
APPLICATION DETAILS

Application No:	18/0673/FUL
Location:	Gateway Middlehaven, Between A66 and Riverside Stadium, Cargo Fleet, Middlesbrough
Proposal:	Ancillary garden centre area to existing retail unit and erection of associated 4.8m high boundary fence
Applicant:	Sainsbury's Supermarket Limited
Company Name:	Sainsbury's Supermarket Limited
Agent:	Mr Gary Morris
Company Name:	WYG
Ward:	Central
Recommendation:	Approve with Conditions

SUMMARY

The application is for the creation of an ancillary garden centre to the side of the northernmost retail unit within the existing building, as well as the erection of a mesh fence around its perimeter.

The application site is situated within a wider site approved for A1 retail purposes covering over 11,500 square metres of floorspace. This application seeks an additional 650 square metres of outdoor space to be used in connection with the adjoining and approved retail unit.

The key material planning considerations for this proposal relate to the principle of the retail use in this location design and flood risk.

It is considered that the design and appearance of the proposals would neither detrimentally affect the existing building nor the locality, and that there are no adverse implications relating to flood risk or ecology given the wider area is already built out. Crucially, the proposed retail area forms an ancillary part of the existing approved retail unit and relates to the retailing of bulky outdoor goods which are considered to reduce the potential impacts of additional retailing at this location on the vitality and viability of the town centre as well as align with existing policy.

Subject to appropriate conditions, including preventing the separation of the garden centre from the adjoining retail unit, the officer recommendation is for approval.

SITE AND SURROUNDINGS AND PROPOSED WORKS

The application site is positioned to the northeast of Middlesbrough Town Centre, in an area identified as Greater Middlehaven. The site is located on the northern side of the A66, to the south of Cargo Fleet Road, to the east of Marsh Road, and to the west of Shepherdson Way. The site is at the eastern entrance to the Middlehaven regeneration area, and known as Middlehaven Gateway.

The existing site contains a large single building which has approval for use as 3 retailing premises, a large foodstore and two smaller retail units. The overall development has a large expanse of car parking to the front of the stores, servicing arrangements to the rear and petrol filling station to the southern edge of the wider site. Although the buildings on site form part of planning permission granted in January 2015, none of the stores have ever been occupied since constructed. Immediately adjacent to the site is a small development of three units, which are occupied by a Marston's public house, a Costa coffee shop, and a KFC restaurant.

The application seeks planning permission for ancillary garden centre retail space (to the side of one of the existing retail units), and for the erection of a 4.8-metre high fence on the perimeter of the garden centre.

PLANNING HISTORY

M/FP/0773/13/P

Planning permission was initially granted in February 2014 (ref. M/FP/0773/13/P) for the **'Erection of a foodstore with associated petrol filling station, car parking, landscaping and boundary treatments, access and a bus terminus'**.

The foodstore comprised 11,528 sq.m. gross / 7,432 sq.m. net of Class A1 retail floorspace. Condition 15 attached to that permission limited the amount of floorspace to (4,008 sq.m. for convenience goods and 3,344 sq.m. for comparison goods. Following the discharge of pre-commencement planning conditions, work began on site to implement the permission in September 2014.

M/FP/1262/14/P

A further application to subdivide the previously approved scheme due to changing market and economic conditions, submitted in December 2014 (ref. M/FP/1262/14/P) and approved in January 2015 for;

'Re-arrangement of previously approved foodstore building layout M/FP/0773/13/P to provide up to 2 no. additional retail units (A1) with associated external changes, including revisions to service yard, car parking and landscaping'.

Condition 1 lists the approved plans for the development, which show a single large foodstore unit and two adjoining smaller retail units. Conditions 15 and 16 restrict the operational floorspace of the development and the convenience/comparison goods split, but there are no conditions explicitly preventing the subdivision of the units. Taken together, the 2015 planning permission related to a development of 4,512 sq.m. (net) of Class A1 comparison retail goods, and 3,000 sq.m. (net) of Class A1 convenience retail goods.

PLANNING POLICY

In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities must determine applications for planning permission in accordance with

the Development Plan for the area, unless material considerations indicate otherwise. Section 143 of the Localism Act requires the Local Planning Authority to take local finance considerations into account. Section 70(2) of the Town and Country Planning Act 1990 (as amended) requires Local Planning Authorities, in dealing with an application for planning permission, to have regard to:

- The provisions of the Development Plan, so far as material to the application
- Any local finance considerations, so far as material to the application, and
- Any other material considerations.

Middlesbrough Local Plan

The following documents comprise the *Middlesbrough Local Plan*, which is the Development Plan for Middlesbrough:

- Housing Local Plan (2014)
- Core Strategy DPD (2008, policies which have not been superseded/deleted only)
- Regeneration DPD (2009, policies which have not been superseded/deleted only)
- Tees Valley Joint Minerals and Waste Core Strategy DPD (2011)
- Tees Valley Joint Minerals and Waste Policies & Sites DPD (2011)
- Middlesbrough Local Plan (1999, Saved Policies only) and
- Marton West Neighbourhood Plan (2016, applicable in Marton West Ward only).

National Planning Policy Framework

National planning guidance, which is a material planning consideration, is largely detailed within the *National Planning Policy Framework* (NPPF). At the heart of the NPPF is a presumption in favour of sustainable development (paragraph 11). The NPPF defines the role of planning in achieving economically, socially and environmentally sustainable development although recognises that they are not criteria against which every application can or should be judged and highlights the need for local circumstances to be taken into account to reflect the character, needs and opportunities of each area.

For decision making, the NPPF advises that local planning authorities should approach decisions on proposed development in a positive and creative way, working pro-actively with applicants to secure developments that will improve the economic, social and environmental conditions of the area and that at every level should seek to approve applications for sustainable development (paragraph 38). The NPPF gives further overarching guidance in relation to:

- The delivery of housing,
- Supporting economic growth,
- Ensuring the vitality of town centres,
- Promoting healthy and safe communities,
- Promoting sustainable transport,
- Supporting the expansion of electronic communications networks,
- Making effective use of land,
- Achieving well designed buildings and places,
- Protecting the essential characteristics of Green Belt land
- Dealing with climate change and flooding, and supporting the transition to a low carbon future,
- Conserving and enhancing the natural and historic environment, and
- Facilitating the sustainable use of minerals.

The planning policies and key areas of guidance that are relevant to the consideration of the application are:

DC1 - General Development
CS5 - Design
CS4 - Sustainable Development
CS13 - Town Centres etc Strategy

The detailed policy context and guidance for each policy is viewable within the relevant Local Plan documents, which can be accessed at the following web address.
<https://www.middlesbrough.gov.uk/planning-and-housing/planning/planning-policy>

CONSULTATION AND PUBLICITY RESPONSES

The application was subject to the standard consultation of neighbouring properties, and following the consultation phase no comments, objections or other representations were received.

A site notice was displayed at the site with a 21-day consultation period. No comments were received in relation to the notice.

Internal Technical Consultees
MBC Highways - No objections.

Statutory Consultees
Environment Agency - No objections subject to the condition that the development is constructed in accordance with the submitted Flood Risk Assessment.

Public Responses

Number of original neighbour consultations	5
Total numbers of comments received	0
Total number of objections	0
Total number of support	0
Total number of representations	0

Site notice posted –
29th November 2018

PLANNING CONSIDERATION AND ASSESSMENT

The relevant policies in the Development Plan regarding this application are Policy DC1 (General Development), CS4 (Sustainable Development), CS5 (Design) of the Core Strategy, and CS13 (A Strategy for the Town Centre) of the Regeneration DPD. In general terms, these policies seek to achieve high quality development, which minimises the impact on neighbouring occupiers, and safeguard the vitality and viability of the town centre.

The primary issues to consider with the application are the additional retail space (650 square metres) created in an out-of-centre location, the design credentials of the proposed perimeter fence, and the flood risk implications.

The application site comprises a triangular piece of land on the northern side of the existing (and vacant) building. The site is located to the south of Cargo Fleet Road and Ormesby

Beck. Its location adjacent to the existing building would see the garden centre retail space being used in conjunction with the northernmost retail unit.

Principle of Retail Use

The proposed use will create new, surfaced external sales area for bulky garden based goods. The accompanying Design and Access Statement explains that the proposed garden centre area would be typical of its kind, and be used to stock garden plants and landscaping items, outdoor furniture and gardening equipment, and other garden based paraphernalia. Such items for sale would be defined as bulky goods and commonly sold in areas away from town centres, where new retailing would normally be confined to.

The original application for planning permission for the foodstore and additional retail units strictly prohibited additional floorspace. Notwithstanding this, Local Policy H14(G) of the Middlesbrough Housing Local Plan allocates this site for retail warehousing, indicating 9000sq.m.should be an informed guide to the extent of retail warehousing that should take place in this location, but highlighting that this figure should not be used prescriptively. The permission which has been constructed (foodstore and 2no. retail units) does not in itself have a conditional requirement on it for it to be limited to bulky goods. Whilst this proposal will add retailing area to an already exceeded 9000sqm.m as referenced by Policy H14, it is considered that this does not represent a significant increase and would provide for a form of retailing which would normally be located in an out of centre location where parking immediately adjacent to the sales area is required given the nature / size of goods being retailed.

In view of these matters, it is considered that the principle of the garden centre is in accordance with local policy and that this would not unduly affect town centre vitality and viability.

Access, Deliveries and Parking

Although large access gates are shown on the elevation of the garden centre facing the car park, it is understood that customer access will be through the adjacent retail store. This is for stock security purposes, as well as to ensure that the garden centre functions in an ancillary manner.

The existing car park for the approved foodstore and additional units would provide parking for customers of the garden centre. Although two parking spaces would be lost from the car park to enable access to and from the large access gates, the parking arrangements are considered to be acceptable, especially given the fact it is ancillary retail space for an existing retail unit.

Although the development would be constructed on the approved service yard, the foodstore and additional retail units would utilise a shared service yard via Marsh Road. Goods would be transferred to the garden centre by way of a new ramp from the shared service yard. This arrangement is considered to be acceptable.

Design and Appearance

The garden centre space would be enclosed by a 4.8-metre high mesh fence on its north, west and south elevations (the east elevation would adjoin the existing building). Despite its considerable height, the fence would not be deemed as adversely affecting local amenity, but would be secondary to the existing building. Whilst the fence height provides adequate security for the retail stock, the high levels of visual permeability ensures that the fence does not become a solid structure and will in part be viewed with either a backdrop or against the existing building which is of a greater height.

With the exception of minor elevational alterations, the existing building itself would be largely unchanged. The new bi-folding entrance doors connecting the building to the garden centre would not be considered to be harmful to the appearance of the building.

Ecology

In terms of the siting for the new garden centre, this is currently an area left undeveloped from the original foodstore planning consent. Had the foodstore and ancillary retail units been fully operational, this part of the original application site would have been part of the service yard (the original drawings show a turning circle for an articulated vehicle in this location). As the development has not been fully implemented as per the permission, this would-be service yard is now a neglected grassland. However, this area comprises low amenity grassland and is not considered to be important for habitat purposes for fauna. There are no objections to the development of the land in ecological terms.

Flood Risk

It is apparent that the majority of the application site is located within Flood Zones 2 and 3 (those at greater risk of flooding). In order to consider the flooding implications, the application has been supported by a detailed Flood Risk Assessment (FRA), and the Lead Local Flood Authority and the Environment Agency have been consulted accordingly.

In its response, the Environment Agency advised that the proposed development would only meet the requirements of the National Planning Policy Framework if the measures as detailed in the FRA are implemented. These measures, which include protection and maintenance of existing flood defences, identification and provision of safe routes into and out of the site, and appropriate finished floor levels, can be secured by way of a planning condition and such a condition is recommended accordingly.

Conclusion

On balance, it is considered that the additional garden centre retail area is in accordance with relevant local policy and can therefore be supported. The additional retail sales area, although not floorspace in the conventional sense, would be ancillary to an existing retail unit. Were this additional area to be for open retailing, or separated from an existing approved unit, then different considerations would apply. It would no longer be compliant with Policy H14, it would serve to expand the number of units at the site and could potentially result in a greater intensification of retailing and would also be likely to have a greater affect on the vitality and viability of the town centre. In view of these matters and to align with policy, it is considered important to limit the retailing from the site, to trade only as an ancillary garden centre.

RECOMMENDATIONS AND CONDITIONS

Approve with Conditions

1. Approved Plans

The development hereby permitted shall be built in complete accordance with the plans and specifications listed below dated 15th October 2018.

Site Location Plan (A-PL-100)

Proposed Site Plan Extract (A-PL-102 Rev A)

Proposed Garden Centre Fence Elevations (A-PL-103)

Reason: To ensure a satisfactory form of development and for the avoidance of doubt.

2. Time Period

The development hereby permitted shall begin not later than three years from the date of this decision.

Reason: To ensure a satisfactory form of development and for the avoidance of doubt.

3. Approved Flood Risk Assessment

The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) prepared by WYG dated October 2018 and the following mitigation measures detailed within the FRA:

1. The protection and maintenance of existing flood defences will be able to take place when required.
2. Identification and provision of safe route(s) into and out of the site to an appropriate safe haven.
3. Finished floor levels will be set no lower than 4.88m above Ordnance Datum (AOD).

The mitigation measures shall be fully implemented prior to occupation of the development and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason

To ensure the structural integrity of existing flood defences, ensure safe access and egress from and to the site and minimise the risk of flooding in accordance with local and national policy.

4. Ancillary Garden Centre Use

The Use hereby approved shall at all times remain ancillary to the adjoining retail unit (as shown on the approved plans) and shall at no time become a separate unit in its own right without the prior consent of the Local Planning Authority.

Retailing from this site shall be restricted to the retailing of outdoor garden based items including, but not restricted to;

- Plants, Trees, Shrubs
- Gravel, Chippings
- Paving flags, block paving,
- Compost of varying forms,
- Sheds, outdoor furniture, Fence Panels, Decking, Planters.
- Bins, Water butts,
- Gardening Equipment

Reason: To prevent the creation of an additional separate retail unit and to restrict retailing from the site to reflect the out of centre location, in accordance with Local Plan Policy H14 and the National Planning Policy Framework.

5. Access to Garden Centre

Notwithstanding the approved plans, customer access to the approved garden centre area shall only be from and via the adjoining retail unit. At no time shall customers enter or exit the garden centre via the access gates facing the main car park.

Reason: To ensure the proposed use remains ancillary to the approved use on site.

REASON FOR APPROVAL

The proposed development is considered to be appropriate for both the application site itself and within the surrounding area in that the proposal is in accordance with national, regional and local planning policies, statements and guidance.

In particular, the ancillary garden centre and associated perimeter fence meets the national planning policy statements and guidance, and the Local Plan policies regarding the efficient use of land, retail development and town centres, the appropriate design and layout of development, sustainable development, and accessibility that would result in a development that would be in keeping with the scale and character of the surrounding townscape, and would not be detrimental to the local amenities of the surrounding area.

Issues of the principle of the proposed retail development, the impact of the proposed scale and design, the highways implications of the proposal, and of local amenity have been considered fully and are not considered to give rise to any inappropriate or undue affects.

Accordingly, the Local Planning Authority considers that there are no material planning considerations that would override the general assumption that development be approved unless other material factors determine otherwise. On this basis the recommendation to approve conditionally is as set out for these reasons.

INFORMATIVES

Environment Agency Informatives

Flood Risk Activity Permit

The Ormesby Beck is a Main River and any works within 8 metres of the Beck will require a Flood Risk Activity Permit from the Environment Agency. Further advice on Flood Risk Activities: Environmental Permits can be found at:
<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>

Riparian Habitat Management

The boundary is near to a main river with an established woodland corridor between the site and the watercourse. If there are any plans for habitat management of the woodland adjacent to the application site as part of the proposals, we would wish to be consulted.

Case Officer: Peter Wilson

Committee Date: 11th January 2019

