

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.: 21/01383/MW4 Minerals and Waste (Reg 4)

Proposal: **Construction and operation of a waste management facility to process waste tyres to produce synthetic hydrocarbons and carbon black together with ancillary buildings, plant and machinery.**

Location: Former Sunderland Oil Storage (Mobil Oil Company), Hudson Dock East Side, Barrack Street, Sunderland, SR1 2BU

Ward: Hendon
Applicant: WasteFront AS
Date Valid: 24 June 2021
Target Date: 24 September 2021

Full planning permission is sought for the construction and operation of a waste management facility to process waste tyres to produce synthetic hydrocarbons and carbon black, together with ancillary buildings, plant and machinery at site of former Sunderland Oil Storage, Hudson Dock East Side, Port of Sunderland, Barrack Street, Sunderland.

The proposed development affects land to the east side of Hudson Dock in the Port of Sunderland, a Council-owned operational Port covering approximately 106 hectares of land to the south of the mouth of the River Wear. The Port features two docks (Hudson Dock and Hendon Dock) which together provide 17 berths available for unloading and loading of ships as well as storage and other facilities. Vehicular access into the Port is taken from Barrack Street at its north-west corner. The entire operational area of the Port is set below the adjacent land, which at the northern end of the Port is residential in nature, with dwellings facing the Port's land from the south-west side of Barrack Street.

The application site at Hudson Dock is of an irregular shape and covers an area of approximately 4.5 hectares. It is bounded by Hudson Dock to the west, the Tradebe Solvents facility to the south and a dock service road to the north, with undeveloped land and the sea further to the east. The main Port access road bisects the western side of the site and separates the main development area (on the road's east side) from Sheers Quay on Hudson Dock (on the road's west side). The application site is mainly previously developed industrial land and until around 2012, it was occupied by storage tanks, pipework, buildings and paved roadways associated with the site's use by Sunderland Oil Storage Ltd. The site has since been cleared of nearly all buildings and is hard surfaced throughout.

Just to the north of the application site are the Grade II Listed swing bridge and machinery pit for the former sea lock gates at the east side of Hudson Dock. Both date from c. 1880.

Planning permission is being sought to for the establishment of a waste management facility for the treatment of waste tyres to recover saleable products in the form of steel, recovered carbon black (rCB) and liquid hydrocarbons (in the form of synthetic fuels). The proposed facility would comprise the following main elements:

- o Buildings for the storage, processing and treatment of waste tyres;

- o Administration building;
- o Tank farm for the storage of liquids from the process;
- o Storage tanks for chemicals and water used in the process (and firewater);
- o Distillation plant;
- o Ancillary plant and equipment associated with power generation and control of emissions to air;
- o Area for the loading of boats and road tankers;

The main buildings within the proposed development occupy the northern part of the site and can be described as follows:

Tyre storage building - open-fronted roughly 'T'-shaped building where feedstock imported to the facility is stored, measuring 60 metres x 10.5 metres and with a height of 6 - 7 metres.

Tyre shredding building - steel portal frame building to house the processing equipment to prepare waste tyres into a suitable form for further treatment, measuring 53 metres x 48 metres and a height of 10 metres to eaves level and 14 metres to ridge level.

Process building - measuring 109 metres in length x 58 metres in width. The lower part of the building (height of 14 metres) will house the pyrolysis area, with the higher part (height of 19 metres) will house the rCB process and storage area. This building will also be of a standard steel portal frame design, with lower parts of the walls constructed from concrete.

Office/laboratory/workshop building - measuring 27 metres x 15 metres and three storeys with a height of 9.5 metres. The building is anticipated to be of a modular design.

In addition to the above, the southern part of the site will house:

2 no. bunker oil (fuel oil) storage tanks - with a 12 metre diameter and capacity of 2000m³, within one enclosure.

2 no. storage tanks for Naptha and Heavy Distillate - with a 10 metre diameter and capacity of 1,200m³ within a second enclosure.

5 no. storage tanks with a diameter of 5.4 metres and a capacity of 200m³ in a third enclosure.

To the north of these tanks will be a power generation building, a 30 metres high flue stack and associated scrubber, a thermal oxidiser and associated pipework and several storage tanks for fuel gas and oil. To the east of the tanks is the distillation plant, which includes five small tanks within a bunded enclosure and three distillation towers. A 12 metres high hidden flame flare will also be erected.

In addition to the above, other infrastructure will include access from the dock service road at the north of the site, roads and paths within the application site, 12 no. dedicated car parking spaces adjacent to the administration building (including 2 no. electric vehicle charging points) and additional overflow parking space and external lighting. Security measures will include 2.4 metres high palisade fencing with guard wire to the site perimeter, a CCTV camera system and a '24/7' presence on site, conducting patrols and monitoring the CCTV.

Site preparation and construction works are anticipated to take approximately 18 months.

The process proposed at the establishment involves the use of pyrolytic reactors, utilising a form of thermal decomposition known as 'pyrolysis' to break down a tyre's materials at elevated

temperatures. The process produces a combustible gas, in addition to liquid hydrocarbons, carbon black, water and heat. The gas is then circled back in to fuel the thermal treatment process and site generators, and the liquid hydrocarbons undergo a refining process as a means of improving the quality of the product. The carbon black is then washed and milled to upgrade the chemical properties and can be used as a complement to natural rubber in tyre production, mechanical rubber goods or as a filler for plastics.

The facility is intended to be capable of treating approximately 73,000 tonnes of tyre waste per year and would produce up to around 24,000 tonnes per annum of recovered carbon black and up to 30,000 tonnes per annum of liquid products. The plant is designed to be flexible regarding the composition of the tyres received, in relation to the proportion of feedstock coming from car tyres versus truck and off-road vehicle tyres).

Tyres are received in bales and after any storage are shredded into 'chips' measuring 20mm x 20mm. The shredded tyres are then fed into the pyrolysis system, which breaks down the rubber thermally at 420°C, producing a hydrocarbon vapour and a 'char' containing carbon black, inorganic fillers, residual steel and amorphous carbon. Vapours produced during pyrolysis are condensed and separated into liquid and gas fractions, with the liquid sent to the distillation plant for separation into marketable products and the gas fraction 'scrubbed' to remove hydrogen sulphide.

The char is then cooled and 'milled' to liberate the recovered carbon black particles. The milled char is pelletised, with the pellets then dried and bagged. Any steel within the tyres is removed during the shredding stage or the pyrolysis stage.

The scrubbed gas is available for use within the process, for example to power driers, as pyrolysis fuel and as fuel for a regenerative thermal oxidiser.

Liquid from the pyrolysis will be distilled into four separate fractions - naphtha, light distillate, heavy distillate and fuel oil. The liquid products from distillation are transferred via pipework to storage tanks and from there are shipped from the site by road or boat, although the light distillate is to be used internally as fuel to produce power using low speed diesel engine generators. Exhaust gases from these engines together with exhaust gases from pyrolysis and rCB driers would pass to the gas treatment plant for cooling and then fed to the regenerative thermal oxidiser.

In terms of operating arrangements, it is anticipated that 21-24 heavy goods vehicle trips (total of 42-48 'in and out' movements) will take place each day, in the form of waste material imports (13-14 trips per day), the delivery/export of process chemicals, the export of carbon black and the export of fuel. Waste deliveries are intended to take place between 07:00 and 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays. Deliveries of waste material would be spread throughout the day. Other vehicle movements could take place outside of these hours, albeit at a very infrequent rate. All HGV movements would operate via the main Port entrance onto Barrack Street/High Street East.

The applicant's agent has confirmed that the traffic numbers set out above are a 'worst case' scenario as the developer is actively pursuing transporting materials as far as possible by ship. As such, in reality the road vehicle numbers are likely to be lower than those submitted, but this cannot be confirmed until final contracts are in place. In particular, end products are highly likely to leave the site by ship, so substantially limiting road vehicle movements. It is also hoped to import some or all feedstock by boat, although this aspect is less certain.

During the operational phase, the facility would provide up to 70 no. full-time equivalent posts, with shift crews of up to 15 staff and 10 administrative staff. Indirect employment would also be supported through drivers, engineering/maintenance, cleaning and catering, for example.

The submission advises that the proposed facility is designed to have a working lifespan of approximately 30 years, after which the site would be decommissioned and cleared.

The application has been submitted by WasteFront AS, a company founded in Oslo, Norway in 2019 which specialises in rubber waste recycling by turning waste rubber into useful commodities. The company aims to reduce the negative environmental impact associated with end-of-life tyre waste, whilst delivering an economically attractive solution to strategic partners.

The planning application has been accompanied by a detailed Planning Statement, which provides background information to the development, including a description of the application site, the development and processes involved in operations and consideration of local and national planning policies. The Statement then provides a series of environmental assessments, covering:

- o Air quality;
- o Ecology;
- o Landscape and visual impact;
- o Noise and vibration;
- o Transport;
- o Water environment;

The application has also been accompanied by:

- o Preliminary Contamination and Mining Risk Assessment,
- o Noise Report,
- o Flood Risk Assessment and Sustainable Drainage Strategy,
- o Archaeological Report and Heritage Statement,
- o Habitats Regulations Assessment

Members should note that the Council has given consideration as to whether the proposals would have a significant enough effect on the environment to warrant the preparation and submission of an Environmental Impact Assessment (EIA). Having considered the characteristics and potential environmental impacts of the development against the criteria set out in the Schedules to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, officers are of the view that the development is not 'EIA' development within the meaning of the Regulations and so the preparation of an EIA is not required.

It should also be noted that the applicant has submitted a separate application for Hazardous Substances Consent (21/01686/HAZ) in relation to the proposed facility, given the potentially hazardous nature of some of the substances involved in, and derived from, the processes to be undertaken at the plant. This application is currently pending consideration subject to the conclusion of consultation with the Health and Safety Executive and the Environment Agency.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Tyne And Wear Archaeology Officer
Flood And Coastal Group Engineer
Environmental Health
Hendon - Ward Councillor Consultation
Environmental Health
Land Contamination
Environment Agency
Planning Policy
Network Management
Flood And Coastal Group Engineer
Northumbrian Water
Natural England
Fire Prevention Officer
North Gas Networks
Wear Rivers Trust
Marine Management Organisation

Final Date for Receipt of Representations: **04.01.2022**

REPRESENTATIONS:

Public consultation - letters sent to 50 no. addresses in area and application also advertised via press notice and site notices. One anonymous representation was received, which simply states: 'THIS SHOULD NOT BE ALLOWED. EAST END SUFFERS ENOUGH OF DUST! SMELLS! AND AIR POLLUTION! NO. NO. NO.'

Natural England - initially advised that further information, in the form of a formal Habitats Regulations Assessment (HRA), including an Appropriate Assessment, was required to determine impacts on European/International designated sites proximate to the application site, namely the Durham Coast Special Area of Conservation, the Northumbria Coast Special Protection Area and Ramsar site and the Durham Coast Site of Special Scientific Interest.

A HRA was subsequently submitted by the applicant and reviewed by Natural England, who confirmed that there was now no objection to the development, subject to appropriate mitigation being secured. Natural England concur with the HRA report's conclusion that the aforementioned designated sites are not likely to be adversely affected by the proposed works, taking into account the proposed mitigation measures, which should be appropriately secured by the Council as Local Planning Authority through any planning permission given.

The Council is referred to Natural England's standing advice in relation to other potential impacts on protected species and habitats.

Environment Agency - advise that the proposed development will be acceptable if recommended measures are implemented and secured by planning conditions attached to any planning approval. Two conditions have been requested:

Condition 1 - scheme required to treat construction run-off and minimise mobilisation of hazardous substances;

Condition 2 - submission of scheme to dispose of foul drainage;

In addition to the above, the Environment Agency has provided advice to the applicant in relation to water quality permit requirements, the discharge of trade effluent, requirements for a water resources and abstraction licence, requirements for an Environmental Permit and the storage of materials/chemicals/oil likely to cause pollution, and advice to the LPA on flood risk.

The applicant has confirmed that an application for a Environmental Permit has been made to the Environment Agency; this is currently under consideration by the EA's Permitting team. The applicant has also utilised the EA's enhanced pre-application advice service, including meetings with the officer likely to be responsible for the site. It is understood there are no reservations in respect of the proposed facility.

Health and Safety Executive - a statutory consultee for certain developments within the Consultation Zones of major hazard sites and major accident hazard pipelines, including developments which are otherwise likely to result in a material increase in the number of persons working within or visiting the notified area or which have more than 750 sq. metres of floorspace to be used for an industrial process.

The HSE initially 'advised against' the Council granting planning permission for the proposed development, on the basis that the application site is subject to an extant Hazardous Substances Consent, dating from 1999 and relating to its former use by Sunderland Oil Storage Ltd. To this end, the HSE confirmed that despite the site being cleared of all previous development and Sunderland Oil Storage Ltd no longer having an interest in the site, their Hazardous Substances Consent has not been extinguished.

The current planning application therefore has to be treated as being within the Consultation Zone of the Sunderland Oil Storage site; it is, in fact, within the 'Development Proximity Zone'. Consequently, the HSE's 'advise against' recommendation for the proposed development would stand until Sunderland Oil Storage's extant Hazardous Substances Consent has been formally revoked.

The Council, in its capacity as Hazardous Substances Authority, is currently in the process of revoking the 1999 Hazardous Substances Consent. Revocation of the consent will ultimately require confirmation by the Secretary of State, although given the current condition of the site, Sunderland Oil Storage Ltd. no longer having an interest in the site and the new proposals to develop the site, it is anticipated that the outcome of the process to revoke the extant Consent will be successful.

The HSE has advised that in circumstances such as this, i.e. where an extant Hazardous Substances Consent is in the process of being formally revoked, it can agree to withdraw the 'advise against' position if a suitably worded condition can be included in the planning permission. A suggested condition has been provided by the HSE, which would effectively require that no part of the development is occupied until the extant Hazardous Substances Consent at the site has been revoked.

Tyne and Wear County Archaeologist - notes that the archaeological desk-based assessment submitted with the planning application identifies that the proposed development area has archaeological potential. In particular, there is potential for 19th century remains associated with the Engine House and Boiler House, the Laing Warehouse, the South Dock railway system, a boiler and other industrial buildings and structures. Archaeological monitoring in the form of a watching brief will be required during groundworks and it is advised that this can be secured by appropriately-worded conditions.

Tyne and Wear Fire and Rescue Service - no objections to the development.

Northern Gas Networks - no objections to the development, provides information on apparatus in the area.

Northumbrian Water - no objections to the development, advise that the applicant may require a trade effluent application for the disposal of wastewater.

Council's Planning Policy team - consider the proposed development to be appropriate at the Port of Sunderland, given that policy SS5 of the Council's Core Strategy and Development Plan supports industrial uses such as that proposed. It is also understood that the establishment intends to export goods by boat, which further supports the proposed location of the development. The proposal is also considered to comply with Core Strategy policies relating to the location of waste facilities given that the policy directs such facilities to employment land (excluding 'Primary Employment Land').

The principle of the proposed development is therefore considered to be acceptable and additional advice is provided in relation to the Core Strategy's policies relative to archaeology, ecology, flood risk, amenity, design and transport.

Council's Ecology consultant - satisfied that based on the habitat conditions set out in the planning submission, a proportionate and appropriate ecological impact assessment has been carried out. It is noted that the application site is currently bare ground and hardstanding and so is of very limited ecological value, with limited potential for protected and notable species to occur. The value of the site can, however, be improved through habitat creation and enhancement measures and it is recommended that a condition be imposed requiring the submission and approval of a Habitat Enhancement Scheme. The agreement of a suitable scheme would ensure that net gains in biodiversity are delivered at the site. A further condition relating to the timing of works, to ensure nesting birds will not be affected, is also recommended.

In relation to nearby European designated sites, the Council's consultant initially advised that the submitted Habitats Regulations Assessment required updating to provide more information on lighting, air quality and the presence and potential disturbance of non-breeding bird species. These updates and revisions have been incorporated into the HRA and the Council's consultant has confirmed that the HRA is now acceptable in demonstrating that the proposed scheme will not result in adverse effects on the integrity of the designated sites. The Council's consultant advises that planning permission can be granted, subject to conditions requiring the approval of a Construction Environmental Plan and the aforementioned condition relating to the approval of a Habitat Enhancement Scheme.

The Council's consultant has, on behalf of the Authority, provided a formal record of Appropriate Assessment which effectively endorses the Habitats Regulations Assessment and proposed mitigation measures submitted by the applicant.

Council's Built Heritage team - initially advised that a more detailed Heritage Statement was required with the planning application. This was subsequently submitted and reviewed by the Built Heritage officer, who has advised that it properly describes the heritage significance of the assets affected by the proposed development (most specifically the Grade II Listed swing bridge and machinery pit) and adequately considers the development's impact on their setting.

Whilst the Heritage Statement identifies 'less than substantial harm' to the significance of the swing bridge, the Council's Built Heritage officer concludes that harm will, in fact, be negligible, on the basis that the proposed development is reasonably typical in form and scale of the large

dock structures which have historically been found at the Port. It is not unusual for the setting of the swing bridge to be experienced in the context of large industrial structures such as those proposed; indeed, the historic mapping within the Heritage Statement shows that such buildings and structures were in the swing bridge's immediate vicinity during the latter half of the 20th century.

Given the above, the Built Heritage team concludes that the heritage impacts of the development will be negligible and will not result in any harm to the significance of the swing bridge and machinery pit.

Council's Flood and Coastal team, in capacity as Lead Local Flood Authority - initially advised that further details were required before the development could be considered acceptable from a flood risk and sustainable drainage perspective. The applicant subsequently provided a more robust sustainable drainage strategy for the proposed development. The strategy is, however, underpinned by the development only being intended to last for 30 years, as it is only designed to provide sufficient attenuation to account for increases in rainfall caused by climate change over that period (i.e. a 20% allowance rather than the usual 40%).

The LLFA officer has confirmed that the proposed drainage strategy is acceptable on the basis that a planning condition be used to limit the lifespan of the development to no longer than the year 2060.

Council's Environmental Health team - initial comments advised that the submitted documentation had been reviewed and it is considered that the proposal is acceptable in principle, subject to some further information being provided in relation to specific matters. In particular, it was requested that an amended Odour Assessment be provided, which should include further information on ventilation for the tyre-shredding building, storage arrangements for liquid products, how final products will be transferred to transport vehicles and clarification of emissions from scrubbing equipment and the flare stack.

Further information was provided by the applicant in relation to emission sources, abatement techniques to be adopted and pathways to sensitive receptors. This has been reviewed and is considered to be broadly acceptable, however the Council's Environmental Health team did ask for further clarification on the purpose of the scrubber and flare stack, the nature of any emissions from these points, and the operation of the regenerative thermal oxidiser (RTO). In response, the applicant has confirmed that the scrubber is integral to the clean-up of gases, with emissions assessed and modelled in accordance with the Environment Agency's requirements. The flare stack is an emergency-only feature designed to deal with a condition where the site's gas storage is full and is expected to operate for substantially less than 5% of the time. The RTO, meanwhile, will operate continuously and manage captured process gases from the plant, controlling odour release as one aspect of its function. The Council's Environmental Health team has confirmed that the submitted details are acceptable and address the previous queries made.

In respect of noise, the submission is considered to demonstrate that a comparison of predicted noise levels with existing background noise values indicate that at all sensitive receptors, noise from the proposed development will fall below the existing background, in some cases by a significant margin. A condition requiring the submission and approval of a noise assessment prior to the installation of any fixed external mechanical plant is, however, recommended.

In respect of air quality, the submission is considered to demonstrate that effects at human receptors will be negligible, when measured against Environment Agency guidance, based on a

worst-case scenario of the plant operating at maximum capacity for 24-hours per-day, 365 days per-year.

In relation to all of the above matters, the Council's Environmental Health team do note that the proposed operation of the facility will also be subject to the stringent controls of the Environment Agency's permitting regime.

A condition relating to the submission and approval of a Construction Environmental Management Plan has also been recommended.

Council's Land Contamination consultant - notes that the submitted Contamination and Mining Risk Assessment (Phase 1) report concludes that there are significant contamination issues and geotechnical considerations at the site. The report recommends that intrusive investigations for both environmental and geotechnical purposes are undertaken.

The Council's consultant is in broad agreement with the findings of the Phase 1 report and makes a series of recommendations to be incorporated into the ground investigation planning and included within the subsequent Phase 2 (intrusive investigations) report for the site. Recommendations made relate to ensuring the Phase 2 report conforms to British Standards, chemical testing, site stability, ground gas, key contaminants, consultation with the Council's Environmental Health and Building Control teams in relation to site history and risks around unexploded ordnance.

Council's Highways team - notes that the submitted Planning Statement advises that locating the development at the Port means that there is the potential for products to be exported to markets by boat, thus reducing anticipated HGV movements. However, based on the anticipated maximum levels of HGV movements as set out by the application, it is accepted that traffic associated with the development will be relatively light and will utilise the main highway network serving the Port, i.e. the A1018 and the B1293 High Street East. Drivers will be asked to avoid other, more residential routes.

Parking levels within the development are considered to be broadly acceptable, although some clarification that this will be able to accommodate the maximum number of staff and visitors on site at any one time is sought. Clarification on any cycle parking facilities within the development is also requested, as is the submission and approval of a Travel Plan and a Construction Environmental Management Plan.

Overall, there are no objections to the proposed development, on the basis that the additional traffic borne by the scheme is likely to increase the total daily traffic volume on the A1018 by less than 1%, which is minimal and considered satisfactory.

POLICIES:

In the CSDP the site is subject to the following policies: SP5, SS5, HS1, HS2, HS3, HS4, BH1, BH8, BH9, WWE2, WWE3, WWE4, WWE5, WWE6, WWE7, ST2 and ST3.

COMMENTS:

ISSUES TO CONSIDER

By virtue of section 38(6) of the Planning and Compulsory Purchase Act, 2004, the starting point for consideration of any planning application is the saved policies of the development plan.

A planning application must be determined in accordance with the development plan unless material considerations indicate otherwise.

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 (a draft A&D Plan has recently been subject to a public consultation exercise, ended 12th February 2021). All CSDP, UDP and draft A&D Plan policies referred to within this report are considered to be consistent with the NPPF, although limited weight can be given to any A&D Plan policies given that this document is in draft form and at an early stage in the adoption process.

A wide range of CSDP policies are relevant to the consideration of the proposed development, in particular policies SP5, SS5, HS1, HS2, HS3, HS4, BH1, BH8, BH9, WWE2, WWE3, WWE4, WWE5, WWE6, WWE7, ST2 and ST3.

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

- Build a strong, competitive economy (section 6);
- Promote 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).

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

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

1. Land use considerations, including compatibility with policies relating to waste;
2. The implications of the development in respect of residential amenity;
3. The implications of the development in respect of design and visual amenity and landscape;
4. The impact of the development in respect of highway and pedestrian safety;
5. The impact of the development in respect of ecology and biodiversity;
6. The impact of the development in respect of built heritage and archaeology;
7. The impact of the development in respect of flooding, drainage and water quality;
8. The impact of the development in respect of ground conditions;
9. Implications of the development relative to hazardous installations;

1. Land use considerations

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

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

Members should note at this point that following a recent amendment to the Town and Country Planning (Use Classes) Order (as amended) 1987, use class B1 (offices and light industry) of the Order was subsumed into new use class E (commercial, business and service). Use classes B2 (general industry) and B8 (storage and distribution) were unaffected by the amendment to the Order.

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

On a national level, section 6 of the NPPF requires the planning system to support the building of a strong, competitive economy, with paragraph 81 advising that in making planning decisions, significant weight should be placed on the need to support economic growth and productivity, and paragraph 83 stating that planning decisions should recognise and address the specific locational requirements of different sectors. Section 11, meanwhile, requires the planning system to make effective use of land, including placing an emphasis on the use of brownfield (i.e. previously-developed) land and ensuring that policies and decisions recognise and reflect changes in the demand for land.

The proposed waste management facility for the treatment of waste tyres is considered to represent an industrial process which would fall into use class B2 of the Use Classes Order. This use class is listed as being acceptable at the Port by policy SS5 of the CSDP. The policy does seek to ensure that development at the Port is 'Port-related' and to this end, as set out earlier in this report, the developer is intending to utilise sea transport as a means of moving goods, especially end products. Clearly, a Port location is required to achieve and support this objective.

Given the above, it is considered that the development is appropriate at the Port, will relate satisfactorily to the other uses and development in existence at the Port and will not conflict with the adopted policies guiding the future development of the Port or the Council's objectives for the Port. The development will also see the re-use of a brownfield site. The proposed development is therefore considered to be acceptable in principle, taking into account the objectives of the NPPF and policies SP5 and SS5 of the CSDP.

Policy SS5 of the CSDP does, however, require consideration to be given to matters relating to flood risk and this is addressed later in this report.

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

1. managing waste through the waste hierarchy;
2. promoting opportunities for on-site management of waste;
3. ensuring that sufficient capacity is located within the City to accommodate forecast waste arisings of all types;
4. supporting delivery of the South Tyne and Wear Joint Municipal Waste Management Strategy;
5. facilitating the development of recycling facilities across the City;
6. facilitating the development of a network of small-scale local waste management facilities in accessible locations;
7. ensuring new waste developments are located and designed to avoid unacceptable adverse impacts on landscape, wildlife, heritage assets and amenity;
8. working collaboratively with neighbouring local authorities on waste management;

9. addressing to an acceptable standard the potential cumulative impacts of any waste development and the way it relates to existing developments;

Policy WWE7, meanwhile, advises that development for new build waste facilities should be focused on previously developed employment land (excluding Primary Employment Sites) and will be required to meet the following criteria:

1. demonstrate the need for the facility, if there is a clear conflict with Plan policies;
2. all waste processes and operations must be contained, processed and managed within buildings, unless operational reasons dictate otherwise;
3. proposals must accord with policies relating to environmental protection and amenity etc;
4. consideration will be given to the potential impacts of waste management proposals from:
 - i) harmful materials entering the public highways;
 - ii) generation of odours, litter, light, dust, flies, rodents, birds and other infestation;
 - iii) noise, excessive traffic and vibration;
 - iv) risk of serious fires;
 - v) harm to water quality and flood risk management;
 - vi) land instability;
 - vii) land use conflict; and
- viii) where necessary, mitigation measures should be identified to ameliorate any negative impacts to an acceptable level

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

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

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

The environmental criteria referenced by the NPPW are set out in Appendix B of the document and are as follows:

- a. protection of water quality and resources and flood risk management;
- b. land instability;
- c. landscape and visual impacts;

- d. nature conservation;
- e. conserving the historic environment;
- f. traffic and access;
- g. air emissions, including dust;
- h. odours;
- i. vermin and birds;
- j. noise, light and vibration;
- k. litter;
- l. potential land use conflict.

The Waste Management Plan for England, meanwhile, is an analysis of the current waste management situation in England. The Plan does not introduce new policies or change how waste is managed in England, rather its aim is to bring current waste management policies together under one national plan. Of particular interest in respect of the current planning application is the Waste Management Plan's intention to review and consult on measures such as extended producer responsibility for particular waste streams, including waste vehicle tyres, to determine where improvements to waste management of such products could be improved.

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

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

As noted earlier, the proposed development does not conflict with the policy relevant to the Port as set out within the CSDP (i.e. policy SS5). Furthermore, the Port is not identified as a 'Primary Employment Area' by the CSDP. Consequently, there is no conflict with the land use policies relevant to the Port and so in line with policy WWE7 and the NPPW, there is no need for the applicant to demonstrate a requirement for the facility. Nevertheless, as a means of providing background, the applicant has advised that over 48 million car tyres were sold in 2014. The Environment Agency's data for 2019 shows that over 563,000 tonnes of waste tyres were received at waste management facilities in England, with around 90,000 tonnes of this received at incinerators, 337,000 tonnes at treatment facilities and 129,000 tonnes at transfer sites. Over 261,000 tonnes were removed from waste management facilities destined overseas. As such, the applicant contends that there is a clear need for the facility.

In terms of the waste hierarchy, the nature of the waste to be accepted at the facility is such that the facility is the only suitable management option for the waste stream. The landfill of tyres in the UK is banned and options to recycle tyres are limited due to technical and financial difficulties. Recovering value from waste tyres, in the form of steel, rCB and hydrocarbons, is therefore considered to be the optimal solution at this time and moves the management of tyre waste away from landfill and disposal overseas. The proposed development is therefore considered to be compatible with the objectives of moving waste management further up the waste hierarchy.

In relation to the 'proximity principle', it is recognised that the proposed facility is designed to handle a specific waste stream rather than, for example, mixed municipal waste, which occurs more widely. With the volume of feedstock available and in order to realise economies of scale, facilities for processing waste tyres are likely to be regional to have a wider market area. In this

case, the desire to use water-borne transport for exporting products means that the proposed Port location is preferable and can help to minimise HGV movements and the double-handling of materials.

Policy WWE7 of the CSDP requires waste processes and operations to be contained within buildings and as set out earlier in this report, this is the case with the proposed development, with all aspects of the processes within the facility taking place within purpose-built buildings and structures.

With regard to the above comments, the proposed development of the facility at the Port is not considered to give rise to any conflicts with the relevant policies of the CSDP in relation to appropriate land uses at the Port or in relation to waste management and nor is the development considered to have any significant conflict with the broad objectives of the National Planning Policy for Waste in terms of Local Plan compliance and managing waste through the waste hierarchy.

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

2. Residential amenity implications

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

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

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

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

The advice of policies HS1 and HS2 broadly replicates that provided by paragraph 185 of the NPPF, with paragraph 188 also repeating the advice of the NPPW that the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate

pollution control regimes). Planning decisions should assume that these regimes will operate effectively.

Aforementioned policies WWE6 and WWE7 of the CSDP and the NPPW also require new waste management facilities to respect local amenity and the local environment.

As noted previously, the development site at Hudson Dock is located within the established confines of the Port and is relatively remote from residential properties. The nearest residential properties to the development site are the apartments within and adjacent to the former Boys' Orphanage at the junction of Moor Terrace and The Quadrant, approximately 500m to the west. There are other residential properties approximately 690m to the north-west (around The Quadrant, Prospect Row and Barrack Street) and 750m to the south-west (dwellings on the west side of Hendon Industrial Estate, off the A1018 Commercial Road). All of these residential properties and areas are located on land which stands substantially above the application site and wider Port demise. It is considered that the significant distances between the application site and nearby residential properties, the presence of intervening land uses and the differences in topography will ensure that the built development associated with the proposals will not result in harm to amenity by virtue of loss of outlook, overshadowing or loss of privacy.

Consideration must also be given to whether the proposed development will give rise to any unacceptable impacts in terms of other amenity impacts. To this end, the submission has provided detailed information and survey work in relation to noise, air quality, emissions and odours and this information has been reviewed by both the Environment Agency and the Council's Environmental Health officers.

In relation to noise, the submitted report notes that the site is within an established urban area, with the prevailing noise climate already subject to significant contributions from road traffic, noise from commercial and industrial uses and other local activity. Noise generated by the operation of the proposed facility would stem from the pyrolysis, process and storage area, the tyre shredding area, engine generators, pumps, the stack exhaust, the stack fan and wastewater treatment. The assessment results indicate that the predicted rating levels from the operation of the proposed development are below the background sound levels at all nearby sensitive receptors and as such, daytime and night-time operations are unlikely to lead to adverse impacts to local amenity. Consideration has also been given to noise from road traffic and the results indicate that development-related road traffic would lead to a 0.1dB(A) increase in sound levels, with an impact magnitude of 'negligible'. The report concludes that potential noise effects resulting from the proposed development will not be significant and no mitigation measures are considered necessary.

In respect of air quality, the submission has considered potential impacts on air quality arising from construction works and the operation of the facility. In relation to dust, the assessment concludes that there is a 'low risk' of dust soiling effects if there is no mitigation during construction works; the submission does, however, propose 'Construction Phase Dust Mitigation Measures', the adoption of which would reduce the effects level during construction works to 'not significant'.

In relation to odours, the potential of on-site operational sources is deemed to be small. Consideration has been given to receptor sensitivity in proximity to the site as well as separation distances and local meteorological conditions (particularly prevailing wind directions) and the likely odour effect at each receptor assessed was found to be 'negligible'. Effects from operational odours are therefore concluded to be 'not significant'.

In respect of emissions, potential impacts from flue gas exhaust emissions generated during operations has been modelled using the Atmospheric Dispersion Modelling System (ADMS), with consideration given to both human health and sensitive ecological designations. In relation to human health, there are no predicted exceedances of Air Quality Assessment Levels (AQALs) at the location of maximum ground level impact and so effects at human receptors are considered to be 'negligible'. In relation to ecological designations, impacts are considered insignificant in relation to Environment Agency guidance. Overall, effects arising from the flue gas exhaust emissions are considered to be 'not significant'. Consideration has also been given to emissions from road traffic, however volumes are below the relevant Environmental Protection UK/Institute of Air Quality Management screening criteria and as such, it can be concluded that road traffic impacts associated with the operation of the proposed facility at maximum capacity can be considered as having an insignificant effect on local air quality.

As set out in the 'Representations' section of this report, there are no objections to the proposals from the Environment Agency or the Council's Environmental Health team. The Environment Agency have simply requested that two conditions be imposed on any planning approval, relating to the submission of a scheme required to treat construction run-off and minimise mobilisation of hazardous substances and the submission of scheme to dispose of foul drainage. The EA also note the various requirements relating to permits, which the applicant will be required to obtain in addition to any planning permission. For clarity, the Environmental Permit would contain a number of conditions intended to regulate the day-to-day management of the site with the aim of minimising the effect of the operation on the environment. It will also contain conditions regulating site management and monitoring. As made clear by the NPPF and NPPW, the Council should consider the proposals on the basis that the EA's permitting regime and other environmental regulations will be effectively administered and enforced to ensure that the potential environmental effects of the development will be properly regulated and managed.

The Council's Environmental Health team, meanwhile, are satisfied with the information provided by the applicant in relation to noise, emissions, odours and air quality, with initial queries presented by the Environmental Health team satisfactorily addressed by the applicant. A condition requiring the submission and approval of a noise assessment prior to the installation of any fixed external mechanical plant is recommended, as is a condition requiring the submission and approval of a Construction Environmental Management Plan. Again, the Environmental Health team stress that the operation of the facility would be subject to the stringent controls imposed by the Environment Agency's permitting regime and other environmental regulations.

The application has been accompanied by detailed supporting information which enables a comprehensive review of matters relating to noise, odour, emissions and air quality. Taking into account the consultation responses from the Environment Agency and the Council's Environmental Health team, it is considered that the location of the site, particularly its remoteness from sensitive receptors, coupled with the nature of the proposed activities at the facility, which are not particularly noisy or odorous, will mean that the operation of the establishment will not result in unacceptable harm being caused to the local environment or amenity. The proposed facility will also be subject to the Environment Agency's permitting regime, which is designed to ensure that the effects of the operation of the facility on the local environment are minimised and that the establishment is monitored and managed to ensure proper regulation.

Given the above and subject to the conditions recommended by the Environment Agency and the Council's Environmental Health team, it is considered that the construction and operation of the proposed facility will not result in any unacceptable harm being caused to local amenity or

the local environment, in accordance with the requirements of policies BH1, HS1, HS2, WWE6 and WWE7 of the Council's adopted CSDP and the objectives of the NPPF and the NPPW.

3. Design and visual amenity/landscape considerations

Aforementioned policy BH1 of the CSDP and paragraph 130 of the NPPF all require new development to deliver high standards of design and visual amenity, with paragraph 130 stating that planning decisions should be visually attractive; be sympathetic to local character and history, including the surrounding built environment; and function well and add to the overall quality of the area. Paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by, amongst other measures, protecting and enhancing valued landscapes. Policies WWE6 and WWE7 of the CSDP and the NPPW also require proposals for new waste management facilities to respect visual amenity and the local landscape and visual environment.

Clearly, the design and appearance of the proposed buildings, structures and other apparatus associated with the development is governed by their particular function and to this end, it is recognised that all new built development will have a rather industrial, utilitarian appearance, as is the case with many of the existing buildings and structures present at the Port. Some of the buildings and structures proposed within the development are substantial in scale, with the tyre shredding building measuring 53m x 48m and the tyre pyrolysis building measuring 109m x 58m. A 30m high stack is also being proposed.

The application has been accompanied by a detailed Landscape and Visual Impact Assessment (LVIA), which considers the potential impacts of the development upon the prevailing landscape and in relation to public vantage points and views from other receptors, such as residential properties. Six viewpoints have been used to represent the range of views available around the application site from publicly accessible locations. These include views from:

- the England Coastal Path, which runs alongside Hendon Beach to the south of the Port and then to the west of the Port's demise;
- National Cycle Network Route 1, which partly runs along the north bank of the River Wear at St. Peter's;
- residential receptors with views towards the proposed development, including properties at The Quadrant, Barrack Street and to the north side of the River Wear at North Haven;
- the residential tower blocks within the City Centre;
- vehicle users on the local road network;

Residential receptors are most likely to be susceptible to change, as they are more likely to be focused on views of the landscape, with vehicles users less susceptible to visual change as they have intermittent, transitional views of the landscape.

The LVIA notes that the site is not within any national designations for valued landscapes and is relatively remote from designated walking and cycling routes. At a district level, the Council's Landscape Character Assessment identifies the site as being within the 'Limestone Coast' character type and Sunderland Harbour and Docks character area, which comprises extensive railway sidings, industrial areas and areas of derelict land.

The LVIA concludes that as a result of the topography of the locality and the surrounding industrial context, the proposed development would only result in localised minor landscape effects within the application site and immediate vicinity, and negligible level of landscape effects in areas beyond. In terms of topography, it is noted that the application site is at 4m AOD, compared to 15-16m AOD along the boundary with the former Town Moor railway to the

west, an arrangement which has an influence on the views available towards the site from the study area.

Users of the coastal footpath at Hendon Beach to the south would experience a minor/moderate level of visual change, with substantial screening of the development provided by the existing Tradebe Solvents facility immediately to the south of the site. Views from the coastal path and residential properties to the west are, due to topographical differences, largely over the top of the Port to the North Sea and views of the development will therefore be even more limited, with the top of the stack potentially visible during winter months when screening from intervening trees is limited. The development is effectively screened from residential receptors to the south-west by the existing Hendon industrial estate, whilst from the foot and cycle paths and residential receptors to the north bank of the River Wear, the development will be viewed in the context of the existing operational Port and will not substantively alter the context of existing views and only a minor visual effect would be experienced by users of the routes.

It is considered that the submitted LVIA has satisfactorily demonstrated that the visual effects of the development are limited and that it will cause, at most, a minor/moderate visual change in views from Hendon Beach and minor to negligible visual effects from other vantage points and receptors. Essentially, although the development involves large buildings and structures, the site is relatively remote from residential receptors and public vantage points, is set at a significantly lower level than much of the neighbouring land and will involve the development of a site within an extensive Port environment which is already heavily built up and home to a range of large industrial buildings and structures.

Given the above, it is considered that the proposed development will not give rise to any substantial harm to the visual amenity of the locality and will satisfactorily co-exist with the prevailing built environment. The proposals are therefore considered to be compliant with the requirements of policies BH1, WWE6 and WWE7 of the CSDP and the relevant policies of the NPPF as identified above.

4. 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:

- 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.

Additionally, policy ST3 requires new development to provide safe and convenient access for all road users, in a way which would not compromise the free flow of traffic or exacerbate traffic congestion. It also requires applications to be accompanied by an appropriate Transport Assessment/Transport Statement and Travel Plan to demonstrate that appropriate mitigation measures can be delivered to ensure that there is no detrimental impact to the existing highway.

Paragraph 110 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 113 goes on to advise that all developments that will generate significant amounts of movement should be required to provide a travel plan and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

The Planning Statement submitted with the planning application includes a section considering the effects of traffic on the local highway network in terms of safety, capacity and loss of amenity arising from the transportation of materials associated with the proposed development via the existing Port access. A detailed audit of the local highway network has been undertaken, including a site visit, accident data review and traffic surveys. It is concluded that the local highway network has no operational or safety issues in proximity to the Port and the application site is located with good links to the strategic road network via the B1293 High Street East to the A1018 beyond.

As noted previously, the proposed facility is anticipated to generate up to 24 HGV trips per day (or 48 'movements', i.e. 1 trip in and 1 trip out), with additional light vehicle traffic generated by staff and other visitors. HGV movements would occur between the hours of 07:00 and 18:00 on weekdays and 08:00 and 13:00 on Saturdays. The HGV trip figures are, however, a maximum and are anticipated to be lower dependent upon the amount of exporting able to be undertaken by boat. Based on an assessment of 100% of traffic routing north or south from the roundabout junction between the B1293 and A1018, the development would increase total daily traffic volumes on the A1018 by less than 1% and HGV movements by 23%, although an analysis of traffic data indicates that the local highway network has historically accommodated far greater volumes of HGV traffic than it does at present.

In terms of the Port access and the road immediately outside of the Port demise, the proposed development would, as a maximum, result in an additional 2-3 HGV arrivals and 2-3 HGV departures per hour across a full working day.

Consideration has also been given to levels of construction traffic; HGV movements associated with construction works will be temporary and vary throughout the construction period, but they are anticipated to be within the proposed operational HGV levels. Traffic from construction staff will also be generated; this is likely to arrive early in the morning and leave the site in the afternoon.

In terms of access for staff and visitors, it is noted that the Port is relatively well connected to public transport options, with a bus route running along High Street East and the Port entrance within walking distance of the City Centre and the additional public transport facilities it offers.

The submitted Statement concludes that the levels of HGV and light vehicle traffic generated by the proposed development can be comfortably accommodated at the Port access and on other junctions and roads on the local highway network. It is suggested that the residual highway impacts of the operation of the proposed development would be negligible and would not result in an unacceptable impact on road junction or capacity, driver delay, road safety or amenity. By

virtue of this, it is contended that the application proposal is acceptable in traffic and highways terms.

As set out in the 'Representations' section of this report, the Council's Highways team have raised no objections to the proposed development in terms of its impact on the existing highway network or highway and pedestrian safety, given the relatively low number of additional vehicular movements associated with the proposed development. In terms of parking, the submitted details suggest that the formal and overflow parking available at the site will be sufficient to cater for the maximum number of staff and any visitors present at the facility at any one time. The Highways team have, however, asked for further clarity on parking arrangements to ensure sufficient space is provided at the site and it is considered that final details of parking at the site can be agreed via an appropriately worded condition. The Highways team have also asked for the submission and approval of cycle parking facilities at the site, a travel plan for the facility and a Construction Environmental Management Plan and again, it is suggested that these matters can be addressed via conditions.

Given the above, it is considered that the proposed development is sustainable in terms of transport and highways matters and that it will not have an unacceptable impact on operational capacity or highway safety. As such, the proposals are considered to satisfy the objectives of paragraphs 110, 111 and 113 of the NPPF, whilst the proposals also comply with the aims and objectives of policies ST2 and ST3 of the CSDP.

5. 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). 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.

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

Also relevant with regard to ecology in the United Kingdom are the terms of the EU Council Directive 79/409/EEC on the Conservation of Wild Birds (the Birds Directive) and the EU Council Directive 92/42/EEC on the conservation of natural habitats and wild flora and fauna (the Habitats Directive). These are implemented in the UK through the Conservation Regulations, which provide for the protection of areas of European importance for wildlife, in the form of Special Areas of Conservation (SACs) designated under the Habitats Directive, and Special Protection Areas (SPAs) designated under the Birds Directive. Collectively, these are termed 'European' sites, and overall network of European sites is termed Natura 2000. It is an offence under the legislation and regulations to carry out an act which may damage a qualifying species or habitat for which the site is designated.

A Habitat Regulation Assessment (HRA) is the mechanism to be implemented to ensure the above legislation is complied with and determines whether a plan or project would adversely

affect the integrity of any European site in terms of its conservation objectives. Where adverse effects are identified alternative solutions should be identified and the plan or project modified to avoid any adverse effects. The Local Planning Authority, as the Competent Authority, can adopt the plan or approve the project only after having ascertained that it will not adversely affect the integrity of a European Site.

The planning application has been accompanied by a Habitats Regulations Assessment (HRA) Report, which is designed to inform an Appropriate Assessment to be undertaken by the Council. The Report assesses the direct effects of the proposed development on the Northumbria Coast Special Protection Area (SPA) and Northumbria Coast Ramsar Site, both approximately 2km to the north and 2.8km to the south of the application site, and the Durham Coast Special Area of Conservation (SAC), located 3.4km to the north and 2.8km to the south of the application site. The Northumbria Coast SPA and Ramsar site support important numbers of purple sandpiper, turnstone and little tern, whilst the Durham Coast SPA is unique in the UK for its vegetated sea cliffs on magnesian limestone exposures.

The submitted HRA Report notes that there will be no project work within the Durham Coast SAC, Northumbria Coast SPA and Northumbria Coast Ramsar site boundaries and therefore no loss of associated features/habitats because of the proposed works. It was, however, considered that without appropriate design and controls, the construction and operation of the project could have potential to increase noise levels and decrease air and water quality, which could have potential to impact the designated sites. The Report contends, however, that the HRA report and other supporting documents and reports submitted with the application demonstrate that significant effects on the designated sites are unlikely, even in the absence of mitigation.

Nevertheless, mitigation measures are proposed, which are considered to be effective and deliverable and will further reduce any effects on the integrity of the nearby designated sites. In respect of construction, these will be embedded within a Construction Environmental Management Plan (CEMP) and would include measures to minimise risks to groundwater and surface water, whilst in relation to the operation of the facility, measures would involve ensuring chemical and oil storage takes place above ground and routing run-off from vehicle movement areas through an oil interceptor prior to discharge to ensure there is no risk of the release of any oils to the wider environment. No other likely significant effects have been identified as a result of the proposals, either alone or in-combination with other plans and projects, including those within the Port demise.

As set out in the 'Representations' section of this report, the Council's Ecology consultant has considered the HRA report and agrees with its conclusions that the development will not result in adverse effects on the integrity of the designated sites. As such, the development is considered to be acceptable in relation to HRA requirements and the Council is able to grant planning permission. A record of Appropriate Assessment has been produced by the Council's consultant to confirm this position and endorse the mitigation measures put forward by the applicant.

Natural England have also confirmed that the proposed HRA is acceptable and there are no objections to the development proceeding, subject to the Council endorsing and securing the mitigation measures proposed by the applicant.

To this end, it is recommended that a condition be imposed requiring the submission and approval of a Construction Environmental Management Plan, which should incorporate the relevant ecological and environmental mitigation measures set out within the applicant's HRA report.

In addition to the above, the Council's Ecology consultant has confirmed that there are no other concerns in relation to ecology and biodiversity, particularly given the existing condition of the site. It is recommended, however, that a condition be imposed requiring the submission and approval of a Habitats Enhancement Scheme, which should set out measures to improve the habitat value of the site and deliver net gains in biodiversity. A condition relating to the timing of works, to avoid conflict with nesting birds, is also recommended.

Given the responses of Natural England and the Council's Ecology consultant, there do not appear to be any objections to the development in respect of its potential impacts on the European-designated sites in proximity to the application site or in respect of other ecology and biodiversity considerations. Consequently, it is considered that the proposals are compliant with the relevant policies of the Council's adopted Core Strategy and Development Plan and NPPF as identified above.

6. Implications of development relative to archaeology and built heritage

Paragraph 189 of the NPPF states that heritage assets (such as Listed buildings) are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Paragraphs 195 and 197 require Local Planning Authorities to consider the significance of any heritage asset affected by a development proposal, with paragraph 206 then stating that Local Planning Authorities should look for new development within the setting of heritage assets to enhance or better reveal their significance; proposals that preserve those elements of the setting which make a positive contribution to the asset should be treated favourably.

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.

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

The application has been accompanied by a Heritage Statement, which considers the significance and setting of the Listed buildings closest to the application site in detail, with particular consideration given to the Grade-Listed swing bridge and machinery pit to the east side of Hudson Dock. The Statement acknowledges that the bridge and machinery pit are associated with the historic docks and Port and have always existed in the context of large, industrial and commercial buildings and structures associated with dock and Port operations and that much of the historic infrastructure contemporary to the bridge and machinery pit, such as the former sea lock from Hudson Dock, has been lost over time. The primary significance of these assets is due to their illustrative historic value, including in terms of their relationship with other remaining assets, such as the still-active Gladstone Swing Bridge to the north end of Hudson Dock.

In terms of the swing bridge, the Statement concludes that the development would have a negligible impact on its setting as the proposals would not intrude into the key views of the bridge from the south, which have Hudson Dock in the background. The Statement suggests that the development would result in less than substantial harm to the significance of this asset. The Statement records a minor harmful impact on the setting of the machinery pit when this is viewed from the north, as the new development will stand in the background of the pit within this view. The Statement suggests that there will be a negligible impact upon the significance of this asset as a result of the development.

As set out in the 'Representations' section of this report, the Council's Built Heritage officer confirms general agreement with the Statement's conclusions, although it is not agreed that any harm will be caused. To this end, it is considered that the proposed development is reasonably typical of the type of large structures that have served Port activity and established the industrial character of the Port throughout its evolution since the 19th century. It is not unusual for the swing bridge and machinery pit to be experienced with such large industrial structures in its surroundings over the past two centuries as part of the operational Port, particularly in its immediate surroundings in the latter part of the 20th century (i.e. the former Sunderland Oil Storage structures previously occupying the site).

The Council's Built Heritage officer therefore considers the heritage impacts of the development to be negligible and will not result in any harm to the setting or significance of either the swing bridge or the machinery pit.

In terms of archaeology, the Archaeological Report submitted with the planning application considers that due to a lack of previous development in the western part of the site, there is potential for mid-19th century remains to survive below ground, most notably the South Dock railway infrastructure, former warehouses, engine houses and boiler houses and structures. It is therefore recommended that a watching brief be carried out during groundworks within targeted areas of archaeological importance; should archaeological remains be identified within these areas, it may be appropriate to scale the watching brief up into an open-area excavation to better expose and understand any remains found.

The County Archaeologist has no objections to the development proceeding and concurs with the Report's recommendation that a watching brief will be required during groundworks. The requirement for a watching brief can be secured by appropriately-worded conditions in the event planning permission is granted.

Subject to these conditions being imposed, it is considered that the proposed development will satisfy the objectives of the CSDP and NPPF policies identified above relevant to built heritage and archaeology and the proposals are therefore considered to be acceptable in this regard.

7. Implications of development in respect of flooding/drainage and water quality

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

To this end, paragraphs 162 to 165 of the NPPF set out that in areas at risk of flooding, a sequential test should be applied to development proposals, the aim of which is to steer new development to areas with the lowest risk of flooding (paragraph 162). Development should not be permitted if there are reasonably available sites appropriate for proposed development in areas at a lower risk of flooding. If it is not possible for development to be located in zones with a lower risk of flooding, the exception test may have to be applied (paragraph 163). For the

exception test to be passed, paragraph 164 states that it should be demonstrated that the development would:

- (a) provide wider sustainability benefits to the community that outweigh the flood risk and;
- (b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall.

Both elements of the exception test should be satisfied for development to be permitted (paragraph 165). Paragraph 166 of the NPPF makes it clear, however, that a sequential test does not need to be applied again for individual developments on sites which have been allocated in development plans following the undertaking of a sequential test.

Also relevant is paragraph 167, which advises that when determining planning applications, Local Planning Authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

- (a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- (b) the development is appropriately flood resistant and resilient;
- (c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- (d) any residual risk can be safely managed;
- (e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

Paragraph 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:

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

Policy WWE2 of the Council's CSDP sets out measures to reduce flood risk and ensure appropriate coastal management, whilst policy WWE3 states that development must consider the effect on flood risk, on-site and off-site, commensurate with its scale and impact. Policy WWE4 also requires regard to be given to potential impacts of development on water quality, in line with the objectives of paragraph 174 of the NPPF.

The application has been accompanied by a Flood Risk Assessment (FRA) and Sustainable Drainage Strategy which observes that the majority of application site lies within Flood Zone 1 (lowest risk of flooding), with the western portion, closest to Hudson Dock, within Flood Zone 3a (high risk of tidal flooding). Development within Flood Zone 3a will primarily relate to the dock loading area and so is a water compatible land use. The FRA concludes that the flood risk at the application site will remain low for the lifetime of the development, however there is a moderate risk of wave overtopping onto the application site when sea levels are at their highest.

The FRA also concludes that there are no water-sensitive receptors located at or near the site, no licensed water abstractions near the site and no water-dependent designated sites nor

protected areas within 2km of the application boundary. Best practice construction techniques would safeguard the water environment, with measures within the Construction Environmental Management Plan for the scheme used to manage and minimise potential effects on ground and surface water.

In terms of managing and mitigating flood risk and run-off generated by the development, the submitted proposals show that surface water run off on site can be collected, managed and discharged without increasing flood risk, with run-off from the site discharged into the dock. A silt trap would be installed prior to the outfall from the drainage network that would prevent suspended solids (including tyre shreds) from being discharged from the site. All surface water runoff would be routed via the drainage network, which would be fitted as an interceptor as a final mitigation against pollutants potentially being discharged into the dock. No effects on surface water flow or flood risk are therefore expected.

At the request of the Council's Flood and Coastal team, in their capacity as Lead Local Flood Authority (LLFA), the sustainable drainage proposals were updated to also include a pond and a swale, designed to hold the first 5mm of storm water for the site and provide additional water quality benefits. Northern areas of the site would drain into the northern end of the swale and the south of the site will drain via the pond and the southern area of the swale. A separator will be installed on the downstream discharge from the swale features. Additional information has also been provided in respect of proposed maintenance arrangements, which will be the responsibility of the site developer (i.e. WasteFront).

The LLFA considers the updated proposals to be acceptable, although it is noted that the drainage strategy is underpinned by the development only being intended to last for 30 years, as it is only designed to provide sufficient attenuation to account for increases in rainfall caused by climate change over that period (i.e. a 20% allowance rather than the usual 40%). The LLFA officer has confirmed that the proposed drainage strategy can be approved on the basis that a planning condition be used to limit the lifespan of the development to no longer than the year 2060.

In addition, there are no objections to the proposals from the Environment Agency and Northumbrian Water, subject to the conditions recommended by the EA and their additional advice to the applicant in relation to permitting and other regulatory and environmental considerations, including with the specific purpose of maintaining water quality.

Given the above, it is considered that the implications of the proposed development relative to flood risk and sustainable drainage are acceptable, subject to Members imposing the conditions recommended by the LLFA and the Environment Agency, and it is considered that the proposals satisfy the national and local planning policies detailed above which seek to ensure new development is not at unacceptable risk of flooding and will not increase the risk of flooding elsewhere.

8. Implications of development in respect of land and contamination

Paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by, amongst other measures, preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Paragraph 183 of the NPPF then 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. 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 Preliminary Contamination and Mining Risk Assessment report submitted with the application concludes that given the previous development and activity at the application site, there is a significant risk of contamination in the general made ground. This has also been identified by previous ground investigations undertaken at the site. Some remediation works were undertaken in 2014 to manage risks from asbestos present at the site. The report identifies potentially significant pollutant linkage risks in the general made ground to construction workers, groundwater and surface water.

As noted in the 'Representations' section of this report, having reviewed the relevant reports and assessments submitted by the applicant, the Environment Agency (EA) has no objections to the proposals, subject to the recommended conditions and the additional advice to the applicant on other environmental considerations. Additionally, there are no objections to the proposed development from the Council's Land Contamination consultant, subject additional site investigations being undertaken and a remediation strategy for the site being submitted and approved. A series of recommendations to be incorporated into the ground investigation programme and the subsequent Phase 2 report have been provided. It is considered that the requirement for the preparation, submission and approval of the Phase 2 report and remediation strategy for the site can be secured via appropriately worded planning conditions.

Given the above comments, it is considered that although there is historic contamination at the site which may pose a risk to construction workers, groundwater and surface water, these risks can be appropriately understood and managed via additional ground investigations and the submission and approval of a remediation strategy for the site. These can be secured via planning conditions, subject to which it is considered that the proposals would address the requirements of policy HS3 of the CSDP and the NPPF.

9. Implications of development relative to hazardous installations

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

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

As noted previously, the applicant has also submitted an application for Hazardous Substances Consent to the Council in its capacity as Hazardous Substances Authority. This is a separate consent regime overseen by the Health and Safety Executive and Environment Agency and is designed to ensure that the storage of hazardous substances at any given site is done so in a manner which minimises risks to public safety and the local environment. This application is currently pending consideration, subject to the outcome of consultation with the HSE and EA.

As set out in the 'Representations' section of this report, consultation has also been undertaken with the Health and Safety Executive in respect of this planning application. The HSE initially

'advised against' the Council granting planning permission for the proposed development, on the basis that the application site is subject to an extant Hazardous Substances Consent, dating from 1999 and relating to its former use by Sunderland Oil Storage Ltd. To this end, the HSE confirmed that despite the site being cleared of all previous development and Sunderland Oil Storage Ltd no longer having an interest in the site, their Hazardous Substances Consent has not been extinguished.

The HSE therefore consider that the current planning application has to be treated as being within the Consultation Zone of the Sunderland Oil Storage site; it is, in fact, within the 'Development Proximity Zone'. Consequently, the HSE's 'advise against' recommendation for the proposed development would stand until Sunderland Oil Storage's extant Hazardous Substances Consent has been formally revoked.

The Council, in its capacity as Hazardous Substances Authority, is currently in the process of revoking the 1999 Hazardous Substances Consent and it is anticipated that this procedure will be completed soon. Revocation of the consent will ultimately require confirmation by the Secretary of State, however given the current condition of the site, Sunderland Oil Storage Ltd. no longer having an interest in the site and the new proposals to develop the site, it is anticipated that the outcome of the process to revoke the extant Consent will be successful.

The HSE has advised that in circumstances such as this, i.e. where an extant Hazardous Substances Consent is in the process of being formally revoked, it can agree to withdraw the 'advise against' position if a suitably worded condition can be included in the planning permission. A suggested condition has been provided by the HSE, which would effectively require that no part of the development is occupied until the extant Hazardous Substances Consent at the site has been revoked.

The matter has been discussed further with the applicant, who is satisfied with the proposed condition given that the Council is actively progressing the revocation of the extant Hazardous Substances Consent on the site.

Subject to the imposition of the condition recommended by the HSE, which would mean the HSE can withdraw its 'advise against' position on planning permission being granted for the development, it is considered that the implications of the proposed development relative to hazardous installations are acceptable. With reference to the hazardous substances being stored or produced at the facility, as highlighted above, this is subject to a separate consent regime, the application of which will ensure that such substances are stored and handled in a manner which minimises risks to public safety and the local environment.

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

CONCLUSION

For the reasons set out above, it is considered that the proposed development is acceptable in land use terms given the proposal's compatibility with the aims and objectives of policy SS5 of the CSDP, which guides the development of the Port. Furthermore, it is considered that the proposed development is acceptable in relation to local and national planning policies relating to waste management, in that it will see the management of waste tyres moved up the waste hierarchy and involves the provision of a waste management facility at a location which does not conflict with the Local Plan. The proposed waste management operations would also be fully contained within purpose-built buildings and structures.

In addition to the above, it is evident that following review of the proposals by the relevant internal and external consultees, the proposals raise no significant concerns relative to visual amenity, the setting of the Listed buildings close to the application site, archaeology, ecology and biodiversity (including the nearby European-protected sites), highway and pedestrian safety and flood risk and drainage. This conclusion can be reached subject to the imposition of the recommended conditions referenced throughout this report.

It is also considered that the proposed development will not harm the amenity of nearby properties in terms of their outlook or in respect of privacy and overshadowing. Careful consideration has also been given to the implications of the development relative to noise, odours, air and water quality and emissions, however based on the submitted information and the comments received from the relevant consultees, including the Environment Agency and the Council's Environmental Health team, it is considered that the proposals are acceptable in respect of these matters, subject to the recommended conditions. It is also recognised that the operation, management and monitoring of the facility will be subject to the stringent environmental requirements embedded within the Environment Agency's Permitting regime and other regulatory controls.

The proposals have also been subject to discussions with the Health and Safety Executive who, for the reasons set out above, do not 'advise against' the development proceeding subject to the condition requiring the revocation of the extant Hazardous Substances Consent at the site.

It can therefore be concluded that the proposed development does not give rise to any significant concerns in respect of the relevant planning considerations outlined above and is broadly compliant with the Council's adopted Core Strategy and Development Plan, the National Planning Policy Framework or the National Planning Policy for Waste. In assessing the merits of the proposed development, significant weight should also be given to the benefits to be derived from the scheme, including the employment opportunities the facility would create (up to 70 full time equivalent posts and more jobs created through supporting roles), the development's use of a brownfield site at an established urban and industrial/commercial location and the sustainability benefits of the proposed facility in terms enabling the extraction of usable products from a waste material.

For the reasons set out above the proposed development is considered to comply with the objectives of the relevant local and national policies of the Council's adopted CSDP, the NPPF and the NPPW as referenced throughout this report. The proposals are consequently considered to be acceptable, and it is accordingly recommended that Members Grant Consent for the development under Regulation 4 of the Town and Country Planning (General Regulations) 1992, subject to 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: GRANT CONSENT under Regulation 4 of the Town and Country Planning (General Regulations) 1992 (as amended), 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:

Location plan, drawing no. W4-01-21-01
Existing site plan, drawing no. W4-01-21-02

Site layout plan, drawing no. W4-01-20-06
Proposed elevations, drawing no. W4-01-20-04
Proposed drainage layout, drawing no. 001
Proposed drainage details sheets 1 and 2

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 No part of the development shall be occupied until the extant Hazardous Substances Consent for the oil storage terminal at Hendon Dock, Sunderland has been revoked in its entirety under the provisions of the Planning (Hazardous Substances) Act 1990, and written confirmation of the necessary revocation has been issued by the Hazardous Substances Authority.

Reason: in order to ensure the operation of the proposed facility would not conflict with an extant Hazardous Substances Consent and comply with the objectives of policy HS4 of the CSDP and the NPPF.

4 Prior to the year 2060, the facility hereby approved must be decommissioned and all development associated with the facility fully cleared from the site. The application site must then be returned to a condition to be agreed in writing with the Council as Local Planning Authority prior to the commencement of the decommissioning and site clearance works.

Reason: due to the proposed sustainable drainage scheme for the development only accounting for predicted increases in rainfall due to climate change for the period up to 2060. The time limit on the development is therefore necessary to ensure that the sustainable drainage scheme for the development are appropriate for its lifetime and to comply with the objectives of the NPPF and policies WWE2, WWE3 and WWE4 of the Council's CSDP.

5 The external materials to be used in the development hereby approved shall be those set out in the answers given to question 7 of the submitted planning application form, 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 Core Strategy and Development Plan.

6 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 covered in the report(s) must be submitted to and approved by the Local Planning Authority, to demonstrate that all sustainable drainage systems have been constructed as per the agreed scheme.

Verification report(s) shall then be submitted in accordance with the agreed details 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.

- Confirmation that there is no increase to average or peak flows of surface water run off leading towards Network Rail assets, including earthworks, bridges and culverts

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.

7 The development hereby permitted shall not be commenced until such time as a Surface Water Management Plan has been submitted to and approved in writing by the LPA in consultation with the Environment Agency. The scheme shall then be implemented as approved. The plan should include, but is not limited to, the following:

- treatment and removal of suspended solids from surface water run-off during construction works;
- approach to ensure no sewage pollution or misconnections;
- approach to ensure water mains are not damaged during construction works;
- management of fuel and chemical spills during construction and operation, including the process in place to ensure the environment is not detrimentally impacted in the event of a spill;
- due to the nature of the site and presence of contaminated land, construction run-off is likely to contain hazardous chemicals and elements. A scheme is required to manage the associated risks and minimise mobilisation of hydrocarbons, heavy metals and any other hazardous pollutants into the water environment during construction and site works;

Reason: to ensure the effective management of surface water run-off and to comply with the objectives of the NPPF and policy HS1 of the CSDP.

8 The development hereby permitted shall not be commenced until such time as a scheme to dispose of foul drainage has been submitted to, and approved in writing by, the LPA in consultation with the Environment Agency. The scheme shall be implemented as approved.

Reasons: to ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

9 No development shall commence within each phase (i.e. full planning and outline phases) until a Construction Environmental Management Plan (CEMP) for that phase 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 this condition
- 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
- o Mitigation measures required to be adopted as part of the submitted Habitats Regulations Assessment report
- 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 within each Phase shall then be implemented in accordance with the approved CEMP for that Phase.

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.

10 Prior to the installation of any fixed external mechanical plant, including any production-related equipment serving ventilation and emissions to air, a noise assessment shall be submitted for the agreement of the LPA. The assessment shall rate noise levels arising from

such plant in accordance with BS4142:2014 at the nearest noise-sensitive receiver. Where the rated noise for the plant being assessed exceeds the existing daytime or night-time background levels, recommended mitigation measures must be proposed and implemented prior to the operation of the plant.

Reason: in order to ensure noise from plant does not result in harm to the amenity of the locality and to comply with the objectives of policy HS2 of the CSDP.

11 The facility hereby approved shall not be operational until final details of the proposed staff and visitor vehicle and cycle parking provision for the facility have been submitted to and approved in writing by the Council as Local Planning Authority. For the avoidance of doubt, the submitted details shall include a parking plan and the final provision shall be informed by the anticipated maximum staff and visitor numbers present at the facility at any one time. The vehicle and cycle parking provision for the facility shall then be provided in accordance with the approved details.

Reason: in order to ensure vehicle and cycle parking provision for the facility is satisfactory and to comply with the objectives of policies ST2 and ST3 of the CSDP.

12 Prior to the occupation of the facility hereby approved, a Travel Plan for the facility shall be prepared by the applicant and submitted to and agreed in writing by the Local Planning Authority. The purpose of the Travel Plan is to set out measures to encourage the use of sustainable modes of travel to the facility and reduce travel to the site by private vehicle. The measures within the approved Travel Plan shall then be adopted by the site operator for the lifetime of the development.

Reason: in order to encourage sustainable modes of travel and comply with the objectives of the NPPF and policy ST3 of the CSDP.

13 No operations that involve the destruction and removal of vegetation or the disturbance and movement of existing soils and substrates shall be undertaken during the month of February to August inclusive, unless prior written approval has been granted by the Local Planning Authority, once they are satisfied that nesting birds will not be adversely affected.

Reason: In order to protect the biodiversity of the site during construction works and to comply with the objectives of the NPPF and policy NE2 of the CSDP.

14 No development shall commence until a Habitat Enhancement Scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include but not be limited to the following:

1. Purpose and conservation objectives for the proposed works.
2. Detailed designs and/or working methods to achieve stated objectives.
3. Extent and location of proposed works on appropriate scale plans.
4. Type and source of materials and planting stock to be used for all biodiversity enhancement features.
5. Timetable for implementation demonstrating that works are aligned with the proposed phasing of the development.
6. Details of initial aftercare and long-term maintenance.

7. Details of monitoring and remedial measures, including provision of progress reports to the Local Planning Authority.
8. Details for disposal of any waste arising from the works.
9. The persons responsible for instructing and implementing the specified works.

The Habitat Enhancement Scheme shall be implemented in accordance with the approved details and all features shall be retained and maintained in accordance with such details thereafter.

Reason: In order to protect and enhance the biodiversity of the site and its surroundings and to comply with CSDP policy NE2 and paragraph 174 of the National Planning Policy Framework.

15 Development shall not commence until a suitable and sufficient ground investigation and Risk Assessment (Phase II report) 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. For the avoidance of doubt, the submitted report must address the matters raised in the consultation comments provided by the Council's Land Contamination consultant, dated 22nd July 2021.

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
 - o 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 policy HS3 of the CSDP and the NPPF.

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

16 Development 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 document 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 policy HS3 of the CSDP and the NPPF.

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.

17 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 dwelling 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 policy HS3 of the CSDP and the NPPF.

18 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 DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination CLR11" 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, 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 policy HS3 of the CSDP and the NPPF.

19 No groundworks or development shall commence until the developer has appointed an archaeologist to undertake a programme of observations of groundworks to record items of interest and finds in accordance with a specification provided by the Local Planning Authority. The appointed archaeologist shall be present at relevant times during the undertaking of groundworks with a programme of visits to be agreed in writing by the Local Planning Authority prior to groundworks commencing.

Reason: The site is located within an area identified as being of potential archaeological interest. The observation is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded, and, if necessary, emergency salvage undertaken in accordance with paragraph 199 of the NPPF and Core Strategy Policies BH8 and BH9.

20 The site should not be brought into use until the report of the results of observations of the groundworks pursuant to condition 19 has been submitted to and approved in writing by the Local Planning Authority.

Reason: The site is located within an area identified as being of potential archaeological interest. The investigation is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded, to accord with paragraph 199 of the NPPF, Core Strategy Policies BH8 and BH9.

21 No deliveries of waste materials to the facility shall take place outside the hours of:

07:00 - 18:00 Monday to Friday

08:00 - 13:00 Saturdays

nor at any time on Sundays, Bank or Public Holidays.

Reason: to protect the amenity of the locality and comply with the objectives of policy HS1 of the CSDP.

Reference No.: 21/02204/LP3 Local Authority (Reg 3)

Proposal: **Engineering operation to level part of site.**

Location: Land North Of Deptford Terrace Sunderland

Ward: Millfield

Applicant: Sunderland City Council

Date Valid: 12 November 2021

Target Date: 7 January 2022

PROPOSAL:

The above seeks full planning permission for an engineering operation to re-level land to the north of Deptford Terrace, Sunderland. The site lies to the west of Liebherr and has previously been used for waste processing. The submitted location plan shows that the site has an irregular plan form and covers around 0.35 hectares. The submitted plans show that the proposed development would alter the existing levels by around 2-3 metres Area Over Datum (AOD).

TYPE OF PUBLICITY:

Site Notice Posted
Neighbour Notifications

CONSULTEES:

Land Contamination
Network Management
Millfield - Ward Councillor Consultation
Environmental Health
Land Contamination
Environment Agency

Final Date for Receipt of Representations: **11.01.2022**

REPRESENTATIONS:

There has been a representation received which says "we are generally supportive of the application to complete the remediation of the site and to stabilise the bankside", but "would like to make the following comments". These comments are repeated below with an officer response thereafter:

Comment:

Document described as Section and Plan Aug 21 (also described as Temporary Safeguarding works - draft) - It is unusual for a drawing titled "temporary" and "draft" to form part of an application for permanent works? Also the typical section A-A shown on the drawing describes the encapsulation of fines whereas the planning application form description of the works describes the re-engineered slope being formed with imported clean material.

Officer response:

The Applicant has agreed that the document in question can be marked as superseded. The groundworks section above has given consideration to matters relating to contamination.

Comment:

Document electronically described as Deptford Terrace Site Plan 2021 09 10 (title block date 13.09.21)- The red line boundary does not define the extent of the Works correctly and misses off the works South of the buildings and does not correlate to the works shown on the Section and Plan Aug 21. Controlled Waste is present in the area of the site South of the buildings (shown in orange / brown hatching).

Officer response:

The drawing in question does have a different red line boundary to the submitted location plan. The red line on the submitted location plan does enclose all of the land associated with the previous waste transfer operator. The plan in question has not been recommended for approval within condition no. 2.

Comment:

Document described as Section and Plan Aug 21 - this does not show the excavation of the Controlled Waste and contamination under the proposed re-engineered slope (shaded green on the plan). This would constitute encapsulation of the existing Controlled Waste and contamination whereas this application is for the excavation and disposal off site of the Controlled Waste / contamination to a landfill facility prior to the reengineering of the bankside.

Officer response:

The Applicant has agreed that the document in question can be marked as superseded. The groundworks section above has given consideration to matters relating to contamination.

Comment:

Document described as Section and Plan Aug 21 - The drawing does not make it clear that the depths stated (660 / 400 mm respectively) are average depths and the actual depths of the Controlled Waste and contamination and imported clean material will only be known once the Works are undertaken.

Officer response:

The Applicant has agreed that the document in question can be marked as superseded. The groundworks section above has given consideration to matters relating to contamination.

Comment:

What seeding and planting is proposed to the re-engineered bankside (shaded green on the Section and Plan Aug 21) to prevent shallow superficial slippages.

Officer response:

The Applicant has agreed that the document in question can be marked as superseded. The land contamination consultant has recommended a condition ensuring the submission of a Remediation Strategy; which would include consideration of these matters.

POLICIES:

In the CSDP the site is subject to the following policies; EG2, HS1, HS3, NE1, ST2, ST3

COMMENTS:

Introduction

The above seeks full planning permission for an engineering operation to re-level land to the north of Deptford Terrace, Sunderland. The site lies to the west of Liebherr and has previously been used for waste processing. The submitted location plan shows that the site has an irregular plan form and covers around 0.35 hectares. The submitted plans show that the proposed development would alter the existing levels by around 2-3 metres Area Over Datum (AOD).

Principle

The proposed development, due to re-levelling an existing piece of land, would improve the quality of employment land within the City. The proposal would therefore contribute towards policy EG2 of the Core Strategy; which seeks to ensure that employment areas meet the anticipated needs of the City. There are not any material considerations that indicate a decision should be made otherwise.

Amenity

The Application seeks to re-level a piece of existing land and the submitted Application Form says that a "planning application will follow for a change of use under a separate application". The Environmental Health Officer has advised that they have "no observations". In the absence of any material considerations to the contrary, the proposal would accord with policy HS1 (quality of life and amenity) of the Core Strategy and Development Plan (2015-2033).

Ecology

The site lies within a Wildlife Corridor which runs the length of the River Wear. The proposed development does, however, seek to re-level an existing piece of land within a site that has previously been used for waste transfer. The site, more generally, also lies within a built-up area, allocated for industrial purposes. Officers therefore consider that the proposed development would not adversely affect the continuity of the Wildlife Corridor. In the absence of any material considerations to the contrary, the proposal would accord with policy NE1 (green and blue infrastructure) of the Core Strategy and Development Plan (2015-2033).

Groundworks

The submitted Contamination Survey says that former uses of the site are "Shipyards including a dry dock, industrial and commercial premises, and residential properties" and "Most recently occupied by Alex Smiles as a waste transfer depot". The Survey continues by saying that contamination included "Isolated hotspots of lead (in one sample) and asbestos (in three samples) have been identified" and "No major groundwater flows encountered during the works". The Survey presents a Conceptual Options Appraisal noting that "there may be a number of ways to reduce or control unacceptable risks".

The Council's land contamination consultant has advised that they are in "broad agreement" with the findings of the submitted Desk Study and has requested further information relating to matters including gas risk and unexploded ordnance (UXO). The consultant has, however, also recommended conditions relating to a Risk Assessment, Remediation Strategy, Verification Report and unexpected contamination.

The Environment Agency have advised that they have "no objection".

In the absence of any material considerations to the contrary, the proposal would accord with policy HS3 (contaminated land); subject to the recommended conditions.

Highway

The submitted Application Form says there would not be any alterations to existing accesses, roads and Rights of Way. The Local Highway Authority have advised that they have "no observations". In the absence of any material considerations to the contrary, the proposal would accord with policies ST2 (local road network) and ST3 (development and transport) of the Core Strategy and Development Plan (2015-2033).

Summary:

The principle of the proposed development and the related detailed impacts accord with the relevant policies of the development plan. There are not any material considerations that indicate a decision should be made otherwise.

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 in accordance with Regulation 3 of the Town and Country Planning General Regulations 1992 (as amended) for the reasons set out in the report 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:

Proposed Ground Levels (Drawing No. SMILES-SCC-SGT-00-DR-PGL-001) (received January 2022)

In order to ensure that the completed development accords with the scheme approved.

3 Development 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

o 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 170, 178, 179, 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

4 Development 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 document 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.

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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.

5 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 dwelling 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 170, 178, 179, and 183d

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 DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination CLR11" 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, 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 170, 178, 179, and 183d