts due to a shortfall in parking provision, however it is considered that these would not constitute severe impacts for the purposes of paragraph 32 of the NPPF. The application is considered to be acceptable in other regards.
63. It is considered, that for the reasons above, that it would be unreasonable to seek to resist the application, which is therefore recommended for approval.

RECOMMENDATION

That the application be **APPROVED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in strict accordance with the following approved plans:

Site Location Plan 15166/PA/10
Proposed Site Plan 15166/PA/05

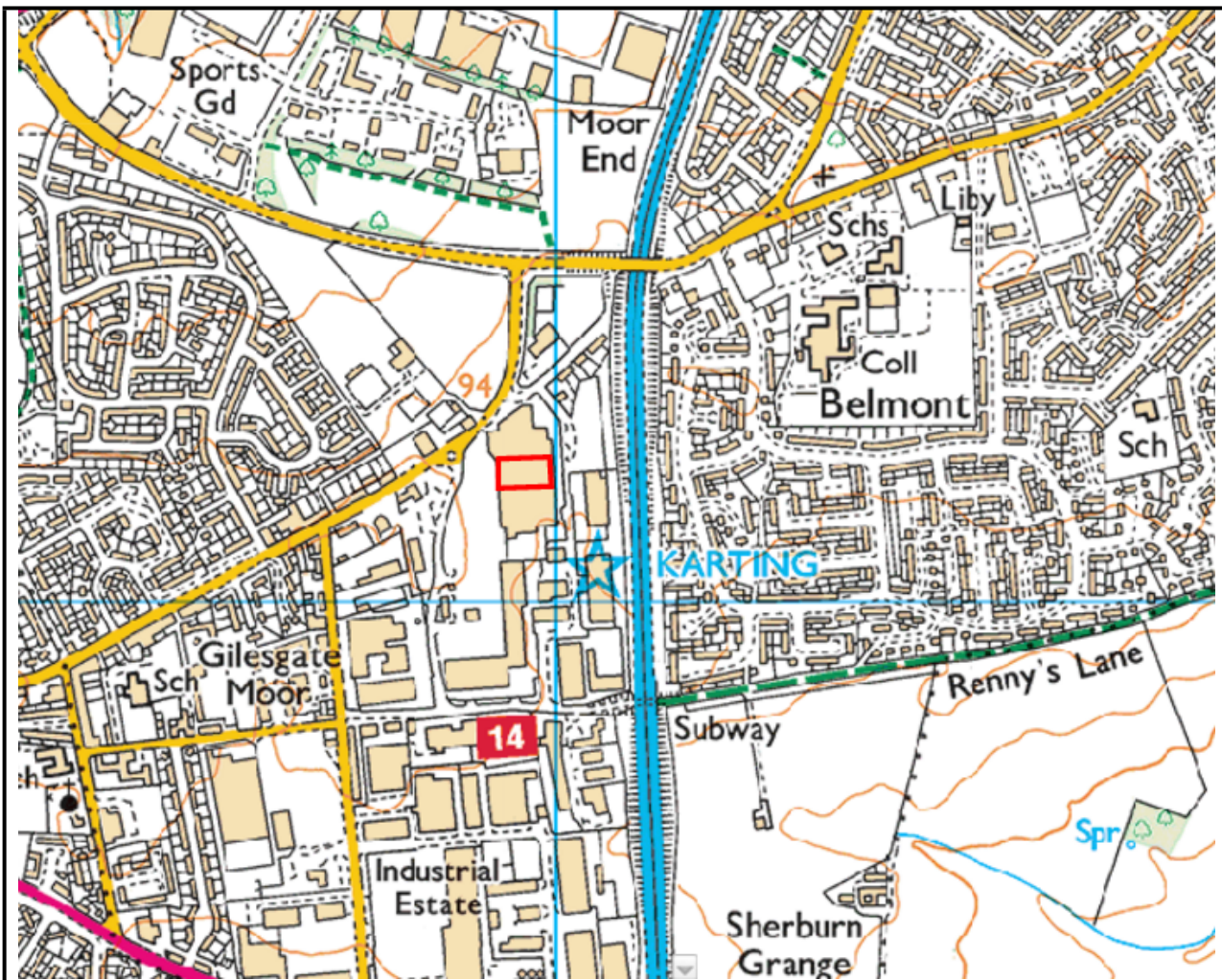
Reason: To define the consent and ensure that a satisfactory form of development is obtained having regards to City of Durham Local Plan Policies S8 and S9B.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. *(Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)*

BACKGROUND PAPERS

- Submitted application forms, plans supporting documents and subsequent information provided by the applicant
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance
- City of Durham Local Plan
- Assessing Development Proposals in County Durham (April 2016)
- Statutory, internal and public consultation response



Planning Services

Erection of a 1114 sqm Mezzanine Floor at B&Q Warehouse, Unit 1, McIntyre Way, Durham City Retail Park, Gilesgate Moor, Durham (DM/16/01506/FPA)

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Comments

Date
1st July 2016

Scale
Not to scale