

## **DEVELOPMENT PLAN**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise.

### **Development Plan - current status**

The Core Strategy and Development Plan was adopted on the 30 January 2020, whilst the saved policies from the Unitary Development Plan were adopted on 7 September 1998. In the report on each application specific reference will be made to policies and proposals that are particularly relevant to the application site and proposal. The CSDP and UDP also include several city wide and strategic policies and objectives, which when appropriate will be identified.

## **STANDARD CONDITIONS**

Sections 91 and 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 require that any planning application which is granted either full or outline planning permission shall include a condition, which limits its duration.

## **SITE PLANS**

The site plans included in each report are illustrative only.

## **PUBLICITY/CONSULTATIONS**

The reports identify if site notices, press notices and/or neighbour notification have been undertaken. In all cases the consultations and publicity have been carried out in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

## **LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION**

The background papers material to the reports included on this agenda are:

- The application and supporting reports and information;
- Responses from consultees;
- Representations received;
- Correspondence between the applicant and/or their agent and the Local Planning Authority;
- Correspondence between objectors and the Local Planning Authority;
- Minutes of relevant meetings between interested parties and the Local Planning Authority;
- Reports and advice by specialist consultants employed by the Local Planning Authority;
- Other relevant reports.

Please note that not all of the reports will include background papers in every category and that the background papers will exclude any documents containing exempt or confidential information as defined by the Act.

These reports are held on the relevant application file and are available for inspection during normal office hours at the City Development Directorate at the Customer Service Centre or via the internet at [www.sunderland.gov.uk/online-applications/](http://www.sunderland.gov.uk/online-applications/)

Peter McIntyre  
Executive Director City Development

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**Reference No.:** 23/00270/MAW Minerals- Waste (County Matters)

**Proposal:** **Installation of a distillation column and 5no. storage tanks**

**Location:** Tradebe Solvent Recycling Limited, Hendon Dock, Barrack Street, Sunderland, SR1 2BU

**Ward:** Hendon

**Applicant:** Tradebe Solvent Recycling Ltd

**Date Valid:** 27 February 2023

**Target Date:** 3 June 2023

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## **PROPOSAL:**

Full planning permission is sought for the demolition of an existing storage tank, the erection of a distillation column and 5no new storage tanks at Hendon Dock Solvent Purifying Facility, Port of Sunderland.

The site in question is located towards the southern end of the Port of Sunderland and is operated by Tradebe Solvent Recycling Ltd. The subject plant covers a site of over 2ha and has been in operation since the 1970's. The southern boundary of the site bounds an access road beyond which lies the Dock Sea wall, whilst the land to the east comprises an open undeveloped area. To the north there are open dock areas, leading to a series of land uses including some minerals and waste uses. To the west is Hendon Dock and the associated Dock building.

Tradebe's operations involve the receipt of used solvents and the subsequent purification of those solvents for re-use. The purification process can return solvents back to their merchant sale specification or to an agreed specification with a customer. The accompanying planning statement qualifies that Tradebe have experienced significantly increased demand for its service of purifying solvents, understood in part to have resulted from increasing difficulties in obtaining solvents from the EU post Brexit, but mainly due to Tradebe's customers adopting more environmentally sustainable operating practices, opting for recycling rather than disposal.

Within the context of the above, the Planning Statement continues that;

"The annual throughput of solvent purified/recycled at the plant is currently around 40,000 tonnes per annum. Given the level of interest being expressed, Tradebe has forecast that they could increase throughput by up to 25% giving a throughput of 50,000 tonnes per annum. The additional distillation column would provide the additional processing capacity and the proposed tanks the additional storage capabilities to allow Tradebe to service this increased demand."

The new distillation column would be 19m high, appearing of a functional industrial design and very similar to the existing distillation columns on-site, the third of which was added to the site in the 2000's. The submission confirms that the works would include associated infrastructure required for personnel to access the column and the pipework involved with the operation of the new column.

Some additional infrastructure (new pipework/tanks) are required to connect the new distillation column into the plant, officers are however satisfied that these facilitating works would fall to be

considered as permitted development as set out in The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) at Part 7 Class I 'developments relating to an industrial process'.

The 5 new storage tanks are required to facilitate the additional processing capacity at the site. Tanks 30, 31 and 32 are to measure 8.5 metres in height, with the two tallest tanks (36 and 37) measuring 10.5 metres in height, including the pipework at the top of the tanks. The tanks would be cylindrical in shape and have a diameter of 5.5metres. The location of the tanks are illustrated on Drawing S-LY159 Rev C.

The submission has been accompanied by a Planning Statement, a Flood Risk and Drainage Assessment, a Phase 1 Preliminary Risk Assessment and a Phase 2 Ground Investigation, a Preliminary Ecological Appraisal, and a Habitat Regulation Screening Assessment (HRA).

The application comes before members of the planning committee as it comprises development to be carried out within a Minerals and Waste site.

#### **TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

#### **CONSULTEES:**

Land Contamination  
Cllr Lynda Scanlan  
Cllr Michael Mordey  
Cllr Ciaran Morrissey  
Network Management  
Environmental Health  
Land Contamination  
Flood And Coastal Group Engineer  
Planning Implementation  
Tyne And Wear Archaeology Officer  
Cllr Lynda Scanlan  
Cllr Michael Mordey  
Cllr Ciaran Morrissey  
Network Management  
Environmental Health  
Land Contamination  
Flood And Coastal Group Engineer  
Environment Agency  
Land Contamination  
Environment Agency  
Environment Agency  
Natural England  
Natural Heritage  
Environment Agency  
Natural Heritage  
Land Contamination

## Land Contamination

SRM Limited Ocean Terminal Barrack Street Sunderland SR1 2ES  
Port Authority East Side Hendon Dock Warehouse Barrack Street Sunderland SR1 2BU  
Port Authority East Hendon Dock West Oil Storage Hendon Dock Barrack Street Sunderland SR1 2BU

Final Date for Receipt of Representations: **20.10.2023**

### **REPRESENTATIONS:**

The application has been publicised by way of site notice, press notice and neighbour consultation letters. No representations have been received.

### **External consultees**

**The County Archaeologist** - The site has been checked against the Historic Environment Record and historic maps. The application site was undeveloped foreshore until the 20th century when it was reclaimed. A significant depth (c. 8.5m) of made ground covers the 19th century foreshore. During the 20th century, the site has been subject to modern industrial development. I consider that the proposals will not have a significant impact on any known archaeological heritage assets, and no archaeological work is required.

**Natural England** - No objection

**Environment Agency** - Initial response raised an objection and required revisions to be made to the Flood Risk Assessment (FRA). Further to revisions made, the EA have removed their objection to the proposal citing; The information provided shows that there will be no increased flood risk on or offsite. The proposed works should be undertaken in accordance with the Flood Risk Assessment (FRA). The applicant has provided further information regarding their expectations for the lifetime (25 -30 years) of the plant and considered climate change accordingly up to 2050. Planning Practice Guidance (PPG) states that the lifetime of an industrial development should be considered as 75 years. However, having reviewed the information provided, we consider our final advice would stay the same if further detail was provided and as such, we are able to remove our objection.

**Health and Safety Executive (HSE)** - The HSE does not advise, on safety grounds, against the granting of planning permission in this case.

### **Internal Consultees**

**Council's Transportation Engineer** - No objections or observations offered.

**Council's Environmental Health team** - No objections are offered in relation to the proposed development.

In terms of noise, the proposal is to duplicate existing plant and facilities on site. Given the nature of the proposal, the character of the immediate area, and separation distances from sensitive receptors, noise is not anticipated to pose a significant issue. The application identifies an increase in vehicle deliveries of 2 vehicles per day taking numbers to 9.

Any potential odorous emissions are associated with process operations and subject to abatement and regulation under permit conditions.

In terms of air quality, the application indicates that the same environmental controls will be applied to the proposed plant as exist for current site operations. Those controls are specified as part of the environmental permitting process and regulated by the EA. The application confirms that all storage tanks are vented to abatement equipment and no emissions occur direct to the environment. Proposed changes to operations will be subject to EA consideration and may require permit variations.

**Council's Lead Local Flood Officer** - The above application does not have great significance from a flooding/SUDS perspective. The site is located within Flood Zone 3, however there is no increase in impermeable area and flood storage on site will be increased, therefore as long as this doesn't change the LLFA are happy to approve this application.

**Ground contamination** - Further to the consideration of the Phase 1 Preliminary Risk Assessment, the Ground Investigation Report and the addendum letter received 12 December 2023 (RSK Geosciences). No objection is offered to the development on the basis of ground contamination. It is however advised that a condition to deal with unexpected contamination be placed on a consent given.

**Ecology** - Further to consideration of the Preliminary Ecological Appraisal Screening and an Habitat Regulations Screening, no objections are offered.

**Conservation Officer** - Whilst the proposed development is substantial in size, the new storage tanks will be contained within the existing Tradebe site that already contains numerous similar tanks. It is also reasonably typical of the type of large structures that have served Port activity and established the industrial character of the Port throughout its evolution since the 19th Century. It is not unusual for listed structures in the Port to be experienced with such large industrial structures in their immediate and wider surroundings over the last two centuries as part of the operational Port.

It is considered therefore that the proposed development will have no additional impact on the setting and significance of the listed Swing Bridge and Machinery Pit and is not incongruous within the established wider functional industrial setting of the other listed buildings/structures within the Port. The significance of these heritage assets would therefore be conserved in accordance with NPPF Paragraph 205 and CSDP Policies BH7 and BH8.

## **COMMENTS:**

### **Issues to consider**

By virtue of section 38(6) of the Planning and Compulsory Purchase Act, 2004, the starting point for consideration of any planning application is the saved policies of the development plan. A planning application must be determined in accordance with the development plan unless material considerations indicate otherwise.

However, since the publication of the National Planning Policy Framework (NPPF), which, as paragraph 2 therein makes clear, is a material consideration for the purposes of Section 38(6) of the Act, the weight that can be given to the development plan depends upon the extent to which the relevant policies in the plan are consistent with the more up to date policies set out in the

NPPF. The closer the relevant policies in the development plan to the policies in the NPPF, the greater the weight that can be given to the development plan.

The NPPF provides the Government's planning policy guidance and development plans must be produced, and planning applications determined, with regard to it. At paragraph 7, the NPPF sets out that the purpose of the planning system is to contribute positively to the achievement of 'sustainable development' which is defined as 'meeting the needs of the present without compromising the ability of future generations to meet their own needs'. Meanwhile, paragraph 8 states that in order to achieve sustainable development, the planning system has three overarching objectives - an economic objective, a social objective and an environmental objective - and these are to be delivered through the preparation and implementation of plans and the applications of the policies within the NPPF.

Paragraph 11 of the NPPF sets out a presumption in favour of sustainable development and states that in respect of decision-making, this means authorities should:

- c) Approve applications that accord with an up to date development plan without delay; or
- d) Where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting permission unless:
  - i) The application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

In terms of the more detailed planning policies of the NPPF, of importance in considering the current application are those which seek to:

- Build a strong, competitive economy (section 6);
- Promote sustainable transport (section 9);
- Make effective use of land (section 11);
- Achieve well-designed places (section 12);
- Meeting the challenge of climate change, flooding and coastal change (section 14);
- Conserve and enhance the natural environment (section 15)
- Conserving and enhancing the historic environment (section 16).

These core principles of the NPPF feed into the local policies contained within the adopted Core Strategy Development Plan (CSDP) which sets out the Council's long-term plan for development across the City until 2033. Of relevance to this application are CSDP policies, SP5, SS5, HS1, HS2, HS3, HS4, BH1, BH8, EG2, NE2, WWE2, WWE3, WWE6 and ST3.

In addition to the above, regard must also be given to the National Planning Policy for Waste (NPPW), which sets out the Government's ambition to work towards a more sustainable and efficient approach to resource use and management through detailed waste planning policies. It is read in conjunction with the NPPF, the Waste Management Plan for England and the National Policy Statements for Waste Water and Hazardous Waste (as applicable).

With reference to the above national and local planning policy background and taking into account the characteristics of the proposed development and the application site, it is considered that the main issues to examine in the determination of this application are as follows:

1. Land use considerations;

2. The implications of the development in respect of the amenity;
3. The impact of the development on the heritage of the area;
4. The impact of the development in respect of highway and pedestrian safety;
5. The implications of the development on biodiversity;
6. The impact of the development of flood risk and drainage;
7. The impact of the development in respect of ground conditions;
8. The Implications of development relative to hazardous installations.

### **1. Land use considerations**

The Proposals Map of the CSDP identifies the Port as a key transport hub for the movement of bulky goods. Policy SS5 states that the Port will be reinvigorated through:

1. the provision of road and rail links suitable for heavy freight to link the Port to national networks;
2. preventing waterside developments that would negatively impact on operations;
3. supporting the use of the River Wear as a freight corridor and serving waterfront businesses;
4. enabling development of Port-related uses within use classes B1, B2 and B8, including offshore renewables and automotive supply chains;
5. requiring development which is located within Flood Zones 2 and 3 to meet the sequential test and exceptions test, where necessary;

Policy SS5 of the CSDP builds on the broader objectives of policy SP5, which states that South Sunderland will continue to grow and become a spatial priority for housing and economic development by, amongst other measures, focusing economic growth in identified employment areas and at the Port of Sunderland.

On a national level, section 6 of the NPPF requires the planning system to support the building of a strong, competitive economy, with paragraph 85 advising that in making planning decisions, significant weight should be placed on the need to support economic growth and productivity, and paragraph 87 stating that planning decisions should recognise and address the specific locational requirements of different sectors. Section 11, meanwhile, requires the planning system to make effective use of land, including placing an emphasis on the use of brownfield (i.e., previously developed) land and ensuring that policies and decisions recognise and reflect changes in the demand for land.

With regard to the above, the proposal would evidently bring forward an industrial process-based development that is required to enhance and expand the solvent recycling facilities that are operating on site. This form of development would sit relatively comfortably within desired Port related uses as set out by Policy SS5 of the CSDP and would also serve to support economic growth and productivity in accordance with national and local policy.

It is noted that Policy SS5 of the CSDP also requires that consideration be given to matters relating to flood risk and this will be addressed later in this report.

In considering the principle of the proposed development, regard must also be given to local and national planning policies relating to the management of waste. To this end, Policy WWE6 of the CSDP states that development that encourages and supports the minimisation of waste production and the re-use and recovery of waste materials will normally be supported. Proposals for waste management facilities to deal with waste arisings will be encouraged based upon the following principles:

1. managing waste through the waste hierarchy;
2. promoting opportunities for on-site management of waste;

3. ensuring that sufficient capacity is located within the City to accommodate forecast waste arisings of all types;
4. supporting delivery of the South Tyne and Wear Joint Municipal Waste Management Strategy;
5. facilitating the development of recycling facilities across the City;
6. facilitating the development of a network of small-scale local waste management facilities in accessible locations;
7. ensuring new waste developments are located and designed to avoid unacceptable adverse impacts on landscape, wildlife, heritage assets and amenity;
8. working collaboratively with neighbouring local authorities on waste management;
9. addressing to an acceptable standard the potential cumulative impacts of any waste development and the way it relates to existing developments;

On a national level, the NPPW emphasises the role planning can play in providing a more sustainable and efficient approach to resource use and management. The NPPW states that Waste Planning Authorities (WPAs) should prepare Local Plans and policies which identify sufficient opportunities to meet the identified needs of their area for the management of waste streams, taking into account the 'proximity principle' of waste being managed as close to its source as possible. WPAs should also, through Local Plans, seek to drive waste management up the waste hierarchy.

When determining planning applications, the NPPW advises that waste planning authorities should:

- Only expect applicants to demonstrate a need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan;
- Recognise that proposals for waste management facilities such as incinerators can conflict with Local Plan visions and aspirations, causing justifiable local frustration, and should require applicants to demonstrate that the Local Plan's objectives will not be undermined;
- Consider likely impacts on the local environment and on amenity against set criteria. WPAs should avoid carrying out their own epidemiological and other health studies;
- Ensure facilities are well-designed so they contribute positively to the character and quality of the area;
- Concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. WPAs should work on the assumption that the relevant pollution control regime will be properly applied and enforced;
- Ensure that land raising or landfill sites can be restored as soon as possible;

Both local and national planning policies make reference to managing waste through the 'waste hierarchy' and for information, the hierarchy is as follows (from least to most effective solution):

1. Disposal of waste;
2. Other recovery - by replacing other materials that would otherwise have been used (e.g. deriving energy from waste);
3. Recycling - reprocessing waste into products, materials or substances;
4. Preparing for re-use - cleaning, checking and repairing so waste products can be re-used;
5. Prevention - reduce the generation of waste, including the re-use of products;

With regard to the above, the current site activities and the proposed increased capacity, represents the second tier on the hierarchy - 'Preparing for re-use'. The processes undertaken at the site essentially prepare the solvents for re-use, in many cases these materials are returned to customers for their reuse. As such they are considered to represent the highest tier of



management for waste that are produced. In this regard, it is considered that the proposal is supported by the aims and objectives of CSDP Policy WWE6 and the NPPW.

All local and national policies relative to waste management do, however, require consideration to be given to the potential environmental and amenity impacts of new facilities (in the context of the NPPW's advice that WPAs should not concern themselves with the control of processes which are subject of the controls and regimes of other regulatory authorities, such as the permitting regime of the Environment Agency). Whilst acknowledging that the site operational aspects of the site are longstanding, the impacts of the additional plant on such matters is undertaken in the following sections of this report.

Overall, the principle of the development is considered to be acceptable from a land use perspective and in accordance with CSDP Plan Policies SS5 and WWE6.

## **2. The implications of the development in respect of the amenity**

Policy BH1 of the Council's adopted CSDP seeks to achieve high quality design and positive improvement by, amongst other measures, ensuring development is of a scale, massing, layout, appearance and setting which respects and enhances the qualities of nearby properties.

Paragraph 135 of the NPPF, meanwhile, states that planning decisions should ensure that developments create places which, amongst other objectives, delivers a high standard of amenity for existing and future users.

Also relevant is policy HS1 of the CSDP, which states that new development must demonstrate that it does not result in unacceptable adverse impacts which cannot be addressed through appropriate mitigation, arising from sources including air quality, noise, dust, vibration, odours, emissions, land contamination and instability, illumination, run-off to protected waters and traffic. Potential cumulative impacts should be considered to ensure there will be no unacceptably adverse impacts on the local community.

Policy HS2 meanwhile, states that development which is sensitive to noise or which would result in noise impacts (including vibration) will be controlled by directing noise-sensitive development to the most appropriate locations, by requiring proposals for noise-sensitive development to be accompanied by an appropriate survey and by requiring proposals for development which may give rise to noise impacts to be accompanied by a noise assessment and, if necessary, proposed mitigation measures to ensure the amenity of sensitive receptors is not unacceptably affected.

Aesthetically, the functional appearance of the new development would sit comfortably within the setting of its industrial surroundings, and it is noted to be located a substantial distance away from any nearby residential properties. Further to consultation, it is evident that no objection or requests for planning conditions have been made by the City Council's Environmental Health Section.

Against this backdrop the Environmental Health Officer has however highlighted the fact that the plant is classed as an upper tier COMAH site (Control of Major Accident Hazards) which is regulated by the joint Environment Agency/HSE COMAH Authority. Within this context, the site operations are controlled under the Environmental Permitting Regulations 2016, with conditions of the permitting regime addressing a range of emission controls and potential impacts upon the environment, notably those in relation to emissions to air, to the water environment and to site ground considerations. In this regard it is understood that the applicant has applied to the EA to vary their existing permit.

On the basis of the above, Officers are satisfied that the proposed development would not have an adverse impact on the residential or visual amenity of the area in accordance with CSDP Policies BH1, HS1 and HS2.

### **3. The impact of the development on the heritage of the area**

Paragraph 195 of the NPPF states that heritage assets (such as Listed buildings) are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Paragraphs 201 and 203 require Local Planning Authorities to consider the significance of any heritage asset affected by a development proposal, with paragraph 212 then stating that Local Planning Authorities should look for new development within the setting of heritage assets to enhance or better reveal their significance; proposals that preserve those elements of the setting which make a positive contribution to the asset should be treated favourably.

Paragraphs 207 and 208 set out that where harm to designated heritage assets (including to their settings) will occur, the scale of the harm needs to be weighed against the public benefits of the development proposal. Where harm is not outweighed by public benefits, planning permission should be refused. In relation to non-designated heritage assets, paragraph 209 states that when weighing applications that directly or indirectly affect such assets, a balanced judgment will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

With specific regard to archaeology, paragraph 211 of the NPPF states that Local Planning Authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible.

In the Council's adopted CSDP, policy BH8 states that development affecting the setting of heritage assets should recognise and respond to their significance and demonstrate how they conserve and enhance their significance and character of the asset(s), including any contribution made by its setting where appropriate. Policy BH9 states that the Council will support the preservation, protection and, where possible, the enhancement of the City's archaeological heritage by requiring applications affecting archaeological remains to properly assess and evaluate impacts and, where appropriate, secure the excavation, recording and analysis of remains and the production of a publicly-accessible archive report.

The application has been accompanied by Planning Statement which considers the heritage implications of the development. The statement qualifies that the nearest heritage assets to the development site are two grade II listed buildings located to the north of the site. This includes the Gladstone Swing Bridge which is positioned over 350m away from the development site and the Machinery Pit which is around 360m away. The Statement also considers the significance and setting of the buildings and goes on to consider whether the proposed development would give rise to any harm to these assets, both in terms of physical impacts and in respect of their settings.

As has been set out within the consultation section of the report, the impact of the development upon these buildings and other listed structures which lie further afield still, have been assessed by the Council's Principal Conservation Officer who has concluded that the proposed development will have no additional impact on the setting and significance of the listed Swing Bridge and Machinery Pit and is not incongruous within the established wider functional industrial setting of the other listed buildings/structures within the Port.

The archaeological implications have also been considered by the County Archaeologist who has confirmed that the proposals will not have a significant impact on any known archaeological heritage assets, and that no archaeological work is required.

On this basis, Officers are satisfied that the significance of the aforementioned heritage assets would be conserved in accordance with NPPF Paragraph 199 and CSDP Policies BH7, BH8 and BH9.

#### **4. Impact of the development on highway and pedestrian safety**

Policy ST3 of the CSDP advises that development should not compromise the free flow of traffic on the public highway, pedestrians or any other transport mode; or exacerbate traffic congestion on the existing highway network or increase the risk of accidents or endanger the safety of road users including pedestrians, cyclists and other road users and include a level of vehicle parking in accordance with the Council's parking standards.

The Planning Statement confirms that the proposal provides for a proportionally significant increase in the volume of material processed at the Tradebe site, representing an increase of up to 25%. However, within this context the statement goes on to confirm that the pre-existing volume of traffic generated by onsite operations is currently modest and that the increased processing capacity will similarly lead to a modest increase in traffic levels. This is understood to manifest in an additional 2 HGV visits daily. The Council's Highway Engineers have been consulted on the scheme and have offered no objection or observations on this basis.

In this regard it is considered that the proposal will have no adverse impact on the operational aspects of the Port or the local road network. The proposed development therefore accords with Policy ST3.

#### **5. The implications of the development on biodiversity**

Section 15 of the NPPF sets out a general strategy for the conservation and enhancement of the natural environment and at paragraph 186 it advises that planning permission should be refused for development which has significant harm on biodiversity or will have an adverse effect on a Site of Special Scientific Interest (SSSI). Paragraph 188 makes it clear that the NPPF's presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

On a local level, policy NE2 of the CSDP sets out measures for the protection, creation, enhancement and management of biodiversity and geodiversity, whilst proposals which would adversely affect European designated sites will only be permitted where the Council is satisfied that any necessary mitigation is included such that there will be no significant effects on the integrity of the sites and, with regard to SSSIs, will have to demonstrate that the reasons for the development clearly outweigh the nature conservation value of the site.

Also relevant with regard to ecology in the United Kingdom are the terms of the EU Council Directive 79/409/EEC on the Conservation of Wild Birds (the Birds Directive) and the EU Council Directive 92/42/EEC on the conservation of natural habitats and wild flora and fauna (the Habitats Directive). These are implemented in the UK through the Conservation Regulations, which provide for the protection of areas of European importance for wildlife, in the form of Special Areas of Conservation (SACs) designated under the Habitats Directive, and Special Protection Areas (SPAs) designated under the Birds Directive. Collectively, these are termed 'European' sites, and

overall network of European sites is termed Natura 2000. It is an offence under the legislation and regulations to carry out an act which may damage a qualifying species or habitat for which the site is designated.

A Habitat Regulation Assessment (HRA) is the mechanism to be implemented to ensure the above legislation is complied with and determines whether a plan or project would adversely affect the integrity of any European site in terms of its conservation objectives. Firstly, a screening exercise is undertaken to determine if the proposed development is likely to adversely affect the designated sites. Where adverse effects are identified, an Appropriate Assessment is undertaken to consider alternative solutions and mitigation and the modification of the proposed plan or project to avoid any adverse effects if necessary. The Local Planning Authority, as the Competent Authority, can adopt the plan or approve the project only after having ascertained that it will not adversely affect the integrity of a European Site.

As has been highlighted earlier, the submission has been accompanied by a Preliminary Ecological Appraisal (PEA) and an HRA screening.

In terms of assessing direct impact of the development on the site itself, the PEA confirms that habitats on site comprise entirely of developed land including buildings and impermeable sealed surfaces which have no botanical value. Similarly, the report also sets out that the new development will not result in the loss of any significant breeding, roosting or foraging habitat for birds. On this basis the report concludes that there are no opportunities to provide enhancement as there will be no net loss of any habitat of intrinsic value. These conclusions have been accepted by the Council's Ecologist and no objection has been offered by Natural England.

In addition to the above, the findings of the HRA screening assessment (at Section 3.5.1) demonstrates that the enabling and construction works required for the proposed scheme will not have any likely significant effect on the qualifying habitats and species associated with the Northumbria Coast SPA and Ramsar site or the Durham Coast SAC and SSSI sites and with regard to cumulative effects in combination with any other projects, reporting at Section 3.6.1, that the site will not have an adverse effect on the national site network sites or their conservation objectives. Overall, the conclusions brought forward by the HRA screening have been supported by the Council's Ecologist, with no objection offered by Natural England.

On this basis, Officers find that the development is not in conflict with the Paragraphs 186 and 188 of the NPPF, or CSDP Policy NE2.

## **6. The impact of the development of flood risk and drainage;**

In relation to flooding, paragraph 15 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

To this end, paragraphs 168 to 171 of the NPPF set out that in areas at risk of flooding, a sequential test should be applied to development proposals, the aim of which is to steer new development to areas with the lowest risk of flooding (paragraph 168). Development should not be permitted if there are reasonably available sites appropriate for proposed development in areas at a lower risk of flooding. If it is not possible for development to be located in zones with a lower risk of flooding, the exception test may have to be applied (paragraph 169). For the exception test to be passed, paragraph 164 states that it should be demonstrated that the development would:

- (a) provide wider sustainability benefits to the community that outweigh the flood risk and;

(b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall.

Both elements of the exception test should be satisfied for development to be permitted (paragraph 171). Paragraph 172 of the NPPF makes it clear, however, that a sequential test does not need to be applied again for individual developments on sites which have been allocated in development plans following the undertaking of a sequential test.

Also relevant is paragraph 173, which advises that when determining 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;
- (c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- (d) any residual risk can be safely managed;
- (e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

Paragraph 175, meanwhile, states that 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 (LLFA);
- (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.

Policy WWE2 of the Council's CSDP sets out measures to reduce flood risk and ensure appropriate coastal management, whilst policy WWE3 states that development must consider the effect on flood risk, on-site and off-site, commensurate with its scale and impact. Policy WWE4 also requires regard to be given to potential impacts of development on water quality, in line with the objectives of paragraph 180 of the NPPF.

The application has been accompanied by a Flood Risk Assessment (FRA) and Drainage Strategy which observes that the application site lies within Flood Zone 3a (high risk of tidal flooding). Within this context and in applying the sequential test, it is evident that the host site is a longstanding operational plant with the new infrastructure proposed to sit alongside the existing. The LPA are therefore satisfied that there are no other realistic locations outside of Flood Zone 3a that Tradebe could seek to exploit given that the new works are intrinsically linked to the existing on-site operations.

With regard to the exception test, it has been brought out through the FRA that the proposals will not increase flood risk on or offsite and this has been accepted by both the EA and the Council's LLFA. Further, in addressing the sustainability benefits to be derived from the proposals, the FRA qualifies that the scheme will help to secure the future of the Tradebe plant at the Port of Sunderland and the employment that provides, whilst as discussed previously, the processes involved represent the highest tier of management within the 'waste hierarchy'.

The works constitute a minor extension to an existing facility which already encompasses flood risk mitigation including combination of physical barriers (Bunds, drainage etc) and automatic controls and given the above, Officers are satisfied that the exception test has been past.

Given the above, it is considered that the implications of the proposed development relative to flood risk and drainage are acceptable and that the proposals satisfy the national and local planning policies detailed above which seek to ensure new development is not at unacceptable risk of flooding and will not increase the risk of flooding elsewhere.

## **7. The impact of the development in respect of ground conditions**

Paragraph 184 of the NPPF states that planning decisions must ensure that development sites are suitable for the new use, taking account of ground conditions and land instability, including from former activities such as mining and pollution.

Policy HS3 of the CSDP states that development should identify any existing contaminated land and the level of risk that contaminants pose in relation to the proposed end use and it should be demonstrated that the developed site will be suitable for the proposed use without risk from contaminants to people, buildings, services or the environment.

As has been set out earlier in the report, the application has been accompanied by a Phase 1 Risk Assessment and a Phase 2 Ground Investigation. Further to the consideration of these reports, the Council's Ground Contamination Officer sought some further clarification on whether the risk of vapour ingress had been considered in the detailed design along with any necessary mitigations. In addition, qualification was also sought on the need to decommission boreholes at the site. A response to these queries was received which suitably answered and allayed these outstanding concerns. On this basis, the Council's Ground Contamination Officer has recommended that a single condition to deal with unexpected contamination be attached to any consent granted.

On the basis of the above, officers are satisfied that the requirements of CSDP Policy HS3 has been met.

## **8. Implications of development relative to hazardous installations**

Policy HS4 of the CSDP states that development within the specified distances from sites identified as 'notifiable installations' must take account of any risks involved and the need for appropriate separation between hazardous installations and incompatible uses.

Nationally, paragraph 45 of the NPPF states that Local Planning Authorities should consult the appropriate bodies when considering applications for the siting of, or changes to, major hazard sites, installations or pipelines, or for development around them.

As set out in the 'Representations' section of this report, consultation has been undertaken with the Health and Safety Executive in respect of this planning application and no objection has been offered. It is therefore considered that the implications of the proposed development relative to hazardous installations are acceptable.

Given the above, it is considered that the proposals address the objectives of policy HS4 of the CSDP and paragraph 45 of the NPPF.

## **Conclusion**

For the reasons set out above, it is considered that the proposed development is acceptable in land use terms given the proposal's compatibility with the aims and objectives of policy SS5 of the CSDP, which guides the development of the Port. Furthermore, it is considered that the proposed development is acceptable in relation to local and national planning policies relating to waste management, insofar as the new infrastructure will operate in line with the prevailing on-site activities which fall within the second tier on the waste hierarchy pyramid 'Preparing for re-use' and the highest tier of management for waste that is produced.

In addition to the above, it is evident that following review of the proposals by the relevant internal and external consultees, the proposals raise no significant concerns relative to visual and residential amenity, the setting of the Listed buildings close to the application site, archaeology, ecology and biodiversity (including the nearby European-protected sites), highway and pedestrian safety and flood risk and drainage.

The proposals have also been subject to discussions with the Health and Safety Executive who, for the reasons set out above, do not 'advise against' the development proceeding.

The proposed development is therefore considered to be acceptable, and it is accordingly recommended that Members approve the application subject to the conditions listed below.

## **EQUALITY ACT 2010 - 149 Public Sector Equality Duty**

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share

it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to:

- (a) tackle prejudice; and
- (b) promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

## **RECOMMENDATION:**

It is recommended that planning permission be **APPROVED** subject to the recommended schedule of draft conditions.

## **Conditions:**

- 1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time.
- 2 The development hereby granted permission shall be carried out in full accordance with the following approved plans:
  - The proposed layout and elevations of the distillation column received 27.02.2023 (Plan ref's LO\_SUN4\_01 REV A, SV\_SUN4\_01 REV A,
  - SV\_SUN4\_02 REV A, SV\_SUN4\_03 REV A and SV\_SUN4\_04 REV A;
  - The proposed Tank Farm Planning Layout received 03.02.2023 (Plan ref: S-LY158 REV A);
  - The proposed Tank Farm Layout received 03.02.2023 (Plan ref: S-LY159 REV C);
  - The location plan (Figure 1) received 20.02.2023;
  - The existing site plan (Figure 2) received 20.02.2023;
  - The proposed site plan (Figure 3) received 20.02.2023;

In order to ensure that the completed development accords with the scheme approved and to comply with policy BH1 of the Core Strategy and Development Plan.



- 3 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. A Risk Assessment must be undertaken in accordance with the requirements of the Environment Agency's "Land Contamination: Risk Management" and where remediation is necessary a Remediation Scheme must be prepared and submitted to the Local Planning Authority in accordance with the requirements that the Remediation Scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. Once the Remediation Scheme has been approved in writing by the Local Planning Authority it shall be known as the Approved Remediation Scheme. Following completion of measures identified in the Approved Remediation Scheme a verification report must be prepared and submitted in accordance with the approved timetable of works. Within six months of the completion of measures identified in the Approved Remediation Scheme and prior to the occupation of any building, a validation report (that demonstrates the effectiveness of the remediation carried out) must be submitted to the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with the National Planning Policy Framework Paragraphs 180f and 189.

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**Reference No.:** 23/01576/FUL Full Application

**Proposal:** **Erection of building to the south elevation of the On-Site Warehouse (OSW).**

**Location:** Nissan Motor Manufacturing (UK) Limited, Washington Road, Usworth, Sunderland, SR5 3NS

**Ward:** Washington North

**Applicant:** Nissan Motor Manufacturing UK Limited

**Date Valid:** 9 November 2023

**Target Date:** 8 February 2024

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## **PROPOSAL:**

The application site is situated within the Nissan automotive plant in Washington. The long-established vehicle manufacturing plant extends over a large area, and comprises a series of manufacturing buildings, plant and machinery installations, internal access roads and open vehicle storage areas.

The site subject to the new development comprises a tarmacked area which is principally used for the receiving and parking of HGV delivery trucks connected to the large On-Site Warehouse (OSW)

The application has been accompanied by a Design and Access Statement (DAS) which, amongst other matters provides commentary on the scheme and the rationale for the development. Within this context the DAS outlines that Nissan is committed to maintaining a modern and efficient manufacturing operation, by responding to market demand and customer vehicle requirements. In this respect, Nissan has identified a pressing requirement for alternate space for the receiving and unloading of component delivery vehicles and with regard to this proposal, the existing goods receiving area has been identified as a location that can be repurposed to accommodate the new model process equipment.

The proposal comprises the installation of single temporary modular warehouse type structure which is to sit on a supporting concrete foundation slab. The structure would present dimensions of 53.547m x 30.476m, with a 7.5m ground to eave height with the concrete foundation slab measuring 54.247m x 30.476m.

In terms of materials, the walls and roof shall be of a colour to match existing buildings within the facility. Twelve (12 no.) roller shutter type door are proposed to be installed to the new structure to allow for forklift truck access, with other doors installed to provide pedestrian access.

The application has been supported by a Design and Access Statement, a Flood Risk and Drainage Assessment, a Phase 1 Geo-environmental appraisal, a Sustainability Statement and a Preliminary Ecological Statement and Biodiversity Metric.

## **TYPE OF PUBLICITY:**

Press Notice Advertised

Site Notice Posted

**CONSULTEES:**

Natural Heritage  
NE Ambulance Service NHS Trust  
Chief Fire Officer  
Cllr Jill Fletcher  
Cllr Michael Walker  
Cllr Peter Walker  
Planning And Highways  
Flood And Coastal Group Engineer  
Land Contamination  
Network Management  
Environmental Health  
Northumbria Police  
Northern Gas Networks  
Northern Powergrid  
Northumbrian Water

Final Date for Receipt of Representations: **21.12.2023**

**REPRESENTATIONS:**

The application has been advertised by way of site notice and press notice. No representations have been received.

**Consultee responses**

**External**

**Northern Powergrid** - No observations

Northern Gas Networks - Initially object due to the perceived presence of underground apparatus within the Nissan site. Further to clarification on the actual location of the building, this objection has been removed and no observations have been offered.

**Tyne and Wear Fire Rescue** - No objections subject to compliance with listed building regulations

**Internal**

**Transportation Development (the Local Highway Authority)** - No observations offered.

**Environmental Health** - The proposal is similar to two earlier proposals to install prefabricated storage facilities in other areas of the Nissan site. The stated intention is to use this building to receive and store car parts necessary for the vehicle manufacturing process. The applicant, in the design and access statement, states the location is to be south of the existing On-Site Warehouse separated from Washington Road (to the north) by existing landscaping and well away from the A19 boundary to the east. In effect the development site is approximately 260m from the A19 and 355m from the nearest housing on Ferryboat Lane. Based on the intended use no objections are offered to the proposal.

**Contaminated Land Officer** - The report shows that the site was previously occupied by a farm up until the construction of the existing Nissan plant, whereafter it was hard surfaced and used as a loading and storage area. Some made ground is though possible associated with the previously development, however this is thought to be of low to negligible risk to future users and other sensitive receptors. The site is considered suitable for the proposed use and no further investigation or assessment is considered necessary. It is however recommended that a condition to deal with unexpected contamination is attached to the decision notice if approval is to be given.

**Natural Heritage** - No comments received.

**Lead Local Flood Officer** - No objections subject to the inclusion of a condition which requires the submission of a verification report to demonstrate that the sustainable drainage system has been constructed as per the agreed scheme.

## **COMMENTS:**

Planning policy and legislative context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permission must be determined in accordance with the adopted development plan, unless material considerations indicate otherwise.

The current development plan comprises the Core Strategy and Development Plan (2015-2033) adopted in January 2020, the 'saved' policies within the City of Sunderland Unitary Development Plan (UDP) adopted in 1998 and the UDP Alteration No. 2 (Central Sunderland) adopted in 2007, and the International Advanced Manufacturing Park (IAMP) Area Action Plan (AAP) 2017-2032. The National Planning Policy Framework (NPPF) (5th September 2023) is a material consideration for the purposes of Section 38(6) of the Act. It provides the Government's planning policy guidance, and so the assessment of a planning application should have regard to it.

### **Assessment of the proposed development**

It is considered that the main issues relevant to the determination of this application are as follows:

1. Principle of development;
2. Design and visual impacts;
3. Impact on residential amenity;
4. Impact on highway and pedestrian safety / sustainable travel;
5. Impact on ecology;
6. Impact on flooding and drainage;
7. Impact in relation to land contamination;

#### **1. Principle of Development**

Policy SP1 'Development strategy' of the adopted Core Strategy Development Plan (CSDP) states that to support sustainable economic growth and meet people's needs, the Council, working with local communities, its partners and key stakeholders will seek to create at least 7,200 new jobs; and develop at least 95ha of employment land. It states that the spatial strategy seeks to deliver growth and sustainable development by delivering the majority of development in the Existing Urban Area, in sustainable locations in close proximity to transport hubs.

Policy SP3 'Washington' of the adopted CSDP states that Washington will continue to be a driver of economic growth for Sunderland. To achieve this, economic growth will be focused in identified Employment Areas including those designated under Policy EG1.

Policy EG1 'Primary employment areas' of the adopted CSDP allocates areas as Primary Employment Areas (PEA) (as designated on the Policies Map) to be safeguarded for B1 (Business - excluding B1a), B2 (General Industrial) and B8 (Storage and Distribution) uses. One of these areas is 'viii Nissan (PEA8)'.

The application site is part of a wider site allocated under Policy EG1 'Primary employment areas' (viii. Nissan - PEA8) of the adopted CSDP as a Primary Employment Area (PEA). PEAs are those existing employment areas which are considered essential to the long-term success of Sunderland. They are located in the strongest demand areas and should be protected from non-employment uses which could impact upon their viability as employment locations. This allocation therefore seeks to safeguard primary employment areas for B1 (Business - excluding B1a), B2 (General Industrial) and B8 (Storage and Distribution) uses. Since 1st September 2020, uses falling under Class B1 now fall under Class E(g) 'Commercial, Business and Service' of the Town and Country Planning (Use Classes) Order 1987 (as amended).

The proposed development would deliver an employment use (Use Class B8 storage and distribution) within a designated employment area, and at a sustainable location close to public transport links. It would be ancillary to, and assist in the competitiveness of, an existing employment use at the site (Nissan), which is a nationally significant centre for automobile production and an important regional employer. Therefore, the proposed development would accord with strategic Policy SP1, strategic Policy SP3, and economic growth Policy EG1 of the adopted CSDP and so it would be acceptable in principle.

## **2. Design and on visual amenity impacts**

Policy BH1 'Design quality' of the adopted CSDP seeks to achieve high quality design and positive improvement; to meet this objective, development should be of a scale, massing, layout, appearance and setting which respects and enhances the positive qualities of nearby properties and the locality; and assist in designing out crime.

Policy BH2 'Sustainable design and construction' of the adopted CSDP requires sustainable design and construction to be integral to new development and that, where possible, major development should maximise energy efficiency, reduce waste, conserve water, carefully source materials, provide flexibility and adaptability and enhance biodiversity.

The proposed development would be positioned well within the confines of the existing site and adjacent to Nissan's main manufacturing buildings. In this regard, it would be largely screened from the public domain and would assimilate appropriately into the backdrop of the existing commercial development on site. The proposed external building materials would largely complement those found on the existing adjacent manufacturing building and are acceptable. It is recommended that a condition be attached to any planning permission to require the proposed development to be constructed in accordance with the external building materials as specified within application details.

In terms of the design of the scheme and site security no response has been received from Northumbria Police. However, the proposed development would be positioned within the secure Nissan site.

The planning application has been accompanied by a Sustainability Statement. This states that the existing car park asphalt would be re-used elsewhere on-site, some materials would be sourced locally, and that the proposed buildings would seek to maximise energy efficiency. It is therefore considered that sustainable design and construction would be integral to the proposed development.

Given the above, it is considered that the proposed development would accord with Policy BH1 and Policy BH2 of the adopted CSDP.

### **3. Impact on residential amenity**

Policy HS1 'Quality of life and amenity of the CSDP states that development must demonstrate that it would not result in any unacceptable adverse impacts which cannot be addressed through appropriate mitigation, including arising from air quality, noise, dust, vibration, odour, emissions and traffic.

Policy HS2 'Noise-sensitive development' of the adopted CSDP states that development which may generate noise should be accompanied by a noise assessment, provide details of the noise levels on the site and quantify the impact on the existing noise environment and noise sensitive receptors.

Policy BH1 'Design quality' of the adopted CSDP seeks to ensure that development retains acceptable levels of privacy and ensures a good standard of amenity for all existing and future occupiers of land and buildings.

The Council's Environmental Health Officer (EHO) has raised no objections to the proposed development, noting that the building will be used for the purposes of receiving and storing car parts necessary for the vehicle manufacturing process. The EHO further notes that there is a substantial distance between the new development and the nearest residential occupiers. One point of observation has been offered by the EHO in advising that the proposed lightweight structure may not be appropriate for any manufacturing operation that results in significant noise levels. It has been advised that the applicant should be made aware of this and therefore accordingly an informative will be attached to any planning permission granted.

It is considered that the proposed development would have no unacceptable impacts on the amenity of the occupiers of nearest residential properties to the application site including during the construction process. It is therefore considered that the proposed development would accord with Policy HS1, Policy HS2 and Policy BH1 of the adopted CSDP.

### **4. Impact on highway and pedestrian safety / sustainable travel**

Policy ST2 'Local road network' of the adopted CSDP states that to ensure development has no unacceptable adverse impact on the local road network, proposals must ensure that they have safe and adequate means of access, egress and turning arrangements; they have safe and convenient access for sustainable transport modes; and they will not create a severe impact on the safe operation of the highway network.

Policy ST3 'Development and transport' of the adopted CSDP states that development should provide safe and convenient access for all road users, in a way which would not compromise the free flow of traffic on the public highway, pedestrians or any other transport mode; exacerbate traffic congestion on the existing highway network or increase the risk of accidents / endanger the safety of road users. It states that development should provide a level of vehicle parking and cycle provision in accordance with the Council's Parking Standards.

The proposed building would be used for storage purposes only with no additional vehicle parking or cycle provision required within the Nissan site. In this respect and when taking into consideration the self-contained nature of the development, the Council's Highway Engineers have offered no objections to the proposed development.

It is therefore considered that the development would have no unacceptable impacts on the strategic and local highway networks in terms of capacity or safety and would be acceptable in relation to highway and pedestrian safety / sustainable travel. The proposal is considered to accord with Policies ST2 and ST3 of the adopted CSDP.

## **5. Ecology**

Paragraph 180 of the NPPF sets out that local planning authorities should aim to conserve and enhance biodiversity by permitting development where the primary objective is to conserve or enhance biodiversity.

Policy NE2 of the CSDP further advises that biodiversity will be protected, created, enhanced and managed by requiring development to demonstrate how it will provide net gains in biodiversity and avoid or minimise adverse impacts on biodiversity and geodiversity.

The application has been accompanied by a Preliminary Ecological Appraisal (PEA) and a BNG Assessment. The assessment qualifies that the survey area is dominated by developed land / sealed surface; a tarmacked surface used by HGVs for the transport, loading and unloading of materials, whilst noting the presence of woodland and scrub outside the boundary some 50m to the east and adjacent to the A19.

The key recommendations of the PEA are;

- Mitigation measures to prevent harming Great Crested Newts;
- Works starting outside the bird nesting season or preceded by a nesting bird check;
- Any trenches left open overnight will be fitted with a mammal escape board which is a roughened wooden plank of wood at no more than 45-degree angle to allow mammals to escape on their own accord.
- Pollution prevention measures implemented during construction.
- A Biodiversity Metrics calculation.

The above measures are expanded upon in Section 5.4 of the PEA and a planning condition is advised to be attached to ensure that adherence to these recommendations is given.

In terms of BNG, the site comprises wholly of sealed hard surfacing and therefore has no biodiversity value. On this basis and given that the proposed development would have no unacceptable impacts in relation to biodiversity, it would not be reasonable to require the proposed development to provide biodiversity net gains on this occasion.

It is considered that the proposed development would accord with Policy NE2 of the adopted CSDP.

## **6. Impact on flooding and drainage**

Policy WWE2 'Flood risk and coastal management' of the adopted CSDP states that to reduce flood risk development should follow the sequential approach to determining the suitability of land for new development, directing new development to areas at the lowest risk of flooding. Development will be required to include or contribute to flood mitigation, compensation and / or

protection mitigation, where necessary, to manage flood risk associated with or caused by the development.

Policy WWE3 'Water management' of the adopted CSDP states that development must consider the effect on flood risk, on-site and off-site, commensurate with the scale and impact.

The submitted Flood Risk Assessment (FRA) concludes that the proposed development would be in Flood Zone 1 and is classified as being at very low risk of surface water flooding.

The proposal has considered the hierarchy for surface water disposal, qualifying that;

1. In terms of infiltration, online maps indicate that the site is located within an area classified as having "slowly permeable, seasonally wet clayey soils". It is considered that underlying clayey soils would not provide infiltration rates sufficient to allow soakaways as a method of surface water disposal.
2. In terms of watercourse, a direct connection to the River Wear, approximately 1.7km south of the site, is not considered a practical point of discharge.
3. On the basis of the above, the FRA qualifies that the most appropriate method of surface water disposal is to discharge to the existing surface water drainage network within Nissans operation site land which ultimately discharges to the River Wear. The downpipes from the storage tent will connect into a geocellular attenuation tank located below the proposed concrete slab prior to discharging into the existing 1050mm diameter surface water drain which runs through the proposed development area.

Northumbrian Water have not provided a response. The Council's Lead Local Flood Authority (LLFA) have raised no objections to the proposed development in relation to flooding and surface water drainage and concur with the developer's hierarchical assessment set out above. The LLFA has however recommended that a condition be attached to any planning consent granted to ensure that a verification report to demonstrate that all sustainable drainage systems (including an attenuation tank) have been constructed as per the agreed surface water drainage scheme.

Subject to the discharge of and compliance with the recommended condition, it is considered that the proposed development would have no unacceptable impacts in relation to flood risk / surface water drainage. It is therefore considered that the proposed development would accord with Policy WWE2 and Policy WWE3 of the adopted CSDP.

## **7. Impact in relation to land contamination**

Policy HS3 of the CSDP states that development should identify any existing contaminated land and the level of risk that contaminants pose in relation to the proposed end use and it should be demonstrated that the developed site will be suitable for the proposed use without risk from contaminants to people, buildings, services or the environment.

The application has been accompanied by a Phase 1 Desk Top Study to assess ground conditions with regard to contamination. As set out above, the report has been subject to consideration by the Council's Land Contamination Officer who is in agreement with the findings. In this respect, subject to imposition of a condition to deal with any unexpected contamination that may be encountered during the build-out phase, the impact of the development with regard ground contamination is acceptable and in accordance with Policy HS3.



## **Conclusion**

The proposed development would deliver an employment use (Use Class B8 storage and distribution) within a designated employment area. It would be ancillary to, and assist in the competitiveness of, an existing employment use at the site (Nissan), and so it is considered that the proposed development would be acceptable in principle.

The proposed development would also be acceptable in relation to design and visual impacts, impact on residential amenity and in relation to other technical matters including highway and pedestrian safety / sustainable travel, ecology, flooding / drainage and land contamination.

### **EQUALITY ACT 2010 - 149 Public Sector Equality Duty**

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to:

- (a) tackle prejudice; and
- (b) promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

## **RECOMMENDATION:**

It is recommended that planning permission be **APPROVED** subject to the recommended schedule of draft conditions.

## **Conditions:**

- 1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time.
- 2 The development hereby granted permission shall be carried out in full accordance with the following approved plans:
  - Drawing No. NMUK-OSW-Tent-001 'Location Plan' received 01.11.2023.
  - Drawing No. NMUK-OWS-Tent-002 'Proposed Site Plan' received 01.11.2023.
  - Drawing No. NMUK-Sketch-GA-001 'Proposed Trim OWS Tent Extension General Arrangement Plan' received 01.11.2023.
  - Drawing No. NMUK-E&EC-133-GA-001 'OSW Slab Detail' received 01.11.2023.
  - Drawing No. 38669-2 'OSW Building Floor/roof plan' sheet 1 received 01.11.2023.
  - Drawing No. 38669-2 'OSW Building Elevations' sheets 2 and 3 received 01.11.2023.
  - Drawing No. 38669-2 'OSW Building Section' sheet 4 received 01.11.2023.
  - Drawing No. 01 Rev P1 'Proposed Drainage Layout' received 01.11.2023

Reason: In order to ensure that the completed development accords with the scheme approved and to comply with policy BH1 of the Core Strategy and Development Plan.

- 3 The development hereby permitted shall be constructed in accordance with the external building materials as specified in the materials section of the planning application form received 11.07.2023, unless otherwise agreed in writing by the Local Planning Authority.

To ensure a satisfactory form of development and in the interests of visual amenity, and to comply with Policy BH1 of the adopted Core Strategy and Development Plan.

- 4 The development hereby approved shall be carried out in complete accordance with Section 5.4 (Recommendations), of the Preliminary Ecological Appraisal (DWS Ecology, September 2023).

Reason: In order to protect the biodiversity of the site/surroundings and to comply with Core Strategy Development Policy NE2.

5 Prior to any development commencing on site, specific details of the timing of the submission of a verification report(s), which are to be carried out by a suitably qualified person, and the extent of the SuDS features to be covered in the report(s) must be submitted to and approved by the Local Planning Authority. The verification report(s) shall be submitted in accordance with the agreed timings and shall demonstrate that all sustainable drainage systems have been constructed as per the agreed scheme. For the avoidance of doubt, this shall include:

- As built drawings (in dwg/shapefile format) for all SuDS components - including dimensions
- (base levels, inlet/outlet elevations, areas, depths, lengths, diameters, gradients etc) and
- supported by photos of installation and completion.
- Construction details (component drawings, materials, vegetation).
- Health and Safety file.
- Details of ownership organisation, adoption & maintenance."

Reason: to ensure that all sustainable drainage systems are designed to the DEFRA non-technical standards for SuDS and comply with policies WVE2 and WVE3 of the CSDP.

6 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. A Risk Assessment must be undertaken in accordance with the requirements of the Environment Agency's "Land Contamination: Risk Management" and where remediation is necessary a Remediation Scheme must be prepared and submitted to the Local Planning Authority in accordance with the requirements that the Remediation Scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. Once the Remediation Scheme has been approved in writing by the Local Planning Authority it shall be known as the Approved Remediation Scheme. Following completion of measures identified in the Approved Remediation Scheme a verification report must be prepared and submitted in accordance with the approved timetable of works. Within six months of the completion of measures identified in the Approved Remediation Scheme and prior to the occupation of any building, a validation report (that demonstrates the effectiveness of the remediation carried out) must be submitted to the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with the National Planning Policy Framework Paragraphs 180f and 189.

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**Reference No.:** 23/01577/FUL Full Application

**Proposal:** **Erection of building to the south elevation of Trim & Chassis (GD1A).**

**Location:** Nissan Motor Manufacturing (UK) Limited, Washington Road, Usworth, Sunderland, SR5 3NS

**Ward:** Washington North

**Applicant:** Nissan Motor Manufacturing UK Limited

**Date Valid:** 9 November 2023

**Target Date:** 8 February 2024

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## **PROPOSAL:**

The application site is situated within the Nissan automotive plant in Washington. The long-established vehicle manufacturing plant extends over a large area, and comprises a series of manufacturing buildings, plant and machinery installations, internal access roads and open vehicle storage areas.

The site subject to the new development comprises a tarmacked area which is principally used for the receiving and parking of HGV delivery trucks connected to the large 'Trim and Chassis Shop'.

The application has been accompanied by a Design and Access Statement (DAS) which, amongst other matters provides commentary on the scheme and the rationale for the development. Within this context the DAS outlines that Nissan is committed to maintaining a modern and efficient manufacturing operation, by responding to market demand and customer vehicle requirements. In this respect, Nissan has identified a pressing requirement for alternate space for the receiving and unloading of component delivery vehicles and with regard to this proposal, the existing goods receiving area has been identified as a location that can be repurposed to accommodate the new model process equipment.

The proposal comprises the installation of single temporary modular warehouse type structure which is to sit on a supporting concrete foundation slab. The structure would present dimensions of 32.400 x 30.247m, with a 7.0m ground to eave height and a concrete foundation slab measuring 32.476m x 30.247m.

In terms of materials, the walls and roof shall be of a colour to match existing buildings within the facility. Six (6 no.) roller shutter type door are proposed to be installed to the new structure to allow for forklift truck access, with other doors installed to provide pedestrian access.

The application has been supported by a Design and Access Statement, a Flood Risk and Drainage Assessment, a Phase 1 Geo-environmental appraisal, a Sustainability Statement and a Preliminary Ecological Statement and Biodiversity Metric.

## **TYPE OF PUBLICITY:**

Press Notice Advertised

Site Notice Posted

## **CONSULTEES:**

Natural Heritage  
NE Ambulance Service NHS Trust  
Chief Fire Officer  
Cllr Jill Fletcher  
Cllr Michael Walker  
Cllr Peter Walker  
Planning And Highways  
Network Management  
Flood And Coastal Group Engineer  
Land Contamination  
Environmental Health  
Northumbria Police  
Northern Gas Networks  
Northern Powergrid  
Northumbrian Water

Final Date for Receipt of Representations: **21.12.2023**

## **REPRESENTATIONS:**

### **Representations**

The application has been advertised by way of site notice and press notice. No representations have been received.

### **Consultee responses**

#### **External**

**Northern Powergrid** - No observations

**Northern Gas Networks** - Initially object due to the perceived presence of underground apparatus within the Nissan site. Further to clarification on the actual location of the building, this objection has been removed and no observations have been offered.

**Tyne and Wear Fire Rescue** - No objections subject to compliance with listed building regulations  
**Northumbria Police** - No objections

#### **Internal**

**Transportation Development (the Local Highway Authority)** - No observations offered.

**Environmental Health** - This proposal is similar to earlier proposals to install prefabricated storage facilities in other areas of the Nissan site. The stated intention is to use this building to receive and store car parts necessary for the vehicle manufacturing process. The applicant, in the design and access statement, states the location is to be south of the existing Trim and Chassis area separated from the A19 by other parts of the site south of the Axle Plant (location of another storage unit) and well away from the A19 boundary. The development site is

approximately 280m from the nearest housing on Ferryboat Lane. Based on the intended use no objections are offered to the proposal.

**Contaminated Land Officer** - The report shows that the site was previously occupied by a farm up until the construction of the existing Nissan plant, whereafter it was hard surfaced and used as a loading and storage area. Some made ground is though possible associated with the previously development, however this is thought to be of low to negligible risk to future users and other sensitive receptors. The site is considered suitable for the proposed use and no further investigation or assessment is considered necessary. It is however recommended that a condition to deal with unexpected contamination is attached to the decision notice if approval is to be given.

**Natural Heritage** - No comments received.

**Lead Local Flood Officer** - No objections subject to the inclusion of a condition which requires the submission of a verification report to demonstrate that the sustainable drainage system has been constructed as per the agreed scheme.

## **COMMENTS:**

Planning policy and legislative context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permission must be determined in accordance with the adopted development plan, unless material considerations indicate otherwise.

The current development plan comprises the Core Strategy and Development Plan (2015-2033) adopted in January 2020, the 'saved' policies within the City of Sunderland Unitary Development Plan (UDP) adopted in 1998 and the UDP Alteration No. 2 (Central Sunderland) adopted in 2007, and the International Advanced Manufacturing Park (IAMP) Area Action Plan (AAP) 2017-2032. The National Planning Policy Framework (NPPF) (5th September 2023) is a material consideration for the purposes of Section 38(6) of the Act. It provides the Government's planning policy guidance, and so the assessment of a planning application should have regard to it.

### **Assessment of the proposed development**

It is considered that the main issues relevant to the determination of this application are as follows:

1. Principle of development;
2. Design and visual impacts;
3. Impact on residential amenity;
4. Impact on highway and pedestrian safety / sustainable travel;
5. Impact on ecology;
6. Impact on flooding and drainage;
7. Impact in relation to land contamination;

#### **1. Principle of Development**

Policy SP1 'Development strategy' of the adopted Core Strategy Development Plan (CSDP) states that to support sustainable economic growth and meet people's needs, the Council, working with local communities, its partners and key stakeholders will seek to create at least 7,200 new jobs; and develop at least 95ha of employment land. It states that the spatial strategy seeks

to deliver growth and sustainable development by delivering the majority of development in the Existing Urban Area, in sustainable locations in close proximity to transport hubs.

Policy SP3 'Washington' of the adopted CSDP states that Washington will continue to be a driver of economic growth for Sunderland. To achieve this, economic growth will be focused in identified Employment Areas including those designated under Policy EG1.

Policy EG1 'Primary employment areas' of the adopted CSDP allocates areas as Primary Employment Areas (PEA) (as designated on the Policies Map) to be safeguarded for B1 (Business - excluding B1a), B2 (General Industrial) and B8 (Storage and Distribution) uses. One of these areas is 'viii Nissan (PEA8)'.

The application site is part of a wider site allocated under Policy EG1 'Primary employment areas' (viii. Nissan - PEA8) of the adopted CSDP as a Primary Employment Area (PEA). PEAs are those existing employment areas which are considered essential to the long-term success of Sunderland. They are located in the strongest demand areas and should be protected from non-employment uses which could impact upon their viability as employment locations. This allocation therefore seeks to safeguard primary employment areas for B1 (Business - excluding B1a), B2 (General Industrial) and B8 (Storage and Distribution) uses. Since 1st September 2020, uses falling under Class B1 now fall under Class E(g) 'Commercial, Business and Service' of the Town and Country Planning (Use Classes) Order 1987 (as amended).

The proposed development would deliver an employment use (Use Class B8 storage and distribution) within a designated employment area, and at a sustainable location close to public transport links. It would be ancillary to, and assist in the competitiveness of, an existing employment use at the site (Nissan), which is a nationally significant centre for automobile production and an important regional employer. Therefore, the proposed development would accord with strategic Policy SP1, strategic Policy SP3, and economic growth Policy EG1 of the adopted CSDP and so it would be acceptable in principle.

## **2. Design and on visual amenity impacts**

Policy BH1 'Design quality' of the adopted CSDP seeks to achieve high quality design and positive improvement; to meet this objective, development should be of a scale, massing, layout, appearance and setting which respects and enhances the positive qualities of nearby properties and the locality; and assist in designing out crime.

Policy BH2 'Sustainable design and construction' of the adopted CSDP requires sustainable design and construction to be integral to new development and that, where possible, major development should maximise energy efficiency, reduce waste, conserve water, carefully source materials, provide flexibility and adaptability and enhance biodiversity.

The proposed development would be positioned well within the confines of the existing site and adjacent to Nissan's main manufacturing buildings. In this regard, it would be largely screened from the public domain and would assimilate appropriately into the backdrop of the existing commercial development on site. The proposed external building materials would largely complement those found on the existing adjacent manufacturing building and are acceptable. It is recommended that a condition be attached to any planning permission to require the proposed development to be constructed in accordance with the external building materials as specified within application details.

In terms of the design of the scheme and site security no response has been received from Northumbria Police. However, the proposed development would be positioned within the secure Nissan site.

The planning application has been accompanied by a Sustainability Statement. This states that the existing car park asphalt would be re-used elsewhere on-site, some materials would be sourced locally, and that the proposed buildings would seek to maximise energy efficiency. It is therefore considered that sustainable design and construction would be integral to the proposed development.

Given the above, it is considered that the proposed development would accord with Policy BH1 and Policy BH2 of the adopted CSDP.

### **3. Impact on residential amenity**

Policy HS1 'Quality of life and amenity of the CSDP states that development must demonstrate that it would not result in any unacceptable adverse impacts which cannot be addressed through appropriate mitigation, including arising from air quality, noise, dust, vibration, odour, emissions and traffic.

Policy HS2 'Noise-sensitive development' of the adopted CSDP states that development which may generate noise should be accompanied by a noise assessment, provide details of the noise levels on the site and quantify the impact on the existing noise environment and noise sensitive receptors.

Policy BH1 'Design quality' of the adopted CSDP seeks to ensure that development retains acceptable levels of privacy and ensures a good standard of amenity for all existing and future occupiers of land and buildings.

The Council's Environmental Health Officer (EHO) has raised no objections to the proposed development, noting that the building will be used for the purposes of receiving and storing car parts necessary for the vehicle manufacturing process. The EHO further notes that there is a substantial distance between the new development and the nearest residential occupiers. One point of observation has been offered by the EHO in advising that the proposed lightweight structure may not be appropriate for any manufacturing operation that results in significant noise levels. It has been advised that the applicant should be made aware of this and therefore accordingly an informative will be attached to any planning permission granted.

It is considered that the proposed development would have no unacceptable impacts on the amenity of the occupiers of nearest residential properties to the application site including during the construction process. It is therefore considered that the proposed development would accord with Policy HS1, Policy HS2 and Policy BH1 of the adopted CSDP.

### **4. Impact on highway and pedestrian safety / sustainable travel**

Policy ST2 'Local road network' of the adopted CSDP states that to ensure development has no unacceptable adverse impact on the local road network, proposals must ensure that they have safe and adequate means of access, egress and turning arrangements; they have safe and convenient access for sustainable transport modes; and they will not create a severe impact on the safe operation of the highway network.

Policy ST3 'Development and transport' of the adopted CSDP states that development should provide safe and convenient access for all road users, in a way which would not compromise the



free flow of traffic on the public highway, pedestrians or any other transport mode; exacerbate traffic congestion on the existing highway network or increase the risk of accidents / endanger the safety of road users. It states that development should provide a level of vehicle parking and cycle provision in accordance with the Council's Parking Standards.

The proposed building would be used for storage purposes only with no additional vehicle parking or cycle provision required within the Nissan site. In this respect and when taking into consideration the self-contained nature of the development, the Council's Highway Engineers have offered no objections to the proposed development.

It is therefore considered that the development would have no unacceptable impacts on the strategic and local highway networks in terms of capacity or safety and would be acceptable in relation to highway and pedestrian safety / sustainable travel. The proposal is considered to accord with Policies ST2 and ST3 of the adopted CSDP.

## **5. Ecology**

Paragraph 180 of the NPPF sets out that local planning authorities should aim to conserve and enhance biodiversity by permitting development where the primary objective is to conserve or enhance biodiversity.

Policy NE2 of the CSDP further advises that biodiversity will be protected, created, enhanced and managed by requiring development to demonstrate how it will provide net gains in biodiversity and avoid or minimise adverse impacts on biodiversity and geodiversity.

The application has been accompanied by a Preliminary Ecological Appraisal (PEA) and a BNG Assessment. The assessment qualifies that the survey area is dominated by developed land / sealed surface; a tarmacked surface used by HGVs for the transport, loading and unloading of materials, whilst noting the presence of woodland and scrub outside the boundary some 50m to the east and adjacent to the A19.

The key recommendations of the PEA are;

- Mitigation measures to prevent harming Great Crested Newts;
- Works starting outside the bird nesting season or preceded by a nesting bird check;
- Any trenches left open overnight will be fitted with a mammal escape board which is a roughened wooden plank of wood at no more than 45-degree angle to allow mammals to escape on their own accord.
- Pollution prevention measures implemented during construction.
- A Biodiversity Metrics calculation.

The above measures are expanded upon in Section 5.4 of the PEA and a planning condition is advised to be attached to ensure that adherence to these recommendations is given.

In terms of BNG, the site comprises wholly of sealed hard surfacing and therefore has no biodiversity value. On this basis and given that the proposed development would have no unacceptable impacts in relation to biodiversity, it would not be reasonable to require the proposed development to provide biodiversity net gains on this occasion.

It is considered that the proposed development would accord with Policy NE2 of the adopted CSDP.

## **6. Impact on flooding and drainage**

Policy WWE2 'Flood risk and coastal management' of the adopted CSDP states that to reduce flood risk development should follow the sequential approach to determining the suitability of land for new development, directing new development to areas at the lowest risk of flooding. Development will be required to include or contribute to flood mitigation, compensation and / or protection mitigation, where necessary, to manage flood risk associated with or caused by the development.

Policy WWE3 'Water management' of the adopted CSDP states that development must consider the effect on flood risk, on-site and off-site, commensurate with the scale and impact.

The submitted Flood Risk Assessment (FRA) concludes that the proposed development would be in Flood Zone 1 and is classified as being at very low risk of surface water flooding.

The proposal has considered the hierarchy for surface water disposal, qualifying that;

1. In terms of infiltration, online maps indicate that the site is located within an area classified as having "slowly permeable, seasonally wet clayey soils". It is considered that underlying clayey soils would not provide infiltration rates sufficient to allow soakaways as a method of surface water disposal.
2. In terms of watercourse, a direct connection to the River Wear, approximately 1.7km south of the site, is not considered a practical point of discharge.
3. On the basis of the above, the FRA qualifies that the most appropriate method of surface water disposal is to discharge to the existing surface water drainage network within Nissans operation site land which ultimately discharges to the River Wear. The downpipes from the storage tent will connect into a geocellular attenuation tank located below the proposed concrete slab prior to discharging into the existing 1050mm diameter surface water drain which runs through the proposed development area.

Northumbrian Water have not provided a response. The Council's Lead Local Flood Authority (LLFA) have raised no objections to the proposed development in relation to flooding and surface water drainage and concur with the developer's hierarchical assessment set out above. The LLFA has however recommended that a condition be attached to any planning consent granted to ensure that a verification report to demonstrate that all sustainable drainage systems (including an attenuation tank) have been constructed as per the agreed surface water drainage scheme.

Subject to the discharge of and compliance with the recommended condition, it is considered that the proposed development would have no unacceptable impacts in relation to flood risk / surface water drainage. It is therefore considered that the proposed development would accord with Policy WWE2 and Policy WWE3 of the adopted CSDP.

## **7. Impact in relation to land contamination**

Policy HS3 of the CSDP states that development should identify any existing contaminated land and the level of risk that contaminants pose in relation to the proposed end use and it should be demonstrated that the developed site will be suitable for the proposed use without risk from contaminants to people, buildings, services or the environment.

The application has been accompanied by a Phase 1 Desk Top Study to assess ground conditions with regard to contamination. As set out above, the report has been subject to consideration by the Council's Land Contamination Officer who is in agreement with the findings. In this respect, subject to imposition of a condition to deal with any unexpected contamination that

may be encountered during the build-out phase, the impact of the development with regard ground contamination is acceptable and in accordance with Policy HS3.

## **Conclusion**

The proposed development would deliver an employment use (Use Class B8 storage and distribution) within a designated employment area. It would be ancillary to, and assist in the competitiveness of, an existing employment use at the site (Nissan), and so it is considered that the proposed development would be acceptable in principle.

The proposed development would also be acceptable in relation to design and visual impacts, impact on residential amenity and in relation to other technical matters including highway and pedestrian safety / sustainable travel, ecology, flooding / drainage and land contamination.

## **EQUALITY ACT 2010 - 149 Public Sector Equality Duty**

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to:

- (a) tackle prejudice; and
- (b) promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

## **RECOMMENDATION:**

It is recommended that planning permission be **APPROVED** subject to the recommended schedule of draft conditions.

## **Conditions:**

- 1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time.
- 2 The development hereby granted permission shall be carried out in full accordance with the following approved plans:
  - Drawing No. NMUK-Trim-Tent-001 'Location Plan' received 01.11.2023.
  - Drawing No. NMUK-Trim-Tent-002 'Proposed Site Plan' received 01.11.2023.
  - Drawing No. NMUK-Sketch-GA-001 'Proposed Trim OWS Tent Extension General Arrangement Plan' received 01.11.2023.
  - Drawing No. NMUK-E&EC-133-GA-002 'Trim Slab Detail' received 01.11.2023.
  - Drawing No. 38669-3 'Trim Building Floor/roof plan' sheet 1 received 01.11.2023.
  - Drawing No. 38669-3 'Trim Building Elevations' sheets 2 and 3 received 01.11.2023.
  - Drawing No. NMUK-E&EC-133-GA-005, 006 and 008 'General Arrangement Elevations East, South and West' received 07.11.2023.
  - Drawing No. 38669-3 'Trim Building Section' sheet 4 received 01.11.2023.
  - Drawing No. 01 Rev P1 'Proposed Drainage Layout' received 01.11.2023

Reason: In order to ensure that the completed development accords with the scheme approved and to comply with policy BH1 of the Core Strategy and Development Plan.

- 3 The development hereby permitted shall be constructed in accordance with the external building materials as specified in the materials section of the planning application form received 11.07.2023, unless otherwise agreed in writing by the Local Planning Authority.

To ensure a satisfactory form of development and in the interests of visual amenity, and to comply with Policy BH1 of the adopted Core Strategy and Development Plan.

- 4 The development hereby approved shall be carried out in complete accordance with Section 5.4 (Recommendations), of the Preliminary Ecological Appraisal (DWS Ecology, September 2023).

Reason: In order to protect the biodiversity of the site/surroundings and to comply with Core Strategy Development Policy NE2.

- 5 Prior to any development commencing on site, specific details of the timing of the submission of a verification report(s), which are to be carried out by a suitably qualified person, and the extent of the SuDS features to be covered in the report(s) must be submitted to and approved by the Local Planning Authority. The verification report(s) shall be submitted in accordance with the agreed timings and shall demonstrate that all sustainable drainage systems have been constructed as per the agreed scheme. For the avoidance of doubt, this shall include:

- As built drawings (in dwg/shapefile format) for all SuDS components - including dimensions
- (base levels, inlet/outlet elevations, areas, depths, lengths, diameters, gradients etc) and
- supported by photos of installation and completion.
- Construction details (component drawings, materials, vegetation).
- Health and Safety file.
- Details of ownership organisation, adoption & maintenance."

Reason: to ensure that all sustainable drainage systems are designed to the DEFRA non-technical standards for SuDS and comply with policies WWE2 and WWE3 of the CSDP.

- 6 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. A Risk Assessment must be undertaken in accordance with the requirements of the Environment Agency's "Land Contamination: Risk Management" and where remediation is necessary a Remediation Scheme must be prepared and submitted to the Local Planning Authority in accordance with the requirements that the Remediation Scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. Once the Remediation Scheme has been approved in writing by the Local Planning Authority it shall be known as the Approved Remediation Scheme. Following completion of measures identified in the Approved Remediation Scheme a verification report must be prepared and submitted in accordance with the approved timetable of works. Within six months of the completion of measures identified in the Approved Remediation Scheme and prior to the occupation of any building, a validation report (that demonstrates the effectiveness of the remediation carried out) must be submitted to the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with the National Planning Policy Framework Paragraphs 180f and 189.

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**Reference No.:** 23/01899/LP3 Local Authority (Reg 3 )

**Proposal:** **Internal arrangements to provide supported accommodation for up to 5no individuals**

**Location:** The Sheiling, Fatfield Road, Washington, NE38 7DT

**Ward:** Washington Central

**Applicant:** Sunderland City Council

**Date Valid:** 6 September 2023

**Target Date:** 1 November 2023

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#### **UPDATE TO MEMBERS:**

As Members will recall, this planning application was previously considered by the Planning and Highways Committee at a meeting held on 30th October 2023. At the meeting, it was resolved that a decision on the planning application would be deferred to enable a visit to the application site to be carried out. The site visit was carried out on Friday 24th November and so the application is now being returned to the Committee for the consideration of Members.

Since the publication of the previous Planning Committee Report, which is reproduced below as Appendix 1, further representations were received. These were reported to Members at the Planning and Highways Committee on 30th October 2023 via a Report for Circulation which stated:

*"This report is to make Members aware that, following the publication of the Committee Report, some additional representations have been received (including from the Chair of Governors at Biddick Primary School) objecting to the planning application. Concerns relate to:*

- *Proximity of the application site to schools including Biddick Primary School;*
- *Risks associated with antisocial behaviour and risks to pupils, including safeguarding issues and risk to pupils round the area of the bus stop adjacent to the site;*
- *Queries in relation to the accuracy of the 24/7 care element of the development;*
- *Unsuitability of the property for such a facility; and*
- *Residents not being notified of the planning application.*

*The proposed development would be managed and staffed 24/7 and would always operate with members of staff being at the site. It is considered that the above concerns are similar to those raised in other representations, and that they are addressed within the assessment section of the Committee Report."*

Since the previous meeting of the Planning and Highways Committee on 30th October 2023, the applicant has provided a first floor layout plan of The Sheiling (titled 'Bedroom 4 Compliance Plans'), which seeks to demonstrate the floor space of bedroom 4. The National Planning Policy Framework (NPPF) has also been updated (current version dated December 2023), however updates are not relevant to the determination of this planning application.

It should be noted that there have been no relevant changes in site circumstances or in respect of other material planning considerations since the Planning and Highways Committee on 30th October 2023 and the publication of the last Planning Committee Report at Appendix 1. No further representations have been received. Officers have inspected the property internally.

Whilst it is acknowledged that one of the bedrooms in the attic space is smaller than others, the applicant has advised that it is adequate to meet the needs of this care facility. They have sought to demonstrate this via their submitted drawing titled 'Bedroom 4 Compliance Plans'.

The proposal is considered to be an acceptable form of development. In light of the comments above, the recommendation remains the same as set out in the Committee Report at Appendix 1.

### **EQUALITY ACT 2010 - 149 Public Sector Equality Duty**

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to:

- (a) tackle prejudice; and
- (b) promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

## **RECOMMENDATION:**

It is recommended that, in accordance with Regulation 3 of the Town and Country Planning General Regulations 1992 (as amended), Members **GRANT CONSENT** for the proposal, subject to the following conditions.

Conditions:

- 1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time.
- 2 The development hereby granted permission shall be carried out in full accordance with the following approved plans:
  - Drawing No. S4196-BDN-XX-XX-DR-A-0000 (Location Plan), received 31/08/2023
  - Drawing No. S4196-BDN-XX-XX-DR-A-0001 (Existing Floor Plans), received 31/08/2023
  - Drawing No. S4196-BDN-XX-XX-DR-A-0002 (Existing and Proposed Elevations), received 31/08/2023
  - Drawing No. S4196-BDN-XX-XX-DR-A-0003 (Existing Site Plan), received 31/08/2023
  - Drawing No. S4196-BDN-XX-XX-DR-A-0004 (Proposed Floor Plans), received 31/08/2023
  - Drawing No. S4196-BDN-XX-XX-DR-A-0005 (Proposed Site Plan), received 31/08/2023
  - Drawing No. S4196-BDN-XX-XX-DR-A-0006 (Bedroom 4 Compliance Plans), received 20/11/2023

In order to ensure that the completed development accords with the scheme approved and to comply with Policy BH1 of the adopted Core Strategy and Development Plan.

- 3 The number of residents to be accommodated at the development hereby permitted shall not exceed 5 at any one time.

To ensure a satisfactory form of development, to prevent the intensification of use at the premises, in the interests of residential amenity, and to accord with saved Policy EN10 of the adopted Unitary Development Plan, and Policy HS1 and Policy BH1 of the adopted Core Strategy and Development Plan.

- 4 The number of staff at the application site associated with the care element of the development hereby permitted shall not exceed 6 at times of shift changeover, and 3 at all other times, on any given day.



To ensure a satisfactory form of development, to prevent the intensification of use at the premises, in the interests of residential amenity and highway safety, and to accord with saved Policy EN10 of the adopted Unitary Development Plan, and Policy HS1, Policy BH1, Policy ST2 and Policy ST3 of the adopted Core Strategy and Development Plan.

## **APPENDIX 1 - REPRODUCTION OF REPORT PRESENTED TO PLANNING AND HIGHWAYS COMMITTEE MEETING ON 30TH OCTOBER 2023**

### **INTRODUCTION**

The application seeks planning permission for a change of use from a dwellinghouse (Use Class C3) to supported residential accommodation (Use Class C2 (Residential Institution)). Amendments to the existing internal arrangements are required to facilitate provision of the supported accommodation which would be for up to 5 no. individuals.

Support and staffing would be provided by Sunderland City Council's experienced, specialised partner Changing Lives.

### **DESCRIPTION OF SITE AND SURROUNDINGS**

The application property is located within a residential area of Biddick, at the junction of Biddick Villas and Fatfield Road in Washington. The site, as existing, comprises a two-storey semi-detached dwelling which is set within a triangular plot which, to the principal (northwest facing) elevation, fronts Fatfield Road. The side (northeast facing) elevation adjoins No. 46 Biddick Villas. The rear (southeast facing) elevation backs onto garden ground. The south site boundary bounds the curtilages of residential dwellings; specifically, Nos. 1 and 2 Ashley Close. The southwest and west portion of the site comprises an area of hardstanding which wholly covers the area forward of the principal elevation of the application property.

The application site, as noted, is situated within a residential area of similarly styled properties. While the application site is positioned within a residential setting, it is noted that Biddick Academy is situated to the south (with Ashley Close intervening).

### **THE PROPOSED DEVELOPMENT**

The proposed development for supported residential accommodation would utilise the existing footprint of the building. No external alterations are proposed and so the appearance of the property would remain as existing. Only internal alterations would be required - to the first-floor landing, as well as to enable provision of a further 2 no. bathrooms.

The proposed supported residential accommodation would provide housing for up to 5 no. single females (aged 18-25) who find themselves homeless. They would come from a range of backgrounds. For example, some may move from unsuitable accommodation; some people may be leaving care or hospital; and others may be street homeless or sleeping rough. The project would support occupants to live safely and develop skills that would enable them to move on to living independently. As noted from the submitted Design and Access Statement, the scheme is likely to mean that occupants, in turn, would live at the application property for approximately 3-6 months.

The proposed development would be managed whereby a curfew would be in operation for residents between the hours of 23:00 hours and 07:30 hours. Residents would not be permitted to receive any visitors, unless by prior arrangement with support staff, and only during office hours.

The staffing arrangements for the proposed development would normally comprise 2no. on-site staff members (on occasion, 3no.) with a maximum of 6no. on site at any one time (noting the transient period for staff handover at the times of 8am and 8pm)). The staff would provide on-site support on a 24/7 basis, with shifts lasting up to 12 no. hours each between the times specified previous.

The proposed development would utilise the existing access off Fatfield Road, and application details state that the application site is capable of accommodating 5 no. vehicles.

## **PLANNING HISTORY**

There is no planning history of relevance to the determination of this planning application. However, previous planning history at the application site is as follows:

Reference Number: 88/01913/10  
Description: Conversion of dwelling to rest home  
Status: Refused

Reference Number: 89/00478/10  
Description: Change of use to guest house.  
Status: Refused

## **TYPE OF PUBLICITY:**

Site Notice Posted  
Neighbour Notifications

## **CONSULTEES:**

Cllr Beth Jones  
Cllr Dianne Snowdon  
Cllr Linda Williams  
Network Management  
Environmental Health  
Housing - People Services  
Northumbria Police

Fellside 45 Biddick Villas Columbia Washington NE38 7DT  
Clovelly 46 Biddick Villas Columbia Washington NE38 7DT  
2 Ashley Close Biddick Washington NE38 7TP  
North Biddick Lodge Biddick Lane Fatfield Washington NE38 8AB  
1 Ashley Close Biddick Washington NE38 7TP

Final Date for Receipt of Representations: **13.10.2023**

## **REPRESENTATIONS:**

### Publicity

The occupiers of 5 no. properties in the vicinity of the application site (including those adjoining the curtilage of the subject dwelling) were sent neighbour notification letters. A site notice was also posted in the vicinity of the application site.

Application details state that the applicant has, at pre-application stage, engaged with the local community as part of the proposals.

Site notice expiry date: 04/10/2023

Neighbour notifications expiry date: 13/10/2023

Consultation expiry dates: 27/09/2023 and 11/10/2023

### **Neighbour Representations - Objections**

More than 200 representations have been received objecting to the planning application (with 2 objectors requesting to speak), as well as petitions. These are summarised as follows:

#### Residential Amenity

- Concern in respect of the proposal being overbearing
- Scope for overlooking
- Lack of distance of separation from application site
- Increased noise (smoke alarms, emergency vehicles, loud music, arguments between residents and carers)
- Increased comings and goings (traffic generation)
- Concern in regard to potential loss of privacy
- Concern regarding potential for encroachment

#### Highway Safety

- Increased comings and goings (traffic generation)
- Access arrangements insufficient
- Concern that the proposal compromises highway safety
- Concern that the parking arrangements are inadequate (risk of overspill to already saturated roads during term time)

#### Siting/Amenity

- Unsuitable location
- Inappropriate use
- Concern that the proposal would utilise a non-purpose built facility
- Other properties deemed more conducive to supporting the scheme
- Concern in respect of impact to residential character and community cohesion

#### Fear of Crime / Antisocial Behaviour

- Concern in respect of security being compromised

- Fear of introducing crime (drugs, alcoholism, prostitution, theft, violence (from supposed abusive ex partners)) and antisocial behaviour into locality
- Proximity of Biddick Academy, St. Robert's, and Biddick Primary School to application site
- Compromising safeguarding standards in view of nearby schools
- Vulnerability of school children to occupiers of the scheme
- Adequacy of support to fully ensure 24/7 care
- Relations and acquaintances of occupiers visiting
- Risk of exposing children to drug and alcohol problems and crime, particularly while waiting at the bus stop located adjacent to the site entrance
- Lack of available policing

#### Other Matters

- Effect on elderly population
- Ill health and impact to mental health
- Concern in respect of increased litter
- Loss of heritage
- Lack of clarity surrounding curfew arrangements (i.e., must residents be in room by 11pm or just on the premises?)
- Loss of value to property
- Objection to handling of the application
- Biddick Academy not notified
- Neighbour notification process not carried out adequately
- Access to healthcare (prospective occupiers and existing residents)
- Offender status unclear in proposals
- Citation of paragraph 2.39 of the adopted Core Strategy and Development Plan ('CSDP') which refers to the number of empty properties within Sunderland (noting a small number of long-term empty properties (over 6 months) which account for approximately 2% of the city's housing stock).
- Query in respect of how "challenging behaviour" be managed.
- Reference to previous applications at the site being refused

#### **Neighbour Representations - Support**

6 no. representations have been received supporting the planning application. These are summarised as follows:

#### Other Matters

- Drug and alcohol abuse is ever-present across society at all locations so proposals to ameliorate instances and support those who have struggled with drug and alcohol abuse should be supported
- Assurance of 24/7 staffing should satisfy concerns and ensure proposal is to the betterment of community as a whole
- There should be a presumption in favour of proposals to support reintegrating individuals into society and look after the community, rather than isolating individuals
- Staffing is sufficient and risk assessments will be carried out by suitably competent, professionals
- Residential area is most appropriate location for development of this nature in reducing sense of isolation occupants may otherwise feel

- Prospective occupants will have negligible effect on emergency service capacity; respondent cites that the new residential schemes within the locality will affect emergency services more so such points raised in respect of this proposal are misplaced

## **Consultees**

### **Ward Councillors**

No responses received.

### **Network Management**

No objection.

### **Environmental Health**

No objection, subject to informatives.

### **Housing - People Services**

No comments received.

### **Northumbria Police**

No objections.

Comments made as follows:

- Noted that a significant number of objections have been raised making particular reference to the application property housing occupants with drug and alcohol issues.
- Acknowledge that Northumbria Police have interest whereby proposals for care facilities would likely impact upon public amenity.
- It would be remiss to assume that there would be no impact at all but the principal means by which to assess the application is through appraising whether potential impact can be suitably addressed through appropriate management at the facility. The proposed level of on-site management including a curfew and restricting visitors is noted. Overall (in terms of the proposed management arrangements), Northumbria Police considers the proposal acceptable in terms of mitigation measures and notes that a link with the local policing team will be established.
- Given the level of on-site management and nature of the care provision, it is unlikely that drug detritus will originate from the property or be a problem in the locality because of the proposal.
- Representations express concern about the safety of pupils of the nearby comprehensive school. However, it is not clear that residents of the proposal would pose any risk to young people. In any case matters of placement would be agreed with the local authority and care provider, taking into account third party risk.

Conclusion:

- Northumbria Police acknowledge the views expressed by residents, however experience has shown that the sort of negative behaviours identified are neither exclusive to, or certain to occur, if a premises is well managed.
- Northumbria Police accept that there is a need for the premises and that such facilities should be provided where possible. Such facilities have a better chance of success if they are not in more challenged localities.
- Subject to the adoption of appropriate management, good communication and well-structured care, supported accommodation at this location poses very little risk.

## **COMMENTS:**

### **PLANNING POLICY AND LEGISLATIVE CONTEXT**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permission must be determined in accordance with the adopted development plan, unless material considerations indicate otherwise.

The current development plan comprises the Core Strategy and Development Plan (2015-2033) adopted in January 2020, the 'saved' policies within the City of Sunderland Unitary Development Plan (UDP) adopted in 1998, the 'saved' and policies within the UDP Alteration No. 2 (Central Sunderland) adopted in 2007.

The National Planning Policy Framework ('NPPF') (5th September 2023) is a material consideration for the purposes of Section 38(6) of the Act. It provides the Government's planning policy guidance, and so the assessment of a planning application should have regard to it.

### **ASSESSMENT OF THE PROPOSED DEVELOPMENT**

It is considered that the main issues relevant to the determination of this application are as follows:

1. Principle of development;
2. Design and impact on visual amenity;
3. Impact on residential amenity;
4. Impact on highway and pedestrian safety;
5. Fear of crime / antisocial behaviour

#### **1. Principle of Development**

##### **Strategic and Land Designation Policies**

Policy SP1 'Development Strategy' of the adopted Core Strategy and Development Plan (CSDP) states that to meet people's needs, the Council, working with local communities, its partners, and key stakeholders will ensure that sufficient social infrastructure is delivered to meet identified needs. It states that the spatial strategy seeks to deliver this growth and sustainable patterns of development by delivering the majority of development in the existing urban area, in sustainable locations, close to transport hubs.

The overall aim of Policy SP3 'Washington' as set out in the adopted CSDP relates to enabling, in conjunction with other CSDP policies, sustainable mixed communities to thrive and drive economic growth for Sunderland.

Saved Policy EN10 of the adopted Unitary Development Plan (UDP) dictates that, where the UDP does not indicate any proposals for change, the existing pattern of land use is intended to remain.

The proposed development would be within the Existing Urban Area, in a sustainable location, close to public transport links, and make provision for social infrastructure wherein a need has been identified. On this basis, it would accord with Policy SP1 and Policy SP3 of the adopted CSDP.

The application site is not designated for any specific purpose within the Council's development plan. The site is therefore subject to saved Policy EN10 of the adopted UDP, which, as noted above, dictates that, where the UDP does not indicate any proposals for change, the existing pattern of land use is intended to remain.

Concerns raised in representations are noted in relating to the siting of the proposed development. However, the surrounding land uses are predominantly residential and the proposed development for a supported residential accommodation would broadly coalesce with the prevailing residential land uses in the locality. The character of this residential area would not be compromised as a result of this proposal for an alternative form of residential accommodation. It is considered that the proposed development, as a form of residential accommodation, would be compatible with existing patterns of land use. That said, to control the nature of the proposed development and any intensification, it is recommended that a condition be attached to any planning permission to ensure that the number of residents does not exceed 5 at any given time.

It is considered that the proposed change of use of the dwellinghouse (Use Class C3) to residential accommodation with support (Use Class C2) would accord with saved Policy EN10 of the adopted UDP.

## **Housing**

Policy H1 'Housing mix' of the adopted CSDP stipulates that development, where appropriate and justified, should seek to ensure there is a choice of suitable accommodation for those with special needs housing.

Policy H5 'Existing homes and loss of homes' of the adopted CSDP contains criteria which broadly seeks to prevent the loss of residential housing stock. Criterion 2 of Policy H5 of the adopted CSDP states that development which would result in the loss of residential housing stock, particularly family housing, through change of use or redevelopment will not be permitted unless it is demonstrated that:

- i. the dwelling(s) no longer provide accommodation of a satisfactory standard;
- ii. it is financially unviable to improve or adapt the existing dwelling(s); and
- iii. the locality and character of the surroundings are no longer appropriate for residential use.

As noted, Policy H1 'Housing mix' of the adopted CSDP stipulates that development, where appropriate and justified, should seek to ensure there is a choice of suitable accommodation for those with special needs housing. In this instance, it is considered that the proposed development would provide a form of accommodation which would seek to address a specific continuous short-term need (supported living accommodation) over the lifetime of the development. On this basis it is considered that the proposed development would accord with Policy H1.

Whilst the proposed development would result in the loss of a family dwelling, it would still operate as a form of residential accommodation, albeit whereby the residents need support. It would also result in no material alterations to the property externally. Therefore, if, in the future, the proposed

use ceased, the building could easily be converted back to a dwellinghouse. Although the proposed development would not strictly operate as a dwellinghouse in Use Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended), given that it would result in a form of residential accommodation being retained, it is considered that it would not conflict with the objectives of Policy H5.

## **Summary**

In summary, the proposed development would be within the Existing Urban Area, in a sustainable location, and provide a specialist form of residential accommodation. On this basis, it is considered that it would accord with policies SP1, SP3 and H1 of the adopted CSDP, and saved Policy EN10 of the UDP. It would also not conflict with the objectives of Policy H5 of the adopted CSDP. It is therefore considered that the proposed development would be acceptable in principle.

## **2. Design and impact on visual amenity**

Policy BH1 'Design Quality' of the adopted CSDP stipulates that development should be of scale, massing, layout, appearance, and setting which respects and enhances the positive qualities of the locality.

The proposed development would not be in a sensitive location. No external works are proposed that would alter the appearance of the existing property. In these terms, it is considered that the proposed development would accord with Policy BH1 of the adopted CSDP.

## **3. Impact on residential amenity**

Policy HS1 'Quality of life and amenity' of the CSDP states that development must demonstrate that it would not result in any unacceptable adverse impacts which cannot be addressed through appropriate mitigation, including arising from noise and traffic.

Policy BH1 'Design quality' of the adopted CSDP seeks to ensure that development retains acceptable levels of privacy and ensures a good standard of amenity for all existing and future occupiers of land and buildings.

Concerns raised in representations are noted in relation to privacy / overlooking, the proposal being overbearing, and a lack of separation / encroachment. However, no external alterations are proposed to the existing application property. Moreover, no alterations are proposed to the existing scale (and, thus, no change to existing distance of separation), massing, and or mutual intervisibility (i.e., no new openings formed). By virtue of retaining the existing arrangement, the proposed development would have no unacceptable impacts on the amenities of any neighbouring properties in relation to privacy, outlook and over dominance, or overshadowing.

Concerns raised in representations are noted in relation to increased noise / disturbance from comings and goings of residents and visitors. However, the Council's Environmental Health Officer has raised no objections to the proposed development in relation to such impacts. The proposed development would be a managed facility with a maximum of 5 no. residents and whereby 2no. (on occasion, 3no.) members of staff would be at the premises 24/7. Visitors to the property would be during office hours only and managed by staff, residents would be subject to a curfew, and any use of the outdoor space would be managed by staff. Therefore, the appropriate provisions have been made, to ensure that the proposed development would not generate any unacceptable noise / disturbances. The character of this residential area would not be compromised as a result of this proposal for an alternative form of residential accommodation. As previously stated, to control the nature of the proposed development and to ensure that the



Local Planning Authority retains control over any intensification of the use, it is recommended that a condition be attached to any planning permission to ensure that the number of residents does not exceed 5 at any given time.

There would normally be only 2no. members of staff at the premises. On occasion there could be up to 3no. members of staff based at the premises, and so a maximum of 6no. members of staff for short periods of time during shift changeovers. However, any noise and disturbances associated with comings and goings of staff would not be materially greater than those that could be generated by a large household (with several vehicles). However, it is recommended that a condition be attached to any planning permission, to control that the number of staff at the application site associated with the care element of the development does not exceed 6 at times of shift changeover, and 3 at all other times, on any given day.

It is recommended that an informative be attached to any planning permission to remind the applicant to liaise with the Council's Environmental Health Officer in relation to any licensing requirements.

Overall, there is no evidence to suggest that a proposal of this nature would cause any adverse impacts in relation to noise from residents living at the premises, noise and disturbances associated with comings and goings of residents, visitors and staff, or in relation to any other impacts in relation to residential amenity. It is considered that the proposed development would therefore accord with Policy HS1 and Policy BH1 of the adopted CSDP.

#### **4. Impact on highway and pedestrian safety**

Policy ST2 'Local road network' of the adopted CSDP states that to ensure development has no unacceptable adverse impact on the local road network, proposals should have safe and adequate means of access, egress and internal circulation / turning arrangements; they should be assessed and determined against current standards for the category of road; they should have safe and convenient access for sustainable transport modes; and they should not create a severe impact on the safe operation of the highway network.

Policy ST3 'Development and transport' of the adopted CSDP states that development should provide safe and convenient access for all road users, in a way which would not compromise the free flow of traffic on the public highway, pedestrians or any other transport mode; or exacerbate traffic congestion on the existing highway network or increase the risk of accidents / endanger the safety of road users.

Concerns raised in representations are noted in relation to the comings and goings of residents / staff generating traffic, problems associated with access arrangements, parking congestion being to the detriment of highway safety, and highway safety issues in general. However, the proposed development would utilise the existing in-curtilage parking provision (5no. spaces) to allow parking spaces for staff and prior agreed visitors. Application details state that residents would not utilise personal vehicles and instead would rely upon public transport, notably, the bus. The application site benefits from a bus stop on Biddick Lane, positioned immediately adjacent to the application site. On this basis the Council's Transportation Development (the Local Highway Authority) have raised no objections to the proposed development in relation to its impact on highway safety, including the in-curtilage capacity of the application site to accommodate vehicles for the proposed development.

As stated, it is recommended that a condition be attached to any planning permission, to control that the number of staff at the application site associated with the care element of the development does not exceed 6 at times of shift changeover, and 3 at all other times, on any given day. This

is to ensure that there would be satisfactory parking at the site and in the interests of highway safety.

Given the comments from the Council's Local Highway Authority, it is considered that the proposed development would be in a sustainable location, and it would have no unacceptable impacts on the highway network in terms of capacity or safety. It is therefore considered that the proposed development would accord with Policy ST2 and Policy ST3 of the adopted CSDP.

## **5. Fear of Crime / Antisocial Behaviour**

Policy SP7 of the CSDP, in broad terms, seeks to improve health and wellbeing in Sunderland including by ensuring that new developments would be safe.

Paragraph 130 (f) of the NPPF requires (amongst other provisions) that planning policies and decisions should ensure that developments create places that are safe; achieve a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Concerns raised in representations relate to the proposed development having an adverse impact in relation to crime and anti-social behaviour, in relation to the service capacity of Northumbria Police, and how the management of the facility can be guaranteed over the lifetime of the development. Concerns are further heightened by the fact there are schools in reasonably close proximity to the application site.

Northumbria Police have considered the proposed development as well as representations raising concerns in relation to crime and anti-social behaviour. However, they have raised no objections. Whilst comments are based on genuine concerns, experience has shown that the sort of negative behaviours identified in representations is neither exclusive to, or certain to occur, if a premises is well managed. In this case, the proposed development would be managed 24/7 by professional members of staff, and so there is no evidence to suggest that a proposal of this nature would give rise to undue, unacceptable risk to safety to the immediate and surrounding locale (and, by extension, the safety, health and wellbeing of its residents and members of the public of whom frequent the area).

Northumbria Police have raised no objections to the proposed development in respect of impact on their service capacity and fulfilling any requisite requirements pertaining to provision. It should instead be noted that Northumbria Police have stated that strong links with the local policing team will be established with the applicant.

The applicant has confirmed that there will be a minimum of 2no. members of staff on site at all times in what would be a fully managed facility. Furthermore, the applicant has, subject to there being appetite for such a proposal, offered to provide a single point of contact for the scheme through which the public can report concerns to. CCTV would be in operation (covering the public highway surrounding the application property) and a suite of parties (including, but not limited to Northumbria Police, Probation, Change Grow Live, Adult Social Care, and the Council's Anti Social Behaviour Team) shall continue to be involved in the management of occupiers.

The applicant has confirmed that all staff would be able to proactively deal at source with any issues that arise with risk assessments undertaken by the support staff and rigorous training in how to deal with difficult situations if they occurred. During the hours of 23:00 hours and 07.30 hours, the applicant has confirmed that the occupiers would be required to be on the premises, and the management of the facility would ensure that any use of the outdoor space would have no adverse impacts on residential amenity.

There is no evidence to suggest that a proposed development of this nature, managed 24/7, would have any unacceptable impacts on schools in the nearby vicinity.

Given the managed nature of the proposed development (a care facility providing supporting living), there is no evidence to suggest that a proposed development of this nature would have any unacceptable impacts in relation to crime and anti-social behaviour. Crime and antisocial behaviour is not an inevitable consequence of multi-occupation as opposed to single occupation of dwellings, but rather a question of individual behaviour and appropriate management. On this basis, and given that Northumbria Police have raised no objections, it is considered that the proposed development would comply with Policy SP7 of the adopted CSDP in relation to safety, and guidance within Paragraph 130 (f) of the NPPF.

## **6. Other Matters**

Other matters raised in representations not considered above are addressed as follows:

- The Local Planning Authority can only assess the merits of the proposed development subject of the application. Whether or not any other sites have been considered by the applicant is not of relevance to the determination of this planning application.
- The number of alternative empty premises within the City of Sunderland is not of relevance to the determination of this planning application, which simply relates to the acceptability of the proposed development at the application site.
- Loss of property values is not a material planning consideration.
- Concern raised that the application site does not constitute a formal purpose-built facility are noted. However, the proposed internal alterations would suitably serve to ensure that the premises are, upon completion of associated works, acceptable for the proposed end use.
- No external alterations are proposed to the building. The proposed development would therefore have no impacts on any historic assets.
- The planning application has been publicised in accordance with statutory requirements (letters were sent to nearest residential properties and a site notice was posted). There was no requirement to notify Biddick Academy. However, it is understood that the applicant liaised with the school prior to the submission of the planning application.
- The planning application has been available to publicly view online throughout the whole assessment process. Any 'pre' application consultation undertaken by an applicant, in this case the Council, is completely independent to the statutory publicity / consultation that the Local Planning Authority (LPA) must adhere to.
- There is no evidence to suggest that a proposed development of this nature would have any adverse impacts on the elderly or mental health of nearby residents.
- There is no evidence to suggest that a proposed development of this nature would have any impacts on access to healthcare provision in the vicinity.
- Previous planning history at the application site (summarised elsewhere in this report) is not of direct relevance to the determination of this planning application).
- The nature of the proposed occupants has been summarised in the description of the proposed development above. The assertion that there will be 'offenders' at the premises is not correct.

## **Conclusions**

The proposed development would be within the Existing Urban Area, in a sustainable location, and provide a specialist form of residential accommodation. It would result in the loss of a

dwelling, but retain a form of residential accommodation at the application site. It is therefore considered that the proposed development would be acceptable in principle at this location.

It is appreciated that local residents have genuine concerns about the potential for an increase in crime and anti-social behaviour. However, Northumbria Police have raised no objections to the proposed development. It is therefore considered that there is no firm evidence that such occurrences, which are ultimately a matter for the relevant authorities, would be attributed to residents of the facility. Crime and anti-social behaviour is not an inevitable consequence of multi-occupation as opposed to single occupation of dwellings, but rather a question of individual behaviour and appropriate management. In this case, the proposed development is for supported living and would be appropriately managed 24/7.

The Council's Environmental Health Officer has raised no objections in relation to noise and general disturbances. Whilst concerns raised in representations are noted in relation to noise and general disturbances, given that the proposed development would be appropriately managed 24/7, it is considered that it would have no unacceptable impacts in relation to residential amenity.

No external alterations are proposed and so the proposed development would have no unacceptable impacts on visual amenity, and the Council's Transportation Department (the Local Highway Authority) has raised no objections to the proposed development in relation to parking provision and highway safety.

To control the nature of the proposed development and to prevent the intensification of use at the premises, conditions are recommended to control the maximum number of residents and staff that can be at the premises at any given time.

It is considered that the proposed change of use of the dwelling to residential accommodation with support would have no unacceptable impacts. The proposed development would cater to a specific housing need in which there is demand for within the Local Authority area. For the reasons set out in detail in the above assessment, it is considered that the proposed development would accord with policies within the adopted Core Strategy and Development Plan and saved policies of the Unitary Development Plan, and the National Planning Policy Framework (September 2023). It is therefore considered to be an acceptable form of development, subject to the compliance with the recommended conditions.

## **EQUALITY ACT 2010 - 149 Public Sector Equality Duty**

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to:

- (a) tackle prejudice; and
- (b) promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

## **RECOMMENDATION:**

For the reasons given in this report it is recommended that, in accordance with Regulation 3 of the Town and Country Planning General Regulations 1992 (as amended), members grant planning permission for the proposal subject to the conditions listed below.

### **Conditions:**

- 1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time.
- 2 The development hereby granted permission shall be carried out in full accordance with the following approved plans:
  - Drawing No. S4196-BDN-XX-XX-DR-A-0000 (Location Plan), received 31/08/2023
  - Drawing No. S4196-BDN-XX-XX-DR-A-0001 (Existing Floor Plans), received 31/08/2023

- Drawing No. S4196-BDN-XX-XX-DR-A-0002 (Existing and Proposed Elevations), received 31/08/2023
- Drawing No. S4196-BDN-XX-XX-DR-A-0003 (Existing Site Plan), received 31/08/2023
- Drawing No. S4196-BDN-XX-XX-DR-A-0004 (Proposed Floor Plans), received 31/08/2023
- Drawing No. S4196-BDN-XX-XX-DR-A-0005 (Proposed Site Plan), received 31/08/2023
- Drawing No. S4196\_BDN-XX-XX-DR-A-0006 (Bedroom 4 Compliance Plans) received 20/11/2023

In order to ensure that the completed development accords with the scheme approved and to comply with Policy BH1 of the adopted Core Strategy and Development Plan.

- 3 The number of residents to be accommodated at the development hereby permitted shall not exceed 5 at any one time.

To ensure a satisfactory form of development, to prevent the intensification of use at the premises, in the interests of residential amenity, and to accord with saved Policy EN10 of the adopted Unitary Development Plan, and Policy HS1 and Policy BH1 of the adopted Core Strategy and Development Plan.

- 4 The number of staff at the application site associated with the care element of the development hereby permitted shall not exceed 6 at times of shift changeover, and 3 at all other times, on any given day.

To ensure a satisfactory form of development, to prevent the intensification of use at the premises, in the interests of residential amenity and highway safety, and to accord with saved Policy EN10 of the adopted Unitary Development Plan, and Policy HS1, Policy BH1, Policy ST2 and Policy ST3 of the adopted Core Strategy and Development Plan.

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**Reference No.:** 23/02281/LB3 Listed Building Consent (Reg3)

**Proposal:** **Proposed internal works (including installation of mechanical extract to ceiling of laboratory; and removal of damaged plaster and stud wall linings) and external works and alterations to roof (including new lead cover flashings and lead hips; replacement of flat roof of central tower; removal of flagpole, access equipment to roof, and 2no. rooflights (westernmost rooflight to be replaced with slate roofing to match existing and easternmost rooflight to incorporate slate mushroom vent)); guttering (replace existing lead guttering with stainless steel equivalent); pipework (removal of defected, redundant pipes); and external door to central tower (to be replaced with louvred door)**

**Location:** Museum And Art Gallery, Mowbray Gardens, Burdon Road, Sunderland, SR1 1PP

**Ward:** Hendon  
**Applicant:** Sunderland City Council  
**Date Valid:** 30 October 2023  
**Target Date:** 25 December 2023

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## INTRODUCTION

The application seeks listed building consent to carry out internal and external works (detailed in full below) at Sunderland Museum and Winter Gardens. The Council has been successful in gaining funding from the Art Council, MEMD fund, to undertake such works to repair the building fabric.

## DESCRIPTION OF SITE AND SURROUNDINGS

The application relates to Sunderland Museum and Winter Gardens, a Grade II listed municipal museum building, which is a prominent landmark situated in Sunnyside Conservation Area and adjacent to Mowbray Park on Burden Road in the centre of Sunderland.

The development site extends to incorporate the later additions to the Museum which include the Winter Gardens (adjoining the east facing elevation of the Grade II listed building); the westernmost side elevation of the Museum (which serves as the reception/retail space); and the southernmost rear elevation (a 1960's modernist extension, formerly the textile gallery, though which now serves as a learning zone comprising classrooms and exhibition space).

The original museum building that the proposed scope of works principally relates to is constructed of sandstone ashlar with a slate roof and it is built (constructed between 1877-1879) to a design of the Tillman Brothers in a Chateau style. Sited in the City Centre, the Museum stands as one of the more recognisable buildings within the city centre and occupies a

prominent position at the junction of Borough Road and Burdon Road, with Toward Road to the east. The building is located to the northern boundary of Mowbray Park.

## **THE PROPOSED WORKS**

The works proposed principally relate to the need to repair, and address the effects of water ingress, at the 1879 building which has and continues to create damage to the existing integrity, and historic interest and fabric of the building. To that end, remedial, restorative works proposed exhaustively comprise:

- New lead cover flashings to roof edges;
- Renewal of the lead hips to the central tower and 4no. corner turrets;
- Removal of the flagpole and replacement of the flat lead roof at the top of the central tower;
- Installation of new stainless-steel gutters to replace failed existing lead gutters;
- Removal of 2no. redundant rooflights to be replaced with slate roofing to match existing and a slate mushroom vent;
- Removal of redundant and defected pipework and access equipment to the roof;
- Replacement of the external door to the central tower attic space with a new louvred door;
- Removal of damaged internal plaster and stud wall linings to areas affected by water ingress; and
- Installation of mechanical extract to ceiling of laboratory
- The submitted design and access statement (which incorporates the heritage impact assessment) provides detailed commentary pertaining to the underpinning reasoning for each abovementioned intervention.

## **PLANNING HISTORY**

There is no planning history of relevance to the determination of this planning application.

## **TYPE OF PUBLICITY:**

Press Notice Advertised  
Neighbour Notifications

## **CONSULTEES:**

Cllr Lynda Scanlan  
Cllr Michael Mordey  
Cllr Ciaran Morrissey  
Planning And Highways  
Planning Implementation  
Tyne And Wear Archaeology Officer  
The Garden Trust  
Network Management  
Planning Policy  
Cllr Lynda Scanlan  
Cllr Michael Mordey  
Cllr Ciaran Morrissey



Planning And Highways  
Planning Implementation  
Tyne And Wear Archaeology Officer  
The Garden Trust  
Network Management  
Planning Policy

Final Date for Receipt of Representations: **02.01.2024**

## **REPRESENTATIONS:**

### **Publicity**

Site notices were also posted in the vicinity of the application site on two occasions (following the amendments to the scheme). As also statutorily obliged, the application has been advertised in the Sunderland Echo.

Site notice expiry date(s): 24/11/2023 and 21/12/2023  
Press Notice expiry date(s): 05/12/2023 and 02/01/2024  
Neighbour notifications expiry date: 21/12/2023  
Consultation expiry date(s): 24/11/2023 and 21/12/2023

### **Neighbour Representations**

Owing to the application site's proximity to Mowbray Park, which, is included on English Heritage's register of Historic Parks and Gardens, the Gardens Trust was served notice of the proposal. No comments were made in respect of the proposal.

No neighbour representations have been received

### **Consultees**

#### **Ward Councillors**

No responses received

#### **Conservation**

No objection.

Comments made, as follows:

The application is supported by a Heritage Statement which has in accordance with the requirements of CSDP Policy BH8 and NPPF Paragraph 194 described the significance of all heritage assets directly affected by the proposals (in this case the grade II listed Museum) and includes a Heritage Impact Assessment (HIA) that has assessed the impact of the proposals on its significance.

The detailed drawings and supporting heritage, design and access statement on the whole demonstrate a well-informed yet practical conservation approach to the repair and improvements works that will ensure that the architectural and historic integrity and significance of the listed building will be conserved and its use as a Museum will be sustained.

The majority of the works being undertaken comprise like-for-like repairs to the roof finishes and leadwork to make the building wind and watertight, along with internal repair and adaptations to rectify damage from water ingress. Where modifications with new details are proposed the HIA explains the practical reasons for such interventions and justifies these on the basis of the longer-term benefits of enabling the building to function more effectively, for example by modifying existing design weaknesses and improving the physical integrity of building elements vulnerable to water penetration, enabling the building to be more easily maintained and better conserved into the future.

The conclusion of the Heritage Statement that the proposals will in the main have a positive impact on the significance of the listed Museum, but with some of the modifications resulting in a low level of harm is largely agreed, though it is considered that any harm will be minimal. Those modifications where some harm will be caused comprise the removal of the flagpole (albeit the pole to be kept in storage) to resolve a point of vulnerability to water ingress and the construction of an upstand for a wider aluminium gutter to the high-level stone parapets of the central tower to address the issues with the current gutters not being large enough to adequately discharge rainwater. These existing design flaws are resulting in water penetration that is causing damage to the external masonry and internal ceilings and walls and clearly need to be remedied with alternative design details.

Whilst the amount of harm from the modified design interventions to the overall significance of the listed building is considered to be minimal, this still falls within the category of less than substantial harm making NPPF Paragraph applicable to the proposals. In respect of the requirements of Paragraph 202 it is agreed that the longer-term benefits of the modifications for maintaining and conserving the historic fabric and features of the listed building, and in turn sustaining its optimal viable use as a Museum and overall significance into the future, outweighs the minimal amount of harm.

### Recommendation and Conditions

The proposals are supported as they will repair, improve and secure the long-term conservation of an important landmark listed building in a largely sensitive manner and ensure its continued operational use as Sunderland's principal Museum. All-in-all the proposals satisfy the requirements of NPPF Paragraphs 199 and 202 and CSDP Policies BH7 and BH8 in that overall great weight has been given to the conservation of the listed building and where minimal amount of harm is caused this is justified by the wider longer-term benefits of the repair and improvement works.

*Case Officer Comments: The NPPF has been updated since the above comments were provided. However, this related to updated paragraph numbers only in relation to heritage.*

### **Tyne and Wear Archaeology Service**

No objection, subject to condition, as recommended.

Comments made, as follows:

I have reviewed the submitted documentation and I welcome these proposals to ensure the longevity of this building. However, I note the following from the Heritage Statement: Internally, the building's layout and many historical features, including doors and windows, survive in good condition and others may be hidden beneath modern finishes.

Sunderland Museum and Winter Gardens, are listed Grade II, [and] merit historic building recording of the internal rooms (Historic England Level 2, Understanding Historic Buildings: A Guide to Good Recording Practice (2016)), prior to their development taking place (NPPF para 211). In addition, a basic photographic survey should also be undertaken to provide context to the building recording and further recording of internal historic fabric following the removal of damaged internal plaster and stud wall linings prior to their replacement. Existing architects' drawings may be used as a basis for the survey, for which I can provide a specification. The work must be carried out by a suitably qualified archaeologist or historic buildings expert.

Specialist advice should be sought on the potential impact of the proposals on the significance of these heritage assets (NPPF para 209)

This work can be conditioned:

No demolition/development shall take place until a programme of archaeological building recording has been completed, in accordance with a specification provided by the Local Planning Authority. A report of the results shall be submitted to and approved in writing by the Local Planning Authority prior to any development or demolition work taking place.

### **Network Management**

No objection.

### **Planning Policy**

No comments.

## **LEGISLATIVE CONTEXT AND PLANNING POLICY**

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

The current development plan comprises the Core Strategy and Development Plan (2015-2033) adopted in January 2020, the 'saved' policies within the City of Sunderland Unitary Development Plan (UDP) adopted in 1998 and the UDP Alteration No. 2 (Central Sunderland) adopted in 2007, and the International Advanced Manufacturing Park (IAMP) Area Action Plan (AAP) 2017-2032.

The National Planning Policy Framework (NPPF) (December 2023) is a material consideration for the purposes of Section 66 of the Act. It provides the Government's planning policy guidance, and so the assessment of a planning application should have regard to it.

It is considered that the following policies from the adopted CSDP are pertinent in the assessment of the application.

Policies BH7 and BH8 cumulatively requires (amongst other provisions) new development affecting the setting and or appearance of listed buildings and or new development within conservation areas to preserve and enhance the character and appearance of the subject area, having regard to scale, height, materials, colour, detailed design and use.

Policy BH7 states that there will be presumption in favour of proposals that satisfactorily make a positive contribution to the character and townscape quality of the historic environment where initiatives would identify, maintain, conserve and sustain or return to beneficial usage designated and or non-designated heritage assets. Criterion 5 of policy BH7 also stipulates that proposals that would demonstrably secure the conservation of heritage assets at risk will be considered in favourable terms.

Policy BH8 seeks to preserve and or enhance the character and appearance of the subject conservation area. Further provisions relate to the need to protect the character, integrity and setting of listed buildings, whereby development proposals, i.e., alterations/extensions to listed buildings or new development within their curtilage, to be of the highest quality and to respect the original structure in terms of setting, scale, materials and design.

The aim of Policy BH9 is to protect archaeological sites from development that would have an adverse impact on the site's integrity and setting. Policy BH9, in broad terms, therefore, sets out criteria to ensure heritage assets are appropriately safeguarded.

The National Planning Policy Framework ('NPPF') firmly supports deliverance of high quality design through new development. For example, paragraph 135 states that planning decisions should ensure development functions well and adds to the overall quality of the subject area; is visually attractive as a result of good architecture; and is sympathetic to local character and history, including the immediate and surrounding built environment.

Further requirement outlined in the NPPF is that new development should endeavour to conserve and manage heritage assets, commensurate to their importance. Detailed guidance is set out at section 16 of the NPPF, paragraph 201 of which stipulates that it is incumbent upon Local Planning Authorities to afford due consideration to the significance of the affected heritage asset. Paragraph 203 then proceeds to state that in determining planning applications, Local Planning Authorities should make provision for the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses in-keeping with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities and economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 205, meanwhile, affords great weight on the conservation of heritage assets whereby the weight afforded to an asset should be appropriate to and proportional to its importance.

Paragraph 208 stipulates that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Paragraph 212 states that Local Planning Authorities should adopt a presumption in favour of proposals which would celebrate and better reveal the importance of a heritage asset.

The proceeding section below shall read the proposal against the abovementioned CSDP policies.

## **COMMENTS:**

### **ASSESSMENT OF THE PROPOSED WORKS**

It is considered that the main issue relevant to the determination of this application is 'Impact on Heritage Assets'

## **1. Impact on Heritage Assets**

Policy BH7 'Historic environment' of the adopted CSDP

Policy BH8 'Historic environment' of the adopted CSDP

Policy BH9 'Archaeology and recording of heritage assets' of the adopted CSDP

As noted, the application site is located within the Sunnyside Conservation Area and is a pertinent landmark that makes a positive contribution to the conservation area and the city centre as a whole.

The Council's Conservation Team fundamentally support the proposed works (see their comments above). It can be noted that the application benefits from a Heritage Impact Assessment that provides a level of commentary and detail commensurate to the assets' importance, as required at paragraph 200 of the National Planning Policy Framework ('NPPF').

The proposal has identified and proposes sympathetic restorative interventions, to the overall satisfaction of the Conservation Officer, that comply with the aims set out at criterion 5 of policy BH7 and criteria 1 and 2 of policy BH8.

### **Interior Works**

Proposed internal alterations and additions have been carefully considered and designed so as to minimise impact to the historic structure. Proposed internal works include the following:

- Removal of damaged internal plaster and stud wall linings to areas affected by water ingress; and
- Installation of mechanical extract to ceiling of laboratory

The Conservation Officer has commented that the proposed adaptive internal works to address water ingress broadly represent pragmatic interventions and considers that the submitted HIA provides suitable commentary pertaining to the underpinning rationale for each respective intervention, as proposed. Moreover, the practical reasons for the proposed internal works are concisely justified in identifying how they aid in securing long-term conservation and enabling the building to function more effectively. For example, the HIA, in the view of the Conservation Officer, details how the proposed internal modifications (as outlined above) have been identified to sensitively modify existing design weakness and retain and enhance the physical integrity of building elements susceptible to water ingress and, thus, enable the building to be more effectively maintained and conserved into the future.

The Tyne and Wear Archaeology Service too supports the proposed works. Notwithstanding the acceptability of the proposed internal works, the Tyne and Wear Archaeology Service has sought to safeguard known and potentially, as yet, unknown internal surviving historic fabric (owing to modern material finishes (internal plaster and stud wall linings) which may be obscuring/screening further historic fabric). To that end, safeguarding is to be secured via means of recommended condition which requires completion of archaeological building recording to be undertaken prior to the commencement of works by a suitably qualified archaeological contractor.

In all, in the context of the proposed internal works, noting the sensitive approach to be employed in repairing, restoring and installing modified intervention by which to conserve the surviving historic features, the proposed internal works are acceptable in the terms of policies BH7 and BH8. The proposal is also in compliance of policy BH9 subject to condition as mentioned.

## External Works

The proposal involves restorative works to the exterior façades and roof of the building and exhaustively include:

- New lead cover flashings to roof edges;
- Renewal of the lead hips to the central tower and 4no. corner turrets;
- Removal of the flagpole and replacement of the flat lead roof at the top of the central tower;
- Installation of new stainless-steel gutters to replace failed existing lead gutters;
- Removal of 2no. redundant rooflights to be replaced with slate roofing to match existing and a slate mushroom vent;
- Removal of redundant and defected pipework and access equipment to the roof; and
- Replacement of the external door to the central tower attic space with a new louvred door;

The rationale and justification for the above external works, in the view of the Conservation Officer, principally outweighs any modest harm to the significance of the asset that may arise. For the avoidance of doubt, the Conservation Officer considers the removal of the flagpole and construction of a somewhat aesthetically inferior upstand to facilitate a wider aluminium gutter to the high-level stone parapets of the central tower as being works that would result a degree of harm to the listed building. Notwithstanding this, the overriding need to address conserving the physical integrity of the building renders these proposed works acceptable and, indeed, more so when reading the modified design interventions against paragraph 208 of the NPPF wherein the proposals would amount to less than substantial harm. Moreover, in reference to the provisions of paragraph 208 of the NPPF, the proposed works referred to previous (relating to the flagpole and upstand) would give rise to longer-term benefits for maintaining and conserving the historic fabric and features of the listed building which, in turn, would sustain and preserve its optimal viable use (in this case, as a Museum) and overall significance into the future, thus, outweighing the minimal, acceptable amount of harm.

The restoration and repair works proposed are, therefore, subject to being carried out in accordance with submitted details not considered to be detrimental to the character or special historic interest, character, appearance and or distinctiveness of the listed building and would instead rejuvenate the affected areas of the asset.

To that end, reading the proposed external works holistically, following response from the Conservation Officer, the works will not unacceptably affect the character, setting, appearance, nor integrity of the listed building, and, subject to conditions as recommended, would coalesce with the according terms of policies BH7, BH8, and BH9 of the adopted CSDP.

## Conclusions

Cumulatively, the proposed works are considered to acceptably constitute sensitive and sympathetic interventions which will conserve, enhance and aid future conservation of the listed asset which, by extension, will enable continued optimum viable use.

Broadly, where harm is anticipated to the listed asset and identified in the submitted HIA, such harm is, as confirmed by the Conservation Officer, considered to be minimal and indeed far from sufficient to preclude the granting of listed building consent. Moreover, the proposed works (where harm may occur), would fundamentally outweigh modest harm by virtue of the overarching fact that the works would retain this prominent listed landmark (which provides public benefit).

Cumulatively, therefore, it is considered that the proposed works would be acceptable in relation to impact on the listed building and would (subject to satisfying the suite of recommended conditions) conserve an historic built environment resource whose future could otherwise have been placed in doubt and jeopardised by the effects of continued and sustained water ingress and therefore, maintenance. The remedial works removes this doubt and is thus sufficient complying with the relevant provisions of policy BH7, policy BH8, and policy BH9 of the adopted CSDP and the abovementioned paragraphs of the NPPF.

## **EQUALITY ACT 2010 - 149 Public Sector Equality Duty**

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to:

- (a) tackle prejudice; and
- (b) promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

## **RECOMMENDATION:**

For the reasons given in this report it is recommended that, in accordance with Regulation 3 of the Town and Country Planning General Regulations 1992, Members **GRANT LISTED BUILDING CONSENT** for the proposal subject to the draft conditions listed below.

## **Conditions:**

- 1 The works to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time.
- 2 The works hereby granted listed building consent shall be carried out in full accordance with the following approved plans:
  - Location Plan, received 30/10/2023
  - Drawing No. SMWG-PUR-00-XX-DR-A-1020 (Block Plan), received 30/10/2023
  - Drawing No. SMWG-PUR-00-ZZ-DR-A-2023 (1879 Building, Elevation Repairs), received 30/10/2023
  - Drawing No. SMWG-PUR-00-XX-DR-A-5001 (1879 Building, Repair Details), received 23/11/2023
  - Drawing No. SMWG-PUR-00-RF-DR-A-2035 (1879 Building Roof Plan Proposed Repairs), received 23/11/2023
  - Drawing No. SMWG-PUR-00-ZZ-DR-A-2028 (1879 Building - Internal Areas), received 23/11/2023

In order to ensure that the completed works accord with the scheme approved and to comply with Policy BH7 and Policy BH8 of the adopted Core Strategy and Development Plan.

- 3 No works hereby permitted shall take place until a programme of archaeological building recording has been completed, in accordance with a specification provided by the Local Planning Authority. A report of the results shall then be submitted to and approved in writing by the Local Planning Authority prior to any works taking place.

To provide an archive record of the historic building and to accord with Policy BH9 of the adopted Core Strategy and Development Plan.