

DEVELOPMENT PLAN

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

Unitary Development Plan - current status

The Unitary Development Plan for Sunderland was adopted on 7th September 1998. In the report on each application specific reference will be made to those policies and proposals, which are particularly relevant to the application site and proposal. The UDP also includes a number of city wide and strategic policies and objectives, which when appropriate will be identified.

STANDARD CONDITIONS

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

SITE PLANS

The site plans included in each report are illustrative only.

PUBLICITY/CONSULTATIONS

The reports identify if site notices, press notices and/or neighbour notification have been undertaken. In all cases the consultations and publicity have been carried out in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010

LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION

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

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

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

These reports are held on the relevant application file and are available for inspection during normal office hours at the Office of the Chief Executive in the Civic Centre or via the internet at www.sunderland.gov.uk/online-applications/

Janet Johnson
Deputy Chief Executive

1.

North
Sunderland

Reference No.: 12/02920/VAR Variation of Condition

Proposal: Variation of condition 2 attached to planning application 11/00288/FUL (Proposed new local centre development comprising foodstore (class A1), retail units (class A1), commercial units (class A1-A5), offices / non residential institutions (class B1a / D1) and restaurant (class A3 / A5) : associated parking, landscaping, servicing and access arrangements.) to reduce floor area of proposed food store to 1549 sq m (16,678 sqft) and revise elevations.

Location: Land Bound By Riverbank Road, North Hylton Road And Castle Town Way Sunderland

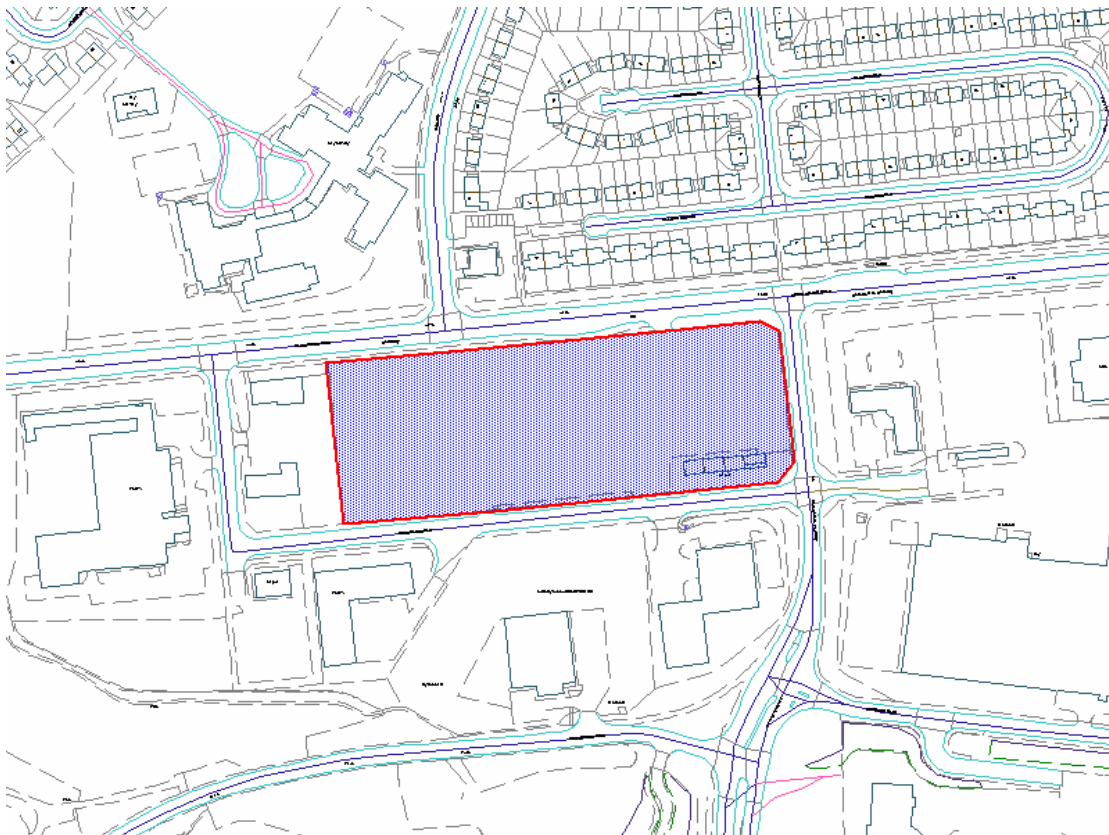
Ward: Castle

Applicant: Verum Victum Limited And Penmarric Plc

Date Valid: 5 November 2012

Target Date: 4 February 2013

Location Plan



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PROPOSAL:

The proposal is for variation of condition 2 attached to planning application 11/00288/FUL (Proposed new local centre development comprising foodstore (class A1), retail units (class A1), commercial units (class A1-A5), offices / non residential institutions (class B1a / D1) and restaurant (class A3 / A5) : associated parking, landscaping, servicing and access arrangements.) to reduce floor area of proposed food store to 1549 sq m (16,678 sqft) and revise elevations.

Planning permission was granted for the proposed development on the 27.10.2011.

This application seek to reduce the floor area of the proposed food store to 1,549sqm (Approved floor area 1,618sqm) and to revise the external elevations to meet the proposed end users requirements. The proposed scheme therefore reduces the floor area by 69 sqm.

The previous report is appended for easy of reference.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notification

CONSULTEES:

Northumbrian Water
City Services - Network Management
Street Scene (Environmental Service)
Environment Agency
The Highways Agency

Final Date for Receipt of Representations: **06.12.2012**

REPRESENTATIONS:

Northumbria water.

Northumbria Water has no objections to the proposal.

Environment agency.

EA have no objection to the development as proposed subject to the following conditions being imposed as per the 11/00288/FUL planning approval :-

Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor installed in accordance with a scheme previously submitted to and approved in writing by the LPA. Roof water shall not pass through the interceptor.

Reason: To prevent pollution of the water environment.

Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

- 1) A preliminary risk assessment which has identified:
- 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 3) The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

Reason: The information provided with the planning application indicates that the site has been subject to a number of potentially contaminative land-uses. The environmental setting of the site is sensitive as it lies on the Magnesian Limestone, a principal aquifer and within Zone III of a currently designated groundwater Source Protection Zone. This condition will ensure that the risks posed by the site to controlled waters are assessed and addressed as part of the redevelopment.

Condition: Prior to commencement of development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.

Reason: The information provided with the planning application indicates that the site has been subject to a number of potentially contaminative land-uses. The environmental setting of the site is sensitive as it lies on the Magnesian Limestone, a principal aquifer and within Zone III of a currently designated groundwater Source Protection Zone. This condition will ensure that the risks posed by the site to controlled waters are assessed and addressed as part of the redevelopment.

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in

writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason: Unsuspected contamination may exist at the site which may pose a risk to controlled waters.

EA have also requested the following informatives be added to any consent;

The applicant or their representative have provided a copy of the following report in support of their application:

Phase 1 Desk Study Report for the proposed new local centre at North Hylton Road, Sunderland (Jan 2011). Verum Victum Ltd

Information within this document meets the requirements of a Preliminary Risk Assessment (PRA), in respect to addressing the risks to controlled waters only. Information within the report indicates that the site has been subject to a number of potentially contaminant land uses e.g. garage, engineering works. In addition, the site lies within an area of high environmental sensitivity, as the Magnesian Limestone principal aquifer underlies the site and the site lies within Zone III of a currently designated groundwater Source Protection Zone.

The report recommends that further site investigation works should be undertaken to refine the conceptual understanding of the site (investigate identified pollutant linkages) in order to determine the level of risk posed by the site. We acknowledge and agree with the need to undertake these works. The applicant should ensure that they carry out sufficient leachability/groundwater samples in order to assess the risks to the underlying principal aquifer.

With regards to flood risk, providing NWL agree to accept the surface water discharge, it would be NWL who must agree discharge rates or storage requirements.

EA would recommend that the discharge to sewer remains the same as existing and would encourage the use of SUDS wherever possible and hope they can be incorporated into the design. It is unfortunate of all the SUDS methods referred to, it may be only permeable paving that is utilised. For example it may be useful to consider the use of green roofs, rain water harvesting or swales in car parks which can all be used to help attenuate surface water.

Environmental health - As per the previous planning approval

Ground Contamination

The Applicant has submitted an assessment in respect of ground contamination. It is recommended that no works other than investigation works should be carried out on the site prior to the receipt of written approval of the desktop study and any necessary remediation strategy in respect of this matter. This can be controlled by condition.

Air Quality

The North Hylton area is not identified in the report to be of concern with regards to air quality. As the site is not within an AQMA, a simple-level assessment has been undertaken in accordance with DMRB. The DMRB spreadsheet (version 1.03) has been used to predict concentrations for the base year 2010, and the future year 2012 without the development (DM) and with the development (DS).

There is a small magnitude impact on air quality predicted, and therefore the impact of the proposal in terms of air quality can be described as negligible given that total NO₂ concentrations were below 36 ug/m³.

Noise (operational)

The Applicant has also submitted a noise impact assessment which assesses the likely impact of the proposed development on nearby residential premises. The report relies upon detailed traffic flow data which has been provided by AECOM which indicates that the largest increase in traffic flow is predicted to arise on a Saturday therefore the Saturday traffic flow data has been used to calculate the noise level change with the development in place.

The significance of the noise level differences with and without the development in place is very low (maximum of 1 dB) and is not anticipated to be perceptible to the human ear.

Odour (From proposed A3/A5 use)

It is understood that the proposed development seeks permission for the inclusion of restaurant (class A3/A5). Regard must therefore be had to the potential for odorous emissions from the proposed restaurant to give rise to complaints of nuisance or disturbance from nearby residential properties. It is therefore recommended that a suitable and effective extraction / ventilation system which efficiently captures odours and incorporates a grease filtration system shall be provided to serve the restaurant. The extraction system should terminate in a suitable position above eaves level and not be fitted with any restriction at the final opening, such as a plate, cap or cowl.

The applicant must also ensure that suitable provision is made for the disposal of refuse, in particular food waste, to deter the attraction of pests

Construction Issues

In view of the close proximity of the proposed development to nearby residential premises the applicant should make application for prior consent in respect of work on construction sites under the Control of Pollution Act 1974, Section 61 to Community and Cultural Services, Environmental Services, Pollution Control Section. Application should be made prior to the commencement of any works. This issue could be controlled by condition should consent be granted.

It is also recommended that on-site operations should not commence before 07:00 hrs and cease at or before 19:00 hrs Monday to Friday inclusive, and 07:30 and 14:00 hrs Saturdays. No works shall be permitted to take place on Sundays and Bank Holidays at any time without prior approval from Environmental Services (Pollution Control). Approval will only be given for such working in

exceptional circumstances for example on the grounds of safety and public protection. This could also be controlled by condition should consent be granted.

Provision should be made for the reasonable prevention of dust generation. Where this is not possible adequate dust suppression management should be applied. As such a suitable and constant supply of water (mains supply or water bowsers in sufficient numbers) adequate for dust suppression purposes must be provided to the site. This could also be controlled by condition.

Neighbours

No representations have been received.

POLICIES:

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

B_2_Scale, massing layout and setting of new developments

COMMENTS:

The key areas under consideration are:-

- Reduced floor area for Unit A
- Revisions to the elevations on the unit.

Reduced floor area for Unit A

The principle of the development has already been considered under application 11/00288/FUL and therefore can not be re-considered as part of this application. The current application is merely seeking to make minor variations to the approved scheme.

The proposed reduction in retail floorspace of 69sqm is considered acceptable in principle as it is reducing the amount of retail space rather than increasing the floor area which would have required different planning consideration.

The proposed external alterations are of a minor nature, the changes are required to suit the end users requirements. The proposed alterations are considered acceptable in principle and comply with policy B2 of the Unitary Development Plan.

The previous application was referred to the Secretary of State for determination, as a variation of planning permission is a grant of a new permission the application will need to be referred for due consideration.

RECOMMENDATION: Members be minded to approve the application for the reasons stated in the Conclusion Section above and subject to the draft conditions outlined below and that the application be referred to the Secretary of State in accordance with the provisions of the Town and Country Planning (Consultation) (England) Direction 2009 (Circular 2/09)

RECOMMENDATION: Refer to Secretary of State

Conditions:

- 1 The development to which this permission relates must be begun not later than three years beginning with the date on which the original permission was granted 27.10.2011 to ensure that the development is carried out within a reasonable period of time.
 - 2 Unless otherwise first agreed in writing with the Local Planning Authority, the development hereby granted permission shall be carried out in full accordance with the following approved plans:
 - Unit A Comparison drawings of previously approved plans and elevations against proposed plans and elevations received the 05.11.2012.
 - Food Store proposed elevations and images drawing number 10-018-124 Rev A received 24.10.2012
 - Food Store proposed Floor Plans drawing number 10-0181-121 Rev E received 24.10.2012

In order to ensure that the completed development accords with the scheme approved and to comply with policy B2 of the adopted Unitary Development Plan

- 3 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, 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; in the interests of visual amenity and to comply with policy B2 of the Unitary Development Plan.
- 4 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping and treatment of hard surfaces which shall include indications of all existing trees and hedgerows on the land to be retained, and details for their protection during the course of development, in the interests of visual amenity and to comply with policy B2 of the UDP.
- 5 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the buildings or the completion of the development whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation, in the interests of visual amenity and to comply with policy B2 of the UDP.

- 6 Notwithstanding the presently submitted interim travel plan a detailed travel plan shall be submitted to and approved by the Local Planning Authority prior to the occupation of any of the buildings hereby approved. The development hereby approved shall implement the measures and monitoring strategy as set out in the Travel Plan when approved, unless otherwise first agreed in writing with the Local Planning Authority to ensure that the Travel Plan targets are being met and to comply with the requirements of Policy T14 of the adopted Unitary Development Plan.
- 7 No development shall commence until precise details of all off site highway improvement works to be undertaken, including the relocation of any bus stops, pedestrian crossing facilities and modifications and extensions to waiting restrictions shall be submitted to and approved in writing by the Local Planning Authority. The works shall then be fully implemented in accordance with the approved plan(s) prior to the occupation of any of the buildings, unless otherwise first agreed in writing with the Local Planning Authority. (For the avoidance of doubt and for the purposes of clarification all off site highway works will be subject to a section 278 agreement with the Local Highways Authority). In the interest of highway safety and to achieve a satisfactory form of development on site and to comply with the requirements of Policy T14 of the adopted Unitary Development Plan.
- 8 No development shall commence until precise written details of the measures to be incorporated in to the scheme to ensure that it achieves a minimum rating of BREEAM "very good" have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall then be incorporated into the development in strict accordance with the approved details unless otherwise first agreed in writing with the Local Planning Authority. In order to achieve a satisfactory form of development on site and to comply with the requirements of EN2 of the adopted Unitary Development Plan.
- 9 Within the development hereby approved:
 - (i) the total gross floor space of the application proposal shall not exceed 4,987 sq.m. including any mezzanine floor space to be used for retail purposes without the express prior written permission of the local planning authority;
 - (ii) the net sales area of the food store shall not exceed to 1,313 sq.m. (including any mezzanine used for sales) without the express prior written permission of the local planning authority;
 - (iii) no mezzanine floor space shall be erected within the retail units without the express prior written permission of the local planning authority.
 - (iv) the aggregate net sales area of units B to G shall not exceed 1,313 sq.m. (including any mezzanine floor to be used for sales) without the express prior written permission of the local planning authority.
 - (v) units H and J shall be limited to use classes A2, A3 and A5 unless the express prior written permission of the local planning authority is granted.
 - (vi) units N and P shall be limited to use classes B1a of D1 unless the express prior written permission of the local planning authority is granted.
 - (vii) unit M shall be limited to Use class A3 use unless the express prior written permission of the local planning authority is granted.

In order to safeguard the vitality and viability of existing centres, to ensure that the proposal provides for the range of uses expected of a local centre in the PPS4 Annex B definition and to comply with the requirements of policy S1 of the adopted Unitary Development Plan.

- 10 No development shall commence until precise details of the cycle parking accommodation within the site has been submitted to and approved in writing by the Local Planning Authority. Thereafter the cycle parking shall be installed in strict accordance with the approved plans and retained as such for the lifetime of the development unless otherwise first agreed in writing with the Local Planning Authority. In the interests of highway safety and sustainability and to comply with the requirements of Policy T9 of the adopted Unitary Development Plan.
- 11 Before the development hereby approved is commenced wheel washing equipment shall be provided at all egress points to ensure that vehicles leaving the site are cleansed of mud so that mud is not transferred on to the public highway. The developer shall ensure that all vehicles leaving the site during the period of the construction works use the wheel wash facilities before exiting the site. In the interest of highway safety and to comply with the requirements of Policy T14 of the adopted Unitary Development Plan.
- 12 No development shall take place until a scheme of working has been submitted to the satisfaction of the local planning authority; such scheme to include days and hours of working, siting and organisation of the construction compound and site cabins, routes to and from the site for construction traffic, and measures to ameliorate noise, dust, vibration and other effects, and so implemented, in the interests of the proper planning of the development and to protect the amenity of adjacent occupiers and in order to comply with policies EN1 and B2 of the UDP.
- 13 Before any development is commenced details of all external lighting to be installed at the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme of lighting shall then be fully implemented prior to the opening of the food store to the public and retained as such for the lifetime of the development unless otherwise first agreed in writing with the Local Planning Authority. In the interest of achieving a satisfactory form of development on site and to comply with the requirements of Policy B2 of the adopted Unitary Development Plan.
- 14 Prior to the construction of any permanent building on the approved development site a written assessment of the capability for the use of renewable energy technologies within the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme of renewable energy technologies shall then be fully implemented before the development is open to the public and retained as such thereafter for the lifetime of the development unless otherwise first agreed in writing with the Local Planning Authority. In the interest of achieving a satisfactory form of development on site and in the interest of energy conservation and to comply with the requirements of policy EN2 of the adopted Unitary Development Plan.

- 15 Before Unit A of the development hereby approved is brought in to use precise written details of the delivery route(s) that the occupier of the unit will require drivers of vehicles entering and leaving the site for commercial purposes (e.g. deliveries in either direction) to use, will be submitted to and approved in writing by the Local Planning Authority. Once approved, the route will be adopted by the occupier as their preferred delivery/commercial route for the lifetime of the development unless otherwise first agreed in writing with the Local Planning Authority.
- 16 The occupier of the unit shall require the drivers of all vehicles visiting the site for commercial purposes to follow the approved route. A written copy of the methodology to be used by the first occupier of the unit to ensure that the approved route is followed shall be submitted to and approved in writing by the Local Planning Authority. The approved methodology shall then be used for the lifetime of the development unless otherwise first agreed in writing with the Local Planning Authority. In the interest of residential amenity and to comply with the requirements of policies B2 and EN5 of the adopted Unitary Development Plan.
- 16 Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
- 1) A preliminary risk assessment which has identified:
 - 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - 3) The site investigation results and the detailed risk assessment (2) and based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer monitoring of pollutant linkages, maintenance and arrangements for contingency action.
- Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved. As the information provided with the planning application indicates that the site has been subject to a number of potentially contaminative land-uses. The environmental setting of the site is sensitive as it lies on the Magnesian Limestone, a principal aquifer and within Zone III of a currently designated groundwater Source Protection Zone. This condition will ensure that the risks posed by the site to controlled waters are assessed and addressed as part of the redevelopment and complies with policies E11 and EN12 of the UDP.
- 17 Prior to commencement of development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing by the local planning authority. The

report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.

Reason: The information provided with the planning application indicates that the site has been subject to a number of potentially contaminative land-uses. The environmental setting of the site is sensitive as it lies on the Magnesian Limestone, a principal aquifer and within Zone III of a currently designated groundwater Source Protection Zone. This condition will ensure that the risks posed by the site to controlled waters are assessed and addressed as part of the redevelopment environment in accordance with UDP policy EN12

- 18 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason: Unsuspected contamination may exist at the site which may pose a risk to controlled waters and to comply with policy EN1 of the UDP..

- 19 Prior to being discharged into any watercourse, surface water sewer or vsoakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor installed in accordance with a scheme previously submitted to and approved in writing by the LPA. Roof water shall not pass through the interceptor.

Reason: To prevent pollution of the water environment in accordance with UDP policy EN12.

Appendix 1 – Previous Planning Report for Application 11/00288/FUL
and DCLG Response to referral.