

## **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/](http://www.sunderland.gov.uk/online-applications/)

Janet Johnson  
Deputy Chief Executive

1.

Houghton

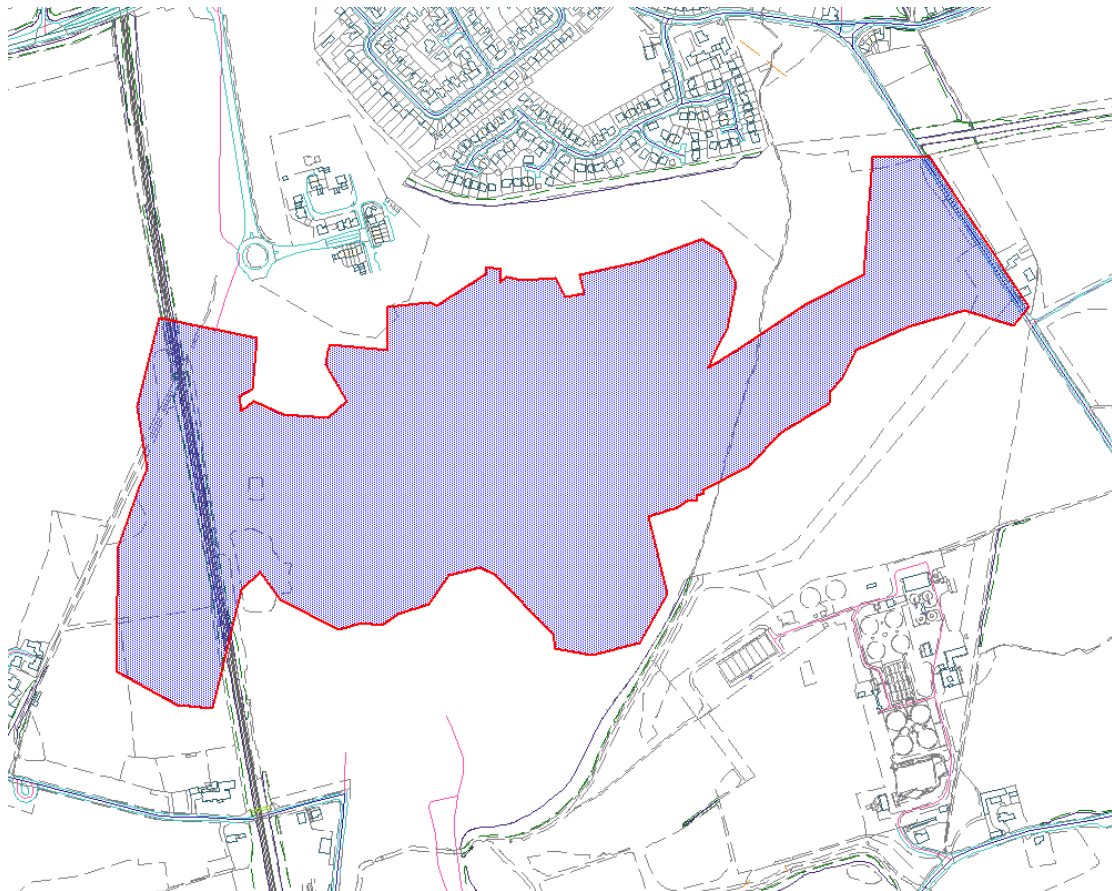
Reference No.: 12/02339/VAR Variation of Condition

**Proposal:** Variation of condition 6 of 09/02328/REM to change fenestration, materials and elevations of house types (Plots 202-224 and 229-306). Amended Description 11/10/12.

**Location:** Elba Park Former Lambton Coke Works Lambton Lane Houghton-Le-Spring

**Ward:** Houghton  
**Applicant:** BDW Trading  
**Date Valid:** 22 August 2012  
**Target Date:** 21 November 2012

### Location Plan



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### PROPOSAL:

The proposal is seeking to vary Condition 6 from a previous Reserved Matters approval (ref. 09/02328/REM) relating to 97 units within Phase 2 of the former Lambton Cokeworks, what is now known as Elba Park.

Condition 6 requires the 09/02328/REM approval to be built in full accordance with the approved plans. However, as detailed in a covering letter supporting this variation application the Developer, Barratt Homes, states that the previously approved contemporary house designs are not proving popular to customers. As such they are seeking to introduce a more 'traditional' house style to 97 units Phase 2. Nevertheless, the housing layout and individual floorplans of the properties will remain as approved via 09/02328/REM.

In order to support their application the applicant also submitted email correspondence from the Homes & Communities Agency. The email stated the Agency's keenness to see Elba Park remain a success and as such to ensure the development appeals to the widest market possible, consented to the variation of the house treatment proposed by this application.

### Planning History

Elba Park, the former Lambton Cokeworks, lies to the south of Chester Road, east of the route of the proposed "Central Route" west of Blind Lane and north of the Sedgeleth Sewage Treatment Works and Fencehouses.

Consent for the reclamation of the former Cokeworks site was granted in 1998 (ref. 98/01135/LAP). Outline consent was granted by Development Control Sub Committee in May 2006 for 350 dwellings on the site (ref. 06/00843/OUT). Phase 1 of the development, which comprises 96 dwellings, and is at present under construction, was granted consent in September 2009 (ref. 09/02185/REM). Phase 2 of the development, which overall comprises 254 dwellings, was granted consent in December 2009 (ref. 09/02328/REM).

### **TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

### **CONSULTEES:**

City Services - Network Management  
Homes and Communities Agency - English Partnerships  
Northumbrian Water  
Northern Electric  
Street Scene (Environmental Service)  
Environment Agency

Final Date for Receipt of Representations: **01.11.2012**

### **REPRESENTATIONS:**

Neighbour Consultation  
No letters of representations have been received following public consultation process.

Northumbrian Water Limited

Northumbrian Water has no objection to the variation application.

Street Scene (Environmental Service)

No comments were offered to this variation application.

Environment Agency

The Environment Agency has assessed this application as having a low environmental risk.

### **POLICIES:**

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

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

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

HA\_25\_Identification of Strategic multi-user routes and their protection from development

### **COMMENTS:**

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

1. Principle of the use
2. Design considerations
3. Highway considerations
4. Other considerations

The above issues are still being considered and as such a supplement report will follow.

**RECOMMENDATION: Deputy Chief Executive to Report**

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Reference No.: 12/02340/FUL Full Application

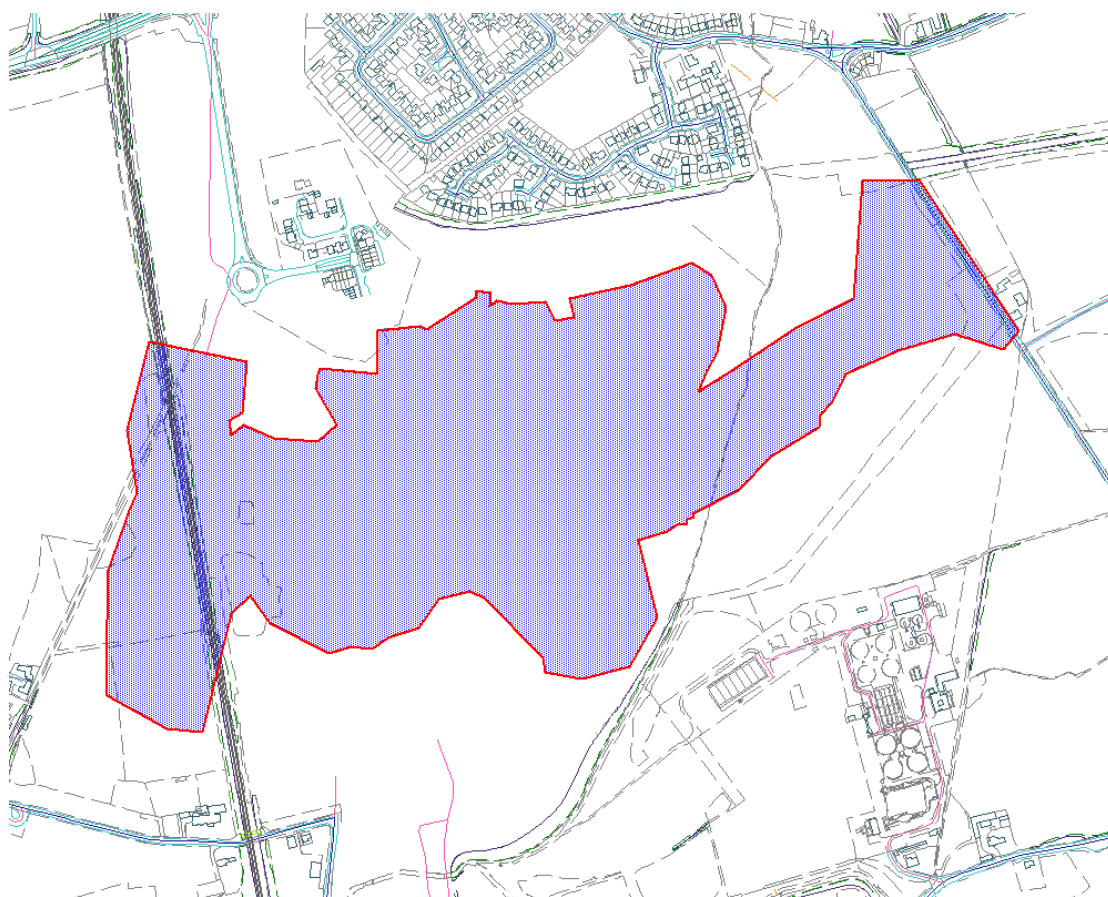
**Proposal:**                   **Alterations to the housing layout to involve:  
Substitution of housetypes affecting 11 plots  
and construction of an electricity substation**

**Location:**                   Elba Park Former Lambton Coke Works Lambton Lane  
Houghton-Le-Spring

**Ward:**                         Houghton  
**Applicant:**                 BDW Trading  
**Date Valid:**                 22 August 2012  
**Target Date:**               21 November 2012

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### Location Plan



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### PROPOSAL:

The proposal is seeking permission to alter the housing layout, in part, of Phase 2 of the Elba Park development by repositioning 11 previously approved plots. The application is also seeking permission to erect an electricity substation.

This application is related to variation application 12/02339/VAR, which has been submitted in tandem with this application. The 12/02339/VAR submission seeks

to vary condition 6 ('in accordance with the approved plans') of a previous Reserved Matters approval (ref. 09/02328/REM). The variation application seeks to replace the previously approved contemporary house types with a more traditional house design, although the housing layout and individual floorplans would remain as approved. This measure has been proposed by the applicant as they consider that the contemporary house types are not proving popular with potential customers.

In order to support their application the applicant has submitted email correspondence from the Homes & Communities Agency. The email states the Agency's keenness to see Elba Park remain a success and as such to ensure the development appeals to the widest market possible, consented to the variation of the house treatment to those units that will be relocated to the north east and therefore form part of the traditional phase of Phase 2.

Regarding the current proposal, and as explained in the submitted Design and Access Statement, the proposed 'house swap' of 11 units located to the north and south of the distributor road running through the estate, has been submitted as the applicant considers the larger detached houses in the north west would be more appropriately located to the south west. This proposal necessitates the slight adjustment of a pair of semi-detached dwellings.

#### Planning History

Elba Park, the former Lambton Cokeworks, lies to the south of Chester Road, east of the route of the proposed "Central Route" west of Blind Lane and north of the Sedgeleth Sewage Treatment Works and Fencehouses.

Consent for the reclamation of the former Cokeworks site was granted in 1998 (ref. 98/01135/LAP). Outline consent was granted by Development Control Sub Committee in May 2006 for 350 dwellings on the site (ref. 06/00843/OUT). Phase 1 of the development, which comprises 96 dwellings, and is at present under construction, was granted consent under delegated powers in September 2009 (ref. 09/02185/REM). Phase 2 of the development, which overall comprises 254 dwellings, was also granted consent under delegated powers in December 2009 (ref. 09/02328/REM).

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

Press Notice Advertised  
Site Notice Posted

#### **CONSULTEES:**

Homes And Communities Agency - English Partnerships  
Northern Electric  
City Services - Network Management  
Northumbrian Water  
Street Scene (Environmental Service)  
Environment Agency

Final Date for Receipt of Representations: **13.11.2012**

## **REPRESENTATIONS:**

Neighbour Consultation

No letters of representations have been received following public consultation process.

Northumbrian Water Limited

Northumbrian Water has no objection to the variation application.

Street Scene (Environmental Service)

No comments were offered to this variation application.

Environment Agency

The Environment Agency has assessed this application as having a low environmental risk.

Northern Electric

No comments or observations have been received. The consultation period ended 19 September 2012.

## **POLICIES:**

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

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

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

HA\_25\_Identification of Strategic multi-user routes and their protection from development

## **COMMENTS:**

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

1. Principle of the use
2. Design considerations
3. Highway considerations
4. Other considerations

The above issues are still being considered and as such a supplement report will follow.

**RECOMMENDATION: Deputy Chief Executive to Report**

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**Reference No.:** 12/02767/FUL Full Application

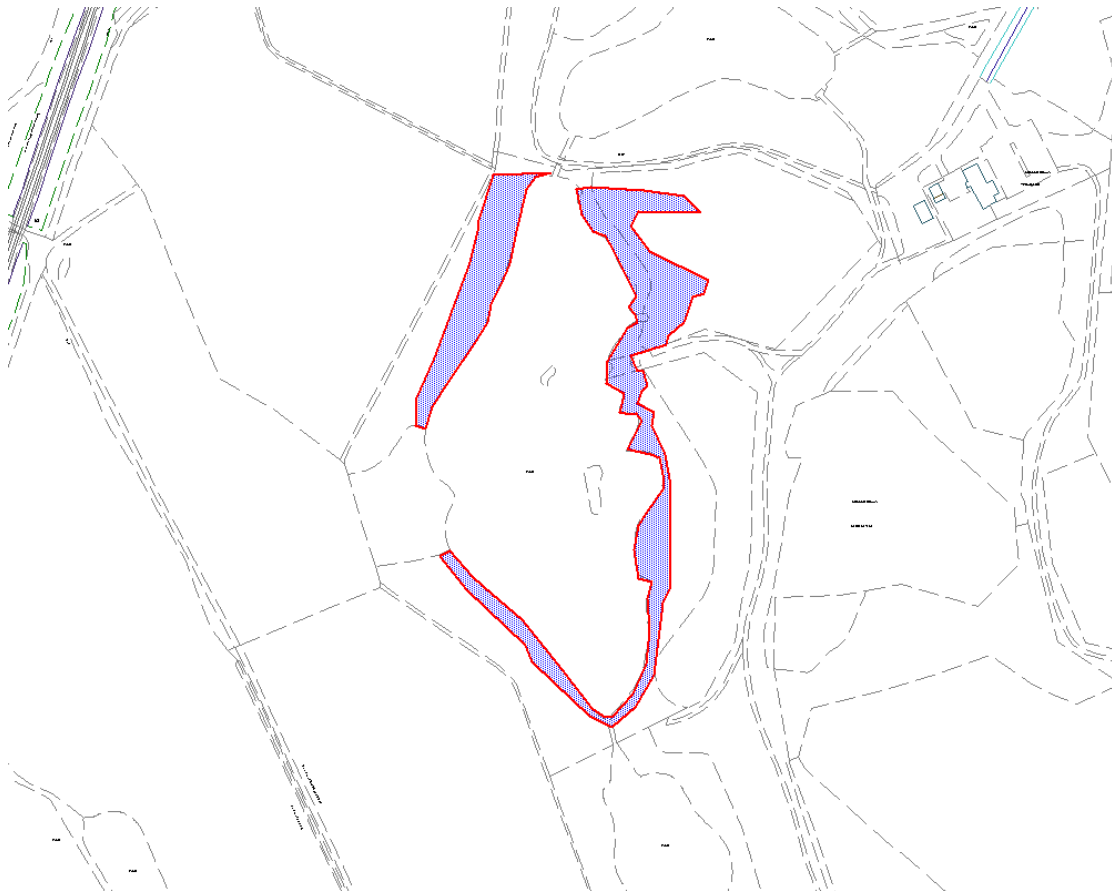
**Proposal:** **Re-profile surround to the existing pond, creating a wetland margin for insect and bird habitats. Surplus material will be utilised to create two islands for predator free nesting.**

**Location:** Rainton Meadows Nature Reserve Chilton Moor Houghton  
le Spring DH4 6PU

**Ward:** Hetton  
**Applicant:** Durham Wildlife Trust  
**Date Valid:** 8 October 2012  
**Target Date:** 7 January 2013

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### Location Plan



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### PROPOSAL:

This application seeks approval for various earthworks at Rainton Meadows Nature Reserve to re-profile the surround to an existing pond, create a wetland margin for insect and bird habitats. The surplus material would then be utilised to



create two islands to allow for predator free nesting. The application is made by Durham Wildlife Trust and is entitled Project Redshank.

The nature reserve which occupies a site of 71 hectares was developed as a result of the restoration of the former Rye Hill Opencast coal mine by UK Coal Ltd in partnership with Durham Wildlife Trust and the City Council. The restoration works were completed in 1996 and the site has been managed by Durham Wildlife Trust as a nature reserve since 1997.

Information submitted with the application suggests that the reserve is still in the early stages of development and that much of the activity presently focuses on enhancing existing habitats. It is indicated that re-profiling of the pond margins will diversify marginal habitats so as to attract waders and the construction of the new islands would allow disturbance free breeding sites for wildfowl. Rainton Meadows is the largest area of open water that wading birds fly over on their Spring and Autumn passage between the coast and the uplands of County Durham. By creating large areas of wet grassland, the aim is to attract greater numbers of snipe and curlew on passage and to provide a potential breeding habitat.

Following works to the ponds in 2010, the subsequent creation of a small, muddy habitat at the margins of the pond attracted an unanticipated variety and number of waders, including little ringed plovers, lapwing, temmink's stint, redshank and curlew. Redshank were seen on thin strips of muddy margins during 2011 and the aim of these works is to encourage widening the habitat to allow for a potential increased number and variety of waders to use the site. The habitat is also designed so as to be ideal for invertebrates and insects such as the black tailed skimmer and emperor dragonfly whose range has expanded northwards in recent times and would benefit from increased habitat whilst in turn providing food for fish, amphibians and birds.

The works would also allow for the creation of two islands aimed at providing predator free nesting for a wide range of wetland birds including lapwing, common tern and grebes and also laying up sites for otter.

Pathways associated with the pond would also be renovated as part of the proposed works and the aim of the proposal is to allow for the local community to have better access and awareness of the site. Improving the pathways on the site is also aimed at encouraging the public to stick to the paths and provide opportunities for visitors to view waders without disturbing them.

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

Press Notice Advertised  
Site Notice Posted

#### **CONSULTEES:**

City Services - Network Management  
Hetton Town Council  
Environment Agency  
Natural England

Durham Bat Group  
The Coal Authority  
Street Scene (Environmental Service)  
The Coal Authority

Final Date for Receipt of Representations: **18.12.2012**

## **REPRESENTATIONS:**

### Neighbours

Due to the remoteness of the application site from any residential or commercial property, the publicity in connection with this application has been conducted by way of a site notice and a press notice displayed in the Sunderland Echo.

No representations have been received as a result of these notices.

### Consultees

The Environment Agency has advised that it has no objection to the proposal as submitted.

The Coal Authority has advised that the applicant has obtained appropriate and up to date coal mining information for the proposed development site and has used this information to inform a coal mining risk assessment which accompanies the planning application. The coal mining risk assessment report correctly identifies that the application site has been subject to past coal mining activity. Having considered the application, The Coal Authority considers that the content and conclusions of the coal mining risk assessment report are sufficient for the purposes of the planning system and meets the requirements of the National Planning Policy Framework in demonstrating that the application site is, or can be made, safe and stable for the proposed development. The Coal Authority therefore has no objection to the proposed development.

Natural England offered no specific comments or observations in response to consultation.

The Executive Director of City Services (Network Management) has raised no observations or recommendations in connection with the application.

The Executive Director of City Services (Environmental Health) has been consulted in connection with the application and has offered no comments.

## **POLICIES:**

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

B\_2\_Scale, massing layout and setting of new developments  
B\_3\_Protection of public/ private open space (urban green space)  
CN\_18\_Promotion of nature conservation (general)  
CN\_21\_Developments affecting designated / proposed LNR's, SNCI's or RIGS

CN\_22\_Developments affecting protected wildlife species and habitats  
CN\_23\_Measures to conserve/ improve wildlife corridors  
EN\_14\_Development on unstable or contaminated land or land at risk from landfill/mine gas  
HA\_10\_Proposals for new leisure and recreation  
HA\_21\_Proposed designation of Local Nature Reserves  
L\_1\_General provision of recreational and leisure facilities

## **COMMENTS:**

The main issues to be considered in determining this application are:-

- 1) Principle of development
- 2) Impact of the proposed development upon ecology and wildlife
- 3) Impact of the proposed development upon the visual appearance of the application site
- 4) Ground conditions

- 1) Principle of the Development.

As of 27 March 2012, the National Planning Policy Framework (NPPF) became a material consideration in the determination of planning applications and superseded a large number of previous planning policy guidance notes and statements. Paragraph 11 of the NPPF states that planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 expands upon this and advises that the NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved.

The area proposed for development is within the boundary of Durham Wildlife Trust. The entire site occupies an area identified on the Unitary Development Plan (UDP) Proposals Map as Open Space subject to the requirements of Policy B3 and Policy L1 of the adopted UDP.

Policy B3 of the adopted UDP requires that public and private open space will be protected from development which would have a serious adverse effect on its amenity, recreational or nature conservation values; proposals will be considered in the light of their contribution to urban regeneration and to the importance of such to the established character of the area.

Policy L1 of the adopted UDP requires that in the provision of recreation and leisure facilities the City Council will seek to:

- Improve and extend opportunities for public enjoyment of the countryside (both urban fringe and rural) and its wildlife;
- Promote dual use of educational and community facilities;
- Retain existing parks and recreation grounds and maintain and upgrade the facilities in line with modern requirements and nature conservation considerations.

In addition, policy HA10.3 identifies the site as one to be made available for the purposes of leisure, recreation and visitor facilities, whilst policy HA21.2 identifies the site as a local nature reserve.

The proposed development aims to improve the nature reserve site and is considered to be in accordance with the requirements of the UDP policies set out above, allowing the continued and enhanced use of the site for its allocated purposes.

Furthermore it is not considered that the proposed development is contrary to any of the policies or guidance set out in the National Planning Policy Framework.

## 2) Impact of the proposed development upon ecology and wildlife

The site is identified as a Site of Nature Conservation Importance within the Unitary Development Plan (Appendix A9 - Site 45). As such, UDP policy CN21 is applicable and states that development which adversely affects such sites will not normally be permitted.

Additionally, UDP policy CN18 seeks to ensure the promotion of the interests of nature conservation throughout the City with areas of nature conservation interest being protected and enhanced. Measures identified to achieve this goal include encouraging landowners to adopt management regimes sympathetic to nature conservation, especially in wildlife corridors, making provision in development proposals for the preservation of habitats or creation of compensatory habitats and seeking opportunities in new development proposals or other schemes for new habitat creation.

Policy CN22 states that development which would adversely affect any animal or plant species afforded special protection by law, or its habitat either directly or indirectly, will not be permitted unless mitigating action is achievable through the use of planning conditions and, the overall effect will not be detrimental to the species and the overall biodiversity of the City.

Furthermore, policy CN23 identifies a number of wildlife corridors as illustrated on the proposals map, wherein measures will be taken to conserve and improve the environment through use of suitable designs to overcome any potential user conflicts, whilst development which would adversely affect the continuity of corridors will normally be refused. Where on balance, development is acceptable because of wider plan objectives, appropriate habitat creation measures will be required to minimise its detrimental impact.

The proposed earthworks have been designed by Durham Wildlife Trust in order to enhance the environment for wading birds in particular and are considered to be of benefit to the ecology of the site.

An extended phase one habitat survey accompanies the application. The conclusion of this report is that six types of habitat were recorded during a site walk over. The main site area is dominated by areas of semi-improved grassland and open water, with areas of plantation woodland and swamp. Managed as a nature reserve, the site is an important wildlife habitat especially because of its proximity to urban environments.

In respect of protected species, the survey identifies implications for progress to any works that might be carried out on site as including the timing of works in respect of trees, grassland and wetland fringes, which should be undertaken during winter months (September to March) in advance of breeding bird activity. The report identifies no risk to bats due to the lack of potential for roosting or hibernacula on the site.

Given that the applicant is Durham Wildlife Trust who is concerned with the conservation and enhancement of Wildlife and their habitat, it is not considered likely that any problematic issues will arise in respect of ecology and wildlife.

For these reasons, and given the lack of adverse comments in response to consultation with Natural England and Durham Bat Group, it is considered that the proposal accords satisfactorily with UDP policies CN18, CN21, CN22 and CN23 as set out above.

### 3) Impact of the proposed development upon the visual appearance of the application site

Policy B2 of the UDP dictates that the scale, massing, setting and layout of new developments should respect and enhance the best qualities of nearby properties and the locality and retain acceptable levels of privacy.

The proposed development site is a nature reserve which is remote from residential areas and which is largely screened from the surrounding area by its topography and remoteness.

It is not considered that the groundworks proposed will have significant impact upon the overall appearance or character of the nature reserve. The works proposed will have the effect of re-profiling the surround to the existing pond, creating a wetland margin for insect and bird habitats, with the surplus material to be utilised to create two islands for predator free nesting.

It is not considered that the proposal would impact unacceptably upon the visual appearance of the application site and therefore, it is considered to accord with policy B2 of the UDP.

### 4) Ground conditions

UDP policy EN14 dictates that where development is proposed on land which 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. Where the degree of contamination would allow development subject to preventative, remedial or precautionary measures within the control of the applicant, planning permission will be granted subject to conditions specifying the measures to be carried out.

The proposed development site is situated on an area previously used for Opencast Mining and as such a coal mining report and coal mining risk assessment was submitted to support the application for development.

The Coal Authority has been consulted in connection with the proposed development and has confirmed that they have no objection to it and do not require any specific mitigation measures to address coal mining legacy issues.

The Environment Agency has been consulted regarding the proposed development and raised no objection to the application.

For these reasons, the proposed development is considered to accord satisfactorily with UDP policy EN14 as set out.

#### Conclusion

The proposed development is considered to enhance the ecological habitat within the application site. Furthermore the proposals are considered to enhance the nature reserve in terms of its educational and leisure facilities and as such the proposed development is considered to be acceptable and in accordance with Council policy.

The period for the receipt of representations does not expire until 18 December 2012, which is after the deadline for the preparation of this report. Accordingly the recommendation is that Members approve the application subject to no representations being received and subject to the conditions below. If any representations are received prior to the Sub-Committee meeting these will be reported to the Sub-Committee and the recommendation may be reappraised if necessary.

#### **RECOMMENDATION: Approve**

#### **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 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:

The Location Plan - Drawing Number 8712001.Land.001, received 8 October 2012;

The Existing Conditions - Drawing Number 8712001.Land.002, received 8 October 2012;

The Proposed Layout - Drawing Number 8712001.Land.003, received 8 October 2012 and

The Existing and Proposed Cross Sections - Drawing Number 8712001.Land.004, received 8 October 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.