

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/

Peter McIntyre
Executive Director City Development

Reference No.: 14/01371/OUT Outline Application

Proposal: **Outline application for erection of 82 dwellings (all matters reserved) (additional ecology, tree, drainage and landscaping info received).**

Location: Coal Bank Farm, Hetton-le-Hole, Houghton-le-Spring, DH5 0DX

Ward: Hetton

Applicant: Mr Colin Ford

Date Valid: 17 November 2014

Target Date: 16 February 2015

PROPOSAL:

Outline planning permission is sought for the erection of 82 no. dwellings on land at Coal Bank Farm, Low Moorsley, Hetton-le-Hole, DH5 0DX.

The proposed development affects approximately 3.75ha of land adjacent to the buildings of Coal Bank Farm. The farm buildings stand on the southern edge of the village of Low Moorsley, with dwellings to Swaledale Close immediately to its north-west. To the north-east is a field/paddock which separates the farm buildings from dwellings to Tynedale Street and Ennerdale Street. Open countryside, in the form of primarily agricultural land, stretches away to the south towards the villages of Elemore and Hetton-le-Hill. The application site slopes markedly from the south towards the north.

Although land to the south of the farm buildings is primarily of agricultural character, the application site itself currently features a series of large, corrugated sheds and is covered by an extensive range of mainly scrap farm vehicles, machinery and equipment, lorry engines and trailers, other containers and piles of tyres. These are associated with the applicant's plant and machinery dealership business, which has been operating from the site since the 1970s. The land is in a rough condition, with evidence of former quarrying activity and a number of earth bunds present, and it is criss-crossed by a series of informal tracks. A small area of woodland is to its north-east corner.

The land featuring the sheds and scrap plant and machinery etc. (and subject to this planning application) is of a roughly rectangular shape and is flanked on both sides by fields, meaning it somewhat 'juts' into the open countryside extending to the south of Low Moorsley.

The abovementioned field/paddock to the north-east of the farm buildings is subject to an outline planning permission for 40 no. residential dwellings (ref. 12/01125/OUT), which was considered by the Council's Development Control (Houghton, Hetton and Washington) Sub-Committee at the meeting held on 27th February 2013 and approved on 6th July 2017 following the completion of an agreement under s106 of the Town and Country Planning Act 1990. All matters, except access, were reserved for future approval. An application for approval of the reserved matters was validated on 19th March 2021 and is currently pending consideration (application ref. 21/00561/REM).

The current application site was also subject to planning application ref. 04/00551/OUT, which proposed residential development on the land. This application was refused by the Council in October 2004 and a subsequent appeal against the Council's decision was dismissed by the Planning Inspectorate. It is considered, however, that given the age of this decision and the significant changes in respect of local and national planning policy and other material planning considerations in the intervening period, it should not be given any substantive weight in the consideration of the current application.

The development of 40 no. dwellings on land to the north-east of the farm buildings effectively forms Phase 1 of a wider development, with the development proposed by the current outline planning application then forming Phase 2.

The current application seeks outline planning permission for up to 82 dwellinghouses on the site. All detailed matters (i.e. access arrangements, appearance of the development, landscaping details, layout of the development and the scale of the development) are reserved for later determination. The current application therefore seeks approval of the general principle of developing the site for the proposed amount of housing.

As Members will note, the planning application was originally validated in November 2014. Delays to the application's advancement have been caused by requests from Council officers for various revisions to the proposals and requirements for improved technical supporting information, whilst there have also been issues around the viability of the scheme and lengthy periods of dormancy, during which the application did not progress. The application was, however, never withdrawn by the applicant and has not been determined by the Council as Local Planning Authority. The applicant is still seeking a determination of the application and, in line with requests from the Council, has updated various survey reports, documents and other supporting information as considered necessary. Despite the age of the application, the Council is able and obliged to determine the application, but its merits must be considered in the context of contemporary local and national planning policies.

Although all matters have been reserved for future approval, the application has been accompanied by indicative layout proposals to provide a vision for how the site could successfully accommodate the proposed amount of housing. The indicative plans show access for the new housing being achieved via the access road for Phase 1 of the development (i.e. the 40 no. dwellings with outline planning approval on the field/paddock to the north-east of the farm buildings), which would be continued beyond that site's southern boundary and into Phase 2 of the development. This access road, which has approval via the outline planning approval for Phase 1 of the development, would lead from the southern side of Ennerdale Street, through Phase 1 and into the second phase.

The indicative plans then show the access road looping around the site and housing positioned along both sides of this, with a 'spur' road off the main route giving access to housing in the centre of the site. The indicative site plan has been amended to draw the housing in from the southern boundary, creating a deeper, greener southern edge to the development. The quantity and quality of landscaping and open space within the scheme has also been improved and incorporated into the indicative proposals, with the layout plan now depicting approximately 0.91ha of public open space. Additionally, a drainage swale is now shown as running along the site's southern and eastern edges.

Dwellings within the indicative layout are shown as a mix of detached (51 no. dwellings) and semi-detached (31 no. dwellings), with a range of two-, three- and four-bedroomed properties. Some houses would benefit from garages, whilst others would only have in-curtilage parking.

Members should note at this point that the application is supported by a Financial Viability Appraisal, which seeks to demonstrate that the proposed development of the site is unable to support financial contributions and other planning obligations on the grounds that it would otherwise become unviable.

The application has been accompanied by a wide range of supporting technical documents and reports. As noted previously, given the age of the original submission, these have been updated/refreshed where necessary and additional material has also been submitted to address issues raised by officers. The documentation submitted includes:

- o Design and Access Statement (September 2014)
- o Planning, Design and Access Statement (October 2021)
- o Transport Assessment (February 2014)
- o Transport Statement (June 2021)
- o Ecological Appraisal (November 2013)
- o Preliminary Ecological Appraisal (July 2021)
- o Bat Risk Assessment Survey Report (September 2014)
- o Bat Activity Survey Report (September 2015)
- o Breeding Bird Survey Report (September 2015)
- o Ecological Mitigation Report (December 2015)
- o Ecological Impact Assessment (September 2022, revised January 2023)
- o Reptile Method Statement (September 2022, revised January 2023)
- o Biodiversity Net Gain calculations (September 2022, updated February 2023)
- o Landscape and Visual Appraisal (August 2022)
- o Arboricultural Impact Assessment (July 2022, revised February 2023)
- o Phase 1 Land Contamination Report (December 2013)
- o Preliminary Contamination and Mining Risk Assessment (July 2021)
- o Flood Risk Assessment (November 2014, updated November 2022)
- o Drainage Strategy (July 2021, numerous subsequent amendments and updates)
- o Ground Water Condition Report (July 2021)
- o Financial Viability Appraisal (October 2021)

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Cllr Iain Scott
Cllr James Blackburn
Cllr Claire Rowntree
Network Management
Tyne And Wear Archaeology Officer
Environment Agency
Hetton Town Council
Durham Bat Group
Northumbria Police
NE Ambulance Service NHS Trust
Northumbrian Water
Natural England
Director Of Childrens Services

Planning Implementation
Natural Heritage
Planning Policy
Environmental Health
Planning And Highways
Natural Heritage
Landscape
Flood And Coastal Group Engineer
Landscape
Flood And Coastal Group Engineer
Flood And Coastal Group Engineer
Flood And Coastal Group Engineer
Natural Heritage
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Natural England
Director Of Childrens Services
Planning Implementation
Natural Heritage
Planning And Highways

Rear 23 Rosedale Street Low Moorsley Houghton-le-Spring
37 Ennerdale Street Hetton-le-Hole Houghton-le-Spring DH5 0EH
39 Ennerdale Street Hetton-le-Hole Houghton-le-Spring DH5 0EH
43 Ennerdale Street Hetton-le-Hole Houghton-le-Spring DH5 0EH
41 Ennerdale Street Hetton-le-Hole Houghton-le-Spring DH5 0EH

26 Moorsley Road Hetton-le-Hole Houghton-le-Spring DH5 0ED
7 Swaledale Close Hetton-le-Hole Houghton-le-Spring DH5 0DY
20 Moorsley Road Hetton-le-Hole Houghton-le-Spring DH5 0ED
1 Rosedale Street Low Moorsley Houghton-le-Spring DH5 0EA
13 Kirkdale Street Hetton-le-Hole Houghton-le-Spring DH5 0DS
12 Swaledale Close Hetton-le-Hole Houghton-le-Spring DH5 0DY
27 Tynedale Street Hetton-le-Hole Houghton-le-Spring DH5 0DU
5 Coalbank Road Hetton-le-Hole Houghton-le-Spring DH5 0EG
4 Ennerdale Street Hetton-le-Hole Houghton-le-Spring DH5 0DT
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23 Kirkdale Street Hetton-le-Hole Houghton-le-Spring DH5 0DS
16 Rosedale Street Low Moorsley Houghton-le-Spring DH5 0EA
24 Rosedale Street Low Moorsley Houghton-le-Spring DH5 0EA
16 Moorsley Road Hetton-le-Hole Houghton-le-Spring DH5 0DR
6 Tynedale Street Hetton-le-Hole Houghton-le-Spring DH5 0DU
2 Rosedale Street Low Moorsley Houghton-le-Spring DH5 0EA
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Flat Wheatsheaf Moorsley Road Hetton-le-Hole Houghton-le-Spring
The Licensee Wheatsheaf Moorsley Road Hetton-le-Hole Houghton-le-Spring
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Flat Black Boy Inn Moorsley Road Hetton-le-Hole Houghton-le-Spring
The Licensee Black Boy Inn Moorsley Road Hetton-le-Hole Houghton-le-Spring
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58 Moorsley Road Hetton-le-Hole Houghton-le-Spring DH5 0ED
Rainton View Moorsley Road Hetton-le-Hole Houghton-le-Spring DH5 0ED
57 Moorsley Road Hetton-le-Hole Houghton-le-Spring DH5 0ED
59 Moorsley Road Hetton-le-Hole Houghton-le-Spring DH5 0ED
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24 Kirkdale Street Hetton-le-Hole Houghton-le-Spring DH5 0DS
30 Rosedale Street Low Moorsley Houghton-le-Spring DH5 0EA

Final Date for Receipt of Representations: **25.07.2023**

REPRESENTATIONS:

Public consultation - the application was subject to initial public consultation on receipt in November 2014, via neighbour notification letters, site notice and press notice. Further rounds of public consultation were undertaken in August 2017, November 2021 and December 2022 (following the receipt of amended proposals and additional supporting material) and then a final consultation exercise was undertaken in June 2023, with new site notices posted and a further notice published in the Sunderland Echo newspaper.

Representations both in support and objection to the application have been received in response to these consultation exercises; these can be summarised as below:

In support

34 Rosedale Street (16th December 2014) - proposals will revitalise the village, bringing much-needed amenities to the area.

38 Rosedale Street (16th December 2014) - is supportive if a community building is included in the development; bringing more people into the area is positive if suitable amenities are provided.

Hill Crest, Front Street, High Moorsley (16th December 2014) - proposals will help to regenerate the village and encourage investment. Suggested that the development includes a permanent community building for the village.

1 Coalbank Road (8th August 2017) - expresses support for the application.

In objection

8 Weardale Street (12th December 2014) - concern that Weardale Street will become a through-route for traffic accessing the development. Concerns over loss of wildlife and noise pollution.

7 Coalbank Road (25th August 2014) - development will detrimentally affect the amenity of existing dwellings, particularly their privacy. Dwellings will look out of character in terms of their appearance and mass and have a negative impact on green spaces. Concern that the development will adversely affect highway and pedestrian safety to both Coalbank Road and Ennerdale Street due to increases in traffic and have a negative effect on young families in the area.

2 Coalbank Road (1st December 2021) - Hetton-le-Hole area has been overdeveloped and local road systems cannot handle extra traffic, both during construction works and once the houses are built. More traffic would be hazardous to road users, pedestrians and cyclists. Local facilities, such as doctors and dentists, would struggle to cope with additional demand.

21 Coalbank Square (31st December 2022) - suggests that many supporting documents are out of date. Site alleged to already cause flooding in the area and so drainage is a concern. Development will cause additional traffic congestion in combination with other new development in the area. Some comments on the application have been made by people who have now moved away. Area is overpopulated and local services are oversubscribed.

21 Coalbank Square (16th July 2023) - application should be rejected as 'things have changed' in the area since it was submitted. The Gentoo development at Cragdale Gardens has caused havoc in the area and the site has been left in a poor state since the contractor ceased trading. If

the development is approved there will be two ongoing construction sites in a small area. Ennerdale Street cannot accommodate the additional traffic from the developments in the area and the local infrastructure is not in place to accommodate these houses.

26 Essex Street, Hetton-le-Hole (5th July 2023) - proposal would result in overdevelopment of the area, has poor access and would cause too much traffic generation.

14 Coalbank Road (16th July 2023) - concerns over increased construction vehicles, farm vehicles and flooding in the winter and lack of consideration of residents of Moorsley. The Gentoo development at Cragdale Gardens has been 'disastrous' as it ground to a halt. If both developments are built the overcrowding will be intolerable.

116 Brick Garth, Easington Lane (17th July 2023) - there is already overdevelopment in the area and a lot of residents have not been consulted. All residents should be consulted again to gain their views, not just a selected few. Extra vehicles associated with the development will cause more traffic issues.

108A Houghton Road, Hetton-le-Hole (18th July 2023) - residents of Hetton are unhappy with the sheer amount of development in the area. This is another unsympathetic scheme which is out of character with the area and will have a negative impact on residents, wildlife, outlooks and road infrastructure. There are also concerns regarding the ability of existing roads and facilities to cope with extra residents, drainage, lack of green spaces, road safety and lack of doctors, dentists and secondary schools.

The Lodge, Office Place, Hetton-le-Hole (19th July 2023) - proposal is an overdevelopment of a small village. There is a lack of infrastructure to deal with this development and others nearby. Moorsley village could be dealing with another 400 cars per day. The access road leads to Hetton Primary and Secondary Schools and then North Road, which is stretched to capacity. Local estates are used as 'rat runs' to avoid these routes at peak times - the development will exacerbate this issue. The development would have negative impact on the local area and destroy the small village 'community' status Moorsley enjoys.

In respect of concerns raised regarding public consultation, as noted above, the application has been subject to five separate rounds of consultation, with letters issued to over 200 addresses in the area. This level of consultation is considered to exceed the Council's statutory responsibilities in respect of publicising this planning application and is considered to have ensured that nearby residents have been suitably informed of the application and subsequent amendments/updates to it.

External and internal consultation responses:

Natural England

Comments received 25th August 2017 - no objections, on the basis that the development will not have significant adverse impacts on the nearest designated sites, these being Moorsley Banks and High Moorsley Banks Sites of Special Scientific Interest (SSSIs). Standing advice on matters relating to landscapes, protected species, locally designated sites, habitats and species, ancient woodland, environmental enhancements, access and recreation and rights of way is provided. Specialist advice should be sought from the Council's in-house ecologist where necessary.

Comments received 1st December 2021 - no objections, on the basis that the proposed development will not have significant adverse impacts on statutorily protected nature conservation

sites or landscaped. Generic advice relating to other natural environment issues is provided within an annex to the consultation response.

Northumbrian Water

Comments from 24th November 2021 - no objections to the development, although it is noted that proposed discharge rates do not align with those agreed with Northumbrian Water during pre-application discussions. It is therefore requested that a condition requiring the submission of a detailed scheme for the disposal of foul and surface water, for the approval of Northumbrian Water and the Lead Local Flood Authority, is imposed on any planning approval. The development shall then take place in accordance with the approved details.

Tyne and Wear County Archaeology officer

Comments from 4th September 2014, reiterated 16th December 2014 and 15th August 2017 - no known archaeological features at the site and so an archaeological assessment is not required.

Hetton Town Council

Comments from Planning and Development Sub-Committee meeting held on 28th January 2015 - notes that the development could deliver environmental improvements and in principle, there is support for the application. There is, however, a need to ensure traffic management issues are examined to prevent congestion and safety concerns through the existing estate and around Hetton Primary and Secondary Schools.

Council's Planning Policy team

Comments from March 2022 - notes that the application site is identified within the Council's most recent Strategic Housing Land Availability Assessment (SHLAA) as being developable for housing and it is also a draft allocation for housing within the emerging Allocations and Designations (A&D) Plan, although this document can only be given limited weight at this time.

Part of the site is, however, identified as open countryside in the Core Strategy and Development Plan (CSDP) and the development should seek to address the objectives of policy NE8 of the CSDP, which provides guidance in respect of development proposals affecting areas of open countryside designation. In this regard, and in line with the advice within the development framework for the site within the draft A&D Plan, it is suggested that the southern edge of the development be 'softened' and essentially remain undeveloped to provide a transition to the wider open countryside beyond the site.

The comments also highlight the relevance of CSDP policies relating to landscape character (policy NE9), the provision of greenspace within housing developments (policy NE4), ecology and biodiversity (policy NE2), trees and hedgerows (policy NE3), design quality (policy BH1), sustainable design and construction (policy BH2), quality of life and amenity (policy HS1), local road networks (policy ST2) and development and transport (policy ST3).

Council's Environmental Health team

Comments from 23rd March 2015 - advises that the applicant must ensure that construction works are undertaken in a manner which is respectful to local amenity. It is considered that a condition requiring the submission of a Construction Environmental Management Plan (CEMP) for the approval of the Local Planning Authority would be appropriate.

Comments from 13th October 2015 - in terms of ground and water contamination risks, it is suggested that the submitted Phase 1 desk-top study demonstrates that there are no significant constraints to a residential development of the site. Standard conditions requiring the submission and approval of a Phase II intrusive ground investigation report, the development and approval

of a remediation strategy and verification report and a strategy for dealing with unexpected contamination are recommended.

Council's Land Contamination consultant

Comments from 8th December 2021 - considers the submitted Preliminary Contamination and Mining Risk Assessment and Ground Water Condition Report to provide an appropriate overview of risks relating to ground conditions at the site. The reports note that farm buildings and quarrying at the site were in evidence in 1856. Little development has taken place since then, save for the introduction of sheds and the use of the land for storage of scrap metal, vehicles and farming equipment.

The reports do not identify any potential contamination which would represent an impediment to the development of the site, however there are some omissions from the reports which should be addressed before development of the site commences. The outstanding matters can be attended to via conditions requiring further intrusive ground investigations and the submission and approval of a remediation strategy for the site. A further condition which deals with encountering unexpected contamination is also recommended.

Council's Flood and Coastal team (Lead Local Flood Authority)

Comments from 14th July 2015 - initial comments highlighted concerns with the submitted Flood Risk Assessment and drainage strategy, suggesting that it did not follow the recognised hierarchy for dealing with the sustainable discharge of water from the development and did not provide sufficient detail to enable a conclusion that foul and surface water could be sustainably managed.

Comments from 10th August 2015 - following submission of an addendum to the original Flood Risk Assessment, it is accepted that detailed drainage issues can be dealt with via a condition of any outline planning approval.

Comments from 2nd December 2021 - comments provided following submission of further flood risk and drainage details and in the context of updated local sustainable drainage standards and objectives. Response advises that further information should be submitted before the application is approved, including a resolution to the foul discharge issue identified by Northumbrian Water (in comments dated 24th November 2021).

Comments from 31st October 2022 - noted that an updated Flood Risk Assessment has been submitted, however there remain some outstanding issues with the technical details of the proposed drainage strategy, which require resolution before the application is approved.

Comments from 30th November 2022 - outstanding technical issues remain, and it is also observed that a drainage swale is being proposed outside the boundary of the application site.

Comments from 28th March 2023 - outstanding issues regarding the flood risk assessment and sustainable drainage strategy have been satisfactorily resolved and there is now no objection to the outline application being approved, subject to final details being submitted through the reserved matters application.

Council's Ecology consultant and Ecology officer

Consultant comments from 3rd December 2021 - comments advised that insufficient information had been provided to allow for a full assessment of the potential impacts of the proposals upon protected species, including bats, and the botanical interests of the site, including the ecological value of trees. Further information should also be provided relating to the proposed landscaping strategy via a Biodiversity Net Gain assessment, to provide a more robust assessment of the

potential impacts of the proposals upon the ecological interests of the site, to ensure the proposals are in line with current guidelines, policy and legislation.

Consultant comments from 29th November 2022 - comments produced following the submission of the Ecological Impact Assessment, Reptile Method Statement, BNG Assessment, Landscape proposals and Arboricultural Impact Assessment. The submitted comments advise that further assessment is still required in respect of the value of habitats at the application site, including the suitability of existing buildings and trees at the site to accommodate bats, the potential risks in respect of great crested newt, badger and breeding birds, and the potential for designated ecology sites within the area to be affected by the proposed development. Further information was also requested in respect of species such as hedgehog, red squirrel, dormouse, and reptiles. The comments also identify issues with the submitted BNG calculations and note that the assessment identifies a substantial loss of biodiversity. The submitted information is, therefore, considered to remain insufficient to allow for a robust assessment of the potential ecological impacts of the development.

Consultant comments from 25th March 2023 - comments submitted following receipt of an updated Reptile Method Statement, detailed landscaping proposals and an updated tree report and Arboricultural Impact Assessment. Comments advise that the landscaping proposals could be improved in respect of their ecological benefits and deliver greater levels of biodiversity net gain. The additional and updated arboricultural assessment are considered robust and no further information is required at this stage.

Further information is recommended in respect of assessing the value of habitats present on the site, however previous comments regarding impacts on nearby designated ecology sites have been addressed.

In terms of bats, there remain some concerns in respect of the methodology of the surveys undertaken. It is recognised, however, that as this is an outline planning application, demolition of buildings may not occur for some time and it is recommended that updating surveys should be undertaken during the active season prior to demolition works commencing, to ensure the situation remains the same. Additional information provided in relation to the suitability of trees to support roosting bats, and the process to be followed in the event bats are recorded, is acceptable. Increased numbers of bird and bat boxes are now proposed, and final details can be secured by condition as required.

Updated information in respect of great crested newt, badger, hedgehog, red squirrel and reptiles is considered acceptable, however there remain issues with the assessment relative to breeding birds, including full consideration of species and habitats at the site and in respect of the proposed mitigation measures, including the type and location of bird boxes to be installed within the development.

The submitted biodiversity net gain assessment indicates a significant net loss in biodiversity units (27.45%), largely due to a loss of scrub from the site. Amendments to the landscaping proposals could improve the situation, with space being present around the areas of open space in which scrub creation could take place, along with the enhancement of retained habitats such as woodland and hedgerows.

Ecology officer comments from 14th August 2023 - comments note that the following issues raised by the Council's Ecology consultant have, up to now, remained unresolved:

- o Adequate bat survey.
- o Adequate bird survey.

- o Biodiversity Net Gain.
- o Habitat survey

In relation to bat and bird surveys, the Council's Ecology officer accepts that the available information is insufficient to inform the detailed design of a scheme that avoids, minimises, and compensates for all significant adverse effects. Nevertheless, while previous survey information has recorded the presence of roosting bats and of nesting birds, due to the nature of the species recorded using the site and nature of the habitats present, it is considered feasible that adequate mitigation can be provided within an appropriate design.

As it is likely that site preparation and construction work are unlikely to commence on this site before any ecological survey becomes outdated, the Council's Ecology officer advises that it would be necessary to condition that a reserved matters application is supported by updated surveys in any case. For this reason, it is considered sufficient to condition that a subsequent reserved matters application is supported by updated surveys.

In addition to updated surveys, flexible but comprehensive conditions are also recommended that enable adequate construction phase and long-term mitigation measures to be secured.

The Council's Ecology officer also notes that biodiversity net gain has not been addressed, save to confirm there will be a loss in biodiversity value. However, as the scheme is in outline, there is scope to improve the post development biodiversity value of the proposals through improved greenspace/landscaping. There is also the potential for offsite compensation as necessary. A condition is therefore suggested to secure that a reserved matters application is accompanied by a biodiversity net gain assessment based on up-to-date survey information and adequate calculations.

Council's Highways team

Comments from 9th May 2022 - no objections to the proposed development. It is noted that access is proposed to be taken from Ennerdale Street, via the access road approved as part of planning approval ref. 12/01125/OUT for the housing on the adjacent field/paddock. Comments also suggest that additional access will be taken from Swaledale Close, however the submitted indicative site layout plan does not show this.

Comments suggest that further details of the design of the highway layout within the proposed development and footpath connections to the adjacent housing site should be provided, however this cannot reasonably be requested in respect of an outline application with all matters reserved. Full details will be provided at the reserved matters stage.

The Transport Assessment/Statement (dated June 2021) submitted with the application gives details of multi-modal trip generation and states that the anticipated number of vehicle movements would be 39 and 38 two-way trips in the AM and PM peak-hour periods respectively, which equates to around two vehicle movements every three minutes. Vehicular activity associated with the development will therefore be relatively low.

The comments did initially also recommend that the applicant's consultant provides a Stage 1 Road Safety Audit to ensure there will not be a severe impact on the surrounding road network and that the junction onto Moorsley Road can accommodate the additional traffic. Following further discussions with the Council's Highways officer, it has been agreed that given the phasing of the overall development at the site, a Road Safety Audit is not necessary for this proposal.

A range of additional comments have also been provided in respect of the indicative details supplied with the application, which can be summarised as follows:

- o Road widths - recommended to be a minimum of 5.5m.
- o Adoptable standards - all roads within the development should be built to an adoptable standard.
- o In-curtilage parking - properties are recommended to feature double-width driveways.
- o Visitor parking - to be provided at a rate of one space for every three dwellings.
- o Turning arrangements - scheme needs to accommodate the turning requirements of large vehicles, such as refuse lorries.
- o 20mph zone - development could be suitable for an enforceable 20mph zone, which would be implemented via a Traffic Regulation Order.
- o Tree roots - no tree planting will be permitted within the area 4m back from the edge of a kerb unless a root barrier is provided.
- o Section 38 and 278 agreements to be entered into as necessary.
- o Cycle shelters - secure facilities for cycle storage are recommended.
- o Installation of tactile crossings to be discussed with relevant Highways officers.
- o Bin storage details to be provided as necessary.

Council's Landscape officer comments

Comments from 20th December 2022 - no significant concerns in respect of the proposed development. Advice is provided in respect of incorporating existing planting and vegetation into the development and the approach to levels within the site. The conclusions of the submitted Landscape and Visual Appraisal are broadly agreed with. The submitted planting plans are considered generally acceptable, with a good number of trees proposed throughout the development, however greater levels of shrub planting along plot boundaries are recommended. The intention to create areas of open space along the edges of the development is also welcomed, however it is noted that these areas are narrow in places.

The comments also note that the submitted Arboricultural Impact Assessment suggests that vegetation group G6 could be gapped up and this is recommended. The entirety of this group should be retained to provide some screening and softening of the proposed development in views from the west.

Council's Education officer

Comments from 16th November 2021 - recommends a financial contribution of £432,640 towards local education provision.

Comments from 1st August 2023 - advises that a financial contribution towards education provision should still be sought, however it may be appropriate to focus on secondary and special educational needs only given the falling birth rate and as this is where a potential local shortfall is being projected. On this basis, a contribution of £210,424.14 is suggested. If primary school provision were also included, a contribution of £525,584.29 would be recommended.

POLICIES:

In the Core Strategy and Development Plan, the site and development is subject to the following policies: SP1, SP6, SP7, SP8, HS1, HS2, HS3, H1, H2, BH1, BH2, BH3, BH9, NE1, NE2, NE3, NE4, NE8, NE9, NE11, NE12, WWE2, WWE3, WWE4, WWE5, ST2, ST3, ID1, ID2.

COMMENTS:

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. In undertaking this exercise, planning case law has established that the development plan must be considered as a whole, a point reinforced by the recent *Cornwall Council v Corbett* Court of Appeal judgment. In considering whether a planning application accords with a development plan as a whole, it should be borne in mind that policies within a plan can pull in different directions and that the role of the decision maker is to determine whether, in light of the whole plan and the relative importance of conflicting policies, a development proposal does or does not accord with the plan.

To this end, where conflict with development plan policies is identified, it is incumbent upon the decision-maker to attribute weight to the benefits of the proposed development and establish whether these benefits outweigh negative aspects of the development and the associated policy conflict. This exercise is often referred to as the 'planning balance'.

In establishing the weight to be given to a development plan in the decision-making process, regard must also be given to 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 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.

Paragraph 12 of the NPPF goes on to advise that the presumption in favour of sustainable development set out by paragraph 11 does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not normally be granted.

The Council's Core Strategy and Development Plan (CSDP) was adopted in January 2020 and is considered to represent an up-to-date development for the purposes of the NPPF. Members should note that the CSDP is therefore the 'starting point' for the consideration of the current planning application.

The CSDP sets out the Council's long-term plan for development across the City until 2033 and the policies therein serve to replace the majority of policies within the Council's Unitary Development Plan (1998). Some UDP policies have been saved pending the future adoption of

an Allocations and Designations (A&D) Plan. All CSDP, UDP and draft A&D Plan policies referred to within this report are considered consistent with the NPPF, although only limited weight can be given to any A&D Plan policies given that this document is in draft form and has only partially advanced through the adoption process.

In addition, the Council has also adopted a range of Supplementary Planning Documents (SPDs) and other planning guidance which are relevant to the consideration of the current planning application, including the Development Management SPD and Planning Obligations SPD.

Although it does not form part of the Council's adopted Development Plan, regard should also be given to the Council's City Plan 2019-2030. This sets out the Council's vision, being 'by 2030 Sunderland will be a connected, international city with opportunities for all'. Three key themes will drive this vision, these being:

- A Dynamic Smart City
- A Healthy Smart City
- A Vibrant Smart City

The City Plan sets out a wide range of specific and more general delivery objectives for the period up to 2030, one of which is the development of key housing sites in the City.

The adopted CSDP firstly sets out a list of Strategic Priorities for the City, in order to achieve its Spatial Vision for 2033. These Strategic Priorities are:

1. To deliver sustainable economic growth and meet objectively assessed employment and housing needs;
2. To identify land needed for development in the right locations so the most vulnerable assets can be protected whilst meeting sustainable growth ambitions;
3. To promote healthy lifestyles and the development of safe and inclusive communities, with facilities to meet daily needs and encourage social interaction;
4. To provide a range of choice of accommodation, house types and tenures;
5. To provide a wide portfolio of employment sites to support key sectors and opportunities for new office development;
6. To support and improve the vitality and economic performance of the Urban Core and designated centres;
7. To protect, sustain and enhance the quality of our built and historic environment;
8. To protect and enhance the city's biodiversity, geological resource, countryside and landscapes and ensure all homes have access to interlinked green infrastructure;
9. To adapt to and minimise the impact of climate change by reducing carbon emissions, maximising the use of low carbon energy solutions and reducing the risk/impact of flooding;
10. To manage waste as a resource and minimising the amount produced and sent to landfill;
11. To promote sustainable and active travel and improve transport infrastructure;
12. To manage the City's mineral resources;
13. To ensure the City has the infrastructure to support its growth and prosperity;

A wide range of CSDP policies are relevant to the consideration of the proposed development, as set out below.

SP1 - sets out the Council's sustainable development strategy for the Plan period, including the delivery of at least 13,410 new homes by delivering the right homes in the right locations through the allocation of homes in the A&D Plan, the allocation of the South Sunderland Growth Area and The Vaux and amending the Green Belt boundary to allocate Housing Growth Areas.

SP6 - the Coalfield character and settlements will be protected whilst ensuring its future sustainability by, amongst other measures, protecting the Open Countryside and Settlement Breaks.

SP7 - the Council will seek to improve health and wellbeing in Sunderland through a range of measures.

SP8 - the Council will work with partners and landowners to exceed its minimum target of 745 net additional dwellings per year by delivering, amongst other sites, the Strategic and Housing Growth Areas identified in the Plan.

HS1 - development must demonstrate that it does not result in unacceptable adverse impacts to amenity which cannot be addressed through appropriate mitigation, arising from sources such as air quality, noise, dust, odour and land contamination. Where unacceptable impacts arise, planning permission will normally be refused.

HS2 - proposals should demonstrate that noise-sensitive development, such as new housing, will not be detrimentally affected by the prevailing noise environment. Effective mitigation must be proposed where this is necessary.

HS3 - development proposals must demonstrate that risks from land contamination and ground conditions are adequately understood and accounted for via appropriate remediation and mitigation.

H1 - residential development should create mixed and sustainable communities by meeting affordable housing needs, providing a mix of house types and tenures appropriate to its location, achieving an appropriate density for the site's location and, where appropriate and justified, provide larger detached dwellings and dwellings designed for older people and those with special housing needs. From 1st April 2021, major housing development should include 10% of dwellings to meet Building Regulation M4(2) Category 2 - accessible and adaptable dwellings.

H2 - proposals of more than 10 dwellings should include 15% on-site affordable housing, with the mix of affordable housing informed by the recommendations of the Council's most up-to-date Strategic Housing Market Assessment (SHMA). Affordable dwellings should be spread around the site and be indistinguishable from market housing in terms of appearance and quality.

BH1 - development should achieve high quality design and positive improvement by, amongst other measures: creating places with a clear function, character and identity; ensuring development is of an appropriate scale, massing, layout, appearance and setting; retaining and creating acceptable levels of amenity; delivering attractive environments and architecture; providing high-quality landscaping; and having regard to key views. From 1st April 2021, proposals should meet nationally described spacing standards.

BH2 - sustainable design and construction should be integral to major development proposals.

BH3 - requires new areas of public realm to be of a high quality and be attractive, safe, legible, functional and accessible.

BH9 - the Council will support the preservation, protection and, where possible, the enhancement of the City's archaeological heritage, by requiring applications to involve appropriate investigation and recording of remains.

NE1 - development should maintain and improve the Council's green and blue infrastructure by enhancing, creating and managing multifunctional greenspaces and bluespaces.

NE2 - where appropriate, development must deliver biodiversity net gain and avoid or minimise impacts on biodiversity and geodiversity, including in relation to designated sites and wildlife corridors.

NE3 - development should seek to retain and protect valuable trees, woodlands and hedgerows, any harm caused should be appropriately justified, mitigated and compensated for.

NE4 - requires new major development to incorporate an appropriate amount and quality of usable greenspace, unless it is considered more appropriate to make a financial contribution towards off-site delivery.

NE8 - states that the Open Countryside (as designated on the Policies Map) will be protected and access enhanced. Only a limited range of development types are considered appropriate - housing development is appropriate if rural exception tests in national policy can be met and the redevelopment of previously development land is also appropriate provided that the site is not of high environmental value or landscape quality and if the development will contribute to local housing needs or provide new jobs.

NE9 - requires new development to protect, conserve and enhance the varied landscape character of the city, taking into account the key characteristics, assets, sensitivities and vulnerabilities and measures to protect and/or enhance the landscape in the relevant locality as set out in the Council's Landscape Character Assessment. Development that causes significant adverse impact on distinctive landscape characteristics will not be supported unless the impacts are clearly outweighed by the benefits of the development.

NE11 - new development should take account of views into, out of and within the development, with particular consideration given to key local views and views of significant buildings.

NE12 - development which would result in the loss of best and most versatile agricultural land should be considered in the context of its contribution to economic and other benefits.

WWE2 - requires development to appropriately consider the risk from flooding and follow the sequential and exception tests set out in national planning policy and incorporate appropriate mitigation where required. Proposals should also not adversely affect the flow or quality of groundwater.

WWE3 - requires development to incorporate appropriate sustainable drainage measures to ensure it does not unacceptably increase the risk of flooding within the site and elsewhere.

WWE4 - requires new development to maintain water quality.

WWE5 - requires new development to deal with the disposal of foul water via the drainage hierarchy.

ST2 - states that new development must not have an adverse impact on the existing local road network, taking into account the number, design and location of new access points, local capacity, access to sustainable modes of travel and road safety considerations.

ST3 - development should provide safe and convenient access for all road users, should incorporate appropriate pedestrian and cycle links, should be supported by the necessary

Transport Assessments and Statements, should provide appropriate levels of parking, including for electric vehicles, and should safeguard existing rights of way.

ID1 - development will be expected to contribute to infrastructure improvements where this is necessary to make the development acceptable in planning terms.

ID2 - the Council will seek planning obligations (via s106 contributions) to secure affordable housing and other local improvements to mitigate the impact of the development as is necessary. Where it is not possible to deliver the policy requirements in full, a viability assessment should be submitted in line with the requirements of Planning Practice Guidance.

In terms of retained UDP policies, the field/paddock to the north of the application site is subject to policy HA4, which serves to allocate the land for a housing development of up to 30 dwellings. To clarify, this allocation does not extend to the current planning application site.

In respect of the draft A&D Plan, the site is proposed to be allocated for new housing by policy H8.50. The draft allocation area includes the northern field/paddock which already benefits from outline planning permission and gives a total indicative site capacity of 122 dwellings. Appendix 1 to the draft A&D Plan provides site specific policy requirements for housing allocations; those applicable to the application sites include ensuring that:

- o Impact on local infrastructure including roads, schools and health care is addressed.
- o Access to local facilities and services are enhanced where appropriate.
- o A mix of house types and affordable housing are provided.
- o Residential amenity is maintained.
- o The layout responds to the topography of the site.
- o Suitable vehicular access is provided to the from Ennerdale Street, with appropriate junction improvements put in place to Moorsley Road.
- o Development avoids the alignment of the Northumbrian Water Main crossing the site.
- o Ecological requirements are addressed, and the design and layout are informed by the ecological mitigation hierarchy.
- o Development is carefully designed to limit the potential impact upon the area of High Landscape Value.
- o Any potential archaeological remains are identified and recorded and appropriate mitigation measures secured.
- o Appropriate mitigation is provided to address impacts on SSSI and Local Wildlife Sites and the proposals would not have a significant adverse impact upon the value and integrity of the network.
- o Green infrastructure corridors are maintained.
- o Coal mining risk assessment
- o SuDS must be included within the development in connection with other mitigation measures as required.
- o Any identified contamination on site is suitably remediated
- o Air quality levels are acceptable.

In terms of key views and with reference to CSDP policy NE11, the Policies Map of the draft A&D Plan identifies a panoramic view from land to the south of Moorsley Road, close to its junction with York Street and Rosedale Street, with policy NE16 of the draft A&D Plan stating that such views will be preserved and enhanced.

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

- Deliver a sufficient supply of homes (section 5);
- Build a strong, competitive economy (section 6);
- Promote healthy and safe communities (section 8);
- Promote sustainable transport (section 9);
- Make effective use of land (section 11);
- Achieve well-designed places (section 12);
- Meet the challenge of climate change, flooding and coastal change (section 14);
- Conserve and enhance the natural environment (section 15); and
- Conserve and enhance the historic environment (section 16).

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. The Council's position in respect of housing land supply and delivery;
2. Land use and housing policy considerations;
3. The implications of the development in respect of residential amenity;
4. The implications of the development in respect of design and visual amenity;
5. The implications of the development relative archaeology;
6. The impact of the development in respect of highway and pedestrian safety;
7. The impact of the development in respect of ecology and biodiversity;
8. The impact of the development in respect of flooding and drainage;
9. The impact of the development in respect of ground conditions;
10. Summary of position in respect of planning obligations;

1. Housing land supply and delivery position

Any planning application for housing must be considered in the context of the aims of section 5 of the NPPF, which is concerned with achieving the Government's objective of significantly boosting the supply of homes in England. In order to meet this objective, paragraph 60 requires local planning authorities to identify a sufficient amount and variety of land available for housing where it is needed and, at paragraph 61, it requires local planning authorities to identify the minimum number of homes needed in its area, as informed by a local housing needs assessment conducted using the standard method provided in national planning guidance.

Paragraph 68 states that local planning authorities should have a clear understanding of the land available in their area for housing development through the preparation of a strategic housing land availability assessment and should identify specific, deliverable sites which are available for development in the upcoming 5-year period. Paragraph 74, meanwhile, sets out a requirement for local planning authorities to identify and annually update a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.

As indicated by paragraph 11 of the NPPF, if a local planning authority cannot demonstrate five-year supply of housing land, development plan policies which are relevant to housing should be considered out-of-date and planning permission granted for housing development unless the policies of the NPPF indicate otherwise.

In accordance with the requirements of paragraph 68 of the NPPF, the Council regularly appraises housing land availability in the City via Strategic Housing Land Availability Assessments (SHLAA). SHLAAs identify sites and broad locations with potential for housing, assesses their development potential, assesses their suitability for development and the likelihood of development coming

forward and provides a five-year land supply trajectory. Sites for housing have also been allocated through the adoption of the CSDP, including the Housing Growth Areas, and further sites are proposed to be allocated for new housing through the A&D Plan.

In order to provide some certainty on the matter, each year the Council produces an Annual Position Statement (APS), which is submitted to the Planning Inspectorate for its review and report. The Planning Inspectorate provided the Council with an updated APS report on 5th October 2022, which concludes that the Council can currently demonstrate a 5-year housing land supply. This is based on the APS demonstrating a deliverable supply capable of yielding 4644 dwellings for the period 2022 - 2027, against a 5-year housing requirement figure of 4098 dwellings over that period (including the 10% buffer required by paragraph 74 of the NPPF). This equates to a housing land supply of 5.7 years. The Council's ability to demonstrate a 5-year supply of housing land therefore forms the context for the consideration of this and other planning applications for new housing development.

It should be noted that the Council has now prepared an APS for the period 2023 - 2028, which concludes that the Council can currently demonstrate a housing land supply of 5.3 years (i.e. a total supply of 4370 dwellings against a requirement of 4098, including the 10% buffer). This APS has not, however, yet been reviewed by the Planning Inspectorate.

Given that the Council can currently demonstrate a 5-year supply of housing land, and with regard to the guidance of paragraph 11 of the NPPF, it is contended that the relevant policies within the CSDP, the draft A&D Plan and the UDP can be given appropriate weight.

Members must note, however, that the Council being able to demonstrate a 5-year housing land supply does not entitle it to automatically refuse planning applications for housing on sites which are not allocated for housing through the CSDP or the draft A&D Plan and which have not been identified by the SHLAA. Nor should planning permission automatically be refused where a planning application proposes a greater number of dwellings than is identified as a potential site capacity by the relevant CSDP, draft A&D Plan policy or the SHLAA.

Both the NPPF, at paragraph 61, and policies SP1 and SP8 of the CSDP make it clear that housing land supply and delivery targets are minimum figures (with policy SP8 setting out an aspiration to exceed the minimum target of 745 dwellings per year) and the Council as Local Planning Authority is obliged to consider the merits of any such application in respect of all relevant material planning considerations, including the benefits that may be derived in terms of housing availability from developing an unallocated site or delivering a greater number of dwellings than a site allocation policy recommends.

In addition, it is observed that the housing land available in the City does appear to be decreasing, with a fall from 5.7 years in the 2022 APS to 5.3 years in the draft 2023 APS. This potential reduction in the availability of housing land must be borne in mind when considering applications for new housing, particularly where housing is being proposed on a site which has been included within the Council's housing land supply calculations.

2. Land use and housing policy considerations

Most of the land subject to the planning application is not subject to a specific allocation within the Council's adopted Core Strategy and Development Plan. As noted earlier, the field/paddock to the north of the application site is subject to a longstanding UDP allocation for housing development, but this does not extend to the application site.

The majority of the application site is, therefore, still subject to saved policy EN10 of the UDP, which advises that where there is no specific land use allocation, the existing pattern of land use is intended to remain - new development proposals must respect the prevailing land uses in the neighbourhood.

With regard to policy EN10's objectives, it is observed that site borders the southern edge of Low Moorsley, with housing to the north across Ennerdale Street and to the north-west off Tynedale Street and Swaledale Close. Given the site's adjacency to existing residential areas, and having regard to policy EN10's guidance, it is considered that the proposed residential development would, in terms of broad land use principles, be an appropriate use of the application site.

Allied to the above, whilst the application site is not allocated for housing development by the proposals map of the UDP or the CSDP (which primarily served to allocate strategic-level housing sites, such as those removed from the Green Belt), it has been identified as a deliverable housing site (within 6-10 years) in the Council's Strategic Housing Land Availability Assessment (SHLAA) of 2020. It is also included within the Council's Annual Position Statements of 2022 and 2023. The SHLAA suggests the site has a capacity of 82 no. dwellings. As noted previously, the site is also identified as part of a wider housing site, including the land within the northern field/paddock covered by UDP allocation policy HA4, by the Council's draft A&D Plan, with policy H8.50 therein indicatively identifying a total capacity of 122 no. dwellings.

The number of dwellings proposed by the application (82 no.) aligns with the capacity of 82 no. dwellings identified by the SHLAA and the draft A&D Plan, given that the number of dwellings proposed by the current application plus the 40 no. houses approved on the northern paddock equals the total capacity of 122 no. dwellings identified by policy H8.50.

Clearly, therefore, by virtue of its inclusion in the Council's SHLAA and APS and its proposed allocation for housing through the A&D Plan, it is envisaged that the application site will be contributing to the Council's supply of housing land over the Plan period and support the objectives of policies SP1 and SP8 of the CSDP, which both aspire to exceed the Council's minimum targets of housing delivery.

It is observed, however, that the area covered by the draft housing allocation in the A&D Plan and identified as being available for housing within the 2020 SHLAA includes a portion of land which is designated as Open Countryside by the adopted CSDP. The land in question is the southernmost part of the application site (measuring approximately 25m - 75m in depth x 175m in width) which, despite the Open Countryside designation, mostly reads as part of the wider application site given the presence of the scrubby trees, bushes, tracks and farming paraphernalia which give the site its largely unkempt, untidy character and appearance. This contrasts with the worked agricultural land to the south, east and west of the application site boundary.

Given that the draft A&D Plan proposes to allocate the entirety of the application site, including the southern part subject to the Open Countryside designation, for housing, it appears that its availability for residential development is the 'direction of travel' in planning policy terms. Nevertheless, as explained earlier, the A&D Plan is currently only in draft form and so can only be given limited weight; consequently, it is necessary to engage with CSDP policy NE8, which governs development in the areas designated as Open Countryside.

As noted previously, CSDP policy NE8 largely seeks to restrict development within the Open Countryside and it sets out a limited range of types of development which can be acceptable providing certain criteria are met. New dwellings in the Open Countryside are generally only acceptable if designed for rural workers or if they meet the 'rural exceptions' in national policy (e.g. dwellings of exceptional design quality or which support historic assets). The policy does,

however, state that the redevelopment of previously developed land may be acceptable, provided that the site is not of high environmental value or landscape quality, and if the development will contribute to local housing needs or provide new jobs.

Policy SP6 of the CSDP also seeks to protect open countryside with the aim of ensuring the various settlements of the Coalfield area remain distinct.

It can reasonably be concluded that most of the area of the application site which is covered by the Open Countryside designation is 'previously developed' given its longstanding use for the storage of scrap farming vehicles and equipment and the current presence of buildings and associated paraphernalia on the land. It is therefore considered that the development of this land would not necessarily conflict with policy NE8, especially given the site is proposed to be developed for housing which, given its inclusion within the SHLAA and allocation in the draft A&D Plan, is envisaged as contributing to housing land supply needs in the city.

Notwithstanding this conclusion, policy NE8 of the CSDP still seeks to protect previously developed land which is of high environmental value or landscape quality, and it must therefore be established whether either of these considerations apply to the application site; consideration of these matters is undertaken in subsequent sections of this report.

Whilst much of the application site subject to the Open Countryside designation can be considered previously developed, it is noted that a very small part of the south-eastern corner of the site (measuring approximately 15m - 25m depth x 45m width) is not used for storage purposes, but rather appears to be worked agricultural land. The proposed development of this area is not considered to conflict with the objectives of policy SP6 in that the development would not cause the merger of settlements, but it does not meet any of the criteria within CSDP policy NE8 and so a residual conflict with this policy remains.

Ultimately, the development of this small part of the site and residual conflict with policy NE8 must be considered in the 'planning balance', with the policy conflict given appropriate weight in the context of such considerations as the site's inclusion in the SHLAA, its proposed allocation for housing in the draft A&D Plan and the wider benefits to be derived from a housing development and any other benefits to the development as identified within this report.

The inclusion of a small area of worked agricultural land within the application site also means CSDP policy NE12 is relevant. A review of Natural England's Agricultural Land Classification mapping indicates that the land in question is of no more than Grade 3 ('Good to Moderate') value and so the development would not result in the loss of the best or most versatile agricultural land, in line with policy NE12's aims and objectives.

To summarise land use policy considerations, given the application site's inclusion in the Council's most recent SHLAA and the proposed allocation of the sites for housing within the Council's draft A&D Plan, it is evident that the site is intended to be brought forward for housing and that it is envisaged as contributing to the Council's supply of housing land and the delivery of new housing over the next 5 - 10 years. Part of the site is subject to a designation as Open Countryside through the CSDP, however given much of this area can be considered previously developed, its development for housing would not fundamentally conflict with the objectives of policy SP8. The development of a small area of undeveloped agricultural land does give rise to a residual conflict with policy SP8, but this ultimately falls to be considered in the 'planning balance' and in the context of the various positive and negative aspects of the proposed scheme as identified within this report.

One such material consideration is the role the site has in terms of housing supply and delivery - as noted earlier in this report, section 5 of the NPPF is concerned with significantly boosting the supply of homes in England, with paragraph 60 stressing that the needs of groups with specific housing requirements must be addressed. Additionally, paragraph 65 states that major housing developments (i.e. of 10 or more dwellings) should deliver at least 10% affordable housing.

Meanwhile, policy H1 of the CSDP supports the creation of mixed, sustainable communities which contribute to affordable housing needs (at least 15% of dwellings should be affordable as per the requirements of policy H2 of the CSDP) and provide a variety of property types, tenures and sizes, including specialised accommodation such as bungalows. Abovementioned policies SP1 and SP8 of the CSDP also set out that the Council's housing delivery objective for the Plan period is to exceed its target of 745 dwellings per annum.

It is evident that the proposed development will make a modest but valuable contribution to the delivery of new housing in the City given its inclusion in the SHLAA and APS. The site helps to underpin the Council's current housing land supply position which, as noted previously, is showing a downward trend in terms of land availability, from 5.7 years in the 2022 APS to 5.3 years in the draft 2023 APS.

Given the outline nature of the application, with all matters reserved, the type of housing to be delivered at the site is not being 'fixed' at this stage and will instead be determined through an application for the approval of reserved matters. Nevertheless, the indicative submission shows a potential mix of 2-, 3- and 4- bedroomed detached dwellings and short terraced blocks, suggesting that the development can support a range of property types.

In terms of affordable housing, Members should note at this stage that the application does not propose to include any affordable dwellings within the development, or make any contributions towards off-site provision, on viability grounds. The application has been supported by a viability assessment, which seeks to demonstrate that the scheme is unable to deliver affordable housing, and other planning obligations, as the development would otherwise be unviable. The proposed absence of affordable housing (and other planning obligations) and the applicant's viability arguments are considered in more detail in following sections of this report, but ultimately the affordable housing position is a matter which requires balanced consideration in the context of the wider positive and negative aspects of the proposed development.

With regard to the above comments, it must be recognised that the site is included within the current SHLAA and APS and is proposed to be allocated for housing in the A&D Plan. The approval of outline planning permission for the development of 82 no. dwellings on the site will enable the Council to meet its stated objective of exceeding its housing delivery targets and underpin its housing land supply and delivery position. The proposed development will enable the delivery of a mix of housing, to assist with addressing the objectives of policies H1 and H2 of the CSDP.

There is a residual minor conflict with CSDP policy NE8 in terms of the development of a small area of agricultural land within the designated Open Countryside and this issue falls to be considered in the context of the wider positive and negative aspects of the scheme. Similarly, the absence of affordable housing within the development on viability grounds is a matter which requires further evaluation, having regard to the position relative to all other relevant issues.

Given the above, before the acceptability of the scheme can be established, consideration must be given to all other relevant material planning considerations, as set out below.

3. Implications of development in respect of residential amenity

Paragraph 130 of the NPPF states that planning decisions should ensure that developments create places which, amongst other objectives, have a high standard of amenity for existing and future users. Development should also create places that are safe, inclusive and accessible and where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion and resilience.

Meanwhile, policy BH1 of the 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 and retains acceptable levels of privacy and ensures a good standard of amenity for all existing and future occupiers of land and buildings. This policy also requires new development to include initiatives which serve to 'design out' crime.

As has been previously noted, the current application is in outline form and all matters are reserved for future approval. Indicative proposed site plans submitted with the application do, however, show a relatively spacious layout and properties occupying substantial plots with good-sized front and rear gardens. The sloping nature of the development site means careful consideration will need to be given to the detailed layout for submission with a reserved matters application. It is considered, however, that a layout which achieves acceptable levels of privacy, outlook and natural sunlight/daylight and satisfactorily addresses the spacing recommendations set out in the Council's Development Management Supplementary Planning Document (DMSPD) can realistically be delivered at the site.

Policy BH1 of the CSDP requires all new dwellings to achieve gross internal floor areas which meet or exceed the Government's Nationally Described Spacing Standards whilst, in a similar vein, policy H1 requires at least 10% of dwellings within major residential development schemes to meet requirement M4(2) 'Accessible and adaptable dwellings' of the Building Regulations. Again, given the outline nature of the application and the absence of detailed plans for new dwellings, the scheme is not able to demonstrate how these requirements will be met; it is considered, however, that planning conditions could be used to ensure any subsequent reserved matters applications address these policy objectives.

Policy HS1 of the CSDP requires new development to maintain acceptable levels of amenity in respect of pollution and other sources of nuisance, with policy HS2 of the CSDP and paragraph 185 of the NPPF then both requiring consideration to be given to the potential for noise to affect the amenity of new noise-sensitive property, such as dwellinghouses. The Council's Environmental Health team have raised no objections or concerns in relation to these matters and to this end, it is observed that the proposed development would occupy an edge-of-settlement site surrounded by agricultural land and without any obvious sources of intrusive noise.

Objectors to the scheme have cited concerns regarding noise and disturbance from the development, including in combination with the ongoing development of 86 no. dwellings at the nearby Cragdale Gardens site (planning permission ref. 20/01360/FUL). Planning permission cannot be reasonably withheld on grounds relating to noise and disruption during construction work, even where other development may be taking place nearby; development works can, ultimately, be managed through the submission and approval of a Construction Environmental Management Plan and environmental health powers used to intervene in site operations if excessive noise, disturbance, dust, or other issues are experienced.

In terms of the impact of the development on the living conditions of existing dwellings, the development site is largely remote from other properties, with no existing residential areas to the south, east or west. The north-western corner of the application site abuts dwellings to Swaledale

Close, but the orientation of these properties suggests that a layout can be achieved which will acceptably respect their living conditions. The northern boundary of the site will abut the land subject to the approved outline application (ref. 12/01125/OUT) and current reserved matters application (ref. 21/00561/REM) and the indicative layout for the current application and proposed layout for the adjacent reserved matters application is considered show that dwellings within the two developments can co-exist whilst achieving acceptable levels of amenity for occupiers of both sites.

With regard to the above comments, it is considered that the development will not give rise to any unacceptable harm to the amenity of existing dwellings in the vicinity of the application, in terms of the living conditions of dwellings. Additionally, it is considered that subject to appropriate details being submitted through a future reserved matters application, the development will afford future occupiers of the dwellings with an acceptable standard of amenity.

It is therefore considered that the proposals are compliant with the requirements of policies BH1, HS1 and HS2 of the CSDP and paragraph 130 of the NPPF in relation to residential amenity.

4. Implications in relation to design and character and appearance of the area

Of particular relevance in considering matters relating to design and visual amenity are sections 11 and 12 of the NPPF. Section 11 places an emphasis on making effective use of land, with paragraph 124 stating that planning decisions should support development that makes efficient use of land, taking into account matters including:

- the identified need for different types of housing and the availability of land suitable for accommodating it;
- local market conditions and viability;
- the availability and capacity of infrastructure and services - both existing and proposed - as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;
- the desirability of maintaining an area's prevailing character and setting, or of promoting regeneration and change;
- the importance of securing well-designed, attractive and healthy places.

Paragraph 125, meanwhile, states that where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning decisions avoid homes being built at low densities and ensure that developments make optimal use of the potential of each site. Applications which do not make efficient use of land should be refused planning permission, with local planning authorities instructed to take a flexible approach to applying amenity policies where they would otherwise inhibit this objective.

Paragraph 120 states that great weight should be given to the use of brownfield land within settlements for homes and other needs and it supports appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land.

Section 12 of the NPPF is concerned with achieving well-designed places, with paragraph 126 stating that the creation of high quality, beautiful and sustainable places is fundamental to what the planning and development process should achieve, and that good design is a key aspect of sustainable development. Paragraph 130 goes on to advise that planning decisions should ensure that developments will, amongst other objectives:

- function well and add to the overall quality of the area, not just for the short-term but over the lifetime of the development;

- are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- establish or maintain a strong sense of place;

Paragraph 131 highlights the important contribution new trees can make to the character and quality of urban environments, and also the role they can play in helping to mitigate and adapt to climate change. New development should incorporate new tree planting throughout, with the provision of tree-lined streets strongly encouraged.

Paragraph 134 then states that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, especially where there is clear conflict with local and national design guidance and policies.

Paragraph 154, meanwhile, states that new development should be planned for in ways which avoid increased vulnerability to the range of impacts arising from climate change and which can help reduce greenhouse gas emissions, such as through its location, orientation and design.

Paragraph 174 of the NPPF is also relevant in considering visual amenity as it requires planning decisions to respect and enhance valued landscapes in a manner commensurate with their statutory status or identified quality in the development plan.

Aforementioned policy BH1 of the CSDP seeks to achieve high quality design and positive improvement; to meet this objective, development should:

- create places which have a clear function, character and identity based upon a robust understanding of local context, constraints and distinctiveness;
- maximise opportunities to create sustainable mixed-use developments;
- be of a scale, massing, layout, appearance and setting which respects and enhances the positive qualities of nearby properties and the locality;
- deliver acceptable standards of amenity;
- promote natural surveillance;
- clearly distinguish between public and private spaces;
- create visually attractive and legible environments;
- provide appropriate landscaping as an integral part of the development;
- maximise opportunities for buildings and spaces to gain benefit from sunlight and passive solar energy;
- not detract from important views of buildings, structures and landscape features;
- create safe, convenient and visually attractive areas for servicing and parking;
- maximise durability and adaptability throughout the lifetime of the development;
- meet national space standards as a minimum (for residential development);

The Council's adopted Development Management Supplementary Planning Document (SPD) also provides more detailed guidance for developers in relation to the design and layout of new housing development.

Also applicable in terms of the layout of the development is policy H2 of the CSDP, which requires affordable housing to be grouped in clusters around the site and to be indistinguishable in terms of appearance from the market housing.

Policy BH2, meanwhile, 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, enhance biodiversity and include buffers to any waste and water treatment works.

Policy NE3 seeks to retain valuable trees and hedges within development proposals whilst with regard to greenspace provision, policy NE4 of the CSDP states that the Council will seek to enhance the quality of available greenspace by, amongst other measures, requiring all major residential development to provide a minimum of 0.9ha per 1000 bed spaces of usable amenity greenspace on site, unless a financial contribution for the maintenance/upgrading to neighbouring existing greenspace is considered to be more appropriate.

Policy NE9 requires consideration to be given to impacts on the landscape, particularly where the landscape has been assessed as having high value, a requirement reiterated by policy H8.50 of the draft A&D Plan. Policy NE11 of the CSDP also seeks to protect key views and requires new development to have an acceptable appearance within views.

Given the outline nature of the application with all matters reserved, there are no detailed proposals to consider, with only an indicative proposed layout submitted with the application. There are no house type plans for consideration, whilst landscaping proposals are also only indicative at this stage. Nevertheless, consideration can and must still be given to the potential impacts of a housing development of the type and scale proposed on the visual amenity of the locality and the wider area, as informed by an appraisal of current site conditions, the value of the local landscape and the details provided with the planning application.

As noted in the first part of this report, the application site does somewhat 'jut' into the open countryside as its eastern and western sides are flanked by agricultural land. The site is, however, subject to a longstanding use for storage of agricultural vehicles, equipment and other paraphernalia, with large buildings and containers also in evidence, meaning that it already has a 'developed' appearance. Indeed, given the nature of the existing land use, the wide range of scrap material being stored and the generally untidy and unkempt appearance of the site, it is considered that the current condition of the land means it has a significant detrimental impact on the visual amenity of the area and the local landscape.

Ordinarily, given the shape of the application site and how it extends from the existing settlement into the countryside, the development of an area of land such as this may give rise to concerns in terms its relationship with the existing built-up area and the wider landscape, but on this occasion, potential visual and landscape impacts need to be considered from the starting point of the land's developed nature and its current visual condition. Indeed, it is considered that the proposed development could give rise to substantive benefits in that it would facilitate the cessation of the storage use and the removal of the buildings and scrap vehicles, machinery and other paraphernalia which currently cause significant visual detriment. The development of the site would also align with the NPPF's objective of making use of brownfield sites and taking opportunities to improve the condition of land.

Moving on to wider landscape impacts, the Landscape and Visual Appraisal (LVA) submitted with the planning application considers the proposed development's potential effects on the prevailing landscape, taking into account the local value and importance of the landscape, the site's current condition and its prominence from public vantage points. Impacts are considered both in terms of the construction phase of the scheme and the finished development. A 3km study area has been used to assess impacts.

The LVA firstly identifies that the site is within the Durham Magnesian Limestone Plateau National Character Area (NCA), with the Tyne and Wear Lowlands NCA further to the west. In terms of local landscape character types, the Council's Landscape Character Assessment 2015 identifies the site as being within the 'Limestone Escarpment' Landscape Character Type (LCT) and adjoining the 'Coalfield Villages' LCT (which includes Low Moorsley). The Limestone Escarpment LCT is characterised by the steep, west-facing slopes of the escarpment, hilly outcrops, areas of woodland, Magnesian limestone grasslands, settlements at the foot of the escarpment, quarrying and long-open views from the top of the scarp.

The LVA considers the visual effects of the development from a series of receptors, including residential properties, viewpoints, public rights of way, cycle routes, roads, nearby designated landscapes, heritage assets, ecology sites and woodlands. It proposes mitigation for incorporation into the final layout and landscaping proposals, which should include the planting of native hedges and specimen trees along the northern, eastern and southern boundaries and within areas of open space, as well as planting smaller ornamental street trees within the housing area itself. This will help to screen the development as it matures. Retention and enhancement of existing site boundaries and vegetation would, over time, assist in screening views, breaking up the massing of buildings, help to bed the site into the landscape and improve the condition of existing vegetation for ecological benefit.

The LVA concludes that the construction of the development would not incur significant effects on the landscape fabric locally and also in relation to visual amenity for local residents of Low Moorsley and users of the local road network and public rights of way. Any effects would be temporary, intermittent and of a short-term duration.

In terms of permanent impacts, the LVA concludes that the development would directly affect a small, localised change on the surrounding landscape area (Limestone Escarpment). Mitigation measures such as new native hedgerow planting and specimen trees can add to local landscape character within the area and create a beneficial effect. There would be no significant effects in relation to landscape character and landscape designations within the 3km study area and no significant effects on National Cycle Route 70, which passes to the north of Low Moorsley.

In respect of residential receptors, the LVA contends that there would be no significant effects on all of the towns and villages within the study area. There will be close-up views of the new development from some houses along the southern edge of Low Moorsley directly adjacent to the site, however the sensitivity of these receptors is medium, and the magnitude of change will be moderate, resulting an overall moderate effect.

The LVA has not identified any significant visual effects on users of the local highway network and nor would users of the local footpath and bridleway network experience any significant effects. These effects would reduce as the proposed mitigation matures, with the recommended native hedge and specimen tree planting adding texture and pattern to the local landscape and serving to break up and screen views of the development and helping to set it within the local landscape.

Overall, the LVA does not identify any significant negative effects on the local landscape arising from the proposed development, subject to satisfactory mitigation being delivered by the final scheme. The Council's Landscape officer is accepting of the LVA's conclusion and has offered no objections to the proposed development in terms of its landscape effects.

Given the conclusions of the LVA and the view of the Council's Landscape officer, it is considered that even when accounting for the shape of the site and its 'intrusion' into the countryside beyond the southern edge of Low Moorsley, it can be developed for housing without having significant

negative effects on the existing landscape. The site's current condition means it has a detrimental effect on local visual amenity and subject to the submission of detailed proposals, the proposed scheme could give rise to substantive benefits in that it would bring about the cessation of the storage use and the removal of the buildings and scrap material from the site and see it developed in a more attractive manner which is more compatible with the site's surroundings.

In terms of other design, layout and visual amenity considerations, it is observed that the current proposals would represent the second phase of the wider residential development at Coalbank Farm and the realisation of the proposals for the two phases would see a denser development to the northern part of the site (i.e. the area subject to the reserved matters application), with the area subject to the current outline application being a lower density. This arrangement is considered appropriate, with the denser housing closest to the existing residential area of Low Moorsley and the less dense development on the edge of the open countryside. The overall number of dwellings proposed across the two phases is in alignment with the site capacity recommended by the SHLAA and the draft A&D Plan and the proposed density of the development is therefore considered acceptable.

Final site layout details would also need to account for the topography of the site which, as noted earlier, slopes markedly downhill from south to north. There are also variances in topography across the site, from west to east. Nevertheless, it is considered that given the relatively spacious nature of the indicative layout, changes in topography across the site will be able to be navigated without requiring excessive engineering interventions.

In respect of open space and landscaping within the development, policy NE4 of the CSDP requires new major housing development to be afforded an appropriate amount of usable greenspace on-site. The amount required determined by a method of calculation set out in the adopted Planning Obligations SPD and is based on the number of bedspaces being delivered through the development. Given the outline nature of the proposed development, final details of the housing mix, layout and landscaping proposals will be subject to reserved matters approval and so the amount of open space required and how this will be delivered within the scheme cannot yet be fully established. Nevertheless, the indicative site layout plan submitted with the application shows substantial areas of open space spread throughout the development, including along its outer boundaries to soften the outward edges, as recommended by the LVA. Footpaths are proposed to run through these areas, ensuring the open space has amenity and recreational value. The indicative site plan shows a total of 0.91ha of open space being delivered and whilst the amount required can only be established on submission of reserved matters details, the proposed approach to open space does appear to be appropriate.

In terms of more detailed landscaping considerations, the indicative approach sets out that there are some existing hedgerows on site which are generally in poor condition in terms of management. These hedges are, however, proposed to be retained to offer a screen to/from the development, with the view of encouraging their improvement and proper management, and where appropriate, they will be bolstered by additional planting. Trees at the site are also largely being retained, with most of the group to the north-eastern corner (former quarry area) being incorporated into the landscaping.

The submitted Arboricultural Impact Assessment (AIA) notes that arboricultural impacts are very low, with very few trees existing on the site and the majority of those identified being low value 'category C' trees. Those likely to be lost are of low quality and the strategy is to replace these in much greater numbers, leading to an improvement in the site's arboricultural value over time. Additional tree planting within gardens and areas of landscaping can provide the 'tree lined streets' sought by paragraph 131 of the NPPF. The AIA sets out that retained trees can co-exist

with the development provided recommended tree protection measures during construction works are adopted, and this requirement can be secured by appropriately worded conditions.

In relation to other landscaping matters, the Council's Landscape officer's comments do not offer any significant objections to the development and whilst there are some aspects of the landscaping for the development which require further consideration, this can be addressed through the submission of a detailed layout and landscaping scheme for the site as part of the reserved matters submission. Overall, though, the proposed approach to the trees and hedges at the site and the landscaping within the development is considered to be acceptable and this should be carried through to the reserved matters submission(s).

Whilst the proposed approach to on-site open space and landscaping proposals are considered acceptable, it is also recognised that the site is relatively well-placed in relation to accessible open space and outdoor recreational opportunities given its location on the edge of the countryside and its proximity to the new Elemore Country Park.

Members should note at this point that, as set out in its adopted Planning Obligations SPD, the Council will often seek to secure a financial contribution to support and maintain outdoor play facilities close to a new residential development site. There are no proposals for play facilities to be provided within the proposed development and so a financial contribution of £704 per qualifying dwelling would normally be sought, to be spent on off-site play provision in the locality. As noted earlier, however, the applicant has submitted a viability assessment and following independent review, it has been accepted that the scheme is unable to support the full range of financial contributions normally sought for an application of this nature. Ultimately, the absence of a contribution towards play provision falls to be considered in the 'planning balance', with this and any other negative aspects of the scheme balanced against the positive aspects of the scheme. This exercise is undertaken later in this report.

With regard to sustainability, the submitted details highlight the sustainability of the site in terms of its proximity to local services and facilities and its accessibility via non-car modes of transport. Proposals are also required to demonstrate how sustainable development principles will be incorporated into the construction of the new dwellings and the treatment of the wider scheme; however, it is accepted that this is not yet possible given the outline nature of the development. Further details can, therefore, be provided with the reserved matters submission(s).

The proposed development has been carefully considered against the relevant CSDP, NPPF, Development Management SPD and draft A&D Plan policies which relate to design, character, landscape impacts, landscaping, visual amenity and sustainability. A full appraisal of the scheme in respect of these matters cannot be undertaken given the outline nature of the application, however it is considered that subject to final details being acceptable, a residential development of the site would not cause any significant harm to the prevailing landscape or the visual amenity of the area and would not intrude into views from key locations, particularly given the site's current, visually intrusive condition.

The indicative approach to landscaping and open space is considered appropriate and sets out principles that should be carried through to the detailed landscaping scheme. Trees and hedgerow coverage at the site is limited, but trees and hedges of value can be retained and supplemented by additional planting to provide long-term arboricultural gains.

It is consequently concluded that a detailed scheme for the site can deliver a development which is acceptable in terms of design, layout, built form, landscaping, relate acceptably to its surroundings and would not appear as incongruously dense or harmful to the character and

appearance of the locality or in respect of the local landscape, in accordance with the relevant NPPF, CSDP and draft A&D Plan policies as identified above.

5. Implications of development relative to archaeology

With regard to archaeology, paragraph 205 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.

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. Draft A&D Plan policy H8.50 also requires any application for the development of the site to be supported by appropriate archaeological assessment.

As noted in the 'Representations' section of this report, the Tyne and Wear County Archaeology officer has raised no objections to the development, noting that the site is of low archaeological interest. No archaeological assessments or investigations of the site have been requested. Whilst the farmhouse building appears to date from the 19th century, there has been no request for an archaeological recording and no concerns raised relative to its loss.

As such, there is no conflict with the requirements of policy BH9 of the CSDP, policy H8.50 of the draft A&D Plan and paragraph 205 of the NPPF and the proposals are therefore considered to be acceptable in relation to archaeology.

6. Impact of the development on highway and pedestrian safety

Policy ST2 of the CSDP states that to ensure development has no unacceptable adverse impact on the Local Road Network, proposals must ensure that:

- new vehicular access points are kept to a minimum and designed in accordance with adopted standards;
- they deliver safe and adequate means of access, egress and internal circulation;
- where an existing access is to be used, it is improved as necessary;
- they are assessed and determined against current standards for the category of road;
- they have safe and convenient access for sustainable transport modes;
- they will not create a severe impact on the safe operation of the highway network.

Policy ST3, meanwhile, states that new development should:

- provide safe and convenient access for all road users in a way which would not compromise the free flow of traffic (including pedestrians, cyclists and public transport) or exacerbate traffic congestion or the risk of accidents;
- incorporate appropriate pedestrian and cycle routes within and through the site, linking to the wider network;
- submit an appropriate Transport Assessment/Statement to demonstrate no detrimental impact on the existing highway;
- include an appropriate level of vehicle and cycle parking;
- make appropriate provision for the electric vehicle charging;
- safeguard existing public rights of way;

Paragraph 108 of the NPPF states that in considering applications, local planning authorities should ensure that:

- appropriate opportunities to promote sustainable transport modes can be taken up;
- that safe and suitable access to the site can be achieved for all users; and
- that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree;

Also relevant is paragraph 111, which states that development should only be refused on highways grounds if it would have an unacceptable impact on highway safety, or the residential cumulative impacts on the road network would be severe.

Paragraph 112 goes on to advise that within the context of paragraph 111, applications for development should:

- give priority first to pedestrian and cycle movements and second to access to high quality public transport;
- address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- create places that are safe, secure and attractive, which minimise the scope for conflicts between pedestrians cyclists and vehicles;
- allow for the efficient delivery of goods and access by service and emergency vehicles;
- be designed to enable charging of plug-in and other ultra-low emissions vehicles.

Paragraph 108 recommends that Local Planning Authorities guard against the adoption of overly-stringent maximum parking standards.

In terms of general considerations, clearly the inclusion of the site in the Council's most recent SHLAA and its intended allocation for housing in the draft A&D Plan means the site is considered broadly sustainable in terms of its accessibility. There are bus stops nearby on Moorsley Road which provide regular services to the facilities of Sunderland city centre, Hetton town centre and Durham. Facilities within the immediate area are relatively limited, save for a small parade of shops at nearby Nidderdale Avenue, however as noted earlier the development is to the edge of an established residential area and the shops, services and facilities of Hetton town centre are a short drive away or accessible via public transport.

In terms of more detailed Highways considerations, as set out in the 'Representations' section of this report, there are no objections to the proposed development from the Council's Highways team. It is noted that access is proposed to be taken from Ennerdale Street, via the access road approved as part of planning approval ref. 12/01125/OUT for the housing on the adjacent field/paddock. This arrangement is considered acceptable from a Highways perspective and aligns with the site access guidance provided in policy H8.50 of the draft A&D Plan.

The Highways comments suggest that further details of the design of the highway layout within the proposed development and footpath connections to the adjacent housing site should be provided, however as noted previously, this cannot reasonably be requested in respect of an outline application with all matters reserved. Any future application for approval of reserved matters will need to demonstrate a layout which is acceptable in highways terms and meets all required standards.

The Highways comments have also advised that the Transport Assessment/Statement (dated June 2021) submitted with the application gives sufficient details of anticipated multi-modal trip generation, with the expected number of vehicle movements being 39 and 38 two-way trips in the

AM and PM peak-hour periods respectively. This equates to around two vehicle movements every three minutes. Vehicular activity associated with the development will therefore be relatively low.

The comments from the Highways team did initially also recommend that the applicant's consultant provides a Stage 1 Road Safety Audit to ensure there will not be a severe impact on the surrounding road network and that the junction onto Moorsley Road can accommodate the additional traffic. Following further discussions with the Council's Highways officer, it has been agreed that given the phasing of the overall development at the site, a Road Safety Audit is not necessary for this proposal and ultimately, it is accepted that traffic generated by the development will be of a level which means it is unlikely to give rise to a significant increase in traffic on the local road network or cause highway safety issues.

Further comments from the Highways team draw attention to detailed standards that the road designs and layout of the development will be expected to address; again, such details can be agreed through reserved matters submissions and/or conditions or informative notes as appropriate.

With regard to the above comments, it is considered that the proposed development is sustainable in terms of transport considerations. Whilst it is recognised that objectors to the development have cited concerns regarding access and highway safety, given the comments of the Council's Highways team it is considered that the local road network is capable of safely accommodating traffic from the proposed development and the proposed access arrangements are acceptable. More detailed design and layout considerations will be addressed via an application for the approval of reserved matters.

The proposals are therefore considered to satisfy the objectives of policies ST2 and ST3 of the CSDP, policy H8.50 of the draft A&D Plan and paragraphs 108, 111 and 112 of the NPPF.

7. Implications of development in respect of ecology and biodiversity

Section 15 of the NPPF sets out a general strategy for the conservation and enhancement of the natural environment and at paragraph 180 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). Paragraphs 179 and 180 also encourage development which will deliver measurable net gains in biodiversity.

On a local level, policy NE2 of the CSDP sets out that where appropriate, development must demonstrate how it will deliver net gains in biodiversity and it should include measures for the protection, creation, enhancement and management of biodiversity and geodiversity. Proposals which would adversely affect designated Local Wildlife Sites and Local Nature Reserves will only be permitted where the Council is satisfied that there are no reasonable alternatives and that the case for the development outweighs the need to safeguard the site. development which would have an adverse impact on a wildlife corridor will not be permitted unless appropriate replacement land or mitigation can be provided.

Members should note that the Environment Bill will soon make it mandatory for certain forms of new development to deliver increases in biodiversity net gain of at least 10%. It is anticipated that this requirement will take effect from November 2023, although a date has not yet been confirmed. At the time of writing this report, there is no mandatory level of net gain required through the planning application process, with both the NPPF and CSDP policy NE2 simply requiring that a measurable increase in net gain is achieved.

In terms of on-site impacts, the application has been accompanied by Ecological Appraisals/Impact Assessments and bat, breeding bird and reptile surveys, which have been updated and revised as necessary. A Biodiversity Net Gain Assessment has also been produced.

The most recent Ecological Impact Assessment makes the following comments and conclusions in respect of the site's ecological value, the potential effects and impacts of the development and mitigation proposals:

- Habitats at the site are common and contain common species, although it is recognised that hedgerows and woodland/scrub are listed under the Durham Biodiversity Action Plan (BAP) for retention, enhancement and extension;
- Development will extend across all habitats at the site, with the exception of part of the woodland habitat and a small portion of bare ground, dense scrub, semi-improved natural grassland and tall ruderal herb;
- To mitigate impacts, public open space within the scheme will be seeded with a wildflower grass seed mix and some woodland planting. Over 100 new trees should be planted across the site and hedgerows planted along garden boundaries and the boundaries of the public open space, to provide connecting habitats;
- Subject to adoption of mitigation measures, there will be a low negative residual effect on the habitats, including BAP/priority habitats at a site level, however an agreement will need to be sought through a local scheme to ensure that off-site compensation is implemented to achieve no residual impact at local level.

In terms of species, no badger setts or field signs were identified within the survey area. A precautionary approach to vegetation clearance is recommended to ensure any unidentified setts are not disturbed and a Natural England licence would have to be obtained if necessary. Similarly, there are no anticipated impacts on great crested newts given the distance to the nearest pond and nor would harm to reptiles arise.

In respect of bats, two of the buildings at the site being demolished were assessed as being of high potential to support roosting bats. Surveys were undertaken and no bats were seen to emerge from a roost. Additionally, no bat roosting features were identified in trees across the site, whilst the woodland in the north-east corner were assessed as providing low roosting potential. Scrub and woodland habitats provide potential foraging and commuting opportunities for bats. The Assessment report recommends mitigation including taking a precautionary approach to demolishing buildings at the site, including under the supervision of a qualified ecologist as necessary, the 'soft' felling of trees, ensuring new planting provides foraging habitats for bats, and the adoption of a sensitive lighting scheme.

The site in its current condition provides opportunities for nesting birds and so clearance of the site would have to avoid bird nesting season (during autumn/winter months). Barn owls were identified in nesting in a shipping container at the site and as a precaution, the container will be checked by a qualified ecologist before its removal. A barn owl box will be fitted to a tree on the edge of the woodland to provide alternative nesting opportunities.

Risks to hedgehog can be mitigated by careful clearance of vegetation, retaining a corridor for their movement around the north, south and east sides of the site, inserting hedgehog gaps into garden fences and incorporating hedgehog boxes into areas of mixed woodland planting.

The invasive species cotoneaster has been identified at the site and will be removed in accordance with recommended practices.

The Ecological Impact Assessment also proposes biodiversity enhancement measures, including the installation of swift boxes, bat boxes, a barn owl box and hibernacula for reptiles, invertebrates and other small mammals.

As set out in the 'Representations' section of this report, the Council's Ecology consultant had raised various concerns regarding the submitted assessments, surveys and reports, although most outstanding issues had been satisfactorily addressed. The most recent material submitted by the applicant's ecologist has been reviewed by the Council's Ecology officer, who recognises that the available information is insufficient to inform the detailed design of a scheme that avoids, minimises, and compensates for all significant adverse effects. Nevertheless, while previous survey information has recorded the presence of roosting bats and of nesting birds, due to the nature of the species recorded using the site and nature of the habitats present, it is considered feasible that adequate mitigation can be provided within an appropriate design.

As it is likely that site preparation and construction work are unlikely to commence on this site before any ecological survey becomes outdated, the Council's Ecology officer advises that it would be necessary to condition that a reserved matters application is supported by updated surveys in any case. For this reason, it is considered sufficient to condition that a subsequent reserved matters application is supported by updated surveys.

In addition to updated surveys, flexible but comprehensive conditions are also recommended that enable adequate construction phase and long-term mitigation measures to be secured.

In terms of biodiversity net gain, the Council's Ecology officer also notes that this has not been satisfactorily addressed, save the submitted assessment confirming there will be a net loss in biodiversity value. However, as the scheme is in outline, there is scope to improve the post development biodiversity value of the proposals through improved greenspace/landscaping. There is also the potential for offsite compensation as necessary. A condition is therefore suggested to secure that a reserved matters application is accompanied by a biodiversity net gain assessment based on up-to-date survey information and adequate calculations.

With regard to the above comments, it is considered that the survey work undertaken by the applicant is satisfactory in enabling an understanding of potential risks and impacts relating to the ecological and biodiversity value of the site. Whilst the level of information available is not considered sufficient to inform a fully-designed development which avoids, minimises and compensates for adverse effects, the Council's Ecology officer recognises that the application has been made in outline form and detailed proposals for the site's development will not be forthcoming until the submission of reserved matters applications. Consequently, and given that applications for reserved matters do not have to be submitted for 3 years after the approval of outline planning permission, the Council's Ecology officer accepts that conditions can be used to secure further survey work and reports, for submission with a reserved matters application and to support the detailed proposals.

Similarly, the Council's Ecology officer suggests that a condition can be used to reappraise the position relative to biodiversity net gain in light of the detailed reserved matters submission and to require the submission of proposals to ensure net gains are delivered, either within the application site or at an off-site location.

Subject to appropriate conditions as recommended by the Council's Ecology officer and the incorporation of appropriate mitigation and enhancement measures into the detailed proposals at the reserved matters stage, it is considered that the implications of the proposed development in relation to ecology are acceptable. In accordance with the requirements of paragraphs 179 and 180 of the NPPF, it is considered apparent that the site can be developed without causing

significant harm to biodiversity and in a way which can achieve net gains in biodiversity. It is therefore considered that the proposal will address the ecology and biodiversity objectives of the NPPF and policy NE2 of the CSDP.

8. Implications of development in respect of flooding/drainage

In relation to flooding, paragraph 159 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. Paragraph 169, meanwhile, states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:

- take account of advice from the Lead Local Flood Authority (LLFA);
- have appropriate proposed minimum operational standards;
- have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and
- where possible, provide multifunctional benefits.
-

Policy WWE2 of the 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.

The Flood Risk Assessment and Sustainable Drainage Strategy for the development has been amended and updated through consideration of the application, in order to address changes to technical standards and in response to comments made by the Council's Flood and Coastal team, in their capacity as Lead Local Flood Authority.

The updated Flood Risk Assessment identifies that the application site is in Flood Zone 1 (lowest risk of flooding), whilst the Environment Agency's mapping does not identify any known history of flooding at the site from fluvial flows. The site is, however, identified as a Critical Drainage Area in the Council's Strategic Flood Risk Assessment. There are no obvious risks from coastal and estuarine flooding, groundwater flooding, or sewer and highway drain flooding. In respect of surface water flooding, historic mapping does show a small surface water pond and a surface water drain along the eastern side of the site, however neither appeared present during site walkovers.

The revised Drainage Strategy notes that ground conditions are not considered to be permeable, making infiltration drainage unfeasible at the development. The nearest watercourse to the site is beyond significant third-party land and, along with topography directing flows away, is therefore not considered a feasible location to which flows can be discharged. Surface water run off will therefore be discharged to the existing Northumbrian Water sewers surrounding the development site. Greenfield run off rates are estimated to be low due to the site location and it is therefore proposed that surface water discharge will be restricted using a flow control to 19.9l/s, in accordance with best practice guidelines. Source control will be achieved via measures such as rainwater harvesting and permeable paving to hard surfaced areas. Flows in exceedance of the greenfield rate will be attenuated on site by intercepting flows and passing them into a swale along the eastern site boundary. foul flows will be directed to an existing sewer on nearby Weardale Street.

The updated FRA and Drainage Strategy also confirms that the SuDS infrastructure will be maintained and managed by the landowner.

As set out in the 'Representations' section of this report, Northumbrian Water have raised no objections to the development, although it is requested that a condition be imposed requiring that final details be agreed and to this end, it is noted that the submitted drainage strategy does set out that final proposals will be subject to confirmation and agreement with Northumbrian Water. Similarly, the LLFA has no objections to the updated/amended FRA and Sustainable Drainage strategy for the development, subject to conditions which ensure the agreed strategy is carried through to the final scheme and which require the submission and approval of a verification report to demonstrate that the agreed strategy has been implemented.

Subject to conditions addressing the requests of Northumbrian Water and the LLFA, it is considered that the implications of the development relative to flood risk and sustainable drainage are acceptable, and the development therefore complies with the objectives of the NPPF and policies WWE2 and WWE3 of the CSDP.

9. Implications of development in respect of land contamination

Paragraph 183 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. Meanwhile, policy HS3 of the CSDP states that where development is proposed on land where there is reason to believe is contaminated or potentially at risk from migrating contaminants, the Council will require the applicant to carry out adequate investigations to determine the nature of ground conditions below and, if appropriate, adjoining the site.

The Council's Land Contamination consultant considers the submitted Preliminary Contamination and Mining Risk Assessment and Ground Water Condition Report to provide an appropriate overview of risks relating to ground conditions at the site. The reports note that farm buildings and quarrying at the site were in evidence in 1856. Little development has taken place since then, save for the introduction of sheds and the use of the land for storage of scrap metal, vehicles and farming equipment.

The reports do not identify any potential contamination which would represent an impediment to the development of the site, however there are some omissions from the reports which should be addressed before development of the site commences. The outstanding matters can be attended to via conditions requiring further intrusive ground investigations and the submission and approval of a remediation strategy for the site. A further condition which deals with encountering unexpected contamination is also recommended.

Given the above, the implications of the development in respect of land contamination are considered to be acceptable subject to the recommended conditions, in accordance with the requirements of policy HS3 of the CSDP and paragraph 183 of the NPPF.

10. Summary of position in respect of planning obligations

Paragraph 55 of the NPPF states that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations - such obligations are usually secured via legal agreements under Section 106 of the Town and Country Planning Act 1990 (as amended) and should only be used where it is not possible to use planning conditions. Paragraph 57 goes on to advise that planning obligations should only be sought where the following tests can be met (also set out at Regulation 122(2) of the Community Infrastructure Levy (CIL) Regulations 2010):

- Necessary to make the development acceptable in planning terms;

- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development;

Aforementioned policy ID2 of the CSDP, meanwhile, states that s106 planning obligations will be sought to facilitate delivery of:

- i) Affordable housing; and
- ii) Local improvements to mitigate the direct or cumulative impact of development and/or additional facilities and requirements made necessary by the development (in accordance with a forthcoming Planning Obligations Supplementary Planning Document).

To facilitate the delivery of the mitigation measures, the Council will seek maintenance, management, monitoring and such related fees.

Paragraph 018 of the Government's Planning Practice Guidance (PPG) website makes it clear that applicants do not have to agree to a proposed planning obligation, but failure to do so may lead to a refusal of planning permission or non-determination of the application.

Paragraph 58 of the NPPF and paragraph 010 of the PPG go on to advise that planning applications which comply with up-to-date planning policies should be assumed to be viable, but where the viability of a development is in question, planning obligations can be negotiated where, through a viability assessment, a developer demonstrates that circumstances apply which mean the obligations normally required cannot be supported. The weight to be given to any such assessment is a matter for the decision-taker and an assessment must be produced in line with guidance provided by the PPG.

This is echoed by policy ID2 of the CSDP and the Council's Planning Obligations SPD, which sets out that where negotiation on obligations is requested, it must be supported by a viability assessment. Where it is demonstrated that a scheme is unable to fund the required obligations, the Council will consider the cumulative benefit of the scheme and how the need for the requested obligations can be met from other sources.

As set out in the 'Representations' section of this report, the following financial contributions and obligations have been requested from the respective consultees or would normally be required through relevant plan policies.

- o Minimum of £210,424.14 towards secondary education provision;
- o £704 per dwelling towards supporting off-site play;
- o Securement of 15% affordable housing as required by policy H2 of CSDP.

The abovementioned obligations would typically be secured via a s106 agreement.

The requested financial contributions towards education provision and supporting play infrastructure are considered necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development. The Council's Education officer advises that the requested contribution is justified due to a projected shortfall in secondary places in the area, before this development is taken into account. The affordable housing contribution would ensure that the scheme delivers the level of affordable housing policy required by CSDP policy H2. As such, it is considered that these contributions satisfy the tests set out at paragraph 57 of the NPPF and Regulation 122(2) of the CIL Regulations and can reasonably be requested by the Council as Local Planning Authority.

The applicant contends that the scheme is unable to support the planning obligations being sought by the Council and has submitted a Financial Viability Appraisal report (October 2021) to demonstrate that this is the case. The report has been produced in line with best practice guidelines and considers inputs such as the existing land value, gross development value, construction costs, the cost of external works and abnormals, contingencies, professional fees, marketing costs, finance cost and a return to the developer of 17.5% (typical for a development of this nature). Regard has been given to values and costs associated with other housing developments in the local area to ensure figures being used are appropriate to the location of the site. The appraisal report concludes that the site has marginal viability prior to introducing any financial contributions or affordable housing commitments and is not viable if the contributions towards education, off-site play and affordable housing are absorbed by the development.

The Council arranged for the applicant's Financial Viability Appraisal report to be independently reviewed by Bradley Hall Chartered Surveyors and a review report was subsequently produced for the Council's use (report dated January 2022). The Bradley Hall report advises that the applicant's approach to calculating viability is generally reasonable and consistent with professional guidance. The assessment of revenues for the development is consistent with local market conditions and has been acceptably corroborated by relevant comparable evidence.

Overall, the majority of cost assumptions are consistent with industry standards, however Bradley Hall did initially question some cost assumptions, including abnormal costs (set as lower than would normally be anticipated) and finance costs (higher than would normally be anticipated).

The applicant's agent responded to Bradley Hall's queries and provided clarification in respect of the figures for the costs of abnormals and financing used in their appraisal. The detail provided has been accepted by Bradley Hall and they have consequently been able to conclude that the proposed development was unable to support any financial contributions or affordable housing. In reaching this conclusion, Bradley Hall adopted 18% of Gross Development Value (GDV) as a target given the risks associated with developing brownfield land and current market conditions, whereas by comparison, the most viable 'best case' scheme shown by the applicant's appraisal would only achieve 16.1% GDV, significantly below the 17.5% typically sought by developers.

In light of the review comments from Bradley Hall, it is considered that the applicant has produced a robust viability assessment which demonstrates that the proposed development of the site is unable to support the financial contributions and affordable housing obligations being sought by the Council.

As set out by paragraph 58 of the NPPF, the weight to be given to a viability assessment is a matter for the decision-taker, having regard to all the circumstances in the case. In this instance, it must be recognised that the application site is identified in the SHLAA as being available for housing development and it is a housing allocation site in the draft A&D Plan. The availability and suitability of the site for housing helps to underpin the Council's currently strong position relative to housing land supply and its development will ensure the Council continues to achieve its housing delivery objectives. On this basis, it is considered that it is appropriate to give the assessment significant weight in the determination of this application.

It is therefore advised that the merits of the proposed development need to be considered in the context of the applicant demonstrating, through their viability assessment, that the scheme is unable to support the planning obligations requested by the Council. Clearly, it would be desirable for the scheme to deliver affordable housing and the requested contributions towards education provision and off-site play, but the absence of these obligations needs to be set against the positive aspects of the development, including the delivery of housing and the development of a site which is currently in an unsightly condition.

It is also suggested to Members that in the event they are minded to approve the application, a condition be imposed which requires a 're-testing' of viability at the time of submitting a reserved matters application. In the event the re-testing demonstrates that the scheme is, at that time, capable of supporting any planning obligations, negotiations with the developer can take place.

CONCLUSION

As set out earlier in this report, s38(6) of the 2004 Act makes it clear that decisions on whether to grant planning permission should be made 'in accordance with the development plan, unless material considerations indicate otherwise'. Case law has established that decisions must be made in accordance with the development plan as a whole - in considering whether a planning application accords with a development plan as a whole, it should be borne in mind that policies within a plan can pull in different directions and that the role of the decision maker is to determine whether, in light of the whole plan and the relative importance of conflicting policies, a development proposal does or does not accord with the plan.

In the context of the above, regard must be given to all relevant material considerations and all the relevant policies of the Council's development plan before it can be determined whether the proposed development accords with the development plan or not. Where conflict with development plan policies is identified, it is then incumbent upon the decision-maker, i.e. Members of the Committee, to attribute weight to the benefits of the proposed development and establish whether these benefits outweigh negative aspects of the development and the associated policy conflict.

This report has sought to appraise the proposed development in the context of the relevant national and local planning policy objectives and identify positive and negative consequences of the scheme, to establish whether the proposals accord with the plan and should be considered acceptable. To assist with this exercise, the following table summarises the residual positive, neutral or negligible and positive impacts arising from the development in the context of the three strands to sustainable development identified by the NPPF (the CSDP policies relevant to each impact are in brackets):

	Positive	Neutral/negligible	Negative
Economic	Job creation during site works and additional support to local businesses through increase in population (SP1)		
Environmental	Development would enable clearance of a site which, in its current condition, is a significant visual blight within the area (BH1, NE9) Development site capable of providing a good-quality layout and design (SP2, BH1)	Site has acceptable links to public transport and local services (SP1, ST3) Development capable of acceptably respecting the amenity of existing nearby dwellings (BH1) Construction works may lead to some disruption,	Development marginally intrudes into designated open countryside (NE8) Scheme does not deliver on-site play provision and is unable to support a financial contribution

	<p>Development capable of incorporating good quality areas of open space and landscaping (BH3, NE1, NE4)</p>	<p>but this is a temporary occurrence and will be appropriately managed by adoption of a CEMP (HS1, BH1)</p> <p>Implications relative to ecology and biodiversity capable of being satisfactorily mitigated, as confirmed by Natural England and Council's Ecology officer (NE2)</p> <p>Foul and surface water drainage arrangements are acceptable, as confirmed by Northumbrian Water and LLFA (WWE2, WWE3, WWE5)</p> <p>No significant impacts on local highway network and access arrangements are acceptable, as confirmed Council's Highways team (ST1, ST2, ST3)</p> <p>Trees to be felled at the site can be acceptably replaced (NE3)</p> <p>Land contamination risks can be satisfactorily mitigated, and site remediation secured as appropriate (HS3)</p> <p>Appropriate archaeological investigations have taken place (BH9)</p> <p>Negligible impact on prevailing landscape and existing key views (SP6, NE9 and NE11)</p> <p>Conditions can be used to ensure development meets objectives relative to sustainable design of homes and accessible homes (BH1, H1)</p>	<p>towards off-site provision (ID2)</p>
<p>Social</p>	<p>Delivery of a significant amount of new housing at a sustainable location which is identified as available within the SHLAA and draft A&D Plan (SP1, SP8, H1).</p>		<p>Proposals are unable to support a financial contribution towards education provision (ID2)</p> <p>Proposals are unable to support affordable housing (H2, ID2)</p>

	Development would support the Council's position relative to housing land availability and assist in achieving its objectives relative to housing delivery (SP1, SP8, H1)		
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At this point, it is also considered appropriate to consider the scheme in the context of the Strategic Priorities set out in the CSDP:

Strategic Priority 1: to deliver sustainable economic growth and meet objectively assessed employment and housing needs;

The development will deliver a substantial amount of new housing and bring economic benefits through job creation during construction works.

Strategic Priority 2: to identify land needed for development in the right locations so the most vulnerable assets can be protected whilst meeting sustainable growth ambitions;

The development makes use of a sustainably located site which is close to public transport links.

Strategic Priority 3: to promote healthy lifestyles and the development of safe and inclusive communities, with facilities to meet daily needs and encourage social interaction;

The development can incorporate usable areas of greenspace, is close to existing areas of greenspace and open countryside and is accessible by public transport.

Strategic Priority 4: to provide a range of choice of accommodation, house types and tenures;

The development is capable of providing a range of housing types.

Strategic Priority 5: to provide a wide portfolio of employment sites to support key sectors and opportunities for new office development;

The proposals are for residential development; however, the scheme will bring some economic benefits by creating employment during construction work.

Strategic Priority 6: to support and improve the vitality and economic performance of the Urban Core and designated centres;

The development may deliver minor benefits in terms of increasing footfall in nearby local centres, such as Hetton-le-Hole town centre.

Strategic Priority 7: to protect, sustain and enhance the quality of our built and historic environment;

The proposed development does not conflict with heritage objectives.

Strategic Priority 8: to protect and enhance the city's biodiversity, geological resource, countryside and landscapes and ensure all homes have access to interlinked green infrastructure;

The development's implications relative to ecology and biodiversity, the countryside and local landscape are considered acceptable and it will bring about visual amenity improvements given the current condition of the site.

Strategic Priority 9: to adapt to and minimise the impact of climate change by reducing carbon emissions, maximising the use of low carbon energy solutions and reducing the risk/impact of flooding;

Conditions can ensure that new dwellings within the development are designed with sustainability principles in mind. The development is not at significant risk of flooding and sustainable drainage measures will ensure flood risk is no increased elsewhere.

Strategic Priority 10: to manage waste as a resource and minimising the amount produced and sent to landfill;

Measures for handling waste at the site can be covered by Construction Environmental Management Plan.

Strategic Priority 11: to promote sustainable and active travel and improve transport infrastructure;

The site is adjacent to existing bus routes and is proximate to existing local pedestrian and cycle network.

Strategic Priority 12: to manage the City's mineral resources;

No impacts on mineral resources.

Strategic Priority 13: to ensure the City has the infrastructure to support its growth and prosperity;

Development is unable to support education and play provision at this time.

With regard to the appraisal set out above, it is evident that the main residual conflict with the CSDP is the lack of financial contributions towards supporting education and off-site play provision, in lieu of this being provided on site, and the absence of affordable housing. The applicant has, however, demonstrated that the development is unable to support these obligations through their viability assessment, which has been independently reviewed on behalf of the Council and its conclusions are accepted.

It is considered that the lack of support for play provision is, ultimately, a relatively minor issue given the fairly limited scale of the development and the proximity of the site play facilities at Rosedale Street/York Street and Deepdale Street. The absence of the education contribution would, meanwhile, mean that over time, the development could increase pressure on school places in the locality, particularly at secondary level. The costs of addressing any additional pressure on education would therefore have to be fully met by education providers as necessary. The absence of affordable housing from the development is also undesirable, but it is noted that the recently approved development of 86 dwellings at nearby Cragdale Gardens (ref. 20/01360/FUL) is for 100% affordable housing. As such, a significant amount of new affordable housing is already being built close to the application site.

There is also residual conflict with policy NE8 insofar as the development intrudes into a small area of designated open countryside, although given the limited scope of the conflict and as the proposals have been found acceptable in terms of visual amenity and landscape impacts, this issue is considered relatively minor in nature.

The position in relation to these matters ultimately falls to be assessed in the context of the wider benefits of the proposed development. In assessing the wider merits of the scheme, it is considered that the proposed development does not give rise to any other significant conflicts with the relevant policies of the CSDP and nor are there any significant conflicts with any of the Council's relevant Supplementary Planning Documents, the draft A&D Plan or the relevant policies of the NPPF, as referenced throughout this report.

It must also be recognised that the proposed development will deliver significant benefits, in terms of providing housing at a site which is identified as available through the SHLAA and is intended to be allocated for housing via the A&D Plan, and will assist the Council in meeting, and potentially

exceeding, its stated housing supply and delivery targets. The development will also deliver benefits in terms of expanding housing availability and choice in the area and minor economic benefits in that new residents will be able to support existing shops, services and facilities in the locality. These benefits of the development should also be given positive weight in the determination of the application.

Significant positive weight should also be given to the fact the proposals would see the development of a site which, in its current condition, has a significant negative effect on the visual amenity, due to the extensive range of scrap machinery, equipment, containers and other paraphernalia which is present there. The development therefore has the capacity to bring about substantive visual improvements to the area.

The content of the objections to the proposed development are acknowledged and it is evident that members of the local community hold concerns in relation to the proposed development of the site, particularly around the impact on local highways, the amount of housing being built in the area and the disruption the development could cause. All relevant material planning considerations and technical issues have, however, been appraised in the context of the policies of the Council's CSDP, the NPPF, the draft A&D Plan and with regard to the consultation responses received from a range of external and internal consultees, the proposals are considered acceptable in relation to highway safety, whilst conditions can be used to ensure construction works take place in a considerate manner. In terms of the need for the development, as has been made clear, the site is identified as available for housing in the Council's SHLAA and is supporting the Council's housing land availability and delivery objectives.

In conclusion, it is considered that whilst it would clearly be desirable for the development to be able to absorb the financial contributions and affordable housing obligations sought by the Council, the applicant has demonstrated through their viability assessment that it is unable to do so. It is recognised that there is also an outstanding minor residual conflict with open countryside policy NE8.

Significant positive weight must, however, be given to the delivery of housing at a site which has been identified as available for housing in the SHLAA and draft A&D Plan and which is envisaged as supporting the City's housing needs. At this point, it must be recognised that were the Council not to approve the development of the site, it would bring into question the land's ability to support the Council's housing land supply position and housing delivery objectives. To this end, as noted earlier, it is observed that availability of housing land in the City is showing a downward trend, from 5.7 years in 2022 to 5.3 years in 2023. Significant positive weight must also be given to a development which would enable the clearance of a site which, in its current condition, is causing visual harm.

On balance, it is considered that the significant positive aspects of the development as outlined above do outweigh the absence of planning obligations and the conflict with the open countryside policy. The recommended 'viability re-testing' condition would ensure the position relative to viability and planning obligations can be re-appraised at such a time that a reserved matters application is submitted.

Overall, whilst there remains some conflict with Core Strategy policies and objectives, it is considered that the proposed development does not give rise to any significant conflict with the Council's Development Plan taken as a whole, particularly given the development's alignment with a number of the CSDP's strategic priorities, including the delivery of housing. As such, there are not considered to be any grounds which would direct the Council to refuse planning permission for the development as proposed and the development is consequently considered to

be acceptable, having had regard to all relevant planning policies and other material planning considerations.

Given the above, and in light of the requirements of section 38(6) of the 2004 Act, it is recommended that Members be Minded to Approve the proposed development, subject to the imposition of the draft conditions 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: APPROVE, subject to draft conditions below.

Conditions:

1 Application(s) for the approval of reserved matters must be made to the Local Planning Authority before the expiration of 3 years from the date of this permission. The development hereby permitted must then be begun before the expiration of 2 years from the date of approval of the last reserved matters to be agreed.

Reason: To allow such details to be reserved for subsequent consideration and to comply with the requirements of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 Approval of the following details (hereinafter referred to as the 'reserved matters') must be obtained from the Council as Local Planning Authority before the development is commenced:

Access
Layout
Scale
Appearance
Landscaping

Plans and particulars of the reserved matters shall be submitted utilising an appropriate planning application form and shall be carried out as approved. As the application is in outline form only and no formal details have been submitted in respect of the reserved matters set out above, they are reserved for subsequent approval by the LPA.

Reason: condition required to ensure compliance with section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

3 The development hereby granted permission shall be carried out in full accordance with the following approved plans:

red line boundary as per location/site plan drawing no. L021088-001, rev. F.

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.

4 Notwithstanding any indication of materials which may have been given in the application, no development shall take place until a schedule and/or samples of the materials and finishes to be used for the external surfaces of new dwellings, including walls, roofs, doors and windows has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details.

Reason: in the interests of visual amenity and to comply with policy BH1 of the Core Strategy and Development Plan.

5 No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall, for the avoidance of doubt, include the following:

- o Executive Summary;
- o Project Background
- o Outline of Project
- o Framework of this CEMP
- o Legal Compliance
- o Summary of the Requirements of Condition 6
- o Site Information and Consented Development
- o Site and Surrounding Area
- o Scheme Description
- o Sensitive Receptors
- o Control of the Construction Process
- o Roles and Responsibilities
- o Training and Raising Awareness
- o Reporting
- o Monitoring, Continual Improvement and Review
- o Environmental Complaints and Incidents
- o Public Relations and Community Relations
- o Construction Management
- o Description of Construction Works
- o Phasing of Construction Works
- o Construction Equipment
- o Hours of Working (Hours of Site Operation)
- o Construction Traffic Management Plan (may not always require this)
- o Storage of Plant and Materials
- o Handling of Plant and Materials
- o Health and Safety Management
- o Security On-Site
- o Considerate Constructors
- o Phase-specific Construction Method Statements (CMS)
- o Environmental Control Measures
- o Public Access and Traffic Management
- o Waste and Materials Management and Storage
- o Noise and Vibration
- o Dust & Air Quality
- o Measures to be implemented to minimise the risk of harm to/ensure the protection of protected and notable species, and those habitat features to be retained through the works; this should include information on key working methods and timings.
- o Contaminated Land Procedures
- o Hydrology & Water Quality
- o Visual Impacts
- o Artificial Lighting
- o Emergency Procedures
- o Conclusions

Appendices

Appendix A - Sensitive Receptor Locations

Appendix B - Landscape Resource Information
(including hedgerow and tree group numbers)

Appendix C - Potential for Archaeological Mitigation Requirement
Plan

Appendix D - Site Access Locations

Appendix E - Proposed Temporary Construction Access

The development shall then be undertaken in full accordance with the approved CEMP.

Reason: In order to protect the amenity of adjacent occupiers, the adjacent highway network and local wildlife and its habitat and to comply with policies BH1, NE2 and ST3 of the CSDP.

6 Prior to the commencement of development at the site, a Sustainability Statement shall be submitted for the approval of the Council as Local Planning Authority. For the avoidance of doubt, the Statement should set out the sustainable design and construction techniques to be incorporated into the proposed dwellings and wider development of the site. Proposed measures should be informed by the recommendations set out at policy BH2 of the Council's Core Strategy and Development Plan and the supporting text thereafter. The development shall then be carried out in full accordance with the measures set out in the agreed Statement.

Reason: in order to ensure the appropriate sustainability measures are incorporated into the development and to comply with the objectives of policy BH2 of the CSDP.

7 The design and layout of all dwellings within the development hereby approved must, as a minimum, comply with Nationally Described Space Standards.

Reason: in order to ensure new dwellings provide acceptable levels of amenity to occupiers and comply with the objectives of policy BH1 of the CSDP.

8 No development at the site shall commence until details of proposed measures to encourage sustainable transport initiatives, such as electric vehicle charging points and cycle shelters, have been submitted to and approved in writing by the Council as Local Planning Authority. The agreed measures shall then be implemented in accordance with the approved details.

Reason: in order to promote sustainable transport options and comply with the requirements of policies ST2 and ST3 of the Council's CSDP.

9 Development, other than demolition, shall not commence until a suitable and sufficient ground investigation and Risk Assessment to assess the nature and extent of any contamination on the site (whether or not it originates on the site) has been submitted to and approved in writing by the Local Planning Authority.

The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings must be produced and submitted for the approval of the LPA. The report of the findings must include:

- i a survey of the extent, scale and nature of contamination;
- ii an assessment of the potential risks to:
 - o human health;
 - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - o adjoining land;
 - o ground waters and surface waters;
 - o ecological systems;
 - o archaeological sites and ancient monuments; and
- iii where unacceptable risks are identified, an appraisal of remedial options, and proposal of the preferred option(s).

The Investigation and Risk Assessment shall be implemented as approved and must be conducted in accordance with the Environment Agency's "Land contamination: risk management".

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 174f and 183.

The details are required to be submitted and approved in advance of works commencing on site to ensure the development is undertaken in a manner to protect future users of the site and the environment.

10 Development, other than demolition, shall not commence until a detailed Remediation Scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) has been submitted to and approved in writing by the Local Planning Authority.

The Remediation Scheme should be prepared in accordance with the Environment Agency's "Land Contamination: Risk Management" and must include a suitable options appraisal, all works to be undertaken, proposed remediation objectives, remediation criteria, a timetable of works, site management procedures and a plan for validating the remediation works. The Remediation Scheme must ensure that as a minimum, 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.

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 174f and 183.

The details are required to be submitted and approved in advance of works commencing on site to ensure the development is undertaken in a manner to protect future users of the site.

11 The Approved Remediation Scheme for any given phase shall be implemented in accordance with the approved timetable of works for that phase.

Within six months of the completion of measures identified in the Approved Remediation Scheme and prior to the occupation of any building in that phase, a Verification Report (that demonstrates the effectiveness of the remediation carried out) must be produced and is subject to the approval in writing of 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 174f and 183.

12 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 174f and 183.

13 Any application(s) for reserved matters shall be accompanied by supporting ecological information in the form of an Ecological Impact Assessment (EclA). The EclA shall be informed by ecological survey information that includes, but is not limited to, the following:

- a. Survey to categorise the bat roost potential of buildings and trees potentially affected by the proposals (preliminary bat roost assessment).
- b. Survey to determine the presence or likely absence of roosting bats with reference to the results of the preliminary bat roost assessment).
- c. Survey to describe the seasonal and spatial patterns of bat foraging activity (utilising transect surveys and automated recording equipment).
- d. Breeding bird survey.

All ecological reports and surveys shall be undertaken in line with relevant national good practice guidelines, including guidelines on the acceptable lifespan of reports and surveys (i.e. should not normally be more than 18 months old). The Ecological Impact Assessment shall demonstrate how adverse ecological effects are to be mitigated and all agreed measures must then be adopted and implemented within the development.

Reason: to ensure the implications of the development relative to ecology and biodiversity are acceptable and to comply with the objectives of policy NE2 of the CSDP.

14 No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

- a. Risk assessment of potentially damaging construction activities.
- b. Identification of "biodiversity protection zones".
- c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d. The location and timing of sensitive works to avoid harm to biodiversity features.
- e. The times during construction when specialist ecologists need to be present on site to oversee works.
- f. Responsible persons and lines of communication.
- g. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h. Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: to ensure habitats and species are appropriately protected during construction works and to comply with the objectives of policy NE2 of the CSDP.

15 Any reserved matters application(s) must be accompanied by a Biodiversity Net Gain Assessment demonstrating a measurable biodiversity net gain. The assessment shall be based on habitat survey information representative of the biodiversity value on site at the time the reserved matters application is submitted, unless the biodiversity value at the time of the submission has been reduced other than in accordance with a valid planning permission, in which case the biodiversity value prior to this shall be used. The content of the Biodiversity Net Gain Assessment shall include the following:

- a. Information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat.
- b. The pre-development biodiversity value of the onsite habitat, measured using the latest available Biodiversity Metric.
- c. The post-development biodiversity value of the onsite habitat, measured using the latest available Biodiversity Metric.
- d. Details of any offsite habitat enhancement or creation required to achieve a biodiversity net gain, including pre-development and target biodiversity value.

The Biodiversity Net Gain Assessment shall also include details of the legal and funding mechanism(s) by which any offsite compensation will be secured by the developer with the management body(ies) responsible for its delivery.

Reason: to ensure the implications of the development relative to biodiversity net gain objectives are acceptable and to comply with the objectives of policy NE2 of the CSDP.

16 A landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to the commencement of the development. The content of the LEMP shall include the following:

- a. Description and evaluation of onsite features to be managed, including any habitats to be retained, enhanced and/or created in order to deliver a biodiversity net gain as set out in the Biodiversity Net Gain Assessment required in accordance with condition 3.
- b. Ecological trends and constraints on site that might influence management.
- c. Aims and objectives of management, including target ecological condition of habitats in relation to biodiversity net gain.
- d. Appropriate management options for achieving aims and objectives.
- e. Prescriptions for management actions.
- f. Preparation of a work schedule (including an annual work plan capable of being rolled forward annually).
- g. Details of the body or organization responsible for implementation of the plan.
- h. Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved plan will be implemented in accordance with the approved details.

Reason: to ensure the implications of the development relative to ecology and biodiversity are acceptable and to accord with the objectives of policy NE2 of the CSDP.

17 Any application(s) for approval of reserved matters must be accompanied by an updated Arboricultural Impact Assessment, Tree Impact Plan and Tree Protection Plan, which are reflective of the details proposed by the reserved matters application(s). The submitted Assessment and Plans must demonstrate the retention of all trees and hedges shown as being retained by the Tree Impact Plan (Tree Survey Solutions, Appendix 3 (Tree Impact Plan), ref. 22007, 02) and landscaping plan (Rosetta Landscape Design, Detailed Landscaping Proposals, drawing no. 3943/1, rev. D, sheets 1 and 2). All agreed tree protection measures must then be installed and remain in situ in accordance with the recommendations of the submitted Assessment and Plan for the duration of construction works.

Reason: to ensure the implications of the development is acceptable relative to trees and to comply with the objectives of policy NE3 of the CSDP.

18 The landscaping scheme to be submitted with the reserved matters application(s) shall be informed by the landscaping proposals submitted with the outline planning application (Rosetta Landscape Design, Detailed Landscaping Proposals, drawing no. 3934 D, sheets 1 and 2).

Reason: in order to ensure the landscaping proposals for the development are acceptable and to accord with the requirements of policy NE3 and NE4 of the CSDP.

19 Any application(s) for approval of reserved matters must be accompanied by final details of the proposed sustainable drainage strategy for the development, for the approval of the Council as Local Planning Authority in consultation with the LLFA and Northumbrian Water. For the avoidance of doubt, the proposed final strategy shall be informed by the submitted Drainage Strategy (July 2021, updated November 2022), Flood Risk Assessment (November 2022) and Proposed Drainage Plan (drawing no. S3058-101).

The development shall then be undertaken in full accordance with the agreed strategy.

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.

20 Prior to any development commencing on site, specific details of the proposed timing of the submission of drainage verification report(s) and the extent of the SuDS features to be covered in the report(s), which are required pursuant to condition 21 of this decision notice, must be submitted to and approved in writing by the Local Planning Authority.

Reason: to ensure that report(s) to verify the implementation of agreed sustainable drainage infrastructure will be submitted at appropriate times and to comply with policies WWE2 and WWE3 of the CSDP.

21 Drainage verification report(s) must be submitted in accordance with the timings and details approved pursuant to the discharge of condition 20 of this decision notice. The report(s), which must be produced by a suitably qualified person, shall demonstrate that all sustainable drainage systems have been constructed as per the final agreed drainage scheme and must include, in totality:

- 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.

22 No individual dwelling shall be occupied until its in-curtilage parking space(s) has been constructed and made available for the use of the dwelling's occupiers. Within six months of the final dwelling within each phase (i.e. full planning and outline phases) of the development being occupied, all visitor parking provision for that phase of the development must be constructed, surfaced, sealed and made available in accordance with the approved plans. The visitor parking areas shall then be retained and permanently reserved for the parking of vehicles.

Reason: to ensure that adequate and satisfactory provision is made for the off-street parking of vehicles and to comply with policy ST3 of the CSDP.

23 Any application for reserved matters, insofar as it relates to the layout and scale of the development, must be accompanied by an updated viability appraisal, which appraises the

viability of the development proposed by the reserved matters application in the context of the site conditions, land values, costs and other inputs applicable at that time.

If, following an independent review of the appraisal, the Local Planning Authority concludes that the updated appraisal demonstrates that the development is capable of absorbing planning obligations whilst remaining viable, development at the site must not commence until a legal mechanism to secure agreed planning obligations has been completed.

Reason: in order to ensure that the viability of the scheme and opportunities for planning obligations have been fully appraised, in accordance with the objectives of policy ID2 of the CSDP.

Reference No.: 23/00153/FUL Full Application

Proposal: **Conversion of building to 14 no. self contained apartments, including commercial unit to ground floor (use class E), creation of mezzanine floor and external alterations to existing rear extension.**

Location: 110-112 High Street West, Sunderland, SR1 1TX

Ward: Hendon

Applicant: X8 Properties Ltd

Date Valid: 19 January 2023

Target Date: 20 April 2023

PROPOSAL:

The property to which the application relates is 110-112 High Street West. The property is a former bank which is currently operating as law offices, it is a Grade II listed building which is located within Sunnyside Conservation area.

The development would see the addition of 14no. flats across all floors, with a commercial unit (use class E of the Town and Country Planning (Use Classes) Order 1987 (as amended)) provided at the ground floor.

The accommodation would provide 14no, apartments. 4no. 1 bed studios, 7no. 1 bed apartments, 1no. 2 bed apartment and 2no. 1 bed mezzanine apartments. All with integrated living rooms, kitchens and bathrooms. Primary access will be achieved from the existing access on High Street West, with secondary access via the existing rear doorway.

The area is predominantly characterised by retail and commercial uses at street level with some of the upper floors now being brought back into use, primarily through residential conversions for apartments and student accommodation.

During the course of considering the application, the applicant confirmed that they would primarily seek to let the apartments to students but would want the flexibility to offer the accommodation to non-students as well.

It was agreed that a 60/40 split of the accommodation would be acceptable allowing 8 of the units to be solely student accommodation with the remaining 6 units having the potential to accommodate non-students.

The planning application has been accompanied by a Planning and Heritage Statement and noise survey.

TYPE OF PUBLICITY:

Press Notice Advertised

Site Notice Posted

Neighbour Notifications

CONSULTEES:

Planning Implementation
Environmental Health
Cllr Lynda Scanlan
Cllr Michael Mordey
Cllr Ciaran Morrissey
Network Management
Planning And Highways
Flood And Coastal Group Engineer
Planning Policy
Planning Implementation
Environmental Health
Cllr Lynda Scanlan
Cllr Michael Mordey
Cllr Ciaran Morrissey
Planning Obligations Officer
Planning And Highways
Director Of Childrens Services
Northumbria Police
NE Ambulance Service NHS Trust
Tyne And Wear Fire And Rescue Service

Flat 218 High Street West Sunderland SR1 1TZ
216 High Street West Sunderland SR1 1UA
101 High Street West Sunderland SR1 1TX
Flat 1 2 Bridge Street Sunderland SR1 1TA
Former Louie Louie World Buffet 114 High Street West Sunderland SR1 1TX
Flat 2 2 Bridge Street Sunderland SR1 1TA
Aitken And Ashcroft First Floor Office To Rear 110 - 112 High Street West Sunderland SR1 1TY
Former Coral 218 High Street West Sunderland SR1 1TZ
Vacant Property Part Second Floor Havelock Building High Street West Sunderland SR1 1TZ
Former Sweet Home Alabama 102 High Street West Sunderland SR1 1TX
Vacant Property 1 Bridge Street Sunderland SR1 1TA
Cafe Farah 103 - 105 High Street West Sunderland SR1 1TX
KASPA'S DESSERTS 220 - 221 High Street West Sunderland SR1 1TZ
Vacant Property 1 Bridge Street Sunderland SR1 1TA
Rez 223 High Street West Sunderland SR1 1TL
Geek Retreat 1 - 2 John Street Sunderland SR1 1HT
Flat 1 220 - 221 High Street West Sunderland SR1 1TZ
Flat 12 220 - 221 High Street West Sunderland SR1 1TZ
Flat 11 220 - 221 High Street West Sunderland SR1 1TZ
Flat 10 220 - 221 High Street West Sunderland SR1 1TZ
Flat 9 220 - 221 High Street West Sunderland SR1 1TZ
Flat 8 220 - 221 High Street West Sunderland SR1 1TZ
Flat 7 220 - 221 High Street West Sunderland SR1 1TZ
Flat 6 220 - 221 High Street West Sunderland SR1 1TZ
Flat 5 220 - 221 High Street West Sunderland SR1 1TZ
Flat 4 220 - 221 High Street West Sunderland SR1 1TZ
Flat 3 220 - 221 High Street West Sunderland SR1 1TZ
Flat 2 220 - 221 High Street West Sunderland SR1 1TZ
Pearson Driving Assessments Limited Part Of Second Floor Havelock Building High Street
West Sunderland SR1 1TZ
Former Sanctuary Cafe 1A Bridge Street Sunderland SR1 1TA

Former Action For Employment Limited Havelock Building High Street West Sunderland SR1 1TZ
Upper Floors 107 - 109 High Street West Sunderland SR1 1TX
The Black Door Beauty First Floor 107 - 109 High Street West Sunderland SR1 1TX
The Black Door Hairdressing Ltd Ground Floor 107 - 109 High Street West Sunderland SR1 1TX
Harrys Game Shack 1 Fawcett Street Sunderland SR1 1SJ
Former Nursery Thyme 2 Bridge Street Sunderland SR1 1TA

Final Date for Receipt of Representations: **22.02.2023**

REPRESENTATIONS:

The application has been publicised by way of site notice, press notice and neighbour consultation letters.

As a result of the publicity undertaken, 1 no. representation has been received from the occupier of 8 Foyle Street, who questioned where waste would be stored and stated that there are already a significant number of bins on the highway. They set out that additional bins would exacerbate issues with access, vermin, seagulls, bin rakers and general litter and requested that secure storage be provided.

It is noted that appropriate secure bin storage is identified on the proposed ground floor plan submitted on the 01.09.23, and the agent confirmed that this storage area would be utilised by the flats as well as occupiers of the commercial unit.

Consultees

Planning Policy- Noted that the site falls within the City Centre, and therefore CSDP Policy VC1: Main town centre uses and retail hierarchy, is applicable. This policy stipulates that the city centre and town centres will be the principal locations for major retail, leisure, entertainment, cultural facilities and services. Given the nature of the proposal, and the provision of residential units replacing the existing offices at the first floor (resulting from the change of use), whilst retaining the ground floor retail units, the proposal is considered to be in accordance with policy VC1.

As the proposal is located within the Urban Core, CSDP Policy SP2: Urban Core is relevant. Development in the Urban Core is expected to; make improvements to connectivity and pedestrian movement in the Urban Core provide a high quality of public realm to create attractive and usable spaces, protect and enhance heritage assets, and ensure high standard of design that integrates well with the existing urban fabric. In addition, paragraph 4.36 states that the Urban Core should be a focus for main town centre uses, especially retail and office use.

Given that the building is located on a secondary frontage, CSDP Policy VC3: Primary shopping areas and frontages should be considered. This policy stipulates that secondary frontages can support a more diverse range of uses including retail, service, leisure, entertainment facilities, offices, arts, culture, tourism and residential uses. The proposed uses, including a commercial unit at the ground floor and apartments to the upper floors are both in accordance with this policy.

With regards to the physical alterations proposed as part of the proposal, the site is located within the Sunnyside conservation area and it noted that the structure is Grade II listed, and therefore consideration should be given to CSDP Policies BH7: Historic Environment and BH8: Heritage

Assets. In particular, point 2 of BH8 states that development affecting a listed building, including alterations and additions should:

i) Conserve and enhance its significance in regards to the protection, repair and restoration of its historic fabric, its features and plan form, its boundary enclosures, its setting and views of it, its group value and contribution to local character and distinctiveness; and Be sympathetic and complimentary to its height, massing, alignment, proportions, form, architectural style, building materials and its setting.

The design impact of the scheme should be considered against CSDP Policy BH1.

The main criterions to note in this instance are 1 and 7, which detail that development should create places which have a clear function, character and identity based upon a robust understanding of local context, constraints and distinctiveness and create visually attractive and legible environments through provision of distinctive high quality architecture, detailing, building materials, respectively.

This policy also requires accommodation to meet the minimum requirements set out within the Technical Housing Standards - Nationally Described Space Standard. The associated Design and Access statement confirms that each unit will meet the space standards required for each unit type. It is noted that some of the 1b1p apartments are the minimum of 37m² which is only an acceptable space standard if this unit will contain a shower instead of a bath as opposed to the 39m² minimum, as noted in the appendix of the space standards document.

Given that the proposal would result in 14 new residential units, the development would therefore pass the threshold for planning obligations to be sought. CSDP policy ID2: Planning Obligations requires obligations to facilitate the delivery of local improvements, with affordable housing being sought in accordance with policy H2, and all obligations being sought in accordance with the adopted Planning Obligations SPD. In this instance, contributions would be sought towards affordable housing, allotments and open space.

The amenity impact should be considered against CSDP Policy HS1: Quality of Life. Site access should also be considered against CSDP Policies ST2: Local Road Network and ST3: Development and Transport, in particular, point 4 which states that development should:

4. include a level of vehicle parking and cycle storage for residential and non residential development, in accordance with the council's parking standards.

The site is located within a 7.2km buffer of designated European designated sites and therefore CSDP Policy NE2: Biodiversity and Geodiversity would be considered relevant with regard to Habitats Regulations Assessment. At Criterion 2, the policy states that development that would have an impact on the integrity on European designated sites that cannot be avoided or adequately mitigated will not be permitted other than in exceptional circumstances. Consideration should therefore be given to whether the proposals would have an impact upon the European designated sites and if so, appropriate mitigation should therefore be sought. Mitigation should be delivered in accordance with the Council's HRA Mitigation Strategy. In addition, the proposal's approach to biodiversity net gain is also relevant. In this respect, CSDP Policy NE2 at Criterion 1 applies. This sets out that proposals, where appropriate, must demonstrate how it will provide net gains in biodiversity.

The application site is located within the 250m buffer for the Sand and gravel bedrock superficial MSA, therefore is within a mineral safeguarding area, designated under CSDP Policy M1:

Minerals Safeguarding Areas and Infrastructure. Given the nature of the proposals, it is unlikely that the development will be deemed incompatible with the mineral strategy.

Conclusion

Where the decision maker considers the proposed development is in alignment with the policies set out above the principle of the proposal should be considered acceptable.

County Archaeology officer - The following response was provided: 110-112 High Street West is of mid-late 19th century construction, and is located within the Sunnyside Conservation Area, as well as listed Grade II (List Entry 1293118). As a significant landmark, 110-112 High Street West merits historic building recording (Historic England Level 2/3, Understanding Historic Buildings: A Guide to Good Recording Practice (2016)) prior to development taking place (NPPF para 205).

In addition, a basic photographic survey and description of the exterior of what should also be undertaken to provide context to the building recording. 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. This work can be conditioned.

Council Ecologist - Have noted that the application could have an adverse effect on the integrity of the Northumbria Coast Special Protection Area and therefore mitigation measures are required. This can involve an agreed contribution towards Strategic Access Management and Monitoring (SAMM) measures operated by Sunderland City Council to address designated site impacts from increased recreational disturbance.

Northumbria Police (Designing Out Crime Officer DOCO) - Northumbria Police have confirmed that they support the principle of the refurbishment and redevelopment of the site. However, they have expressed reservations with regard to the number of 1no. bedroom apartments and the potential for transience rather than long term residency that they believe this will support, mention is also made of the proliferation of HMO style accommodation within Sunnyside and issues with crime and disorder.

They also advise that communal entrances and individual doors should be controlled by certified visitor door entry systems.

Lead Local Flood Authority (LLFA) - The LLFA provided the following initial response: As the works seem to be internal modifications only and if existing drainage is retained with no increase in flows from the site, the LLFA don't see any specific flood risks identified with this development. However, with this application been classed as a major, we will require a site specific Flood Risk Assessment.

Following the submission of a Flood Risk Assessment the LLFA were satisfied that the proposal would be acceptable.

Tyne and Wear Fire Authority - Provided no objection to the proposal but advised that a note relating to the installation of sprinklers be provided with any approval.

Council's Environmental Health team - In earlier correspondence it was requested that any full application be supported by a noise assessment that examined existing noise levels impacting the development site, and to determine appropriate mitigation measures to ensure that the internal noise climate within habitable rooms meets the guidance set out in BS8233:2014. They also stated that further, consideration would be necessary in relation to the separating walls and floor/ceiling construction between the residential units and the proposed commercial use.

Following the submission of a noise assessment on the 10.05.23, the Environmental Health Officer confirmed that the proposals are considered satisfactory.

They did request a condition be added to the decision setting out that should a commercial kitchen be installed within the commercial unit a scheme of odour abatement and noise control shall be submitted for the approval of the LPA.

Council's Highways officers - The following response was provided:

City Centre / Parking - The proposed site has useful links to public transport, with the Rail and Metro station within close walking proximity. There is however a City Centre Residents parking scheme available for residents with cars.

Cycle Storage- It is noted that cycle storage facilities are provided in curtilage. The applicant however should be advised to clarify if the cycle storage is available for both residents and staff, (commercial unit).

Layout - Entrance Door / Waste Storage - It must be ensured that the relocated door to the east of the premises does not open out onto the adopted highway. It should also be ensured that the door to the north, (serving the service yard / bin storage area) is wide enough to accommodate the waste bins.

The agent confirmed via email on the 22.03.23 that the cycle storage would be for residents and staff, the door to the east does not open onto the highway and the door to the north is wide enough to accommodate the waste bins.

Council's Conservation Officer - requested some internal amendments and once these had been provided confirmed that the proposal would secure the future of the listed building in a sustainable use that will ensure its long-term conservation and, overall, will have a positive impact on the significance of the listed building.

COMMENTS:

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:

- Deliver a sufficient supply of homes (section 5);
- Ensuring the vitality of town centres (section 7);
- Promote sustainable transport (section 9);
- Make effective use of land (section 11);
- Achieve well-designed places (section 12);
- Conserve and enhance the natural environment (section 15).
- Conserve and enhance the historic environment (section 16)

These core principles of the NPPF feed into the local saved policies contained within the Unitary Development Plan (UDP) and 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, VC1, VC3, BH1, BH7, BH8 BH9, H1, H2, HS2, NE2, ST2, ST3, SP2, SP8 and ID2.

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. Principle of the development
2. Impact on the character and appearance of the area
3. Residential amenity
4. Highway's considerations
5. Flooding
6. Ecology
7. S106 Contributions

1. Principle of the development

The application site is located on the proposals map of the adopted Alteration no. 2 to the Unitary Development Plan as a Strategic Location for Change. Policy SA55B.1 is relevant in this instance and states that the following land uses already contribute significantly to the character of the Sunnyside area and should remain predominant and this includes use class C3 (housing). Policy SA55B.1 further states that the City Council wishes to encourage a greater concentration of living opportunities associated with a mixed-use development ethos for Sunnyside and Tavistock areas and proposals for conversions will be encouraged.

The site is also defined as part of the Urban Core Boundary within the adopted Core Strategy and Development Plan (CSDP). Policy SP2 is relevant to the Urban Core and states that the Urban Core will be regenerated and transformed into a vibrant and distinctive area by promoting mixed use development in the area of change which includes a residential led mixed use in Sunnyside. The Policy further seeks to diversify the residential offer to create sustainable and mixed communities and advises that it is also important that the Urban Core is not purely focused on employment uses but should accommodate a wide range of good quality residential provision. This will help to support the vibrancy of the Urban Core and particularly the evening economy.

The above approach adheres fully with national policy in respect of Para 86 of the NPPF.

Policy VC1 states that the city centre and town centres will be the principal locations for major retail, leisure entertainment, cultural facilities and services and policy VC3 sets out that retail uses within primary shopping frontages will be supported.

With regard to the above, it is considered that the conversion of the premises to provide residential accommodation with a commercial unit on the ground floor, would fully comply with both national and local policy through residential led development of vacant floorspace and the promotion of mixed-uses and increased vibrancy within Sunnyside and the Urban Core.

With regard to the provision of new residential homes, the Core Strategy, at policy SP1, states that the Council will "deliver at least 13,410 net new homes" by "delivering the majority of development in the Existing Urban Area" and "emphasising the need to develop in sustainable locations in close proximity to transport hubs". The policy also outlines that the Council will be "encouraging higher density development around and in close proximity to transport hubs".

In this regard the proposed development would provide a contribution towards the above policy by providing 14 apartments within the City Centre. The site lies within walking distance of many day-to-day amenities and transport links and is therefore considered to be a highly sustainable location.

The Core Strategy, at policy SP8, states that the Council will "seek to exceed the minimum target of 745 net additional dwellings per year" by "the conversion and change of use of properties", "the development of windfall sites" and "the development of small sites". In this regard, the proposed development would provide a contribution towards the above policy by providing 14 apartments via the conversion of an existing building.

Furthermore, Policy H3 of the adopted CSDP relates to student accommodation and requires that development of student accommodation should be located within the Urban Core and must demonstrate that:

1. there is a need for additional student accommodation;
2. it is of a scale and appearance appropriate to its surroundings;
3. it is located within close proximity to local facilities and is accessible to the University by foot, cycle and by public transport;
4. it provides high quality living accommodation in terms of design, layout, and facilities provided within the development, in accordance with the Student Accommodation SPD; and
5. the layout of the accommodation is designed in such a way that it is capable of being reconfigured through internal alterations to meet general needs housing in the future.

With regard to points 2-5 the agent confirmed that this is an existing building, with no changes to the appearance or scale, it is in the city centre in close proximity to local facilities and transport,

it meets national space standards and has been designed as self-contained apartments so provides flexibility for future use if not used for student accommodation.

With regard to point 1 the applicant has confirmed that:

We have been Student accommodation landlords in Sunderland for many years now and we continue to see an increase in demand for modern and compliant accommodation for student. This is particularly replacing outdated HMOs in the suburbs and adapting to the students request for being closer to campus and city centre.

The university are seeing record-High Student Enrolment: With approximately 25,500 students registered worldwide, the university is experiencing unprecedented demand.

By creating new centre accommodation, we are Offsetting housing pressure: Additional accommodation will ease the strain on the local housing market.

And it should be noted that these are not student pods but full-size apartments compliant with minimum spacing policy.

It is considered that based upon the information provided to support the planning application, the agent has sufficiently demonstrated that there is a need for the proposed accommodation, that the scale and appearance of the proposal would be appropriate, that the property is in close proximity to local facilities and is accessible, that the proposal would provide high quality living accommodation in terms of design, layout and facilities and that the layout has been designed to be reconfigured in the future to meet general housing needs should this be necessary.

In conclusion, the development will contribute positively to the vibrancy and vitality of the city centre by increasing its resident population and towards housing delivery by ensuring the continued use of this property, within a highly sustainable locality. The principle of the development is therefore considered to be acceptable.

However, the overall acceptability of the proposal can only be determined following an assessment of the proposal in relation to all other relevant material considerations. This exercise is undertaken below.

2. Impact on the character and appearance of the area

The NPPF is strongly supportive of delivering high quality design through new development, with paragraph 130 stating that planning decisions should ensure development functions well and adds to the overall quality of the area; is visually attractive as a result of good architecture; and is sympathetic to local character and history, including the surrounding built environment.

A further key requirement of the NPPF is that new development should seek to conserve and manage heritage assets, such as Conservation Areas, in a manner appropriate to their significance. Detailed guidance is provided by section 16 of the NPPF, paragraph 195 of which requires Local Authorities to give consideration to the significance of the heritage asset affected by a development proposal. Paragraph 197 then states that in determining planning applications, Local Planning Authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent 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 199, meanwhile, places great

weight on the conservation of heritage assets; the more important the asset, the greater the weight should be.

Paragraph 202 makes clear, however, that where a development proposal will 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 205 sets out 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 accessible⁶⁹. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.

Also relevant is paragraph 206, which states that Local Planning Authorities should look for new development within Conservation Areas and within the setting of heritage assets to enhance or better reveal their significance; proposals which will achieve this should be treated favourably.

On a local level, policies BH1, BH7, BH8 and BH9 of the CSDP are pertinent in the consideration of the current application. Policy BH1 encourages a high standard of design to new development, whilst policies BH7 and BH8 build on the guidance of section 16 of the NPPF in terms of requiring new development affecting heritage assets to conserve, manage and enhance their significance as appropriate.

Policy BH9 sets out that where substantive changes are to be made to a designated Built Heritage Asset of significance, works must not commence until an archaeological building recording of the asset has been carried out and the results deposited with the Historic Environment Record and Tyne and Wear Archives.

Also relevant is the Council's adopted Sunnyside Conservation Area 'Character Appraisal and Management Strategy (CAMS)', which provides a detailed analysis of the Conservation Area together with detailed policy guidance and management objectives.

With regard to the policy framework outlined above, it is considered that the main matters to consider are the design and visual amenity implications of the development and its relationship with the prevailing historic environment, including its effect on the significance of the Sunnyside Conservation Area and setting of the Listed building.

The property subject to this application is a former bank and befitting the status is architecturally a very impressive Grade II listed building in an elegant classical 'palazzo' style.

Broadly speaking, the Council's Conservation Team have confirmed that the principle of the change of use would be acceptable, and the conversion would secure the future of the listed building in a sustainable use that will ensure its long-term conservation and, overall will have a positive impact on the significance of the listed building.

They did however, express some initial concerns relating to some of the proposed thermal upgrade measures on the original building walls (which should be allowed to 'breathe') and the potential impact on existing features such as window architraves, cornices and skirtings.

Given that there are exemptions for Listed Buildings in Part L of the Building Regulations, it was suggested that insulated wall linings only be applied to the more recent additions. It is noted that

energy efficiency improvements will still be provided by the proposed ceiling insulation and secondary glazing.

The Conservation Officer also requested that the box secondary glazing system utilize timber rather than Upvc, which would be sympathetic to the traditional character and features of the listed building. It was also requested that a schedule of new internal doors should be provided, to ensure that they match the historic pattern.

This detail was provided by the agent on the 22.03.23 and the Conservation Officer confirmed that the detail was acceptable.

The external works are of a minor nature and confined to the later modern addition to the listed building which is of little historic or architectural merit. These alterations will have no impact on the significance of the listed building.

The Conservation Officer has confirmed that they are satisfied that the changes have addressed the issues raised in the original comments.

The County Archaeologist was also consulted and provided following response:

110-112 High Street West is of mid-late 19th century construction, and is located within the Sunnyside Conservation Area, as well as listed Grade II (List Entry 1293118). As a significant landmark, 110-112 High Street West merits historic building recording (Historic England Level 2/3, Understanding Historic Buildings: A Guide to Good Recording Practice (2016)) prior to development taking place (NPPF para 205).

In addition, a basic photographic survey and description of the exterior of what should also be undertaken to provide context to the building recording. 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. This work can be conditioned.

Subject to a condition relating to a building recording and photographic recording, it is considered that the impact of the development on the character and appearance of the grade II listed building and Sunnyside Conservation area is acceptable and in accordance with CSDP Policies BH1, BH7, BH8 and BH9.

3. Residential amenity

Paragraph 130 of the NPPF states that planning decisions should ensure that developments create places which, amongst other objectives, have a high standard of amenity for existing and future users.

Policy BH1 of the CSDP is relevant and requires that development must achieve high quality design and positive improvement. It should be of a scale massing, layout, appearance and setting which respects and enhances the positive qualities of nearby properties and the locality, whilst retaining acceptable levels of privacy and ensuring a good standard of amenity for all existing and future occupiers of land and buildings.

It also sets out that from 1 April 2021, development must meet the national spacing standards as a minimum for residential accommodation.

These spacing standards are contained within the Technical Housing Standard-Nationally Described Spacing document, published on March 2015 by the Department for Communities and Local Government.

The proposed conversion complies with the above spacing standards and the apartments will receive an acceptable level of natural day light through a combination of the reuse of the existing window openings and the insertion of new windows. It is noted that apartment 13 has windows overlooking the yard area and although this does not offer the same level of outlook as all of the other apartments, the main living areas will still receive an acceptable level of natural daylight.

Following consultation with the Councils Environmental Health Team, it was requested that a noise assessment be submitted to identify existing noise levels impacting the development site, and to determine appropriate mitigation measures to ensure that the internal noise climate within habitable rooms meets the guidance set out in BS8233:2014. They also stated that further, consideration would be necessary in relation to the separating walls and floor/ceiling construction between the residential units and the proposed commercial use.

A noise assessment was submitted on the 10.05.23. The Environmental Health Officer stated that the assessment incorporated daytime and night time noise measurements and analysis against acceptable criteria set out in BS8233:2014 and WHO community noise guidelines. They considered that this methodology was accepted.

Noise exposure of the relevant facades during day and night hours noise was identified as 62 dB (64dB at Bedford Street façade) and 56dB LAeq,T respectively. The assessment concluded that enhanced noise mitigation measures would be required, applied to window openings and the proposed mechanical ventilation system. Table 7.1 within the assessment specified a secondary glazing unit of 6/100/4mm construction together with mechanical ventilation and heat recovery unit located at roof level.

The findings of the noise assessment were accepted by the Environmental Health Officer, as were the sectional drawings illustrating the construction of separating walls and floors/ceilings, incorporating acoustic insulation measures.

The proposals were considered satisfactory, subject to the inclusion of a condition setting out that should a commercial kitchen be installed within the commercial unit a scheme of odour abatement and noise control shall be submitted for the approval of the LPA.

The application has been subject to consultation with Northumbria Police by way of their Designing out Crime Officer (DOCO). In response to initial consultation the DOCO confirmed no objection to the principle of the development however, they did express concerns relating to transience and crime associated with HMO style accommodation.

With regard to these comments, it is noted that the accommodation will be secured as a mix of student and open market units and would not be utilised as HMO accommodation.

It is also important to note that the student use accords with policy H3 and provides a mixed offer within the City Centre location in line with policy SP2.

With regard the DOCO's technical recommendations in respect of the external communal doors and door sets, these will be included on the decision notice as an informative for the developer.

Overall, Officers are satisfied that the new development will afford a good level of amenity to future occupiers in terms of internal space, outlook, natural light, accessibility, and security and

would not have a negative impact on the amenity of any residential neighbours. The development therefore accords with Policy BH1 of the CSDP.

4. Highways considerations

Paragraph 110 of the NPPF advises that planning decisions should ensure that safe and suitable access to the site can be achieved. Also, paragraph 111 is clear in stating that development should only be refused on transport grounds where the residual cumulative impacts of the development are severe.

Policy ST2 of the adopted CSDP states that development should ensure that it has no unacceptable adverse impact on the Local Road Network. Whilst Policy ST3 outlines that development should include a level of vehicle parking in accordance with the Council's Parking standards.

As set out within the consultation section of this committee report, the Council's Highways Officer has confirmed that the enquiry site is located within the S2 City Centre parking zone, whereby parking standards can be relaxed. The site is within a highly sustainable location with excellent connectivity to bus routes, whilst sitting within very close proximity to Sunderland Station for rail and metro connectivity.

The agent confirmed via email on the 22.03.23 that the cycle storage would be for residents and staff, the door to the east does not open onto the highway and the door to the north is wide enough to accommodate the waste bins.

It is also noted that the ground floor plan submitted on the 01.09.23 sets out an area within the yard for bin storage and the commercial unit has access to this yard area and rear exit.

The agent confirmed on the 01.09.23 that the bin storage area will accommodate bins for both the residential units and commercial unit. Any servicing or delivery will be taken from the access to the rear.

Informative notes can be placed on any consent granted to advise the developer of the City Centre Residents parking scheme which is available for residents with cars, along with Council contacts for permits relating to any temporary works on the highway such as skips or scaffolding.

Overall, officers are satisfied that the development will be sustainably connected to public transport and local amenities, whilst secure and accessible bin storage is identified on the plans. The development is therefore considered to accord with local and national Policy.

5. Flooding

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

The LLFA had no objection to the scheme given that the works relate to internal modifications only and subject to the existing drainage being retained with no increase in flows from the site, they did not see any specific flood risks identified with the development.

Given that the application is a major proposal they did request a Flood Risk Assessment be provided.

The assessment was provided on the 14.02.23, it confirmed that all drainage would use existing connections and that there is no record of flooding in either the local authority or NWL records and the area is not highlighted on the flood risk assessment map as being in a flood risk area.

Following the submission of a Flood Risk Assessment, the LLFA were satisfied that the proposal would be acceptable and compliant with CSDP policy WWE3.

6. Implications of development in respect of ecology

Section 15 of the NPPF sets out a general strategy for the conservation and enhancement of the natural environment and at paragraph 180 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 182 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.

Locally, 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.

The Council's Ecologist has identified that, in terms of Habitats Regulations Assessment, there could be impacts on key features of coastal European Sites, especially where an increase in residential provision is proposed within 6 km of the coast. Likely impacts in this instance would be indirect through increased recreational disturbance and damage, alone and in-combination with other similar developments coming forward in the area.

The applicant has subsequently agreed to make a financial contribution towards the Council's Strategic Access Management and Monitoring (SAMM) measures to address designated site impacts from increased recreational disturbance via a Section 106 agreement.

Given the above, the proposal accords with policy NE2 (biodiversity and geodiversity) of the CSDP.

7. S106 Contributions

Paragraph 55 of the NPPF states that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations - such obligations are usually secured via legal agreements under Section 106 of the Town and Country Planning Act 1990 (as amended) and should only be used where it is not possible to use planning conditions. Paragraph 57 goes on to advise that planning obligations should only be sought where the following tests can be met (also set out at Regulation 122(2) of the Community Infrastructure Levy (CIL) Regulations 2010):

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development;

Policy ID2 of the CSDP, meanwhile, states that s106 planning obligations will be sought to facilitate delivery of:

- i) Affordable housing; and
- ii) Local improvements to mitigate the direct or cumulative impact of development and/or additional facilities and requirements made necessary by the development (in accordance with a forthcoming Planning Obligations Supplementary Planning Document).

To facilitate the delivery of the mitigation measures, the Council will seek maintenance, management, monitoring and such related fees.

Paragraph: 018, reference ID: 23b-018-20190315 of the Government's Planning Practice Guidance website makes it clear that applicants do not have to agree to a proposed planning obligation, but failure to do so may lead to a refusal of planning permission or non-determination of the application.

The below sets out the obligations relevant to the scheme and discusses their implications in respect of this development.

Strategic Access Management and Monitoring (SAMM)

The developer has agreed to make a contribution towards the Council's Strategic Access Management and Monitoring (SAMM) measures which are designed to address designated site impacts from increased recreational disturbance. This contribution would equate to £557.14 per open market unit and £214.19 per student unit, totalling £5,056.36

Affordable Housing

With regard to affordable housing, the Core Strategy, at policy H1, says "Residential development should create mixed and sustainable communities" by "contributing to meeting affordable housing needs". The Core Strategy continues, at policy H2, saying "All developments of 10 dwellings or more, or on sites of 0.5ha or more, should provide at least 15% "affordable housing".

Officers would, however, draw to attention to the fact that only 6 of the units will be open market accommodation - the other 8 will be student accommodation and the Council's Planning Obligations SPD sets out that student accommodation will be exempt from affordable housing requirements. The proposed split between open market and student accommodation will be secured via condition and the S106 agreement.

Given this mix, which means fewer than 10 units will be 'open market' housing, the proposed development would not be expected to provide a contribution towards affordable housing, in this instance.

Open space

Officers would advise that the nature of this type of application dictates that the provision of open space cannot be provided. The provisions of policy NE4 of the Core Strategy and the adopted Planning Obligations Supplementary Planning Document cumulatively seek for financial contributions towards allotments, equipped play space and open space. In this instance the site does, however, lie a short distance from local greenspace at Mowbray Park and officers consider that any prospective occupiers would have good access to recreational space.

Education

The type of residential accommodation to be provided, (i.e., primarily single bedroomed units) does not lend itself to occupancy by families with children, therefore there is no overriding justification to seek an educational contribution on this development.

With regard to the above, it is considered that the SAMM contribution and the securing of the split between student and non-student accommodation is required to satisfy the tests set out at paragraph 56 of the NPPF and Regulation 122(2) of the CIL Regulations.

Conclusion

In conclusion, the development accords with the relevant development plan policies by contributing positively to the vitality of the city centre through the delivery of residential accommodation and the provision of a commercial premises at the ground floor.

The impact of the development on the character and appearance of the Sunnyside Conservation area is acceptable whilst appropriate levels of amenity will be afforded to prospective occupants and there will be no negative impact on the amenity of neighbouring dwellings.

There will be no negative impact with regard to flooding or highway safety.

The 60/40 split providing student and non-student accommodation provides a mix of residential types and subject to an appropriate condition and confirmation of the split via a Section 106 agreement, the residential split is appropriate.

The ecological implications have been assessed and subject to relevant conditions and a financial contribution towards coastal protection to be made via a Section 106 agreement, the scheme is considered acceptable.

Officers therefore recommend approval of the application; subject to the successful completion of a Section 106 agreement and the draft conditions 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: APPROVE, subject to completion of s106 agreement and draft conditions 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:

Existing elevations 1 of 2, drawing 10, received 19.01.23
Existing elevations 2 of 2, drawing 11, received 19.01.23
Existing site and GF plan, drawing number 01, received 19.01.23
Existing FF plan, drawing number 02, received 19.01.23
Existing SF plan, drawing number 03, received 19.01.23
Proposed elevations 1 of 2, drawing number 12, received 19.01.23
Proposed elevations 2 of 2, drawing number 13, received 19.01.23
Proposed roof plan, drawing 09, received 19.01.23

Proposed GF plan, drawing number 04, received 01.09.23
Proposed mezzanine, drawing number 05, received 22.03.23
Proposed FF plan, drawing 06, received 22.03.23
Proposed SF plan, drawing 07, received 22.03.23
Proposed FF plan showing student apartments, drawing number 20 received 01.09.23
Proposed SF plan showing student apartments, drawing number 21 received 01.09.23
External wall, window and ceiling section, drawing number 14, received 22.03.23
Internal door and window elevations, drawing number 15, received 22.03.23
Panel door detail, received 19.04.23
Section for Doleta 58 for fixed secondary windows, received 11.05.23

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 Notwithstanding any indication of materials which may have been given in the application; the materials to be used, shall be in accordance with those stated within the following plans:

Proposed elevations 1 of 2, drawing number 12, received 19.01.23
Proposed elevations 2 of 2, drawing number 13, received 19.01.23
Proposed roof plan, drawing 09, received 19.01.23
Proposed GF plan, drawing number 04, received 01.09.23
Proposed mezzanine, drawing number 05, received 22.03.23
Proposed FF plan, drawing 06, received 22.03.23
Proposed SF plan, drawing 07, received 22.03.23
External wall, window and ceiling section, drawing number 14, received 22.03.23
Internal door and window elevations, drawing number 15, received 22.03.23
Panel door detail, received 19.04.23
Section for Doleta 58 for fixed secondary windows, received 11.05.23

Unless the Local Planning Authority first agrees any variation in writing; in the interests of visual amenity and to comply with policy BH1 of the CSDP.

4 Prior to the installation of any commercial kitchen within the development, a scheme of odour abatement and noise control shall be submitted for the approval of the LPA. The odour abatement system design shall be informed by the outcome of an odour risk assessment and shall meet the recommendations of the 2018 EMAQ+/Ricardo-AEA Guidance on the control of noise and odours from commercial kitchens. The scheme shall incorporate an assessment of noise levels and suitable mitigation where necessary to maintain an acceptable internal noise climate within the adjoining residential accommodation.

The agreed scheme must then be implemented in accordance with the approved details and maintained in an effective condition for the lifetime of the development.

Reason: to ensure odour and noise matters are adequately addressed and to comply with the objectives of policy HS1 of the CSDP.

5 Prior to development commencing, a level 2/3 building recording must be undertaken and approved by the LPA. This shall be prepared by a suitably qualified heritage professional and comply with the guidance given within the Historic England: Understanding Historic Buildings

publication (2016). The recording report shall be submitted to and approved in writing by the Local Planning Authority for inclusion in the Tyne and Wear Historic Environment Record.

In addition, a basic photographic survey and description of the exterior of should also be undertaken to provide context to the building recording. Existing architects' drawings may be used as a basis for the survey, the County Archaeologist can provide a specification. The work must be carried out by a suitably qualified archaeologist or historic buildings expert.

Reason: To provide an archive record of the historic building fabric in accordance with paragraph 205 of the NPPF and Core Strategy Policy BH9

6 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended), or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, the student accommodation indicated on the submitted floorplans (drawing refs. 22147 20 and 22147 21) shall not be used for any other purpose than student accommodation. For the avoidance of doubt, a student shall be defined as any person enrolled onto a course of higher education.

Reason: to ensure compliance with the submitted details and to ensure that consideration can be given to any subsequent impacts arising from unrestricted occupancy of the accommodation in relation to sensitive ecological sites and the provision of affordable homes, in accordance with Policy NE2 and ID2 of the adopted Core Strategy and Development Plan.

7 An annually updated register of students occupying the accommodation hereby approved shall be maintained at all times for the inspection of the Local Planning Authority. The register shall include details of the higher education course and institution (inclusive of offer letter from the institution and subsequent letter from the student accepting the offer).

Reason: to ensure compliance with the submitted details and to ensure that consideration can be given to any subsequent impacts arising from unrestricted occupancy of the accommodation in relation to sensitive ecological sites and the provision of affordable housing, in accordance with Policy NE2 and ID2 of the adopted Core Strategy and Development Plan.

8 No part of the development shall be occupied until the space and facilities for refuse bin storage has been provided in accordance with the approved plans. These facilities shall be maintained as such thereafter for the lifetime of the development.

Reason: in order to ensure a satisfactory form of development and in the interests of highway safety and to comply with policy ST3 of the UDP.

9 No part of the development shall be occupied until the space and facilities for bicycle parking have been provided in accordance with the approved plans. These facilities shall be maintained as such thereafter and permanently available freely to the occupiers of the development for bicycle parking.

Reason: to ensure that adequate and satisfactory provision is made for bicycle parking and to comply with policy ST3 of the UDP.

Reference No.: 23/00677/FUL Full Application

Proposal: **Erection of canopy to provide protection for timber stored on site and the replacement of a section of boundary wall adjacent to Colliery Lane with 2.4m high palisade fencing. (Partially retrospective in respect of the palisade fencing)**

Location: Land At James Jones Pallets And Packaging, Hetton Lyons Industrial Estate, Hetton-le-Hole, Houghton-le-Spring

Ward: Hetton

Applicant: James Jones (Pallets & Packaging)

Date Valid: 4 May 2023

Target Date: 3 August 2023

PROPOSAL:

Full planning permission is sought for the erection of an open store canopy to provide protection for timber stored on site and retrospectively for the replacement of a section of boundary wall adjacent to Colliery Lane with 2.4m high palisade fencing, on land occupied by James Jones Pallets and Packaging, Hetton Lyons Industrial Estate, Hetton-le-Hole, Houghton-le-Spring.

The host site comprises a 3920 sqm parcel of industrial land situated within the Hetton Lyons Industrial Estate, Hetton-le-Hole, Houghton-le-Spring. The land in question is currently being utilised for the open storage of wooden pallets in connection with the James Jones Pallet and Packaging company and is bound by further industrial plots to the north and east (the eastern plot is also within the ownership of the applicant). To the west of the site lies an estate road within the industrial estate leading from the classified Colliery Lane. Colliery Lane also provides vehicular access/egress to and from the site. The southern curtilage of the site is largely screened by a tree belt with Colliery Lane and the residential Lyons Cottages sitting beyond.

The new open store canopy is proposed to provide weather protection to the material (timber pallets) that are currently being stored on the land. The canopy will have a maximum height of 8.978m (ground to ridge), dropping to 6.402m (ground to eaves) and will exhibit a width of 48.320m and a depth of 30.354m.

The second element of the works seek retrospective consent for the erection of a new section of palisade fencing adjacent to the right hand side entrance on Colliery Lane. The accompanying Design and Access Statement qualifies that the boundary wall that was previously in situ had become unsafe and was removed. The new section of 2.4m high palisade fencing runs for a length of 28m before adjoining a further section of existing palisade fencing.

The submission has been accompanied by a brief Design and Access Statement, a Land Contamination Assessment (Phase 1 Desk Top Study), a Drainage/Flood Risk Assessment and an Arboricultural Impact Assessment.

This application is considered following the recent refusal of planning permission for the creation of a secondary access into the site from the estate road to the west (See ref: 23/00818/FUL).

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Flood And Coastal Group Engineer
Cllr Iain Scott
Cllr James Blackburn
Cllr Claire Rowntree
Hetton Town Council
Network Management
Flood And Coastal Group Engineer
Tyne And Wear Archaeology Officer
Environmental Health
Land Contamination

Land To The North Of Colliery Lane Lyons Avenue Easington Lane Houghton-le-Spring DH5 0HS
Unit 1 Cygnal Limited Hetton Lyons Industrial Estate Hetton-le-Hole Houghton-le-Spring DH5 0RH
Londinium A & C LLP Unit 1 Hetton Lyons Industrial Estate Hetton-le-Hole Houghton-le-Spring
X Coat Ltd Unit 12 Hetton Lyons Industrial Estate Hetton-le-Hole Houghton-le-Spring
Ralph Foster Unit 11 Hetton Lyons Industrial Estate Hetton-le-Hole Houghton-le-Spring
N E Truck Spares Ltd Unit 4 Hetton Lyons Industrial Estate Hetton-le-Hole Houghton-le-Spring
B.M. English And Son Former Ncb Workshops Hetton Lyons Industrial Estate Hetton-le-Hole Houghton-le-Spring
Trackwork Limited Hetton Lyons Industrial Estate Hetton-le-Hole Houghton-le-Spring DH5 0RF
BM Stafford And Son Hetton Lyons Industrial Estate Hetton-le-Hole Houghton-le-Spring DH5 0RH
Sunter Bros. Unit 14 Hetton Lyons Industrial Estate Hetton-le-Hole Houghton-le-Spring
James Jones And Sons Unit 10 Hetton Lyons Industrial Estate Hetton-le-Hole Houghton-le-Spring
Unit 12A Hetton Lyons Industrial Estate Hetton-le-Hole Houghton-le-Spring DH5 0RH
1 Lyons Cottages Easington Lane Houghton-le-Spring DH5 0HU
31 Lyons Gardens Hetton-le-Hole Houghton-le-Spring DH5 0HL
4 Lyons Cottages Easington Lane Houghton-le-Spring DH5 0HU
3 Lyons Cottages Easington Lane Houghton-le-Spring DH5 0HU
2 Lyons Cottages Easington Lane Houghton-le-Spring DH5 0HU
Tree Tops Colliery Lane Hetton-le-Hole Houghton-le-Spring DH5 0JA
5 Lyons Cottages Easington Lane Houghton-le-Spring DH5 0HU
Moguntia Food Ingredients UK Hetton Lyons Industrial Estate Hetton-le-Hole Houghton-le-Spring DH5 0RG
J T Dove 2 Hetton Lyons Industrial Estate Hetton-le-Hole Houghton-le-Spring DH5 0RH
10 The Lyons Easington Lane Houghton-le-Spring DH5 0HT

Final Date for Receipt of Representations: **16.06.2023**

REPRESENTATIONS:

The application has been publicised by way of site notice, press notice and neighbour consultation letters. As a result of the publicity, a total of 2 no. representations have been received.

The representations have been received from occupiers of properties at Essex Street and Houghton Road within the Houghton-Le-Spring area. The concerns raise the following points;

- o Replacing the stone wall with palisade fencing is an abomination. The wall was part of the old colliery and therefore the heritage of Hetton-le-Hole.
- o The wall should have been repaired rather than just knocked down and similar walls in the Hetton area have been subject to consultation before any action was taken.
- o The wall had a more appealing aspect than the unsightly metal fence.
- o The wall should be reconstructed, and it should be a criminal offence against the heritage of Hetton's famous past.

External consultees

Hetton Town Council - Have submitted an objection to the development stating that;

- o There are concerns re intended removal of trees and request that the applicant plants suitable replacements by way of reparation.
- o The proposed canopy is regarded as being obtrusive and of an inappropriate scale in height.
- o Request that the demolished wall is rebuilt in a style and appearance which is sympathetic to the industrial heritage of the area.

County Archaeologist - This was formerly part of the site of Hetton Lyons Colliery (HER 2989), historically one of the most important mines in the Durham Coalfield and the first mine from which coal beneath the magnesian limestone plateau of northeast Durham was extracted. It was occupied in the 19th century by railway lines, roads, gardens and some small buildings. The site was cleared in the 1960s and the surrounding area redeveloped as the Hetton Lyons Industrial Estate. No previous archaeological investigation has been undertaken at the site, however an archaeological desk-based assessment was produced for the adjacent site to the east in 2010 (Event 3341 report 2010/33). This found that there was a slight possibility that the remains of old colliery buildings and rail lines may still exist beneath the concrete layer on the adjacent site. This is also likely to apply to the application site.

The applicant has provided a Contamination Investigation report by Dunelm. This included window sample boreholes which found made ground to depths of between 1.1 and >3.0m bgl across the site. Given the depth of made ground on the site, I consider that the construction of the steel portal frame structure will not have a significant impact on any known archaeological heritage assets, and no archaeological work is required in relation to this. The replacement of the existing boundary wall adjacent to Colliery Lane with 2.4m high palisade fencing has already been undertaken due to the boundary wall being unsafe. It is unknown whether the boundary wall was of any historic interest, however the position of the wall does not align with those shown on 19th century Ordnance Survey maps, indicating that it was more likely to have been of 20th century date.

Internal

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

Council's Environmental Health team - No objections offered.

Council's Ecologist - No objections offered.

Ground contamination - The Council's ground consultant has confirmed that based on the contamination report submitted, a condition to cover unexpected contamination should be imposed on any consent granted.

Lead Local Flood Officer - Are satisfied that on the basis of the updated information (Drainage Strategy Document Reference: S4084-C-02-A) that the proposed development is acceptable in relation to flood risk and drainage.

COMMENTS:

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);
- Make effective use of land (section 11);
- Achieve well-designed places (section 12);

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, BH1, EG2, HS1, HS2, HS3, NE2, ST3.

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 amenity;
3. The impact of the development in respect of highway and pedestrian safety;
4. The implications of the development on trees
5. The implications of the development in respect of ground conditions;
6. The impact of the development on drainage and flood risk

1. Land use considerations

Section 6 of the NPPF seeks to encourage sustainable economic growth and help create the conditions in which businesses can invest, expand and adapt. Locally, CSDP Policy EG2 looks to safeguard Hetton Lyons Industrial Estate which is designated on the Policies Map under KEA17) as a Key Employment area, for B1(Business - excluding B1a), B2 (General Industrial) and B8 (Storage and Distribution) employment uses.

With regard to the above, the means of securing a practical/formalised solution for the coverage of existing wooden pallets stored on the site would accord with the aims and objectives the aforementioned policies by enhancing and improving the existing business operation. In this regard and from a land use perspective the LPA are satisfied that the principle of the development is acceptable and in accordance with the CSDP policy EG2.

2. The implications of the development in respect of amenity;

Policy BH1 of the Council's 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 and retains acceptable levels of privacy and ensures a good standard of amenity for all existing and future occupiers of land and buildings.

In terms of residential amenity, the separation distances between the existing commercial site and the nearest residential properties situated on the southern side of Colliery Lane (Lyons Cottages) are already established at around 27.5m. The resulting development would not seek to reduce the prevailing spacing.

In acknowledging the above, it is noted that one of the points raised by Hetton Town Council in the aforementioned objection relates to the scale and massing of the canopy structure. The argument presented states that the canopy would appear obtrusive and of an inappropriate scale

and height. Based on the dimensions set out on the submitted plans, the maximum height of the canopy would be just under 9m. Against this backdrop, the accompanying Arboricultural Impact Assessment sets out that the street fronting trees which serve to screen the host site from Colliery Lane (labelled as Group 1 in the tree report) rise to a maximum height of 14.5m. In this respect, it is evident that the new canopy would sit at least 5m below the height of the prevailing tree belt.

Within the context of the above, it is reasonable to suggest that the spread and coverage of the trees foliage will diminish seasonally and views into the site and onto the proposed canopy may be more readily apparent during these times. However, this would also be the case in respect of prevailing views onto the openly stored wooden pallets.

It is also evident that the site is located to the north of Lyons Cottages, therefore, notwithstanding the presence of the tree belt, the level of prevailing sunlight received by the residential properties is unlikely to be unduly impacted by the new structure.

The new canopy is typical of development located on industrial estates and officers are satisfied that the position and scale of the canopy, in tandem with the coverage provided by the street fronting tree belt would ensure that the development would not have an injurious impact on the visual and residential amenity of the area.

The second element of the works relate to the erection of a section of 2.4m high palisade fencing positioned to the east of the host site and adjacent to Colliery Lane. It is understood that this section of fencing was erected shortly after the demolition of stone wall in late 2022. Within this submission, the planning agent has set out that the applicant undertook the demolition due to health and safety concerns over its stability.

It is observed that the removal of the section of stone wall and its replacement with the palisade fencing has generated objections from two members of the public and has also been referenced within the representation from Hetton Town Council. The concerns primarily relate to the removal of the former wall which the objections describe as a heritage asset and its replacement with what has been referenced as an unattractive section of industrial fencing.

In addressing the above, it first should be noted that the section of wall in question was not listed, nor did it lie within the extent of a Conservation Area. In this respect, and from a procedural perspective, the demolition of the wall did not amount to development and thus was not subject to any planning control. Based on earlier images of the wall in situ, the wall did appear to be constructed out of a patchwork of materials including sections of older stone and brick, more modern remedial brickwork inserts and sections of breeze blocks. In addition, and based on the content of the consultation response by the County Archaeologist, the position of the wall did not align with those shown on 19th century Ordnance Survey maps, indicating that it was more likely to have been 20th century addition.

The view expressed, which include a desire for the wall to have been retained are understood, however, the erection of the palisade fencing needs to be assessed on its own merit and within the context of the site and immediate area. In this regard, the new section of palisade fencing physically adjoins a run of existing palisade fencing which bounds the adjacent site, this fencing extends a further 55m to the east on Colliery Lane. In this respect and when taking into consideration that this type of fencing typically bounds industrial land, it is difficult to argue that the new boundary treatment is out of character and visually harmful to the amenity of the area.

Overall, the impact of the development on the amenity of the industrial estate and beyond is considered to be acceptable and in accordance with the requirements of CSDP Policy BH1.

3. Impact of the development on highway and pedestrian safety

Policy ST2 of the Council's CSDP states that to ensure development has no unacceptable adverse impact on the Local Road Network, proposals must ensure that:

- o new vehicular access points are kept to a minimum and designed in accordance with adopted standards;
- o they deliver safe and adequate means of access, egress and internal circulation;
- o where an existing access is to be used, it is improved as necessary;
- o they are assessed and determined against current standards for the category of road;
- o they have safe and convenient access for sustainable transport modes;
- o they will not create a severe impact on the safe operation of the highway network.

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 development would not result in the loss of any existing parking spaces and access and egress routes into the site remain unaltered. In this respect and as set out within the 'Representations' section of this report, the Council's Transportation Development Officer has offered no objection to the proposal.

In this regard it is considered that the proposal will have no adverse impact on the operational aspects of the existing business, or the local road network. The proposed development therefore accords with policies ST2 and ST3.

4. The implications of the development on trees

Policy NE3 (Woodlands/hedgerows and trees) seeks to ensure that the impacts of development on significant trees, woodlands and hedgerows are considered as part of proposals and that adequate mitigation, compensation and buffers are provided between new development and retained trees.

With regard to the potential impact of the development on the street fronting tree belt, the developer has submitted an arboricultural impact assessment which appropriately sets out the parameters and potential impacts arising from the development.

The supporting documentation makes it clear that none of the trees situated within the street fronting tree belt (Group 1) are to be removed to facilitate the development. An arboricultural method statement and ground protection plan has been provided to demonstrate how this tree belt will be protected during the construction phase.

There are however some individual trees earmarked for removal and these are described within the tree report as comprising self-seeded sycamore trees which sit along the internal western boundary of the site (listed as T1C, T2C, T3C and T4C). These trees are categorised as grade C specimens (low quality) and are required to be removed due their proximity and future conflict with the new canopy.

A small group of self-set wild cherry trees also abut the western fence line and are proposed to be removed. These trees are described as being of poor structural condition and low quality and are to be removed to establish a higher level of arboricultural management at the site.

Additional trees that have been surveyed as part of the report sit outside the confines of the site within adopted highway verge adjacent to the estate road. These are referenced as T5 (Ash), T6 (Rowan) and T7 (Whitebeam) and will not be impacted by the development.

Further to the above, it is noted that the representation received from Hetton Town Council raises concerns over the tree loss at the site, requesting that the applicant plants suitable replacements by way of reparation.

Based on the details provided above, it is evident that the trees selected for removal are not afforded any statutory protection and are typically poor-quality self-seeded specimens which are situated internally within the site and largely obscured from any external public vantage point. Consequently, the removal of these trees will have no demonstrable impact on the visual amenity of the area, there are no reasonable grounds to require that replacement specimens are planted.

As set out, the primary tree belt which serves an important role in screening the site from Colliery Lane, will remain unaffected by the development.

Overall and subject to conditioning that appropriate tree measures are put in place to protect the retained trees, the Council, as Local Planning Authority, are satisfied that the development will accord with CSDP Policy NE3.

5. Implications of development in respect of ground conditions

Paragraph 178 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.

The application has been reviewed by the Council's Ground Contamination officer and as set out within the consultee section of this report, no objections are offered subject to the imposition of a condition to deal with unexpected contamination.

In light of the above, the proposal is considered to accord with the principles of CSDP Policy HS3 and Para 178 of the NPPF.

6. The impact of the development on drainage and flood risk

In relation to flooding, paragraph 155 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, paragraph 163 of the NPPF advises that when determining planning applications, Local Planning Authorities should ensure that where appropriate, applications are 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 165, 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 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 WWE5 deals with ensuring the appropriate disposal of foul water.

The application has been accompanied by Drainage Strategy which has been the subject of consideration by the Lead Local Flood Authority. The summary to the drainage strategy confirms that soakaway systems cannot be accommodated within the site extents due to the boundary and building locations, whilst a connection to a watercourse would require crossing significant 3rd party land and is therefore not a feasible option. On this basis the report sets out an intent to discharge surface water run-off into the Northumbrian Water sewer.

This approach has been considered and accepted by the Council's Lead Local Flood Officer, following qualification from the developer that they will maintain the surface water sewer. The LLFA has confirmed that on the basis of the details provided, the drainage strategy is acceptable subject to the imposition of a standard verification condition.

Subject to such a condition, it is considered that the flood risk and sustainable drainage implications of the development are acceptable, in accordance with paragraphs 155, 163 and 165 of the NPPF and policies WWE2, WWE3 and WWE5 of the CSDP.

Conclusion

The LPA are satisfied that the proposal represents an appropriate land use within Hetton Lyons Industrial Estate and provides opportunity to facilitate economic growth by enhancing and improving the existing business operation. The size, scale and appearance of the canopy and siting and appearance of the new fencing is not considered to have a significant adverse impact on the amenity of the area, whilst the implications on highways, trees, ground conditions and drainage have been considered are deemed to be acceptable. It is therefore 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: APPROVE, subject to draft conditions 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:

The location plan received 18.07.2023 (Plan ref: S4084-BDN-XX-XX-DR-A-0001 Rev P2)

The site plan as existing received 16.03.2023 (Plan ref: S4084-BDN-XX-XX-DR-A-0002 Rev P1);

The proposed site plan and typical fence elevation as amended received 18.07.2023 (Plan ref: S4084-BDN-XX-XX-DR-A-0003 Rev P3)

The proposed elevations received 16.03.2023 (Plan ref: JJSL ID: Rev 3)

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 walling and roofing of the development hereby approved shall be constructed out of profiled steel as set out within the planning application form, unless first otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of amenity and to comply with Core Strategy development Plan Policy BH1.

4 The development hereby approved shall be carried out in full accordance with the tree protection measures set out within the submitted Arboricultural Impact Assessment, Method Statement and the Tree Protection Plans referenced as AIA TPP and AMS TPP (All About Trees Ltd, April 2023).

Reason: To ensure that retained trees at the site are properly protected during construction works and to comply with the objectives of Policy NE3 of the Core Strategy Development Plan.

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.

- Photographic evidence of petrol interceptor installation, proof of delivery to site and manufacture specific details proving sufficient water quality treatment will be provided.

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 174f and 183.

Reference No.: 23/01121/SUB Resubmission

Proposal: **Change of use from C3 (residential) to C4 (5 bedroom HMO).**

Location: 265 Chester Road, Sunderland SR4 7RH

Ward: Barnes
Applicant: Mr Paul Smith
Date Valid: 22 May 2023
Target Date: 17 July 2023

PROPOSAL:

SITE

Planning permission is sought to change the use of a residential dwelling (Use Class C3) to a House of Multiple-occupation (HMO) (Use Class C4) at 265 Chester Road, Sunderland, SR4 7RH.

The proposed change of use affects a terraced property fronting Chester Road, opposite St. Gabriel's Church and close to Sunderland Royal Hospital. The property is located in the Barnes Ward of Sunderland.

BACKGROUND AND PROPOSAL

The use of a property as an HMO occupied by no more than 6 no. residents falls within use class C4 of the Town and Country Planning (Use Classes) Order. Normally, the change of use of a single dwellinghouse (use class C3) to a C4 use can be undertaken without planning permission by virtue of the 'permitted development' rights afforded by Part 3, Class L of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the 'GPDO'). The Council has, however, issued a Direction (made under Article 4(1) of the GPDO) which serves to remove this 'permitted development' right in five electoral Wards, including Barnes. As a consequence, within these Wards it is necessary to apply for planning permission to change the use of a dwellinghouse to an HMO falling within use class C4, as is the case with the current application.

The proposal is for a 5 no. bed HMO. All of the bedrooms would have ensuite bathrooms and there would be 2no. bedrooms on the ground floor and 3no. on the second floor.

The shared living space would consist of a kitchen/ dining area to the rear.

There are 2 no. onsite parking spaces provided within the rear yard and bin storage is also provided to the rear. The yard is accessed via a rear lane.

No external works are proposed.

It is noted that at the previous Planning and Highways Committee meeting held on 31st July 2023, a Councillor site visit was requested. This visit is scheduled for 15th September 2023, prior to the upcoming Committee meeting.

SITE HISTORY

An application for the same proposal (app ref: 23/00698/FUL) was refused on 16th May 2023.

The reason for refusal was the absence of an agreed financial contribution towards the mitigation of harm to European designated sites, generated by additional recreational pressures resulting from the additional housing, and the resultant conflict with policy NE2 of the Council's Core Strategy and Development Plan - Biodiversity and geodiversity.

TYPE OF PUBLICITY:

Site Notice Posted
Neighbour Notifications

CONSULTEES:

Cllr Richard Dunn
Cllr Anthony Mullen
Cllr Ehtesham Haque
Environmental Health
Northumbria Police
Network Management
Planning Policy

Saint Gabriel's Church Saint Gabriel's Avenue Sunderland SR4 7TF
Flat 3 263 Chester Road Sunderland SR4 7RH
Flat 5 263 Chester Road Sunderland SR4 7RH
Flat 4 263 Chester Road Sunderland SR4 7RH
Flat 1 263 Chester Road Sunderland SR4 7RH
Flat 2 263 Chester Road Sunderland SR4 7RH
Methodist Church Ewesley Road Sunderland SR4 7RJ
Methodist Sunday School Ewesley Road Sunderland SR4 7RJ

Final Date for Receipt of Representations: **26.07.2023**

REPRESENTATIONS:

Councillor response

Councillor Ehtesham Haque objected to the proposal given the strain on parking the HMO would cause in the area. The Councillor requested that the proposal be heard at the Planning and Highways Committee.

Public response

None received.

Internal consultee responses

Transportation Department (the Local Highway Authority)

Comments: It is noted this is a resubmission of a previous application (23/00698/FUL), for which comments were made on 02 May 2023. The re-submitted application has no additional impacts, in terms of highways and transportation and therefore no further comments are required on submitted documents and plans.

Recommendation: No objections on highways or transportation grounds.

Environmental Health

Considers that proposal is acceptable.

Information for the applicant relating to licencing requirements, including the standard room sizes required for licencing applications, was provided.

The applicant provided additional detail relating to room size and the Environmental Health officer confirmed on the 18.07.23 that the proposal would meet the licencing requirements.

Planning Policy

Noted that the application should be assessed against the requirements of policy H6 'Homes in Multiple Occupation (HMOs)' and that the proposal would not be contrary to the guidance within the adopted Homes and Multiple Occupation Supplementary Planning Document (HMO SPD) (2020) as the proposed HMO would not result in an over-concentration of HMOs within 100m of the site and would not cause a dwellinghouse to be 'sandwiched' between two HMOs.

Policies BH1 and HS1 relating to residential amenity and noise should also be considered and it was requested that a management plan be provided.

Northumbria Police

Provided no objection to the proposals.

COMMENTS:

PRINCIPLE OF DEVELOPMENT

The proposed development must be considered against the policies contained within the Council's adopted Core Strategy and Development Plan (CSDP). This was adopted in January 2020 and served to replace the majority of policies within the previous Unitary Development Plan (UDP), however some UDP policies have been 'saved' pending the intended adoption of an Allocations and Designations Plan.

The site in question is not allocated for any specific land use within the adopted Core Strategy or the saved elements of the UDP and, as such, is subject to saved UDP policy EN10. This policy dictates that, where the Plan does not indicate any proposals for change, the existing pattern of land use is intended to remain. Therefore, proposals for development in such areas must be compatible with the principal use of the neighbourhood.

In this case, the use would be residential within a predominantly residential area and so broadly speaking, the principle of the change of use would therefore be acceptable with regard to the NPPF and policy EN10 of the saved UDP.

Also relevant to the application is CSDP policy H6 'Homes in Multiple Occupation (HMOs)', which states that development for HMOs should ensure that:

1. The property is located where increased traffic and activity would not be detrimental to local amenity;
2. The intensity of use would not adversely affect the character and function of the locality;
3. The proposal would not be detrimental to the amenities of neighbouring properties by causing undue noise and disturbance;
4. Adequate provision for parking, servicing, refuse, recycling arrangements and the management and maintenance of the property can be demonstrated through the submission of a management plan;

5. The proposal would not result in an over concentration of HMOs within the locality; and
6. The accommodation provides a good standard of living space and amenity for occupiers of the HMO.

The Council's adopted Homes and Multiple Occupation Supplementary Planning Document (HMO SPD) (2020) is also applicable. It provides guidance on the management of HMO development and sets out (at page 13) that planning permission for HMOs will not normally be granted:

- I. Where it would result in any residential property (in C3 use) being 'sandwiched' between two HMOs; or
- II. Where the number of HMO dwellings exceeds 10% of the total number of residential properties within a radius of 100 metre from the application site.

The guidance states that where either of the above criteria have been breached, planning permission will only be granted in exceptional circumstances. In addition to the above, the guidance sets out that notwithstanding the threshold limit (as set out above), other material considerations including but not limited to, highways, amenity, character, neighbouring amenity, highway safety and residential amenity of future and existing occupiers arising from the impact of the proposal will be assessed in accordance with the Council's development plan, in particular Policy H6 of the adopted CSDP.

Based on information held by the Council's Planning Policy team, the proposed development would not appear to result in a 'sandwiching effect'. In addition, based on the Policy team's information, it would appear that there are 2no. existing HMOs within 100 metres of the site, and so this proposed development would not result in more than 10 percent of residential properties within 100m of the site being in HMO use.

On this basis, the proposed development would appear to accord with Criteria 2 and 5 of Policy H6 of the adopted CSDP, and guidance within the HMO SPD in relation to the number of HMO's in a certain location. It is therefore considered that a HMO in this location would be acceptable in principle.

Notwithstanding this, it must also be insured that the specific nature of the use would be compatible with the general character and amenity of the area and these matters are considered below.

VISUAL/RESIDENTIAL AMENITY

Policy BH1 within the CSDP requires that development must achieve high quality design and positive improvement. It should be of a scale massing, layout, appearance and setting which respects and enhances the positive qualities of nearby properties and the locality, whilst retaining acceptable levels of privacy and ensuring a good standard of amenity for all existing and future occupiers of land and buildings.

The proposed development would need to accord with Policy HS1 'Quality of life and amenity' (in relation to noise and traffic), Policy HS2 'Noise-sensitive development', and Criterion 4 of Policy H1 'Design quality' (in relation to impact on residential amenity) of the adopted CSDP. It would also need to accord with Criteria 1, 3 and 6 of adopted CSDP Policy H6 'Homes and Multiple Occupation (HMOs)' which is set out above.

The property is a large-terraced dwelling within a busy area adjacent to an 'A'-class road and close to the Sunderland Royal Hospital, two churches and a number of shops and so it is considered that this relatively low-intensity use of the property would not adversely affect the

character and function of the locality. Furthermore, it is not considered that the use of the property as a 5 bed HMO would substantively increase comings and goings on site or create noise over and above the existing residential use. As such the proposed development would not be considered to negatively impact the occupiers of neighbouring properties.

The agent confirmed in the management plan submitted on 17.07.23 that they have over 3 years of managing HMOs and are accredited members of the National Residential Landlords Association.

The management plan includes the following operational detail:

- o The HMO will be sourced to young professionals and all tenants will undergo credit and reference checks;
- o Any emergency issues tenants have with the property will be responded to within 24 hours;
- o Each tenant will be given a copy of the house rules which limit social gatherings permitted past certain times as well as providing the protocol in place to deal with any anti-social behaviour. They will be advised that the landlord/managing agent can gain access to the property given that 24 hours notice has been provided.
- o The procedure to tackle anti-social behaviour caused by tenants of the property or their guests/ associates will start with a verbal warning. If the problem persists a written warning will be issued. Finally, if the issue still persists, we will take the appropriate legal action. A clause within the tenant contract will state that they are responsible for any anti-social behaviour by themselves and/or their visitors.
- o The property will be inspected on a monthly basis. The property will be assessed internally and externally to identify any potential maintenance issues.

The management plan provides reassurance as to how the HMO will be operated and it is recommended that this be conditioned as part of any approval of permission. The management plan will also be considered as part of the Environmental Health team's HMO Licensing process.

The 5 bed HMO would include a 23m² common kitchen and dining area, 3no. 23m² bedrooms, 1no. 20m² bedroom and 1no. 26m² bedroom. All bedrooms would have their own toilet/shower rooms and would have a suitable level of outlook.

It is considered that the 5 bedroom HMO offers adequate living space for potential occupiers in terms of their private space and on balance given the room sizes and number of potential occupiers, the shared space available is considered to be satisfactory in this instance.

It is also noted that the Council's Environmental Health Team have confirmed that all of the bedrooms would exceed the minimum room sizes of 10.0m² for one person or 15.0m² for 2 people.

Given the above, it is considered that the proposal would not negatively impact the residential amenity of neighbouring dwellings and would provide a suitable level of accommodation for prospective occupiers in accordance with the NPPF and policies BH1, HS1 and H6 of the CSDP.

ECOLOGY

The proposed development would need to accord with Policy NE2 'Biodiversity and geodiversity' of the CSDP. Policy NE2 sets out measures for the protection, creation, enhancement and management of biodiversity and geodiversity.

The adopted CSDP has been the subject of a Habitat Regulations Assessment (HRA) which concluded that increased residential development within 7.2km of the coastal European designated sites, namely the Durham Coast Special Area of Conservation (SAC) and Northumberland Coast Special Protection Area (SPA) (also designated under the worldwide Ramsar Convention), is likely to result in increased recreation pressure on the European sites. A package of mitigation measures has therefore been set out to mitigate any such impact including dedicated staff, awareness raising, education and interpretation, enhancement of existing greenspaces and monitoring. New residential development (and other types of development as necessary such as HMOs) within 7.2km of these designated sites must contribute towards a package of mitigation, which will provide confidence that adverse effects on integrity (from recreation impacts) can be ruled out. Developer contributions will be collected through Section 106 agreements, which will be set at a per dwelling (or in this case per bed space) tariff of £248.72.

The site is positioned within 7.2km of European designated sites. Therefore, as part of any planning application, and in order for the Council to discharge its obligations under the Habitats Regulations, the applicant is required to enter into a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended), in order for the Council to secure the appropriate contribution to mitigate recreational impacts generated by the proposed development.

The applicant has accepted the need for a financial contribution to the coastal mitigation strategy and a contribution of £686.46 has been agreed (calculated based on the tariff of £248.72 x 2.76 additional bedspaces). In the event Members are minded to approve the application, the decision notice would not be issued until the legal agreement to secure the contribution has been completed.

Given the above and the applicant's agreement to the financial contribution, the proposal would not be considered to have a negative impact on the European Designated Sites and would be in accordance with policy NE2.

HIGHWAY SAFETY

The proposal development would need to accord with Policy ST2 'Local road network' and Policy ST3 'Development and transport' of the adopted CSDP. It would also need to accord with Criterion 4 of Policy H6 'Homes and Multiple Occupation (HMOs)' which is set out above.

It is noted that 2no. parking spaces are available to the rear and bin storage will be located within the curtilage of the property.

The property is also located on a busy bus route, with a number of stops served by buses to a number of destinations close by. It is also close to both the shops and services on Chester Road and the City Centre itself, so the use of a car would not necessarily be essential for occupiers. The level of parking in this instance is therefore considered to be acceptable.

The Council's Highway Officer has confirmed there is no objection to the proposal. It is considered that the proposal would not impact upon car parking provision or the highway network and would raise no pedestrian safety concerns, and as such accords with the NPPF and policies ST2 and ST3 of the CSDP.

CONCLUSION

It is considered that the principle of a HMO use is acceptable, as is its impact on residential amenity and highway safety. Additionally, subject to the completion of the legal agreement to secure the financial contribution to the Council's coastal mitigation strategy the implications of the

development relative to the integrity of the European-designated sites is considered to be acceptable.

As such it is recommended that the Councillors be minded to approve the application, subject to the conditions set out below and the completion of a s106 agreement to secure the coastal mitigation contribution of £686.46.

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: APPROVE, subject to completion of s106 agreement and draft conditions 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:

Location, received 22.05.23

Site Location plan, drawing number 03a, received 22.05.23

Existing floor plans, drawing number 01a, received 22.05.23

Proposed floor plans, drawing number 02a, received 22.05.23

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 area within the rear yard area indicated on plan 03a (Site Location) as being available for the parking of vehicles, shall be laid out in accordance with the approved plans and be made available for such use at all times thereafter.

Reason: In the interests of highway safety and to accord with Policy ST3 of the CSDP.

4 The development shall be operated in full accordance with the measures outlined within the Management Plan submitted on 17.07.23.

Reason: In the interests of residential amenity and to accord with policies BH1, HS1 and H6 of the CSDP.

Reference No.: 23/01286/LP3 Local Authority (Reg 3)

Proposal: **Change of use from dwelling (Use Class C3) to Children Home (Use Class C2)**

Location: 1 Marlow Drive, Sunderland SR3 2RW

Ward: Doxford

Applicant: Sunderland City Council

Date Valid: 14 June 2023

Target Date: 9 August 2023

PROPOSAL:

Planning permission is sought for the change of use from dwelling (Use Class C3) to Children Home (Use Class C2) at 1 Marlow Drive, Sunderland, SR3 2RW.

DESCRIPTION OF SITE AND SURROUNDINGS

The application property is a large detached red brick-built property with a pebble-dashed façade to the upper floor, a tiled roof and integral garage set within a residential development. The property also benefits from gardens to the front and rear. The property is open bounded to the front with shrub borders, hedging and a small tree and to the side and rear by a high close-boarded fence. The property is situated to the west of Marlow Drive, just off Moorside Road and is setback from the main highway and public footway to the south and south west by open green space with intermittent tree planting. The property has been extended previously.

THE PROPOSED DEVELOPMENT

This application proposes the change of use of the existing dwelling house (Use Class C3) to a Children's Home (Use Class C2). The home will be managed by 'Together for Children' (TfC) who deliver Children's Services on behalf of Sunderland City Council. The property would provide a 2-bedroom children's home which will accommodate young persons aged between 8 and 17 years. There are no material changes in the external appearance of the property proposed as part of this development. Twenty-four-hour care would be provided by a maximum of No. 2/3 staff on site at any one time. The ground floor would facilitate typical dwelling facilities such as kitchen, dining room, lounge, office and garage. On the first floor, there would be two children's bedrooms, a staff bedroom, separate bathrooms and office space.

The application site is located within the ward of Doxford. It is within a coal mining legacy area identified as low risk and within a smoke control area. The site is also within a Source Protection Zone.

A Planning Statement (PS) has been submitted in support of the application. The original PS referred to the installation of a CCTV camera to monitor the entrance/exit of the property, however, the applicant has confirmed that this is an error in the PS and that no CCTV is to be installed as part of this application process and has subsequently amended the PS to reflect this.

PLANNING HISTORY

97/00529/FUL - Bedroom over existing garage/kitchen

79/1955 - Erection of porch and garage extension at front of dwelling extension to form utility room at rear of garage.

TYPE OF PUBLICITY:

Site Notice Posted
Neighbour Notifications

CONSULTEES:

Network Management
Environmental Health
Cllr Heather Fagan
Cllr Allen Curtis
Cllr Paul Gibson

12 Marlow Drive Sunderland SR3 2RW
2 Maxton Close Sunderland SR3 2RP
1 Maxton Close Sunderland SR3 2RP
7 Marlow Drive Sunderland SR3 2RW
6 Marlow Drive Sunderland SR3 2RW
3 Marlow Drive Sunderland SR3 2RW
3 Maxton Close Sunderland SR3 2RP
4 Marlow Drive Sunderland SR3 2RW
10 Marlow Drive Sunderland SR3 2RW
8 Marlow Drive Sunderland SR3 2RW
5 Marlow Drive Sunderland SR3 2RW
2 Marlow Drive Sunderland SR3 2RW

Final Date for Receipt of Representations: **19.07.2023**

REPRESENTATIONS:

Northumbria Police - No objection.

Transportation Development - No observations.

Environmental Health - No objection

No. 8 representations have been received from seven properties raising objections to the proposed development over concerns over impact on amenity, fear of crime and anti-social behaviour, site access, pedestrian and highway safety and property values. The issue of property values is not a material concern in planning and as such this matter is not discussed within this report. All other matters detailed will be discussed.

POLICIES:

In the Core Strategy and Development Plan 2015-2033 (CSDP), the site is subject to the following policies;

SP1 Development strategy

SP5 South Sunderland
SP7 Healthy and safe communities
BH1 Design quality
ST2 Local Road network
ST3 Development and transport
M1 Minerals Safeguarding Areas and infrastructure

The National Planning Policy Framework (NPPF)
National Planning Policy Guidelines (NPPG)
National Design Guide (NDG)

COMMENTS:

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. The NPPF advocates a presumption in favour of sustainable development. However, the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. The Core Strategy and Development Plan (CSDP) was adopted in January 2020 and is considered to represent an up-to-date development plan for the purposes of the NPPF, as are the Unitary Development Plan (saved policies) (UDP)

The key issues for consideration in the determination of this application are: -

Principle of the development
Design and impact on the street scene
Impact upon residential amenity
Highway and pedestrian safety
Minerals safeguarding

Principle of development

The NPPF has an emphasis on sustainable development and sets out three overarching objectives to achieve this (a) economic, (b) social and (c) environmental. The NPPF advocates a presumption in favour of sustainable development, however, the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making.

The NPPF has three overarching objectives which are interdependent and need to be pursued in mutually supportive ways (a) economic objective - to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity ... (b) a social objective - to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services ... and, (c) an environmental objective - to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity etc..

The NPPF advocates a presumption in favour of sustainable development and for decision making this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date the granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁷; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The application proposes the change of use of an existing dwelling house (C3) to one of a residential institution (C2)

A material change of use from class C3 to C2 amounts to development requiring planning permission. Case Law (Judgement of Mr. Justice Collins in *North Devon District Council v First Secretary of State* [2003], which establishes that if the carers work on a rota basis and that it is not their permanent residence; the use must be regarded as C2 as without at least one adult living with the children permanently at the premises it would not be capable of being regarded in the true sense as a 'household'. It is therefore accepted that the proposal would fall with a C2 use.

It is also noted that No. 8 objections have been received from seven neighbouring properties raising concerns on a number of issues, one of which is inappropriate development.

Although falling within a C2 use, the general operation of the property in terms of the typical comings and goings and on-site habitation generated by children and their carer providers, would not, in the opinion of the Local Planning Authority (LPA), be demonstrably different from a conventional residential use.

There are no proposed changes to the host property which is situated within a sustainable location. The proposal is considered acceptable in principle subject to other criteria detailed within this report.

Design and impact on the Street Scene

The application proposes no external changes and as such would retain the existing residential character of the building and the surrounding locality and as such is considered acceptable in this respect.

Impact on amenity

CSDP Policy BH1 seeks to ensure that new development amongst other criteria, maintains an acceptable standard of amenity for existing and future occupiers of land and to maximise opportunities to create sustainable, mixed-use developments which support the function and vitality of the area in which they are located. CSDP Policy HS1 seeks to ensure that development does not result in unacceptable adverse impacts which cannot be addressed through appropriate mitigation.

It is noted that a number of objections have been received in regard to amenity, fear of crime and anti-social behaviour. There would be no external changes to the host property.

The Council's Environmental Health Team and Northumbria Police have been consulted in respect of this application and have raised no objection. Whilst the concerns of local residents have been noted, as stated above, it is the opinion of the Local Planning Authority (LPA), that, the general operation of the property in terms of the typical comings and goings and on-site habitation generated by children and their carer providers, would not, be demonstrably different from a conventional residential use.

The proposal is considered in accordance with local and national planning policy in this respect.

Highway and pedestrian safety

CSDP Policies STP 2 and STP 3 seek to retain off street parking in the interests of highway safety and compromise the free flow of traffic on the public highway, pedestrians, or any other transport mode, including public transport and cycling, or exacerbate traffic congestion on the existing highway network or increase the risk of accident or endanger the safety of road users including pedestrians, cyclists, and other vulnerable road users.

The application proposes a change of use from C3 to C2. The SPD states that there is in curtilage parking provision for no.2 vehicles in addition to the garage space. It is noted that the site has good transport links and good local walking and cycling connections. The Network Management Team has been consulted and has raised no objection. The proposal is considered acceptable in this respect.

Conclusion

For the reasons set out above, it is considered that the proposed development is acceptable in principle. There would be no adverse impact on the street scene, residential amenity or highways safety.

The proposed development is therefore considered to be acceptable and compliant with the requirements of the relevant policies of the NPPF and the Council's Core Strategy and Development Plan and remaining policies of the UDP. It is consequently recommended that Members Grant Consent for the development under Regulation 3 of the Town and Country Planning (General Regulations) 1992 (as amended), subject to the conditions 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: GRANT CONSENT under Regulation 3 of the Town and Country Planning (General Regulations) 1992 (as amended) subject to the conditions 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:

Location Plan;

Site Plan;

Elevation and Layout Plan: Drawing No. MD001

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 Notwithstanding the provisions of the current Town and Country Planning (General Permitted Development) Order and Town and Country Planning (Use Classes) Order, or any other re-enacting or revoking those Orders with or without modification, the premises shall not be

used for any other purpose than as a residential institution (Use Class C2) for up to two children/young people.

Reason: In the interests of residential amenity, in accordance with the National Planning Policy Framework and policy BH1 of the Core Strategy Development Plan.

Reference No.: 23/01555/FU4 Full Application (Reg 4)

Proposal: **Erection of high voltage sub-station with compound, transformers and securing fencing.**

Location: 1 International Drive, Sunderland, SR5 3FH

Ward: Washington North

Applicant: Envision AESC UK Ltd - Mr George Neal

Date Valid: 18 July 2023

Target Date: 17 October 2023

PROPOSAL:

The proposed planning application is for the erection of high voltage sub-station with compound, transformers and securing fencing, the application is accompanied with an EIA addendum on the file, please note this is not a mandatory requirement for this planning application, however, it is beneficial to set out the current position of the development and it covers the impacts and progress of the site and other planning applications the Local Planning Authority are considering under delegated powers.

This Planning Statement supports the standalone planning applications for development within the approved red line boundary of 2021 battery plant permission. The other planning applications currently under consideration relate to the development of a gas governor house, variation to external appearance and modification to other and bulk store canopy to help facilitate the approved battery plant development.

Summary of the proposed changes

Due to operational, health and safety requirements and in response to detailed discussions with Building Control, the Health & Safety Executive and the Environment Agency, the Applicant is now proposing several amendments to the approved facility.

There has been a reduction in the footprints of the main factory building and the office due to processes rationalisation and operational requirements. The other changes generally relate to alterations to the associated plant and equipment, and minor changes to the car parking area. It is considered that these constitute minor material amendments to the planning permission and can be dealt with through a Section 73 application (23/01542/VA4). Three larger changes are proposed relating to the inclusion of the HV sub-station (this planning application), gas governor house (23/01541/FU4) and bulk stores canopy 2 (23/01540/FU4). These changes were considered too great to be included in the S73 application and hence three planning applications are being submitted for these works.

Planning History

Full planning permission for the following development (planning permission reference 21/01764/HE4) was granted in 2021 subject to relevant and necessary planning conditions for : "Erection of industrial unit to be used for the manufacture of batteries for vehicles with ancillary office / welfare floorspace and associated infrastructure provision, accesses, parking, drainage and landscaping."

The approved development consists of a single, three-storey industrial unit which is to house a battery manufacturing facility, comprising of two battery manufacturing areas separated by a central spine of offices. The facility will have an annual maximum production capacity of 9 GWh.

The proposed planning application is for the erection of high voltage sub-station with compound, transformers and securing fencing, the proposed Giga Factory is currently under construction on site.

The proposed development of the high voltage sub-station with compound, transformers and securing fencing in its own right wouldn't constitute EIA development, however, the agent has submitted an updated addendum for the section 73 application which makes reference to the standalone applications.

The proposed changes are required through consultation with the HSE. As part of the COMAH compliance preparation activity, Envision submitted a Pre Construction Safety Report (PCSR) to the HSE for consideration and feedback. As part of HSE feedback, the HSE recommended that it is best practice, where practicable, to adopt "drive through" style bulk delivery buildings and infrastructure to allow safer movement of vehicles while on site and to allow easier drive-away capability in the event of an unplanned incident and as such this is why the above planning application is required to ensure compliance with HSE regulations and compliance. The proposal is for the erection of high voltage sub-station with compound, transformers and securing fencing.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Cllr Jill Fletcher
Cllr Michael Walker
Cllr Peter Walker
Environment Agency
Flood And Coastal Group Engineer
Network Management
Environmental Health
Northern Gas Networks
Northern Powergrid
Natural Heritage
National Highways
NE Ambulance Service NHS Trust
Chief Fire Officer
Health & Safety Executive
Tyne And Wear Archaeology Officer
Northumbria Police
Land Contamination
Landscape

Hylton Stables North Moor Farm Follingsby Lane Washington NE36 0BB
North Moor Farm Follingsby Lane Washington NE36 0BB
Faltec 4 International Drive Sunderland SR5 3FH
S N O P 2 International Drive Sunderland SR5 3FH
Nissan FAO Andy Barker Washington Road Usworth Sunderland
Unipres Uk Ltd Cherry Blossom Way Washington SR5 3NT

Final Date for Receipt of Representations: **15.08.2023**

REPRESENTATIONS:

Consultee Responses

Washington North - Ward Councillor Consultation - no response received

Castle Ward - Ward Councillor Consultation no response received

Planning Policy - No adverse comments to the proposal

Northern Gasworks - Holding objection due to requiring additional information in respect of construction, the objection has now been withdrawn and as such Northern Gasworks has no objections to the proposed development.

Fire Authority - No objections

Environmental Health - Environmental Health has examined the submitted documentation. This is clearly focussed on the wider operational aspects and impacts of the manufacturing plant but includes the proposed high voltage substation. The addenda submitted to show amendments to the noise and air quality Environmental Statement chapters have been considered together with the plotted noise contours on drawing Figure 7.2 NT 15611/002 dated 3 July 2023 and Figure 7.1 NT15611 dated 21 June 2023.

The air quality addendum does not draw specific references to the proposed substation, but air quality is not considered to be an issue in this regard. A proposal for a larger National Grid substation and Supergrid transformers at a location further to the north on International Drive has previously been considered in detail and the outcome of that would support our conclusion that the introduction of the substation on site does not require further consideration in terms of noise generation.

It should be noted that the manufacturing plant is anticipated to require a Part A2 Environmental Permit which will specifically address matters of noise and air quality together with other potential environmental impacts.

There are no objections to the proposed development of the HV substation.

Network Management - - No adverse comments to the proposal, conditions recommended.

National Highways - No objections and no conditions proposed

Planning Policy : This response has been prepared with regard to the International Advanced Manufacturing Park Area Action Plan (IAMP AAP) as well as other Development Plan policies where applicable. It focuses predominantly on the principle of the proposal which in this case relates to a building which would be used for the manufacture of batteries for vehicles. It is noted that the site is located within the International Advanced Manufacturing Park (IAMP) within the southern employment area.

Local Lead Flood Authority - The proposals are all within the original redline boundary from the previously approved application. The drainage for these proposals has been incorporated into the Proposed Surface Water Drainage Layout for the Envision AESC Giga Factory.

Health and Safety Executive- No objections to the proposed development

COMMENTS:

Principle of the proposed development

Core Strategy and Development Plan Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the determination of planning applications to be in accordance with the Development Plan unless material considerations indicate otherwise. Accordingly, the adopted development plan relevant to the application site comprises the following: o International Advanced Manufacturing Park Area Action Plan (adopted 30 November 2017); o Sunderland Core Strategy and Development Plan 2015-2033 (adopted January 2020); and o Sunderland Unitary Development Plan (adopted September 1998).

International Advanced Manufacturing Park Area Action Plan "A nationally important and internationally respected location for advanced manufacturing and European-scale supply chain industries. A planned and sustainable employment location that maximises links with Nissan and other high value automotive industries as well as the local infrastructure assets, including the ports, airports and road infrastructure." "an attractive working environment that creates the conditions in which businesses can establish and thrive and where people choose to work. A unique opportunity for increased job and business creation and the promotion of regional prosperity whilst taking advantage of natural assets and green infrastructure including the River Don corridor."

The International Advanced Manufacturing Park Area Action Plan ('AAP') provides the planning policy framework for the comprehensive development of approximately 392,000 sqm of floorspace for uses relating to the Automotive and Advanced Manufacturing sectors. This is to be delivered on 150 hectares of land, with 110 hectares of adjacent land safeguarded for ecological and landscape mitigation. The AAP was jointly adopted by both the Council and South Tyneside Council on 30 November 2017. The AAP's vision for the IAMP is: The AAP states that the type of place which the Council want to create is: The following AAP Policies are considered relevant to the development proposals: The following AAP Policies are considered relevant to the development proposals:

IAMP AAP Policy S1: Spatial Strategy for Comprehensive Development sets out the broad strategy for the IAMP site. Alongside this, IAMP AAP Policy S2: Land Uses indicates that development within the employment areas must be for the principle uses relating to production, supply chain and distribution activities directly related to the automotive and advanced manufacturing sectors. The definition of which is set out in IAMP AAP paragraphs 86

IAMP AAP Policy S3: Scale and Quantum of Principal and Supporting Uses sets out a maximum threshold for Principal Uses of 356,000 square metres of B1(c), B2 and B8 development. It is noted that the development would equate 108,615 square metres of floorspace for Principal Uses. When combined with existing permissions it would not result in the maximum threshold being exceeded.

It is considered that the proposal, which would provide batteries for automotive production is in alignment with IAMP AAP Policy S1. Also, the proposal when factoring in previous approved applications at the IAMP and the floorspace associated with this application, would not exceed the maximum thresholds for the IAMP site set out in IAMP AAP Policy S2. The proposal is therefore in accordance with Policy S1 and S2 of the IAMP AAP.

Design IAMP AAP Policy D1: Masterplan Design sets out a range of design principles which development should comply with. This includes, but is not limited to, maximising the interface with

Nissan to ensure effective movement between the existing site and the IAMP AAP area. In addition, development plots using an 'open grid' to create a variety of plots sizes. Also, at Criterion B, indicates that proposals must be accompanied by a Design Code. It is noted that the application includes a Design Code.

Heritage

CSDP Policies BH7: Historic Environment and BH8: Heritage Assets set out applicable policy in relation to heritage which should be considered in relation to the proposal. The proposed development is not considered to have any impact on the heritage assets nearby.

Highways and Access IAMP AAP Policy T1:

Highways Infrastructure sets out the principle that a public realm strategy for the IAMP is required to accompany development proposals. In addition, Criterion B, requires development proposals to include a Transport Assessment which is aimed to assess which specific highways improvements are necessary to ensure the acceptability of the proposals in planning terms and to ensure comprehensive development of the IAMP. Also, at Criterion C, the policy sets out that development proposals must be supported by the submission of a Travel Plan designed to ensure that the development is acceptable in transport sustainability and accessibility terms. Furthermore, Criterion D, states that consent shall not be granted for development which would adversely affects the safe and efficient operation of the local / strategic highway networks; or compromise either the delivery of the highway improvements (set out in criterion A) ; or prejudice the comprehensive development and delivery of the IAMP as a whole.

IAMP AAP Policy T2: Walking, Cycling and Horse Riding provides policy criteria in relation to pedestrian links, cycling and horse riding. Amongst other matters, it sets out that development must ensure that roads and spaces are designed to consider the needs of all types of users so that conflict between road users and vulnerable users is minimised. It also sets out that development must include appropriate cycling facilities such as parking, showers and storage as part of new developments. IAMP AAP Policy T3: Public Transport indicates that development must include provision of enhanced bus services, as detailed in the policy, alongside other criteria.

IAMP AAP Policy T4: Parking sets out Development must ensure that appropriate provision for car parking is provided in accordance with the Councils' standards. It should be noted that the Council Parking Standards are Contained within the Development Management Supplementary Planning Document (DM SPD). Amongst other matters, the policy also sets out that development must ensure that 25% of the total car parking provision is for the use of car-sharing only, as well as making provision for disabled badge parking spaces and car and bicycle charging points. Site access and highways impact matters should also be considered against CSDP Policies ST2: Local Road Network and ST3: Development and Transport.

Details of the proposed development Scale, massing and Layout

The substation compound is located within the northwest corner of the wider application site, situated between the ancillary plant rooms, the car park and the north-western boundary. A waste collection area was previously proposed in this area this has now been removed.

The planning application site area, including the connection to the adopted highway, is approximately 1.09 hectares, therefore the application is considered to be major development as it is over 1 hectare in site area.

The compound footprint has been established by the demand of product output and requirements for the process equipment to be provided. The compound has been positioned and orientated to coordinate with the ancillary plant rooms, providing safe and efficient site access connection from

International Drive and suitability of car park for heavy goods vehicles, as well as providing space for suitable boundary treatments to the west and northern boundaries

The secure HV substation compound is 72m x 48m and includes an 11kV substation and 2 no. transformer units with future provision for an additional transformer which forms part of the application.

The 11kV substation is a single storey unit with a max height of 6m.

The transformers are each 12 x 10m with an 8m separation from the compound boundary. External materials consist of a metal profiled cladding system to match that of the new factory and ancillary plant rooms, therefore matching the surrounding buildings within the masterplan development.

The substation compound is serviced by a concrete access road for maintenance vehicle. The remainder of the landscaping within the compound will be a permeable gravel layer. In line with the development site masterplan outside the compound boundary native buffer planting along the western boundary is proposed to help screen the development, with species selected to avoid conflict with overhead services.

The proposed development has been carefully considered in terms of scale, massing and layout and is not considered to have any adverse implications of the development of the wider site. The proposed development is required to meet the operational needs of the business and for the safe operation of the site. The proposed development is considered to comply with Design IAMP AAP Policy D1.

Details of the proposed development Highways

The proposed development has been considered by National Highways and The Local Highway Authority as such neither consultee have not offered any objections to the proposed development. The proposed addition of the substation and associated development is not considered to have an adverse impact on the strategic or local road network, and it is recommended that the standard Construction environmental management plan be added as a condition should members be minded to grant consent, in order for the development to comply with policy IAMP AAP Policy T1.

Air Quality and Noise Assessment

The submitted information is focussed on the wider operational aspects and impacts of the manufacturing plant but includes the proposed high voltage substation. The addendum submitted demonstrate the amendments and impacts in respect of noise and air quality.

The Environmental Statement chapters have been considered together with the plotted noise contours on drawing Figure 7.2 NT 15611/002 dated 3 July 2023 and Figure 7.1 NT15611 dated 21 June 2023.

The air quality addendum does not draw specific references to the proposed substation, but air quality is not considered to be an issue in this regard. A proposal for a larger National Grid substation and Supergrid transformers at a location further to the north on International Drive has previously been considered in detail and the outcome of that would support our conclusion that the introduction of the substation on site does not require further consideration in terms of noise generation. The proposed development in respect of air quality and noise is considered acceptable as submitted and there are no requirements for conditions in respect of the above.

Drainage and Flood Risk

The proposals are all within the original redline boundary from the previously approved application. The drainage for these proposals has been incorporated into the Proposed Surface Water Drainage Layout for the Envision AESC Giga Factory. In respect of this the Local Lead Flood Authority are satisfied with the information provided in 'FLOOD RISK ASSESSMENT - SUBSIDIARYWORKS AT GIGA 1' is considered acceptable in respect of the proposed development.

The proposed development is there considered to comply with policy IN2 of the AAP.

Conclusion

Conclusion The development would be providing a facility for manufacturing of batteries to be used in vehicle production. This use would align to the accepted principal uses set out in IAMP AAP Policy S2. Moreover, when adding the small scale of the proposal to the applicable permissions already granted on the IAMP site, the proposal would not exceed the permitted upper threshold for employment space set out in IAMP AAP Policy S2. The principle of the proposal is therefore considered acceptable. In relation to technical matters, it is considered that the design, amenity, access and highways impacts are considered acceptable. The proposed development is all contained within the approved application site and as such it is not considered to have an adverse impact on the surrounding area.

It therefore recommended that Members Grant consent under regulation 4 of the Town and Country General Regulations 1992 as (amended) subject to the draft conditions listed below :

RECOMMENDATION:

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:

118-P05-Design and Access Statement

141-P01-Proposed HV Substation Compound Plan

142-P01-Proposed HV Substation Compound Elevations and Section A-A

SUND-SSE-G3-C-0001 Rev P01 Swept Path Analysis

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 external materials to be used, for the proposed substation is Anthracite Grey RAL 7016. as set in the application form, the development should be constructed in full accordance

with the materials listed above, in the interests of visual amenity and to comply with policy BH1 of the Core Strategy and Development Plan and Policy IAMP AAP Policy (Design).

4 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 174f and 183.

5 No construction work shall take place on a building beyond damp course level until a schedule and / or samples of materials, colours and finishes to be used on all external fence have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity, in accordance with the NPPF and Policy BH1 and BH2 of the Core Strategy and Development Plan. and IAMP AAP Policy (Design).

6 The proposed drainage scheme shall be implemented in full accordance with the FLOOD RISK ASSESSMENT SUBSIDIARY WORKS AT GIGA 1 and maintained thereafter, in order to form a satisfactory form of development and to comply with policy IN2 of the APP

Reference No.: 23/01589/OUT Outline Application

Proposal: **Outline application for a pair of semi-detached bungalows (all matters reserved).**

Location: Land North West Of 23 Tintern Close Houghton-le-Spring

Ward: Houghton

Applicant: Mr Robert Place

Date Valid: 9 August 2023

Target Date: 4 October 2023

PROPOSAL:

The host site is located within the wider Coalfield sub area as defined by the Council's adopted Core Strategy Development Plan (CSDP). The Coalfield is the largest of the sub-areas in the city by area, covering over 5,500 hectares, approximately 42% of the city. It is made up of a number of former mining towns and villages that include Houghton-le-Spring and Hetton-le-Hole. It is the least densely populated of the sub-areas with some 46,000 residents (17% of the city's population). It is bounded by Green Belt to the north, west and east, with open countryside surrounding the south, which extends into County Durham.

The subject site is situated within the Burnside locality of the Coalfield area comprising an area of approximately 578m² and serving the function of providing open amenity greenspace at the head of the residential cul-de-sac of Tintern Close.

The western curtilage of the host site is flanked by the existing access road with a significant number of lock-up garages serving the residential properties on Tintern Close, laid out horizontally to the north on a west to east axis. The northern perimeter of the site is bound by the residential property and substantial garden grounds of Meadow View, whilst the eastern curtilage is bound by the grounds and building of Sunnyside Methodist Church. A footway linking the cul-de-sac with Blind Lane flanks the southern perimeter of the site beyond which sits the gable wall of No.23 Tintern Close.

Proposal

The submission seeks outline planning consent to erect 2no. dwellings situated at the northern head of Tintern Close. Although the application form qualifies that all matters are to be reserved for future approval, the submitted site plan illustrates an indicative layout which anticipates how the development could be accommodated within the site.

The plan shows 2no. semi-detached dormer bungalows positioned towards the north of the site and 3no. parking bays to the west of the site which would be accessed from the head of the cul-de-sac. A new footpath is also depicted, linking into the existing footway on Tintern Close before running through the middle of the site and across the frontage of the dwellings.

The application has been accompanied by a Phase 1 Desk Top Study and a Planning Statement.

Although this application would normally be dealt with under delegated powers, the Council, as Local Planning Authority (LPA), is in receipt of a call-in request from Ward Councillor Heron to

take the application to a Planning and Highways committee.

Relevant planning history

Members should be aware that this is the third application to be submitted at this site following the refusal and subsequent appeal dismissal of two previous applications validated in 2019 and 2020 respectively.

The 2019 application (Planning ref:19/01242/OUT) sought outline consent to erect 4no. dwellings on the site and was deemed to have been refused by the Council, as Local Planning Authority (LPA), on the 5 February 2020, when the applicant submitted an appeal against the LPA's decision to fail to make a determination of the application within the statutory 8-week period.

The Planning Inspectorate dismissed this appeal on 2 September 2020, concluding in paragraph 12 that;

“On the basis of a lack of a planning obligation and robust evidence in respect of improvement of greenspace, I conclude that it has not been demonstrated that the proposal would not lead to significant harm to the provision of greenspace in the area. The proposal would therefore be contrary to Policy NE4 of the Core Strategy with regards to the protection and enhancement of greenspace”.

The 2020 application (Planning ref: 20/02184/OUT) again proposed 4no dwellings and sought to address Policy NE4 and the concerns expressed by the Planning Inspectorate by agreeing to enter into a legal agreement to improve nearby greenspace via a financial contribution. Notwithstanding, the LPA resolved to refuse the application on 22 January 2021 for the following reason;

- *The proposal is unacceptable in principle as it will have an adverse effect on the amenity, recreational and community function value of the site as greenspace, which is within a locality of the city identified as having a deficient quantity of amenity greenspace. Although the developer has agreed to enter into a planning obligation to provide improvements to greenspace within the vicinity, within the planning balance, it is considered that the benefits to be accrued from developing the open space would not outweigh the adverse amenity impacts caused by the loss of open space and the proposal is therefore considered contrary to Policy NE4 of the CSDP.*

Further to a second appeal by the applicant, the Planning Inspectorate again dismissed the appeal on 27 August 2021, concluding at paragraph 14 that;

.... “notwithstanding any potential contribution and the limited recreational function of the site, when having regard to all functions that this greenspace performs, particularly the positive contribution it makes to the visual amenity and character of the area, together with the absence of any firm evidence of wide community support for the proposal, I am not satisfied that the site should be considered surplus to requirements. Because of its amenity value in visual terms, use of the site as amenity greenspace already represents an efficient use of land. Furthermore, there would be a significant adverse effect on the character and appearance of the area from the loss of this amenity greenspace”.

The Planning Inspectorate continued at paragraph 15 that;

“For these reasons, I conclude that the appeal site is not a suitable location for housing. The

proposal conflicts with Policy NE4 of Sunderland's Core Strategy and Development Plan (2020) (the CS), which seeks to protect, conserve and enhance the quality, community value, function and accessibility of greenspace. Furthermore, although not specifically cited in the Council's refusal reasons, there is also conflict with CS Policies SP1 and BH1, which have been listed in the Council's officer report and were provided with the appeal. Among other things, these seek to protect Sunderland's character and environmental assets including greenspaces, and requires development which respects and enhances the positive qualities of the locality".

TYPE OF PUBLICITY:

Site Notice Posted
Neighbour Notifications

CONSULTEES:

Cllr John Price
Cllr Mark Burrell
Cllr Juliana Heron
Network Management
Environmental Health
Land Contamination
Gentoo Group Ltd.
Planning Policy

25 Tintern Close Houghton-le-Spring DH4 5LP
9 Tintern Close Houghton-le-Spring DH4 5LP
23 Tintern Close Houghton-le-Spring DH4 5LP
134 Abbey Drive Houghton-le-Spring DH4 5LD
26 Tintern Close Houghton-le-Spring DH4 5LP
12 Fairfield Houghton-le-Spring DH4 5FE
9 Tintern Close Houghton-le-Spring DH4 5LP
16 Tintern Close Houghton-le-Spring DH4 5LP
22 Tintern Close Houghton-le-Spring DH4 5LP
18 Tintern Close Houghton-le-Spring DH4 5LP
25 Tintern Close Houghton-le-Spring DH4 5LP
1 Newstead Road Houghton-le-Spring DH4 5LW
5 Newstead Road Houghton-le-Spring DH4 5LW
21 Tintern Close Houghton-le-Spring DH4 5LP
23 Tintern Close Houghton-le-Spring DH4 5LP
70 Blind Lane Sedgeleth Houghton-le-Spring DH4 5JW
20 Tintern Close Houghton-le-Spring DH4 5LP
15 Tintern Close Houghton-le-Spring DH4 5LP
13 Newstead Road Houghton-le-Spring DH4 5LW
19 Tintern Close Houghton-le-Spring DH4 5LP
7 Newstead Road Houghton-le-Spring DH4 5LW
15 Newstead Road Houghton-le-Spring DH4 5LW
64 Blind Lane Sedgeleth Houghton-le-Spring DH4 5JW
3 Newstead Road Houghton-le-Spring DH4 5LW
11 Newstead Road Houghton-le-Spring DH4 5LW
17 Tintern Close Houghton-le-Spring DH4 5LP
68 Blind Lane Sedgeleth Houghton-le-Spring DH4 5JW
26 Tintern Close Houghton-le-Spring DH4 5LP

24 Tintern Close Houghton-le-Spring DH4 5LP
Methodist Church Hall Blind Lane Sedgely Houghton-le-Spring DH4 5JL
Meadow View Blind Lane Sedgely Houghton-le-Spring DH4 5HX
9 Newstead Road Houghton-le-Spring DH4 5LW
Methodist Church Blind Lane Sedgely Houghton-le-Spring DH4 5JL
16 Tintern Close Houghton-le-Spring DH4 5LP
25 Tintern Close Houghton-le-Spring DH4 5LP
26 Tintern Close Houghton-le-Spring DH4 5LP
12 Fairfield Houghton-le-Spring DH4 5FE
21 Tintern Close Houghton-le-Spring DH4 5LP
Meadow View Blind Lane Sedgely Houghton-le-Spring DH4 5HX
26 Tintern Close Houghton-le-Spring DH4 5LP
19 Tintern Close Houghton-le-Spring DH4 5LP
66 Blind Lane Sedgely Houghton-le-Spring DH4 5JW

Final Date for Receipt of Representations: **01.09.2023**

REPRESENTATIONS:

Public consultation has been carried out with nearby properties, whilst a site notice was also posted within the vicinity of the site.

As a result of the consultation carried out a total of 14 objections have been received from members of the public. The representations have largely come from residents within Tintern Close, but some have also been received from other nearby properties. Objections have been received from No's 9, 18, 19, 20, 21, 23, 25 and 26 Tintern Close as well as from Meadow View on Blind Lane and 101 Abbey Drive. A petition with 42 no. signatories has also been submitted in opposition to the proposed development. The representations have raised a number of concerns over the proposed loss of the land which include.

1. Loss of the open space

The objections raise concerns over the loss of the open space citing the fact that the land is used regularly by children in a recreational capacity affording them the opportunity to play within in a safe and secure environment.

The concerns also note that the land is utilised by dog walkers and elderly residents who struggle to walk beyond the confines of the immediate area. Concerns are raised that the loss of the open space would be detrimental to physical and mental well-being of the elderly residents.

The objections also cite the fact that large scale development has already taken place within the immediate area. The comments state that this has had an adverse impact on surrounding greenspace and wildlife and that it is not appropriate to remove the remaining smaller areas of green space they have left.

2. Highways

All of the objections have highlighted concerns over the highway impacts of the development. This primarily relates to the narrowness of the street and general lack of space to park. The comments note that the width of street tends to mean that cars can only park on one side of the road which leads to cars being displaced towards the head of the cul-de-sac where the development is planned. The comments go on to qualify that this problem has worsened due to an increase in cars in recent years. Further to the above, concerns have been raised over

access being restricted to the lock up garages and the ability for emergency vehicles and refuse vehicles to safely turn within the hammerhead.

3. Residential amenity

With regard to the occupiers of nearby Meadow View, the objection notes that the proposed properties would not sit in line with their property and will therefore block light entering their property to the north. The objection also notes that any new residents will be able to look directly into their property thus impacting on their existing privacy.

The objection from No.23 Tintern Close expresses concern that the upper floor (dormer) windows would overlook their rear garden and side gable window, thus impacting on privacy.

4. Other matters raised

In addition to the above, comments received within the objections also include;

The proposal will cause noise and traffic disruption during the construction process. In a small area (Coley Lane, Blind Lane and Sunnyside) which over the past 10 years has been extensively developed, the access to green space is now limited. It must also be noted that availability of new build properties, due to this vast development, is extensive, the need for additional properties is not required. There are multiple sites within the area available to home buyers.

The development offers no benefits to the residents of the street and is motivated by financial reasons benefitting the developer.

Letter of support by applicant

It is noted that the applicant has sought to respond to the objections within two written submissions. The content of these submissions state;

This proposed development presents numerous benefits to the community and aligns well with existing planning policies.

The site, which is currently open space, will retain 50% of its green area, ensuring the preservation of biodiversity while allowing for responsible development.

The provision of ample parking within the open space ensures that the new development will not have a negative impact on parking availability. Moreover, Tintern Close benefits from multiple green spaces between houses of abbey drive and Newstead Road, enhancing safety for children by eliminating direct exposure to roads.

This proposed development would address a well-documented shortfall of bungalows in the area, offering a much-needed housing type that is currently in demand.

These smaller-scale developments contribute to fair competition in the housing market, providing opportunities for local builders and preventing a monopoly by larger conglomerates. The commitment to providing a subsidy for improving children's play parks demonstrates a positive intention to contribute to the community's well-being.

Internal consultee responses

Environmental Health – No objections subject to the inclusion of a condition to ensure that a Construction Environmental Management Plan (CEMP) is submitted for approval in writing prior to the commencement of site clearance and works of preparation and construction. The CEMP

should identify all potential impacts upon the local environment and nearby occupiers arising from such works and shall identify suitable mitigation measures to prevent or minimise those impacts. The plan shall include, but not be limited to, matters of noise and vibration, dust and other air pollutants, site lighting and access, and arrangements to inform local residents of relevant activities and to deal with any complaints that may result.

Ground Contamination – There is broad agreement with the findings of the Desk Study based on the information gained to date. Following the review of the submitted report, we recommend the additional information is requested from the applicant's consultant, which should be included in the Phase 2 report. Conditions are appropriate for a Phase 2 Site Investigation, Remediation Strategy and Verification Report and to deal with unexpected contamination.

Network Management – Details of response discussed in main body of the report.

COMMENTS

Policy backdrop

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 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.

The Councils adopted Core Strategy Development Plan (CSDP) guides new development within the city up to the year 2033 and is afforded full weight in the determination of planning applications.

The Council's adopted Development Management Supplementary Planning Document (SPD) is also of relevance to this proposal.

Planning considerations

The main issues to be considered in determining this application are: -

- 1) The housing land supply and delivery position
- 2) Land use and open space considerations
- 3) Impact on amenity
- 4) Highways;
- 5) Other material planning considerations;

1. Housing land supply and delivery position

Any planning application for housing must be considered in the context of the aims of section 5 of the NPPF, which is concerned with achieving the Government's objective of significantly boosting the supply of homes in England. In order to meet this objective, paragraph 60 requires local planning authorities to identify a sufficient amount and variety of land available for housing where it is needed and, at paragraph 61, it requires local planning authorities to identify the minimum number of homes needed in its area, as informed by a local housing needs assessment conducted using the standard method provided in national planning guidance.

Paragraph 68 states that local planning authorities should have a clear understanding of the land available in their area for housing development through the preparation of a strategic housing land availability assessment and should identify specific, deliverable sites which are available for development in the upcoming 5-year period. Paragraph 74, meanwhile, sets out a requirement for local planning authorities to identify and annually update a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.

CSDP Policy SP1 states that in order to support to support sustainable economic growth and meet people's needs, the council, working with local communities, its partners and key stakeholders will deliver at least 13,410 net new homes over the course of the plan period and create sustainable mixed communities which are supported by adequate infrastructure.

Policy SP8 of the CSDP is the Council's overarching strategic policy for housing supply and delivery. The policy states that the council will work with partners and landowners to seek to exceed the minimum target of 745 net additional dwellings per year. One of the ways in which this target will be achieved is through the development of 'windfall' sites (i.e. sites such as this which have not previously been identified as being available for housing).

The Council's current five-year housing land supply position was published in October 2022. The Inspector examined the various components of housing supply and determined that the Council could demonstrate a five-year supply.

2) Land use and open space considerations

The subject parcel of land comprises an area of open amenity space which is positioned at the head of the cul-de-sac in Tintern Close.

Nationally, the 2021 National Planning Policy Framework (NPPF) Glossary (page 70), defines open space as:

“All open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity”.

The NPPF goes on to recognise the wider role of open space, stating that successful Neighbourhoods require high quality public space, which in turn makes a vital contribution to the health and well-being of communities. It puts forward that the planning system should create a built environment that facilitates social interaction and inclusive communities and ensures access to open spaces and recreational facilities.

It goes on to state that: existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

The Government’s Planning Practice Guidance (PPG) states that it is for local planning authorities to assess the need for open space and opportunities for new provision in their areas. In carrying out this work, they should have regard to the duty to cooperate where open space serves a wider area. The PPG also states that open space (which can take many forms, from formal sports pitches to open areas within a development, linear corridors and country parks) can have multiple benefits, which are reflected in the NPPF:

- providing health and recreation benefits to people living and working nearby;
- having an ecological value and contributing to green infrastructure as well as being an important part of the landscape and setting of built development; and
- being an important component in the achievement of sustainable development.

On a local level the proposal is subject to the provisions of CSDP Policy NE4. NE4 advises that the Council will protect, conserve and enhance the quality, community value, function and accessibility of greenspace and wider green infrastructure, especially in areas of deficiency identified in the council’s Greenspace Audit and Report. The policy outlines that this is to be achieved in part, by adhering to the requirements of sub-section 4 as set out below, insofar as;

refusing development on greenspaces which would have an adverse effect on its amenity, recreational or nature conservation value unless it can be demonstrated that:

i. the proposal is accompanied by an assessment that clearly demonstrates that the provision is surplus to requirements; or

ii. a replacement facility which is at least equivalent in terms of usefulness, attractiveness, quality and accessibility, and where of an appropriate quantity, to existing and future users is provided by the developer on another site agreed with the council prior to development commencing; or

iii. replacement on another site is neither practicable or possible an agreed contribution is made by the developer to the council for new provision or the improvement of existing greenspace or outdoor sport and recreation facilities and its maintenance within an appropriate distance from the site or within the site.

The supporting text to Policy NE4 states that the provision of attractive, accessible and functional greenspace is an important component of the Green Infrastructure Network that adds significantly to environmental quality and helps to support physical activity and social wellbeing. In this regard the supporting text continues that the council will seek to ensure that local residents have access to greenspace to meet their needs.

The Council's Greenspace Report sets out in detail the existing provision of Greenspace within the City and highlights where shortfalls exist. The most recent evidence is set out within the Greenspace Audit and Report of December 2020.

Section 5.80 of the 2020 Audit qualifies that the true value of greenspaces is an amalgam of site quality, accessibility and need. High quality sites may exist that have low local value because they have limited access, or maybe their value is diminished because there is an abundance of similar provision close-by. On the other hand, a site may be of low quality but is highly valued because it is the only such provision around. Sites that demonstrate multiple functions generally have more value to them, being more attractive to a wider population than a single function site. Sites may also have a strategic value, such as nationally recognised wildlife habitat, or a supporting role in a Conservation Area.

To this end, site value is determined by:

- Value in terms of the strategic significance given to it by statutory bodies;
- Value in terms of the way local people appreciate the site;
- Value in terms of quality the site brings to an area;
- Value in terms of the functions it brings to an area; and
- Value in terms of the scarcity of the site's function to a particular area

The median value score for all of 1,749 greenspace sites assessed across Sunderland is 96 points. As such, this is used as a baseline to measure a sites value, with 'low' value scores (61-74 points) and 'very low' value scores (60 points and under).

The spatial distribution of housing supply in recent years has resulted 34% of city-wide housing completions being located within the Coalfield sub-area. This compares to 14% in the Washington sub-area. As both the applicant and objectors alike have noted, this has led to significant housing delivery within the Burnside locality resulting in the loss of wide swathes of open space. Consequently, it is now noted that the host site no longer features as low value greenspace within the latest Greenspace Audit. The total site score is 93 bringing it within the parameters of 'average' (with a 20-point adjustment now given to the site due to low quantity in terms of amenity greenspace in the neighbourhood). The neighbourhood, Burnside, is considered low in greenspace quantity and very low in greenspace quality. At a wider ward level, the Houghton ward is above average in terms of quantity but below average in terms of quality.

In turning to the submission at hand it is necessary to consider the implications of the Inspectorates most recent deliberations regarding appeal ref: APP/J4525/W/21/3272245 which was dismissed in August 2021 and related to a scheme of 4no dwellings.

For the purposes of determining the appeal, the Inspectorate outlined that the main issue was whether the site was a suitable location for housing, having particular regard to greenspace and the character and appearance of the area.

In this regard the Inspectorate highlighted that there were a number of similar greenspaces in the vicinity and that a range of more formal recreational facilities were also located within the wider area. To this end, the Inspector concluded that the recreational value of the site was limited and that its loss would have a negligible effect on recreational opportunities in the area.

However, the Inspector did go on to qualify that amenity greenspaces like the host site are a distinctive feature of the wider estate and help soften the dense nature of the urban fabric. With specific reference to the host site the Inspector was of the view that the undeveloped character of the land and positive visual break it provided between the surrounding built form, made a significant positive contribution to the character and appearance of the area and to the distinctiveness of the wider estate as a whole. On this basis, the Inspector made it clear that despite the appellant's assertion to the contrary, the appeal site had significant public/community value in terms of the visual enhancement function that amenity greenspace is additionally recognised for.

The Inspectorate also made reference to the applicant's willingness to enter into a legal agreement by way of providing a financial contribution as set out by CSDP Policy NE4. The exact wording of the Inspectorate's response is highlighted above within the 'Relevant planning history' section of this report, but it was made clear that the provision of a financial contribution would not override the harm that would be caused by the loss of the land given the positive contribution it makes to the visual amenity and character of the area and when taking into consideration the absence of any firm community support for the development. The Inspectorate then goes on to offer a somewhat unequivocal statement in concluding that the site was not a suitable location for housing and that the proposal conflicted with policies of the CSDP.

Within the context of the above comments, the LPA acknowledge that the applicant has revised the scheme with the quantum of development dropping from 4 dwellings to 2 dwellings thereby allowing for a degree of the open space to remain. However, the LPA consider that the value the land is derived from the contribution it makes as a whole and were the open space to be effectively truncated to accommodate the new dwellings, the significant public/community value it currently affords from a visual enhancement perspective would be significantly diminished.

The proposal would still result in a loss of green space within a locality (Burnside) which already suffers from a low quantity of green space. This would as a result, further erode the level of greenspace within the area and remove a parcel of land which contributes positively to the amenity of the Tintern Close both from a visual and recreational perspective and a notable parcel of land that is deemed to be valuable to the local community.

With regard to the above considerations, which includes strong and, in some instances, unequivocal statements from the Planning Inspectorate, the LPA remain of the view that the benefits to be accrued from developing the open space would not outweigh the adverse amenity impacts that would arise, and as such, from a land use perspective the proposal conflicts with the requirements of CSDP Policy NE4 and is considered to be unacceptable.

3) Impact on amenity

Paragraph 126 sets out that good design is a key aspect of sustainable development, creating better places in which to live and work. Paragraph 130 meanwhile requires that development should function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development and should offer a high standard of amenity for existing and future users. Paragraph 130 states that planning permission should be refused for development of poor design that fails to reflect local design policies and government guidance on design.

On a local level Policy BH1 seeks to achieve high quality design and positive improvement by creating places which have a clear function, character and identity based upon a robust understanding of local context, constraints and distinctiveness. In order to achieve this, 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 retains acceptable levels of privacy to ensure a good standard of amenity for all existing and future occupiers of land and buildings.

The supporting text to BH1 qualifies that good design is crucial to achieving attractive and durable places to live. The policy therefore encourages high quality design and development in terms of new buildings and spaces and their setting in the built and rural landscape. New residential development needs to ensure that homes are built with enough indoor and outdoor space to meet the needs of the intended residents.

As the proposal relates to outline consent only, all matters of detail have been reserved for future approval. Consequently, there are no elevations, floor plans or finalised layouts to consider as part of this submission. Nonetheless, as the proposal seeks consent for 2no dwellings within the site, it is necessary for the applicant to demonstrate that such a quantum can be appropriately achieved on the land. In this respect, an indicative site layout plan has been submitted for consideration.

From a layout perspective site plan ably illustrates that a quantum of 2no dwellinghouses can be physically accommodated within the subject parcel of land, with each plot providing appropriate amenity for future occupiers in terms of outlook and associated garden space.

In terms of the developments potential impact on nearby properties, it is noted that concerns have been raised by occupants of two nearby dwellings, namely No.23 Tintern Close to the south and Meadow View to the north.

The concerns expressed in respect of No.23 relate to the southerly orientation of the window and the potential scope this would create for overlooking across their rear garden and side gable window. Based on the indicative plan, the spacing between the front of the new build properties and the side gable window would be in the region of 16m. This gable window appears to provide secondary outlook for No.23's living room in addition to the main window which fronts the street. The suggested layout would potentially give rise to some privacy concerns with regard to the side window as typically a minimum spacing of 21m would be expected to be achieved between main facing windows. Notwithstanding, given that a layout accommodating 4no dwellings have previously been demonstrated on the site, it is clear that there would be scope to accommodate a lower number albeit, the impacts in terms of spacing and interfacing with No.23's side window would need to be addressed as part of the reserved matters submission and this may require the reorientation of the properties.

With regard to Meadow View, the footprint of the most easterly positioned bungalow

would predominantly align and look onto the side gable of Meadow View which exhibits secondary windows within the elevation (ground floor hall and upper floor landing window). The adjoining bungalow is shown to face out towards the garden of Meadow View. It is evident that the indicative plans illustrate dormer windows within the front elevations (southern roof plane) only, thereby removing the potential for any elevated overlooking of Meadow View's garden area. If the LPA were minded to recommend an approval of the application, a planning condition would be applied to any future reserved matters application to remove the permitted development right to insert dormer windows within the northern roof plane in order to ensure that the privacy for the occupier of Meadow View was retained. In terms of the impact on sun/daylight and overshadowing on the grounds and windows of Meadow View, it is considered that the new properties would be sufficiently offset to mitigate any adverse impacts.

Sunniside Methodist Church to the east is set back into its curtilage and presents a blank gable wall onto the development site. In this respect it is not considered that this building would be an impediment to the development of the site.

Overall, given the low number of dwellings proposed and the size of the overall land, the LPA consider that an acceptable layout could be achieved without causing undue impediment to the residential amenity of nearby occupiers.

4) Highways

Locally, Policy ST3 of the CSDP outlines that development should provide safe and convenient access for all users and should include a level of vehicle parking and cycle storage in accordance with the Council's parking standards. These standards are typically prescribed as being 1 space per new dwelling and visitor parking afforded at a rate of one space for every third dwelling.

The indicative layout illustrates that three parking spaces would be provided within the site which would adhere to the above standards. The plan also sets out an intent to extend the public footpath around the western perimeter of the site and across the frontage of the properties.

As is highlighted towards the beginning of this report, the site has been subject to two previous refusals of planning permission by the LPA and two subsequent dismissals of the resulting appeals by the Independent Planning Inspectorate.

Within the representations received, highway concerns have again been raised quite vocally by the local residents. The concerns are broadly representative of the issues raised both within the 2019 and 2020 submissions and the Inspectorate considered these matters within the respective appeal decisions of September 2020 and August 2021. The Inspectorate was not persuaded by these concerns stating at Para 15 of the 2020 appeal decision that;

“Comments raised locally have also referred to restricted access for vehicles along Tintern Close. However, although I saw that the parking of cars along the road leading to the appeal site limited the potential for vehicles to pass each other, turning space would be available on the garage court to enable vehicles to enter and leave the area in forward gear. Furthermore, due to the limited number of units proposed, the development would also not lead to a significant increase in vehicle movements. The proposal would also provide a demarcated footway from Tintern Close to the appeal site, mitigating potential conflicts between pedestrian and vehicle movements”

With regard to the above and in summing up, the Inspectorate concluded that the proposal would not lead to unacceptable harm to parking or highway safety and thus complied with Policy ST3 of the Core Strategy with regards to the provision of safe and convenient access.

It should also be noted that the Inspectorates view was offered in respect of a larger quantum of development (i.e., 4no dwellings). On the basis of the Inspectorates position and given that the position of the parking bays is not dissimilar to those indicated within the previous submissions, the Council's Transportation Development Engineer has offered no objection to the principle of the indicative parking layout.

Comments for additional note include the fact that the land in question appears to contain an area of adopted highway verge which would require stopping up, the need to enter into a S278 Agreement to create the new footway, the fact that a lighting column would need to be relocated and that a condition requiring a Construction Environmental Management Plan would need to be attached to any approval given.

Overall, the proposal is considered to be in accordance with the requirements of CSDP Policy ST3.

5) Other material planning considerations

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 desk top study and as has been referenced earlier in the report the City Councils Land Contamination Officer does not believe that ground contamination represents a significant constraint to the development of the site but has requested that conditions for a Phase II Investigation, Remediation Scheme, Verification Report and in respect of unexpected contamination, be attached to the decision.

Conclusion

In deliberating on the issues at hand the LPA are satisfied that the site is capable of accommodating 2no dwellings and that matters pertaining to highways and ground contamination have been appropriately addressed for the purposes of this outline submission. However, as has been set out above and as evidenced by the Planning Inspectorate in considering an earlier appeal at the site, the land in question lies within a locality which is deficient in greenspace, whilst the site as a whole contributes positively to the amenity of the area and continues to play a valuable role within the community as illustrated by the level of local opposition.

The LPA remain of the view that the benefits to be accrued from developing the open space would not outweigh the adverse amenity impacts that would arise and as such from a land use perspective the proposal is considered to be contrary to CSDP Policy NE4. As such, Members are recommended to refuse planning permission for the reason set out 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:-

- o age;
- o disability;
- o gender reassignment;
- o pregnancy and maternity;
- o race;
- o religion or belief;
- o sex;
- o 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: REFUSE, for reason set out below.

Reasons:

1 The proposal is unacceptable in principle as it will have an adverse effect on the amenity and community function value of the site as greenspace, which is within a locality of the City identified as having a deficient quantity of amenity greenspace. Although the developer has agreed to enter into a planning obligation to provide improvements to greenspace within the vicinity, within the planning balance, it is considered that the benefits to be accrued from developing the open space would not outweigh the adverse amenity impacts caused by the loss of open space and the proposal is therefore considered contrary to Policy NE4 of the CSDP.

Reference No.: 23/01870/LP3 Local Authority (Reg 3)

Proposal: **Temporary change of use to allow for the Festival of Light to operate for a number of days between 25 September to 16 November 2023.**

Location: Mowbray Park, Mowbray Gardens, Burdon Road, Sunderland

Ward: Hendon

Applicant: Sunderland City Council

Date Valid: 4 September 2023

Target Date: 4 December 2023

PROPOSAL:

The application seeks planning permission for

Temporary change of use to allow for the Festival of Light to operate for a number of days between 25 September to 16 November 2023 at Mowbray Park, Mowbray Gardens, Burdon Road, Sunderland

The site already benefits from a temporary planning permission for the festival to operate between 1 October through to 31 December (ref: 19/01404/LP3). The current application proposes that the festival takes place during the forthcoming half term holiday by beginning six days earlier on 25 September.

The site lies in the city centre, to the south of Fawcett Street. The surrounding land uses include a museum to the north and roads to the south and west (the A1231 and Burdon Road). The site itself, currently a park, has a rectangular plan form and covers around six hectares.

The submitted Planning Statement says that:

It is proposed to temporarily change the use of Mowbray Park, to allow for Sunderland Festival of Light to operate.

The event will include a number of lighting features which will be situated throughout the park (as identified on the proposed layout plan), children's rides, food and drink and music performers will be situated near the Bandstand...

It is anticipated that maximum attendance will be 8000 visitors per evening, and attendance will be ticketed, with three to four timeslots per hour to limit the numbers of people in the park at any one time. The event will operate Thursday to Sunday from 4pm to 9pm however the park will be required from 3pm - 10pm each day the event is in operation for the safe set up and de-rig of equipment. It will also operate all of half term (Monday 23 October to Sunday 29 October).

TYPE OF PUBLICITY:

Site Notice Posted

CONSULTEES:

Cllr Lynda Scanlan
Cllr Michael Mordey
Cllr Ciaran Morrissey
Planning And Highways
Network Management
Planning Implementation
The Garden Trust
Natural Heritage
Environmental Health
Nexus
Flood And Coastal Group Engineer
Tyne And Wear Archaeology Officer
Historic England
Network Rail

Final Date for Receipt of Representations: 29th September 2023.

REPRESENTATIONS:

None received to date, however public consultation and internal and external consultation is still being undertaken. An update providing details of any responses received will be provided to Members ahead of the Committee meeting.

POLICIES:

Core Strategy and Development Plan (2015-2033)

Draft Allocations and Designations Plan (December 2020)

The Council undertook consultation around two years ago for the Draft Allocations and Designations Plan (A & D Plan). The representations received are currently being logged and taken into consideration. There has recently been an appeal decision which said that 'given the stage of the ADP this carries very little weight as planning policy (ref: APP/J4525/W/21/3270321)'.

The A & D Plan should therefore only be given very limited weight by the decision taker.

Material Considerations - City Plan (2023-2035)

COMMENTS:

The park has been designated, via policy SA75(2) of the Unitary Development Plan (UDP), as forming part of a network of "existing city centre parks and other public open spaces".

The associated policy found within the Core Strategy, NE4 (Greenspace), says that:

"The council will protect, conserve and enhance the quality, community value, function and accessibility of greenspace and wider green infrastructure..."

The proposed Festival of Light would contribute towards the above policy by providing a temporary festival that will encourage visitors to the park.

In terms of material considerations, the proposed festival would also contribute towards the City Plan which seeks as part of a dynamic smart city there to be "stronger city centre with more...cultural opportunities" and as part of a vibrant smart city there to be "more people visiting Sunderland".

The proposed festival of light would therefore accord with both the relevant policy within the development plan and the material consideration (i.e. the City Plan).

Amenity

The submitted Noise Management Plan says that sources of noise will include attendees, event staff, acoustic / carol singers and catering units. The Plan suggests mitigation include the positioning of speakers and noise monitoring.

The consultation which has been undertaken includes the Environmental Health Officer. An update will be provided in due course.

Drainage

The submitted application form says that surface water will be disposed of via a sustainable drainage system and pond / lake. The same form also says that for foul sewage "portable toilets will be used on the event site and wastage will be removed by tank".

The consultation which has been undertaken includes the Lead Local Flood Authority and the Environment Agency. An update will be provided in due course.

Ecology

The site has been designated, via policy CN21 of the Unitary Development Plan, as a "Site of Nature Conservation Importance".

The submitted "Extended Phase 1 Report" says that there are 11 types of habitat on site (buildings, hardstanding introduced shrub, amenity grassland, scattered trees, quarry, standing water, species-poor hedge, miscellaneous, wall and fence). The Report also draws attention to nearby Sites of Scientific Interest (SSSI - Humbledon Hill Quarry, Tunstall Hills, Ryhope Cutting and the Durham Coast), one Ramsar and Special Protected Area (Northumbria Coast) and a Local Nature Reserve (Tunstall Hills).

The Report says that the "proposed works for the Mowbray Park illuminations are of minimum impact"; albeit "two buildings and five trees situated at the bowling green are considered to be of moderate bat roosting potential" and that "two nocturnal surveys should be carried out on these buildings and trees during the bat activity season (between May - September), in order to understand how bats utilise this area". The Report also says that there are "habitats on site that are considered to provide suitable habitat (trees, shrub and bird boxes) for nesting birds" and that "any pruning or felling works required for the illuminations should be carried out outside the bird nesting season".

The submitted "Bat Survey Report" says that the "results of the internal inspection undertaken... found no evidence of presence of bats inside the loft spaces. Further inspection of the potential roost features located on trees, such as bird boxes and rot holes, found no evidence of bat presence".

The consultation which has been undertaken includes the Council's Ecologist. An update will be provided in due course.

Heritage

The site itself has been designated as a Grade II "Park and Garden". There are further listed buildings within the site, such as the Grade II listed drinking fountain and footbridge.

There are also listed buildings to the east of the site (such as the Grade II listed balustrade on Salisbury Street), the south (such as the Grade II listed terraces at Park Place East and West) and west (such as the Grade II listed Burdon House). A Conservation Area also lies immediately to the north and the south of the site.

The consultation which has been undertaken includes the Council's Conservation Officer, the Gardens Trust and Historic England. An update will be provided in due course.

Highway

The submitted Planning Statement says that:

"There will be two ticketed entrances and one main exit, all situated on Burdon Road. All existing park entrances/exits will be used as emergency exits. These are all identified on the associated layout plan. Entrances and exits will be reviewed throughout the event to ensure safe access and egress to the park is maintained at all times"

The consultation which has been undertaken includes the Local Highway Authority. An update will be provided in due course.

Conclusion

The principle of the proposed festival would accord with the relevant policy found within the development plan (policy NE4 of the Core Strategy) and the relevant material consideration (i.e. the City Plan).

The detailed impacts are still being given consideration and an update will be provided in due course. If a subsequent update were to conclude that the detailed impacts are acceptable, then the recommended conditions would be as 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: MINDED TO GRANT CONSENT under Regulation 3 of the Town and Country Planning (General Regulations) 1992, subject to draft conditions below:

Conditions:

1 The temporary use of the land and associated erection of light displays and other temporary buildings and structures is hereby approved for a limited period between the dates of 25 September to 16 November 2023. No setting-up and de-rigging activities can take place outside of this period.

In order to achieve a satisfactory form of development in respect of the amenity of the area and in accordance with Policy BH1 of the Core Strategy.

2 The development hereby granted permission shall be carried out in full accordance with the following approved plan:

- o Location Plan (Illumination 2019 - Mowbray Park)

In order to ensure that the completed development accords with the scheme approved and to comply with Policy B2 of the adopted UDP and Policy BH1 of the emerging CSDP.