

## **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.

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

The Unitary Development Plan for Sunderland was adopted on 7th September 1998. In the report on each application specific reference will be made to those policies and proposals, which are particularly relevant to the application site and proposal. The UDP also includes a number of 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 (General Development Procedure) Order 1995.

## **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 Office of the Chief Executive in the Civic Centre or via the internet at [www.sunderland.gov.uk/online-applications/](http://www.sunderland.gov.uk/online-applications/)

Janet Johnson  
Deputy Chief Executive

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North  
Sunderland

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Reference No.: 10/00229/OUT Outline Application

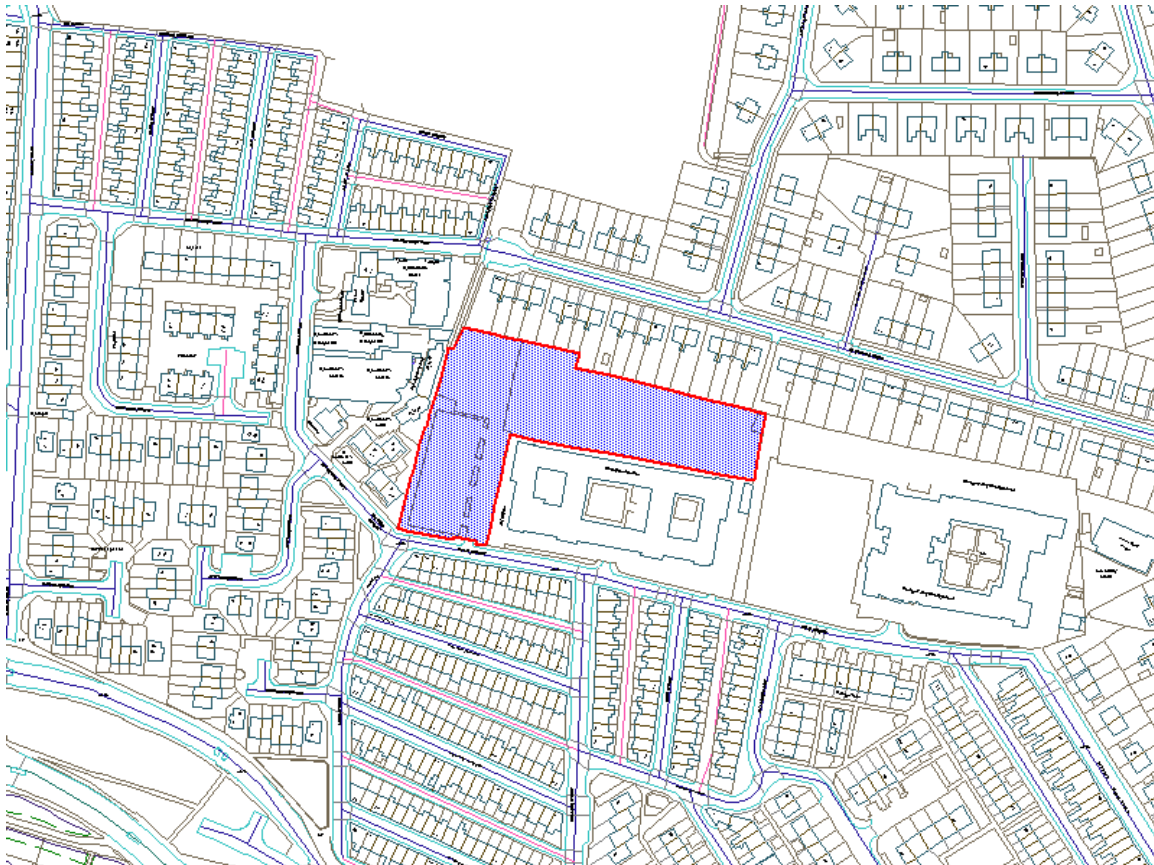
**Proposal:** **Proposed residential development comprising 28 no dwellings and associated parking and vehicular access. (Resubmission)**

**Location:** Land Adjacent To Swan Street Centre Swan Street Sunderland SR5 1EB

**Ward:** Southwick  
**Applicant:** Wylam Leisure Ltd  
**Date Valid:** 22 January 2010  
**Target Date:** 23 April 2010

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### Location Plan



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### PROPOSAL:

Proposed residential development comprising 28 no dwellings (as amended) and associated parking and vehicular access at land adjacent to the Swan Street Centre, Swan Street, Sunderland.

The application site is an 'L' shaped piece of land to the rear of the Swan Street Centre, which is a Grade II listed building. The proposal seeks outline approval but with only landscaping as a reserved matter.

It is important to note that a previous planning application for 37 no. dwellings at the site was withdrawn on the 14 April 2009, ref. 08/03825/OUT. The application was withdrawn by the agent as the Local Planning Authority (LPA) considered the proposal to be overdevelopment of the site and the relationship with the listed Swan Street Centre had not been adequately considered as part of the proposal.

The Swan Street Centre is owned by the Wearmouth Community Development Trust Ltd (WCDDT). The WCDDT is a voluntary organisation (formally constituted in 1997), set up to build the capacity of local people through education, training and employment opportunities. The WCDDT via the Swan Street Centre also provides a venue for local groups.

The application has been altered in terms of density (from 34) and layout and as such this has required the LPA to undertake another consultation exercise to enable residents another opportunity to adequately assess the proposed scheme. The consultation process is due to expire on Tuesday 13 April 2010.

The application has been supported by an 'Enabling Development' Statement, Planning Statement incorporating a Design and Access Statement, Site Waste Management Plan and Statement of Community Involvement.

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

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

#### **CONSULTEES:**

Director Of Childrens Services  
City Services (Environmental Service)  
Durham Bat Group  
Northumbrian Water  
County Archaeologist

Final Date for Receipt of Representations: **13.04.2010**

#### **REPRESENTATIONS:**

Neighbours

A petition signed by 13 people was received against the initial proposal for 34 dwellings, expressing concerns regarding the scale and size of development and proximity to the adjacent residential properties, whilst also raising concern about the impact from construction works. The petition also stated that the petitioners were under the impression that the land in question was to be used for educational purposes.

A further letter was received from a resident who objected to the development on grounds that it would overlook and overshadow the rear of their house and living rooms, highlighting the fact that the objector's disabled wife 'enjoys sitting in the garden but would feel very uncomfortable being overlooked by a large row of houses'. The letter also stated that they were assured no development would take place because of the listed Swan Street Centre.

A point was also made regarding the amenity area and cycle shelters which 'might attract undesirable youths'

The issues relating to privacy, space, light and outlook will be considered in the following residential amenity section. Regarding the impacts from construction works, although it is recognised that existing development surrounds the application site it is considered unreasonable to prohibit development on these grounds. Indeed some short term loss of amenity happens wherever redevelopment of land occurs next to residential properties. However a condition would be incorporated, should Members be minded to approve, requiring the agreement of a construction methodology in order to limit the impact from building operations.

In respect to the amenity areas, an increased level of surveillance has been introduced courtesy of the amended scheme, helping to limit their attraction as congregating points for 'undesirable youths'. However it should be noted that social disturbance issues such as these are not material planning considerations and are civil in nature.

#### Consultees

##### Natural England

Natural England advises that the proposed development is unlikely to have an adverse effect in respect of species especially those protected by law. However Natural England highlighted that an informative should be incorporated, should Members be minded to approve, making the developer that sensitive species may still be present in the general area and that these may have legal protection.

##### County Archaeologist (CA)

The CA highlighted the findings of a 2009 English Heritage-funded North East Rapid Coastal Zone Survey by Archaeological Research Services, which identified a complex of World War Two air raid shelters on this site. They are shown on an RAF aerial photograph from 1945. The shelters would have served the school pupils and local residents. If the shelters are still in-situ they would be of archaeological interest as relics of wartime civil defence.

Consequently, unless written evidence exists that shows the shelters have definitely been grubbed out, the CA recommends an archaeological excavation and recording condition with a subsequent archaeological post excavation report condition also being included.

##### Northumbrian Water

Northumbrian Water requires that development should not commence until a detailed scheme for the disposal of surface water has been submitted to and

approved in writing by the Local Planning Authority. This will ensure that the discharge of surface water from the site does not increase the risk of flooding from sewers in accordance with the requirements of Planning Policy Statement 25: Development and Flood Risk. Northumbrian Water also highlights the Hierarchy of Preference (Revised Part H Building Regulations), which the developer should consider when designing a scheme for the disposal of surface water, namely; Soakaway, Watercourse and finally, Sewer. If sewer is the only option the developer should contact the New Development Team at Northumbrian Water to ascertain allowable discharge points and rates.

## **POLICIES:**

In the Unitary Development Plan the site is subject to the following policies;

B\_2\_Scale, massing layout and setting of new developments

B\_10\_Development affecting the setting of listed buildings

T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising

NA\_10\_See improvements to the environment of older private residential area

NA\_8\_Maximising benefits (open space / community facilities) from new housing development

T\_22\_Parking standards in new developments

## **COMMENTS:**

The main issues to consider in the assessment of this application are:

1. Principle of development
2. Residential amenity considerations
3. Listed building considerations
4. Design considerations
5. Highway considerations
6. Landscape and Ecology considerations
7. Sustainability considerations
8. Section 106 for children's play space

1. Principle of development

The site is allocated in the Unitary Development Plan (UDP) under policy NA17 for community facilities. The proposal should therefore be assessed using UDP policy CF2 which states that land currently in community use should be prioritised for alternative public/community uses.

However, CF2 refers to land currently in community use and it should be noted that the application site has been purchased from the Swan Street Centre by a private landowner, which has effectively separated the land from the community building. More importantly the site has lain vacant since the previous 1960s and the college buildings were demolished following the approval of planning application 97/01828/FUL on the 26 March 1998. However, it is considered that further evidence is required justifying that the land is surplus to requirements

from a community perspective.

Notwithstanding the above requirement the proposal is supported by policy EN10 as this requires, in part, new development to be compatible with the existing pattern of land use. Accordingly it should be noted that the surrounding area is characterised by residential development and as such the proposed land use would be acceptable in this context.

However, in terms of density, the proposal is considered contrary to policy H4, which states that housing density will be expected to reflect the density of the locality, consistent with protecting and enhancing the character of the area. The Interim Strategy for Housing Land, interim planning guidance to the UDP, recommends that the maximum capacity of the site is 30 dwellings.

The amended proposal is for 28 dwellings and consequently, the principle of residential development of this site is considered acceptable subject to further information being provided by the agent which successfully demonstrates the land is no longer appropriate or viable for community use. As such it is envisaged that clarification regarding this issue will be provided on the supplement report.

## 2. Residential amenity considerations

Policy B2 of the UDP requires that scale; massing and layout of new development should retain acceptable levels of privacy and relate harmoniously to adjoining areas. This policy is expanded further via more detailed advice provided within the Residential Design Guide (RDG) and Supplementary Planning Guidance (SPG) to the UDP.

### Privacy implications

For the purpose of protecting privacy amenity it is important to highlight to Members the prescribed standards for spacing between dwellings, as advocated in the above documents. The RDG and SPG require a minimum spacing of 21m from any point of main facing windows, and 14m between main windows facing side or end elevations. Land level differences are also taken into account i.e. for every 1m difference in ground level 2m is added to the horizontal distance.

From a privacy amenity perspective and in the context of the above standards the development as originally proposed largely complied with these requirements, largely due to the very long back gardens of Newbold Avenue. However, concerns existed regarding the proximity of the western element of Block B, which is adjacent to 42 – 44 St Columba's Court. It was explained to the agent that this element of development needed to be reduced in order to safeguard the existing residential amenity of these properties.

### Overbearing implications

The SPG also highlights the issue regarding the position of dwellings in relation to site boundaries, which is particularly pertinent when considering space, light, outlook and overbearing considerations. Moreover in order not to sterilise adjacent land main windows facing a boundary shall not be less than 10.5m away (i.e. half the 21m spacing distance) and for end or side elevations 7m (i.e. half the 14m standard). Although it is noted that existing residential development

surrounds the application site and as such no land readily exists which requires protection from sterilisation and these standards at first glance may not appear relevant.

However, it is still essential to consider the proximity of proposed development to common boundaries, especially in view of existing residential development. Furthermore as the properties in Newbold Avenue have very long back gardens the 21m and 14m standards do not adequately safeguard residential amenity. The original scheme of 34 dwellings proposed 2 and 2.5 storey with main facing windows located only (minimum) 2 – 3.5m away from existing resident's rear boundary fences. These properties would have been relying on existing back gardens for outlook, whilst existing residents would have been overlooked by a wall of development immediately to the rear of their boundary fences.

Therefore in order to provide for an objective spacing standard, one that was based on adopted policy, it was considered that the 7m standard was reasonable and one that provided for adequate spacing between proposed development and existing residential boundaries. As a consequence an amended scheme for 28 properties was submitted on the 23 March 2010 which complied with this requirement.

It is considered that although the nearest gable elevation is only 3.5m away from the boundaries with Newbold Avenue the existing houses still benefit from 22m of garden space and as the gable elevation will not present any overlooking issues, it is considered that on balance this proposed unit is acceptable.

Regarding Block B this has been reduced from six to four properties mitigating the spacing concerns that existed previously. Although it is recognised that at the nearest point a spacing of only 13m exists the oblique relationship between the existing and proposed residential development ensures that Numbers 42 and 44 St Columba's Court will not be detrimentally impacted from the proposed development. In addition as a gable elevation faces St Columba's Court there are no privacy implications for existing residents.

Nevertheless, the re-design of the proposed layout has implications for Numbers 45 – 47 St Columba's Court. The development proposes to locate a gable elevation 14.5m away from the existing residential properties; however, as there is approximately 1.5m difference in ground levels the distance required is 16 - 17m. However it must be recognised that only 4.5m of a gable elevation will transgress this guideline, whilst the St Columba's Court properties are elevated and therefore overlook the application site. Furthermore it is proposed that within the space separating the existing and proposed residential development an amenity area will be created, and as such it is considered that the outlook for the existing residents will actually be improved through the enhancement of this brownfield site with landscaped areas.

It is therefore considered that the proposed scheme is broadly in accordance with the prescribed spacing standards as indicated in the RDG and SPG. As consequence the proposal is considered to be acceptable and in compliance with policy B2 of the UDP.

### 3. Listed building considerations

The application site lies within the grounds of the listed Swan Street Centre building. Careful consideration is therefore required regarding the fragmentation of the application site from the listed building. This matter is being given careful consideration and will be discussed in the supplement report.

### 4. Design considerations

In assessing the design merits of the scheme UDP policy B2 requires the scale, massing and layout of new developments to respect and enhance the best qualities of the area.

Assessing the site from a design and conservation perspective it was initially identified that any proposal should not exceed 20 dwellings in order to deliver a layout which appropriately accommodated the fact that the scheme was an L-shaped site adjacent to a listed building and surrounded by residential development. The recommendation that development should not exceed 20 dwellings was conveyed to the agent via pre-application discussions however this has not been translated into the proposed scheme as it conflicted with the applicant's commercial aspirations for the site.

Nevertheless, the revised scheme for 28 dwellings has mitigated some of the design concerns. The front elevation of Block B now faces towards the shared surface area which now provides for a good degree of overlooking, whilst the adjacent properties in St Columba Court also overlook this area of development further enhancing natural surveillance.

There were also concerns regarding the gable features in the initial 34 dwelling proposal. Given the terraced nature of development there was a high number of gable features fronting onto areas of public realm and as such there were concerns regarding the impact on the character and appearance of the scheme, especially regarding the highly prominent gable features e.g. at end of Block C.

The now proposed 28 dwelling development has altered the density and composition of Blocks A, B and C, and although this has removed the gable features to the end units of Blocks A and B, Block C has now been re-orientated so that at the end of the entrance road into the estate front facing elevations terminate the view, thereby increasing natural surveillance and improving the general streetscene.

#### Scale Parameters

The scale and building heights appear acceptable when considering the context of the surrounding built form. However, it is recognised that the majority of the listed Swan Street Centre is only 8.6m high whilst the proposed dwelling houses are 9m high, with the listed Swan Street Centre also set at a lower level to Block A. Nevertheless, the Swan Street Centre is characterised by roof areas (i.e. at the corners and central sections of the building) that are 11.4m high, helping to ensure that it will remain the most prominent building.

Concerns were expressed over the width of House Type A, as they are only 3.5m when measured internally. During discussions with the architect it was explained



that it was the LPA's preference that these narrower properties (Blocks B & C) should be similar in width to the Type B properties i.e. 5m in width. Although this would reduce the density of development further it would ensure more accommodating development for proposed residents. However the proposed scheme of 28 dwelling's still proposes the narrower Type A properties and as such it must be recognised that no policy standard exists that require minimum floor areas.

In conclusion the proposed scheme is considered to have satisfactorily resolved the relevant design issues and in light of the residential amenity considerations being considered acceptable and in recognition of the site being constrained by its L-shaped nature, the form and layout of development has been heavily influenced by this factor and as such on balance the proposal is considered to be acceptable and in accordance with policy B2 of the UDP.

## 5. Highway considerations

UDP policy T14 requires new development to provide adequate parking and be readily accessible by pedestrian and cyclists, whilst proposals should not cause traffic congestion or highway safety problems and make appropriate safe provision for access and egress.

The proposed internal road network includes a 90 degree bend, which will be utilised by service vehicles. Therefore a swept path analysis will be required to demonstrate that these vehicles can be accommodated without the need to mount the footways and it is considered that as part of the reserved matters application details will be required to demonstrate that this can be achieved adequately with detriment to the setting of the listed building.

It is important for the applicant to note that should Members be minded to approve the application an agreement under Section 38 of the Highways Act 1980 will be required to allow for the adoption of the new highway and service margin. It should also be noted that the extent of adoption is still to be agreed. Furthermore, the shared surface areas will also need to be constructed as publicly adoptable highway, with appropriate surface treatment delineating between public and private areas.

In addition the improvements to the existing public highway, that are necessary to provide a new access from Swan Street, would need to be undertaken in accordance with the provisions made under Section 278 of the Highways Act 1980; and the proposed scheme of traffic calming and speed reduction measures on Swan Street will need to be discussed and agreed with the Local Highway Authority.

Therefore subject to the above it is considered that from a highway perspective the proposal is considered acceptable and in accordance with policy T14 of the UDP.

## 6. Landscape and Ecology considerations

Policy CN17 requires the retention of trees, hedges and landscape features in all new development, whilst policy CN18 promotes nature conservation.

The site is a brownfield site which was occupied by 1960s built development. Since the demolition of the 1960s college buildings the land has lain fallow and become overgrown.

The proposed development will see the loss of one tree, a category B (No. 19) classified as being of moderate quality by the submitted tree survey plans. The remaining trees of similar quality surrounding the development should be retained subject to the incorporation of relevant conditions. Furthermore, the proposal also incorporates three amenity areas termed 'village green', which could be utilised to enhance the landscape and ecological value of the site and introduce additional tree planting.

As discussed in the previous consultation section of this report Natural England advises that the proposed development is unlikely to have an adverse impact. Nevertheless a concern was expressed by the Local Planning Authority's ecology section in respect to breeding birds and it has been recommended that site clearance should be conditioned to take place between September and February inclusive in any given year. In addition in light of the last survey being undertaken in 2008 it is advised that additional ecological checking survey is required prior to the reserved matters application and/or works commencing on site.

Landscaping has been requested via the application form to be agreed via a reserved matters application. Nevertheless, the above issues will clearly influence any proposed landscaping scheme and it is considered that in conjunction with the incorporation of tree protection, tree planting and further ecological survey work the proposal is considered acceptable and in accordance with policies CN17 and CN18.

## 7. Sustainability considerations

UDP policy R4 encourages development proposals to incorporate energy saving measures, whilst the RDG specifically refers to the Code for Sustainable Homes, requiring level 3 as a minimum standard for all new residential development. Level 3 stipulates a 25% improvement in target emission rates from the 2006 Building Regulation Standards. Furthermore it should be noted that Part L of Building Regulations is due to be ratified in October 2010, increasing the requirement for Building Regulation approval from the 2006 Standards to an equivalent of Code Level 3.

The agent, acting on behalf of the applicant, explained that the proposed dwellings are to be timber framed and the walls will have a U-value of 0.26W/sq.m K, which they state represents a 25% improvement on the 2006 Building Regulation Standards, whilst the thermal improvement to other external elements, e.g. windows and roofs, is more easily achievable through higher specification glazing and additional insulation respectively. Therefore they are confident that the proposed residential scheme will satisfy Code Level 3 and have no concerns about the inclusion of this requirement as a condition.

Therefore in light of the requirements of policy R4 and the RDG and as Part L will not be ratified until October 2010 at the earliest, it is considered appropriate to include a planning condition, should Members be minded to approve, requiring the development to meet Code Level 3.

Consequently the proposed development is considered to be acceptable and in accordance with policy R4 of the UDP.

8. Section 106 for children's play space

As the application proposes in excess of 10 residential units of 2 bedrooms or more UDP policy H21 requires that provision is made for children's formal play. Consequently it is considered that at the reserved matters phase a financial contribution should be made for the provision for off site play in lieu of on-site provision via an agreement under Section 106 of the Town & Country Planning Act (1990). This Section 106 agreement will ensure that the proposed scheme will comply with UDP policy H21.

## CONCLUSION

The proposal is considered to be acceptable in relation to design, highways and ecological considerations, however, as the community use and listed building issues are still being given further consideration and in light of the extended consultation process, it is anticipated that a recommendation will be made on the supplement report.

**RECOMMENDATION: Deputy Chief Executive to Report**