

Item No: 5.5
Application No: 15/02039/FUL
Date valid: 11 April 2016
Target decision date: 11 July 2016
Author: Jane Tuck
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Ward: Chirton

Application type: full planning application

Location: Unit S2, Second Avenue, Tyne Tunnel Trading Estate, North Shields, Tyne And Wear

Proposal: Retrospective change of use from wholesale warehouse (Class B8) to a retail warehouse club (sui generis use) with ancillary car parking, service area and external display area

Applicant: JTF Wholesale Limited, C/O Agent FAO Mr Rob Amans

Agent: Contour Planning Services, Justin Mills Weltech Centre Ridgeway Welwyn Garden City Herts AL7 2AA

RECOMMENDATION: Application Permitted

INFORMATION

1.0 Summary Of Key Issues & Conclusions

1.0 Summary of Key Issues and Considerations

1.1 The main issues are

- a) the principle of retail development
- b) highway issues

1.2 Members must determine whether the principle of retail development is acceptable and whether or not the proposal is acceptable in terms of highway issues.

2.0 Description of the site

2.1 The warehouse building is located within the Tyne Tunnel Trading Estate. There are large commercial/industrial properties to the north, south and west. To the east is High Flatworth and beyond this undeveloped land. Other buildings in the estate are occupied by industrial and distribution businesses as well as plumbers and builders merchants and kitchen and bathroom businesses with showrooms.

2.2 The application site of approximately 1.31 hectares includes a warehouse building of approximate gross floor area of 6,065 sqm currently occupied by the applicant JTF Wholesale Ltd. The net sales floor area is approximately 5,485 sqm. There is a covered external sales area of approximately 341 sqm to the front of the building. There is parking to the front of the site and to the west for a total of 101 vehicles. To the north of the unit is a service yard and loading bay

where goods are stored outside. The service yard is accessed by a road immediately to the west of the unit.

2.3 Access to the site is off Second Avenue. Service vehicles use the same access as customers. The western and northern boundaries are secured by palisade fencing, the southern boundary is bounded by mesh fencing and the eastern boundary is the eastern elevation of the building and mesh fence.

3.0 Description of the proposed development

3.1 JTF Wholesale Ltd has operated from this site since 2006. Initially the operation was a cash and carry which fell within Class B8 Storage and Distribution of the Use Classes Order. Since 2009 the business has operated as a retail warehouse club which is a sui generis use serving trade and non trade customers. The application is retrospective and has been submitted in order to regularise the planning position. The application is to enable the operation of the business as a private retail club with a membership card system.

3.2 Applications for membership require two forms of business identification or one proof of employment and one form of personal identification. Members would be required to show their membership card before making a purchase.

4.0 Relevant Planning History

06/00387/FUL Recladding and renovation of existing industrial warehouse. Demolition of existing ancillary lean to buildings. Approved 7 April 2006

5.0 Government Policy

National Planning Policy Framework March 2012
National Planning Practice Guidance (as amended)

6.0 Development Plan

North Tyneside Unitary Development Plan (2002).
Direction from Secretary of State under paragraph 1(3) of Schedule 8 of Town and Country Planning and Compulsory Purchase Act 2004 in respect of policies in the North Tyneside UDP (August 2007).

6.1 Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in the determination of all applications. It requires LPAs to apply a presumption in favour of sustainable development in determining development proposals. Due weight should still be attached to Development Plan policies according to the degree to which any policy is consistent with the NPPF.

PLANNING OFFICERS REPORT

7.0 Planning Considerations

7.1 The main issues are the
a) principle of development
b) highway issues

7.2 Consultation responses are set out in Appendix 1 to this report.

7.3 Principle of Development

7.4 Impact on Employment Land

7.5 The National Planning Policy Framework states that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth in order to create jobs. Therefore significant weight should be placed on the need to support economic growth through the planning system.

7.6 The site is shown as current employment land on the proposals map of the North Tyneside Unitary Development Plan 2002.

7.7 Policy LE1/4 states that the LPA will ensure that the physical base of the local economy is maintained and protected. Areas shown on the proposals map as currently used for use classes B1, B2 or B8 will be retained in their current use except where one or more of the following exceptional circumstances can be clearly shown ie the proposal is essential to the Council's aim of encouraging the regeneration of its older areas; there is no reasonable expectation of a site being used for the purpose allocated and the benefits of its alternative use in relation to other objectives in the plan have been demonstrated; or the existing use does not conform with and has had an adverse impact on neighbouring uses.

7.8 The North Tyneside Local Plan Pre-Submission Draft November 2015 aims to ensure that there is an attractive and flexible supply of employment land in the borough and this site is identified for employment use in the plan.

7.9 Policy DM2.3 of the Local Plan Pre-Submission Draft states that 'Proposals that would lead to a loss of identified Employment Land or other buildings in use-class B1, B2 or B8 will be permitted where these proposals would not:

- a. Harm the development and regeneration of identified Employment Sites for economic development; and
- b. Result in the unacceptable loss of operating businesses and jobs; and
- c. Result in an excessive reduction in the supply of land for development for employment uses, taking into account the overall amount, range, and choice available for the remainder of the plan period; and
- d. Have an adverse impact upon the amenity and operation of neighbouring properties and businesses'.

7.10 The plan also states that to achieve flexibility in the use of employment land, development will be considered on the basis of their impact on the economic prosperity of North Tyneside rather than whether the proposal falls within use classes B1, B2 and B8.

7.11 Although the proposed use the subject of this application would result in the loss of B8 Storage and Distribution use, the current business JTF Wholesale Ltd has operated from this site since 2006 initially as a Cash and Carry (B8 use) and then since 2009 as a retail warehouse club (sui generis use). The retention of JTF would also protect the existing 46 full time equivalent jobs on the site.

7.12 It is officer opinion that the proposed sui generis use will not result in harm to the development and regeneration of this Employment Site, result in loss of jobs, result in reduction in supply of employment land as the business already exists and will not have an adverse impact on the amenity and operation of neighbouring properties.

7.13 Retail Impact

7.14 Town centres are recognised as the heart of communities and national policy seeks to support their vitality and viability through a range of measures from identifying a hierarchy of centres resilient to economic changes, defining primary and secondary areas within centres, promoting customer choice and diversity and ensuring that a range of suitable sites are identified to meeting the scale and type of development needed in town centres.

7.15 Main town centre uses are defined in the NPPF and include retail development. Proposals for main town centre uses outside of an existing town centre and not in accordance with an up-to-date development plan should be subject of a sequential test which requires the availability of suitable town centre and then edge of centre sites to be assessed before out-of-centre sites are considered for development. In addition, where there is no up-to-date development plan, proposals should also be subject to an impact assessment if it is over a locally set floorspace threshold which considers the impact of development on viability and vitality of existing town centres and on investment in them. Applications which fail to satisfy the sequential test or would have significant adverse impact should be refused.

7.16 Policy S3 in the North Tyneside Unitary Development Plan reflects this advice and defines the main focus for retail provision and associated facilities as the town centres of Wallsend, North Shields and Whitley Bay. There are no UDP policies reflecting the requirements for the sequential site selection and retail impact tests which are set out in the NPPF.

7.17 The North Tyneside Local Plan is at Pre-Submission Draft stage (November 2015). The Local Plan sets out that the Council supports a town centre first approach towards new development for main town centre uses. References in the Local Plan to town centres or centres apply to town centres, district centres and local centres.

7.18 Policy DM/3.4 sets out that proposals for main town centre uses on sites not within defined town centres will be required to carry out a sequential assessment for in centre, edge of centre and then existing out of centre sites with good transport connections, and an impact assessment for developments of more than 500sqm gross of comparison retail floorspace. As the North Tyneside Local Plan is at Pre-Submission Draft Stage some weight can be given to it.

7.19 Having regard to advice in the NPPF at paragraph 14 where the Development Plan is absent, silent or out-of-date, planning permission should be granted for development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against policies in the NPPF as a whole.

7.20 In this instance the proposed development is not within a defined town centre or on the edge of any centre and the development does not accord with UDP policies. It falls to be assessed against the tests required in the NPPF.

7.21 Sequential Assessment

The sequential assessment is applied to see whether there are any sites which are available, suitable and viable in existing centres. If there are none, then there is a need to look at edge of centre sites before finally considering out of centre sites.

7.22 The applicant has submitted a Planning and Retail Assessment with the planning application and has advised that this is a 'membership club catering for both trade and private members. Entry to the building requires members to have their membership card with them..... the use of the membership scheme ensures that the operation is sui generis, and that it is not a Class A1 retail use.'

7.23 The applicant also sets out in the Statement that the operational needs of JTF require a large amount of floorspace capable of accommodating JTF's warehouse style operation (including with high ceilings for storage of stock). JTF also require an external area for storage of large bulky items as well as adjoining car parking which is able to accommodate customer cars or vans which is important for customers buying in bulk. JTF considers that the existing location for the business represents the most appropriate opportunity for the business to meet its operational needs. In terms of financial viability, rent of its current warehouse premises is lower than the cost of renting prime retail units within a town centre or on an established retail park. The applicant has advised that the current site meets all JTF's operational requirements at a rent that enables the business to remain viable.

7.24 The floor area of the business at Tyne Tunnel Trading Estate is approximately 6,065 sqm gross floor area (5,485 sqm net). The applicant has considered sites identified by the Council in policy S3.3 of the North Tyneside Local Plan Pre-Submission Draft November 2015 and carried out a sequential assessment of sites and vacant units in North Shields, Wallsend and Battlehill Local Centre as these are located in the area where JFT wishes to locate ie near to A1058 and A193 (east west axis) and the Tyne Tunnel and A19. JTF has also considered whether there are any sites or vacant buildings in Killingworth or any other designated centres. The applicant has not found any sites or buildings of a suitable size in these centres.

7.25 Outline planning consent (15/01146/OUT) was granted for A1 retail use at Northumberland Park District Centre in March 2016. The applicant has considered this site and notes that the approval is for A1 retail and not sui generis use; that non of the individual units are of sufficient size for its operations; that there is a lack of dedicated car parking and servicing space; and that there is a lack of external display space which would make the development unviable and unsuitable to meet JTF's needs.

7.26 A building is not currently available at the district site for JTF to move into. It is also officer opinion that due to the bulky nature of goods sold by JTF

Wholesale Ltd and car parking requirements for some customers to use vans, the units at Northumberland Park are unsuitable.

7.27 The applicant has concluded that there are no suitable, viable or available sites in the town centres or designated centres they have considered.

7.28 It is officer opinion that there are no suitable sequentially preferable sites available.

7.29 Retail Impact Assessment

7.30 When assessing applications for retail development outside of town centres, which are not in accordance with an up-to-date Local Plan, the NPPF states that local planning authorities should require an impact assessment if the development is over a proportionate locally set threshold or over 2,500 sq m where there is no local threshold.

7.31 The National Planning Policy Framework states that an impact assessment should include an assessment of the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in town centres and wider area, up to five years from the time the application is made.

7.32 The Local Plan Pre-Submission Draft November 2015 sets out in policy DM3.4 that an impact assessment is required for 500sqm gross of retail floorspace for comparison goods.

7.33 The applicant has carried out a retail impact assessment for a retail warehouse club. The applicant states that a retail warehouse club has a more limited trade overlap than an A1 retail use and is more likely to draw trade from other cash and carry/wholesalers and existing large format retailers within the vicinity such as B & Q and Wickes and in the case of convenience goods the nearby Tesco Extra on Norham Road. The applicant also notes that there is more retail floorspace in out of centre stores than in defined town centres and therefore JTF will draw more of its trade from out of centre stores including those at Silverlink Retail Park than town centre units. The applicant also notes that as the business has been trading since 2006, the potential impact of its change from cash and carry to warehouse club has already been absorbed and therefore the application proposals would have no detrimental impact on existing centres.

7.34 The applicant's Retail Assessment has concluded that the retail impact on North Shields and Wallsend town centres is very low and even lower for the other town centres and district centres in North Tyneside; and that the levels of impact would be imperceptible and would not result in 'significant' detrimental harm to these centres.

7.35 The applicant has also concluded that the proposed development would not undermine future investment in centres as they will not be significantly harmed and have no expectations to accommodate a bulky sui generis unit.

7.36 The applicant has also advised that it is prepared to accept a planning condition to restrict the goods it can sell in relation to floorspace ie a minimum of 50% of net sales area shall be for bulky goods; of the remaining non bulky floorspace no more than 20% shall be for food and drink and no perishable or frozen food; no more than 12.5% shall be for clothing and foot wear and no more than 7.5% shall be for sale of domestic electrical goods including DIY and gardening equipment. This will ensure JTF continues to be heavily 'bulky goods' focussed. The applicant would also be prepared to accept another planning condition to restrict the use to retail warehouse club (sui generis) which shall not be open to the general public but to registered members. It is officer opinion that if the application is approved then these conditions should be imposed.

7.37 It is officer opinion that the proposed retail warehouse club would not have a significant adverse impact on the vitality and viability of the town centres in the borough or on other centres or on existing, committed and planned public and private investment in the town centres therefore the proposal accords with the NPPF.

7.38 Highway Issues

7.39 The NPPF states at paragraph 32 that developments that generate significant amounts of movements should be supported by a Transport Statement or Transport Assessment and development should only be refused on transport grounds where the residual cumulative impacts of the development are severe.

7.40 Policy T11 of the UDP states that parking requirements will in general be kept to the operational maximum.

7.41 The retail warehouse club use has been in existence since 2009 and is on an existing industrial estate. The use has car parking for 101 vehicles and a rear service yard. A Transport Statement (TS) has been submitted with the application and has looked at traffic associated with the existing use (wholesale warehouse) and the proposed use (retail warehouse club). The Highway Network Manager has advised that he agrees with the conclusion of the TS that the impact on the adjacent highway network will not be severe and largely outside network peaks and that the car parking provided, as demonstrated in a car parking accumulation study should be adequate for the needs of the retail warehouse club. The Highway Network Manager recommends approval subject to a condition that parking and manoeuvring will be laid out as shown on the submitted plans.

7.42 It is officer opinion that the proposal is acceptable in terms of the impact of the proposal on the highway network and that the parking provision is acceptable. The proposal accords with the NPPF, policy T11 of the UDP and LDD12 Transport and Highways.

7.43 Financial Benefits

7.44 The proposal seeks to allow the continued use of the premises for a retail warehouse club.

7.45 The proposal would safeguard the existing 46 full time equivalents jobs on the site. This is a material consideration in relation to this application.

8.0 Conclusion

8.1 It is officer opinion that the change of use from a cash and carry, a B8 Storage and Distribution use, to a retail warehouse club, a sui generis use, will not result in harm to the existing employment site or a reduction in the supply of employment land and will protect 46 full time equivalent jobs. It is officer opinion that there are no suitable sequentially preferable sites available in town centres or other centres for the proposed development and that the proposed development will not have a significant adverse impact on the vitality and viability of the town centres or other centres of North Tyneside or on existing, committed and planned public and private investment in the town centres and that the principle of a retail warehouse club on this site is acceptable. Traffic generation and parking for the proposed development are acceptable. It is officer opinion that the proposal accords with the NPPF and LDD12 Transport and Highways.

8.2 Members must determine whether the principle of a retail warehouse club on this employment site is acceptable. Members need to consider whether there are any suitable sequentially preferable sites within the borough and whether the proposed development would have a significant adverse impact on the vitality and viability of the town centres in the borough. Members must determine whether the proposal is acceptable in highway terms.

RECOMMENDATION: Application Permitted

Conditions/Reasons

1. The development to which the permission relates shall be carried out in complete accordance with the following approved plans and specifications
2014-161/PL0001 Site Location Plan
1412-03 SK01 Rev B Site Layout
1412 -03 SP02 Swep Path Analysis Service Yard Entry
1414-03 SP03 Swep Path Analysis Service Yard Exit
Reason: To ensure that the development as carried out does not vary from the approved plans.

2. The premises shall not be used for any purpose other than retail warehouse club (sui generis), and shall not be open to the general public. The business will operate by registered membership only in accordance with the following criteria:

Applications for membership must be accompanied by two forms of Business Identification details or 1 proof of employment and 1 form of personal identification.

Members must show their membership card prior to purchasing goods.

Reason: To enable the LPA to retain control over the use and to protect the vitality and viability of existing centres in North Tyneside having regard to the National Planning Policy Framework and policy S3 of the North Tyneside Unitary Development Plan 2002.

3. The goods sold from the premises shall be restricted to the following:

A minimum of 50% of the net sales area shall be used for the sale of bulky goods comprising the following:

1. DIY materials and ancillary goods
2. Car care and accessories
3. Gardening equipment and outdoor goods
4. Furniture and floor coverings (including bathroom suites and equipment)
5. Household textiles and soft furnishings
6. Lighting
7. Pet food and equipment

The remaining non-bulky floorspace (representing a maximum of 50% of the net sales area) shall be restricted as follows:

8. No more than 20% of the net sales area shall be used for the sale of food and drink (excluding café) and at no time shall the premises sell perishable or frozen food goods;

9. No more than 12.5% of the net sales area shall be used for the sale of clothing and footwear

10. No more than 7.5% of the net sales area shall be used for the sale of domestic electrical goods (excluding DIY and gardening equipment).

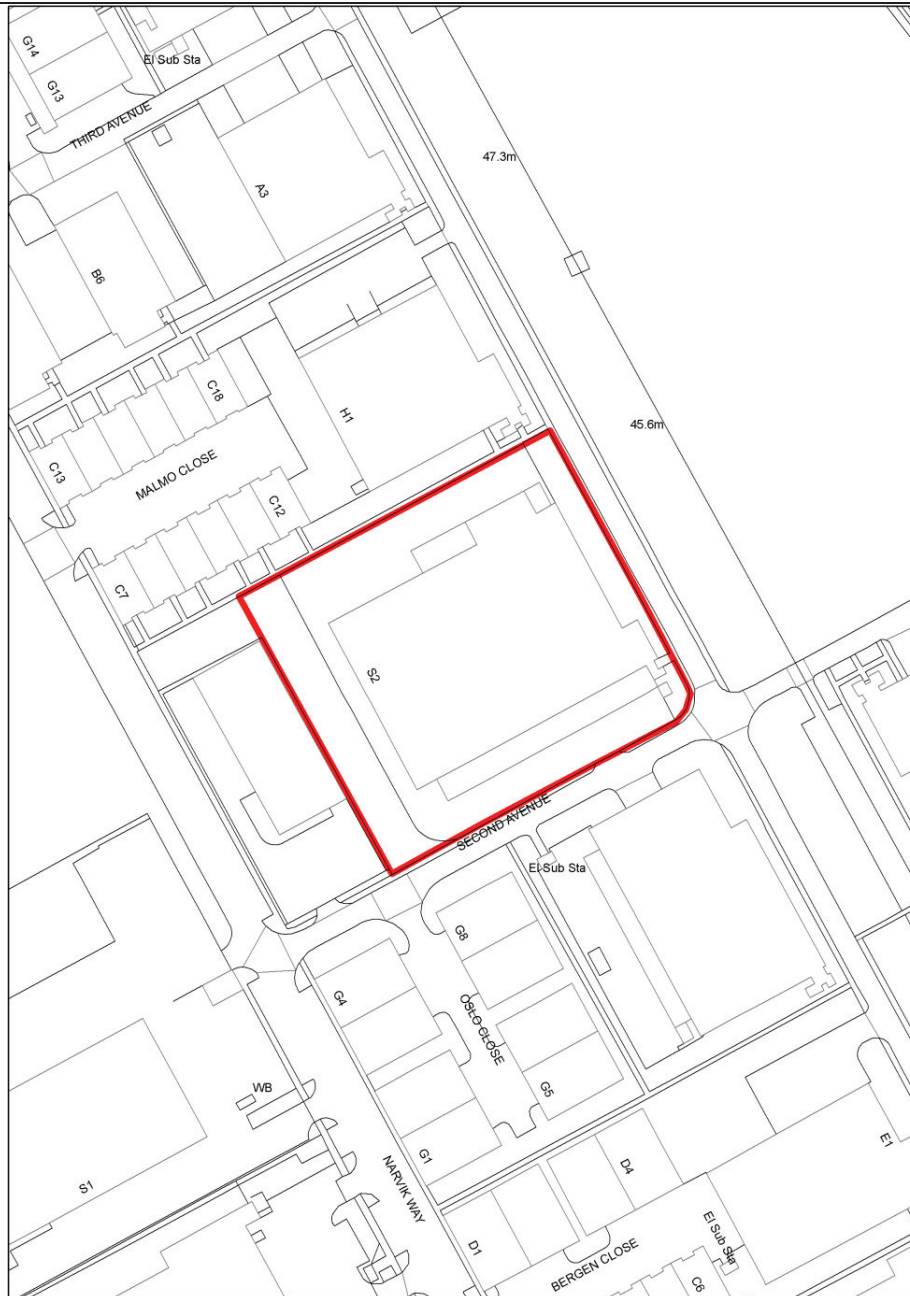
Reason: To enable the LPA to retain control over the use and to protect the vitality and viability of existing centres in North Tyneside having regard to the National Planning Policy Framework and policy S3 of the North Tyneside Unitary Development Plan 2002.

4. Parking and manoeuvring shall be laid out as indicated on the approved plans and these areas shall not be used for any other purpose.

Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway having regard to LDD12 Transport and Highways and the National Planning Policy Framework.

Statement under Article 35 of the Town & Country (Development Management Procedure) (England) Order 2015):

The proposal would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirements in Paragraphs 186-187 of the National Planning Policy Framework.



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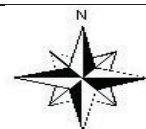
Location: Unit S2, Second Avenue, Tyne Tunnel Trading Estate, North Shields

Proposal: Retrospective change of use from wholesale warehouse (Class B8) to a retail warehouse club (sui generis use) with ancillary car parking, service area and external display area

Not to scale

Date: 30.06.2016

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**Appendix 1 – 15/02039/FUL
Item 5**

Consultations/representations

1.0 Internal Consultees

1.1 Road Network Manager

1.2 The application is for a retrospective change of use from wholesale warehouse (Class B8) to a retail warehouse club (sui generis use) with ancillary car parking, service area and external display area.

1.3 A Transport Statement was submitted as part of the application. The TS has looked at traffic associated with the existing and proposed uses and the impact on the adjacent highway network is not considered to be severe and largely outside the network peaks. A car parking accumulation study was included as part of the TS which demonstrates that the amount of parking provided should be adequate for the needs of the club.

1.4 For the reasons outlined above and on balance approval is recommended subject to a condition that parking and manoeuvring shall be laid out in accordance with the approved plans.

1.5 Manager of Environmental Health

1.6 a) Pollution

1.7 No objection

1.8 b) Contamination

1.9 No objection

2.0 Representations

2.1 None