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# Appeal Decision

Inquiry held on 14, 15, 16 June 2011

Accompanied site visit made on 17 June 2011

**by I Jenkins BSc CEng MICE MCIWEM**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 3 August 2011**

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**Appeal Ref: APP/J4423/A/10/2143547**

**180 Archer Road, Sheffield, South Yorkshire, S8 0TD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Sainsbury's Supermarket Limited against the decision of Sheffield City Council.
  - The application Ref 09/03645/FUL, dated 27 November 2009, was refused by notice dated 3 August 2010.
  - The development proposed is an extension to an existing food store including reconfiguration of the car park and landscape improvements.
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## Decision

1. The appeal is dismissed.

## Procedural matters

2. At the start of the Inquiry the Council indicated that it had intended to call Mrs H Johnson, who is one of its Highway Development Control Officers, to give evidence on highways matters. However, she was unavailable due to illness and instead the Council was content to rely on her written proof of evidence, which had been submitted in advance and was available at the Inquiry. None of the parties present objected to this approach and I saw no reason to do so. One of the other proofs of evidence submitted by the Council in advance of the Inquiry raised new concerns regarding the potential cumulative impacts of the appeal scheme, in the context of other proposals for development in the area. By way of response, the appellant produced a rebuttal proof of evidence at the start of the Inquiry and asked that it be accepted. Following an adjournment to allow the rebuttal to be read, none of the parties present objected to it being accepted nor did any party indicate that more time would be needed to prepare to deal with it. The rebuttal evidence was clearly relevant to the matters at issue and I determined that the new proof was an appropriate means, in the first instance, for the appellant to present its response at the Inquiry. I allowed it to be submitted in evidence and determined that it could be dealt with by those with an interest without further adjournment.
3. I was presented with a draft Section 106 agreement, to which the Council and the appellant were party, at the start of the Inquiry. At the end of the Inquiry the appellant indicated that it was still engaged in the process of having the agreement signed by the relevant parties and it requested an opportunity to provide a completed version of the Section 106 agreement within 14 days.

In the absence of any objections from those present, I agreed to this request having determined that it would be unlikely to prejudice the interests of anyone to do so. The completed Section 106 agreement was received by the Planning Inspectorate on 28 June 2011. I have taken this agreement into account in reaching my decision.

4. At the Inquiry the appellant confirmed that some of the details shown on application drawing no. PL12 E were not consistent with those shown on a number of the other application plans and it provided a corrected drawing, no. PL12 F. The appellant requested that the appeal be determined on the basis of the revised drawing. There were no objections to this request from the parties present. In my judgement, the differences between the two drawings are of a minor nature and it would be unlikely to prejudice the interest of anyone were I to determine the appeal on the basis of drawing no. PL12 F, rather than drawing no. PL12 E, and so I will.

### **Main Issues**

5. I consider that the main issues in this case are the effect of the proposal on local air quality and the safety and convenience of highway users and, whether any harm associated with these matters would be outweighed by other considerations.

### **Reasons**

#### *Local air quality*

6. The appeal site comprises the existing Sainsbury's store at Archer Road, including the associated car park and service yard areas. At each end, Archer Road adjoins Abbeydale Road, which is a busy highway leading into the city centre. The proposal involves an extension to the store, reconfiguration of the car park and landscape modifications all within the bounds of the site. The area, within which the store is located, is characterised by a mix of uses, including a number of other business premises as well as residential development.
7. There is no dispute between the parties that the proposed development, which is expected to improve the quality of the store's retail offer to customers, would be likely to result in an increase in the number of customers and associated vehicle trips to and from the site. PPS23<sup>1</sup> recognises that road transport is a significant contributor to poor local air quality, particularly in urban areas. At the Inquiry the Council confirmed that its concerns with respect to air quality relate solely to the levels of nitrogen dioxide (NO<sub>2</sub>) pollution in the locality. NO<sub>2</sub> is associated with adverse effects on human health. In the interests of safeguarding human health, the EU<sup>2</sup> limit value and national limit value<sup>3</sup> for NO<sub>2</sub>, measured as an annual average, are 40 µg.m<sup>-3</sup> (AQLV).
8. The appeal site is within an area which has been designated as an Air Quality Management Area (AQMA) under the Environment Act 1995, due, amongst other things, to the likelihood of the AQLV being exceeded. The Council's adopted Air Quality Action Plan<sup>4</sup> (AQAP) was produced in 2003 with the

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<sup>1</sup> Planning Policy Statement 23: Planning and Pollution Control.

<sup>2</sup> Directive 2008/50/EC.

<sup>3</sup> Air Quality Standards Regulations 2010.

<sup>4</sup> Air Quality Action Plan for Sheffield, 2003.

principal objective of improving air quality in Sheffield, so that no-one is subject to exposure to any pollutant in excess of the legal objectives. The AQAP indicates that it is designed to promote environmental quality rather than to inhibit development.

9. In contrast, PPS23 identifies that the planning system plays a key role in protecting public health by, amongst other things, preventing harmful development which cannot be made acceptable even through conditions. The reasoned justification for Core Strategy<sup>5</sup> Policy CS66-*Air Quality* makes clear that decisions about planning applications provide legitimate means by which air quality can be protected and improved. PPS23 identifies that it is not the case that all planning applications for developments inside AQMAs should be refused if the developments would result in a deterioration of local air quality. Such an approach could sterilise development. However, local planning authorities should ensure the development has a beneficial impact on the environment, for example by exploring the possibility of securing mitigation measures that would allow the proposal to proceed. Furthermore, saved<sup>6</sup> UDP<sup>7</sup> Policy MU11 confirms that new development will be permitted provided, amongst other things, that it would not cause residents or visitors in any housing to suffer from unacceptable living conditions, including air pollution. Saved Policy GE22 requires development to be sited so as to prevent or minimise the effect of any pollution on the quality of the environment.
10. Although an air quality assessment<sup>8</sup> (AQA) was submitted in support of the planning application, the appellant confirmed that it has been overtaken by the AQA it submitted in support of the appeal<sup>9</sup>, which was based on more recent air quality monitoring data. As the basis for the appeal AQA, the appellant has used *ADMS Roads extra*, which is an atmospheric dispersion model validated for use in the UK, to model pollution levels in the locality. In accordance with Defra's *Local Air Quality Management, Technical Guidance TG(09)*, the baseline model was verified using the most up to date local air quality monitoring data available at the time. This related to monitoring at five receptor properties<sup>10</sup> over a 7 month survey period from June 2010 to December 2010. A seasonal adjustment factor was applied to this data to generate the annual average figures required for the model, which were calculated to be higher than 40  $\mu\text{g.m}^{-3}$  at all of the five receptor properties. The appellant has confirmed that a comparison between this adjusted data and the baseline model results showed that the model was performing to a satisfactory standard. Based on an opening year for the proposed development of 2013, the appellant then used the verified model to provide predictions of the impact of the proposal on air quality, both with and without the proposed mitigation measures.
11. *Development Control: Planning for Air Quality*<sup>11</sup> (EPUK) provides a methodology for the assessment of the significance of air quality impacts, based on judgements regarding the sensitivity of receptors and the magnitude of the

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<sup>5</sup> Sheffield Development Framework Core Strategy, 2009.

<sup>6</sup> Saved under the terms of a Direction pursuant to paragraph 1(3) of Schedule 8 of the Planning and Compulsory Purchase Act 2004.

<sup>7</sup> Sheffield Unitary Development Plan, 1998.

<sup>8</sup> WYG Environment Air Quality Assessment, June 2010.

<sup>9</sup> Matt Holford proof of evidence-Air Quality.

<sup>10</sup> Nos. 981 Abbeydale Road, 102 Archer Road and 879 Abbeydale Road, all of which are dwellings, as well as La Scala and Chippendale, which contain commercial units at ground floor level with residential accommodation above.

<sup>11</sup> *Development Control: Planning for Air Quality (2010 Update)* by Environmental Protection UK.

effect. Although this is non-statutory guidance, the Council and appellant agree that its methodology provides an appropriate means of assessment in this case and I have no reason to disagree. The significance of the impact is ranked as either a low, medium or high priority consideration or an overriding consideration. The guidance indicates that, in relation to an overriding consideration, there should be a strong presumption for a recommendation for refusal on air quality grounds. Refusal may also be appropriate in relation to a high priority consideration. Whilst a medium priority consideration would be unlikely to justify refusal, mitigation measures should be incorporated into the scheme design to ensure that the development conforms to best practice standards and is 'air quality neutral' as far as reasonably practical.

12. Based on the modelling results, the appellant concluded that, without mitigation, the proposed development would have a minor adverse effect, which would amount to a medium priority consideration under the EPUK methodology. The reasons for this include that it would not lead to a breach of the AQLV, or a significant worsening of a breach, in locations such as at No. 879 Abbeydale Road and Chippendale, where the AQLV would be exceeded in 2013 irrespective of whether the proposal is implemented. The assessment concludes that, with the inclusion of the proposed mitigation measures, there would be a minor beneficial effect overall.
13. However, during the Inquiry, although the Council indicated that it accepted the model results, it was confirmed that it had not carried out any checks on them. That limits the weight I afford to the Council's position on this matter. Moreover, a number of matters, raised in the evidence given, lead me to the view that the findings of the appeal AQA can not be relied upon.
14. In order to predict concentrations of NO<sub>2</sub> associated with traffic in 2013 the appellant utilised data from the Department for Transport *Emission Factor Toolkit (version 4.2.2)* (EFT), which is based on an expectation that emissions from vehicles on local roads are decreasing as the fleet is modernised. On this basis, the modelled concentrations in 2013 related to baseline conditions and the traffic associated with the development proposed, are lower than would otherwise have been the case had 2010/11 emissions rates been assumed to continue. Having applied the EFT, the appeal AQA indicates that in 2013 the annual average NO<sub>2</sub> concentrations at Nos. 879 and 981 Abbeydale Road as well as Chippendale<sup>12</sup> would remain well above the AQLV, whilst at No. 102 Archer Road and La Scala<sup>13</sup> they would be below 40 µg.m<sup>-3</sup>.
15. However, a Defra *Local Air Quality Management Helpdesk* document (LAQMH), dated September 2010, identifies that there is little evidence of the consistent downward trend in NO<sub>2</sub> that would be suggested by emission inventory estimates. Furthermore, initial investigations into this matter suggest that Euro standards will deliver only marginal reductions until circa post-2015. The LAQMH suggests that local authorities may wish to take this into account where existing forecasting information is used for decision making. Whilst the EFT was published in November 2010, after the helpdesk note, in my judgement, it is not self-evident that the advice in the LAQMH is no longer current, particularly as the EFT makes use of emissions factors published in 2009. Under these circumstances, I consider that it would be reasonable to expect sensitivity tests to be undertaken on the outcome of the

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<sup>12</sup> First floor residential accommodation.

<sup>13</sup> First floor residential accommodation.

modelling, based on the possibility that the emissions reductions suggested by the EFT would not be realised. This has not been done in the case before me.

16. In addition, shortly before the Inquiry, local air quality survey data for a full 12 month period, from June 2010 to May 2011, was released. This allowed annual average figures to be calculated without the need for seasonal adjustment. The full year results confirm that the seasonally adjusted values of NO<sub>2</sub> used to produce the baseline model were significant over estimates. The latest data confirmed that at No. 102 Archer Road and No. 981 Abbeydale Road the annual averages were below the AQLV, whilst at No. 879 Abbeydale Road, Chippendale and La Scala they were above. Therefore, the actual circumstances are materially different from those used to generate the baseline model. Moreover, in my judgement, depending on the extent to which EFT reductions are applied to the latest survey data, the annual average NO<sub>2</sub> concentrations at No. 879 Abbeydale Road as well as at Chippendale and La Scala residential accommodation would be likely to range around the AQLV by 2013. Under these circumstances, the likelihood that an increase in NO<sub>2</sub> levels resulting from the proposal would cause a breach of the AQLV would be significantly greater than the appeal AQA suggests.
17. The appellant has used data associated with completed extensions to 15 Sainsbury's stores elsewhere in the country to predict the increase in traffic that would result from the proposal. For each case, the data included the percentage increase in customers expressed as a proportion of the increase in retail sales area. Across the data set, this ranged from -9% to 50%. The appellant has confirmed that other local authorities have accepted an average ratio of 19% as a basis for assessing Sainsbury's development proposals. However, I give this practice little weight, as I do not know the full circumstances of the proposals put to the other local authorities and cannot be sure that they are directly comparable to the scheme before me.
18. In any event, in the appeal case, the appellant agreed with the Council that a ratio of 30% should be used, which, taken together with the proposed increase in retail floor area of around 44%, would equate to an increase in traffic of 13.2% ( $44 \times 0.3$ ), that is 109 additional vehicle trips in the weekday pm peak. I share the concerns of a number of interested parties in relation to this approach. There is no evidence to show that the characteristics of the stores within the data set are directly comparable to the proposal before me. In retail floor area terms the proposed store would be almost double the size of the largest extended store in the data set. Furthermore, whilst the appellant's *Planning and Retail Statement 2009* confirms that Sainsbury's is primarily a food store, in the appeal case the majority of the proposed extension to the retail floor space would be used to increase the comparison goods sales area by over 70%, to around 39% of the overall retail floor area. Insofar as the data set is relevant, I consider that it would be reasonable to take a more precautionary approach by using the highest ratio of 50%. This would indicate an increase in traffic of around 22% ( $44 \times 0.5$ ) some 67% higher than was assumed in the modelling.
19. In addition, the appellant's air quality assessment has not taken account of the potential cumulative impact of the proposal in the context of other committed developments in the locality that have yet to be completed. I understand that at no point in its consideration of the planning application the subject of this appeal did the Council ask the appellant to do so. Nevertheless, *Guidance on*

*Transport Assessment*<sup>14</sup> highlights the importance of taking account of committed developments and, PPS23 confirms that air quality deterioration may be cumulative and that it will be necessary to consider the effects of multiple developments on the air quality of an area.

20. Setting to one side the planning application for an extension to the nearby Tesco store, as it has yet to be determined<sup>15</sup>; the Council has identified three development proposals relating to sites in the locality, for which planning permissions have been granted. Of those, I consider that the proposed re-development of the former Jacobs site is of greatest significance in terms of traffic generation. Whilst there is an extant outline planning permission for the re-development of this former industrial site as a retirement village, the site has been dormant for some time and so its use is unlikely to have influenced baseline air quality in the survey period June 2010 to May 2011. The likely levels of traffic associated with the retirement village during the weekday pm peak have been identified as a total of 62 vehicle trips, which is slightly less than the number associated with the former industrial use of the site. These trips have not been accounted for in the appeal AQA.
21. In my judgement, considered together with other committed development, the traffic associated with this Sainsbury's proposal is likely to have a much greater detrimental impact on local air quality than is suggested by the output from the appeal AQA.
22. The EPUK guidance indicates that uncertainty, including the extent to which worst-case assumptions have been made, is a factor to take into account when considering the overall significance of air quality impacts. The assumptions upon which the appeal AQA is based, including future traffic levels and associated emission levels, do not reflect the worst case in a number of respects. Notwithstanding that the impact of the proposal on its own may be classified as small under the EPUK methodology, it is entirely possible, in my judgement, that the proposal would have a detrimental impact on air quality which is justifiably classified as an overriding consideration, as a result of a breach of the AQLV.
23. The only mitigation measure for which allowance has been made in the appeal AQA modelling, is the proposed installation of a MOVA<sup>16</sup> signal control system at the signal controlled junction adjacent to La Scala<sup>17</sup>. The appellant and Council agree, with reference to research relating to emissions associated with different levels of motorway congestion<sup>18</sup>, that it would be reasonable to expect reduced emissions on the road links leading to the La Scala junction of around 3%, as a result of the MOVA installation.
24. I have no reason to doubt that the system would reduce delays at the junction and, as a consequence, would deliver some reduction in emissions. Any MOVA induced reductions in emissions would mitigate against increases in the vicinity of the La Scala junction that would result from traffic associated with the appeal scheme. The funding of the MOVA installation would be secured by the completed Section 106 agreement, which would also secure a

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<sup>14</sup> Guidance on Transport Assessment produced by the Department for Communities and Local Government and Department for Transport

<sup>15</sup> Ref. 10/00539/FUL.

<sup>16</sup> Microprocessor Optimised Vehicle Actuation.

<sup>17</sup> The junction of Archer Road, Abbeydale Road, Abbeydale Road South, Springfield Road and Millhouses Lane.

<sup>18</sup> Using ITS to reduce environmental impacts by Margaret Bell, Haibo Chen, Michele Hackman, Keith McCabe & Simon Price, ITS World Congress, 2006.

contribution towards future air quality monitoring. This would allow an assessment to be made of the actual impact of the scheme. Having had regard to regulation 122 of the *CIL Regulations 2010*<sup>19</sup>, I agree with the Council and the appellant that these obligations pass the relevant statutory tests and, insofar as it would secure the identified contributions, I give the Section 106 agreement significant weight.

25. However, the appellant indicated at the Inquiry that MOVA would be likely to cause journey times through the junction to be reduced by seconds rather than minutes, and that there is no empirical evidence to enable reductions in delay to be correlated with reductions in emissions at an urban junction such as this. I consider, therefore, that the anticipated reduction in emissions of 3% must be treated with caution and I give little weight to the view that it may be conservative.
26. Furthermore, the overall significance of the benefits associated with the MOVA installation is uncertain. Based on the latest monitoring data, if NO<sub>2</sub> levels decrease over time, as the EFT suggests, then concentrations in the vicinity of the La Scala junction in 2013 may be below the AQLV even if the appeal scheme is implemented without the proposed mitigation measures. In any event, the installation of MOVA at the La Scala junction would not influence NO<sub>2</sub> levels at the Chippendale junction<sup>20</sup>, or at No. 879, which is close to it and which forms part of a relatively high density row of residential properties.
27. A number of other mitigation measures are proposed by the appellant as a means of offsetting the increased traffic emissions likely to be associated with the appeal scheme. The proposed package would align with a number of the actions set out in the AQAP and the emerging replacement<sup>21</sup> for it. In addition, insofar as the measures encourage the reduction of emissions, they would also accord with Government guidance and policy aims<sup>22</sup>. For the most part however, the emissions reductions likely to be associated with those measures are entirely uncertain. For example, whilst the appellant would provide 9 electric car charging points, 15 low carbon priority car parking spaces and additional cycle hoops, there can be no guarantee that they would be used.
28. Notwithstanding that all the mitigation measures suggested by the Council have been incorporated into the scheme, I consider, on balance, that they would be unlikely to adequately address the adverse effects of the proposal on local air quality.
29. Whilst a number of interested persons have indicated that trees in the locality have the ability to absorb NO<sub>2</sub>, reducing concentrations thereabouts, this is disputed by the appellant. In any event, I have not been provided with any compelling evidence to show that either the proposed removal of existing trees along the Archer Road frontage of the site, or the planned replanting, would be likely to have a material effect on concentrations of NO<sub>2</sub> in the locality.

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<sup>19</sup> Community Infrastructure Levy Regulations 2010.

<sup>20</sup> The junction of Archer Road, Abbeydale Road and Bannerdale Road.

<sup>21</sup> Draft Sheffield Air Quality Action Plan, 2011.

<sup>22</sup> Low Emissions Strategies-using the planning system to reduce transport emissions, good practice guidance, January 2010 (Defra) & PPS23.

30. I conclude overall that, based on the evidence presented, I cannot be confident that the appeal scheme would not cause unacceptable harm to local air quality, or conflict with saved UDP Policies MU11 and GE22, Core Strategy Policy CS 66 and RSS<sup>23</sup> Policy SY1(C2). PPS1<sup>24</sup> confirms that where justified on the basis of the evidence available, a precautionary approach to proposals for development may be necessary. Under the circumstances, I consider that a precautionary approach would be justified in this case and my findings in relation to this issue weigh heavily against the appeal scheme.

*The safety and convenience of highway users*

31. As part of its reason for refusal the Council indicated that the proposal would be likely to have an adverse effect on the safety and convenience of highway users. In its supporting statement on highway matters, the Council confirms that the main areas of concern are the two signalised junctions at either end of Archer Road, where it joins Abbeylea Road.

32. However, the appellant has provided evidence to show that, based on records of the last 5 years, the incidence of accidents at these junctions is less than would normally be expected, given the type of junction and traffic flows. I agree with the appellant, that the increase in vehicle movements at these junctions which are likely to result from the proposal, would be sufficiently limited so as not to have a material detrimental effect on the safety or convenience of highway users either on its own or cumulatively with other identified committed developments. In its closing statement to the Inquiry, the Council confirmed that in terms of the effect on the safety of highway users, it no longer objected to the proposed development.

33. The entrance to the Sainsbury's store service yard is on the inside of a bend on Archer Road. Whilst there are parking restrictions in the form of double yellow lines to the east of the entrance, to the west, where the bend in the road is more acute, there are no restrictions. I have had regard to the concerns, raised by a number of interested parties that, from time to time large vehicles, waiting to enter the appeal site service yard, park on this section of Archer Road and obstruct pedestrian and/or vehicular traffic along the highway.

34. The appellant has indicated that these concerns would be addressed by the appeal scheme in a number of different ways. More space would be available for delivery vehicles within the yard, due, amongst other things, to the provision of additional storage space and 'goods on line' loading facilities elsewhere within the site. The service yard gates would be moved so as to allow a vehicle to wait outside the yard, off the highway. In addition, double yellow lines would be provided on Archer Road on the western approach to the service yard. I am content that these measures would reduce the incidence of on-street parking involving vehicles servicing the store.

35. Nonetheless, in my judgement, this does not weigh heavily in favour of the proposal. The appellant has confirmed that there are no records of accidents being caused by vehicles parked on-street in the vicinity of the service yard entrance. Furthermore, in the event that the appeal scheme was not implemented, it would remain open to the Highway Authority, if it considered

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<sup>23</sup> The Yorkshire and Humber Plan-Regional Spatial Strategy to 2026. Inspector note: Whilst the Secretary of State has announced the Government's intention to abolish the RSS and the provisions of the emerging Localism Bill reflect that intention, I give it only limited weight at this stage in the Parliamentary process.

<sup>24</sup> Planning Policy Statement 1: Delivering Sustainable Development.



necessary, to pursue the imposition of new parking restrictions along the un-restricted sections of Archer Road, with any subsequent incidents of illegal parking being a matter for the relevant enforcement authorities.

36. I conclude that the effect of the proposal on the safety and convenience of highway users would be acceptable and, in this respect, there would be no conflict with saved UDP Policies T28 and MU11 or RSS Policy T1.

*Other considerations*

37. The appeal scheme would address a number of deficiencies at this Sainsbury's site. The extended retail space proposed would provide a better shopping environment for customers, by, amongst other things, providing a more spacious shopping floor as well as allowing the range of goods on offer to be increased, thereby making the store more competitive in the market. The Council accepts that there are no sequentially preferable sites on which the proposed shopping floor space could or should be provided. In addition, the appellant has indicated that the proposal would give rise to the creation of around 80 new jobs associated with the store, a number of which, based on existing employment patterns, are likely to be filled by local people. In the SOCG<sup>25</sup> the Council and appellant agreed that there is likely to be sufficient growth in expenditure to support the appeal proposal and that the impact on trade and turnover levels in the City Centre as well as District Centres local to the site would be low. On this basis the appellant argues that the expected increase in jobs at the appeal site would be unlikely to result in the loss of a significant number of jobs elsewhere. I have not been provided with any compelling evidence to the contrary. I give the economic growth likely to be associated with the appeal scheme significant weight.
38. I agree with the Council and the appellant that the site is reasonably accessible by a choice of means of transport, including walking, cycling, public transport and the car. The proposed alterations would include the Archer Road customer entrance being moved closer to the highway which would reduce, albeit marginally, the distances between local bus stops and the store.
39. Whilst tree planting would be reduced along the Archer Road frontage of the site, the proposed store modifications, which would include increased fenestration along this frontage and a number of green roofed areas, would enhance the appearance and biodiversity value of the building. I agree with the Council that the scheme would be acceptable in terms of landscaping, noise and flood risk. The proposed extension has also been designed with the aim of maximising energy efficiency, in the interests of minimising vulnerability, and providing resilience, to climate change.
40. In these respects the proposal would accord with the aims of PPS4<sup>26</sup> and a number of Development Plan policies. However, PPS4 indicates that the Government's overarching objective is sustainable economic growth. That is growth that can be sustained and is within environmental limits, but which also enhances environmental and social welfare. Given the remaining uncertainty with respect to the impact of the proposed development on local air quality and consequentially human health, I find that the proposal would not fit well overall with the patterns of development supported by PPS4

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<sup>25</sup> Statement of Common Ground between Sainsbury's Supermarkets Ltd and Sheffield City Council, May 2011.

<sup>26</sup> Planning Policy Statement 4: Planning for Sustainable Economic Growth.

and it would not amount to sustainable economic development. In my view, *Planning for Growth*<sup>27</sup> does not indicate that a decision in favour of the appeal scheme would be called for in these circumstances. Whilst the same can be said in relation to the *Draft National Planning Policy Framework*<sup>28</sup>, which has been issued since the close of the Inquiry, as this document is still in draft form and subject to change, I give it little weight.

41. Whilst the Council's decision in this case was against the recommendation of its planning officer, this does not alter the planning merits of the proposal upon which my decision is based. I have taken account of the views of local residents and other interested parties who formally responded to the planning application and appeal notifications, some of whom support the appeal scheme, whilst others object to it. I give little weight to the view of the appellant that the appeal scheme is supported by the silent majority. In my judgement, the propensity of people to object to a proposal can be influenced by a number of factors and a lack of objection cannot be automatically interpreted as a sign of support.

*Balancing exercise and conclusion*

42. I have considered the matters put forward in support of the development proposed. However, the potential harm I have identified with regard to the effect of the proposal on local air quality, and consequentially human health, is not outweighed by other considerations, including the absence of any material harm to the safety and convenience of highway users. Moreover, whilst I have had regard to the conditions suggested by interested parties, it would not be possible, in my judgement, to make the proposal acceptable in planning terms through the imposition of reasonable conditions. For the reasons given above, I conclude, on balance, that the appeal should be dismissed.

*I Jenkins*

INSPECTOR

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<sup>27</sup> Planning for Growth-Written Ministerial Statement, 23 March 2011.

<sup>28</sup> DCLG Draft National Planning Policy Framework, July 2011.

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr J Ward	Principal Solicitor, Sheffield City Council.
He called	
Mr C Heeley	Planning Officer, Sheffield City Council.
DipURP.	
Dr O Osammor	Air Quality Officer, Sheffield City Council.
PhD.	

### FOR THE APPELLANT:

Mr T Corner	Instructed by SNR Denton UK LLP, One Fleet Place,
QC	London, EC4M 7WS
He called	
Mr A Smith	Associate, Savell Bird & Axon.
BA (Hons), DipTP.	
Mr M Holford	Regional Director, WYG Environment.
MSc, MCIEH, Chartered	
EHP.	
Mrs M McCallum	Senior Planner, Turley Associates.
BSc (Hons), MRTPI.	

### INTERESTED PERSONS:

Mr T Gunby	Chairman, Carter Knowle and Millhouses Community Group.
Mrs A Hunn	Member, Carter Knowle and Millhouses Community Group.
Mr P Hartley	Local resident
Mrs V Evans	Local resident
Mr J Brighton	Secretary, Friends of Millhouses Park.
Mrs A Grandfield	Local resident
Mrs M Price	Local resident
Mrs S Marshall	Local resident
Mrs P Kirk	Local resident

### DOCUMENTS

- 1 Letters from the Council notifying interested persons of the appeal and Hearing arrangements.
- 2 Correspondence sent to the Planning Inspectorate in response to the appeal notifications.
- 3 Letter from Mr F Hardy, dated 8 June 2011.
- 4 Draft Section 106 agreement.
- 5 Statement-Mrs M Price.
- 6 Appendices to the statement-Mr T Gunby.
- 7 Rebuttal proof of evidence-Mr C Heeley.
- 8 Extract-Terminal illness or gradual decline? A review of GB shop vacancy in 2010 by Local Data Company.
- 9 Directive 2008/50/EC.
- 10 Air Quality Standards Regulations 2010.
- 11 Extract-Environment Act 1995.
- 12 Air Quality Strategy for England, Scotland, Wales and Northern Ireland, 2007.

- 13 Sheffield City Council Air Quality Action Plan, 2003.
- 14 Sheffield City Council Air Quality Action Plan (draft) 2011.
- 15 Defra-Local Air Quality Management, Technical Guidance (TG09), 2009.
- 16 Environmental Protection UK-Development Control: Planning for Air Quality (2010 Update).
- 17 Sheffield City Council-Community and Council Air Pollution Monitoring 2008 and 2009 (2010).
- 18 Defra-Air Quality Review and Assessment helpdesk, September 2010.
- 19 Department for Transport-Emissions Factor Toolkit (version 4.2.2).
- 20 Department for Transport-Traffic Advisory leaflet 3/97.
- 21 Bell et al-Using ITS to reduce environmental impacts, 2006.
- 22 Defra-Low Emissions Strategies-using the planning system to reduce transport emissions, good practice guide, 2010.
- 23 Clearing the air, The Mayor's Air Quality Strategy, 2010.
- 24 Department for Transport-Electric vehicle recharging infrastructure and the plugged-in places scheme.
- 25 Beckett et al-Effective tree species for local air-quality management.
- 26 Marked up tables 5 & 6 from Mrs H Johnson's highways statement.
- 27 Ordnance Survey extract showing locations of development and bridges.
- 28 House of Commons Environmental Audit Committee-Air Quality, Fifth Report of Session 2009-10, Volume 1.
- 29 Retailer profile-Sainsbury's.
- 30 Statement-Mrs S Marshall.
- 31 Emails between Mr A Smith and Mrs H Johnson.
- 32 Letter from Mr P Hartley.
- 33 Letter from RPS to the Council, dated 29 April 2010.
- 34 Briefing note: conditions (appellant).
- 35 Draft conditions for Sainsbury's store extension at Archer Road, Sheffield (version 1).
- 36 Updated documents list (appellant).
- 37 Note on the proposed Section 106 obligation (appellant).
- 38 Draft conditions for Sainsbury's store extension at Archer Road, Sheffield (version 2).
- 39 Carter Knowle and Millhouses Community Group-Proposed conditionality.
- 40 Email between Mrs A Hunn and Mr N Martin.
- 41 Statement-Mrs A Grandfield.
- 42 Calculations for 2013 sensitivity test.
- 43 Drawing no. PL12F.
- 44 Draft conditions for Sainsbury's store extension at Archer Road, Sheffield (version 3)
- 45 Completed Section 106 agreement.