

Committee Report

Application No:	DC/23/00420/FUL
Case Officer	Joanne Munton
Date Application Valid	16 June 2023
Applicant	EG Group Limited
Site:	Land To The North Of Team Valley Retail World Junction Of Dukesway And Tenth Avenue West Gateshead NE11 0BD
Ward:	Lamesley
Proposal:	Demolition of building and the erection of 1no. Petrol Filling Station and ancillary unit, 1no. Drive-Thru Coffee Shop, circulatory routes, associated car parking, landscaping, and other works (resubmission) (additional information received 01.09.2023).
Recommendation:	REFUSE
Application Type	Full Application

1.0 The Application:**1.1 DESCRIPTION OF SITE**

The application site is L-shaped and is situated at the junction of Tenth Avenue West and Dukesway, opposite Team Valley Retail World, within Team Valley Trading Estate.

- 1.2 Part of the site was previously used as a petrol filling station but has since been cleared and is currently used by a hand car wash business at the western end. The remainder of the site was formerly occupied by Minorities Peugeot car dealership but the previous buildings have all been removed from the site which is now vacant. Land levels at the site are relatively level. There are two existing vehicle access points to the application site, one off Dukesway and one off Tenth Avenue West.

1.3 DESCRIPTION OF APPLICATION

The application proposes demolition of the existing building and the erection of a Petrol Filling Station and ancillary unit, a Drive-Thru Coffee Shop, circulatory routes, associated car parking, landscaping, and other works.

- 1.4 The main western square of the site is proposed to be developed and the smaller eastern square shaped portion is indicated as planting.

- 1.5 The Drive-Thru Coffee Shop would be situated at the north western end, with a dedicated car parking area to the north east.

- 1.6 The Petrol Filling Station and associated forecourt would be positioned fairly centrally within the site, with Electric Vehicle Charging provided to the west

and car wash bays to the east. The floor plan for this building shows a 'food to go' area and provision for two ATMs.

1.7 RELEVANT PLANNING HISTORY

DC/22/01014/FUL - Demolition of building and the erection of 1no. Petrol Filling Station and ancillary unit, 1no. Drive-Thru Coffee Shop, circulatory routes, associated car parking, landscaping, and other works - Withdrawn

DC/11/00934/OUT - Outline application for erection of two cafe/restaurant/coffee shop units with associated parking and drive-thru facilities (use classes A1/ A3/ A5) - Granted 25.01.2012

DC/08/00531/FUL - Redevelopment of site involving demolition of existing buildings and erection of two-storey health club and sports store with associated access, parking and landscaping - Refused 05.11.2008

DC/07/00580/COU - Change of use from petrol filling station to drive through manual car wash/valet facility (amended 05/07/07) - Granted 07.08.2007

DC/07/00579/ADV - Display of 1 fascia sign size 3600mm x 2100mm on south elevation of shop building and 1 fascia sign size 3500mm x 750mm on west elevation, 2 fascia signs size 3500mm x 750mm on north and south sides of canopy over forecourt, 1 freestanding postmounted entrance/information sign on verge area at entrance to proposed car wash and 1 freestanding postmounted exit sign on verge area at exit - Temporary Consent Granted 11.06.2007

DC/04/01598/CPL - CERTIFICATE OF LAWFULNESS: Proposed use of car showroom, seven office rooms and attached WC's (measuring 621sqm (6684sqft)) for retail purposes (use class A1) - Use considered to be Lawful

DC/04/00743/CPL - CERTIFICATE OF LAWFULNESS: Use of site for retail purposes (use class A1) - Use considered to be Unlawful

DC/03/01125/CPE - CERTIFICATE OF LAWFULNESS FOR EXISTING USE: Use of premises as car sales room - Use considered to be Unlawful

2.0 Consultation Responses:

Northumbria Police	Advice provided
Tyne And Wear Fire And Rescue Service	No objection
Coal Authority	Conditions recommended
National Highways	No objection

3.0 Representations:

3.1 Neighbour notifications were carried out in accordance with formal procedures introduced in the Town and Country Planning (Development Management Procedure) Order 2015.

3.2 One letter of support has been received.

4.0 Policies:

NPPG National Planning Practice Guidance

NPPF National Planning Policy Framework

CS6 Employment Land

CS7 Retail and Centres

CS14 Wellbeing and Health

CS15 Place Making

CS17 Flood Risk and Waste Management

CS18 Green Infrastructure/Natural Environment

MSGP1 Employment Land Supply

MSGP2 Key Employment Areas

MSGP4 Loss of Employment Land

MSGP15 Transport Aspects of Design of Dev

MSGP17 Residential Amenity

MSGP18 Noise

MSGP19 Air Quality

MSGP20 Land Contamination/Stability

MSGP24 Design Quality

MSGP29 Flood Risk Management

MSGP30 Water Quality/River Environments

MSGP36 Woodland, Trees and Hedgerows

MSGP37 Biodiversity and Geodiversity

5.0 Assessment of the Proposal:

5.1 The key considerations to be taken into account when assessing this planning application are the principle of the proposal, and the impact the proposal would have on Amenity, Highway Safety, Ecology, Flood Risk, and Ground Conditions.

5.2 EMPLOYMENT LAND

The site is in the Team Valley Trading Estate Key Employment Area, where under Policy MSGP2 development and change of use proposals for B1 (updated to Use Class E(g)), B2 and B8 uses, and other business activities that complement industrial areas will be permitted.

5.3 MSGP2 specifically focuses advanced manufacturing, engineering, and the low carbon and renewable technology sectors at Team Valley Trading Estate.

5.4 Policy MSGP4 does not permit development or change of use proposals for uses other than those set out in MSGP2 unless it can be demonstrated that:

a) The site is not currently occupied, and there is evidence of unsuccessful marketing for employment use at local market rental levels in accordance with the requirements set out in Appendix 2, over a continuous period of at least 30 months, and;

b) The proposed use would not negatively affect the activities of other businesses within the Key Employment Area, and;

c) The proposed use would not detract from the industrial character of the Key Employment Area, and;

d) The proposed development would not prejudice the future development of employment uses in the area, and;

e) The proposed development would not adversely affect the availability of a sufficient variety and quantity of employment land / premises necessary to accommodate short-term growth within the Key Employment Area.

5.5 The planning statement submitted with the application makes no reference to how the proposal would address the requirements of MSGP4. The site is not vacant and is currently occupied by an operating car wash facility and was previously used as a petrol station. Therefore, the proposal fails to demonstrate compliance with MSGP4 in the first instance under point (a) above.

5.6 Notwithstanding this, no evidence of unsuccessful marketing for employment use over 30 months has been submitted with the application. This policy requirement puts the onus on the applicant/landowner to actively market the site, and the comment at paragraph 5.25 of the Applicant's statement that no contact has been received from external parties seeking to buy or lease the

site is not the same as active marketing, as clearly set out in MSGP4, and Appendix 2 of the MSGP. The provisions of MSGP4 are required to be fully and comprehensively addressed, and no evidence to support this has been submitted with the application.

5.7 MSGP4 also includes clause 3:

Exceptions may be made for development and change of use proposals that seek to:

a) Provide complementary supporting retail/food and drink uses (A1, A2, A3, A4 and A5), creches, nurseries and gyms, with internal floor area of no more than 200sqm, where it can be demonstrated that there is a local need arising from workers at the Employment Area that cannot be satisfied by existing nearby facilities, and where the proposal would not negatively affect the activities of nearby businesses operating within B1, B2 or B8 uses

b) Provide non-residential education or training centres, where providing such a facility within the Employment Area would be compatible with the activities of nearby businesses and there is an operational need for locating there.

5.8 The proposal cannot be considered under the exception of complementary supporting retail/food and drink uses because the floorspace of the petrol filling station building would be greater than 200sqm, and no conclusive evidence has been submitted with the application to demonstrate that there is local need for either of the proposed uses that cannot be satisfied by existing facilities.

5.9 Furthermore, the Team Valley estate is generally considered to provide an attractive location for B-use development, and notwithstanding site-specific factors, the Council considers that sites within Team Valley have a realistic prospect of being occupied by businesses operating in the B-use classes and has had a number of approaches from B-use businesses looking for this size of site.

5.10 Although it is widely acknowledged that access to food and drink/retail uses can make an important contribution to the attractiveness of large industrial areas, most of the uses proposed in this application are already available at the adjacent Retail World site (for the avoidance of doubt, the application site is not within the boundary of Retail World). There is an Osprey EV Charging Station on the opposite side of Tenth Avenue, within the car park closest to Dunelm (formerly Mothercare), and units within Retail World also include food/drinks offers at Costa Coffee, McDonald's and Bell's restaurant, and groceries at Marks and Spencer Simply Food.

5.11 Other sites in Team Valley, including Sainsbury's, Enterprise House, and Maingate also provide food/drink and retail facilities. Officers are not aware of any evidence to suggest the facilities that are provided at these locations is incapable of meeting the need for such uses generated by workers at Team Valley. There are several nearby petrol filling stations in the local area,

including one less than ½ mile east of this site at Sainsbury's, north of Maingate and on the A167 at Harlow Green.

- 5.12 The previously permitted scheme under DC/11/00934/OUT is considered of only limited relevance and carries little weight given the passage of time, the planning policy context at the time of determination, the evidence of need supplied with that application, that is missing from the current submission and the subsequent granting of planning permission for a similar scheme within Retail World for uses concluded to be complementary.
- 5.13 The statement submitted with the application refers to comments made in the Gateshead Employment Land Review (2018) regarding the site. It is noted that the review ultimately recommends that this site is retained in the allocated employment area, and comments that "Any future proposals for alternative uses at this site should be assessed against relevant Local Plan policies including those which seek to protect allocated employment land", which has been carried out above.
- 5.14 It is also worth noting that the applicant states in their planning statement that the proposal is employment development, which is incorrect. As the same 2018 Employment Land Review clarifies:
- This ELR considers employment land in relation to uses that fall within the B-class uses: B1(a) office, B1(b) research and development, B1(c) light industry, B2 general industry and B8 storage and distribution. Other uses can contribute towards provision of employment opportunities, but land requirements for those uses are considered elsewhere within Gateshead's Local Plan (eg. within evidence and policies relating to the provision of retail and community facilities). Although the need for employment land has taken into account economic (jobs growth) projections, the requirement for 'employment floorspace' relates only to jobs growth likely to be provided by growth in businesses operating within the B use classes.*
- 5.15 The Key Employment Area allocation provides a specific type of environment for compatible uses.
- 5.16 Similarly, policies MSGP1 and 2 and Appendix 2 of MSGP are clear that employment land constitutes land for use as B1(updated to Use Class E(g)), B2 and B8 uses. The main uses proposed in this planning application are Petrol Filling Station (Sui Generis) and Drive-Thru Coffee Shop (Class E).
- 5.17 The applicant has provided a written response to the concerns raised, however, officers still consider that the development proposed would be unacceptable in principle.
- 5.18 The applicant considers that the proposed site is not ideal for re-utilisation due to the presence of Petrol Filling Station infrastructure and other constraints, and that they have established there is demand for the services proposed, but this does not address the clear requirements of MSGP2 and MSGP4.

5.19 As such, the submission fails to accord with the very clear requirements of specific Team Valley Key Employment Area policies, and it is considered that, in principle, fundamentally the proposal would prejudice and cause harm to the designated Key Employment Area, contrary to the aims and requirements of the NPPF and policies CS6, MSGP2 and MSGP4 of the Local Plan, and the application is recommended to be refused for this reason.

5.20 RETAIL POLICY

The NPPF defines retail development, including drive-throughs, as a main town centre use. Neither the proposed site, nor the adjacent Retail World are recognised centres in the retail hierarchy, as set out in Local Plan policy CS7.

5.21 Paragraph 87 of the NPPF states that:

Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

5.22 Local Plan policy CS7 reflects this.

5.23 The planning statement submitted with the application includes a section commenting on the availability, suitability and viability of in-centre sites/premises within Low Fell and Wrekenton centres, which are closest to the proposal site. This concludes that there were no available units within either centre which could support the proposed use as a drive-thru, due to the need for vehicular access and circulation around the development.

5.24 It is considered that this is a proportionate approach and satisfies the aims and requirements of the NPPF and policy CS7 of the Local Plan.

5.25 ECOLOGY

The application site is not located within or immediately adjacent a designated nature conservation site or wildlife corridor, and no significant adverse impacts on any such features is anticipated.

5.26 The eastern extent of the site (>0.85ha) supports an area of contiguous semi-natural habitat to the north and west of existing off-site buildings. The western portion of the site is dominated by hardstanding incorporating a single building and areas of amenity grassland and shrub planting.

5.27 The Preliminary Ecological Appraisal (PEA) submitted with the application assigns an area of 0.78ha as constituting 'Open habitat mosaic over previously developed land', with the remaining areas of semi-natural habitat (besides the small areas of modified grassland associated with the building and hardstanding) as 'Mixed scrub'.

5.28 The UK Biodiversity Action Plan Priority Habitat Description for Open Mosaic Habitats on Previously Developed Land (OMHPDL) (From: UK Biodiversity Action Plan; Priority Habitat Descriptions. BRIG (ed. Ant Maddock) 2008.) states:

'3.3 One of the principal reasons for the habitat being a priority is its importance for invertebrates. Many have very precise requirements for habitat 'niches' within their landscape. As well as areas of bare ground and food plants, these may be for sheltered places at various times of the year, or for rough vegetation or cover at others. At any particular site, features such as scrub may be essential to maintain the invertebrate value of the main habitat. Therefore, scattered scrub (up to 10-15% cover) may be present and adds to the conservation value of the site. Other communities or habitats might also be present (e.g. reed swamp, open water), but early successional communities should comprise the majority of the area.'

5.29 Given that the presence of the scrub within the site is approximately 10% of the semi-natural habitats on site (0.09 ha mixed scrub/0.87 ha semi-natural habitats x 100 = 10.34%), a PEA of the site previously carried out in 2017 considered the semi-natural habitats on site to meet the criteria for OMHPDL. It is therefore considered that the submitted PEA does not accurately represent the baseline value of the site in terms of the extent of OMHPDL, which should be considered to cover the seminatural habitats on site excluding the modified grassland (i.e. 0.87ha).

5.30 The submitted PEA assesses the OMHPDL within the site as being of 'Poor' condition. Condition assessment tables have not been submitted, nor has any detailed methodology or evidence of how the condition assessments were undertaken (e.g. including but not limited to: quadrat locations and species lists, mapping of invasive species cover), based on the 'Urban' condition assessment table associated with the Defra metric 3.1.

5.31 Paragraph 3.14 of the submitted PEA states:

'Overall, the habitat was considered to fail criterion 1, 3 and 4a with grassland ecotones [a transitional area of vegetation between two different plant communities] accounting for over 80% of the habitat area, the cover of invasive species exceeding 5% and no pools present. The habitat was considered to pass criterion 2, which specifies the presence of a diverse range of flowering plant species, although some areas are relatively species-poor.'

5.32 Core criterion 1 of the Urban Habitat Type condition assessment tables is:

'Vegetation structure is varied, providing opportunities for insects, birds and bats to live and breed. A single ecotone (i.e. scrub, grassland, herbs) should not account for more than 80% of the total habitat area.'

5.33 The scrub habitats incorporating approximately 10% of the semi-natural habitats should be included within the OMHPDL classification. In addition to

this, the description of the OMHPDL within the submitted PEA demonstrates that a varied vegetation structure is present. It is therefore considered that the OMHPDL within the site more than adequately meets criteria 1.

- 5.34 Core criterion 2 of the Urban Habitat Type condition assessment tables is:
- 'There is a diverse range of flowering plant species, providing nectar sources for insects. These species may be either native, or non-native but beneficial to wildlife.'
- 5.35 Officers agree that the OMHPDL on site meets criterion 2.
- 5.36 Core criterion 3 of the Urban Habitat Type condition assessment tables is:
- 'Invasive non-native species (Schedule 9 of WCA) cover less than 5% of total vegetated area.'
- 5.37 No evidence has been provided of the proportion of cover of invasive non-native species exceeding 5% of the total area of OMHPDL (i.e. covering 0.0435 ha).
- 5.38 Paragraph 3.9 of the submitted PEA refers to 'A linear strip along the northern boundary' where 'non native shrubs are frequent, with cherry laurel (*Prunus laurocerasus*), *Pyracantha* spp. and various cotoneasters, including frequent Schedule 9 wall cotoneaster (*Cotoneaster horizontalis*), which was noted spreading across the level ground.'
- 5.39 Even if this entire linear strip along the northern boundary were invasive non-native species this would constitute a total of 210sqm. However, the area is described as being 'characterised by areas of hard ground, including tarmac, gravel and exposed stoney earth, supporting early successional plant communities.'
- 5.40 It is therefore unclear how the OMHPDL can be considered to fail criterion 3. In the absence of evidence clearly demonstrating otherwise, it is considered that the entire area of OMHPDL within the site is of at least 'Moderate' condition.
- 5.41 Additionally, areas of the site that are free of non-native plant species (which appears to be the majority of the site besides a linear strip at the site's northern boundary and some areas of scrub when they are included within OMHPDL) can be considered to be of 'Good' condition.
- 5.42 It is considered that the mapped non-native Hedgerow, although not described within the submitted PEA, may be more appropriately mapped as Urban - Introduced shrub rather than a linear feature.
- 5.43 The Excel version of the Biodiversity Metric 3.1 that would be used to calculate the change in biodiversity value of the site was not originally submitted with the application, but has since been provided.

- 5.44 However, based on the detail that has been submitted with the application, it is considered that delivering a net gain (or even no net loss) in biodiversity within the site boundary would not be possible.
- 5.45 Additional commentary from the applicant notes that offsite BNG compensation is proposed. In principle, this could be ultimately secured through a legal agreement. However, no specific proposals for the provision of Biodiversity Net Gain for this particular case have been submitted, and no condition assessment information, to amend the baseline habitat assessments and propose additional habitat enhancements that could be provided on site, has been submitted.
- 5.46 In terms of Priority/Notable Invertebrates, the aforementioned 2017 PEA also noted the site could support uncommon invertebrates and advised invertebrate surveys would allow taxa [unit of classification] of conservation interest to be identified and appropriate mitigation or compensation to be included in the development scheme.
- 5.47 The application is not supported by an appropriate level of ecological survey and assessment to determine the presence/likely absence and value of the site for priority invertebrates (butterflies).
- 5.48 Paragraph 5.15 of the submitted PEA states:
- 'The OHMPDL provides valuable habitat for invertebrates it should be assumed that Species of Principle Importance (SPI) grayling butterfly, wall butterfly and dingy skipper are present on site. As such, the enhancement of retained areas of OMHPDL will target the retention and creation of invertebrate friendly habitats'.
- 5.49 It is therefore clear that the accurate assessment of the biodiversity value of the pre-development habitats, as well as an appropriate level of survey and assessment to determine the presence/likely absence of priority invertebrates, is key to the application of the mitigation hierarchy in respect to invertebrates within the site and the capacity for the on-site habitat retention/enhancement to adequately mitigate for the proposed extensive loss of habitats. Unmitigated, removal of suitable habitats on site would result in a loss of invertebrate habitat at both a site and local level.
- 5.50 It is agreed that it has been assumed within the submitted PEA that SPI including grayling, wall and dingy skipper are present on site. However, given that the biodiversity value of the pre-development habitats are not considered to have been accurately assessed, officers consider that it is also the case that their value for invertebrates (in the absence of appropriate survey to determine the presence/absence/population size of notable/priority invertebrates) has not been accurately assessed.
- 5.51 In terms of the proposed post-development habitat plan, this is based on the pre-development habitats being of 'poor' condition, which as discussed above

is not considered by officers to be accurate. The requirement for habitats to be maintained at the stated condition for a minimum of 30 years and a mechanism for the delivery and security of the habitat enhancement has not been detailed. Whilst maintenance and management measures could be required by planning condition, the proposed habitat plan would need to be considered reasonably able to achieve net gain in the first instance.

- 5.52 The submitted PEA does correctly identify the requirement for any retained/enhanced area of OMHPDL to be fenced to prevent public access to limit potential disturbance and damaging activities such as fly tipping and burning of material on site.
- 5.53 Other habitats provided on site include areas of other neutral grassland, and it is considered that these areas should be retained as OMHPDL wherever possible given that this habitat type is likely to involve a reduced level of management than even other neutral grassland and provide a more substantial and connected habitat resource for priority invertebrates within the site. Area created as other neutral grassland are more than likely to be maintained as 'Modified grassland' in the long term. Retention of habitats/use of soil/substrates from within the site would be encouraged for the creation of any new areas of OMHPDL within the site.
- 5.54 Additional commentary submitted at a later stage from the applicant states that “the feasibility of increasing the area of OMH in place of ‘other neutral’ grassland will be investigated, in conjunction with the retention of soil/substrates”. However, no further detail regarding this has been provided by the applicant.
- 5.55 Any retention/enhancement/creation of OMHPDL would need to carefully account for the use of areas of scrub/varied sward height to provide ecological functionality equivalent to lost habitats and to provide for species such as priority/notable invertebrates and foraging/nesting birds.
- 5.56 Based on the above assessment, the proposed development would result in the comprehensive loss of existing habitats and their associated interest. The proposed landscaping scheme, apart from the retained area of OMHPDL, is largely restricted to the site boundaries and comprises narrow linear strips of fragmented amenity shrub planting, native tree/shrub planting and sown wildflower grassland situated immediately adjacent access roads and circulation areas.
- 5.57 Given the significant officer concern as to whether there is any scope to enhance the retained OMHPDL (already considered to be of at least Moderate, possibly Good condition), it is unclear whether the submitted landscaping proposals would allow for the site to support viable populations of priority butterfly species including dingy skipper (recorded in 2022 circa 500m southeast of the proposed development site), grayling or wall.

- 5.58 Furthermore, it is considered that the proposed onsite post development habitats would not be capable of achieving/maintaining their projected habitat condition scores for a minimum 30 years (a requirement of BNG).
- 5.59 As such, the development is considered to be unacceptable in terms of impact on ecology. The proposal is not in accordance with the mitigation hierarchy and has the potential/is likely to result in an unacceptable residual adverse impact on national and local priority habitat and species and would result in a net loss of biodiversity.
- 5.60 This is contrary to the aims and requirements of the NPPF and policies CS18 and MSGP36 and MSGP37 of the Local Plan, and the application is recommended to be refused for this reason.

5.61 FLOOD RISK

The application site is in Flood Zone 1 and Critical Drainage Area as identified by the LPA.

- 5.62 Paragraph 167 of the NPPF states:

When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

(a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;

(b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;

(c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;

(d) any residual risk can be safely managed; and

(e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

- 5.63 Additionally, paragraph 169 of the NPPF states:

Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:

(a) take account of advice from the lead local flood authority;

(b) have appropriate proposed minimum operational standards;

(c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and

(d) where possible, provide multifunctional benefits.

- 5.64 The application proposes to discharge surface water to the existing 300mm diameter public surface water sewer located within Dukesway to the west of site.
- 5.65 However, a hierarchical approach to drainage components should be followed with source control measures such as green roofs, permeable paving, etc used in preference to traditional piped systems to maximise potential multifunctional benefits and flood resilience.
- 5.66 Runoff from all areas should be managed using SuDS to remove pollutants in line with the Simple Index Approach of The SuDS Manual.
- 5.67 A drainage model would need to be prepared for a proposed drainage system to confirm that under normal use flooding will not occur for 1in30yr (plus climate change) rainfall events and that flooding for 1in100year (plus climate change) rainfall events could be managed safely on site. A separate assessment to determine how overland flow would be routed through the site in the absence of a functional drainage system would need to be prepared based on the proposed site finished ground levels and features. This would need to demonstrate that where there is the potential for accumulation of flow that it can be safely accommodated.
- 5.68 The applicant has provided a written response to the concerns raised, however, officers still consider that the development as proposed would result in an unacceptable impact on flood risk.
- 5.69 In relation to peak run-off, where local standard 6 is followed, 1in1 year and 1in100 year rates can be used if it can be demonstrated that there is volume control (ie. no increase in 1in100 year 6hr volume), otherwise a qbar rate would need to be applied for all return period events. Applying 6l/s for all events, as proposed in this application, does not comply with either of these scenarios.
- 5.70 In terms of SuDS hierarchy and Water Quality, officers consider that there are reasonable and realistic opportunities to include features on site. Permeable paving could be used across parking bays and access routes alongside parking bays could fall towards these, allowing runoff to shed onto and drain through the permeable paving allowing treatment. Some hard landscaping areas could instead be used as rain gardens and the soft landscaped buffer at the perimeter of the site has the potential to incorporate swales, bioretention or other ground level SuDS features to allow treatment of runoff, subject to

levels. Use of rainwater harvesting, and green roofs are considered to be appropriate for this form of development but are not included in the design.

- 5.71 Additionally, the level of detail of proposed finished levels is insufficient to be able to clearly demonstrate exceedance (for when the drainage system is not operating as designed due to a greater rainfall intensity, blockage, etc).
- 5.72 As such, it is considered that the proposal would result in an unacceptable impact on flood risk, which is contrary to the aims and requirements of the NPPF and policies CS17 and MSGP29 and MSGP30 of the Local Plan, and the application is recommended to be refused for this reason.
- 5.73 **HIGHWAY SAFETY AND PARKING**
The Transport Assessment submitted with the application provides adequate detail in respect to the baseline modelling scenario and the recorded queues observed in the survey carried out. Evidence from other similar developments has also been provided in respect to the levels of pass-by, diverted and new trips. The provision of improved pedestrian and cyclist connections are considered to be more appropriate than improvements to the network to mitigate potential minor impacts upon capacity, which may only address a theoretical modelling result.
- 5.74 Improvements to off-site pedestrian and cyclist access to the site have been included in the proposed layout. A 3m shared use path is shown along the majority of the boundary of the application site, and this would need to be extended along the full boundary to Dukesway to provide for the maximum extent of improved access around the site. This could be secured by condition if the application was recommended to be granted.
- 5.75 The proposal indicates the provision of parallel crossings on Dukesway and Tenth Avenue West, although the indicative proposals would require further design work to conform to the requirements of such crossing points. Dropped kerbs for cyclists are proposed to be provided on Dukesway and Tenth Avenue West, albeit the one at Dukesway would require relocation to cater for the extended shared use cycleway/footway north on Dukesway (as above). This could also be secured by condition if the application was recommended to be granted.
- 5.76 An internal crossing point is proposed at the Dukesway access, which is considered acceptable based on the evidence submitted with the application and given this is an existing access and an alternative provision within the site. However, a dropped kerb crossing point would need to be provided within the extent of the adopted highway. This could be secured by condition if the application was recommended to be granted.
- 5.77 It is considered that the proposed internal layout would provide improved direct connectivity within the site and would be acceptable.
- 5.78 It is considered that the level of vehicle and cycle parking proposed on site is acceptable. Details for short stay cycle parking are provided with the

submission, and a conditions requiring final details of secure and weatherproof cycle parking for staff could be required by condition if the application was recommended to be granted.

- 5.79 Vehicle swept path analysis of the delivery vehicles for the proposal have been submitted with the application, which demonstrate that deliveries and servicing of the two elements of the development could be undertaken without impacting on the operation and safety of the highway. However, there are concerns that the internal operation of the development would be impacted by the servicing movements: for the Petrol Filling Station element the tanker would require both sides of the internal carriageway and therefore would be in conflict with other vehicles using the site. In order to avoid conflict with parked vehicles, a tanker leaving the refilling area would need to make a sharp turn and it would therefore be better for these spaces to be closed off during a delivery. For the coffee shop element, deliveries are intended to take place in front of the disabled parking bays, blocking access to these spaces and potentially access to the drive thru area.
- 5.80 As such, it is considered that a full shut down of each part of the site could be required to facilitate safe internal movements for deliveries, or alternative delivery solutions provided, which would require submission of full details for review and where appropriate subsequent approval in writing. A condition could be imposed requiring a final Servicing Management Plan to be submitted, if the application was recommended to be granted.
- 5.81 Conditions could also secure timing of availability of parking spaces, details of how surface water from the vehicle access road and the pedestrian/cyclists connections would be intercepted before entering the public highway, and a demolition and construction management plan.
- 5.82 Subject to conditions, the proposal would not result in an unacceptable impact on highway safety and would comply with the aims and requirements of the NPPF and policies CS13 and MSGP15 of the Local Plan.
- 5.83 AMENITY
The site is located in a Key Employment Area in Team Valley and is not near to residential receptors.
- 5.84 The proposal does not raise concerns relating to air quality impact or noise emissions. However, if the application was recommended to be granted, conditions could secure hours of operation, waste bins to be lidded (detering pests), and suitable ventilation and extraction to minimise as best possible odours to adjacent businesses. Any exhausts/vents/chimneys would need to be sited as far from neighbouring businesses as best practicable.
- 5.85 In terms of external appearance, the design would be typical of this type of development, and if the application was recommended to be granted, final details/samples of materials would be recommended to be required by condition.

5.86 Subject to conditions, the proposal would comply with the aims and requirements of policies CS14, CS15, MSGP17, MSGP18 and MSGP24 of the Local Plan.

5.87 **GROUND CONDITIONS**

The eastern part of the site is in a Coal Authority defined high risk area. The Coal Authority agree with the recommendations of the submitted assessment, and if the application was recommended to be granted, conditions could secure the submission of a report of further site investigations relating to coal legacy, remediation scheme where required, the implementation of approved remediation measures and the submission of verification report(s) demonstrating their effectiveness.

5.88 The site is also situated on land that is potentially contaminated based on previous and current uses. Details submitted with the application sufficiently demonstrate that remediation in relation to contaminated land is not required in this case.

5.89 Subject to conditions, the proposal would comply with the aims and requirements of policies CS14 and MSGP20 of the Local Plan.

5.90 **OTHER MATTERS**

The proposed floor plan for the petrol filling station includes a 'food to go' counter. If the application was recommended to be granted, a condition would be recommended to control the sale of hot food for consumption away from either of the proposed buildings. This would be necessary to ensure compliance with Local Plan policy CS14 and the Hot Food Takeaway SPD..

5.91 **COMMUNITY INFRASTRUCTURE LEVY (CIL)**

On 1st January 2017 Gateshead Council became a Community Infrastructure Levy (CIL) Charging Authority. This proposal has been assessed against the Council's CIL charging schedule and is not CIL chargeable.

6.0 CONCLUSION

6.1 Taking all the relevant issues into account, it is considered that the proposal is not acceptable in principle (in terms of the site being within allocated employment land). The development is also considered to be unacceptable in terms of flood risk and the impact on ecology.

6.2 Therefore, it is considered that the proposal would not comply with the aims and requirements of the NPPF and relevant policies in the Local Plan, and it is recommended that planning permission should be refused.

7.0 Recommendation:

That permission be REFUSED for the following reason(s) and that the Service Director of Climate Change, Compliance, Planning and Transport be authorised to add, vary and amend the refusal reasons as necessary:

1

The proposal fails to accord with the requirements of specific Team Valley Key Employment Area policies, and it is considered that, in principle, the proposal would prejudice and cause harm to the designated Key Employment Area, contrary to the aims and requirements of the NPPF and policies CS6, MSGP2 and MSGP4 of the Local Plan.

2

The development proposed would result in an unacceptable impact on ecology. The proposal is not in accordance with the mitigation hierarchy and would result in an unacceptable residual adverse impact on national and local priority habitat and species and would not result in a net gain of biodiversity. This is contrary to the aims and requirements of the NPPF and policies CS18 and MSGP36 and MSGP37 of the Local Plan.

3

The proposal for major development does not incorporate sustainable drainage systems and there is no clear evidence submitted with the application to demonstrate that this would be inappropriate. The application also fails to clearly demonstrate that that flood risk would not be increased elsewhere, nor can the Local Planning Authority be satisfied that the proposed development would not have an unacceptable impact on flood risk, contrary to the National Planning Policy Framework, and policies CS17, MSGP29 and MSGP30 of the Local Plan.



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