

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.: 22/00970/FUL Full Application

Proposal: **Erection of 96 No. affordable residential dwellings (Class 3) with associated access, landscaping and infrastructure. (amended description and information received 13.10.23)**

Location: Land At Harrogate Street And Amberley Street Sunderland

Ward: Hendon

Applicant: Thirteen Housing Group Limited

Date Valid: 13 May 2022

Target Date: 12 August 2022

PROPOSAL:

Planning permission is sought for the erection of 96 No. affordable residential dwelling with associated access, landscaping and infrastructure on land at Harrogate Street and Amberley Street, Hendon, Sunderland.

The site which is the subject of this application relates is an irregular shaped parcel of land, measuring approximately 7.6 acres in area with a slight gradient of around 3m across the site from north-west to south-east.

The site is located around Amberley Street and Harrogate Street in the Hendon area of Sunderland and has multiple highway access points from Salem Street, Amberley Street, Lindsay Close, Suffolk Street, Ward Court and Hendon Valley Road, including a number of back lanes to the main highways

The site is currently vacant, having previously housed residential streets of terraced properties along Amberley, Harrogate and Salem Streets prior to their demolition over the last 3 decades, leaving the estate roads in place with informal amenity grass between with the site boundary predominantly formed by the existing highways. The site is surrounded on all other sides by existing residential development mainly in the form of 2 storey terraced housing, with some bungalows located to the south. A small cluster of 3 storey dwellings is located to the north-western corner of the site.

The proposal is a mix of No.96, 2 bed bungalows and 2, 3 and 4 bed houses, aiming to provide a sustainable mix of housing to address the needs of the local area. All units are designed to be in compliance with the National Design Spacing Standards (NDSS) and are to be provided as affordable housing managed by Thirteen Housing Group. In the main, the layout retains the general grid form and street placement of the original streets with the exception of Amberley Street and Harrogate Street which have been broken down into a hierarchy of access types, culminating in a pedestrian only link at the centre of each street which allows for existing mains services to be retained.

The site is located within the ward of Hendon, it is within a coal mining legacy area identified as low risk and a smoke control area. The site is within an allocated housing improvement area and an area for redevelopment in regard to open space and community facilities. It is in close proximity to Listed Buildings and within a site of archaeological interest.

The proposed development has been subject to pre-application discussions with Officers at the City Council and a programme of community engagement.

A Stage 2 Pre-Application Advice Request was submitted by the Applicant in 2021 with a written response received July 2021. The response to the pre-application from the Council confirmed that the principle of residential development on the site is considered to be acceptable. Recommendations were provided to address technical development management matters. As such, this planning application is accompanied by a suite of technical reports as detailed below;

- Covering Letter
- Construction Phase Surface Water Management Plan
- Construction Method Statement
- Phase 1 Coal Mining Risk Assessment Report
- Energy Statement
- Flood Risk and Drainage Strategy
- RSA Designer's Response
- Health Impact Assessment
- Transport Assessment Technical Note (iTransport Planning)
- Transport Assessment Addendum V2 (iTransport Planning)
- Transport Assessment V3 (iTransport Planning)
- Travel Plan V4 (iTransport Planning)
- Phase 2: Ground Investigation Report
- Remediation Strategy & Validation Proposal Sheets Revision 2
- ARC Environmental Ground Gas & Groundwater Monitoring Certificate
- Updated Stage 1 Road Safety Audit
- Design and Access Statement
- Archaeological Statement
- Biodiversity Metric
- Biodiversity Net Gain Assessment
- Construction Environmental Management Plan (CEMP):Biodiversity
- Construction Method Statement (CMS)
- Ecological Impact Assessment
- Report to Inform a Habitat Regulations Assessment
- Air Quality Assessment
- Noise Impact Assessment Report
- Statement of Community Involvement
- Planning Statement (Including Affordable Housing Statement and Open Space

Assessment

The community engagement involved two public consultation events that the community were encouraged to attend and were able to ask questions and provide feedback on the proposals. Further details of the pre-application engagement are found in the Statement of Community Involvement (SCI) which accompanies this planning application submission.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Flood And Coastal Group Engineer
Natural Heritage
Flood And Coastal Group Engineer
Cllr Lynda Scanlan
Cllr Michael Mordey
Cllr Ciaran Morrissey
Planning Obligations Officer
Natural Heritage
Network Management
Planning Implementation
Land Contamination
Landscape
Director Of Childrens Services
Flood And Coastal Group Engineer
Cllr Lynda Scanlan
Cllr Michael Mordey
Cllr Ciaran Morrissey
Network Management
Tyne And Wear Archaeology Officer
Environmental Health
Land Contamination
Planning Policy
Planning And Highways
Chief Fire Officer
Northumbria Police
NE Ambulance Service NHS Trust
Flood And Coastal Group Engineer
Northern Powergrid
Natural Heritage
Nexus
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Environmental Health
Land Contamination
Planning Policy
Planning And Highways East
Chief Fire Officer
Northumbria Police
NE Ambulance Service NHS Trust
Flood And Coastal Group Engineer
Northern Powergrid
Natural Heritage
Nexus
Landscape
Northumbrian Water
Planning Implementation

25 Osman Close Hendon Sunderland SR2 8DB
26 Osman Close Hendon Sunderland SR2 8DB
14 Ward Court Sunderland SR2 8AN
26 Harold Square Sunderland SR2 8EZ
27 Osman Close Hendon Sunderland SR2 8DB
11 Salem Street Sunderland SR2 8EB
10 Salem Street Sunderland SR2 8EB
24 Amberley Street Sunderland SR2 8ES
23 Amberley Street Sunderland SR2 8ES
7 Saint Lucia Close Sunderland SR2 8AF
6 Saint Lucia Close Sunderland SR2 8AF
9 Salem Street Sunderland SR2 8EB
6 Salem Street Sunderland SR2 8EB
15 Nelson Close Sunderland SR2 8EA
33 Nelson Close Sunderland SR2 8EA
32 Nelson Close Sunderland SR2 8EA
22 Amberley Street Sunderland SR2 8ES
1 Lindsay Close Hendon Sunderland SR2 8DA
38 Mowbray Road Sunderland SR2 8EW
2 Lindsay Close Hendon Sunderland SR2 8DA
5 Saint Lucia Close Sunderland SR2 8AF
4 Ward Court Sunderland SR2 8AN

8 Salem Street Sunderland SR2 8EB
2 Salem Street Sunderland SR2 8EB
6 Lindsay Close Hendon Sunderland SR2 8DA
3 Salem Street Sunderland SR2 8EB
2 Ward Court Sunderland SR2 8AN
4 Saint Lucia Close Sunderland SR2 8AF
3 Saint Lucia Close Sunderland SR2 8AF
7 Salem Street Sunderland SR2 8EB
5 Salem Street Sunderland SR2 8EB
23 Osman Close Hendon Sunderland SR2 8DB
Flat 4 Second Floor 36 Mowbray Road Sunderland SR2 8EW
Flat 3 First Floor 36 Mowbray Road Sunderland SR2 8EW
22 Osman Close Hendon Sunderland SR2 8DB
5 Lindsay Close Hendon Sunderland SR2 8DA
24 Osman Close Hendon Sunderland SR2 8DB
10 Ward Court Sunderland SR2 8AN
4 Salem Street Sunderland SR2 8EB
Dr Datta And Partners Deerness Park Medical Centre Suffolk Street Hendon Sunderland
25 Amberley Street Sunderland SR2 8ES
12 Ward Court Sunderland SR2 8AN
16 Nelson Close Sunderland SR2 8EA
4 Lindsay Close Hendon Sunderland SR2 8DA
4 Nelson Close Sunderland SR2 8EA
Medichem Limited 50 Suffolk Street Hendon Sunderland SR2 8AB
Bedsits 1 And 2 Ground Floor 36 Mowbray Road Sunderland SR2 8EW
9 Ward Court Sunderland SR2 8AN
8 Ward Court Sunderland SR2 8AN
7 Ward Court Sunderland SR2 8AN
6 Ward Court Sunderland SR2 8AN
5 Ward Court Sunderland SR2 8AN
3 Ward Court Sunderland SR2 8AN
1 Ward Court Sunderland SR2 8AN
3 Lindsay Close Hendon Sunderland SR2 8DA
11 Ward Court Sunderland SR2 8AN

Final Date for Receipt of Representations: **20.11.2023**

REPRESENTATIONS:

Outstanding Comments

CLLHH - Planning And Highways
AMBUL - NE Ambulance Service NHS Trust
WATER - Northumbrian Water
RECLAM - Landscape
Director Of Childrens Services

No objection or comments to make

Planning Implementation 10.11.2023 - No comments
Tyne And Wear Archaeology Officer - 01.11.2023 - No comment
Planning Policy - No objection 24.10.23

Chief Fire Officer - No objection 23.10.23
Network Management - (14.11.2023) No objection
Northern Powergrid - No objection 20.10.23
Northern Gas Networks- No objection 23.10.23

Nexus (27.10.2023) - No objection - Update Travel Plan - recommended development contribution 2 x £50 per dwelling £9,700

Education - No objection, education contributions required £195,278.22

Northumbria Police - No objection - I am satisfied with the changes to the plans with regard the fencing in to the communal green areas, and that this has raised the security and these areas.

I would like to reiterate the comments for plots 21-27 rear fence should be to a height of 1800mm due to the plots backing on to the alleyway.

Natural Heritage - No objection subject to recommended planning conditions.

Land Contamination - The investigation report identifies potentially significant risks to future site users due to the presence of concentrations of lead above the assessment criteria. Remediation is required to mitigate the risk to an acceptable level.

Due to the volume of contaminated material removal is not economically feasible, and it is therefore, proposed to provide a cover layer of clean soils for soft landscaped and garden areas. The cover layer is to comprise at least 600mm of clean soil, including 150mm of topsoil, and the works are to be verified in accordance with the YALPAG guidance on the verification requirements for cover systems.

Comments and Recommendation

I am pleased to confirm that the reports and the proposed works are acceptable. Planning Conditions CL03 and CL04 should be included in the Decision Notice.

Sunderland City Council - Environmental Health - Environmental Health has considered the documentation submitted since our comments of 31 May 2022 and 14 September 2023, and noted the amendments proposed. There is no indication that the changes impact the conclusions and recommendations of the noise assessment, and therefore our proposed condition relating to the position of the acoustic fence, glazing and ventilation strategy may remain. The condition requiring a CEMP also remains appropriate.

POLICIES:

Core Strategy and Development Plan (CSDP)

SP1 Development strategy
SP5 South Sunderland
SP8 Housing supply and delivery
HS1 Quality of life and amenity
HS2 Noise-sensitive development
H1 Housing mix
H2 Affordable homes

BH1 Design quality
BH2 Sustainable design and construction
BH6 Quality communications
BH7 Historic environment
BH8 Heritage assets
BH9 Archaeology and recording of heritage assets
NE1 Green and blue infrastructure
NE2 Biodiversity and geodiversity
NE4 Greenspace
NE9 Landscape character
WWE1 Decentralised, renewable and low carbon energy
WWE2 Flood risk and coastal management
WWE3 Water management
WWE5 Disposal of foul water
WWE6 Waste management
SP10 Connectivity and transport network
ST1 Urban core accessibility and movement
ST2 Local Road network
ST3 Development and transport

Unitary Development Plan (Saved Policies)(UDP)

SA10 - Community and Environmental Priority
SA12.3 - Housing Improvements

Brownfield Register
Strategic Housing Land Availability Assessment 2020 (SHLAA)

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

COMMENTS:

By virtue of section 38(6) of the Planning and Compulsory Purchase Act, 2004, the starting point for consideration of any planning application is the saved policies of the development plan. A planning application must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF advocates a presumption in favour of sustainable development. However, the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. The Core Strategy and Development Plan (CSDP) was adopted in January 2020 and is considered to represent an up-to-date development plan for the purposes of the NPPF, as are the Unitary Development Plan (saved policies) (UDP)

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

Principle of the development
Design and impact on the street scene
Heritage impact
Impact upon residential amenity
Contamination
Ecological and landscape impact

Highway and pedestrian safety
Flood risk, water and wastewater management
Planning Obligations

Principle of development

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

The NPPF Chapter 5 details how the NPPF can support the Government's objective of significantly boosting the supply of homes, paragraph 63 states that the housing needed for different groups in the community should be assessed and reflected in planning policies including (but not limited to) those who require affordable housing; families with children; older people (including those who require retirement housing, housing-with-care and care homes); students; people with disabilities; service families; travellers; people who rent their homes and people wishing to commission or build their own homes. The NPPF at Chapter 11 paragraph 123 state that "planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield' land and at paragraph 124(c) advocates that substantial weight should be given to the of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land.

CSDP Policy SP1 sets out the principles for development for Sunderland City and seeks to support sustainable economic growth and meet people's needs, the council, working with local communities, its partners and key stakeholders with an aim to deliver at least 13,410 net new homes and create sustainable mixed communities which are supported by adequate infrastructure across the plan period with CSDP Policy SP5 setting out the policies for strategic growth across South Sunderland.

CSDP Policy SP7(6) seeks to ensure healthy and safe communities and seeks to ensure that new developments are i. are age friendly, inclusive, safe, attractive, and easily accessible on foot or by bicycle and ii. have a strong sense of place which encourages social interaction; iii are designed to promote active travel and other physical activities through the arrangement of buildings, location of uses and access to open space; and iv promote improvements and enhance accessibility to the city's natural, built and historic environments.

CSDP Policy SP8 relates to housing supply and delivery whilst CSDP Policy H1 sets out the principles for residential housing mix with an aim to providing affordable housing, market housing demand and specialist housing through a mix of house types, tenures and sizes which are appropriate for their location, taking into consideration the character and accessibility of an area.

The application site is identified on the Brownfield Register as site 163 and as such has been assessed to be suitable, available and potentially achievable for housing development within the next 15 years and in the Strategic Housing Land Availability Assessment 2020 (SHLAA) and as such the principle of development is considered acceptable.

Affordable Housing

Paragraph 64 of the NPPF states that where a need for affordable housing is identified, planning policies should specify the type of affordable housing required and expect it to be met on-site. Paragraph 66 goes on to state that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership (as part of the overall affordable housing contribution from the site), unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified housing needs of specific groups.

Annex 2 (Glossary) of the NPPF then provides a detailed definition of affordable housing, with four distinct types being identified:

- a) Affordable housing for rent;
- b) Starter homes;
- c) Discounted market sales housing
- d) Other affordable routes to home ownership

On a local level, CSDP H2 sets the trigger for an affordable housing contribution at developments of 10 or more units and requires 15% of dwellings to be affordable and the supporting text to the policy reiterates the recommendation of the 2020 SHMA in terms of the 75:25 split between different tenure types.

As stated at the outset of this report, the applicant is proposing that the housing is 100% affordable all of which are proposed to be affordable rent tenures. Clearly, this level of affordable housing is welcomed given the significant contribution it will make to the overall provision, availability and choice of affordable housing in the City.

However, given that adopted local and national planning policies only require 15% and 10% of housing within a new development to be affordable respectively, the Council cannot reasonably insist that 100% of the housing within the development remains affordable in perpetuity. The applicant has, however, agreed to enter into a legal agreement with the Council to ensure that 15% of the affordable housing will be made available in perpetuity, in accordance with policy requirements. This requirement will be secured via an agreement under s106 of the Town and Country Planning Act 1990.

It is therefore considered the proposed affordable housing provision for the site is acceptable and will satisfy the objectives of paragraph 64 of the NPPF and CSDP Policy H2 in that it will make an appropriate contribution to meeting the affordable housing needs of the City.

Design and impact on the street scene

The NPPF at paragraph 128 advocates the planning policies and decisions should support development that makes efficient use of land, taking into account:

- a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;
- b) local market conditions and viability;
- c) the availability and capacity of infrastructure and services - both existing and proposed - as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;

- d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and
- e) the importance of securing well-designed and beautiful, attractive and healthy places.

The NPPF states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities and that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design. The NPPF advocates that planning policies and decisions should ensure that developments;

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

CSDP Policy BH1 seeks to ensure that developments achieve high quality design and positive improvement through accordance with a clear set of criteria as set out in the policy. It states that development should be of a scale, massing, layout, appearance and setting which respects and enhances the positive qualities of nearby properties and the locality; avoids disruption to established views of important buildings, structures, and landscape features; as well as encouraging durability and adaptability throughout the lifetime of a development whilst CSDP Policy BH2 relates to sustainable design and construction.

The DAS sets out a Masterplan for the site which creates a strong frontage with natural surveillance and public open spaces which are central to streetscape, safe play spaces, shared surfaces and gardens and a dry SuDS basins offering surface water management and biodiversity opportunities. The dwellings will be Category 2 MMC constructed using a timber frame, with increased insulation levels compared to a traditional build and will incorporate energy efficiency measures such as air source heat pumps, photovoltaics, smart meters and electric vehicle charging points.

The development is proposed as 100% affordable and consists of adaptable 1 and 2 storey dwellings in a range of sizes, including 4no. fully accessible dwelling. The proposed bungalows are to be located predominantly along the eastern and southern site edges where the proposals adjoin existing single storey development.

The layout retains the general grid form and street placement of the original streets with dwellings orientated to face the road creating positive active frontages and the use of windows within gables to provide natural surveillance with the use of communal gardens to replace the traditional rear

lanes to create safe communal space to promote resident interaction and informal play. The contemporary mix of materials and window proportions are considered acceptable.

In terms of the visual amenity of the locality, it is considered that in its current condition, the application site does not make a particularly positive contribution to the visual amenity of the locality. Furthermore, the site is located in an established built-up urban area which is partly characterised by residential development. Given this context, it is considered that a residential development of the site can relate satisfactorily to its surroundings.

Taking the above into deliberation, the general layout, scale and appearance of development is considered to be acceptable in this location and would not result in significant or adverse impacts upon the character and appearance of the site and surrounding area.

Heritage impact

The NPPF at Chapter 16 - conserving and enhancing the historic environment advocates the importance of historic sites and buildings and states that "these assets 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". The NPPF at paragraph 200 states that "in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets" and at paragraph 205 that "when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance".

Sunderland's historic environment has a large number of heritage assets, both designated and non-designated, including Scheduled Monuments, archaeological sites, Historic Parks and Gardens, listed buildings and conservation areas.

CSDP Policy BH7 and BH8 seek to conserve and enhance the historic environment and heritage assets and sets out the principles for development, whilst CSDP Policy BH9 seeks to protect the city's archaeological remains.

The site subject to this application is in close proximity to the Grade II listed St Ignatius Church (HER 7207, List Entry 1218133) and within a site of archaeological interest. The site forms part of the immediate urban residential setting to the Church that is predominantly formed by 20th Century housing, with historic terraces further to the west. The Church is a key landmark and due to its scale, form and architectural qualities is prominent in views along several streets and acts as a dominant focal point in the townscape of the residential neighbourhood. The Ashbrooke Conservation Area lies a short distance to the west and includes the listed terraces of Park Place East and West at its nearest point to the site.

Whilst it is acknowledged that the proposed development would have some impact of the setting of the Church due to its proximity and inter-visibility. The Building Conservation Officer has been consulted as part of this application process and has raised no objection the development is not considered to have any impact on the setting of the Ashbrooke Conservation Area and Listed Buildings within it due to their distance from the site and intervening development. The City Archaeologist has also been consulted and has raised no objection stating that further archaeological investigation is not required.

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

Impact upon residential amenity

The NPPF paragraph 135(f) advocates a safe, inclusive, and accessible places which promote health and well-being with a high standard of amenity for existing and future users/

CSDP Policy BH1 seeks to retain acceptable levels of privacy and ensure a good standard of amenity for all existing and future occupiers of land and buildings whilst CSDP Policy HS1 seeks to ensure that cumulative impact of development does not result in unacceptable adverse impacts on the local community stating that development will not normally be supported where the existing neighbouring uses would unacceptably impact on the amenity of future occupants of the proposed development.

In terms of the amenity afforded to prospective occupiers of the new development, it is observed that the development comprises reasonably proportioned dwellings which, in the main, occupy good sized plots with relatively spacious front and/or rear gardens and communal gardens and areas. The DAS states that the development proposals incorporate Secured by Design principles, with the layout working to present active frontages to as many of the surrounding spaces as possible and avoid the creation of alleys and secluded areas. A Health Impact Assessment (HIA) submitted in support of the application states that the site will incorporate low carbon, energy saving measures and that the site has been designed so that all access to the site is safe and convenient with good surveillance to reduce the risk of criminal activity with the layout configured around four cul-de-sacs to encourages low vehicle speeds and provide passive surveillance.

The developer has submitted a Construction Environmental Management Plan and Traffic Management Plan with the application. The purpose of these reports is to outline how the development will be managed and the impacts mitigated during the construction period. The report provides details of deliveries, movement of materials, management of surface water drainage, dust and general impacts on the surrounding environment.

With regard to noise, CSDP Policy HS2 and paragraph 191 of the NPPF seeks to ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development - and avoid noise giving rise to significant adverse impacts on health and the quality of life
- b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason;
and
- c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation

The developer has submitted an Acoustic Report, Energy and Sustainability Statement, Health Impact Assessment, Air Quality Assessment in support of the application which makes recommendations to safeguard and ensure the amenity of existing residents within the locality and that of any future residents within the development site.

The proposed interface differences between the proposed development and the existing built form are considered acceptable. The Environmental Health Team (PH) have been consulted on this application and have raised no objection. The proposal is considered to accord with local and national planning policy in this respect.

Contamination

In regard to ground conditions and pollution, the NPPF advocates the remediation and mitigation of despoiled, degraded, derelict, contaminated and unstable land where appropriate, and at paragraph 189 states that planning policies and decisions should ensure that;

- (a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);
- (b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and
- (c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.

However, a site is affected by contamination or land stability issues, responsibility for securing a safe development rest with the developer and/or landowner. (NPPF paragraph 190).

The NPPF paragraph 191 advocates that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

CSDP Policy HS3 relates to contaminated land and set out the principles for development on contaminated land and seeks to ensure that there is no unacceptable risk to health or to the environment; that contaminants to the proposed end use and future site users are adequately quantified and addressed. Ensuring the correct mitigation measures are identified and implemented and that in developing the site there would be no risk to people, buildings, services, or the environment including the apparatus of statutory undertakers. The following documents have been submitted in support of this application;

- Phase 1 Coal Mining Risk Assessment Report (CMRA)
- Phase 2: Ground Investigation Report (GIR)
- Remediation Strategy & Validation Proposal Sheets Revision 2 (RS)
- Air Quality Assessment (AQA)
- Noise Impact Assessment Report (NIA)
- Hazardous Ground Gas Risk Assessment Addendum Report (HGGRA)

CSDP HS2 relates to noise sensitive development and advocates that noise sensitive development will be directed to the most appropriate locations and protected against existing and proposed sources of noise through careful design, layout, and uses of materials. The Environmental Health Team have also been consulted and have raised no objection subject to recommended planning conditions.

The site falls within a coal mining legacy area identified as low risk.

The GIR identifies potentially significant risks to future site users due to the presence of concentrations of lead above the assessment criteria. Remediation is required to mitigate the risk to an acceptable level. Due to the volume of contaminated material removal is not economically feasible, and it is therefore proposed to provide a cover layer of clean soils for soft landscaped and garden areas. The cover layer is to comprise at least 600mm of clean soil, including 150mm of topsoil, and the works are to be verified in accordance with the YALPAG guidance on the verification requirements for cover systems. The Land Contamination Officer has been consulted as part of this application process and has raised no objection subject to recommended planning conditions.

Taking the above into deliberation, it is considered that subject and adherence to the recommended planning conditions, the proposal would accord with local and national planning policies in this respect.

Ecological and landscape impact

The NPPF at Chapter 15 recognises the intrinsic value and character of the natural environment and seeks to minimise the impact of development and to protect and enhance valued landscapes whilst seeking to achieve biodiversity and geodiversity net gains. Paragraph 188 states that the 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.

CSDP Policy NE9, outlines the requirement to demonstrate a high-quality landscape design, implementation and management as an integral part of the new development, whilst CSDP Policy NE11 seeks to protect and create views into, out of and within the development and seeks to preserve or enhance key local views and vistas, giving consideration to views of significant buildings, including views to and from heritage assets, and views within landscapes which are more sensitive to change due to their open, exposed nature and extensive indivisibility from various viewpoints.

The application site lies within an existing wildlife corridor and within the Northumbria Coast SPA / Ramsar site Durham Coast SAC and the Northumbria Coast SPA / Ramsar site coastal buffer zone and as such UDP saved policy CN23 and CSDP Policies NE1, NE2, NE3 and ID2 are relevant.

The Site is bounded by built development on all sides including Amberley Street and Lindsay Close to the north, Suffolk Street to the east (alongside the Deerness Park Medical Centre), Ward Court/Hendon Valley Road to the south, whilst Salem Street lies to the west. Within the Site is Amberley and Harrogate Street running north to south and Mowbray Road running east to west. The site boundaries are predominantly formed by the existing highways, with the exception of the eastern boundary which is formed by the palisade fence of the adjacent single storey medical centre and car park. The site is surrounded on all other sides by existing residential development mainly in the form of 2 storey terraced housing, with some bungalows located to the south. A small cluster of 3 storey dwellings is located to the north-western corner of the site.

The site currently is laid to lawn with intermittent trees place sporadically around the perimeter of the site. The site is approximately 7.6 acres in area, the site falls from the North Western

boundary to South Eastern boundary; it is predominantly level with an overall slope of around 3m across the site from north-west to south-east.

The following information has been submitted in support of this application;

- Ecological Impact Assessment,
- Ecological Mitigation Plan,
- Report to inform a Habitat Regulations Assessment (HRA)
- Biodiversity Net Gain Assessment (BNG)
- Biodiversity Metric (BM)
- Landscaping Plan (LP)

The proposed development site is dominated by strips of amenity and poor semi-improved grassland, intersected by roads and surrounded on all sides by residential housing. The HRA concluded that there were no invasive species recorded within the development site and the potential direct and indirect impacts of the proposed change of use are considered to be limited. A programme of landscaping, the creation of new open green space and ecological mitigation is proposed within the development site. The BNG identifies an anticipated net gain in the biodiversity value of the site and the provision of integrated bird nesting opportunities and bat roosting features.

The City Ecologist and the Landscape Architect have been consulted and have raised no objection subject to the imposition of recommended planning conditions. It is considered subject to the imposition and adherence to the recommended planning conditions, the proposal would accord with local and national planning policies in this respect.

Highway and pedestrian safety

The site which is the subject of this application is located on previously developed land. The site lies in a highly accessible location within an established residential area and is in close proximity to both the City Centre and existing local facilities within Hendon. It has good links to public transport including bus, rail and the metro and pedestrian networks. A number of documents have been submitted in support of this application in regard to highways matters which include a Travel Plan (TP), Transport Assessment and Addendum and Road Safety Audit (RSA).

The proposed development is for the construction of 96 dwellings comprising a mix of bungalows and houses and associated infrastructure, with access to be taken from Harrogate Street and the surrounding streets of Mowbray Road, Amberely Street, Heddon Valley Road and Salen Street in the form of direct access onto the existing street arrangement and a series of shared surface type cul-de-sac arrangements. The RSA identifies that as part of the proposed highway works the narrowing of Mowbray Street is proposed and to create cul-de-sac arrangements on Harrogate Street and Amberely Street. This will break down the residual highway grid of the site, remove excessive through routes and allow these streets to become active destination spaces without the need to divert below ground services and create defined spaces within the streetscape.

The existing traditional highway format of a 5.5m road with min. 1.8m footpath is reduced in length at each end of these streets to form a suitable stub end or turning head with the adjacent back lanes, after which the highway then changes to a shared surface consisting a 4.8m main carriageway with a 1.2m overrun zone (6m total), to create a more informal layout and allow the dwelling layouts to have prominence within the street. Each shared surface then provides a turning head suitable for refuse access and gives access on to the central pedestrian link through, with additional private drives for parking where necessary. Parking provision is to be provided in line with the Sunderland Development Management Plan SPD.

The Transportation Development team have been consulted and have raised no objection. It is noted that the site is identified as suitable for an enforceable 20mph zone. As such a Traffic Regulation Order is required and to be implemented no later than the Final Adoption of the development.

Flood risk, water and wastewater management

The NPPF advocates that plans, and policies should take a proactive approach to mitigating and adapting to climate change and support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts. The NPPF at paragraph 173 states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.

Built development can lead to increased surface water run-off; therefore, new development is encouraged to incorporate mitigation techniques in its design and therefore CSDP Policies WWE2, WWE3, WWE5 and WWE6 are relevant to manage and mitigate against any potential flood risk and ensuring that new and existing developments are not put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.

The application site is located with Flood Risk Zone 1 which has a low probability of flooding from rivers and the sea. The closest watercourse is a culverted length of Hendon Burn at some 250m to the south of the proposed development, the culvert runs at an approximate depth of 10.0m. The Northumbrian Water (NWL) sewer record plans indicate a 300mm diameter combined sewer in the road to the east and a 450mm and 600mm in the road to the west of Amberley Street, a 300mm diameter combined sewer in the road to the east of Harrogate Street, and a 300mm combined sewer in the road to the south of Amberley Street South.

A suite of documents has been submitted in regard to water, waste water and flood risk management which includes a Flood Risk Assessment and Drainage Strategy, a Construction and Surface Water Management Plan, a SuDS Validation report and a Phasing Layout Plan

The Application Form states that foul sewage is to be disposed of via the existing main sewer and that surface water will be disposed of via a sustainable drainage system (SuDS).

Northumbrian Water (NW) have been consulted as part of this application process and have raised no objection. The LLFA have been consulted, further information was requested and submitted and subject to the imposition of recommended planning conditions, the LLFA raised no objection.

It is considered that with the imposition and adherence to the recommended planning condition, the proposal would accord with local and national planning policy in this respect.

Planning Obligations

Paragraph 55 of the NPPF states that Local Planning Authorities should consider whether otherwise, unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition; such obligations are usually secured via legal agreements under Section 106 of the Town and Country Planning Act 1990 (as amended). Paragraph 57 goes on to advise that planning obligations should only be sought where

the following tests can be met (also set out at Regulation 122(2) of the Community Infrastructure Levy (CIL) Regulations 2010):

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

Sunderland's future growth and environmental sustainability cannot be achieved without a wide array of essential infrastructure. The term infrastructure can be taken to include roads and other transport facilities, flood defences, schools and other educational facilities, health facilities, sporting and recreational facilities and open spaces. This is not an exhaustive list and there may be a range of other services and facilities that could constitute infrastructure, which may be required.

CSDP Policy ID1 relates to infrastructure delivery and seeks to ensure that development contributes towards the provision of (i) measures to directly mitigate the impacts of the development and make it acceptable in planning terms; and (ii) contribute towards the delivery of essential infrastructure identified in the IDP.

CSDP Policy ID2 sets out the mechanisms in respect of planning obligations. Planning obligations must be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.

Where necessary, the timing of provision of infrastructure will be linked directly to the phasing of development, taking account of viability. In respect of this application contributions are sought for the following;

- Affordable Housing
- Education
- Allotments
- Ecology/HRA

As stated at the outset of this report, the applicant is proposing that the housing is 100% affordable all of which are proposed to be affordable rent tenures. Clearly, this level of affordable housing is welcomed given the significant contribution it will make to the overall provision, availability and choice of affordable housing in the City.

However, given that adopted local and national planning policies only require 15% and 10% of housing within a new development to be affordable respectively, the Council cannot reasonably insist that 100% of the housing within the development remains affordable in perpetuity. The applicant has, however, agreed to enter into a legal agreement with the Council to ensure that 15% of the affordable housing will be made available in perpetuity, in accordance with policy requirements. This requirement will be secured via an agreement under s106 of the Town and Country Planning Act 1990.

It is therefore considered the proposed affordable housing provision for the site is acceptable and will satisfy the objectives of paragraph 64 of the NPPF and policy H2 of the CSDP in that it will make an appropriate contribution to meeting the affordable housing needs of the City.

Habitats Regulation Assessment

The developer has confirmed agreement to the figure £53,485.44 towards ecological mitigation and management measures in respect of impacts on European-protected coastal sites and species.

Affordable housing

The S106 agreement would secure the policy requirement of 15% affordable housing in perpetuity.

Education contribution

The developer has confirmed agreement to the figure £195,278.22 to support education provision.

Allotments

The developer has confirmed agreement to the figure £8,208 for the provision of allotments.

The applicant has agreed to the financial contributions detailed above and these will be secured via an agreement under S106 of the Town and Country Planning Act 1990. An agreement to this effect is in the process of being drafted by the Council's Legal team and it is anticipated that the agreement will be completed shortly after the Committee meeting.

Equality Act 2010 - 149 Public Sector Equality Duty

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:-

- o age;
- o disability;
- o gender reassignment;
- o pregnancy and maternity;
- o race;
- o religion or belief;
- o sex;
- o sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant

protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to?

- (a) tackle prejudice, and
- (b) promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

Conclusion

For the reasons set out above, it is considered that the proposed development is acceptable in principle. The design and materials palette are considered acceptable and would not have a negative impact on the locality of the street scene.

It is considered that this proposal will provide a development that follows the planning principles identified within Section 12 of the NPPF, Achieving Well Designed Places specifically that the creation of high-quality buildings and place is central to the purpose of the planning and development system.

There would be no adverse impact on residential amenity. Subject to the conditions recommended throughout this report, the proposals are also considered to be acceptable in respect of ecology, water and wastewater management, highways safety and ground conditions/land contamination.

The proposed development is therefore considered to be acceptable and compliant with the requirements of the relevant policies of the NPPF and the Council's Core Strategy and Development Plan and remaining policies of the UDP.

RECOMMENDATION: Delegate to the Executive Director of City Development who is minded to APPROVE the application subject to the draft conditions outlined within the report and the completion of a S106 Agreement.

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:

Site Location Plan: Drawing No. 3997-JDKK1000 Rev. 2
Proposed Site Plan: Drawing No. 3997-JDDK1002 Rev 21
Site Sections: Drawing No. 3997-JDDK-Z1-ZZ-DR-A-4001 Rev.P3
Block Plan: Drawing No. 3997-JDDK-1004 Rev.7
Boundary Treatment Details: Drawing No. 3997-90-101 Rev.4
Finishes/Boundary Treatments: Drawing No. 3997-JDDK1003 Rev.19
Phasing Layout
Street Lighting Plan: Drawing No. BBLP EX1163 Rev. C

House Types

HT01: Drawing No. 3997-JDDK-XX-XX-DR-A-2001 Rev P02
HT02: Drawing No. 3997-JDDK-XX-XX-DR-A-2002 Rev P03
HT02a: Drawing No. 3997-JDDK-XX-XX-DR-A-2002a Rev. P03
HT02s: Drawing No. 3997-JDDK-XX-XX-DR-A-2002s Rev P01
HT05: Drawing No. 3997-JDDK-XX-XX-DR-A-2005 Rev. P03
HT6: Drawing No. 3997-JDDK-XX-XX-DR-A-2006 Rev. P02
HT7: Drawing No. 3997-JDDK-XX-XX-DR-A-2007 Rev. P02
HT9: Drawing No. 3997-JDDK-XX-XX-DR-A-2009 Rev. P03
HT11: Drawing No. 3997-JDDK-XX-XX-DR-A-2011 Rev. P02
HT12: Drawing No. 3997-JDDK-XX-XX-DR-A-2012 Rev. P02
HT13: Drawing No. 3997-JDDK-XX-XX-DR-A-2013 Rev. P03

Ecology Mitigation Plan: Drawing No. 3997-JDDK1005 Revision 2

Landscape Plans

Landscape Softworks (Sheet 1 of 3): Drawing No. 148814/8002 Rev. I
Landscape Softworks (Sheet 2 of 3): Drawing No. 148814/8003 Rev H
Landscape Softworks (Sheet 3 of 3): Drawing No. 148814/8004 Rev H
Landscape Proposal Plan: Drawing No. 148814/8001 Rev. J

Swept Path Analysis: Drawing No. 1042-002

Visibility Splays: Drawing No. 1042-001

Drainage

Exploratory Hole Location Plan (Proposed): Drawing No. 20-794
Drainage Strategy Layout Plan: Drawing No. 000-01 Rev. E (FRA Appendix J)
Flood Route Layout Plan: Drawing No. 013-02 Rev. F (FRA Appendix K)
Maintenance Schedules (FRA Appendix L)

Reason: In order to ensure that the completed development accords with the scheme approved and to comply with policy BH1 of the Core Strategy and Development Plan.

- 3 Notwithstanding any indication of materials which may have been given in the application, no development shall take place until a schedule and/or samples of the materials and finishes to be used for the external surfaces, including walls, roofs, doors and windows has

been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details;

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

- 4 Works shall be undertaken in complete accordance with the Construction Environmental Management Plan (CEMP) and the Construction Management Statement Revision E (CMS), which have been submitted in support of the application hereby approved unless otherwise agreed in writing with the Local Planning Authority.

Reason: to protect biodiversity and prevent the risk of harm to protected species from the outset of the development and to prevent nuisance in the interests of residential amenity and highway safety in accordance with Policies NE1, NE2, BH1 and HS1 of the adopted Core Strategy and Development Plan and the aims of the NPPF.

- 5 Unless otherwise agreed in writing with the Local Planning Authority, the construction works required for the development and any deliveries made to the site shall only be carried out between the hours of ;
- 08.00 and 18.00 Monday to Friday
 - 08.00 and 13.00 on Saturdays , and
 - no time on Sundays or Bank Holidays

Reason : In order to protect the amenities of the area and to comply with policies BH1, SP7 and HS2 of the Core Strategy and Development Plan.

- 6 No building work shall commence above ground level until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping and treatment of hard surfaces which shall include indications of all existing trees and hedgerows on the land, and details for their protection during the course of development.

Reason : In the interests of visual amenity and to comply with policy NE2 and NE9 of the Core Strategy and Development Plan.

- 7 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the buildings or the completion of the development whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation, in the interests of visual amenity and to comply with policy NE1 and NE2 of the Core Strategy and Development Plan.

- 8 A Habitat Management and Monitoring Plan (HMMP) shall be submitted to, and be approved in writing by, the local planning authority prior to first occupation of any dwelling. The content of the HMMP shall include the following;

- a. Description and evaluation of the habitats to be created and managed.
- b. Ecological trends and constraints on site that might influence management.
- c. Aims and objectives of management, including reference to target ecological condition of habitats and timescales for these.
- d. Appropriate management options for achieving aims and objectives.
- e. Prescriptions for management actions.
- f. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a thirty-year period)
- g. Details of the body or organisation responsible for implementation of the plan.
- h. Ongoing monitoring and remedial measures.

The HMMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the HMMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved plan will be implemented in accordance with the approved details and habitats shall be actively maintained for a period of not less than 30 years.

- 9 The development shall be undertaken in accordance with the Ecological Mitigation Plan : Drawing No. 3997-JDDK1005 Revision 2 which has been submitted in support of the application hereby approved, unless otherwise agreed in writing with the Local Planning Authority. The works shall be carried out strictly in accordance with the approved details. Any building mounted bat or bird features shall be installed integral to the fabric of the building and shall not be installed directly above any doors or windows.

Reason : to protect biodiversity and prevent the risk of harm to protected species from the outset of the development and in accordance with Policies NE1 and NE2 of the adopted Core Strategy and Development Plan and the aims of the NPPF.

- 10 Implementation of Approved Remediation and Verification. The Approved Remediation Scheme for any given phase shall be implemented in accordance with the approved timetable of works for that phase.

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with the National Planning Policy Framework Paragraphs 174f and 183.

- 11 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. A Risk Assessment must be undertaken in accordance with the requirements of the Environment Agency's "Land Contamination: Risk Management" and where remediation is necessary a Remediation Scheme must be prepared and submitted to the Local Planning Authority in accordance with the requirements that the Remediation Scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. Once the Remediation Scheme has been approved in writing by the Local Planning Authority it shall be known as the Approved Remediation Scheme.

Following completion of measures identified in the Approved Remediation Scheme a verification report must be prepared and submitted in accordance with the approved timetable of works. Within six months of the completion of measures identified in the Approved Remediation Scheme and prior to the occupation of any building, a validation report (that demonstrates the effectiveness of the remediation carried out) must be submitted to the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with the National Planning Policy Framework Paragraphs 174f and 183

- 12 The submission of a verification report(s), shall be submitted to and approved by the Local Planning Authority. The verification report(s) must be carried out by a suitably qualified person. The verification report(s) shall be submitted in accordance with the agreed timings, as outlined in the Amberley and Harrogate Street SUDS Validation Report - Revision A, Ref: 2020060, dated: January 2024, and must include the details of the SuDS features demonstrating that all sustainable drainage systems have been constructed as per the agreed scheme. For the avoidance of doubt, this shall include:

- As built drawings (in dwg/shapefile format) for all SuDS components - including dimensions (base levels, inlet/outlet elevations, areas, depths, lengths, diameters, gradients etc) and supported by photos of installation and completion.
- Construction details (component drawings, materials, vegetation).
- Health and Safety file.
- Details of ownership organisation, adoption & maintenance.

Reason: to ensure that all sustainable drainage systems are designed to the DEFRA non-technical standards for SuDS and comply with policies WWE2 and WWE3 of the CSDP.

Reference No.: 23/00747/FUL Full Application

Proposal: **Erection of discount food store (1,867 sq.m GEA / 1,786 sq.m GIA) (Use Class E) with associated access, car parking, hard and soft landscaping and associated works. (Amended dated 09.08.2023).**

Location: Land To The South Of Colliery Lane Hetton Le Hole DH5 0HU

Ward: Hetton

Applicant: Aldi Stores Limited

Date Valid: 24 March 2023

Target Date: 23 June 2023

Proposal

The application seeks full planning permission for

Erection of discount food store (1,867 sq.m GEA / 1,786 sq.m GIA) (Use Class E) with associated access, car parking, hard and soft landscaping and associated works (as amended)

At

Land to the south of Colliery Lane, Hetton-le-Hole, DH5 0HU

The site lies within the Hetton Ward, to the south of Hetton-le-Hole.

In terms of surrounding land uses, these include an industrial estate to the north, dwelling houses to the east and west and a cricket club to the south. The surrounding land uses further include a road to the north, which connects Hetton to Murton and then the A19 (B1285).

In terms of the history of the site, the Tyne & Wear Archaeologist has advised that records show the site being undeveloped in mid 19C (albeit surrounded by development) and then being used as a football field in the later 20C.

In terms of the site itself, the site has a broadly rectangular plan form covering around 9,555 square metres (i.e. just more than 0.95 hectares). The site appears to be vacant, covered by grass / scrub; bounded to the north by a post & rail fence and to east and south by close board fences.

In terms of the proposed development, the submitted plans show the construction of a detached building with a footprint of 1,867 square metres, served by 102 parking spaces and accessed via a modified pedestrian and vehicular access onto Colliery Lane. The proposed building would have a maximum height from the finished ground level of around 7 metres, constructed from grey / silver cladding and aluminium window frames. The site would be enclosed by a low level timber fence to the north and west (up to 0.6 metres) and ball stop netting to the south.

The Local Planning Authority has recently issued a screening opinion, which confirmed that the proposal would not be EIA development.

Relevant Planning History

None for the site in question.

Policies

Core Strategy and Development Plan (2015-2033).

Unitary Development Plan (1998).

Material Considerations

City Plan (2023)

Green Space Audit (2020)

Low Carbon Action Plan (2020)

Low Carbon Framework (2020)

Planning Obligations (Supplementary Planning Document) (2020)

Playing Pitch Plan (2018)

Playing Pitch Plan (2022)

Strategic Housing Land Availability Assessment (2020)

Publicity

Neighbour notifications (197 properties): 7 April and 11 August 23.

Press notice (departure): 5 April and 15 August 23.

Site notice (departure): 31 March 23.

Consultees

Hetton Town Council

The Town Council held a public meeting to discuss this topic on 24 April, and additionally, an Extraordinary meeting of Full Council was held on 25 April.

Town Council has resolved that the following comments be submitted, having taken cognisance of public opinion.

The Town Council welcomes the proposed addition to the retail offer in the district in the form of a national discount supermarket; and the benefits this could bring in terms of employment opportunities, and especially consumer choice, particularly during a cost-of-living crisis.

There is a general consensus of support in the local community for the proposal, but equally a widespread concern about longstanding inadequacies in local transport

*infrastructure to support existing high levels of traffic which would be exacerbated by increased vehicular activity due to store visits by customers and the essential delivery of products by heavy goods vehicles.
In particular, there are genuine concerns about vehicle and pedestrian safety in the immediate and wider area.*

Understandably, those residents potentially directly affected have real and legitimate concerns about the denigration of their quality of life. It is incumbent upon the Town Council to reflect their views which in addition to traffic issues include light pollution, noise nuisance and the potential for increased anti-social behaviour.

Members have also taken the opportunity to examine the documentation posted on the SCC Planning Portal associated with this application and the following issues have arisen:

Contravention of SCC Core Strategy

Strategic Priority 3 of The Core strategy promotes healthy and safe communities by: supporting the delivery of the strategic priorities (Policy SP7) and protect the amenity and quality of life of residents (Policy HS1) direct noise-sensitive development to appropriate locations (Policy HS2)

The Core Strategy states “the city centre (as defined on the policies map) and other Town, District and Local Centres within the authority area are an important aspect of the local economy, providing shops, services and community facilities to serve our local communities. These centres help give areas their own identity and focussing development proposals for main town centres uses within designated centres, as set out within the retail hierarchy (Policy VC1)”.

The site proposed in this application is not a designated town centre, and does not protect the amenity and quality of life of residents and therefore contravenes the Core Strategy.

Internal correspondence between Sunderland City Council departments would appear to highlight these contraventions.

Lack of Health Impact statement

In view of the close proximity of the proposal to a residential area, a health impact statement should be provided.

In submitting its’ response, the Town Council has undertaken to provide a balanced viewpoint on behalf of the local community.

It is hoped that the City Council will take these into account in its determination of the planning application; and recognise the need for urgent investment in highways infrastructure projects in the area.

Ambulance Service -No response received.

Archaeology -I consider that the proposals will not have a significant impact on any known archaeological heritage assets, and no archaeological work is required.

Ecology -I am satisfied that, subject to conditions to secure the above mitigation and enhancement measures and an appropriate commuted sum to enable to Council to address the loss in biodiversity value, the proposals can be implemented in accordance with biodiversity policies. On this basis I have no objection.

Environmental Health -*Environmental Health has considered the submitted documentation and has no objection to the proposal subject to the inclusion of the following conditions on any consent: Acoustic Barrier ,Noise from external mechanical plant and Construction Environmental Management Plan*

Fire & Rescue Service -*Please advise if this is to be timber framed construction.*

The Fire Authority have no objections to this proposal, subject to the provisions detailed in the enclosed report.

Further comment will be made on receipt of a Building Regulations submission.

Health and Safety Executive -*at present HSE does not need to be consulted on any developments on this site*

Land Contamination Officer -*The report provides a good overview of the site's setting, history, and its potential to be affected by contamination. Although no significant soil contamination is present, the initial rounds of gas monitoring completed so far indicate that remedial works are required in the form of the provision of ground gas protection measures.*

An updated or addendum report to include the completed gas monitoring results and risk assessment will be required, along with a remediation strategy detailing the proposed ground gas protection measures and verification works. I would therefore recommend the following conditions:

CL01 Site Characterisation

CL02 Detailed Remediation Scheme

CL03 Implementation of Approved Remediation and Verification

CL04 Reporting of Unexpected Contamination

Landscape -*No comments received.*

Lead Local Flood Authority -*Suggest approval*

Local Highway Authority (25 April 23):-

Comments:

The applicant seeks approval for the erection of discount food store (1,867 sq.m GEA / 1,786 sq.m GIA) (Use Class E) with associated access, car parking, hard and soft landscaping and associated works.

The plans submitted show that the applicant proposes to create a new access from Colliery Lane (B1285), the applicant states within the transport assessment that visibility splays of 2.4 x 43 metres will be provided, however, no plans have been provided to demonstrate this, a block plan giving details of this is required.

NEW ACCESS POINT & OFF SITE HIGHWAY WORKS

Any developments which require the creation of a new access or any off site highway improvement works to Stage 1 Safety Audit (RSA) to be carried out in accordance with GG119 with revised transport statement to reflect any changes requested from the RSA.

TURNING MOVEMENTS / SWEPT PATH

It must be ensured that the turning movements of large vehicles can be met. A plan showing the swept path movements of a large refuse vehicle (11.2m long) entering, exiting and turning within the site to be demonstrated.

The plans submitted giving details of car parking for the site accord with SCC parking standards and are therefore considered acceptable.

The plans submitted giving details of cycle parking accord with SCC cycle parking standards and are therefore considered acceptable.

SECTION 278 WORKS

The proposed development will entail alterations to existing highways, which will require the Developer to enter into an Agreement with the Council under Section 278 of the Highways Act 1980, before commencing work in the highway. Alterations to the street lighting layout may also be required and you any possible costs will be available in due course. The Developer should confirm intent to enter into such an Agreement and that the Council's reasonable costs for the legal and technical work involved will be met. For further information please contact Graeme Hurst, Highway Adoption Engineer graeme.hurst@sunderland.gov.uk

TACTILE CROSSING

The applicant to contact Stephen Black via email stephen.black@sunderland.gov.uk to discuss and arrange the installation of tactile crossing points.

BIN STORAGE

The location of refuse storage within the curtilage of the site and the collection point to be clarified.

SCHEME OF WORKING

A scheme of working is required for the operation and management of the site including, construction site traffic, contractor parking, building material deliveries & storage, site compound layout and any temporary access points.

Local Highway Authority (13 October 23):-

The submitted Stage 1 Road Safety Audit provided by the transport consultant on behalf of the applicant has been reviewed and is considered to be acceptable.

A number of recommendations are required as a result of the audit which could be secured by planning condition. These include:

- 1. The submission of a highway design drawing detailing the site access and associated highway improvements including a proposed road marking scheme and public lighting improvements*
- 2. The submission of a highway design drawing of the site access and proposed pedestrian crossing detailing the proposed landscaping and boundary treatments to ensure required visibility splays are achieved*
- 3. The submission of a Stage 2 Road Safety Audit as a review of the detailed highway design*

The above requirements are in the interests of highway safety to ensure safe access and egress for highway users for the development.

Police- Northumbria Police have no objection to the development at Hetton Le Hole, but would like to offer the following comments.

The rear door of the building we recommend to be to the British standard of LPS 1175 sr 4 D10, this level is recommend so that it will resist attack for a minimum of 10 minutes.

Good Security lighting is essential around the dock area of the development as well as to the rear staff door, this door should also be strong enough to with stand attack for up to 10 minutes (LPS 1175 issue 8.1:D10) as a minimum of the building were the , we would therefore recommend the installation of CCTV.

Representations

There have been more than 85 representations, which will be summarised below.

Objection

Comments relating to the principle of the development, which include potential for cricket balls to land within the site, the site has previously been a football pitch, the site comprises an amenity for the area (including space to walk dogs), not within a designated town centre, would take business away from the town centre, impact upon local businesses, too close to industry, consultants commissioned by the Applicant are not independent, inaccuracy of submitted Statement of Community Involvement, impact upon property values

Comments relating amenity, which include other stores have problems with anti-social behaviour, proposed steps are near existing properties, odour from refuse, deliveries would be 24 hours, noise (including car parking, deliveries and refuse collection), air pollution, illuminated lights, earthworks are excessive, noise assessment shows the nearest noise sensitive receptors in a location which favours the developer, noise measurements were taken during the summer holidays, noise from the proposed plant, the proposed store would block day light / sunlight and lead to overshadowing, visual impact of the proposed fences, the applicant should submit a Health Impact Assessment, pollution from traffic, stray cricket balls could enter site, close to a school.

Comments relating to drainage, the submitted Flood Risk Assessment says no risk of flooding when there has been flooding.

Comments relating to highways, which include there would be difficulty for delivery vehicles, junction opposite provides access to the industrial estate, traffic from industrial estate, there should be traffic calming, existing levels of traffic are hazardous, main route into Durham and Dalton Park, additional traffic from new housing, speeding, difficult for existing properties to exit, lay-bys are obstructed, absence of overflow parking, an application has been refused on the land opposite, better locations for a supermarket.

Comments have been received from a consultant representing Asda, which include the Transport Assessment uses the Unitary Development Plan (1998) and not the more recent Supplementary Planning Document, not enough parking, no swept path analysis, should be a pedestrian island, query whether the design accords with the Design Manual for Roads and Bridges, a Stage 1 Road Safety Audit should be submitted, a Traffic Regulation Order should

require double yellow lines and there should be a route to replace the desire lines through the site.

Comments have been received from a further consultant who does not identify who they are representing, including impact on town centre, no copy of NEMS data, assessment should include convenience and comparison stores, should be assessment of linked trips, no copy of base household survey data, applicant overstates for new Lidl and impact on Lidl would be more than 51%

Comments have been received from the Cricket Club, the most recent says that:

I received a copy of the letter that Aldi sent to you on the 23rd Oct 23. With regards to putting a ball netting structure in place between our field and the proposed Aldi development, what they have proposed we find is inappropriate.

We have no objection to any planning permission which requires them to submit a scheme before starting the development and we look forward to working with Aldi to find an appropriate solution.

Support (71 representations)

Expressions of general support.

Comments relating to the principle of the development, which include would create employment / job opportunities, uses vacant land, reduce need to travel outside of the area, residents can be more independent, another supermarket desperately needed, nothing of this type in the area, benefit surrounding villages, accessible for those who do not have a car, new supermarket would enhance image of the area, the existing supermarket in the existing centre small, existing shops are expensive and existing shops do not sell green or household items.

Comments relating to highways ask whether there could be a pedestrian crossing.

Comments

Principle of the Development

The site forms part of a wider allocation for housing within the adopted Unitary Development Plan (UDP). The associated saved policy says that (policy HA4 – Land for Housing):

The following sites for more than 10 dwellings are allocated for new housing...

... Lyons Ave North, Easington Lane

Gross Area HA) 2.80

Estimated Dwelling Capacity 56

The proposed development, as a supermarket, would therefore be a departure from the development plan.

The Planning Policy Officer has advised that the site has been identified in the most recent Strategic Housing Land Availability Assessment (2020) as *not currently developable* due to issues (at the time) regarding site availability. The Planning Policy Officer has also drawn to attention that the Council has a five-year housing land supply, as confirmed by the Planning Inspectorate. The Planning Policy Officer has therefore advised that regard can be given to appropriate alternative developments.

Given the commentary above, the development of the site for purposes other than housing can be given consideration.

A further point to consider would be the supporting text for the above policy, which says that (paragraph 22.34):

This allocation is composed of land in two separate ownerships - a vacant area of 2ha, fronting onto Lyons Avenue owned by the City Council; and the balance of 0.8ha comprising a playing field used by Hetton Lyons Youth Club, which lies to the east of Lyons Avenue. Originally, the Youth Club intended to finance improvements through the sale of the playing field. However, issues have arisen relating to covenants so that no further progress has been made. Suitable noise attenuation and landscaping measures will be required for any development fronting onto Colliery as well as appropriate measures along the site boundary with the adjacent cricket ground. The developer will be expected to make appropriate provision in the immediate area to compensate for the loss of the playing field.

In terms of the supporting wording immediately above, the initial point to consider would be that the entirety of allocation lies to the west of Lyons Avenue; whereas the supporting wording refers to some of the land being *to the east of Lyons Avenue*. The wording does, however, refer to two pieces of land (1) a larger piece of land (covering 2 hectares) and (2) a smaller piece of land covering 0.8 hectares. The proposals map within the UDP shows these two slightly contiguous pieces of land, the smaller of which comprises a rectangle covering around 0.8 hectares to the south of Colliery Lane; bounded to east by a dwelling house (Tree Tops), the south by the cricket club and the west by a further dwelling house (2a Colliery Lane). The reference within the policy to a piece of land covering 0.8 hectares therefore relates to the land for the current application.

The Council has published a Greenspace Audit (also December 2020) which, in conjunction with the online mapping system, identifies the site as having the primary purpose of *amenity greenspace of very low value*.

The Audit defines *amenity greenspace* as

Spaces whose primary function is the provision of amenity (e.g. visual enhancement or informal recreation) to local residents, workers or passers-by. Predominantly found in residential areas but may be located in commercial areas to serve staff/visitors. Typically mown grassed areas (big or small), perhaps with trees, or perhaps including highway verges or landscaping

The planning policy officer has advised that the site received a *final valuation of 57 within the Greenspace Audit (2020) against a ward (Hetton) average of 80*.

The Playing Pitch Plan (titled Strategy & Action Plan, July 2022) includes a section titled *Coalfield Analysis Area*, which includes a table describing the status of current pitches within the City. The site in question does not appear within the table.

There have been representations received that the site has previously been used as a football pitch (April 2023).

The site at the current point in time has a somewhat overgrown appearance and there does not appear to be any equipment associated with use as a playing field (such as corner flags or goalposts); nor are there any of the *delineated areas* described within the definition of playing field. The site also has a series of small gaps in the fence to the north, which provide access to

desire lines across the land to the car park of the cricket club; which would suggest use as open space, rather than playing field.

The table below summarises the potential extant use of the site.

Playing Field	Open Space
The supporting text for policy HA4 of the UDP (1998) refers to the site as a <i>playing field</i> .	Greenspace Audit (2020), identifies site <i>amenity greenspace</i> .
The summary of the Phase I Geo-Environmental Assessment says that by the 1980s OS maps show the site as a football field.	The summary of the Phase I Geo-Environmental Assessment says that by the 2009 the <i>site is no longer used as a football field and has allowed to become overgrown grassland</i>
The SHLAA (2020) refers to the site as a <i>Football Pitch</i> .	Playing Pitch Plan (2022) does not include site within a table showing current pitches within the Coalfield Area.
Representations received (2023) say the site has been used as a football pitch.	Representations received (2023) say the site comprises an amenity for the area (including space to walk dogs).
The Tyne & Wear Archaeologist (2023) says that in the later 20C the site became a football field.	The site appears to be open space from a recent visit (2024).

The initial point to consider would therefore be whether the site comprises a playing field / pitch.

The Town and Country Planning (Development Management Procedure) (England) (Order), at Schedule 4, defines a playing field / pitch as:

- (i) *"playing field" means the whole of a site which encompasses one playing pitch*
- (ii) *"playing pitch" means a delineated area which, together with any run-off area, is of 0.2 hectares or more, and which is used for associated football, American football, rugby, cricket, lacrosse, rounders, baseball, softball, Australian football, Gaelic football, shinty, hurling, polo or cycle polo.*

In response, the Planning Policy Officer has advised that the SHLAA refers to the site as a *Football Pitch* for reference purposes, relates to the historic use of the site and does not infer the current of the site. The entries in the playing field column of the table do, however, otherwise indicate that the site has historically been used as a football field / pitch.

The entries within the open space column do, however, relate to much more up-to-date evidence. The recent reports in the column cumulatively identify the site as being open space and excluded from a list of playing fields; whilst some of the representations received also consider the site to be open space. A site visit also shows that the site has an overgrown appearance, an absence of equipment associated with use as a playing field and desire lines which indicate use as open space.

In summary, the available evidence does indicate that the site has historically been used as a playing field; but also that the more recent use has been as open space.

The Town and Country Planning (Development Management Procedure) (England) Order 2015 says, at Schedule 4, that Sports England should be consulted for development which

(i) is likely to prejudice the use, or lead to the loss of use, of land being used as a playing field; or

(ii) is on land which has been-

(aa) used as a playing field at any time in the 5 years before the making of the relevant application and which remained undeveloped; or

(bb) allocated for use as a playing field in a development plan or in proposals for such a plan or its alteration or replacement; or

(iii) involves the replacement of the grass surface of a playing pitch on a playing field with an artificial, man-made or composite surface

A response will be provided below:

(i) the land does not appear to currently be used as a playing field.

(ii) (aa) The Playing Pitch Plan, as updated in February 18, does not include the site within a list of playing pitches. The submission of the current application took place in late March 23, which means that at least five years have passed since the exclusion of the site from a list of playing pitches.

(ii) (bb) the Unitary Development Plan, at policy HA4, allocates the site for housing.

(iii) the proposed development does not involve the replacement of a grass surface with an artificial, man-made or composite surface.

Given the above, Officers do not consider there to be a requirement to consult Sports England.

In terms of material considerations, the Planning Practice Guidance also says that (Paragraph: 003 Reference ID: 37-003-20140306):

Where there is no requirement to consult, local planning authorities are advised to consult Sport England in cases where development might lead to:

- *loss of, or loss of use for sport, of any major sports facility;*
- *proposals which lead to the loss of use for sport of a major body of water;*
- *creation of a major sports facility;*
- *creation of a site for one or more playing pitches;*
- *development which creates opportunities for sport (such as the creation of a body of water bigger than two hectares following sand and gravel extraction);*
- *artificial lighting of a major outdoor sports facility;*
- *a residential development of 300 dwellings or more.*

In response to the points above, the proposed development would not appear to lead to the loss of a *major sports facility*, which means there does not seem to be a need to consult Sports England on an advisory basis.

The proposed development would lead to the loss of open space, which will be given consideration below.

The initial point to take onboard would be that the Council has published a Greenspace Audit (2020), which seeks to analyse the City's greenspaces; taking into account quantity, quality, value and accessibility. The Audit says that the Ward (Hetton) has a very high quantity, but below average quality of greenspace. The Audit further considers that the site in question has a very low greenspace site value.

The relevant parts of the policy NE4 (Greenspace), as found within the Core Strategy, will be repeated below:

The council will protect, conserve and enhance the quality, community value, function and accessibility of greenspace and wider green infrastructure, especially in areas of deficiency identified in the council's Greenspace Audit and Report by...

refusing development on greenspaces which would have an adverse effect on its amenity, recreational or nature conservation value unless it can be demonstrated that:

i. the proposal is accompanied by an assessment that clearly demonstrates that the provision is surplus to requirements; or

ii. a replacement facility which is at least equivalent in terms of usefulness, attractiveness, quality and accessibility, and where of an appropriate quantity, to existing and future users is provided by the developer on another site agreed with the council prior to development commencing; or

iii. replacement on another site is neither practicable or possible an agreed contribution is made by the developer to the council for new provision or the improvement of existing greenspace or outdoor sport and recreation facilities and its maintenance within an appropriate distance from the site or within the site.

A response will be provided below:

(i) The Agent has submitted an Open Space Assessment which, in summary, draws to attention the current state of the site (not actively managed, covered with scrub grassland), the low valuation of the site within the Green Space Audit and the availability of other green spaces near the site (such as Hetton Lyons Country Park).

The Assessment further draws to attention the proposed landscaping (including tree planting along Colliery Lane), the findings within the Green Space Audit (i.e. Hetton Ward has the third highest area of amenity green space per 1,000 population) and that the proposed development would result in a 0.07 hectare reduction per 1,000 population within the Ward (i.e. a reduction from 7.82 to 7.75 hectares).

The Assessment concludes by saying that the proposed development would have a *negligible impact to local provision per 1,000 population*.

(ii) The application does not propose a replacement facility.

(iii) The application does not propose a contribution to the Council.

Whilst Officers are aware that the Agent has submitted the Open Space Assessment, as summarised above, the loss of open space would still need to be given consideration in the planning balance at the end of the report.

The principle of the proposed development also needs to be given consideration using the relevant policies within the development plan.

The Core Strategy, at policy SP1 (Development Strategy), says that:

1. To support sustainable economic growth and meet people's needs, the council, working with local communities, its partners and key stakeholders will:

- i. deliver at least 13,410 net new homes and create sustainable mixed communities which are supported by adequate infrastructure;*
- ii. create at least 7,200 new jobs, particularly in key growth sectors;*
- iii. develop at least 95ha of employment land;*
- iv. deliver at least 45,400m² new comparison retail development; and*
- v. ensure that sufficient physical, social and environment infrastructure is delivered to meet identified needs.*

2. The spatial strategy seeks to deliver this growth and sustainable patterns of development by:

- i. supporting the sustainability of existing communities through the growth and regeneration of Sunderland's sub areas including: the Urban Core (Policy SP2); Washington (Policy SP3); North Sunderland (Policy SP4); South Sunderland (Policy SP5); and the Coalfield (Policy SP6);*
- ii. delivering the majority of development in the Existing Urban Area;*
- iii. emphasising the need to develop in sustainable locations in close proximity to transport hubs;*
- iv. encouraging higher density development around and in close proximity to transport hubs;*
- v. delivering the right homes in the right locations through the allocation of homes in the A&D Plan, the allocation of South Sunderland Growth Area and The Vaux and amending the Green Belt boundary to allocate Housing Growth Areas;*
- vi. protecting Sunderland's character and environmental assets including Settlement Breaks, greenspaces, Open Countryside and Green Belt; and*
- vii. minimising and mitigating the likely effects of climate change.*

The proposal, in terms of the principle of the proposed development, would contribute towards the above by providing up to 20 full time equivalent jobs (point 2ii), within both the Coalfield (point 2i) and the existing urban area (point 2ii).

The Core Strategy continues by saying, at policy SP6 (Coalfield), that:

The Coalfield character and settlements will be protected whilst ensuring its future sustainability. In order to achieve this:

- 1. the Open Countryside and Settlement Breaks will be protected;*
- 2. Housing Growth Areas at Penshaw, New Herrington and Philadelphia (Policy SS7) are allocated to ensure there is land for the future growth of The Coalfield;*
- 3. existing Travelling Showpeople sites will be safeguarded and new sites allocated (Policy H4);*
- 4. economic development will be focussed on identified Employment Areas (Policies EG1 and EG2);*
- 5. Houghton Town Centre will be the focus for office, retail and Main Town Uses. Any development within the Centre should enhance its vitality and viability; and*
- 6. the council and its partners will work to secure regeneration and renewal at Hetton Downs*

The relevant part of the above policy, i.e. point (5), will be taken into account when considering the relevant development plan policies in relation to retail planning.

The application proposes the construction of a food store, which means that consideration should also be given to the retail policies within the development plan.

The Council has commissioned an independent retail consultant to provide advice (Hollis Vincent). A summary of the advice will be provided below.

The consultant has initially advised that the site should be given consideration as being "out-of-centre", as defined by Annex 2 (Glossary) of the National Planning Policy Framework; which will be repeated below.

Out of centre: A location which is not in or on the edge of a centre but not necessarily outside the urban area.

The consultant has drawn to attention that the National Planning Policy Framework, at paragraph 91, says that

Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

The consultant has also drawn to attention that the Planning Practice Guidance says that the *application of the (sequential) test will need to be proportionate and appropriate for the given proposal* and that for proposals located in edge and out-of-centre locations, preference should be given to accessible sites that are well-connected to the town centre (paragraph ID: 2b-011).

The consultant has further drawn to attention that the Practice Guidance continues by saying that *Use of the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be*

accommodated in specific locations and that Local Planning Authorities should be *realistic and flexible in applying the (sequential) test* (paragraph ID 2b-012 & 013).

The consultant has advised that the submission from the Agent confirms the scale and form of the proposed development and that they agree to the effect that for any site to be given consideration as "suitable", it needs to be capable supporting a food store of a similar size to the application proposal; including an ability to provide parking for at least 100 vehicles.

The consultant has advised that the site would therefore need to be a minimum of 0.8 hectares; albeit in order to apply the appropriate degree of flexibility in relation to format and scale, the Applicant agreed to look at sites capable of supporting a food store with a minimum gross external area of 1,674 sq.m (a 10% reduction), a sales area of 1,140 sq.m (a 13% reduction).

The consultant has advised that the Agent identified six possible sites during a detailed investigation. The consultant says they have:

undertaken a detailed audit of Avison Young's sequential search methodology and its findings. We conclude that the methodology is sound and reflects case law, and we concur with its findings in relation to all the potential sites identified.

The consultant has concluded by saying that they consider the application passes the sequential test and that there are *no other sites or premises location within, or on the edge of, the relevant designated centres in the primary catchment area of the application proposal that would be both suitable and available to accommodate 'the broad type of development which is proposed in the application by approximate size, type and range of goods'*". The consultant has advised the quote in the preceding sentence to be the test set out by Ouseley J in his High Court Judgement of 8 July 2016 in respect of Aldergate Properties Limited v Mansfield District Council and Regal Sherwood Oaks Limited (EWHC 1670 Admin).

The consultant has continued by advising that consideration should be given to the impact of the proposed development upon existing centres.

The consultant has drawn to attention that the Framework set out the impact tests for retail and leisure developments, outside town centres and not in accordance with an up-to-date Local Plan. The Framework says that if such a development would be more than a locally set floorspace threshold, that Local Planning Authorities should require an impact assessment, including an appraisal of

(a) the impact of the proposal on existing, committed and planning public and private investment in a centre or centres in the catchment area of the proposal; and

(b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

The Framework also says that "where an application fails to satisfy the sequential test or is likely to have a significant adverse impact" upon one or more of the above points then "it should be refused"

The consultant has also drawn to attention that policy VC2 of the Core Strategy provides a threshold based upon the nearest centre (i.e. Hetton District Centre); which means that the relevant local impact assessment threshold would be 750sq.m Gross External Area for both convenience and comparison floorspace.

The consultant has advised that the application faces the two impact tests, i.e. the Framework (as above) and policy VC2 of the Core Strategy.

The consultant has given consideration to the submission from the Agent and has advised that they consider the application, in terms of Houghton Town Centre,

will not have a significant adverse impact on Houghton-le-Spring Town Centre, either on a solus basis, or considered cumulatively with existing commitments. Indeed, a key part of the rationale for the development at the Houghton Colliery site, which accounts for much of Avison Young's (the Agent) cumulative impact, is to claw back expenditure leakage into the Coalfield and promote linked trips with existing traders in Houghton-le-Spring's existing Primary Shopping Area.

The consultant has continued by advising that, in terms of Hetton District Centre, the application would *not have a significant adverse impact on the overall vitality and viability of Hetton District Centre, whether measures on a solus, or cumulative basis.*

The consultant has also advised that, in terms of Easington Lane and Market Street (Hetton) Local Centres, that the application would have *no material impact whatsoever on their overall vitality and viability.*

The consultant has further drawn to attention that the only relevant committed or planned investment within the Town, District and Local Centres within the wider survey area would be the ongoing investment by Tesco and Home Bargains at the former Houghton Colliery, Houghton-le-Spring (ref: 20/01591/FU4). The consultant has advised that the development has recently commenced.

The consultant has advised that they agree the proposed development would have

no material impact on trading levels at the Tesco and Home Bargains stores, given their location well outside the Primary Catchment Area of the application proposal. Thus, given that this investment at the Colliery Lane site is already underway, we are confident that the application proposal at Colliery Lane passes the first of the impact test set out in... NPPF... and that it will not have a significant adverse impact on any existing, committed and planned public and private investment in centres within the Primary Catchment Area, or elsewhere within the overall Study Area.

The consultant has concluded, in terms of the impact tests, that:

We conclude that this application proposal to the south of Colliery Lane passes the two impact tests set out in... NPPF ... This is because there are no existing, committed or planned investments within the established town, district and local centres located within the Primary Catchment Area of the application proposal, or within the overall survey area, that would suffer any 'significant adverse' impact as a result of the application proposal.

Likewise, we consider that the application proposal to the south of Colliery Lane is highly unlikely to cause a 'significant adverse' impact on the vitality and viability of any of the designated centres within, or beyond, its Primary Catchment Area, as a result of projected trade diversion. Moreover, we accept that consumer choice will be enhanced in a reasonably accessible location within the Existing Urban Area, so that the second of the impact tests in...NPPF... is also passed.

The consultant has concluded that the

proposed discount foodstore development to the south of Colliery Lane would provide for new employment and a facility to meet people's convenience goods retail needs, within the Existing Urban Area, in a relatively sustainable location, and with good access to public transport, given the provision of regular bus services along Colliery Lane and the A182.

The consultant has further concluded that the proposed development would be

unlikely to have a 'significant adverse' impact on the vitality and viability of Houghton Town Centre, or on the vitality and viability of Hetton District Centre, or on either of the two designated Local Centres within the applications store's catchment area, at Easington Lane and Market Street (Hetton).

The consultant continues by concluding that the application would pass the impact tests within the Framework, passes the sequential test and be highly unlikely to cause a 'significant adverse' impact on the vitality and viability of any of the designated centres within, or beyond, its Primary Catchment Area, as a result of trade diversion.

The consultant has recommended that there are *no local, or national, retail policy reasons for refusing the proposal... subject only to the imposition of a condition.*

The recommended condition would cover gross internal area, total net internal retail sales area and the total net internal retail sales area for convenience goods.

The submission of the planning application took place in March 23, with an additional / amended retail information submitted in August 23. Given the passage of time, there needs to be consideration given to whether there have been any changes in circumstances on the ground; which can be seen below.

There has been a recent grant of planning permission for a convenience store to the south of the cricket club, which will be repeated below.

Reference -21/02492/FUL

Description -Change of use from public house to convenience store

At -Lyons Tavern, Four Lane Ends, Hetton-le-Hole, Houghton-le-Spring, DH5 0AA

The store appears to have opened for trading during summer 2023, with the name *Family Shopper*.

The Council's retail consultant has advised that the site should be given consideration as *out of centre* and opened after the NEMS survey of shopping patterns submitted in support of the current application.

The retail consultant has advised that, in terms of the Family Shopper Store, there is no protection afforded by the impact tests set out in the National Planning Policy Framework (NPPF), as these impact tests only apply to "town centres" and the glossary within the NPPF specifically excludes "... small parades of shops of purely neighbourhood significance".

The retail consultant has, however, also drawn to attention the provisions of paragraph 96(c) which recognises the role of "local shops" in helping to meet identified local health and well-

being needs and paragraph 97(a) which recognises the role of "local shops" as community facilities.

The supporting wording for the policy explains that:

Whilst not identified within the retail hierarchy, neighbourhood shops, services and community facilities located outside of the designated centres provide a valuable service to local communities in helping to meet their day-to-day needs. It is therefore necessary for these to be protected in order to promote sustainable patterns of development.

The retail consultant has further advised that the Family Shopper does benefit from some degree of local policy protection, under Part 5 of Policy VC1 of the Core Strategy, which says that: *neighbourhood shops, services and community facilities located outside of the designated centres will be protected where they are important in meeting day-to-day needs.*

The retail consultant has advised that the proposed food store would be likely to have both positive and negative implications for the turnovers of out-of-centre local convenience stores (such as Family Shopper).

The retail consultant has advised that the positive effects arise from the claw back of convenience goods expenditure leakage, i.e. the effect of the proposed store clawing back the convenience goods expenditure of local residents that current flows to stores located outside the Coalfields; such as the Aldi store at Seaham. The clawback will offer spin-off opportunities for local independent traders, whether located within, or outside the designated district and local centres.

The retail consultant has advised that the negative effects will arise from direct trade diversion from the convenience store (such as Family Shopper) to the proposed food store. The retail consultant has specifically advised that their "appraisal of the evidence in this case suggests that the overall effect of the proposed Aldi store on the local convenience stores located within, or outside the designated centres, such as Family Shopper, is likely to be neutral/slightly negative and certainly not significantly adverse".

The retail consultant has concluded that the that the *benefits of the more sustainable patterns of shopping that will result from a consent for the Aldi application at Colliery Lane will outweigh any adverse impacts on local convenience stores in the Hetton area such as Family Shopper.*

There has been a further application for planning permission, which will be repeated below.

Reference - 23/00334/FUL

Description -Change of use from Public House to Convenience Store

At - New Inn, Four Lane Ends, Hetton-le-Hole, Houghton-le-Spring, DH5 0AB

Reason for Refusal :-The proposed development would lead to the attraction of vehicles to and from the site and, without adequate off street parking and servicing/delivery facilities, would lead to the creation of conditions prejudicial to pedestrian and road safety, and as such is contrary to policies ST2 and ST3 of the CSDP.

The above should be given very little weight by the decision taker, given that the application has been refused.

There has also been a recent application for planning permission, which will be repeated below.

Reference -23/02499/FUL

Description -Proposed change of use of former car sales / showroom to a retail convenience store / supermarket, plus alterations to existing shop front and introduction of two chiller condensing units (part retrospective)

At -Hetton Car Sales, Station Road, Hetton-le-Hole, Houghton-le-Spring, DH5 9JB

The application, at the time of writing the report, remains under consideration; with a target date for a decision of 29 March 24.

The retail consultant has advised that the proposed store at Colliery Lane would not jeopardise this investment proposal at Station Road, which has been put forward in the full knowledge of the Aldi application.

In terms of material considerations, the relevant part of the representation from the Town Council will be repeated below:

The Core Strategy states “the city centre (as defined on the policies map) and other Town, District and Local Centres within the authority area are an important aspect of the local economy, providing shops, services and community facilities to serve our local communities. These centres help give areas their own identity and focussing development proposals for main town centres uses within designated centres, as set out within the retail hierarchy (Policy VC1)”.

The site proposed in this application is not a designated town centre, and does not protect the amenity and quality of life of residents and therefore contravenes the Core Strategy.

Internal correspondence between Sunderland City Council departments would appear to highlight these contraventions.

There have also been representations received which draw to attention that the site does lie within a designated town centre, would take business away from the town centre and impact local businesses.

In response, the Council's retail consultant has given consideration to the proposed development and advised that there are *no local, or national, retail policy reasons for refusing the proposal... subject only to the imposition of a condition.*

In terms of further material considerations, there has been a representation from a consultant who does not identify who they are representing which says they *do not have any ‘in-principle objections’ at this stage.*

The representation does, however, continue by making a series of detailed points including making the household data available for review, re-considering the potential catchment of the existing food store in Houghton-le-Spring (and the entire catchment), a household sensitivity test, a cumulative impact assessment based on both convenience and comparison goods and a more detailed analysis on the potential lost of linked trips.

The initial point to consider would be that, whilst submitted by a planning consultant, the representation should effectively be treated as being anonymous and be given limited weight;

given that the consultant has not identified upon whose behalf they are acting. Officers have e-mailed the consultant asking if they could identify their client, but have not received a response.

In response and taking into account the paragraph immediately above, the Council's retail consultant has specifically advised that:

We wish to record, therefore, for the sake of clarity, and completeness, that there is nothing in Rapleys' representation, read as a whole, that causes us to wish to amend or further clarify our own conclusions on the retail and town centre policy aspects of Aldi's application proposal at Colliery Lane.

A further point to consider would be that part of the garden of the adjoining bungalow to the east (Tree Tops) appears to be within the area enclosed by the red line on the submitted location plan. The area appears to be a rectangular shaped piece of land to the south east of the site subject to the current application.

The initial point to take into account would be that there has been a planning application submitted less than 10 years ago for the property in question (ref: 17/01564/FUL, validated August 17). The red line boundary on the submitted location plan does not appear to intersect the site subject to the current application.

The submitted Planting Plan also proposes the area in question forms part of a native buffer mix and wildflower meadow seeding, which means there would not be a physical conflict with the proposed development.

The submitted Biodiversity Net Gain does, however, show the area in question as making a contribution towards biodiversity. The initial point to consider would be that the application needs to be determined on the merits of the submitted plans and documents (i.e. including the area of land in question). If the area of land in question cannot be included within the build out of the proposed development, then the Applicant would need to apply for an amendment; which would be determined on its own merits.

There has been an objection on the basis that an application has been refused on the land opposite (1991).

A search of the planning records found the planning application below.

Reference - 90/01761/10

Description - Change of Use from sports centre to retail

At - Colliery Lane, Houghton-Le-Spring, DH5 0RH

Reasons for refusal (February 1991)

The proposal is not consistent with the approved Tyne and Wear County Structure Plan Shopping Policies, in particular policies S1, S3, S4 and S9.

The proposal is contrary to policies SS3 and SS4 of the approved Shopping Policy Review as it represents the establishment of a non specialist retail use outside an established shopping centre.

The proposal would prejudice the implementation of policies S1 and S2 of the Houghton-Hetton Local Plan draft proposals which aim to promote and secure the continued development of Houghton Town Centre as the major district centre serving the local plan area.

In response, the decision in question dates from more than 30 years ago and there have been significant changes to both the development plan (e.g. the adoption of the Core Strategy) and relevant material considerations (e.g. the publication of the National Planning Policy Framework). The planning application in question should therefore only be given very limited weight in the determination of the application.

A search of the planning records also found the application below.

Reference - 01/00046/FUL

Description - Erection of discount foodstore with associated car parking.

At - SITE 1A, Former Pearsons Yard, Colliery Lane, Houghton-Le-Spring, DH5 0RH

Reasons for refusal

The proposal is an unacceptable use on an industrial estate and is contrary to policies HA1, EC4 and S13 of the UDP.

The proposed retail use of this out of centre site will have an adverse effect on the vitality and viability of nearby shopping centres and as such is contrary to policy S2 and S3 of the UDP.

The proposal by reason of its out of town location will increase the number of car borne shopping trips and does not encourage access by other modes of transport. As such the proposal is contrary to PPG6, PPG13 and UDP policy S5.

In response, the decision in question dates from more than 20 years ago and there have been significant changes to both the development plan (e.g. the adoption of the Core Strategy) and relevant material considerations (e.g. the publication of the National Planning Policy Framework). The planning application in question should therefore only be given very limited weight in the determination of the application.

In terms of material considerations the Council, after adopting the Core Strategy, adopted a Low Carbon Framework. The Framework says *Sunderland is committed to playing its part in tackling the global climate change emergency and that we are proposing to embed climate change and carbon neutrality throughout our city.*

The Framework specifically says that *local planning policies have been approved that encourage new development to minimise the impacts of climate change, avoid unacceptable adverse development impacts, maximise energy efficiency and integrate the use of decentralised, renewable and low carbon energy*

The determination of the application using the policies within the Core Strategy therefore means the recommendation will also align with the Low Carbon Framework.

The Council, after the adoption of the Low Carbon Framework, adopted a *Low Carbon Action Plan* which has been prepared to align to the *Sunderland Low Carbon Framework*". The Plan says that it *sets out where Sunderland City Council needs to go and focusses on the actions we*

can start to take now. The Plan provides *Strategic Priorities* which will be given consideration in the relevant sections below (such as drainage).

Amenity

In terms of air quality, the submitted Air Quality Assessment identifies the nearest sensitive receptors as being dwelling houses to the east and west of the site and says that *background concentrations are well below the national air quality objective levels.*

The Assessment continues by saying that during the construction phase there would be a *potential for dust soiling effects associated with fugitive emissions from the site. Assuming good practice control measures are implemented, the residual effect associated with dust soiling during the construction phase is deemed to be not significant*

The Assessment further says that during the operational phase that *concentrations at the worst case existing sensitive receptors, closest in proximity to the roads affected by the highest development flows, were predicted to be not significant.*

The Assessment concludes that *based on the results of this assessment, it is concluded that air quality should not be a prohibitive factor in the determination of this planning application*

The Environmental Health Officer has advised that:

The assessment has examined potential impacts associated with the construction of the development and those arising from road traffic generated during operation of the premises, primarily customer related.

The report considers the implications in relation to national air quality limit values and the appropriate pollutants set out within the Air Quality Standards Regulations. It has utilised the Department for Transport Design Manual for Roads and Bridges (DMRB) screening method to predict resultant concentrations of NO₂ and PM₁₀ at the sensitive (residential) receptors. Projected transport data has been incorporated. Screening thresholds have been adopted as recommended within approved guidance from the Institute of Air Quality Management.

The Council's local air quality management annual status report has been referred to within the assessment, noting that there are currently no concerns in relation to local air quality in the area of the site, and the general position within the Borough is that no Air Quality Management Areas are considered necessary. DEFRA background pollutant concentration data has been utilised in the assessment and indicate local concentrations are well below the legislative standards. This has been confirmed by calculation.

The methodology adopted is accepted. The conclusions are that predicted concentrations of pollutants arising from road vehicles associated with the development in the baseline year of 2022 (applicable to 2023 with no change) and forecast year 2027 will not approach the air quality objectives and limit values and therefore are not considered significant. This is accepted.

There are no objections to the proposal on the basis of air quality.

In terms of material considerations, there have been objections on the basis of air pollution (including pollution from traffic). In response, the Applicant has submitted a detailed Air Quality Assessment which identifies the nearest sensitive receptors. The Environmental Health Officer has given consideration to the submitted Assessment and advised that they have no objections on the basis of air quality.

In terms of day light and privacy for the occupiers of the surrounding properties, the maximum height of the proposed building from the proposed finished levels would be around 7 metres.

The proposed building would be around 11 metres from the dwelling house to the east; other than a small part of the acoustic fencing for the external plant which would be around 9.25 metres away. The recently submitted planning application for the property in question shows three windows facing the site, serving a lounge, porch and kitchen. The proposed building would potentially reduce some of the daylight for these windows – however, the impact would be limited by the separation distance of at least 9.25 metres and one of the windows serving a porch. A further point to consider would be that the recent planning application shows that the living room also has a window facing north.

The proposed car park would separate the proposed building from the dwelling house to the west.

In terms of noise, the submitted Noise Assessment took measurements from two locations; namely opposite the north eastern corner of the site and to the south west (near the car park for the cricket club). The Assessment identifies the sources of noise as being the proposed car park, external plant and deliveries. The Assessment also says that the proposed store would open 8am-10pm and that there would be a maximum of four deliveries per day across a 24 hour period.

The Assessment concludes by saying that:

following calculations performed using noise modelling software... it is concluded that based on the scheme being brought forward as proposed, noise should therefore not be a prohibitive factor in the determination of this planning application.

The Assessment also presents the conclusions as a plan showing the predicted noise, together with suggested mitigation in the form of a 2.5 metre acoustic barrier around the external plant to the east of the proposed building.

The Environmental Health Officer has advised that:

The existing noise climate in the area has been examined, with measurements undertaken near to noise sensitive receptors and predicted noise exposure modelled and mapped using the computational noise model CadnaA. Analysis of the results has followed guidance set out in BS8233:2014 (noise reduction for buildings) and BS4142:2014 (rating of industrial and commercial noise). Traffic data has been obtained from the predictions within the Transport Assessment. This is the accepted approach for such an assessment.

The assessment acknowledges the requirements previously set out by Environmental Health. Daytime and night-time noise data were collected as period LAeq and LA90 values. Noise sources considered were those associated with the car park, fixed external mechanical plant and deliveries. Data was incorporated into the noise model.

The model and overall assessment has determined the following:

- *Established background noise levels at the front of the site near to sensitive residential receptors (noise climate is influenced by road traffic on the main highway and by noise arising from the industrial estate), and at a point to the south of the development. Measurements were collected during the day and night.*

- *Predicted noise from vehicles using the car park areas.*
- *Predicted noise arising from the operation of the external mechanical plant, based on manufacturer's known data.*
- *Noise associated with delivery vehicles and unloading.*

The predicted levels have been combined using the noise model and then assessed against the guidelines for internal and external noise at residential property (BS8233) and assessed using a rating method to adjust values for the character of the area and specific characteristics of the noise (eg any tonal or impulsive content). BS4142 enables the rating of such specific noise sources against the existing background noise climate. Where the proposed plant will likely exceed existing noise levels then mitigation measures are required.

The mitigation proposed for the external plant area is a 2.5m high acoustic barrier. With that in place it is estimated that noise levels associated with the external mechanical plant will not exceed the existing measured background at night or during the day. Comparison with the desirable internal noise climate for residential accommodation (BS8233) indicates that the operation of the development is not likely to adversely impact nearby dwellings.

These conclusions are based on the development proposals (including site layout) and noise data provided.

Noise conditions are proposed to ensure compliance with the predictions.

In terms of material considerations, there have been objections on the basis that there could be noise; including from the car park, deliveries (24 hours), plant and refuse collection. In response, the Applicant has submitted a detailed Noise Assessment which identifies the potential sources of noise and suggests mitigation (such as the acoustic barrier around the proposed external plant). The Environmental Health Officer has given consideration to the submitted Assessment and advised that they have no objections, subject to conditions ensuring the provision of the suggested mitigation.

A further point to bear in mind would be that one of the recommended conditions from the Environmental Health Officer ensures the submission of a verification report for the proposed noise mitigation. If the report shows that the objective noise levels are not met, then a further condition has been recommended to ensure the submission of a subsequent scheme of mitigation and implementation thereafter.

There have also been objections on the basis that the position of the microphones used to take the measurements shown within the Noise Assessment are not representative and favour the proposed store. In response, the Environmental Health Officer has advised that these *measurements undertaken near to noise sensitive receptors.*

There have been further objections on the basis that the noise measurements were undertaken during the school holidays, when traffic levels are potentially significantly lower. In response, if the measurements were undertaken during a quieter period that would be to the disadvantage of a developer as a potentially greater amount of noise mitigation would be required.

There has been a specific representation from the occupiers of an adjoining dwelling house which will be repeated below.

My son is autistic and loves the quietness of the gardens. Now he is going to be presented with a large building casting shadows over over property and noise from the store.

I'd like you to carry out a health survey/study on how this development is going to impact our family.

This has previously been carried out by Next in their warehouse development at South Elmsall, Yorkshire. This highlighted some serious concerns for the well being of the neighbours of the warehouse. I can provide further details.

In response, the representation draws to attention the potential impact upon day light / overshadowing and noise from the proposed store.

The initial point to consider would be that, as described above, the proposed building would be around 11 metres from the dwelling house in question; other than a small part of the acoustic fencing (up to 2.5 metres in height) for the external plant which would be around 9.25 metres away.

The recently submitted planning application for the property in question (17/01564/FUL) shows three windows facing the site, serving a lounge, porch and kitchen. The proposed building would potentially reduce some of the daylight for these windows – however, the impact would be limited by the separation distance of at least 9.25 metres and one of the windows serving a porch.

A further point to consider would be that the recent planning application shows the living room also has a window facing north and the levels on the shared boundary would remain similar.

In terms of potential noise from the proposed store, as described above, the Environmental Health Officer has given consideration to the submitted Noise Assessment and advised that they have no objection, subject to conditions ensuring the provision of the suggested mitigation.

A further point to bear in mind would be that one of the recommended conditions from the Environmental Health Officer ensures the submission of a verification report for the proposed noise mitigation. If the report shows that the objective noise levels are not met, then a further condition has been recommended to ensure the submission of a subsequent scheme of mitigation and implementation thereafter.

The dwelling house in question also lies adjacent to a B road and opposite an industrial estate, which means that the local area already has a degree of ambient noise from existing operations; such as through traffic and movements of heavy goods vehicles.

In terms of the reference to a development in South Yorkshire, the main point to consider would be that the representation refers to a warehouse; whereas the current application proposes a food store. The detailed planning impacts arising from that particular development could only be given very limited weight in the determination of the current application.

The representation also refers to the impact upon well-being arising from the proposed development; which will be given consideration in the Health section of the report below.

In terms of other material considerations relating to amenity, there have been representations submitted on the basis of anti-social behaviour (including allegations that other similar stores have problems with anti-social behaviour).

In response, the Designing Out Crime Officer within Northumbria Police has advised that:

Northumbria Police have no objection to the development at Hetton Le Hole, but would like to offer the following comments.

The rear door of the building we recommend to be to the British standard of LPS 1175 sr 4 D10, this level is recommend so that it will resist attack for a minimum of 10 minutes.

Good Security lighting is essential around the dock area of the development as well as to the rear staff door, this door should also be strong enough to with stand attack for up to 10 minutes (LPS 1175 issue 8.1:D10) as a minimum of the building were the , we would therefore recommend the installation of CCTV.

The above advice from the Designing Out Crime Officer can be included as an advisory note.

There have been representations relating to odour, including from refuse. In response, the Environmental Health Officer has advised that:

The application states that there will be no staffed butchery, delicatessen or hot food counter and no restaurant. It is therefore not considered necessary to require a condition relating to odour abatement linked to any commercial kitchen.

There have been representations on the basis that there are steps proposed near existing properties. In response, the submitted levels plan shows eight steps from the north eastern corner of the site onto the road to the front and a further nine footsteps to the path to the west. The steps would be around 150mm. These arrangements would be unlikely to have a material impact upon the amenity of the occupiers of the adjoining dwelling houses.

The steps are, however, included as a response to the proposed levels; which will be given consideration below.

The proposed levels plan shows that approximately existing and proposed levels on the eastern boundary; as below:

Northern extent: Existing and proposed both 97 AOD

Opposite existing dwelling house: Existing 96.1-96.2 AOD and proposed 96.1 AOD.

Southern extent: Existing and proposed both 95.9 AOD.

The proposed levels to the south, on the shared boundary with the cricket club, are shown as remaining very similar; running from 95.6 AOD to the east through to 94.5 AOD to the west.

The proposed levels to the west are shown as 94.6 AOD to the north, running to 93.4 AOD (approximately opposite the adjacent dwelling house) and then 93.8 AOD to the south. The proposed levels plan shows the levels remain around the same to the north (around 94.5 AOD) and opposite the dwelling house (around 93.4 AOD) and slightly higher to the south (around 94 AOD).

The selection of spot heights above shows that the proposed levels on the boundaries with other property would be similar to the existing.

A further point to consider would be the height of the proposed development platform. The proposed levels plan shows that the existing and proposed levels, as below:

West of the site (middle of car park): Existing 95 AOD and proposed 95.4 AOD

Middle of site (near store entrance): Existing 95.3 AOD and proposed 93.5 AOD

East of the site (near external plant): Existing 95.7 AOD and proposed 95.7 AOD.

The selection of spot heights above shows that the proposed development platform would be similar to the existing ground levels and that the earthworks would not be excessive.

There have also been representations that the site lies close to industry and a school. In response, the Applicant has submitted a range of detailed technical reports, which have been given consideration by the relevant consultees and demonstrate that the proposed development would be compatible with the surround land uses.

A further point to consider would be the proposed lighting, shown on the submitted Lighting Layout. The Agent has submitted covering note from the lighting engineer which says that the *lighting has been designed to minimise the impact of spill lighting on the adjacent properties include the cricket club and public houses* and confirmed that the proposed lighting would be up to 10 lighting columns in the car park, up to 6 metres in height. The submitted Lighting Layout also shows that there would be lighting affixed to the building. The final details of the proposed lighting could be controlled via a planning condition.

In summary, the commentary above shows that the proposed development would accord with the relevant development plan policies in relation to amenity (i.e. policies HS1 and HS2 of the Core Strategy) and there are not any material considerations that indicate a decision should be made otherwise; subject to the suggested conditions.

Cricket

The site lies to the north of Hetton Lyons Cricket Club, which benefits from an allocation as *Existing Open Space* (policy L7 of the UDP).

The initial representation from the Cricket Club will be repeated below.

The proposed development on the Colliery Lane for an Aldi Store. We the management committee of Hetton Lyons Cricket Club are not against this proposal, but we have some reservation with regards to the impact for our ground. We as a club have played cricket on our field, which as you are aware is adjacent to this proposed development for 158 years. Our major concern is balls going over our fence into the proposed developments car park, which could cause damage to vehicles

But more importantly to the shoppers and workpeople..

We have raised our concern to our local councillor Mr James Blackburn and he said he would look into it. Also we have raised this problem in a meeting with Aldi representatives and to be fair to the Aldi representatives we have had correspondence saying they will work with local planning authority throughout the planning process to understand how best to mitigate the risks of stray balls and implement the relevant measures.

We hope that you are aware of the potential problems and take these into account during the planning process and the cost of the any measures for the safety of the shoppers and workers is not borne by Hetton Lyons Cricket Club.

The Cricket Club subsequently submitted a further representation, which will be repeated below.

The club do not object to the proposed development in principle. However, the club do have concerns regarding the design of the development and the negative impacts it would have on the future of the club.

HLCC was established in 1865 and has been a vitally important sport and recreation hub for the local community throughout its history. At present the club has four senior teams, with the first XI competing at the highest level of club cricket in the north east. Moreover, the club has a thriving junior section, with 16 junior teams and over 100 children attending junior training sessions. The club also host a number of county games every season. Off the field the club is very much a hub of the community as a venue for family and social gatherings as well as hosting several large scale charity events. The importance of the club to the local community, to the health and well-being of local children and as a historical institute cannot be understated.

Paragraph 92 of the National Planning Policy Framework (the Framework) states that planning decisions should aim to achieve healthy, inclusive and safe places which enable and support healthy lifestyles for example through the provision of sports facilities.

Paragraph 93 of the Framework goes on to state that to provide the social, cultural and recreational facilities and services the community needs, planning decisions should guard against the unnecessary loss of valued facilities and services.

Paragraph 98 highlights the importance of access to sporting provision for the health and well being of communities.

The proposed plans show that the southern boundary treatment would involve solely the retention of the existing 2m high close boarded fence which runs the entire length of the club's northern boundary. This fence was a replacement erected over a year ago at considerable cost, particularly since much of it was stolen and had to be replaced during construction. A 2m high fence has been in situ at the club on that boundary for decades. Given the nature of the sport, there is the potential for balls to go over the fence into the application site from time-to-time. This has never posed a danger to people or property since the land has been unused for a substantial period of time.

However, the proposed development would introduce the considerable risk of stray cricket balls damaging cars, equipment, infrastructure and, worse, potentially injuring customers of the store. The club thus has significant concerns that such damage or injury would occur if the boundary treatment remains as it is.

The club has considered whether realigning the ground would overcome the risk. However, whatever the orientation of the pitches, the risk of stray balls would remain. Moreover, given the size of the club's land, there is no scope to realign the pitch boundaries to reduce the risk. Unfortunately, the risk of stray balls is a risk which is common with cricket grounds and one which has always needed to be managed in relation to adjoining land uses. The situation is no different here.

It thus seems that, as a result of the introduction of the retail development, then a more suitable boundary treatment would be needed to negate the risk of damage and injury from stray balls. Put simply, the existing arrangement is not fit for purpose and a more appropriate arrangement, such as a combination of tree planting, fencing and netting, would need to be put in place.

Unfortunately, the club is not financially in a position to fund the unexpected and unplanned installation of new boundary treatment.

In any event, the club has operated for over 150 years without any issue. It would, bluntly, be unfair to burden the club with the significant cost and disruption of installing appropriate boundary treatment to negate a risk which derives solely from the introduction of a new development over which the club has no control.

If the burden were to fall on the club, then this could place undue financial pressure on the long term survival of the club. Likewise, it could require an increase in subscriptions, food and drink prices, at a time when families in the local area are struggling to make ends meet due to the cost of living crisis. This would potentially result in people no longer being able to afford access to an important community and sporting facility. Such an outcome would be contrary to paragraphs 92, 93 and 98 of the Framework, likewise it would be contrary to Policy VC6 of the Sunderland Core Strategy and Development Plan 2020 which seeks to support leisure developments which contribute to health lifestyles.

The club therefore requests the Council either: a) request a revised boundary treatment plan to take into account these concerns before determining the application; or

b) impose a condition, if it is minded to approve, requiring that no development take place until the submission of appropriate boundary treatment details to the LPA has been done and such boundary treatment is installed before the development commenced; or

c) request the applicant enter into a planning obligation to provide the boundary treatment, or sufficient funding to the club to facilitate its installation.

In the absence of those three scenarios, then the club would have to object to the development.

Otherwise the club would support the development if the LPA is agreeable to those approaches.

The Agent subsequently submitted an amended proposed boundary treatment plan showing ball stop netting to the south of the site, adjoining the cricket club.

The cricket club, in response to the amended plan, have said that:

With regards to putting a ball netting structure in place between our field and the proposed Aldi development, what they have proposed we find is inappropriate.

We have no objection to any planning permission which requires them to submit a scheme before starting the development and we look forward to working with Aldi to find an appropriate solution.

In summary, the cricket club have indicated that whilst they object to the details shown on the recently submitted boundary treatment plan; they would not object to the proposed development, subject to a condition ensuring the submission of a scheme of fencing / netting on the southern boundary of the site.

The initial point to consider would be that the submission of a plan showing amendments to the boundary treatment can be covered by a condition.

A further point to consider, however, would be that the detail shown on such a plan could be development; as defined by Section 55 of the Town and Country Planning Act 1990 (as amended). If the proposed boundary were development, then a separate grant of planning permission would be required; in conjunction with an application to discharge the condition in question. The requirement could be covered by an advisory note attached to a decision notice.

In terms of material considerations, there has been a representation on the basis that stray cricket balls could enter the site. In response, the affected parties are content that the matter can be controlled via a planning condition which would be determined by the Local Planning Authority.

There has been a further representation on the basis of the potential visual impact of such a fence. In response, if the proposed fence were to be development; then planning permission would be required and the consultation would include notification of the nearby properties and the display of site notices. The visual impact of any fence would be a relevant matter in the determination of such an application.

In summary, a planning condition can ensure the submission of a boundary treatment to ensure that the proposed development would be compatible with the adjoining cricket club.

Design

The submitted Design & Access Statement says that:

The aim of the development is to provide a high quality, attractive new food store which will enhance the local area and provide a modern shopping environment.

The overall design of the store is a modern, contemporary style with a simple palette of materials combining silver and grey trapezoidal cladding panels, aluminium windows, steel doors and glazing, overall providing a contemporary retail unit, with a clean, crisp vernacular and reflects the modern ambitions of the site.

The proposed development would be sited within a context of a variety of buildings with modern industrial buildings to the north (behind the tree planting along Colliery Lane), structures associated with the cricket club (such as the club house and boundary fencing) to the south and single storey dwelling houses to either side.

The proposed contemporary building with a maximum height of around 6.25 metres would sit reasonably comfortably within this prevailing pattern of development. The proposed development would also include landscaping, such as shrub planting to the front and tree planting to the north, east and south.

In summary, the commentary above shows that the proposed development would accord with the relevant development plan policies in relation to design (i.e. policies HS1 and HS2 of the Core Strategy) and there are not any material considerations that indicate a decision should be made otherwise; subject to the suggested conditions.

Drainage

The submitted Flood Risk and Drainage Assessment says that the site lies within Flood Zone 1 (i.e. land with a low probability of flooding).

The Assessment explains that soakaway tests have been undertaken on site which show that the *ground is unsuitable to discharge surface water via infiltration*.

The Assessment further explains that connection to the nearest named open watercourse would not be possible because *to lay a gravity outfall to this location due to the ground levels sitting higher than the proposed site levels and the need to cross third party land*.

The Assessment proposes to *direct surface water flows to the public surface water sewer to the south west corner of the site, which would be restricted to the equivalent greenfield runoff*. The detailed plans within the Assessment show that the detailed design includes a cellular attenuation tank underneath the car park, controlled via a hydrobrake.

The Assessment says that surface water treatment would be provided by filter trenches within the proposed landscaping and that foul flows would connect to the public combined sewer.

The Assessment also says that foul water flows would connect to the existing combined sewer.

The Lead Local Flood Authority have advised that they are *satisfied with the revised drainage information provided in Flood Risk and Drainage Impact Assessment... We therefore suggest approval*; subject to a condition ensuring the submission of a verification report.

In terms of material considerations, there have been concerns relating to drainage, including the Flood Risk Assessment saying there has been no history of flooding; when the site has flooded in the past. In response, the Agent has submitted a Flood Risk and Drainage Impact Assessment which includes a drainage design that limits the surface water flow to a greenfield run-off rate; to the satisfaction of the Lead Local Flood Authority.

In terms of further material considerations, the proposed development would make a contribution towards Strategic Priority 2.06 (minimising all types of flood risk) of the Low Carbon Action Plan.

In summary, the commentary above shows that the proposed development would accord with the relevant development plan policies in relation to drainage (i.e. policies WWE 2, 3, 4 and 5 of the Core Strategy) and there are not any material considerations that indicate a decision should be made otherwise; subject to the suggested conditions.

Ecology

The submitted Preliminary Ecological Appraisal says that the site comprises a *small grassy area*, with a single mature tree and includes four habitats comprising hardstanding, other neutral grassland, modified grassland and a single early mature tree.

The Appraisal continues by saying that the proposed development would be *unlikely to impact* designated sites within 2km, namely Hetton Bogs, Eppleton Grassland and Moorsley Banks.

The Appraisal identifies the main constraints relate to birds (the single tree has the potential to support nesting birds), hedgehogs who may utilise the site and other mammals. The Appraisal suggests mitigation including the timing of works and working methods (such as where construction materials would be stored). The Appraisal also recommends enhancements, such as bat and bird boxes.

The submitted Biodiversity Net Gain Report says that the existing habitats are other neutral grassland, modified grassland, scattered tree and hardstanding. The Report says that the

proposed habitats include ornamental planting, wildflower meadow mix and new trees (up to 20 new medium size trees and up to 51 small urban trees). The Report concludes that there would be a biodiversity net gain of 4.71%

The Council's Ecologist has advised that:

I am satisfied that the assessment presented in the Preliminary Ecological Appraisal report is an accurate reflection of the potential for adverse ecological effects, and that the mitigation recommendations set out in section 5.4 are sufficient. These measures will need to be secured by condition, wording for which is suggested below.

The Council's Ecologist has advised, in terms of the biodiversity net gain, that they are *satisfied in the majority of cases the habitats proposed within the planting plan have been appropriately assessed... I have concerns over the use of the Urban Tree habitat type, which can overestimate the biodiversity value of post development habitats.* These concerns include whether the trees would grow to full size given their proposed location in stressed environments, such as adjacent to car parking.

The Council's Ecologist has therefore undertaken their own calculations which show a biodiversity net loss of 68.17% (2.43 biodiversity units).

The Ecologist has, however, drawn to attention that as no habitats above medium distinctiveness are to be lost the Council *will be able assist with offsetting this loss in biodiversity units using a commuted sum secured through a section 106 agreement.*

The Ecologist has advised that they have been *undertaking a suite of baseline surveys for a range of sites in council ownership, which include local wildlife sites and other areas of green infrastructure. Based on the results of this exercise I'm confident that there is sufficient capacity within that network of sites to provide compensation for onsite impacts of this site.*

The Council's Ecologist has concluded by saying that they would have no objection; subject to conditions to secure mitigation and a commuted sum to enable the Council to address the loss in biodiversity value.

The initial point to consider would be the provisions of the Community Infrastructure Levy Regulations 2010 which says, at Regulation 122, that:

A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—

- (a) necessary to make the development acceptable in planning terms;*
- (b) directly related to the development; and*
- (c) fairly and reasonably related in scale and kind to the development.*

A response to these three points will be presented below:

(a) the obligation would be necessary to make the development acceptable in planning terms, given that policy NE2 of the Core Strategy says *where appropriate, development must demonstrate how it will... provide net gain in biodiversity.*

(b) the obligation would be directly related to the development, as an off-site financial contribution would be provided to mitigate the net loss of biodiversity arising from the proposed development.

(c) the obligation would be fairly and reasonably related in scale and kind to the development, because the Council's Ecologist has calculated the biodiversity net loss and sought an off-site financial contribution.

A further point to consider would be that, as a material consideration, the Planning Obligations Supplementary Planning Document says that:

When proposals for new development are unable to avoid any direct or indirect negative impacts on biodiversity or geodiversity of non-European sites the developer must mitigate against these impacts, or as a last resort compensate and always provide sustainable enhancements and net gain in biodiversity.

In summary, the commentary above shows that the proposed development would accord with the relevant development plan policies in relation to ecology (i.e. policies NE2, ID1 and ID2 of the Core Strategy) and there are not any material considerations that indicate a decision should be made otherwise; subject to the recommended financial contribution towards off-site biodiversity net gain and the suggested conditions.

The above also means that the Council, as a public body, can record that consideration has been given in accordance with Section 40 of the Natural Environment and Rural Communities Act 2006; which states that:

The public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.

Energy Efficiency

The submitted Sustainability Statement says that the proposed sustainability measures include recovering the *heat from the food refrigerator circuits which would otherwise be discharged into the atmosphere* and energy efficient LED lighting for the external areas. The submitted drawings also show roof mounted solar panels.

In terms of material considerations, the proposed development would make a contribution towards Strategic Priority 3.05 of the Low Carbon Action Plan; which includes the action repeated below.

Push for higher quality energy and low carbon design standards in all new and renovated development across the city

In summary, the commentary above shows that the proposed development would accord with the relevant development plan policy in relation to energy efficiency / sustainability (i.e. policy BH1 of the Core Strategy) and there are not any material considerations that indicate a decision should be made otherwise; subject to the suggested conditions.

Fire

The response from the Fire & Rescue Service will be repeated below.

Please advise if this is to be timber framed construction.

The Fire Authority have no objections to this proposal, subject to the provisions detailed in the enclosed report.

Further comment will be made on receipt of a Building Regulations submission.

In response, whether the building would have a timber frame would be a matter for consideration at the Building Regulations stage.

The report attached to the response from Fire & Rescue comprises an excerpt from the Building Regulations.

In summary, the commentary above shows that the concerns raised by the Fire & Rescue Service could be dealt with at the Building Control stage.

Groundworks

The submitted Phase II Geo-Environmental Assessment summarises an earlier Phase I Assessment which included the history of the site - early OS plans show an absence of development (1856), potential reprofiling of land (1974) and as a football field (1980) and then *no longer used as a football field* (2009). The summary continues by saying that the site lies within a *low risk area from possible unexploded ordnance* and the site *is not considered to be at significant risk from historical shallow coal mining activities*.

The Phase II Assessment says that *no concentrations of contaminants have been identified, which exceed current assessment criteria, based upon a commercial end use and no significant risk considered to controlled waters*.

The Land Contamination Officer has advised that:

The report provides a good overview of the site's setting, history, and its potential to be affected by contamination. Although no significant soil contamination is present, the initial rounds of gas monitoring completed so far indicate that remedial works are required in the form of the provision of ground gas protection measures.

An updated or addendum report to include the completed gas monitoring results and risk assessment will be required, along with a remediation strategy detailing the proposed ground gas protection measures and verification works. I would therefore recommend the following conditions...

CL01 Site Characterisation

CL02 Detailed Remediation Scheme

CL03 Implementation of Approved Remediation and Verification

CL04 Reporting of Unexpected Contamination

In summary, the commentary above shows that the proposed development would accord with the relevant development plan policy in relation to groundworks (i.e. policies HS3 of the Core Strategy) and there are not any material considerations that indicate a decision should be made otherwise; subject to the suggested conditions.

Health

The Core Strategy, at policy SP7 (Healthy and safe communities), says that:

*The council will seek to improve health and wellbeing in Sunderland by...
Ensuring that new developments...*

Submit a Health Impact Assessment (HIA) as part of any application for large-scale development. Where significant adverse health impacts are identified, development should be resisted unless appropriate mitigation can be provided.

The supporting text for the policy, at paragraph 5.5, says that:

In order to ensure that health impacts are considered at the very outset, a Health Impact Assessment (HIA) will be required to be submitted in support of large-scale development. For clarity, large-scale development within the context of this policy is considered to be residential schemes for 100 dwelling or more, student accommodation schemes for 100 bed spaces or more, or any other form of development which has the potential to have a significant impact on health.

The policy and supporting wording therefore give discretion to the decision taker as to whether to request a HIA for a proposed food store.

In terms of material considerations, the Town Council have said that:

Lack of Health Impact statement

In view of the close proximity of the proposal to a residential area, a health impact statement should be provided.

In terms of further material considerations, there have been representations submitted saying that a Health Impact Assessment should have been submitted.

The initial point to consider would be that the Agent has not submitted a HIA. The Agent has, however, submitted a range of technical reports which enable an understanding to be gained of the potential health impacts of the proposed development; such as air quality, highways and noise. These reports have been given consideration by the relevant consultees, who have not raised any objections; subject to the suggested conditions.

In summary, the commentary above shows that whilst a Health Impact Assessment has not been submitted; the relevant matters relating to health have been given consideration in the submitted report and then by the relevant consultees.

Heritage

The advice from the Tyne & Wear Archaeologist will be repeated below.

I have checked the application site against the Historic Environment Record and historic maps. In the mid 19th century the site was undeveloped land bounded by Colliery Lane to the north and the Hetton Company Railway, Elemore Branch (HER 3625) to the west. To the east was a large private house and gardens (Lyons House), whilst the land to the south was also undeveloped. The Hetton Colliery (HER 2989) lay to the northeast. The site remained undeveloped until the later 20th century when it became a football field...

... The Proposed Levels Plan indicates that extensive groundworks will not be required to achieve the finished levels, although there will be some reduction in ground level in some of the eastern parts of the site. The proposed foundation solutions are Controlled Modulus Columns or a piled foundation combined with a suspended floor slab. There will therefore be some impact on previously undisturbed ground in the eastern part of the site. However, given the previous landscaping works that have been undertaken at the site, which are likely to have disturbed or

buried any archaeological remains, I consider that the proposals will not have a significant impact on any known archaeological heritage assets, and no archaeological work is required.

There are not any heritage assets, either designated or non-designated, on the site.

There are also not any nearby heritage assets, either designated or non-designated, whose setting could be affected by the proposed development.

In summary, the commentary above shows that the proposed development would accord with the relevant development plan policies in relation to heritage (i.e. policies BH7, BH8 and BH9) and there are not any material considerations that indicate a decision should be made otherwise.

Highways

The submitted Transport Assessment considers access via foot, cycle and public transport; concluding that *the site has good pedestrian and cycle access connecting the surrounding residential areas and further afield and there are good bus services within convenient walking distance.*

The submitted Transport Assessment describes the proposed highway works by saying there would be a new access, *a right turn lane will be formed through widening on the south side of Colliery Lane and a pedestrian island to enable crossing over Colliery Lane will be provided within the hatched taper approaching the right turn to assist pedestrian access.*

The Assessment says that the proposed development would include 101 parking spaces (including four EV), stands for up to 12 cycles and spaces for up to two motorcycles. The Assessment continues by saying the store *typically receives four HGV deliveries per day on average*, up to three waste collections per week; both of which would use the proposed access off Colliery Lane.

The Assessment considers in detail the impact of the proposed junction, concluding that *the junction is predicted to continue to operate within capacity in the peak hours with the development in place.*

The Assessment further says that the road safety record for a five year period on the highway network within the study area has been reviewed and that the consultants who prepared the report *do not consider there to be an adverse effect upon the accident record in the area of interest.*

The Assessment concludes that *the developments do not result in an unacceptable impact on highway safety, nor are the residual cumulative impacts on the road network severe.*

The Local Highway Authority have provided an initial consultation response, which led to the submission of additional / amended information from the Agent. In response, the Local Highway Authority provided a response in relation to the submitted Road Safety Audit. Officers would advise that a further highway update will be provided to Members in advance of the meeting.

In terms of material considerations, there have been comments from the Town Council; which will be repeated below:

a widespread concern about longstanding inadequacies in local transport

infrastructure to support existing high levels of traffic which would be exacerbated by increased vehicular activity due to store visits by customers and the essential delivery of products by heavy goods vehicles.
In particular, there are genuine concerns about vehicle and pedestrian safety in the immediate and wider area.

The Town Council have also said that the decision taker should:

recognise the need for urgent investment in highways infrastructure projects in the area.

In terms of material considerations, there have been objections on the grounds that there would be difficulty for delivery vehicles. In response, the Agent has submitted a drawing showing how delivery vehicles could turn within the site, so they both enter and exit in a forward gear. The views of the Local Highway Authority will be included within the update described above.

There have been objections that the site would be close to the junction opposite for the industrial estate. In response, the traffic flow diagrams and junction modelling within submitted Transport Assessment shows the access for the industrial estate opposite. The views of the Local Highway Authority will be included within the update described above.

There have been further objections that existing levels of traffic are hazardous, the road forms the main route to Dalton Park / Durham and that there should be traffic calming. In response, the submitted Transport Assessment includes consideration of both the capacity of junctions close to the site and takes into account the accident record for the past five years. The Assessment also proposes mitigation in the form of a right turn lane. The views of the Local Highway Authority will be included within the update described above.

There have also been objections on the grounds that the proposed development should be given consideration in recognition of additional traffic from new housing. In response, the submitted Transport Assessment says that the assessment includes a growth factor for predicted traffic growth until 2027. The views of the Local Highway Authority will be included within the update described above.

There have been representations which allege vehicles exceed the limit. In response, if any vehicles are speeding that would be an existing situation; rather than a significant material consideration in the determination of the current application.

There have been further representations which allege that vehicles parking on Colliery Lane can obstruct the accesses to existing properties. In response, if any existing access are being blocked that would be an existing situation; rather than a matter of significant weight in the determination of the current planning application.

There have also been representations on the grounds of an absence of overflow parking. In response, the Local Highway Authority have advised that the proposed level of parking would accord with the Council's standards, which means that the Applicant could not be reasonably asked to provide additional overflow parking.

There has been a detailed representation from a consultant representing Asda who has said that the submitted Transport Assessment uses the parking standards from the Unitary Development Plan (1998), rather than the more recent Supplementary Planning Document (SPD). The representation continues by saying that, if the standards within the SPD are applied, the proposed development does not have enough parking.

In response, the submitted Transport Assessment does consider the parking using the UDP; rather than the more recent SPD. The SPD does, however, include a questionnaire to identify the accessibility of the site; which concludes as either low, medium or high. The representation from the consultant representing Asda completes the questionnaire by scoring the site as “low” accessibility and therefore needing 124 parking spaces; compared to the 101 shown on the submitted plans.

The Local Highway Authority have, however, advised that the *plans submitted giving details of car parking for the site accord with SCC parking standards and are therefore considered acceptable*. The views of the Local Highway Authority will be included within the update described above.

The representation from the consultant representing Asda continues by saying that the submitted Transport Assessment does not include a swept path analysis for the servicing arrangements. In response, the Agent has submitted a plan showing how delivery vehicles could turn within the site, so they both enter and exit in a forward gear. The views of the Local Highway Authority will be included within the update described above.

The representation continues by saying that there should be a pedestrian island to the east of the site, queries whether the design accords with the Design Manual for Roads and Bridges and says that a Stage 1 Road Safety Audit should be submitted. The representation also says that Traffic Regulation Order should require double yellow lines.

In response, the Agent has submitted a Stage 1 Road Safety Audit, which has been given consideration by the Local Highway Authority; who have recommended a series of conditions ensuring the submission of detailed design drawings (including road markings, pedestrian crossing and site access) and the submission of a Stage 2 Road Safety Audit.

The representation further says that there should be a route to replace the desire lines through the site.

In response, the initial point to consider would be that there does appear to be a series of walkways through the site; generally connecting Colliery Lane through to the footpath to the west of the site. The loss of these routes would need to be given consideration in the planning balance at the end of the report.

There has been a further representation which draws to attention that an application at a nearby property has recently been refused on highway grounds; which will be repeated below.

Reference - 23/00818/FUL

Description -Creation of new vehicular access, associated boundary treatment and access gates

At - Land at James Jones, Hetton Lyons Industrial Estate, Hetton Le Hole

Reason for Refusal

The new access would not be wide enough to achieve safe vehicle manoeuvres out of the site and is situated in close proximity to multiple other existing access/egress points. This arrangement would lead to a proliferation of access points and create vehicle conflict.

For the reasons above the proposal would be to the detriment of highway safety and contrary to CSDP Policy ST2 and ST3; which stipulate that the number of access points will be kept to a minimum, that new access points will be designed and constructed in accordance with the current highway design standards and that they have safe and adequate means of access, egress and internal circulation/turning arrangements for all modes of transport relevant to the proposal and that development should provide safe and convenient access for all road users, in a way which would not exacerbate traffic congestion on the existing highway network or increase the risk of accidents or endanger the safety of road users including pedestrians, cyclists and other vulnerable road users.

In response, the application relates to a new access off an existing road to the north of the site for an existing premises; which has been refused for site specific reasons relating to the width of the access and the close proximity of other existing accesses. The refusal therefore differs quite significantly from the current application and can therefore only be given very limited weight.

In summary, a further highway update will be prepared in advance of the meeting.

Landscape

The Landscape Character Assessment identifies that the site lies within a Landscape Character Type named *Coalfield Villages*.

The Assessment says that some of the key characteristics include a *settlement patterns associated with collieries and quarry workings with distinctive rows of 19C brick terrace houses, fragmented settlement pattern arising from unplanned growth of mining settlements and their subsequent decline, with more recent infill development and long and relatively open views access Country Durham.*

The Assessment continues by saying the *sensitive features, issues and trends* include the *negative impact of A182 and A690 running through area, preservation of open space and green corridors between settlements and distinctive building types and settlements.*

The Assessment further says that for major roads there should be an *aim to improve integration of these features though planting* and for open space and green corridors that the Council should *take opportunities to improve the quality of open spaces throughout*" and should not *permit development which would remove open space and decrease connectivity.*

The Assessment also identifies that the site lies within a separate character type called *Hetton-le-Hole, Easington Lane and East Rainton.*

The Assessment says that key aspects and features which contribute to landscape value include *local landmark buildings, distinctive building types and long relatively open views towards Country Durham and the north Pennines.*

The Assessment says the overarching strategy should include be a *landscape enhancement towards a high quality and locally distinct series of settlements.*

In summary, the Landscape Character Assessment draws to attention that there should be the preservation and / or improvement of open space as part of an overarching strategy of landscape enhancement.

The impact upon the landscape will need to be given consideration in the planning balance at the end of the report.

Other

There have been objections on the grounds that the consultants commissioned by the Applicant are not independent. In response, the technical reports have been given consideration by the relevant Council Officers (such as Lead Local Flood Authority).

There have further been objections on the grounds that of inaccuracies within the submitted Statement of Community Involvement. In response, the application has been given consideration on the basis of the submitted plans and documents.

There have also been objections on the ground of impact upon property values. The key point to consider would be that the Planning Practice Guidance says, at paragraph 008 (Reference ID: 21b-008-20140306), says the *protection of purely private interests such as the impact of a development on the value of a neighbouring property... could not be material considerations.*

A representation received, which provides commentary in relation to a meeting and the membership of the Town Council in the mid 2010s. In response, these matters are not necessarily material planning conditions that would be relevant to the determination of the current application.

Trees

The submitted Arboricultural Impact Assessment says that there *is little in the way of tree cover... A single sycamore is located on the north boundary and a few elders are located the south boundary and trees from the adjacent residential property flank the west boundary.* The Assessment continues by saying that the sycamore would be removed, being a *low value individual which would be better removed and replaced as part of the proposals* and a section of the trees to the west would be removed with the remained *protected by the position of the protective barrier.*

The Assessment continues by saying that *no visual signs were found to indicate the presence of bats in the surveyed trees and no nesting birds were present at the time of inspection.*

The impact upon trees will need to be given consideration in the planning balance at the end of the report.

Summary

The Unitary Development Plan, at policy HA4 - Land for Housing), allocates the site for housing.

The Planning Policy Officer has advised that the latest Strategic Housing Land Availability Assessment (2020) identifies the site as being "not currently developable" due to issues (at the time) regarding site availability. The Planning Policy Officer has also drawn to attention that the Council has a five-year housing land supply, as confirmed by the Planning Inspectorate. The Planning Policy Officer has therefore advised that regard can be given to appropriate alternative developments.

The proposed retail store would make a contribution towards the development strategy, as described by policy SP1 (Development Strategy) of the Core Strategy, by creating up to 20 full time equivalent jobs and being within the Existing Urban Area.

The available evidence indicates that the site has historically been used as a playing field. The more recent evidence does, however, appear to show that the site has been used as open space for more than the past five years.

The loss of open space will need to be given consideration within the planning balance.

The Council have commissioned a retail planning consultant who has advised that there are "no local, or national, retail policy reasons for refusing the proposal" (subject to conditions).

The proposal accords with the relevant development plan policies, in terms of detailing impacts arising from the proposed development; namely amenity, cricket, design, drainage, ecology, energy efficiency, fire, groundworks, heritage and highways.

The proposal does not entirely accord with the relevant development plan policies, in terms of detailed impacts arising from the proposed development; namely landscape (including open space which provides opportunities for activities such as dog walking) and trees. These matters will need to be given consideration in the planning balance.

The table below shows the residual cumulative impact of the proposed development, taking into account both the recommended financial contribution towards off-site biodiversity net gain and the suggested conditions. The impacts will be given consideration using the scale of neutral / negligible, minor, moderate, significant and substantial. The commentary thereafter will explain the findings for any moderate impacts.

	Benefit	Neutral / Negligible	Adverse
Economic	<u>Job creation</u> Applicant estimates up to 20 FTE. Minor beneficial.		
Environmental	<u>Drainage</u> Greenfield run-off rate and pollution control measures. Minor beneficial. <u>Ecology</u> On site and off-site financial contribution towards biodiversity net gain. Minor beneficial. <u>Energy Efficiency</u> Proposed measures include recycling heat from	<u>Amenity</u> Impacts during both construction and operation can be controlled via conditions (including verifying the proposed noise mitigation). Negligible. <u>Cricket</u> A condition can ensure the installation of a suitable boundary treatment before the store opens for trading, in	<u>Landscape / Open space</u> Loss of open space which provides routes for activities such as dog walking. Minor adverse.

	refrigerators and roof mounted solar Minor beneficial.	consultation with the cricket club. Negligible. <u>Design</u> The proposed development would sit comfortably within the prevailing pattern of development. Neutral. <u>Groundworks</u> Impacts can be controlled via conditions. Negligible. <u>Highways</u> Impact can be controlled via conditions. Negligible. <u>Trees</u> A low value tree to the front of the site would be felled. Negligible adverse.	
Social	<u>Retail</u> New discount food store. Moderate beneficial		

The adverse impact arising from the loss of open space has been given consideration as minor-moderate, mainly because the site has been allocated for development for more than 20 years in the development plan (albeit for housing, rather than retail), the low valuation of the site within the Green Space Audit and the availability of other green spaces near the site (such as Hetton Lyons Country Park).

The beneficial impact has been given consideration as moderate, for the reasons below:

The proposal would bring forward a vacant site which has been allocated for development within the development plan for more than 25 years; albeit for a food store, rather than retail.

The proposal would provide new employment opportunities and a facility to meet people's convenience goods retail needs within the Existing Urban Area; in a relatively sustainable

location, with good access to public transport, given the provision of regular bus services along Colliery Lane and along the A182.

The proposal would be a discount food store, which means there would be a contribution towards the City Plan, which seeks as part of a *vibrant smart city for residents who are more resilient to ongoing challenges include the cost of living crisis*.

There have been more than 70 representations of support for the proposed development; including the creation of job opportunities and reducing the need to travel outside of the area.

The Town Council, whilst raising a series of detailed points, do draw to attention that:

There is a general consensus of support in the local community for the proposal.

Equality Act 2010 - 149 Public Sector Equality Duty

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:-

- o age;
- o disability;
- o gender reassignment;
- o pregnancy and maternity;
- o race;
- o religion or belief;
- o sex;
- o sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to?

- (a) tackle prejudice, and
- (b) promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

Conclusion

In conclusion, the moderate benefit from the proposed discount food store outweighs the minor-moderate adverse impact from the loss of existing open space; which means that the recommendation would be to grant planning permission (subject to the two points in the recommendation below).

Recommendation: Delegate the application to the Executive Director of City Development who is minded to APPROVE the application subject to:

- **The successful completion of a legal agreement for a financial contribution towards off-site biodiversity net gain.**
- **The receipt of a positive consultation response from the Local Highway Authority (including any additional / amended condition and / or obligations by way of legal agreement).**
- **The draft conditions below.**

Draft 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

Reason: 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 Levels Plan (Drawing No. -2000, Revision P03)
 - Proposed Drainage Layout (Drawing No. -1000, Revision P04), as found within Flood Risk and Drainage Impact Assessment (Doc ref: P18-474-ZZ-XX-HYD-RP-C-9000, Issue Number P05)
 - Detailed Planting Plan (DWG No. N1241-ONE-ZZ-XX-DR-L-0201, REV P06)
 - Proposed Boundary Treatment Plan (Drawing No. 0004, Revision P03)

- Acoustic Fence Details (Drawing No. -0001, Revision P01)
- External Lighting Layout (Drawing No. -0001, Revision P02)
- Proposed Site Plan (Drawing No. -0002, Revision P01)
- Proposed Floor Plan (Drawing No. -0003, Revision P01)
- Proposed Plant Layout (Drawing No. -0001, Revision P01)
- Proposed Elevations (Drawing No. -0001, Revision P02)
- Proposed Roof Plan (Drawing No. -0001, Revision P01)

Reason: In order to ensure that the completed development accords with the scheme approved and to comply with policy BH1 of the Core Strategy and Development Plan.

3. The Gross Internal Area for retail purposes (Use Class E(a)) shall be a maximum of 1,800 square metres.

Reason: To maintain the vitality and viability of established centre in the policy VC1 retail hierarchy that are located within and immediately beyond the application store's Primary Catchment Area.

4. The total net internal retail sales area shall be a maximum of 1,350 square metres.

Reason: To maintain the vitality and viability of established centre in the policy VC1 retail hierarchy that are located within and immediately beyond the application store's Primary Catchment Area.

5. The total net internal retail sales area within the store hereby approved for convenience goods shall be a maximum of 1,100 square metres and the total net internal retail sales area within the store for comparison goods to a maximum of 300 square metres; subject to the aggregate net internal sales area not exceeding 1,350 square metres.

Reason: To maintain the vitality and viability of established centre in the policy VC1 retail hierarchy that are located within and immediately beyond the application store's Primary Catchment Area.

6. The construction phase of the development hereby approved shall be undertaken in accordance with the details below:

- Arboricultural Method Statement for trees on land adjacent to Colliery Lane, Hetton-le-Hole - Revision A

Reason: To conserve trees, in accordance with policy NE3 of the Core Strategy.

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

- a. Risk assessment of potentially damaging construction and site preparation activities.
- b. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction, including method statements relating to nesting birds, hedgehog and other mammals.
- c. Responsible persons and lines of communication.

The approved CEMP shall be adhered to and implemented throughout the construction and site preparation period strictly in accordance with the approved details.

Reason: To conserve biodiversity during the construction phase, in accordance with policy NE3 of the Core Strategy.

8. No development shall commence until a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall identify all potential impacts upon the local environment and neighbouring occupiers arising from works of site clearance and construction. The CEMP shall also set out the appropriate mitigation measures to prevent or minimise those impacts; specifically including the dust management measures as identified in the submitted Air Quality Assessment (NJD22-0160-001R). The construction phase shall thereafter be undertaken in accordance with the approved CEMP.

Reason: To preserve amenity during the construction phase, in accordance with policy HS1 of the Core Strategy.

9. No development shall commence until a scheme of working has been submitted to and approved in writing by the Local Planning Authority. The scheme of working shall cover the operation and management of the construction phase, including construction site traffic, contractor parking, building material deliveries & storage, site compound layout and any temporary access points. The construction phase shall thereafter be undertaken in accordance with the approved scheme of working.

Reason: To preserve highway safety during the construction phase, in accordance with policy ST3 of the Core Strategy.

10. The food store hereby approved shall not open for trading until a highway design drawing has been submitted to and approved in writing by the Local Planning Authority. The design drawing shall show the site access and associated highway improvements (including the proposed road marking scheme and public lighting improvements). The approved works shall thereafter be fully implemented before the store opens for trading.

Reason: To ensure safe and convenient access for all road users, in accordance with policies ST2 and ST3 of the Core Strategy.

11. The food store hereby approved shall not open for trading until a highway design drawing has been submitted to and approved in writing by the Local Planning Authority. The design drawing shall show the site access and proposed pedestrian crossing. The design drawing shall also include details of the proposed landscaping and boundary treatments to ensure that the required visibility splays are achieved. The approved works shall thereafter be fully implemented before the undertaking of any other development.

Reason: To ensure safe and convenient access for all road users, in accordance with policies ST2 and ST3 of the Core Strategy.

12. The food store hereby approved shall not open for trading until a Stage 2 Road Safety Audit has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure safe and convenient access for all road users, in accordance with policies ST2 and ST3 of the Core Strategy.

13. Prior to any development commencing on site, specific details of the timing of the submission of a verification report(s), which are to be carried out by a suitably qualified person, and the extent of the SuDS features to be covered in the report(s) must be submitted to and approved by the Local Planning Authority.

The verification report(s) shall be submitted in accordance with the agreed timings and shall demonstrate that all sustainable drainage systems have been constructed as per the agreed scheme. For the avoidance of doubt, this shall include:

- As built drawings (in dwg/shapefile format) for all SuDS components - including dimensions (base levels, inlet/outlet elevations, areas, depths, lengths, diameters, gradients etc) and supported by photos of installation and completion.
- Construction details (component drawings, materials, vegetation).
- Health and Safety file.
- Details of ownership organisation, adoption & maintenance.

Reason: to ensure that all sustainable drainage systems are designed to the DEFRA non-technical standards for SuDS and comply with policies WWE2 and WWE3 of the CSDP.

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

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

The report of the findings must include:

- i a survey of the extent, scale and nature of contamination;
- ii an assessment of the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;

- ecological systems;
 - archaeological sites and ancient monuments; and
- iii. where unacceptable risks are identified, an appraisal of remedial options, and proposal of the preferred option(s).

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with the National Planning Policy Framework Paragraphs 174f and 183.

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

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

The Remediation Scheme should be prepared in accordance with the Environment Agency's "Land Contamination: Risk Management" and must include a suitable options appraisal, all works to be undertaken, proposed remediation objectives, remediation criteria, a timetable of works, site management procedures and a plan for validating the remediation works. The Remediation Scheme must ensure that as a minimum, the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Once the Remediation Scheme has been approved in writing by the Local Planning Authority it shall be known as the Approved Remediation Scheme.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with the National Planning Policy Framework Paragraphs 174f and 183.

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

16. No development shall take place above damp-proof course until details of the bat and bird boxes to be installed within the new building have been submitted to and approved in writing by the local planning authority. These details shall include the:
- a. detailed design(s) and/or make and model of bat and bird boxes to be installed;

- b. location of proposed habitat boxes shown on appropriate scale maps and plans;
- c. timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- d. persons responsible for implementing the works;

The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To enhance biodiversity, in accordance with policy NE2 of the Core Strategy.

17. No development shall take place above damp proof course until details of the lighting to be affixed to the building hereby approved has been submitted to and approved in writing by the Local Planning Authority. The details shall include plan and elevation drawings prepared to a recognised metric scale. The approved lighting shall thereafter be provided before the store opens for trading.

Reason: To preserve amenity and ecology, in accordance with policies HS1 and NE2 of the Core Strategy.

18. No development shall take place above damp proof course until details of the outdoor lighting has been submitted to and approved in writing by the Local Planning Authority. The details shall include plan and elevation drawings prepared to a recognised metric scale and be in accordance with the details described in the e-mail from the Agent (18 January 24). The approved lighting shall thereafter be provided before the store opens for trading.

Reason: To preserve amenity and ecology, in accordance with policies HS1 and NE2 of the Core Strategy.

19. No development shall take place above damp-proof course until final details of the roof mounted solar panels have been submitted to and approved in writing by the Local Planning Authority. The details shall be in general accordance with the indicative layout shown on the submitted Proposed Roof Plan (Drawing No. -0001, Revision P01). The store hereby approved shall thereafter only open for trading once the approved solar panels have been fully installed.

Reason: To ensure high quality design and highway safety, in accordance with policies BH1, ST2 and ST3.

20. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority.

A Risk Assessment must be undertaken in accordance with the requirements of the Environment Agency's "Land Contamination: Risk Management" and where remediation is necessary a Remediation Scheme must be prepared and submitted to the Local Planning Authority in accordance with the requirements that the Remediation Scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Once the Remediation Scheme has been approved in writing by the Local Planning Authority it shall be known as the Approved Remediation Scheme.

Following completion of measures identified in the Approved Remediation Scheme a verification report must be prepared and submitted in accordance with the approved timetable of works. Within six months of the completion of measures identified in the Approved Remediation Scheme and prior to the occupation of any building, a validation report (that demonstrates the effectiveness of the remediation carried out) must be submitted to the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with the National Planning Policy Framework Paragraphs 174f and 183

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

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with the National Planning Policy Framework Paragraphs 174f and 183

22. Prior to the proposed supermarket being brought into use, final details of the proposed boundary treatment, shall be provided for approval, and subsequently installed, in accordance with those details. The proposed boundary treatment should be prepared in consultation with Hetton Lyons Cricket Club.

If the submission includes a fence with a height of greater than 2 metres, then a separate grant of planning permission would be required. The planning permission would need to be granted before the development is first brought into use.

Reason: To ensure that the proposed development would be compatible with the existing cricket club and to preserve amenity, in accordance with policy HS1 of the Core Strategy.

23. The store hereby approved shall not open for trading until a biodiversity management plan has been submitted to and approved in writing by the Local Planning Authority. The management plan shall detail how the proposed on-site habitats, as shown on the submitted Detailed Planting Plan (DWG No. N1241-ONE-ZZ-XX-DR-L-0201, REV P06), would be managed for the lifetime of the development hereby approved. The habitats shall thereafter be managed in accordance with the approved details.

Reason: To provide part of the biodiversity net gain, in accordance with policy NE2 of the Core Strategy.

24. The planting shown within the submitted Detailed Planting Plan (DWG No. N1241-ONE-ZZ-XX-DR-L-0201, REV P06) shall be undertaken within the first planting season following the practical completion of the development hereby approved.

Reason: To provide part of the biodiversity net gain, in accordance with policy NE2 of the Core Strategy.

25. Within 28 days of store hereby approved opening for trading, a Noise Assessment shall be submitted, in relation to the operation of fixed external mechanical plant and equipment. The assessment shall establish the rated noise levels as they impact the nearest sensitive noise receptors with all proposed mitigation measures in place.

Reason: To preserve amenity, in accordance with policy HS1 of the Core Strategy.

26. If the noise assessment submitted to discharge condition 24 shows that rated noise levels in relation to the operation of fixed external mechanical plant and equipment exceed the typical day and night time background LA90 values, then a scheme of mitigation shall be submitted within 28 days. The scheme of mitigation shall include scale plan and elevation drawings, prepared to a metric scale. The approved mitigation shall thereafter be installed within 28 days from the date of approval and thereafter retained (including any maintenance being undertaken in accordance with approved details).

Reason: To preserve amenity, in accordance with policy HS1 of the Core Strategy.

27. The store hereby approved shall only open for trading during hours below

08:00 - 23:00 - Monday to Saturday

09:00-18:00 - Sundays

Reason: To ensure accordance with the submitted details and to preserve amenity, in accordance with policy HS1 of the Core Strategy.

Reference No.: 23/01864/MAW Minerals- Waste (County Matters)

Proposal: **The construction of a 2.5m high bund to be constructed along the eastern perimeter of the Springwell Quarry Site.**

Location: Thompsons Of Prudhoe Springwell Quarry Springwell Road Springwell Gateshead

Ward: Washington West

Applicant: Thompsons Of Prudhoe Ltd

Date Valid: 12 September 2023

Target Date: 12 December 2023

PROPOSAL:

Planning permission is sought for the construction of a 2.5m high bund to be constructed along the eastern perimeter of the Springwell Quarry Site. It is proposed that the 2.5m bund be constructed along the eastern perimeter of the Springwell Quarry Site. The bund will also connect up with an existing bund, which already has consent under permission 16/01581/MAW, to the south of the site. This will create a screening and enclosure bund along the eastern perimeter of the site.

The bund is to be constructed of clays and subsoil; the material is to be imported into the site, under a Material Management Plan and follow the CL:AIRE Code of Practice protocol and finished with an appropriate dressing to include soils and gravels and planted with grasses and seeds to encourage a heathland community, enhancing biodiversity in the area. The bund is being proposed to screen and enclose this side of the site which is closest to the residential properties along Railway Close and to act as a noise attenuation bund for a proposed new washing plant.

The application site is located within the ward of Washington West and is approximately 7 miles north east of Sunderland City centre. The site is located within a coal mining legacy area identified as low risk and within a 250m Surface Coal MSA. The site is located within an area designated as Green Belt; it is within an existing wildlife corridor and an area designated as greenspace.

The following information has been submitted in support of the application;

Construction Environmental Management Plan (CEMP)

Noise Report (NR)

Screening Bund Design Statement (SBDS)

Supporting Statement (SS)

Materials Management Plan (MMP)

Bat Survey (BS)

TYPE OF PUBLICITY:

Press Notice Advertised

Site Notice Posted

CONSULTEES:

Environmental Health
Environment Agency
Planning Implementation
Historic England
Historic England
Planning Implementation
Cllr Jimmy Warne
Cllr Dorothy Trueman
Environmental Health
Cllr Henry Trueman
Environmental Health
Network Management
Flood And Coastal Group Engineer
Land Contamination
The Ancient Monuments Society
Planning Policy
Natural Heritage

Final Date for Receipt of Representations: **02.11.2023**

REPRESENTATIONS:

Two letters of representation have been received, following public consultation, objecting to the proposed development raising concern in regard to amenity in regard to noise nuisance and dirt. One letter of objection stated that they were not opposed to the bund but concerned about noise levels from a proposed processing building.

Consultee Responses

Flood And Coastal Group Engineer (25.09.2023) No comments
Network Management (24.10.2023_ - No observations.
Environment Agency - (04.10.2023) No objection.
Land Contamination (11.10.2023) No objection subject to recommended planning conditions.
Planning Policy (25.09.20 23) - No Objection - the proposals would generally accord with the development plan.
Natural Heritage (10.11.2023) No objection subject to recommended planning conditions
Environment Agency (04.10.2023) No objection.

Environmental Health (14.11.2023)

No Objection - Further information is required in respect of noise to adequately assess the impact of operational noise once the proposed screening bund is in place and the potential for adverse impact on nearest sensitive receptors.

Planning Implementation

(02.11.2023) - the Conservation Team agrees with Historic England's further assessment of the proposal in light of the additional information submitted and supports the requested design measures to mitigate the low level of harm to the significance of the Scheduled Monument. The straightening of the bund to mirror the line of the railway will lessen its visual impact alongside the scheduled railway, and as noted by Historic England potentially negate the need to submit a separate application to them for Scheduled Monument Consent.

As currently proposed the low level of harm should be considered against the public benefits of the proposal, in accordance with NPPF Paragraph 202, as part of the planning balance in making a decision on the application. However, should the suggested design changes be made it is likely the impacts will be mitigated so that no harm will be caused, and the significance of the Scheduled Monument will be conserved in accordance with NPPF Paragraph 199 and CSDP Policies BH7 and BH8.

Historic England

(19.12.2023) - Historic England appreciate the work that the applicant has done to clarify the location of the monument according to existing boundaries and plans. In addition, the straightening out of the bund to reflect the linear nature of the monument reinforces and enhances its enduring position in the landscape. I agree that the historic quarry boundary - marked with the blue line on the attached plan - is likely the old fence line shown on the 1970s OS which was used to mark the edge of the scheduling. I can therefore confirm that the revised layout shown on plan "010C Site Plan-WMT A1 Land Rev C" sent with your email dated 19/12/2023 is acceptable to Historic England. SMC will not be required for any works as they are all to the west of the monument boundary.

(27.10.2023) - Significance - A key issue of significance which we did not mention previously, relates to the linearity (straightness) of the incline (as a direct consequence of the haulage technology utilised between Springwell and the engine house at Blackim Hill). Impact The bund in this location is shown to have a slight curvature to it north of the workshop leading towards Springwell Road. This will act to draw the eye away from the straight line of the railway at this point, which, in turn, will have an impact on the setting of the monument as it curves. In addition, it still seems to be impinging into the monument at both the Springwell Road end and just south of the workshop area.

This application needs to be judged against Government policy on the importance of conserving heritage for the benefit of current and future generations, as set out in the National Planning Policy Framework (NPPF 2021):

Position - Overall, Historic England accept the principal of this development. We have some concerns which need to be addressed, but it is our opinion that the harm which will be caused by the bund is low and can be further mitigated through small design changes. It will be for the LPA to make a balanced judgement of whether the public benefits will outweigh the low level of harm caused to the monument.

Historic England would prefer to see the northern part of the bund straightened out to mirror the straight line of the railway - this would help to enhance its setting rather than cause some harm to it by drawing the eye away from its linearity.

We acknowledge that for old monuments which have not had modern digital mapping upgrades, it can be difficult to understand that the pictorial (digital polygon) depiction is not 100% accurate, but that it is indicative only.

The digital monument boundary (used on Sunderland and MAGIC websites) will have been informed by a hand-drawn line on the OS map base in c.1974/5 when it was first scheduled. The map base would likely have been 1:25,000 which doesn't quite equate to our modern digital maps hence the disparities.

Therefore, it is our interpretation for this application, that the boundary between the monument and the quarry will be the historic fence line - which may or may not entirely on a map viewable on the "National Library of Scotland" mapping website (this link should take you there: <https://maps.nls.uk/view/195441969>). I have also included a pdf copy

It is difficult to tell on the submitted site plan (010B Site Plan-WMT A1 Land) if this fence line is still extant given the many layers shown. However, if the Applicant can demonstrate that the footprint of the bund stops at the line shown on the 1971 OS, then no SMC will be required. If it goes over and it is not possible to adjust off the monument, then SMC will be necessary

Recommendation - Historic England has concerns regarding the application on heritage grounds. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 202 of the NPPF.

POLICIES:

Core Strategy and Development Plan 2015-2033 (CSDP)

- SP1 Development strategy
- SP3 Washington
- SP7 Healthy and safe communities
- HS1 Quality of life and amenity
- HS2 Noise-sensitive development
- HS3 Contaminated land
- BH1 Design quality
- BH2 Sustainable design and construction
- BH7 Historic environment
- BH8 Heritage assets
- NE1 Green and blue infrastructure
- NE2 Biodiversity and geodiversity
- NE4 Greenspace
- NE6 Green Belt
- NE9 Landscape character
- NE11 Creating and protecting views
- SP11 Mineral extraction
- ST2 Local Road network
- ST3 Development and transport
- M1 Minerals Safeguarding Areas and infrastructure

Unitary Development Plan (saved policies) (UDP)

- CN23 Wildlife Corridors
- WA14 Amenity open space
- WA23 Springwell Quarry

The National Planning Policy Framework (NPPF)

COMMENTS:

Introduction

The Application Site comprises an existing landfill and waste recycling facility at the former Springwell Quarry. The Application Site is situated to the north west of the village of Springwell, with Eighton Banks immediately to the south west, Wrekenton to the north and Washington beyond the A194 to the south-east. The A1M lies to the south west with the A1M/A194/A1231 junction directly to the south of the site. The site is bordered by Bowes Railway, a Scheduled Ancient Monument along the south-eastern and southern boundaries; the Campground Waste and Recycling Centre to the north/north-west; and Springwell Road along the north-eastern boundary. The Bowes Railway line is also used as a public footpath. Bowes Railway station is located across Springwell Road directly opposite the site, to the north east, with a level crossing on Springwell Road adjacent to the Application Site entrance.

Residential properties at Railway Close in Springwell Village are located directly opposite the site to the south east, across the railway line; similarly residential properties in Eighton Banks are located directly opposite the site to the south west across the railway line. There are residential properties on Springwell Road opposite the site entrance. Brysons Animal Shelter is immediately opposite the site across the railway line to the north west of the site, and residential dwellings in Wrekenton, along with Fell Dyke Community Primary School, lie beyond the Campground Waste and Recycling Centre to the north.

The Application Site is located within the Green Belt, and almost all of the Application Site falls within a designated Wildlife Corridor. On either side of Bowes Railway line to the south/ south-west of the site, between the site and Eighton Banks, the land is designated as Springwell Ponds Local Wildlife Site, a Site of Nature Conservation Importance (SNCI). Great Crested Newt are present adjacent to the Application Site at Springwell Ponds LWS. There are no other protected and priority species or habitats present within the application boundary.

Site History

Planning Permission was granted under reference 16/01581/MAW dated 13.11.2020 for the following:

The retention of the facility for the receipt, recycling, processing, storage and land filling of construction, demolition and excavation waste; storage of primary aggregate; production of concrete and associated ancillary activities at Springwell Quarry.

Proposal

The proposed development seeks planning consent for the construction of a 2.5m high bund to be constructed along the eastern perimeter of the Springwell Quarry Site. Planning consent has already been granted under planning application reference number 16/01581/MAW for the construction of a bund to the south-eastern perimeter of the site; the additional section of bund is being proposed to act as an encloser for the site but also as a noise attenuation barrier for a new screening and washing plant which is being bought onto the site.

The bund will be constructed of clays and subsoil and the material will be imported into the site under a Material Management Plan that will be submitted and agreed under the CL:AIRE Code of Practice protocol.

Assessment of the proposal

By virtue of section 38(6) of the Planning and Compulsory Purchase Act, 2004, the starting point for consideration of any planning application is the saved policies of the development plan. A planning application must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF advocates a presumption in favour of sustainable development. However, the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. The Core Strategy and Development Plan (CSDP) was adopted in January 2020 and is considered to represent an up-to-date development plan for the purposes of the NPPF, as are the Unitary Development Plan (saved policies) (UDP)

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

Principle of the development

Green Belt

Heritage impact

Design and impact

Contamination

Landscape and ecological impact

Highway and pedestrian safety

Principle of development

The principle of development on the site has already been established in the granting of planning permission 16/01581/MAW on the 13.11.2020.

Principle of development within the Green Belt

The NPPF advocates that paragraph 152 that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances and that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. However, the NPPF at paragraph 154 and paragraph 155 sets out exceptions to this rule.

The site is located within the allocated Green Belt on land north of Washington, as shown on the Core Strategy Proposals Map. Core Strategy Policy NE6 sets out the purposes of the Green Belt, these are closely aligned with the NPPF.

The construction of a bund is considered to be an engineering operation rather than a building and therefore, under Paragraph 155 of the National Planning Policy Framework (NPPF) the construction of the bund is considered to be 'appropriate development' in the Green Belt provided it preserves its openness and does not conflict with the purposes of including land within it.

To this end, consideration must be given as to whether the proposed development would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it.

CSDP Policy NE6 sets out the principles for development within the Green Belt and is closely aligned with the NPPF. CSDP Policy NE6(iv) seeks to preserve the setting and special character of Springwell Village and Newbottle Village.

Thompsons of Prudhoe have developed the current waste recycling facilities at the Springwell Quarry site over the last 40 to 50 years. Consent was granted under planning application 16/01581/MAW which included a screening bund to the south east of the site. The construction of the bund along the eastern perimeter of the site would adjoin that granted under the previous permission detailed above and would screen existing industrial buildings which are up to 15m in height; the proposed bund would be approximately 2.5m and would not impact on open views over surrounding Green Belt land and is in fact considered to be a visual enhancement when viewed from the east and north of the site and provide an attenuation barrier for noise control to the east of the site; as such the proposed development is considered to be acceptable.

Heritage impact

The NPPF Chapter 16 - conserving and enhancing the historic environment advocates the importance of historic sites and buildings and states that " these assets 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". The NPPF at paragraph 200 states that "in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets" and at paragraph 205 that "when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance".

Sunderland's historic environment has a large number of heritage assets, both designated and non-designated, including Scheduled Monuments, archaeological sites, Historic Parks and Gardens, listed buildings and conservation areas.

CSDP Policy BH7 and BH8 seek to conserve and enhance the historic environment and heritage assets and sets out the principles for development, whilst CSDP Policy BH9 seeks to protect the city's archaeological remains.

Bowes Railway is a Scheduled Ancient Monument (as designated by retained UDP Policy B12) and is in close proximity to the Application Site and is detailed in the Historic England listing number 1003723. The UDP notes that "Opened in 1826, it is the world's only standard gauge, rope hauled railway, part of which was designed by George Stephenson. It is a Scheduled Ancient Monument. The area around the museum has benefited from environmental improvements such as car parking and open space provision as part of a reclamation scheme. Facilities include a small shop and refreshment room".

A Heritage Statement has been submitted in support of the application. Historic England and the Building Conservation Team have been consulted as part of this application process and have raised no objections. The proposal is therefore considered in accordance with local and national planning policies.

Design and impact

The NPPF advocates that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

CSDP Policy BH1 sets out the design principles for development and seeks deliver excellence in development quality ensuring that all new development to embrace the principles of sustainable design, positively respond to the character and setting, and avoids harmful and/or cumulative impacts to the amenity of neighbouring buildings, local character and heritage assets.

A Noise Report (NR) , Screening Bund Design Statement and a Construction Environment Management Plan have been submitted in support of this application.

Two letters of representation have been received, following public consultation, objecting to the proposed development raising concern in regard to amenity in regard to noise nuisance and dirt.

The proposed bund would connect to an existing bund, which already has consent under permission 16/01581/MAW, to the south of the site and will create a screening and enclosure bund along the eastern perimeter of the site. The bund is to be constructed following the CL:AIRE Code of Practice protocol would provide screening and enclose the eastern boundary of the site which is closest to the residential properties along Railway Close.

The Public Health team have been consulted and have raised no objection to the proposed bund, however, they have requested that further information be provided once the proposed screening bund is in place to ensure that the bund will adequately address the noise concerns in regard to potential equipment which may be installed on the site at a later date. This application does not relate to the installation of any equipment, consent is sought purely for the construction of the bund and as such any potential future installation of any equipment is not considered as part of this application. That being said, a number of conditions in regard to noise levels and mitigation were imposed under 16/01581/MAW which includes total noise levels which shall not exceed 55dB(A) LAeq, 1h (free field) at the nearest noise sensitive property. Should any future development exceed this then additional consents and mitigation measures may be required.

A NR has also been submitted which predicts and assesses the anticipated noise level at the nearest noise sensitive receptor (NSR) during construction of the proposed screening bund.

A CEMP has been submitted in support of this application which details how the visual and acoustic screening bund along the east boundary of the site is to be constructed.

Planning Practice Guidance: Minerals (PPG:M) 2014 supports a temporary increase in site noise levels and states "Increased temporary daytime noise limits of up to 70dB(A) LAeq 1h (free field) for periods of up to 8 weeks in a year at specified noise-sensitive properties should be considered to facilitate essential site preparation and restoration work and construction of baffle mounds where it is clear that this will bring longer-term environmental benefits to the site or its environs.

Whilst it is noted there is a potential for the noise levels to increase during the construction of the bund, the construction period is not predicted to last for more than 8 weeks. The CEMP advocates that the bund will not exceed 70dB(A) LAeq 1hr and that the provision of moveable acoustic fencing along the boundary of the site is to be used to address any temporary noise issues.

Taking the above into deliberation, the proposed materials and design are considered acceptable, the development would not have a negative impact on the street scene or neighbouring amenity as such is considered acceptable.

Contamination

The NPPF seeks to conserve and enhance the natural environment and states that planning policies and decisions should a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. However, at paragraph 190 affirms that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rest with the developer and/or landowner and that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

CSDP Policy HS1 and HS3 relate to land contamination and seeks to ensure that as a result of development there is no increased risk, and where there is or the potential for contamination, that mitigation measures are put in place to negate or reduce that risk.

The Land Contamination Officer has been consulted as part of this application and has raised no objection subject to the imposition of recommended planning conditions pertaining to verification.

It is considered that with the imposition and adherence to the recommended planning condition, the development accords with local and national planning policy.

Landscape and ecological impact

The NPPF advocates the conservation and enhancement of the natural environment, and that development should minimise impacts on and provide net gains for biodiversity.

CSDP WWE6 (3) requires waste developments to avoid unacceptable impacts on the landscape. CSDP Policy NE1 seeks to maintain and improve Green Infrastructure Network, whilst CSDP Policies NE2 sets out the principles for biodiversity and geodiversity. CSDP Policy NE9 requires developments to be in keeping with the landscape character for any particular area by taking the key characteristics, assets, sensitivities and vulnerabilities into account, as set out in the City's Landscape Character Assessment.

The Site is within a Wildlife Corridor, adjacent to Springwell Ponds SNCI, and Great Crested Newt are known to be present at Springwell Ponds. Retained UDP Policy CN23 states that proposals within Wildlife Corridors will be encouraged to conserve and improve the environment.

This Application relates to the construction of a new screening bund along the east of the site which would be attached to the bund along the south eastern edge of the existing quarry. This would be viewed from the east of the site, in the context of the existing landform to the north; the Applicant submits that the intention of this bund, as well as providing a noise and dust screen, is to improve the visual appearance of the site.

The City Ecologist has been consulted and has raised no objections subject to the imposition of recommended planning conditions. The operations at the Application Site would not be altered as part of this application and as such is not considered to have any impact on Springwell Road or Railway Close or on existing views, other than screening immediate views of the operations once the screening bund is erected as discussed above and is generally in keeping with the industrial landscape heritage of the area and specifically this former Quarry site.

It is considered that with the imposition and adherence to the proposed conditions, the proposals are not considered to have an unacceptable impact on the landscape, nor are they found to be visually unacceptable and as such the development would accord with local and national planning policies.

Highway and pedestrian safety

CSDP Policies ST2 sets out the local road network hierarchy, which will be used when considering development, whilst CSDP Policy ST3 seeks to ensure safe and convenient access for all road users.

The Transportation Development Team have been consulted as part of this application and have raised no objection. The proposal is considered to accord with local and national planning policy in this respect.

Equality Act 2010 - 149 Public Sector Equality Duty

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:-

- o age;
- o disability;
- o gender reassignment;
- o pregnancy and maternity;
- o race;
- o religion or belief;
- o sex;
- o sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to?

(a)tackle prejudice, and

(b)promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

Conclusion

For the reasons set out above, it is considered that the proposed development is acceptable in principle. The design and materials palette are considered acceptable and would not have a negative impact on the locality of the street scene. There would be no adverse impact on residential amenity and highways safety. Subject to the conditions recommended throughout this report, the proposals are also considered to be acceptable in respect of ecology and land contamination.

The proposed development is therefore considered to be acceptable and compliant with the requirements of the relevant policies of the NPPF and the Council's Core Strategy and Development Plan and remaining policies of the UDP.

RECOMMENDATION: APPROVE subject to the conditions below.

Conditions:

1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time.

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

Location Plan

Site Plan: Drawing No. 010 Revision C

Reason: In order to ensure that the completed development accords with the scheme approved and to comply with Policy BH1 of the Core Strategy and Development Plan.

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

a. Risk assessment of potentially damaging construction activities, referring to (but not exclusive of) potential harm to great crested newts and nesting birds.

b. Identification of "biodiversity protection zones".

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

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

- 4 Within six months of the completion of measures identified in the Materials Management Plan, a Verification Report (to confirm material quantities, suitability of use of the materials, laboratory testing, waste transfer documentation, contingency arrangements that had to be implemented together with the signed copy of the declaration by the Qualified Person) must be produced and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land, are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with the National Planning Policy Framework Paragraphs 174f and 183.

Reference No.: 23/01899/LP3 Local Authority (Reg 3)

Proposal: **Internal arrangements to provide supported accommodation for upto 5no individuals**

Location: The Sheiling Fatfield Road Washington NE38 7DT

Ward: Washington Central
Applicant: Sunderland City Council
Date Valid: 6 September 2023
Target Date: 1 November 2023

PROPOSAL:

INTRODUCTION

The application seeks planning permission for a change of use from a dwellinghouse (Use Class C3) to supported residential accommodation (Use Class C2 (Residential Institution)). Amendments to the existing internal arrangements are required to facilitate provision of the supported accommodation which would be for up to 5 no. individuals. Support and staffing would be provided by Sunderland City Council's experienced, specialised partner Changing Lives.

As Members will recall, this planning application was previously considered by the Planning and Highways Committee at a meeting held on 30th October 2023. At the meeting, it was resolved that a decision on the planning application would be deferred to enable a visit to the application site to be carried out. The site visit was carried out on Friday 24th November.

The planning application was then brought back to the Planning and Highways Committee at a meeting held on 8th January 2024. However, given the level of public interest in the planning application at the Planning and Highways Committee on 30th October 2023, Members were concerned that not one individual attended to hear the item debated and discussed, despite the Committee Report (including date and time of the meeting) being publicly available and attached to the application file 5 working days in advance of the committee date. Therefore, in case of any miss communication / miss understanding of the committee date, Members resolved that a decision on the planning application would again be deferred to ensure that anyone who had previously expressed an interest in the application could attend to hear the debate.

Since the meeting of the Planning and Highways Committee on 30th October 2023, the applicant has provided a first floor layout plan of The Sheiling (titled 'Bedroom 4 Compliance Plans') which seeks to demonstrate the floor space of bedroom 4. The National Planning Policy Framework (NPPF) has also been updated (current version dated December 2023), however updates are not relevant to the determination of this planning application.

DESCRIPTION OF SITE AND SURROUNDINGS

The application property is located within a residential area of Biddick, at the junction of Biddick Villas and Fatfield Road in Washington. The site, as existing, comprises a two-storey semi-detached dwelling which is set within a triangular plot which, to the principal (northwest facing)

elevation, fronts Fatfield Road. The side (northeast facing) elevation adjoins No. 46 Biddick Villas. The rear (southeast facing) elevation backs onto garden ground. The south site boundary bounds the curtilages of residential dwellings; specifically, Nos. 1 and 2 Ashley Close. The southwest and west portion of the site comprises an area of hardstanding.

The application site, as noted, is situated within a residential area of similarly styled properties. While the application site is positioned within a residential setting, it is noted that Biddick Academy is situated to the south (with Ashley Close intervening).

THE PROPOSED DEVELOPMENT

The proposed development for supported residential accommodation would utilise the existing footprint of the building. No external alterations are proposed and so the appearance of the property would remain as existing. Only internal alterations would be required - to the first-floor landing, as well as to enable provision of a further 2 no. bathrooms.

The proposed supported residential accommodation would provide housing for up to 5 no. single females (aged 18-25) who find themselves homeless. They would come from a range of backgrounds. For example, some may move from unsuitable accommodation; some people may be leaving care or hospital; and others may be street homeless or sleeping rough. The project would support occupants to live safely and develop skills that will enable them to move on to living independently. As noted from the submitted Design and Access Statement ('DAS'), the scheme is likely to mean that occupants, in turn, will live at the application property for approximately 3-6 months.

The proposed development would be managed whereby a curfew would be in operation for residents between the hours of 23:00 hours and 07:30 hours. Residents would not be permitted to receive any visitors, unless by prior arrangement with support staff, and only during office hours.

The staffing arrangements for the proposed development would normally comprise 2no. on-site staff members (on occasion, 3no.) with a maximum of 6no. on site at any one time (noting the transient period for staff handover at the times of 8am and 8pm)). The staff would provide on-site support on a 24/7 basis, with shifts lasting up to 12 no. hours each between the times specified previous.

The proposed development would utilise the existing access off Fatfield Road, and application details state that the application site is capable of accommodating 5 no. vehicles.

PLANNING HISTORY

Reference Number: 88/01913/10

Description: Conversion of dwelling to rest home

Status: Refused

Reference Number: 89/00478/10

Description: Change of use to guest house.

Status: Refused

TYPE OF PUBLICITY:

Site Notice Posted
Neighbour Notifications

CONSULTEES:

Cllr Beth Jones
Cllr Dianne Snowdon
Cllr Linda Williams
Network Management
Environmental Health
Housing - People Services
Northumbria Police

Fellside 45 Biddick Villas Columbia Washington NE38 7DT
Clovelly 46 Biddick Villas Columbia Washington NE38 7DT
2 Ashley Close Biddick Washington NE38 7TP
North Biddick Lodge Biddick Lane Fatfield Washington NE38 8AB
1 Ashley Close Biddick Washington NE38 7TP

Final Date for Receipt of Representations: **15.01.2024**

REPRESENTATIONS:

Publicity

The occupiers of 5 no. properties in the vicinity of the application site (including those adjoining the curtilage of the subject dwelling) were sent neighbour notification letters. A site notice was also posted in the vicinity of the application site.

Application details state that the applicant has, at pre-application stage, engaged with the local community as part of the proposals.

Site notice expiry date: 04/10/2023
Neighbour notifications expiry date: 13/10/2023
Consultation expiry dates: 27/09/2023 and 11/10/2023

Consultees

Ward Councillors – No responses received.

Network Management – No objection.

Environmental Health – No objection, subject to informatives.

Housing - People Services – No comments received.

Northumbria Police ('NP') – No objections

1. We note that there are a significant number of local objections and comments which make particular reference to the property housing people with drug and alcohol issues, but we could not find that information in the application documents published on the portal.
2. Some responders reference a mail drop that refers to "change of use to a Halfway house for young, homeless people with drug/alcohol issues." And mentions that Drug/alcohol issues was highlighted in bright pink. Do we know the source of this mail drop on 6th October because it doesn't appear to have been part of the official consultation which concluded earlier.
3. The proposal is regarding internal arrangements to provide supported accommodation for up to five single females.
4. It is a matter of record that Northumbria Police have expressed concerns when care facilities have had, or are likely to have, impact on public amenity. It would therefore be contradictory of us if we didn't consider the potential impact of this supported housing proposal.

The prior use of this property was as a Bed & Breakfast but there have been no calls for service originating from, or about, the premises in the last 21 years.

It would be naive to assume that the proposed use would have no impact at all on the locality, but the question for consideration is that potential impact addressable through proper management of the facility.

The Applicant proposes 24/7 care with teams of two care staff working eight hour shifts, and provision made to increase that level of support if needed. They will also operate a curfew and restrict visitors to the address. The care provider, Changing Lives, has also said that they will seek to create a positive impact and ensure the smooth transition of the scheme into the locality in line with their social values, and provide a specific point of contact for the public, to enable queries and issues to be dealt with promptly by them.

In terms of genuine mitigation we consider that likely to be sufficient to address any predictable risk and strong links with the local policing team will be established.

5. Given the level of management and the nature of the care provision and the community it will serve, it seems unlikely that drug detritus will originate from the property or be a problem in this locality because of the presence of the facility.
6. Many of the objector's express concern about the safety of pupils attending the local comprehensive school, but it is not clear that the case is made that residents of the home represent any direct risk to young people, and in any event, matters of placement would be agreed with the local authority and the care provider and take into account possibility of third-party risk.

Conclusions

Northumbria Police acknowledge the views expressed by residents and recognise that many of the comments are based upon genuine concerns, however experience has shown that the sort of negative behaviours identified by responders are neither exclusive to, or certain to occur, if a premises is well managed.

Northumbria Police accept that there is a need for such premises and that such facilities should be provided, where possible, in the home locality. Indeed, we also recognise that such facilities

have a better chance of being successful if they aren't in more challenged localities but are still local.

We are however concerned about the number of residents that oppose this application, because it could make it more difficult for the facility to be assimilated into the immediate community.

On balance we think that with appropriate management, good communication, and well structured care, a home in this location represents very little actual risk, and therefore we have no objections.

Neighbour Representations

More than 200 representations have been received objecting to the planning application, as well as petitions. Following the Planning and Highways Committee on 30th October, 2023, 2 no. further requests were made to speak (which included a request from an individual whom had spoken at the October Committee). The representations, together with subsequent representations received after the October Committee, are summarised as follows:

Land Use and Planning Policy

- o The assumption that the proposed development would fall under Use Class C3(b) of the Town and Country Planning (Use Classes) Order 1987 (as amended) is at best heavily stretched.
- o The proposed development more likely falls under Use Class C4 'house of multiple occupation' of the Town and Country Planning (Use Classes) Order 1987 (as amended)
- o For the reasonable assertion to classify the development as a C4 land use or C2(a/b) land use, the application in no way addresses the impacts that the activities generated by these land uses would likely have, and it does not outline why these classifications are appropriate.
- o In terms of Policy H5 'Existing homes and loss of homes' of the adopted CSDP, none of the three exceptions apply. The proposed development would result in the loss of a family home.
- o The proposed development would not accord with Policy H6 'Homes in Multiple Occupation (HMOs).

Residential Amenity

- o Concern in respect of the proposal being overbearing
- o Scope for overlooking
- o Lack of distance of separation from application site
- o Increased noise and disturbance (smoke alarms, emergency vehicles, loud music, arguments between residents and carers, short term nature of the accommodation)
- o Increased comings and goings (traffic generation)
- o Concern in regard to potential loss of privacy
- o Concern regarding potential for encroachment

Highway Safety

- o Increased comings and goings (traffic generation)
- o Access arrangements insufficient
- o Concern that the proposal compromises highway safety
- o Concern that the parking arrangements are inadequate (risk of overspill to already saturated roads during term time)

Siting/Amenity

- o Unsuitable location
- o Unsuitability of the property for such a facility
- o Inappropriate use
- o Concern that the proposal would utilise a non-purpose built facility
- o Other properties deemed more conducive to supporting the scheme
- o Concern in respect of impact to residential character and community cohesion

Fear of Crime / Antisocial Behaviour / Safeguarding

- o Concern in respect of security being compromised
- o Fear of introducing crime (drugs (with needles in and around the application site), alcoholism, prostitution, theft, violence (from supposed abusive ex partners)) and antisocial behaviour into locality
- o Proximity of Biddick Academy, St. Robert's, and Biddick Primary School to application site
- o Risks associated with antisocial behaviour and risks to pupils, including safeguarding issues and risk to pupils around the area of the bus stop adjacent to the site
- o Compromising safeguarding for potential residents and pupils of nearby schools
- o Vulnerability of school children to occupiers of the scheme
- o Adequacy of support to fully ensure 24/7 care
- o Queries in relation to the accuracy of the 24/7 care element of the development
- o Relations and acquaintances of occupiers visiting
- o Risk of exposing children to drug and alcohol problems and crime, particularly while waiting at the bus stop located adjacent to the site entrance
- o Existing high volume of activity outside the property, particularly of pupils, means the potential of misguided behaviour to occur is significantly higher than would be the case at other locations
- o Lack of available policing
- o Risk of anti-social behaviour towards the property and its residents, given the negative sentiment towards the scheme from the local community

Other Matters

- o Effect on elderly population
- o Ill health and impact to mental health
- o Concern in respect of increased litter
- o Loss of heritage
- o Implication of the use of the property as a Bed and Breakfast ('B&B')
- o Lack of clarity surrounding curfew arrangements (i.e., must residents be in room by 11pm or just on the premises?)
- o Loss of value to property
- o Objection to handling of the application
- o Residents not being notified of the planning application
- o Biddick Academy not notified
- o Neighbour notification process not carried out adequately
- o Access to healthcare (prospective occupiers and existing residents)
- o Offender status unclear in proposals
- o Citation of paragraph 2.39 of the adopted Core Strategy and Development Plan ('CSDP') which refers to the number of empty properties within Sunderland (noting a small number of long-term empty properties (over 6 months) which account for approximately 2% of the city's housing stock).
- o Query in respect of how will "challenging behaviour" be managed?

- o Reference to previous applications at the site being refused

6 no. representations have been received supporting the planning application. These are summarised as follows:

Other Matters

- o Drug and alcohol abuse is ever-present across society at all locations so proposals to ameliorate instances and support those who have struggled with drug and alcohol abuse should be supported
- o Assurance of 24/7 staffing should satisfy concerns and ensure proposal is to the betterment of community as a whole
- o There should be a presumption in favour of proposals to support reintegrating individuals into society and look after the community, rather than isolating individuals
- o Staffing is sufficient and risk assessments will be carried out by suitably competent, professionals
- o Residential area is most appropriate location for development of this nature in reducing sense of isolation occupants may otherwise feel
- o Prospective occupants will have negligible effect on emergency service capacity; respondent cites that the new residential schemes within the locality will affect emergency services more so such points raised in respect of this proposal are misplaced

POLICIES:

Core Strategy and Development Plan 2015-2033 (CSDP)

SP1
SP3
SP7
H1
H5
BH1
HS1
ST2
ST3

Unitary Development Plan (saved policies) (UDP)

EN10

COMMENTS:

PLANNING POLICY AND LEGISLATIVE CONTEXT

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permission must be determined in accordance with the adopted development plan, unless material considerations indicate otherwise.

The current development plan comprises the Core Strategy and Development Plan (2015-2033) adopted in January 2020, the 'saved' policies within the City of Sunderland Unitary Development Plan (UDP) adopted in 1998, the 'saved' and policies within the UDP Alteration No. 2 (Central Sunderland) adopted in 2007.

The National Planning Policy Framework ('NPPF') (19th December 2023) is a material consideration for the purposes of Section 38(6) of the Act. It provides the Government's planning policy guidance, and so the assessment of a planning application should have regard to it.

ASSESSMENT OF THE PROPOSED DEVELOPMENT

It is considered that the main issues relevant to the determination of this application are as follows:

1. Principle of development
2. Clarification of Planning Use Class
3. Siting and Design (Impact on Visual Amenity)
4. Impact on Residential Amenity
5. Impact on Highway and Pedestrian Safety / Sustainable Travel;
6. Fear of Crime / Anti-social Behaviour / Safeguarding
7. Other Matters

1. Principle of Development

Strategic and Land Designation Policies

Policy SP1 'Development Strategy' of the adopted Core Strategy and Development Plan (CSDP) states that to meet people's needs, the Council, working with local communities, its partners, and key stakeholders will ensure that sufficient social infrastructure is delivered to meet identified needs. It states that the spatial strategy seeks to deliver this growth and sustainable patterns of development by delivering the majority of development in the existing urban area, in sustainable locations, close to transport hubs.

The overall aim of Policy SP3 'Washington' as set out in the adopted CSDP relates to enabling, in conjunction with other CSDP policies, sustainable mixed communities to thrive and drive economic growth for Sunderland.

Saved Policy EN10 of the adopted Unitary Development Plan (UDP) dictates that, where the UDP does not indicate any proposals for change, the existing pattern of land use is intended to remain.

The proposed development would be within the Existing Urban Area, in a sustainable location, close to public transport links, and make provision for social infrastructure wherein a need has been identified. On this basis, it would accord with Policy SP1 and Policy SP3 of the adopted CSDP.

The application site is not designated for any specific purpose within the Council's development plan. The site is therefore subject to saved Policy EN10 of the adopted UDP, which, as noted above, dictates that, where the UDP does not indicate any proposals for change, the existing pattern of land use is intended to remain. To this end, the surrounding land use is predominantly residential and the proposed development for a supported residential accommodation would broadly coalesce with the prevailing residential land use in the locality.

Concerns raised in representations are noted in relating to the siting of the proposed development. However, as stated it is considered that the proposed development, as a form of residential accommodation, would be compatible with existing patterns of land use. The character of this residential area would not be compromised as a result of this proposal for an alternative

form of residential accommodation. That said, to control the nature of the proposed development and any intensification, it is recommended that a condition be attached to any planning permission to ensure that the number of residents does not exceed 5 at any given time.

It is considered that the proposed change of use of the dwellinghouse (Use Class C3) to residential accommodation with support (Use Class C2) would accord with saved Policy EN10 of the adopted UDP.

Housing

Policy H1 'Housing mix' of the adopted CSDP stipulates that development, where appropriate and justified, should seek to ensure there is a choice of suitable accommodation for those with special needs housing.

Policy H5 'Existing homes and loss of homes' of the adopted CSDP contains criteria which broadly seeks to prevent the loss of residential housing stock. Criterion 2 of Policy H5 of the adopted CSDP states that development which would result in the loss of residential housing stock, particularly family housing, through change of use or redevelopment will not be permitted unless it is demonstrated that:

- i. the dwelling(s) no longer provide accommodation of a satisfactory standard;
- ii. it is financially unviable to improve or adapt the existing dwelling(s); and
- iii. the locality and character of the surroundings are no longer appropriate for residential use.

The proposed development would not fully accord with criteria within Policy H5 of the adopted CSDP. This is because the proposed development would operate as a care facility, and so not strictly as a dwellinghouse (residential housing stock) within Use Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended). However, whilst the proposed development would result in the loss of a dwellinghouse, it would still be retained as a form of residential development, providing accommodation to those in need of a specialist facility (whereby the residents need support). It would also result in no material alterations to the property externally. Therefore, if, in the future, the proposed use ceased (clarification regarding the planning use class is explained in the section below), the building could easily be converted back to a dwellinghouse. Policy H5 seeks to protect residential housing stock in general (and not just family homes), and in this case a form of residential accommodation would be retained.

The proposed development would provide a form of accommodation that would seek to address a specific continuous short-term need (supported living accommodation) over the lifetime of the development. On this basis it is considered that the proposed development would accord with Policy H1.

A representation has made reference to Policy H6 'Homes in Multiple Occupation (HMOs) of the adopted CSDP. However, as explained below under 'Clarification of Planning Use Class', the proposed development would not be a HMO, and so should not be assessed against Policy H6.

Summary

In summary, the proposed development would be within the Existing Urban Area, in a sustainable location, and provide a specialist form of residential accommodation. On this basis, it is considered that it would accord with Policy SP1, Policy SP3 and saved Policy EN10 of the adopted UDP. Whilst the proposed development would not be in strict compliance with the aims of Policy H5 of the adopted CSDP, it would provide a specialist form of residential accommodation (a care facility providing special needs housing), and so it would accord with housing policies

within the development plan when read as a whole. It is therefore considered that the proposed development at this location would be acceptable in principle.

2. Clarification of Planning Use Class

Following the Planning and Highways Committee on 30th October, a representation has been received questioning the use class of the proposed development. It refers to Use Class C3(a) and C3(b) of The Town and Country Planning (Use Classes) Order 1987 (as amended). Specifically, it stated that the proposal being Use Class C(b) is stretched, and that it may more strongly align to Use Class C4 'House in Multiple Occupation'.

The submitted representation is noted. However, for clarity it is considered necessary to provide commentary in relation to Use Class C2, Use Class C3(b) and Use Class C4 of The Town and Country Planning (Use Classes) Order 1987 (as amended); and explain why the proposed development would fall under Use Class C2 'residential institutions'.

Use Class C3 relates to dwellinghouses and is split into use Class C3(a), Use Class C3(b) and Use Class C3(c):

- o Class C3. Dwellinghouses - Use as a dwellinghouse (whether or not as a sole or main residence) by—
- o (a) a single person or by people to be regarded as forming a single household;
- o (b) not more than six residents living together as a single household where care is provided for residents; or
- o (c) not more than six residents living together as a single household where no care is provided to residents (other than a use within class C4).

Interpretation of Class C3 for the purposes of Class C3(a) "single household" is to be construed in accordance with Section 258 of the Housing Act 2004.

- o Use Class C3(b) is regarded as being reserved for situations wherein the occupants benefit from care provision. Article 2 of the Order states that "care" means personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder, and in Class C2 also includes the personal care of children and medical care and treatment". In this regard, the Local Planning Authority are content that the application includes the provision of care within the meaning of Article 2, the scope of the care to be offered, and the appropriate use class of this facility (justified below).

Use Class C4 relates to houses in multiple occupation:

- o Use of a dwellinghouse by not more than six residents as a "house in multiple occupation". Interpretation of Class C4 for the purposes of Class C4 is a "house in multiple occupation" does not include a converted block of flats to which section 257 of the Housing Act 2004 applies but otherwise has the same meaning as in Section 254 of the Housing Act 2004.

Use Class C2 relates to residential institutions:

- o Residential accommodation and care to people in need of care, residential schools, colleges or training centres, hospitals, nursing homes.

Firstly, it should be noted that Use Class C3(b) refers to 'care' as being personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder. Use Class C2 goes one step further by also including care which might be medical and/or involve some form of treatment. In this regard, it is considered that the broader meaning of 'care', as provided within Use Class C2, would more clearly align to

the proposal detailed within this application. Use Class C4 does not cover the issue of care and, as such, is discounted as a possible use class for this facility.

The question then falls on whether, or not, the persons living there are themselves capable of living together as a single household. In this regard it is considered that the residents would come and go based on their individual needs but essentially the accommodation would be aimed at providing 'short-term' care and support whether this be days, weeks or months. The proposal would therefore offer more transient housing accommodation and so it is considered that this would make it more difficult for residents to live together as a single household/family.

Consequently, for the reasons given above the LPA conclude that the proposal more comfortably falls within the definition of Use Class C2. Indeed, it should be noted that had the proposal fallen under Use Class C3(b), in view of its current lawful C3 use and no proposed works to constitute development in line with Section 55 of the Town and Country Planning Act 1990, planning permission would not have been required in the first instance. Therefore, with the proposal instead falling under Use Class C2, the proposal has been assessed in the fullest terms (in so much that the acceptability of the principle of development has been rigorously assessed along with its potential impact upon the receiving environment) and considered to be acceptable at this location.

3. Siting and Design (Impact on Visual Amenity)

Policy BH1 'Design Quality' of the adopted CSDP stipulates that development should be of scale, massing, layout, appearance, and setting appropriate to the amenity and positive qualities of the immediate and surrounding locality.

The proposed development would not be in a sensitive location. No external works are proposed that would alter the appearance of the existing property. In these terms, it is considered that the proposed development would accord with Policy BH1 of the adopted CSDP.

4. Impact on Residential Amenity

Policy HS1 'Quality of life and amenity' of the CSDP states that development must demonstrate that it would not result in any unacceptable adverse impacts which cannot be addressed through appropriate mitigation, including arising from noise and traffic.

Policy BH1 'Design quality' of the adopted CSDP seeks to ensure that development retains acceptable levels of privacy and ensures a good standard of amenity for all existing and future occupiers of land and buildings.

Concerns raised in representations are noted in relation to privacy / overlooking, the proposal being overbearing, and a lack of separation / encroachment. However, there are no external alterations proposed to the existing application property. Moreover, there is no alterations proposed to the existing scale (and, thus, no change to existing distance of separation), massing, and or mutual intervisibility (i.e., no new openings formed). By virtue of retaining the existing arrangement, the proposed development would have no unacceptable impacts on the amenities of any neighbouring properties in relation to privacy, outlook and over dominance, or overshadowing.

Concerns raised in representations are noted in relation to increased noise / disturbance from comings and goings of residents and visitors. However, the Council's Environmental Health

Officer has raised no objections to the proposed development in relation to such impacts. The proposed development would be a managed facility with a maximum of 5 no. residents and whereby 2no. (on occasion, 3no.) members of staff would be at the premises 24/7. Visitors to the property would be during office hours only and managed by staff, residents would be subject to a curfew, and any use of the outdoor space would be managed by staff. Therefore, the appropriate provisions have been made, to ensure that the proposed development would not generate any unacceptable noise / disturbances. The character of this residential area would not be compromised as a result of this proposal for an alternative form of residential accommodation. As previously stated, to control the nature of the proposed development and to ensure that the Local Planning Authority retains control over any intensification of the use, it is recommended that a condition be attached to any planning permission to ensure that the number of residents does not exceed 5 at any given time.

There would normally be only 2no. members of staff at the premises. On occasion there could be up to 3no. members of staff based at the premises, and so a maximum of 6no. members of staff for short periods of time during shift changeovers. However, any noise and disturbances associated with comings and goings of staff would not be materially greater than those that could be generated by a large household (with several vehicles). However, it is recommended that a condition be attached to any planning permission, to control that the number of staff at the application site associated with the care element of the development does not exceed 6 at times of shift changeover, and 3 at all other times, on any given day.

It is recommended that an informative be attached to any planning permission to remind the applicant to liaise with the Council's Environmental Health Officer in relation to any licensing requirements.

Following the Planning and Highways Committee on 30th October 2023, a further representation has raised concerns in relation to noise and disturbance, in particular in relation to the adjoining semi-detached dwelling. It states that such occurrences are likely to occur and refers to lack of information in terms of how the proposed development would be managed / in relation to staff rotation. Whilst these concerns are noted, as previously stated above there is no evidence to suggest that a proposal of this nature would cause any adverse impacts in relation to noise and or disturbances associated with comings and goings of residents, visitors, and staff, or in relation to any other impacts in respect of residential amenity. The applicant has confirmed that the proposed development would be appropriately managed, with all staff capable of proactively dealing at source with any issues that arise - with risk assessments and rigorous training undertaken in terms of in how to deal with difficult situations delivered. In relation to the point made regarding a lack of information about staff rotation, it is considered that adequate information has been provided in relation to staffing arrangements for a proposal of this nature. As stated above, number of staff at the site at any given time would be controlled by way of a condition.

Overall, there is no evidence to suggest that a proposal of this nature would cause any adverse impacts in relation to noise from residents living at the premises, noise and disturbances associated with comings and goings of residents, visitors and staff, or in relation to any other impacts in relation to residential amenity. It is considered that the proposed development would therefore accord with Policy HS1 and Policy BH1 of the adopted CSDP.

5. Impact on Highway and Pedestrian Safety / Sustainable Travel

Policy ST2 'Local road network' of the adopted CSDP states that to ensure development has no unacceptable adverse impact on the local road network, proposals have safe and adequate

means of access, egress and internal circulation / turning arrangements; they are assessed and determined against current standards for the category of road; they have safe and convenient access for sustainable transport modes; and they will not create a severe impact on the safe operation of the highway network.

Policy ST3 'Development and transport' of the adopted CSDP states that development should provide safe and convenient access for all road users, in a way which would not compromise the free flow of traffic on the public highway, pedestrians or any other transport mode; or exacerbate traffic congestion on the existing highway network or increase the risk of accidents / endanger the safety of road users.

Concerns raised in representations are noted in relation to the comings and goings of residents / staff generating traffic, access arrangements, parking congestion being to the detriment of highway safety, and highway safety issues in general. However, the proposed development would utilise the existing in-curtilage parking provision to allow parking spaces for staff and prior agreed visitors. Application details state that residents would not utilise personal vehicles and instead would rely upon public transport, notably, the bus. The application site benefits from a bus stop on Biddick Lane, positioned immediately adjacent to the application site. On this basis the Council's Transportation Development (the Local Highway Authority) have raised no objections to the proposed development in relation to its impact on highway safety, including the in-curtilage capacity of the application site to accommodate vehicles for the proposed development.

Following the Planning and Highways Committee on 30th October 2023 a further representation was submitted continuing to raised concerns in relation to highway safety. The Local Highway Authority has responded to these comments by stating the following:

"The objection is of the assumption that 6 to 9 cars will be arriving and departing during the course of a day. This appears to be an excessive estimation given the scale and size of the property to be used. It also assumes all staff will travel by car independently (single car occupancy). The parking space provided within the curtilage of the property is acceptable.

...In terms of the bus stop usage, there are three timetabled services which could potentially stop at the nearby bay location. These are the service 4 (15 minute frequency), 84 (20 minute frequency) and 8 (30 minute frequency) at the time of writing. The frequency of bus services is not an issue, and any motorist exiting the property should do so with due care and attention, and if the bus bay is occupied wait for a very short period of time."

The Local Highway Authority also submitted the following in response to respective Ward Councillors queries:

"The proposed site plan submitted with the application shows that the grounds to the front of the property could potentially accommodate spaces for up to five cars in addition to an existing garage. This is unchanged from the existing situation for its current use as a residential dwelling and could take place now.

The applicant states that in normal circumstances there will only be two support staff members on site at a time. This could increase to a maximum of three if needed. These staff members may drive to the property, but could also travel by bus, cycle or walk if they live nearby. No residents will own vehicles and any visitors would be pre-arranged by appointment only.

It is understood that there is no need for more than three parking spaces to be occupied at any one time. Based on this, there would be sufficient space remaining within the grounds to allow cars to turn and leave in a forward gear.

The vehicular access to the property is much wider than a standard footway crossing and allows good visibility in both directions. If a bus is stopping to the right for passengers, a driver wishing to exit would need to wait a short period or exit with caution. This is unchanged from the existing situation for its current use as a residential dwelling and could take place now.

Taking these factors into considerations there are no objections to the proposal in terms of road safety."

As stated under 'Impact on residential amenity', it is recommended that a condition be attached to any planning permission to control that no more than 6 no members of staff associated with the care element of the development can be at the premises at any given time. This is to ensure that there would be satisfactory parking at the site and in the interests of highway safety.

Given the initial comments from the Council's Local Highway Authority, and their subsequent comments relating to a further representation, it is considered that the proposed development would be in a sustainable location, and it would have no unacceptable impacts on the highway network in terms of capacity or safety. It is considered that the proposed development would accord with Policy ST2 and Policy ST3 of the adopted CSDP.

6. Fear of Crime / Anti-social Behaviour / Safeguarding

Policy SP7 of the CSDP, in broad terms, seeks to improve health and wellbeing in Sunderland including by ensuring that new developments would be safe.

Paragraph 135 (f) of the NPPF requires (amongst other provisions) that policies and according decisions ensure that development create places that are safe; achieve a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Concerns raised in representations relate to the proposed development having an adverse impact in relation to crime and anti-social behaviour, in relation to the service capacity of Northumbria Police, and how the management of the facility can be guaranteed in perpetuity over the lifetime of the development. Concerns are further heightened by the fact there are schools in reasonably close proximity to the application site, with representations raising concerns in relation to safeguarding for both potential residents and pupils of nearby schools. It should be noted following the Planning and Highways Committee on 30th October, further concerns were raised in relation to this matter.

Northumbria Police have considered the proposed development as well as representations raising concerns in relation to crime and anti-social behaviour. However, they have raised no objections (see their detailed comments above) in relation to crime and anti-social behaviour, or in relation to any adverse impacts to their service capacity.

It is acknowledged that the 'fear of crime' and 'anti-social behaviour' is capable of being a material planning consideration. This means that fear of crime / anti-social behaviour can be properly considered by local authorities as a reason to refuse a planning application. However, there are a series of tests which the local authority must pass before 'fear of crime' can be properly considered as a reason for a planning refusal. In particular:

1. the fear of crime must be objectively justified;
2. the fear of crime must have some reasonable basis; and
3. the fear of crime must relate to the use - in planning terms - of the land in question rather than assumptions "not supported by evidence as to the character of future occupiers" (Smith v FSS [2005] EWCA Civ 859).

The representations submitted fail to provide any evidence to support the claims that the use of The Sheiling, for vulnerable young women, would lead to a high potential for safeguarding and anti-social behaviour issues to arise. The representations appear to be based on assumptions, unevidenced allegations or prejudice, and these do not meet with the tests outlined above.

It should also be noted that 'fear of the unknown' could not be a material consideration, and attention should be drawn to the fact that the proposed development would be a managed facility. There would be a minimum of 2 no. professional staff at the premises 24/7. All staff would be able to proactively deal at source with any issues that arise with risk assessments undertaken by the support staff and rigorous training in how to deal with difficult situations delivered. During the hours of 23:00 hours and 07.30 hours, the applicant has confirmed that the occupiers would be required to be on the premises, and the management of the facility would ensure that any use of the outdoor space would have no adverse impacts on residential amenity. Visitors to the premises would be during office hours only. Furthermore, the applicant has, subject to there being appetite for such a proposal, offered to provide a single point of contact for the scheme through which the public could report concerns to. CCTV would be in operation (covering the public highway surrounding the application property) and a suite of parties (including, but not limited to Northumbria Police, Probation, Change Grow Live, Adult Social Care, and the Anti Social Behaviour Team) shall continue to be involved in the management of occupiers. Indeed, Northumbria Police have stated that strong links with the local policing team would be established with the applicant.

Crime and antisocial behaviour is not an inevitable consequence of multi-occupation as opposed to single occupation of dwellings, but rather a question of individual behaviour and appropriate management. Consequently, for the reasons set out above, there is no evidence to suggest that a managed proposal of this nature would give rise to any unacceptable concerns in relation to crime and anti-social behaviour. There is also no evidence to suggest that a proposed development of this nature, would have any unacceptable impacts on schools in the nearby vicinity, including in relation to any safeguarding issues (for future residents or pupils of nearby schools). Very limited weight can be afforded to the issue of crime, anti-social behaviour in the overall planning balance and, subject to the conditions proposed, it is not considered that 'the use' would give rise to any significant impacts that could not reasonably be addressed through appropriate management of the facility. On this basis, and given that Northumbria Police have raised no objections, it is considered that the proposed development would comply with Policy SP7 of the adopted CSDP in relation to safety, and guidance within Paragraph 135 (f) of the NPPF.

7. Other Matters

Other matters raised in representations not considered above are addressed as follows:

- o The Local Planning Authority can only assess the merits of the site subject of the application. Whether or not any other sites have been considered by the applicant is not of relevance to the determination of this planning application.
- o Loss of property value is not a material planning consideration.

- o It is noted that, under planning application ref. 89/00478/10, planning permission to change the use of the property from residential dwelling to a guest house was refused. Notwithstanding this refusal of planning permission, it is understood that the application property has, in recent years, been in commercial operation as a B&B. With the absence of any extant planning permission to permit such use, this can be considered unauthorised and unlawful. However, the unlawful use of the property as a B&B does serve to indicate that a use, incidentally, involving more transience than the proposal, can be satisfactorily accommodated at the application site considering the lack of disruption reported from the B&B during the lifetime of its operation thus far. Notwithstanding the use of the application property as a B&B, for the avoidance of doubt, the lawful use remains as a residential dwelling and the application has accordingly been assessed to reflect this.
- o Concern raised that the application site does not constitute a formal purpose-built facility are noted. However, the proposed internal alterations would suitably serve to ensure that the premises are, upon completion of associated works, acceptable for the proposed end use.
- o No external alterations are proposed to the building. The proposed development would therefore have no impacts on any historic assets.
- o The planning application has been publicised in accordance with statutory requirements (letters were sent to nearest residential properties and a site notice was posted). There was no requirement (or indeed need) to notify Biddick Academy. However, it is understood that the applicant liaised with the school prior to the submission of the planning application.
- o The planning application has been available to publicly view online throughout the whole assessment process. Any 'pre' application consultation undertaken by an applicant, in this case the Council, is completely independent to the statutory publicity / consultation that the Local Planning Authority (LPA) must adhere to.
- o There is no evidence to suggest that a proposed development of this nature would have any adverse impacts on the elderly or mental health of nearby residents.
- o There is no evidence to suggest that a proposed development of this nature would have any impacts on access to healthcare provision in the vicinity.
- o The number of alternative empty premises within the City of Sunderland is not of relevance to the determination of this planning application, which simply relates to the acceptability of the proposed development at the application site.
- o Previous planning history at the application site (summarised elsewhere in this report) is not of direct relevance to the determination of this planning application).
- o The nature of the proposed occupants has been summarised in the description of the proposed development above. The assertion that there will be 'offenders' at the premises is not correct.

Equality Act 2010 - 149 Public Sector Equality Duty

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:-

- o age;
- o disability;
- o gender reassignment;
- o pregnancy and maternity;
- o race;

- o religion or belief;
- o sex;
- o sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to?

- (a) tackle prejudice, and
- (b) promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

Conclusions

The proposed development would be within the Existing Urban Area, in a sustainable location, and provide a specialist form of residential accommodation. It would result in the loss of a dwelling, but retain a form of residential accommodation at the application site. It would be compatible with the immediate and surrounding residential land uses, and so it would be acceptable in principle at this location.

It is appreciated that local residents have genuine concerns about the potential for an increase in crime and anti-social behaviour. However, Northumbria Police have raised no objections to the proposed development. It is therefore considered that there is no firm evidence that such occurrences, which are ultimately a matter for the relevant authorities, would be attributed to residents of the facility. Crime and anti-social behaviour is not an inevitable consequence of multi-occupation as opposed to single occupation of dwellings, but rather a question of individual behaviour and appropriate management.

The Council's Environmental Health Officer has raised no objections in relation to noise and disturbances, and so overall whilst concerns raised in representations are noted, it is considered

that the proposed development would have no unacceptable impacts in relation to residential amenity.

No external alterations are proposed and so the proposed development would have no unacceptable impacts on visual amenity, and the Council's Transportation Department (the Local Highway Authority) has raised no objections to the proposed development in relation to parking provision, highway safety and sustainable travel.

The proposed change of use of the dwelling to residential accommodation with support is considered to have an acceptable impact to the building and the surrounding locality. The proposal would cater to a specific housing need in which there is demand for within the Local Authority area.

For the reasons set out in detail in the above assessment, it is considered that the proposed development would accord with policies within the adopted Core Strategy and Development Plan when read as a whole, saved policies of the Unitary Development Plan, and the National Planning Policy Framework (September 2023). It is therefore considered to be an acceptable form of development, subject to the compliance with the recommended conditions.

RECOMMENDATION: It is recommended that, in accordance with Regulation 3 of the Town and Country Planning General Regulations 1992 (as amended), Members GRANT CONSENT for the proposal subject to the conditions listed 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:
 - o Drawing No. S4196-BDN-XX-XX-DR-A-0000 (Location Plan), received 31/08/2023
 - o Drawing No. S4196-BDN-XX-XX-DR-A-0001 (Existing Floor Plans), received 31/08/2023
 - o Drawing No. S4196-BDN-XX-XX-DR-A-0002 (Existing and Proposed Elevations), received 31/08/2023
 - o Drawing No. S4196-BDN-XX-XX-DR-A-0003 (Existing Site Plan), received 31/08/2023
 - o Drawing No. S4196-BDN-XX-XX-DR-A-0004 (Proposed Floor Plans), received 31/08/2023
 - o Drawing No. S4196-BDN-XX-XX-DR-A-0005 (Proposed Site Plan), received 31/08/2023
 - o Drawing No. S4196_BDN-XX-XX-DR-A-0006 (Bedroom 4 Compliance Plans) received 20/11/2023

In order to ensure that the completed development accords with the scheme approved and to comply with Policy BH1 of the adopted Core Strategy and Development Plan.

- 3 The number of residents to be accommodated at the development hereby permitted shall not exceed 5 at any one time.

To ensure a satisfactory form of development, to prevent the intensification of use at the premises, in the interests of residential amenity, and to accord with saved Policy EN10 of the adopted Unitary Development Plan, and Policy HS1 and Policy BH1 of the adopted Core Strategy and Development Plan.

- 4 The number of staff at the application site associated with the care element of the development hereby permitted shall not exceed 6 at times of shift changeover, and 3 at all other times, on any given day.

To ensure a satisfactory form of development, to prevent the intensification of use at the premises, in the interests of residential amenity and highway safety, and to accord with saved Policy EN10 of the adopted Unitary Development Plan, and Policy HS1, Policy BH1, Policy ST2 and Policy ST3 of the adopted Core Strategy and Development Plan.

Reference No.: 23/02006/FUL Full Application

Proposal: **Erection of a 2m high fence to the northern boundary**

Location: SITA UK Catherine Road New Herrington Industrial Estate Houghton-le-Spring DH4 7BG

Ward: Shiney Row

Applicant: SUEZ Recycling And Recovery UK Ltd.

Date Valid: 25 September 2023

Target Date: 20 November 2023

PROPOSAL:

The application seeks permission to erect a 2m high fence to the northern boundary of the SUEZ recycling and recovery centre, located off Catherine Road within the New Herrington Industrial Estate, Houghton-le-Spring.

DESCRIPTION OF SITE AND SURROUNDINGS

The application site is located within the SUEZ recycling and recovery complex which, itself, is located within the New Herrington Industrial Estate. Notwithstanding the aforementioned industrial setting, to the north, beyond the intervening B1286 (adopted public highway, (running on an east west axis) which bounds the north of the application site), is Fenton Terrace and Railway, a row of residential dwellings. To the east, a belt of trees which separate the application site from the B1286 and further residential streets (including the remainder of Railway Terrace). To the south east, beyond the SUEZ site is a narrow belt of trees, located on scrubland, which intervenes between the residential dwellings lining Langley Street. To the south, more industrial buildings associated with the New Herrington Industrial Estate. To the west (beyond the intervening Freezemoor Road), are further industrial warehouses and buildings which form part of the New Herrington Industrial Estate.

The application site is located within the vicinity of mature trees (as shown on submitted drawing no. Hrt-BARR-1123-02), though it should be noted that none are located within the proposed red line boundary. Again, as can be noted from submitted drawing no. Hrt-BARR-1123-02, the trees that are located within the wider SUEZ complex are found to the east and west of the application site.

THE PROPOSED DEVELOPMENT

The proposal is for a 2m high, 120m long Paladin fence which will be dark green in colour. As per email correspondence dated 22 December 2022, the applicant confirmed that the proposed fence is to adjoin an existing security fence at either side of the existing office building and thus, as a result, shall ensure that the northern perimeter is enclosed. The primary function of the proposed fence, according to the applicant (again, confirmed in email correspondence dated 22 December 2022), is for security purposes in inhibiting unauthorised site access.

Associated preparatory ground clearing works comprise cutting back a self-colonised area of vegetation which includes species comprising: Buddleia; Elder; Bramble; and Willow Herb.

PLANNING HISTORY

No planning history of relevance to the proposal.

TYPE OF PUBLICITY:

Site Notice Posted
Neighbour Notifications

CONSULTEES:

Cllr Katherine Mason-Gage
Cllr David Snowdon
Cllr Melville Speding
Network Management
Environmental Health
Natural Heritage
Cllr Katherine Mason-Gage
Cllr David Snowdon
Cllr Melville Speding
Network Management
Environmental Health

56 Fenton Terrace Houghton-le-Spring DH4 7AZ
53 Fenton Terrace Houghton-le-Spring DH4 7AZ
44 Fenton Terrace Houghton-le-Spring DH4 7AZ
57 Fenton Terrace Houghton-le-Spring DH4 7AZ
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39 Fenton Terrace Houghton-le-Spring DH4 7AZ
52 Fenton Terrace Houghton-le-Spring DH4 7AZ
51 Fenton Terrace Houghton-le-Spring DH4 7AZ
45 Fenton Terrace Houghton-le-Spring DH4 7AZ
48 Fenton Terrace Houghton-le-Spring DH4 7AZ
59 Fenton Terrace Houghton-le-Spring DH4 7AZ
55 Fenton Terrace Houghton-le-Spring DH4 7AZ

Final Date for Receipt of Representations: **02.01.2024**

REPRESENTATIONS:

Publicity

The occupiers of 22 no. properties in the vicinity of the application site were sent neighbour notification letters. A site notice was also posted in the vicinity of the application site.

Site notice expiry date: 24/10/2023

Neighbour notifications expiry date: 13/10/2023 and 02/01/2024

Consultation expiry dates: 17/10/2023 and 02/01/2024

Consultees

Ward Councillors

Councillor Katherine Mason-Gage: - No response received.

Councillor David Snowdon: - No response received.

Councillor Melville Speding: Objection raised partly on the understanding that the construction of the fence will involve the removal of trees and shrubs which will materially affect the supposed existing detrimental problems of noise, dust and detritus emanating from the site and which are absolutely preventing residents right to a peaceful and quiet enjoyment. Notwithstanding supplementary information received from the applicant which clarified that the on-site trees would be unaffected by proposed works, Councillor Speding insisted that the application be presented/heard at the next available Planning and Highways Committee owing to the fact he believed his initial points remained valid.

Network Management - No objection.

Environmental Health - No objection.

For information purposes only, the Environmental Health Section originally held concerns that the proposed works could include the removal of existing trees and vegetation at the subject boundary. The Environmental Health Section notes that historical complaints alleging excessive light and dust emanating from the SITA site from residents living adjacent to the subject northern boundary of the site had been previously made to the Environmental Health Section. The Environmental Health Section stated that the removal of such vegetation would give residents a direct line of sight into the site, and potentially increase the likelihood of further, similar complaints. The Environmental Health Section noted and welcomed from within the applicant's letter, dated 11th December 2023, that, whilst vegetation will be cut back to allow for installation of the fence, this will be allowed to regrow.

Natural Heritage - No response received.

Neighbour Representations:-

1 no. letter of representation has been received in respect of the application which raises concern in visual and residential amenity terms in specific relation to a loss of trees (owing to the fact that they screen the recycling and recovery facility in broad terms as well as the on-site lighting, and serve as a means of noise attenuation).

POLICIES:

Core Strategy and Development Plan 2015-2033 (CSDP)

EG2
BH1
HS1
ST2
ST3

COMMENTS:

PLANNING POLICY AND LEGISLATIVE CONTEXT

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permission must be determined in accordance with the adopted development plan, unless material considerations indicate otherwise.

The current development plan comprises the Core Strategy and Development Plan (2015-2033) adopted in January 2020, the 'saved' policies within the City of Sunderland Unitary Development Plan (UDP) adopted in 1998, the 'saved' and policies within the UDP Alteration No. 2 (Central Sunderland) adopted in 2007.

The National Planning Policy Framework ('NPPF') (19th December 2023) is a material consideration for the purposes of Section 38(6) of the Act. It provides the Government's planning policy guidance, and so the assessment of a planning application should have regard to it.

ASSESSMENT OF THE PROPOSED DEVELOPMENT

It is considered that the main issues relevant to the determination of this application are as follows:

1. Principle of development;
2. Siting and design (impact on visual amenity)
3. Impact on residential amenity;
4. Impact on highway and pedestrian safety;

1. Principle of Development

Strategic and Land Designation Policies

The application site is designated for a specific purpose under CSDP policy EG2 which relates to key employment areas. As such, policy EG2 stipulates that areas identified as being a key employment area shall be safeguarded for uses incidental to B1 (Business - excluding B1a); B2 (General Industrial); and B8 (Storage and Distribution). For the avoidance of doubt the use classes referred to previously relate to those listed within The Town and Country Planning (Use Classes) Order 1987 (as amended). In acknowledgement of the policy prescriptions, the proposal is considered to be appropriate to and compatible with an industrial setting and would constitute appropriate ancillary development that coalesces with the prevailing land use in the immediate locality. To that end, the proposal can be considered to satisfy the provisions of CSDP policy EG2 and, by extension, the proposed development is considered to be acceptable within this area and, thus, acceptable in principle.

Notwithstanding the acceptability of the proposal in principle, the overall acceptability shall be dictated by the extent to which it accords with all other material planning considerations, as outlined and addressed below.

2. Design and impact on visual amenity

Policy BH1 'Design Quality' of the adopted CSDP stipulates that development should be of scale, massing, layout, appearance, and setting appropriate to the amenity and positive qualities of the immediate and surrounding locality.

It is acknowledged that the proposed fence would be visible from the public domain. However, the proposed fence in its appearance is considered to be acceptable owing to its proposed recessive colour (for the avoidance of doubt, dark green) which will enable it to be easier assimilated into its surroundings (noting the existing trees and vegetation that will respectively be re-planting / permitted to regrow). Furthermore, given the modest scale of the fence and that it would relate well in scale massing terms to sections of existing perimeter fence, there is no material reason that would preclude recommendation to grant planning permission. For the aforementioned reasons, the proposed fence, in conjunction with commitment to retaining on-site trees (which are not afforded statutory protection) and providing a planting scheme, is not considered to alter the character and or appearance of the streetscene. It should be noted that the proposal is not dissimilar to other existing boundary treatments in the locality, in respect of design, appearance and materials.

In the interests of visual amenity, it is recommended that a condition be attached to any planning permission to require the submission of a tree protection scheme and planting scheme. Subject to the compliance with this condition, it is considered that the proposed development would not be visually intrusive owing to its size and design and would be at a location which is appropriate to its setting. In these terms, the proposal is considered to accord with Policy BH1 of the adopted CSDP.

3. Impact on residential amenity

Policy HS1 'Quality of life and amenity' of the CSDP states that development must demonstrate that it would not result in any unacceptable adverse impacts which cannot be addressed through appropriate mitigation, including arising from noise and traffic.

Policy BH1 'Design quality' of the adopted CSDP seeks to ensure that development retains acceptable levels of privacy and ensures a good standard of amenity for all existing and future occupiers of land and buildings.

The applicant has indicated that the works are required to protect the site from unauthorised access. Concerns raised in representations are noted in relation to alleged existing adverse impacts pertaining to dust, lighting and noise that may be exacerbated by the proposal. It should be noted that, as with every application for planning permission, the application shall be determined based on its own merits. By means of seeking to address the potential for the proposed development to adversely affect the receiving environment, the Environmental Health Section have been consulted. Specifically, the Environmental Health Section sought to ascertain how the proposal would, if at all, affect existing onsite trees and vegetation given that they hold some value in terms of screening relating to light and dust pollution.

Concerns raised in representations are noted in relation to increased noise, dust and light pollution from loss of trees and vegetation. However, the Council's Environmental Health Officer has, upon receipt of supplementary information received in a letter dated 11 December 2023, raised no objections to the proposed development in relation to such impacts owing to the fact that appropriate provisions have been made in commitment to retaining the existing on-site trees (which are not afforded statutory protection), and providing replacement planting / allowing regrowth of existing vegetation at the application site upon erection of the proposed fence.

Given the above, in the interests of residential amenity, it is recommended that a condition be attached to any planning permission to require the submission of a tree protection scheme and planting scheme.

Taking account of the proposed fence, the extent of built form is not considered to give rise to any issues pertaining to privacy, outlook and over dominance, or overshadowing and, thus, in these terms, the proposal can be considered to meet with the aims and objectives of adopted CSDP policy BH1.

Fundamentally, for the avoidance of doubt, there is no evidence to suggest that a modest proposal of this nature, especially, given retention of on-site trees and the undertaking of a planting scheme (to be controlled by suitably worded condition, as recommended) would cause any adverse impacts in relation to noise, dust and or light pollution and or in relation to any other impacts in respect of residential amenity. To that end, it is considered that the proposed development would, subject to adherence to the recommended condition, accord with Policy HS1 and Policy BH1 of the adopted CSDP.

4. Impact on highway and pedestrian safety

Policy ST2 'Local road network' of the adopted CSDP states that to ensure development has no unacceptable adverse impact on the local road network, proposals have safe and adequate means of access, egress and internal circulation / turning arrangements; they are assessed and determined against current standards for the category of road; they have safe and convenient access for sustainable transport modes; and they will not create a severe impact on the safe operation of the highway network.

Policy ST3 'Development and transport' of the adopted CSDP states that development should provide safe and convenient access for all road users, in a way which would not compromise the free flow of traffic on the public highway, pedestrians or any other transport mode; or exacerbate traffic congestion on the existing highway network or increase the risk of accidents / endanger the safety of road users.

The Council's Local Highway Authority has raised no objection to the proposal and so it is considered that the proposal satisfies the respective provisions of Policy ST2 and Policy ST3 of the adopted CSDP.

Equality Act 2010 - 149 Public Sector Equality Duty

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:-

- o age;
- o disability;
- o gender reassignment;
- o pregnancy and maternity;
- o race;
- o religion or belief;
- o sex;
- o sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to?

- (a)tackle prejudice, and
- (b)promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

Conclusions

Based upon the above reasoning, the proposal is considered to be acceptable. It would be acceptable in principle at this location and have no unacceptable impacts in relation to visual amenity, residential amenity or highway safety subject the recommended schedule of conditions. It would therefore accord with development plan policy.

RECOMMENDATION: APPROVE subject to the conditions listed 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:
 - o Drawing No. Hrt-BARR-0923-01 (Location Plan), received 25/09/2023
 - o Drawing No. Hrt-BARR-1123-01 (Proposed Fence Location Plan), received 11/12/2023
 - o Drawing No. Hrt-BARR-1123-02 (Proposed Fence Layout Plan & Detail), received 11/12/2023

In order to ensure that the completed development accords with the scheme approved and to comply with Policy BH1 of the adopted Core Strategy and Development Plan.

- 3 The fence hereby permitted shall be consist of the following materials:
 - o Paladin fence, dark green in colour.

Unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of visual amenity and to comply with Policy BH1 of the adopted Core Strategy and Development Plan

- 4 Prior to the commencement of the development hereby permitted, a scheme of tree protection (including tree protective fencing) and a planting scheme to mitigate the loss of any vegetation to accommodate the approved development shall be submitted to and approved in writing by the Local Planning Authority.

The proposed development shall then be constructed in strict accordance with the approved Tree Protection Scheme. Any approved tree protective fencing shall be erected before any equipment, machinery or materials are brought on to the site for the purposes of the development, and maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

The approved planting scheme shall be undertaken in strict accordance with approved details. All planting, seeding or turfing comprised in the approved planting scheme shall be carried out within one month of the commencement of development, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

Reason: To ensure that an appropriate planting scheme is provided to replace any vegetation removed to accommodate the development and to protect existing trees, in the interests of visual and residential amenity, and to comply with Policy BH1 and Policy HS1 of the adopted Core Strategy and Development Plan.

Reference No.: 23/02160/LP3 Local Authority (Reg 3)

Proposal: **Proposed construction of hard surface to facilitate a vehicle manoeuvring circle and provide on-site storage space, and associated works including a CCTV pole, lighting columns and a re-positioned security fence**

Location: City Contracting Services Parsons Depot 13 Parsons Road Parsons Washington

Ward: Washington West

Applicant: Sunderland City Council

Date Valid: 19 October 2023

Target Date: 14 December 2023

PROPOSAL:

The application site is located in the northwest corner of the Parsons industrial estate, Washington. It lies to the east of the Havana Interchange and the A182 and south of a large area of open space and woodland. A pedestrian footpath links Donvale Road to the Havanah Interchange to the north of the site screened by a narrow strip of tree belt just inside the boundary of the site.

The land is occupied by the City Council and houses a new vehicle workshop and depot which features workshops, maintenance bays, charging points for the council's growing electrical vehicle fleet, and vehicle testing bays. It has accommodation and garaging for winter maintenance, groundworks and environmental, and cleansing plant and equipment.

PROPOSAL

It has now been identified that an additional area of hard standing is required to serve as a manoeuvring route and storage area. The proposal relates to the clearance of the tree belt adjacent to the boundary of the site to create a vehicular route around outdoor storage areas, including the storage of aggregate within a series of concrete bays. An existing 3m security fence within the site will be relocated along the boundary of the site near to the public footpath, to replace an existing fence. Three existing lighting columns will be relocated and an 8m high CCTV column will be installed within the boundary.

During the consideration of the proposal, it was noted that the trees have already been removed under a felling licence already granted by the Forestry Commission, an action which does not on its own require consent from the LPA as the trees are not protected by a preservation order, nor does the site lie within a Conservation area. Nevertheless, as mitigation for the loss of the trees, it is proposed to plant 65 replacement trees within the nearby Albany Park.

TYPE OF PUBLICITY:

Site Notice Posted

Neighbour Notifications

CONSULTEES:

Cllr Jimmy Warne
Cllr Dorothy Trueman
Cllr Henry Trueman
Planning And Highways
Network Management
Natural Heritage
Environmental Health
Planning Policy
City Arboricultural Officer
Land Contamination

Former Parcelforce Depot Parsons Road Parsons Washington

Final Date for Receipt of Representations: **26.01.2024**

REPRESENTATIONS:

Public representation

The application has been advertised by way of neighbour consultation letters and the posting of a site notice. One letter of representations has been received. The objector's main concerns relate to the removal of the trees within the current biodiversity crisis.

Consultees

Planning Policy - no objections in principle

Land Contamination - no objections subject to a condition relating to unexpected contamination

Environmental Health - no objections

Transportation Development - no objections

Ecology - no objections subject to conditions relating to a tree replanting scheme, and ecological mitigation measures.

POLICIES:

Core Strategy and Development Plan 2015-2033 (CSDP)

EG2
BH1
HS3
ST2
ST3

NE2
NE3

COMMENTS:

CONSIDERATION

The main issues to consider are;

- Principle of the development
- Highway safety
- Visual amenity
- Land contamination issues
- Ecology / tree issues

Principle of Development

It is noted that the site falls within a Key Employment Area (KEA) and therefore CSDP Policy EG2 is applicable. This policy identifies Parsons as KEA12 and seeks to ensure that the allocated KEAs are safeguarded for B1 (Business), B2 (General Industrial) and B8 (Storage and Distribution) employment uses. It is noted that the works provided are ancillary to the existing employment use (depot) on the site and are required by the applicant to provide improvements to the existing employment use. Therefore, given the nature of the proposal development and its supporting role to support KEA12 for employment uses, the proposal is considered to be acceptable in principle.

Highway Safety

Policy ST2 of the CSDP sets out the requirement for proposals to ensure that development has no unacceptable adverse impact on the Local Road Network.

Policy ST3 of the CSDP states that development should (amongst other requirements) provide safe and convenient access for all road users, in a way which would not compromise the free flow of traffic on the public highway, pedestrians or any other transport mode, including public transport and cycling; and include a level of vehicle parking and cycle storage for residential and non-residential development, in accordance with the council's parking standards.

The proposed works are confined to a reconfiguration of internal layout of the site and will therefore have no impact upon the local road network, in accordance with policy ST2. The adjacent pedestrian footpath will be unaffected in accordance with policy ST3, and the Transportation Development team have confirmed that there are no objections to the proposal from a highway safety point of view.

Visual Amenity

Policy BH1 of the CSDP states that, to achieve high quality design and positive improvement, development should (amongst other requirements); be of a scale, massing, layout, appearance and setting which respects and enhances the positive qualities of nearby properties and the locality.

The proposal hardstanding, fence and storage bays are considered to be compatible with the commercial/industrial nature of the application site and the wider employment site. The CCTV column, although tall at 8m in height, reflects the design of the lighting columns and will not be easily visible from street view. The boundary fence will be positioned approximately 1.1m from the public footpath - this area to be grassed in line with the existing footpath edges - so that the development will not have an overbearing impact upon its users. Overall, the proposal represents a standard form of development of a scale and design that is in keeping with the character of the host property and the area in general.

Land Contamination

Policy HS3 of the CSDP outlines the measures that must be taken when development is considered to be on contaminated land.

The Land Contamination officer has stated that the proposed development does not involve the introduction of a sensitive end use to the site, nor any potential contamination sources or pathways. There is therefore no objection to the proposed development, provided that any forthcoming approval is subject to a condition relating to measures to be taken if unexpected contamination is encountered during the ground works.

Ecology / trees

Policy NE2.1 of the CSDP states that where appropriate, development must demonstrate how it will provide net gains in biodiversity and avoid (through locating on an alternative site with less harmful impacts) or minimise adverse impacts on biodiversity in accordance with the mitigation hierarchy.

Policy NE3 of the CSDP states that to conserve significant trees, woodlands and hedgerows, development should:

- Follow the principles to guide the design of development where effects to ancient woodland, veteran/aged trees and their immediate surroundings have been identified.
- Retain, protect and improve woodland, trees subject to TPOs, trees within conservation areas and 'important' hedgerows as defined by the Hedgerows Regulations 1997.
- Give consideration to trees and hedgerows both on individual merit as well as their contribution to amenity and interaction as part of a group within the broader landscape setting; and
- Ensure that where trees, woodlands and hedgerows are impacted negatively by proposed development, justification, mitigation, compensation and maintenance measures are provided in a detailed management plan.

The application was accompanied by an Ecological Impact Assessment, an Arboricultural Impact Assessment with a Tree Planting Mitigation Plan, and a copy of the approved Felling Licence which has been granted subject to conditions for restocking.

The Council's Ecologist has commented that the information in the felling license and the tree planting mitigation plan reflect the same measure to be undertaken. However, the Ecological Impact Assessment report highlights that the trees to be lost form an area of broadleaved plantation woodland that comprises a Local Biodiversity Action Plan (BAP) priority habitat. The restocking conditions on the felling licence and the mitigation plan appear to suggest that replacement trees will be planted as scattered parkland trees rather than a woodland block and include a number of non-native species. This does not provide adequate compensation for the loss of woodland, which provides a different ecological function to open grown parkland trees. It

was requested that any forthcoming approval should include measures to secure establishment of a woodland block broadly equivalent in size to that to be lost and comprised of native species.

As the proposed site for replanting would be outwith the application site, this cannot be secured by condition. Nor is it possible for the Council as LPA and landowner to enter into a legal agreement with itself, which includes agreements pursuant to Section 106 of the Act.

Notwithstanding the above, as mentioned previously, the felling of the trees in this instance is outside of the control of the LPA as the trees are not protected. The trees have already been removed, however, in this instance, mitigation for the loss of the trees on the site will be secured via the conditions attached to the felling licence.

The Council's Ecologist has also commented that Japanese knotweed has been recorded immediately adjacent to the site on land also within Council ownership. It is considered that advisory notes should be attached to any forthcoming approval relating to measures which should be taken to secure ecological enhancement and eradicate the Japanese knotweed beyond the site boundaries, and the preferred tree replanting scheme.

Equality Act 2010 - 149 Public Sector Equality Duty

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:-

- o age;
- o disability;
- o gender reassignment;
- o pregnancy and maternity;
- o race;
- o religion or belief;
- o sex;
- o sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to?

- (a) tackle prejudice, and
- (b) promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

CONCLUSION

As the removal of the tree belt does not require consent, in this instance, consideration of the proposal is limited to the provision of new hardstanding, concrete storage bays, boundary fencing and the erection of a CCTV and lighting columns. It is considered that the proposed development will not adversely impact upon highway safety or the visual amenities of the area, and the proposal will not result in any significant concerns relating to land contamination, subject to the use of an appropriate condition in case unexpected contamination is encountered. The proposal is therefore considered to be acceptable.

RECOMMENDATION: The deadline for the receipt of representations does not expire until 26 January 2024, after the preparation of this report but before the meeting. Should any further representations be received, these will be reported at the meeting. Otherwise, for the reasons given above, it is recommended that, in accordance with Regulation 3 of the Town and Country Planning General Regulations 1992, Members GRANT CONSENT for the proposal subject to the conditions listed 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:
 - o location plan drawing number PARSONSRD._LM_RLBO1 REV A received 12/10/23;
 - o existing site plan drawing number IPPD-SCC-HGN-ZO-DR-C-02_001 REV C01 received 11/10/23;
 - o existing and proposed site layout drawing number IPPD-SCC-HGN-ZO-DR-C-SK_001 REV C01 received 6/12/23;

- proposed floor plans and site layout drawing number IPPD-SCC-HGN-ZO-DR-C-01_002 REV C01 received 22/12/23;
- proposed sections and elevations drawing number IPPD-SCC-HPV-ZO-DR-C-07_002 REV C01 received 22/12/23;
- proposed cross sections drawing number IPPD-SCC-HGN-ZO-DR-C-SK_005 REV C02 received 6/12/23;
- proposed elevations drawing number IPPD-SCC-HPV-ZO-DR-C-07_001 REV C01 received 22/12/23;
- street lighting and CCTV proposed works drawing number IPPD-SCC-HGN-ZO-DR-C-SK_003 REV C01 received 11/10/23;
- proposed fence elevation received 13/11/23;

in order to ensure that the completed development accords with the scheme approved and to comply with policy BH1 of the Core Strategy and Development Plan.

- 3 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. A Risk Assessment must be undertaken in accordance with the requirements of the Environment Agency's "Land Contamination: Risk Management" and where remediation is necessary a Remediation Scheme must be prepared and submitted to the Local Planning Authority in accordance with the requirements that the Remediation Scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Once the Remediation Scheme has been approved in writing by the Local Planning Authority it shall be known as the Approved Remediation Scheme. Following completion of measures identified in the Approved Remediation Scheme a verification report must be prepared and submitted in accordance with the approved timetable of works. Within six months of the completion of measures identified in the Approved Remediation Scheme and prior to the occupation of any building, a validation report (that demonstrates the effectiveness of the remediation carried out) must be submitted to the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with the National Planning Policy Framework Paragraphs 180f and 189.

Reference No.: 23/02164/LP3 Local Authority (Reg 3)

Proposal: **Development of a new childrens play area to include a bridge, public walkways, landscaping, and several discrete play areas, along with the redevelopment of the existing play area to provide grassed open space.**

Location: Rear Of Dykelands Road Car Park Dykelands Road Sunderland

Ward: Fulwell

Applicant: Siglion LLP

Date Valid: 19 October 2023

Target Date: 14 December 2023

PROPOSAL:

Full planning permission is sought for the development of a new Childrens Play Area to include a bridge, public walkways, landscaping, and several discrete play areas, along with the redevelopment of the existing play area to provide grassed open space.

The site in question lies within Seaburn, Sunderland and comprises an overall area of some 0.65ha. The majority of the site sits to the immediate north of the new surface level car park accessed from Dykelands Road and currently comprises grassed open space which straddles Cut Throat Dene. As set out within the accompanying red lined location plan, the site also extends northwards to include the land associated with the longstanding and now former Childrens play area which is accessed from Lowery Road.

Beyond the confines of the host site, the wider area has seen notable regeneration in recent years with the Seaburn Inn and Stack developments located to the northeast, the introduction of the new Avant homes to the northwest and the creation of a new surface level car park to the immediate south. These developments have been brought forward as part of a comprehensive leisure led mixed use development of 8.3ha following the approval of outline planning application 16/02056/HY4 in October 2017. Members should note that the 2017 outline approval envisaged the introduction of a new children's play/adventure park as part of the wider leisure led scheme.

As set out within the accompanying Design and Access Statement (DAS) and visual presentation slides included as part of the submission, the proposal seeks to bring forward a new play area which has been designed to become a park of regional significance, with a view to attracting visitors from across the Northeast and beyond. The scheme will include bespoke play apparatus, including climbing/scrambling/rope play building structures, play towers, tree houses, climbing walls, new public walkways, high quality landscaping/planting and the provision of a new bridge over the culverted inlet running west-east through the site. Further to the construction of the new park, it is set out that the long-term maintenance and management will be the responsibility of Sunderland City Council.

The application, which has been submitted by Siglion LLP, has been accompanied by a range of supporting reports and documents, including a Planning and Design and Access Statement, a Flood Risk Assessment and Drainage Strategy, a Preliminary Ecological Appraisal and a Phase 1 and 2 Ground Investigation Report.

TYPE OF PUBLICITY:

Site Notice Posted
Neighbour Notifications

CONSULTEES:

Environment Agency
Network Management
Cllr Lynda Scanlan
Cllr Michael Mordey
Cllr Ciaran Morrissey
Landscape
Natural Heritage
Environmental Health
Cllr Michael Hartnack
Cllr Malcolm Bond
Cllr Peter Walton
Environment Agency
Flood And Coastal Group Engineer
Land Contamination

Seaburn Inn Whitburn Road Sunderland SR6 8AA
Bettys Fish And Chips Seldons Amusement Arcade Whitburn Road Sunderland SR6 8AA
Seldons Leisureworld Seldons Amusement Arcade Whitburn Road Sunderland SR6 8AA
Martinis Whitburn Road Sunderland SR6 8AA
18 Kings Avenue Sunderland SR6 8DE
19 Kings Avenue Sunderland SR6 8DE
12 Princes Avenue Sunderland SR6 8DG
40 Queens Avenue Sunderland SR6 8DL
Preston Dykelands Road Sunderland SR6 8DQ
13 Princes Avenue Sunderland SR6 8DG
1 Ocean Park Road Sunderland SR6 8BP
12 Ocean Park Road Sunderland SR6 8BP
14 Ocean Park Road Sunderland SR6 8BP
15 Ocean Park Road Sunderland SR6 8BP
16 Ocean Park Road Sunderland SR6 8BP
The Stack Seaburn Whitburn Road Sunderland SR6 8AA
Main Office Unit 31 Stack Seaburn Whitburn Road Sunderland SR6 8AA

Final Date for Receipt of Representations: **15.11.2023**

REPRESENTATIONS:

Representations

The application has been publicised by way of site notice and neighbour consultation letters sent to nearby properties. 1no representation has been received as a result of the publicity carried out. The objection has been received from a nearby occupier of the recently built dwellings on Ocean Park Road to the northwest and sets out the following;

- o The park will attract vandalism and anti-social behaviour.
- o Parents will sit in the pubs whilst the children will run riot without supervision.
- o The stream will fill up with litter.
- o There is already a park in place that is currently closed, this one should be redeveloped.

External consultees

Environment Agency (EA) - The initial response advised that the EA objected to the proposal as the Flood Risk Assessment (FRA) did not contain sufficient detail (in respect of the design of the new bridge) to demonstrate that offsite flood risk would not be increased. In addition, further qualification on the specifics of the onsite ground works were requested.

Further to the agent submitting an updated FRA, the EA have confirmed that they wish to remove their objection, recommending that FRA forms part of the approved documents if planning permission is given.

Internal consultees

The Council's Environmental Health Officer - The proposed site is located north of the existing Dykelands Road car park and south of the existing children's play area, which is the proposed site compound. It is located approx. 45m from existing residential properties on Ocean Park Road and approx. 60m from existing residential properties on Princes Avenue. The proposed site is also surrounded by other significant noise sources such as Stack Seaburn, Prego Bar and Eatery and Shore Amusements.

The Planning, Design and Access Statement submitted states the following in reference to noise: 'Given that the play area is located more than 30 metres away from neighbouring residential properties it is considered that noise is unlikely to be an issue with the development. It is also located close to the original play area'. It should be noted that whilst a 30m separation distance from existing new dwellings may be satisfactory for normal play area activity, caution should be exerted over any expansion that would incorporate organised events and amplified entertainment.

Environmental health has considered the submitted documentation and considers that the proposal is acceptable subject to the inclusion of the following condition on any consent:

A Construction Environmental Management Plan should be provided. In order to ensure the environmental impact of the construction of the development is adequately managed and mitigated and in the interests of the amenity of nearby residents/occupiers in the vicinity of the site, it is recommended that a condition be attached to any granted consent which requires the submission of a Construction Environmental Management Plan. The CEMP should include details of how noise, lighting, dust and other airborne pollutants, vibration, smoke, odour from construction work will be controlled and mitigated, working hours and notification of nearby residents.

The lighting of the area should not result in glare or light spill impacting accommodation to the west and south, nor the hotel.

The Council's Highways Officer - The site is in a sustainable location on Whitburn Road, less than 3.5km from Sunderland City Centre and easily accessible from the city and wider region.

It is noted that a car park is situated to the south of the site and that there are 5 Sheffield style cycle racks located to the North of the site, (providing 10 no. cycle spaces). The car parking and cycle parking are considered satisfactory.

There appears to be an adopted footpath within the red line plan. The adopted footpath will therefore require a stopping-up order to remove the highway rights. The stopping-up order / Section 257 application would be undertaken by the Council.

In terms of management and maintenance It is noted that it is anticipated that the new park will be maintained by Sunderland City Council; this appears satisfactory.

The Council's Ecologist - Further to review, I am satisfied that the proposals can be approved subject to conditions. Conditions are required to secure full details of the landscape planting proposals, including details of grass seed mix to be used. Overall, the landscape planting should minimise use of non-native species. Details of the long-term management of the site will need to be secured, including details of how this is to be funded and the responsible departments. As this is a council promoted scheme it is expected that management will effectively be in perpetuity, however a 30-year management plan is requested in line with the recommendation in the submitted BNG Assessment report.

The Ground Contamination Officer- Through a review of previous investigation reports for the site slightly elevated groundwater contamination is identified, however this is not thought to pose a significant risk to receptors due to the underlying drift geology and concrete channelling of the Cut Throat Dene. Appendix E to the report includes a remediation and verification strategy for imported soils. I am pleased to confirm that the report and the proposed remediation/verification works contained in Appendix E are acceptable, and I would therefore recommend conditions for a verification/validation report to ensure that the scheme of remediation has been implemented appropriately and to cover unexpected contamination.

Lead Local Flood Authority (LLFA) - No objection offered, and approval recommended.

Ward Councillors : No comments offered.

POLICIES:

In the Core Strategy and Development Plan the site is subject to the following policies;

L_1_General provision of recreational and leisure facilities

L_7_Protection of recreational and amenity land

COMMENTS:

Policy backdrop

By virtue of section 38(6) of the Planning and Compulsory Purchase Act, 2004, the starting point for consideration of any planning application is the saved policies of the development plan. A planning application must be determined in accordance with the development plan unless material considerations indicate otherwise.

However, since the publication of the National Planning Policy Framework (NPPF), which, as paragraph 2 therein makes clear, is a material consideration for the purposes of Section 38(6) of the Act, the weight that can be given to the development plan depends upon the extent to which the relevant policies in the plan are consistent with the more up to date policies set out in the NPPF. The closer the relevant policies in the development plan to the policies in the NPPF, the greater the weight that can be given to the development plan.

The NPPF provides the Government's planning policy guidance and development plans must be produced, and planning applications determined, with regard to it. At paragraph 7, the NPPF sets out that the purpose of the planning system is to contribute positively to the achievement of 'sustainable development' which is defined as 'meeting the needs of the present without compromising the ability of future generations to meet their own needs'. Meanwhile, paragraph 8 states that in order to achieve sustainable development, the planning system has three overarching objectives - an economic objective, a social objective and an environmental objective - and these are to be delivered through the preparation and implementation of plans and the applications of the policies within the NPPF.

Paragraph 11 of the NPPF sets out a presumption in favour of sustainable development and states that in respect of decision-making, this means authorities should:

- c) Approve applications that accord with an up-to-date development plan without delay; or
- d) Where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting permission unless:
 - i) The application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

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

- Promoting healthy and safe communities (section 8);
- Promote sustainable transport (section 9);
- Make effective use of land (section 11);
- Achieve well-designed places (section 12);
- Conserve and enhance the natural environment (section 15);
- Conserve and enhance the built environment (section 16).

The Council's Core Strategy and Development Plan (CSDP) was adopted in January 2020 and is considered to represent an up-to-date development plan for the purposes of the NPPF. Members should note that the CSDP is therefore the 'starting point' for the consideration of the current planning application. It 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) and the UDP Alteration No. 2 (Central Sunderland).

Some UDP and UDP Alteration No. 2 policies have been saved and all CSDP and UDP Alteration No. 2 policies referred to within this report are considered to be consistent with the NPPF.

Of relevance to this application are saved UDP Policies L1, L7 and CN23, Strategic CSDP policies SP1 SP4 and SP7 and general CSDP policies BH1, HS1, HS2, HS3, VC6, NE2, NE4, WWE2, WWE3, ST2 and ST3.

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

1. Land use considerations;
2. The implications of amenity and design considerations;
3. The impact of the development on highway and pedestrian safety;
4. The impact of the development in respect of ecology and biodiversity;
5. The impact of the development in respect of ground conditions and land contamination;
6. The impact of the proposal in terms of flood risk and drainage.

1. Land use considerations;

As has briefly been touched on at the start of this report, the land subject to this application was included within the original hybrid application for the wider comprehensive leisure led mixed use development of 8.3ha that gained consent in October 2017. The detailed aspect of the 2017 consent related to the creation of a new car park and this has since been provided to the immediate south of the site. The land in and around the Dene (i.e., the land subject to this application and the land to the west) was always envisaged to be developed to include enhanced amenity open space with outdoor recreation activities.

Policies L1 and L7 of the UDP have been saved in part and still provide the land use designation for the area of land in question. Policy L1 seeks to enhance the quality of life for residents and visitors by providing a range of high standard recreational, sporting, cultural and community facilities, whilst Policy L7 goes on to qualify that land allocated for open space or outdoor recreation, as shown on the proposals map, will be retained in its existing use.

Meanwhile, CSDP Policy NE4 sets out that the council will protect, conserve and enhance the quality, community value, function and accessibility of greenspace and wider green infrastructure by adopting various measures. For the purpose of defining greenspace, it should be noted that the supporting text to the CSDP qualifies at Section 10.23, that greenspace includes the provision of fixed play for children and young people and formal parks.

Also of relevance is CSDP Policy VC6 and SP7. Policy VC6 sets out that the development of cultural, leisure and tourism proposals will generally be supported, with particular reference made to such schemes which come forward at Seaburn and Roker seafront. Amongst other matters, Policy SP7 seeks to ensure that new development promotes and facilitates active and healthy lifestyles, is age friendly, inclusive and sustainably located.

Within this context, it is considered that the proposed scheme will undoubtedly serve to improve the accessibility of this underused parcel of open space whilst having a significant positive impact on the amenity of Seaburn and its recreational offer through the provision of a sustainably located high-quality development. As noted earlier in the report, the scheme has been designed to draw in visitors from a regional capacity and will include prominent landscape enhancements and new bespoke play apparatus.

In terms of the existing play park, this land was also included within the approved 2016 hybrid scheme with the intention being to bring forward commercial uses on and around this site. At this time and until future uses of the land are brought forward, the submission sets out that this land will in the first instance, be utilised as a storage compound during the construction phase of the new park before being topsoiled and seeded. Based on the details provided, officers are assured

that the new play park, in terms of its size, the quality of play equipment provided and level of landscaping, will more than compensate for the loss of the existing facility.

With regard to the above, Officers are satisfied that the principle of utilising the land for new recreational development in the form of Childrens play park is fully compliant and supported by the Policies set out above. Notwithstanding, in evaluating the overall acceptability of the scheme it is necessary to assess all other material considerations as set out below.

2. The implications of amenity and design considerations

Policy BH1 of the Council's CSDP seeks to achieve high quality design and positive improvement by, amongst other measures, ensuring development is of a scale, massing, layout, appearance and setting which respects and enhances the qualities of nearby properties and the locality and by creating visually attractive and legible environments through provision of distinctive, high-quality architecture, detailing, and building materials.

Paragraph 132 of the NPPF, meanwhile, states that planning decisions should ensure that developments create places which, amongst other objectives, function well and add to the overall quality of the area and are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

In terms of scale and massing it is considered that the development will have a limited impact on the visual amenity of the area. It is noted that development will include high quality and, in some instances, larger scale apparatus (including a 15m high pyramid tower with curved slide), however, this must be read within the context of its seafront setting where recreational equipment of this nature is to be expected. Furthermore, the provision of the hard and soft landscaping will integrate appropriately into the site, bringing forward amongst others, hardwood timber sleepers and post fences, timber bollards, timber seating and play logs, glacial boulders, 'gabbro' stone seating, reclaimed granite steps, feature paving and a variety of trees, hedges, shrubs and a vegetated retaining wall. A new bridge accessed close to the junction of Dykelands Road, will also cross the culvert and provide direct access into the park Road. A full list of the proposed apparatus and materials are set out in Section 5.6 of the DAS, whilst key features are also laid out within the accompanying landscape masterplan.

During the course of the consideration of the application, the layout has been subject to a minor revision with the removal of a footpath which was to run adjacent to the southern edge of the play area and northern bank of the culvert. This area has been replaced by additional swale wildflower planting.

In terms of residential amenity it is evident that the new site is to be located broadly within the same general vicinity as the existing play park and, further to consultation with the Council's Environmental Health Officer (EHO), no objection has been offered with regard to noise and disturbance, with the EHO acknowledging that the site is located some 45m from the residential properties on Ocean Park Road and around 60m from Princes Avenue to the south.

It is noted that one objection has been received from an occupier of Ocean Park Road wherein it is suggested that park will attract vandalism and anti-social behaviour. In this respect there are no grounds to suggest that this would be the case. Furthermore, in this particular instance there is already an existing play area to the immediate north which would be lost to facilitate the new development. In this regard, objection states that the closed facility should actually be redeveloped but this would appear to run counter to the argument that has been presented as the

observation offered in respect of vandalism and anti-social behaviour could also be levelled at the existing park. The relocation will allow for a larger, bespoke park to be created.

In addition, the premise set out in the objection that parents will sit in the pubs whilst the children will run riot without supervision is also considered to be speculative. Clearly the responsibility for the supervision of young children would lie with the parents/guardians, but this not a matter that can be given any significant weight from a planning perspective.

With regard to the final point made in respect of the stream filling up with litter, it should be noted that the land is largely open with no substantial barriers in place to prevent litter etc from blowing into the Dene. This new scheme is set to include a number of new litter bins, whilst wildflower planting will also run across the northern graded bank adjacent to the culvert. Overall, Officers are satisfied that there are no reasonable grounds to suggest that the new scheme would exacerbate any pre-existing littering issues.

3. The impact of the development on highway and pedestrian safety;

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

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

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 114 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;
- that the design of streets, parking area, other transport elements and the content of associated standards reflects current national guidance, 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;

As has previously been highlighted in the consultation section of this report, the Council's Highway Officer has offered no objection to the scheme. In reaching this conclusion and notwithstanding the sustainable location of the site, the Officer notes the presence of the adjacent car park to the south and cycle parking to the north.

The scheme would see an existing adopted footpath which diagonally intersects the western corner of the site removed to facilitate the redevelopment works. Procedurally, this will require a

stopping up order to be undertaken by the Council to remove the highway rights. This will be noted as an informative on the decision notice of any consent granted.

On the basis of the above, it is considered that the implications of the proposed development in respect of access, highway capacity, pedestrian safety are acceptable. Consequently, the proposals are considered to satisfy the objectives of paragraphs 108 of the NPPF and policies ST2 and ST3 of the Council's adopted CSDP.

4. The impact of the 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 188 makes it clear that the NPPF's presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

Locally, policy NE2 of the Council's adopted 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.

Saved UDP Policy CN23 is also relevant to his application with the host site lying within the extent of a wider designated wildlife corridor.

The application has been accompanied by a Preliminary Ecological Appraisal (PEA) which has been subject to a consideration by the Council's Ecologist. The consultation response confirms that the Council is satisfied that the appraisal has appropriately characterised both the ecological value of the host site and the wider environment in terms of nearby designations. Section 4 of the PEA sets out potential impacts and provides a number of recommendations for mitigation.

In addition to the above, a Biodiversity Net Gain Assessment (BNG) has also been submitted. The assessment qualifies the two elements required to complete a BNG assessment, these are a base line and development scenario. In this regard, the baseline pre-development score for the host site was informed by a Phase 1 habitat survey and came out at 0.96 biodiversity units (BU) with the post development scenario coming out at 1.11 BU following the implementation of the habitat creation across the site. On this basis, a net gain of 15.20% will be achieved across the site. This net gain will be attained through the planning of wildflower meadow and winter interest shrubs, marginal wildflower, 28no. semi mature deciduous trees, 11no. semi mature conifer trees and 8no. palm trees. As part of the landscaping proposals, new hedgerows will also be planted which will comprise a native hedgerow mix of hawthorn and hazel viburnum and a line of beech trees.

The Council's ecologist has confirmed that they are happy with the proposals and that conditions will be required to secure full details of the landscape planting proposals, including details of grass seed mix to be used, whilst noting that the landscape planting should minimise the use of non-native species.

Details of the long-term management of the site will also need to be secured via condition, including details of how this is to be funded and the responsible departments. Given that this is a Council promoted scheme it is expected that management will effectively be in perpetuity, however a 30-year management plan has been advised by the Council's ecologist in line with the recommendation in the submitted BNG Assessment report.

Subject to the conditions set out above, it is considered that the development will not give rise to any unacceptable harm to ecology and biodiversity and that the proposals will provide appropriate opportunity for BNG enhancements and ecological improvements. The scheme will therefore satisfactorily address the objectives of the NPPF and policy NE2 of the CSDP.

5. The impact of the development in respect of ground conditions and land contamination

Paragraph 189 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 191 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 application has been accompanied by a Phase 1 Study which has been subject to consideration by the Council's Ground Contamination Consultant who is in agreement with the findings. Due to the proposed importation of fill to the site, conditions are still required to ensure that a post remediation validation/verification report is provided and to deal with any unexpected contamination that come forward as a result of the works.

Subject to the conditions recommended above, it is considered that the risks posed by potential contamination and ground conditions can be adequately addressed to satisfy the objectives of the NPPF and policy HS3 of the CSDP.

6. The impact of the proposal in terms of flood risk and drainage

Policy WWE2 of the CSDP sets out measures to reduce flood risk and ensure appropriate coastal management, whilst policy WWE3 states that development must consider the effect on flood risk, on-site and off-site, commensurate with its scale and impact.

With regard to the above, the application has been accompanied by a Flood Risk Assessment (FRA) and Drainage Strategy. The FRA sets out that that the new play park will be development predominantly within Flood Zone 3 (this is categorised as land which has a 1 in 100 or greater probability of flooding or land having 1 in 200 or greater annual probability of sea flooding). The FRA continues that the site is at risk from both fluvial and tidal flooding along Cut Throat Dene, but qualifies that due to the coastal defences, it is protected directly from tidal flooding.

The FRA sets out that Cut Throat Dene has been modelled by the developer for all storms up to and including the 6 hour 1 in 100 year event. Flooding of the Dene has been found along the 5.5m contour along the profile of the dene itself, but that this will not affect any of the proposed play area. It has also been modelled to show the extent of flooding when the culvert is blocked, and storms coincide with a tidal event. In such events the FRA confirms that flooding would still not pose a risk to the proposed development. These conclusions, along with the accompanying drainage strategy have been accepted by the Council's Lead Local Flood Authority who have offered no objection from a flood risk perspective.

As has been set out within the consultation section of this report, the EA initially requested that further information, with specific reference to the design of the proposed bridge and the nature of the on-site excavation work, was included within the FRA to ensure that offsite flood risk would not be increased. On receipt of this information via an addendum to the FRA, the EA has confirmed that their concerns had been addressed and their objection has been removed accordingly.

Notwithstanding the lack of objection from the LLFA and EA, policy direction both locally through WWE2 and nationally through Paragraph 167 of the NPPF, sets out that development (subject to certain exceptions) should apply a sequential, risk-based approach to the location of development, taking into account all sources of flood risk and the current and future impacts of climate change so as to avoid, where possible, flood risk to people and property. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source, with guidance clear that development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. NPPF paragraph 169 then goes on to qualify that if it is not possible for development to be located in areas of lower risk of flooding the exception test may have to be applied, with the need for the exception test depending on the potential vulnerability of the site and of the development proposed (In line with the Flood Risk Vulnerability Classification set out in Annex 3 of the NPPF).

Against this backdrop, as part of the wider considerations and assessment it is recognised that the Seaburn regeneration site was, in 2016, considered to be an appropriate location for new outdoor recreation/play along with associated landscaping at the time of the determination of the original Hybrid application. Notwithstanding, as this application now represents a new standalone application, the agent has provided a sequential test in line with the above policy requirements.

The sequential test firstly sets out the specific development requirements/objectives that the scheme needs to meet. These are identified as;

- o Making effective use of land to bring positive catalytic effects into Seaburn to assist in the wider regeneration of the area;
- o Expanding and diversifying the existing leisure offer for Seaburn, which has been earmarked for regeneration by Sunderland City Council.
- o Improving the public realm and its offer to encourage visitors to extend their stay in the local area.

The sequential assessment then goes on to highlight that these ambitions are in accordance with aforementioned Policies VC6 and SP4 and that to deliver and maximise the potential of the scheme, it is fundamentally important that the broad location of the site is in close proximity to existing leisure facilities. In taking this forward, the agent has outlined the methodology used to identify the search area for potential alternative sites. In keeping with the constraints of the original hybrid approval and in line with key requirements and objectives identified above, the developer has defined the search to the parameters of the land within the 'Seaburn Regeneration

masterplan'. This approach is accepted by the Local Planning Authority. Within this locality the identification of alternative sites is then guided by the following criteria;

1. Site size.
2. Flood risk.
3. Planning designation and
4. Availability.

Given the nature of the larger scale play equipment that is required to deliver a new park of regional significance, the examination has established that there are no suitable alternative areas within the context of the Seaburn Regeneration site, with land discounted for a variety of reasons including;

- o Not suitable due to size.
- o Not available as currently in commercial use.
- o Not available as the land is not currently marketed/for sale/let and not available within the next 5 years.
- o Land not suitable due to providing SUDS mitigation for existing development.
- o Land not suitable as also within Flood Zone 3.
- o Land not suitable as it comprises car parking required as part of the approved 2016 hybrid application.

Based on the above assessment, the Local Planning Authority concur that there are no alternative suitable, available, or deliverable sites for the scheme. As such, in order to pass the exception test new development is required to demonstrate that it will provide sustainability benefits to the community that outweigh the flood risk and that the development will be safe for its lifetime taking into account the vulnerability of its users, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall.

With regard to the above, Officers are satisfied that the regeneration scheme, which is in accordance with land use and leisure and tourism Policies, will have overarching community benefits through the promotion of facilitates which will encourage active and healthy lifestyles within a sustainably located environment.

Further, the FRA has established the development has taken into account the vulnerability of the site, as well as future users of the development. It also noted that as per Annex 3: Flood risk vulnerability classification to the NPPF, the end use is classed as water compatible development, insofar that it constitutes outdoor recreation.

In light of the above, it is considered that the development is acceptable from a flood risk and drainage perspective and meets the requirements of WWE2 and WWE3 of the CSDP.

Equality Act 2010 - 149 Public Sector Equality Duty

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:-

- o age;

- o disability;
- o gender reassignment;
- o pregnancy and maternity;
- o race;
- o religion or belief;
- o sex;
- o sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to?

- (a) tackle prejudice, and
- (b) promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

Conclusion

Overall, Officers are satisfied that the principle of utilising the land for new recreational development in the form of Childrens play park is fully compliant and supported by the aforementioned land use and health and wellbeing policies as set out above. Further, the implications of the new development on the visual and residential amenity of the area have been considered and is deemed to be acceptable without causing undue detriment.

The site is sustainably located and well served by existing highways infrastructure including the adjacent car park and nearby cycle parking.

The ecological, flood risk and contamination implications of the development have also been subject to relevant scrutiny and further to the imposition of relevant conditions, is acceptable on these grounds.

RECOMMENDATION: It is recommended that Members **GRANT CONSENT** for the development in accordance with Regulation 3 of the Town and Country Planning General Regulations 1992 (as amended), subject to the conditions listed below.

Conditions:

- 1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time.
- 2 The development hereby granted permission shall be carried out in full accordance with the following approved plans:
 - The existing site plan received 19.10.2023 (Plan ref: L112-SCC-ELS-Z0-DR-I-30_002 REV P01);
 - The proposed Landscape Masterplan as amended received 20.11.2023 (Plan ref: L112-SCC-ELS-Z0-DR-I-30_004 REV P02);
 - The proposed elevations as amended received 22.01.2024 (Plan ref: LS000112-SCC-ELS-Z0-DR-I-30_001 REV P01).
 - The location plan received 10.10.2023 (Plan ref: LS000112-SCC-ELS-Z0-DR-I-30_004 REV P02).

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 development shall commence until a Construction Management Plan (CEMP) has been submitted to the Local Planning Authority for approval in writing. For the avoidance of doubt, the CEMP shall detail how noise, lighting, dust and other airborne pollutants, vibration, smoke, odour from construction work will be controlled and mitigated. Information on proposed working hours and how nearby residents will be notified of the work shall also be outlined. Thereafter, the works shall be carried out in full accordance with the agreed details.

Reason: In the interests of amenity and highway safety to accord with policies BH1 and ST3 of the Core Strategy Development Plan.

- 4 No development, other than such works required in connection with site preparation, shall commence until a final scheme of soft landscaping has been submitted to and approved in writing, by the Local Planning Authority. For the avoidance of doubt the soft landscaping scheme shall include a full schedule of planting including numbers/densities and species.

Thereafter, approved soft landscape works shall be completed no later than the end of the first planting season following the first occupation of the development or in accordance with a programme agreed in writing with the Local Planning Authority. Thereafter the approved landscape works shall be maintained in accordance with the current version of the British Standard 4428 for a period of 5 years commencing on the date of Practical Completion and during this period any trees or plants which die or become diseased shall be replaced in the

first available planting season with others of similar size and species and any grass which fails to establish shall be re-established.

Reason: In the interests of the ecological value of the site and visual amenity and to accord with policies BH1 and NE2 of the Core Strategy Development Plan.

- 5 The development hereby approved shall be carried out in full accordance with the recommendations set out in section 4 of Preliminary Ecological Appraisal by BSG Ecology (Reference P23-510 dated 25 August 2023).

Reason: to ensure habitats and species are not detrimentally affected by the development and to comply with the objectives of policy NE2 of the Core Strategy Development Plan.

- 6 Prior to first use of the development, a Habitat Management and Monitoring Plan (HMMP) shall be submitted to, and be approved in writing by, the Local Planning Authority. For the avoidance of doubt, the content of the HMMP shall include the following.

- a. Description and evaluation of features to be managed, with reference to the approved landscaping detail required by condition.
- b. Constraints and ecological trends on site that might influence management.
- c. Aims and objectives of management, referring to target ecological condition and the criteria for assessing this.
- d. Appropriate management options for achieving aims and objectives.
- e. Prescriptions for management actions.
- f. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 30-year period).
- g. Details of the body, organisation or department responsible for implementation of the plan.
- h. Ongoing monitoring and remedial measures, including periodic reporting.

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

Reason: In order to protect and enhance the biodiversity of the site and its surroundings and to comply with Policy NE2 of the Core Strategy Development Plan.

- 7 The Approved Remediation Scheme 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 first use of the site, a Verification Report (that demonstrates the effectiveness of the remediation carried out) must be produced and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and

ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with the National Planning Policy Framework Paragraphs 174f and 183.

- 8 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. A Risk Assessment must be undertaken in accordance with the requirements of the Environment Agency's "Land Contamination: Risk Management" and where remediation is necessary a Remediation Scheme must be prepared and submitted to the Local Planning Authority in accordance with the requirements that the Remediation Scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. Once the Remediation Scheme has been approved in writing by the Local Planning Authority it shall be known as the Approved Remediation Scheme. Following completion of measures identified in the Approved Remediation Scheme a verification report must be prepared and submitted in accordance with the approved timetable of works. Within six months of the completion of measures identified in the Approved Remediation Scheme and prior to the occupation of any building, a validation report (that demonstrates the effectiveness of the remediation carried out) must be submitted to the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with the National Planning Policy Framework Paragraphs 174f and 183.

- 9 The development hereby approved shall be carried out in full accordance with the Flood Risk Assessment (Cundall 26 September 2023) and the addendum (Design Note) to the FRA, submitted on 28 November 2023.

Reason: To ensure that satisfactory drainage is provided for the development and to prevent the increased risk of flooding in accordance with policies WWE2 and WWE3 of the Core Strategy Development Plan.

Reference No.: 23/02495/VA3 Variation of Condition (Reg 3)

Proposal: **Application for a minor-material amendment to vary condition 1 (approved plans) attached to planning permission 22/02157/VA3 - including removal of LED and digital screen (northern elevation), provision of new glazing / windows (north and western elevations) and installation of architectural screen (roof level)**

Location: Land South of High Street West High Street West Sunderland SR1 3DZ

Ward: Millfield

Applicant: Sunderland City Council

Date Valid: 1 December 2023

Target Date: 1 March 2024

Proposal

The application seeks a minor material amendment to an earlier grant of planning permission which will be repeated below:

Reference :-22/02157/VA3

Description -Variation of condition 2 (approved plans) and 15 (glazing) attached to planning permission 21/02835/LP3 - proposed amendments include reducing footprint of building by providing a stepped back design onto Keel Square (including outdoor cafe), lighting installation to northern elevation and new windows to western and southern elevations

At -Land south of High Street West, Sunderland, SR1 3DZ

The above application refers to the initial grant of planning permission, which will be repeated below.

Reference -21/02835/LP3

Description -Demolition of buildings at 275, 278-284 High Street West, an area of seating at Keel Square and an area of hardstanding currently hoarded off and used for storage. Erection of a landmark library building (Use Class F1(d)) with an indoor city square (Use Class F1(e)), creative spaces (Use Class F1(b)), event space (Use Class sui generis), a cafe (Use Class E(b)), space for business entrepreneurs (Class E)/retail (Use Class E), and faith space (Use Class F1(f)), known as "Culture House", including stopping up of public highway at Middle Street and High Street West (as amended to include demolition, 4 February 2022)

The submitted covering letter says that the proposed amendments include:

- 1) *LED brick screen removal and replacement with a new brick recessed 'frame' to the central north elevation block.*
- 2) *Removal of 2 x digital screens to the chamfered entrance of the building.*

- 3) *Removal of the two smaller roof lights (north and west).*
- 4) *Changing the two Juliette balconies on the north and west façade to fixed glazed windows. West façade opening has reduced in scale to match the rest of the openings on the elevation.*
- 5) *Addition of new horizontal glazed aperture to level 01 on the central north elevation block.*
- 6) *Addition of new glazed opening on level 03, to the west flank of the north elevation block.*
- 7) *Addition of louvres to roof level to conceal plant equipment.*
- 8) *Door removed to retail space.*

Publicity

Neighbour notifications (10 properties): 6 December 23.

Press notice (Sunderland Echo): 12 December 23.

Site notice: 20 December 23.

Consultees

Ward Cllrs -No response received.

Ambulance Trust - No response received.

Archaeology - No comments.

Conservation Officer The proposed scheme, as amended, will still introduce a high quality and visually striking contemporary building at a prominent City Centre site that will enhance the character and significance of Bishopwearmouth Conservation Area and the settings of surrounding listed buildings and make a key contribution to the regeneration and vibrancy of the area.

Ecology -No comments.

Environmental Health -No objections.

Fire & Rescue -No objections.

Historic England - In this case we are not offering advice.

Land Contamination Officer -No objection.

Local Highway Authority - No observations, or recommendations.

Police - We have reviewed the scope and intent of these amendments and are satisfied that do not represent any material change from a crime prevention perspective.

Northumbrian Water - No response received.

Representations

None received.

Comments

The principle of the development has already been established, via the extent planning permission (ref: 21/02835/LP3) and subsequent amendment (ref: 22/02157/VA3); which means that the relevant matters for consideration are any detailed impacts arising from the proposed amendments. These can be seen below.

Amenity

The proposed amendments include glazing at first floor level (above the entrance) and third floor (facing west). These windows would look across Keel Square, thereby avoiding any material impact upon the privacy of nearby occupiers.

The proposed replacement of Juliette balconies with windows would have a similar impact upon privacy, when compared to the previous grant of planning permission.

The proposed louvres would be sited on the roof of a four storey building and would therefore only increase the height to a relatively small extent, which means there would not be material impact upon the day light for nearby properties.

In summary, the commentary above shows that the proposal would accord with the relevant development plan policies relating to amenity (i.e. policy HS1 of the Core Strategy) and there are not any material considerations that indicate a decision should be made otherwise; subject to the recommended conditions.

Design

The submitted covering letter says that the *proposed amendments involve minor external design changes to the northern elevation.*

Although made within a heritage context, the comments from the Conservation Officer are also relevant when considering matters in relation to design; which will be repeated below.

The proposed revisions to the front elevation are relatively minor but includes some positive design changes that will marginally enhance the overall architectural merit of the building, for example the introduction of new openings will help to further enliven the façade and give the central entrance block more prominence. The proposed scheme, as amended, will still introduce a high quality and visually striking contemporary building at a prominent City Centre site...

The advice from Northumbria Police would also be relevant and will be repeated below.

We have reviewed the scope and intent of these amendments and are satisfied that do not represent any material change from a crime prevention perspective.

In summary, the commentary above shows that the proposal would accord with the relevant development plan policies relating to design (i.e. policy BH1 of the Core Strategy) and there are not any material considerations that indicate a decision should be made otherwise; subject to the recommended conditions.

Drainage

The application does not propose any amendments to the previously approved drainage scheme.

The Lead Local Flood Authority have advised that they have *no objection*.

The proposal would therefore continue to accord with the relevant development plan policies relating to drainage (i.e. policies WWE 2 – 5) of the Core Strategy and there not any material considerations that indicate a decision should be made otherwise; subject to the recommended conditions.

Ecology

The proposed amendments would not appear to lead to any greater ecology impacts than the previous approval; nor affect the previously approved mitigation (such as bat and bird boxes).

The Council's Ecologist has advised that they have *no comments*.

The proposal would therefore continue to accord with the relevant development plan policies relating to drainage (i.e. policy NE2) of the Core Strategy and there not any material considerations that indicate a decision should be made otherwise; subject to the recommended conditions.

The above commentary also means that the Council, as a public authority, can record that the decision will be made in accordance with Section 40 of the Natural Environment and Rural Communities Act 2006; which says that

The public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.

Fire

The advice from Fire & Rescue will be repeated below.

Please advise if this is to be timber framed construction.

The Fire Authority have no objections to this proposal, subject to the provisions detailed in the enclosed report.

Further comment will be made on receipt of a Building Regulations submission.

The construction of the building frame would be a matter for consideration at the Building Control stage.

The report described within the response relates to an excerpt from the Building Regulations.

In summary, the above commentary shows that the matters raised by Fire & Rescue could be dealt with at the Building Regulations stage.

Groundworks

The proposed amendments relate to the front of the building and would not appear to affect the previously approved groundworks.

The Council's Land Contamination Officer has advised that they have *no objection*.

The proposal would therefore continue to accord with the relevant development plan policies relating to drainage (i.e. policy HS3) of the Core Strategy and there not any material considerations that indicate a decision should be made otherwise; subject to the recommended conditions.

Heritage

The Planning and Heritage Statement, submitted with the initial planning application, identified the heritage assets which could be affected by the proposed development; which will be repeated below:

Conservation Area: Bishopwearmouth (west of the site)

Listed buildings: The Peacock and Magistrates Court (both Grade II)

The submitted covering letter says that:

The proposed amendments do not alter the conclusions of the original heritage assessment submitted with the full planning application. In fact, the amendments allow for additional views from the building to the surrounding Bishopwearmouth Conservation Area, which is seen as an additional benefit.

The advice from the Conservation Officer will be repeated below.

The proposed revisions to the front elevation are relatively minor but includes some positive design changes that will marginally enhance the overall architectural merit of the building, for example the introduction of new openings will help to further enliven the façade and give the central entrance block more prominence. The proposed scheme, as amended, will still introduce a high quality and visually striking contemporary building at a prominent City Centre site that will enhance the character and significance of Bishopwearmouth Conservation Area and the settings of surrounding listed buildings and make a key contribution to the regeneration and vibrancy of the area. The revised proposal satisfies the requirements of NPPF Paragraphs 197, 199 and 206, CSDP Policies BH7 and BH8, and the Bishopwearmouth Conservation Area Management Plan.

The Conservation Officer has also sought clarification upon the point below:

It is noted that the revised proposal doesn't provide any details of what will be accommodated within the recessed brick panel to the central block instead of the previously approved LED bricks, for example artwork or similar. Clarification is required as to whether this will be subject to a separate application

In response, the Agent has advised that:

In response to comments from the Conservation Officer, These details will form part of a sperate application so that it allows time for an appropriate solution/installation to be designed to sit within the recessed brick panel.

The Tyne & Wear Archaeologist has advised that:

I have reviewed the documentation and I have no comments to make on the proposed variation. I note that the previously recommended archaeological watching brief and report conditions (conditions 6 and 20) secured in association with application 21/02835/LP3 are still required in association with this development.

The advice from Historic England will be repeated below:

Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.

We suggest that you seek the views of your specialist conservation and archaeological advisers.

The proposal would therefore continue to accord with the relevant development plan policies relating to heritage (i.e. policies BH7, BH8 and BH9) of the Core Strategy and there not any material considerations that indicate a decision should be made otherwise; subject to the recommended conditions.

The above commentary also means that the Council, as a public authority, can record that the decision will be made in accordance with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990; which say that

the local planning authority... shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

In the exercise, with respect to any buildings or other land in a conservation area... special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area

Highway

The proposed amendments would not appear to affect the previously approved access arrangements, other than removing an external door to a retail space; which would be accessed via the main entrance.

The Local Highway Authority have advised that they have no observations, or recommendations.

The proposal would therefore continue to accord with the relevant development plan policies relating to highways (i.e. policy ST2 and ST3) of the Core Strategy and there not any material considerations that indicate a decision should be made otherwise; subject to the recommended conditions.

Equality Act 2010 - 149 Public Sector Equality Duty

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:-

- o age;
- o disability;
- o gender reassignment;
- o pregnancy and maternity;
- o race;
- o religion or belief;
- o sex;
- o sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to?

- (a)tackle prejudice, and
- (b)promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

Conclusion

The principle of the development has already been established, via the extent planning permission (ref: 21/02835/LP3) and subsequent amendment (ref: 22/02157/VA3).

The detailed impacts arising from the proposed amendments accord with the relevant policies within the development plan and there are not any material considerations that indicate a decision should be made otherwise.

RECOMMENDATION: It is recommended that Members GRANT CONSENT under Regulation 3 of the Town and Country Planning General Regulations 1992 (as amended); subject to the draft conditions below.

Draft Conditions

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

- Site Plan (3820-FBA-XX-00-DR-A-01001 P6)
- Level 00 Plan (3820-FBA-XX-00-DR-A-00000 P02)
- Level 01 Plan (3820-FBA-XX-01-DR-A-00100 P02)
- Level 02 Plan (3820-FBA-XX-02-DR-A-00200 P02)
- Level 03 Plan (3820-FBA-XX-03-DR-A-00300 P02)
- Level 04 Roof Plan (3820-FBA-XX-04-DR-A-00400 P02)
- North Elevation (3820-FBA-XX-XX-DR-A-00_50 P03)
- North Elevation and Section (3820-FBA-XX-XX-DR-A-21_50 P02)
- South Elevation (3820-FBA-XX-XX-DR-A-00_52 P02)
- South Elevation and Section (3820-FBA-XX-XX-DR-A-21_52 P02)
- West Elevation (3820-FBA-XX-XX-DR-A-00_51 P01)
- West Elevation and Section (3820-FBA-XX-XX-DR-A-21_51 P02)
- Section 01 (3820-FBA-XX-XX-DR-A-00_01 C01)
- Section 02 (3820-FBA-XX-XX-DR-A-00_02 C01)

Reason: In order to ensure that the completed development accords with the scheme approved and to comply with policy BH1 of the Core Strategy and Development Plan.

2. The demolition phase of the development hereby approved shall be undertaken in accordance with the plans below:

- Environmental Aspects and Impacts Register (approved via 22/01057/DIS)
- Nuisance Checklist (approved via 22/01057/DIS)
- Construction Phase SHE Plan (received, 28 June 2022) (approved via 22/01057/DIS)
- Logistics Plan (received, 22 July 2022) (approved via 22/01057/DIS)
- Phasing Plan (approved via 22/01057/DIS)
- e-mail from Agent (5 September 2022) (approved via 22/01057/DIS)
- Method Statement (Document 1, V1) (approved via: 22/01162/DIS)

Reasons: To address the potential impacts to the local environment arising from site works and to ensure the development hereby approved minimises impacts upon biodiversity; in accordance with policies HS1, NE2, ST2 and ST3 of the Core Strategy and Development Plan (2015-2033).

3. No development (other than demolition, site clearance and vegetation removal) shall commence until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include:

- identification of sensitive receptors - notably users of the footpaths and highway, occupiers of neighbouring properties (note the new hotel being developed nearby) and tower blocks overlooking the site, site working times.
- site lighting,
- use of solid perimeter hoardings,
- notification of neighbouring occupiers,
- use of any mobile crusher,
- dust management including sheeting of HGVs, use of water sprays,
- monitoring of weather conditions,
- cleanliness of the highways,
- noise management - silenced plant, control of working procedures and utilisation of mobile noise barriers where necessary,
- prohibition of burning of materials
- minimisation of engine idling and vehicle queuing.

The CEMP shall also follow guidance provided by the Institute of Air Quality Management (particularly in relation to the management of dust) and BS5228:2009+A1 in relation to noise and vibration.

The construction phase of the development hereby approved shall thereafter be undertaken in accordance with the approved CEMP.

Reason: To address the potential impacts to the local environment arising from site works; in accordance with policies HS1, ST2 and ST3 of the Core Strategy and Development Plan (2015-2033).

4. Within one month of the completion of the SUDS system a verification report, which are to be carried out by a suitably qualified person and the extent of the SuDS features to be covered in the report, have been submitted to and approved by the Local Planning Authority.

The verification report shall thereafter be submitted in accordance with the agreed timings and shall demonstrate that all sustainable drainage systems have been constructed as per the agreed scheme.

The verification report shall also be in accordance with the details found within the Technical Note (Note ref: shed-CultureHouse-technicalnote-SuDSPlanningCondition6); as submitted via 23/00560/DIS.

For the avoidance of doubt, this shall include:

- As built drawings (in dwg/shapefile format) for all SuDS components -including dimensions (base levels, inlet/outlet elevations, areas, depths, lengths, diameters, gradients etc) and supported by photos of installation and completion.
- Construction details (component drawings, materials, vegetation).
- Health and Safety file.
- Details of ownership organisation, adoption & maintenance.

Reason: To ensure that all sustainable drainage systems are designed to the DEFRA non-technical standards for SuDS and comply with policies WWE2 and WWE3 of the Core Strategy and Development Plan (2015-2033).

5. The development hereby approved shall be operated in accordance with the approved service management plan (Delivery & Servicing Management Plan (Report No. 000.2; as submitted via 23/00753/DIS).

To ensure, in accordance with policies ST2 and ST3 of the Core Strategy and Development Plan (2015-2033), a safe and secure means of access.

6. No development shall take place above damp proof course until full details and samples of all external materials have been submitted to and approved in writing by the Local Planning Authority. The details and samples shall include bricks, bag washed bricks, roof tiles and other roofing materials, windows and doors. The development hereby approved shall thereafter be constructed in accordance with the approved details.

Reason: To ensure, in accordance with policies BH1, BH7 and BH8 of the Core Strategy and Development Plan (2015-2033), the development hereby approved achieves high quality design and preserves the setting of local heritage assets.

7. No development shall take place above damp proof course until sample panels of different brick types fully bedded and pointed have been provided on site and approved in writing by the Local Planning Authority. The development hereby approved shall thereafter be constructed in accordance with the approved details.

Reason: To ensure, in accordance with policies BH1, BH7 and BH8 of the Core Strategy and Development Plan (2015-2033), the development hereby approved achieves high quality design and preserves the setting of local heritage assets.

8. No development shall take place above damp proof course until a detailed landscape plan / planting strategy has been submitted to and approved in writing by the Local Planning Authority. The landscape plan / planting strategy shall demonstrate a Biodiversity Net Gain in accordance with paragraphs 6.2-6.3 of the Preliminary Ecological Appraisal (submitted via: 21/02835/LP3). The landscaping / planting shall thereafter be provided within the first planting season following the completion of the development hereby approved.

Reason: To ensure, in accordance with policy NE2 of the Core Strategy and Development Plan (2015-2033), the development hereby approved provides a Biodiversity Net Gain.

9. No external fixed plant or ventilation and extraction systems shall be installed until an Assessment has been submitted to and approved in writing by the Local Planning Authority. The Assessment shall demonstrate that the design of any proposal meets the noise limit in accordance with BS4142:2014 at the following relevant noise sensitive receptors (as identified in the submitted Plant Noise Report, submitted via: 21/02835/LP3):

- Noise Sensitive Receptors 1 and 2 (residential tower blocks), rated noise levels shall not exceed the existing background LA90 of 52dB day and 39dB night
- Noise Sensitive Receptor 3 (hotel), rated noise levels shall not exceed the existing background LA90 of 55dB day and 41dB night.

The submitted Assessment shall also include plan and elevation drawings of the proposed plant, ventilation and extraction systems; prepared to a recognised metric

scale. The approved plant, ventilation and extraction systems shall thereafter be fully provided before the development has been brought into first use.

Reason: To ensure, in accordance with policies BH1 and HS2 of the Core Strategy and Development Plan, the development hereby approved includes noise mitigation and achieves high quality design.

10. No extraction and odour abatement systems for the proposed kitchen shall be installed until a completed Odour Risk Assessment has been submitted to and approved in writing by the Local Planning Authority. The Assessment shall ensure that the discharge of cooking odours from the kitchen is adequately controlled. The submitted Assessment shall also include plan and elevation drawings of the proposed odour abatement systems; prepared to a recognised metric scale. The approved odour abatement systems shall thereafter be fully provided before the kitchen hereby approved has been brought into first use.

Reason: To ensure, in accordance with policies BH1 and HS1 of the Core Strategy and Development Plan, the development hereby approved does not have an unacceptable impact upon amenity and achieves high quality design.

11. The building shall not be brought into use until the report of the results of observations of the groundworks pursuant to condition update 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 205 of the NPPF, Core Strategy Policies BH8 and BH9 and saved Unitary Development Plan Policies B11, B13 and B14.

12. Within six months of the development hereby approved being into first use a Final Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be based upon the submitted Interim Travel Plan (File Name: JN2344-Rep-0002.2 Interim Travel Plan, submitted via: 21/02835/LP3). The operational phase of the development hereby approved shall thereafter be operated in accordance with the approved Final Travel Plan.

Reason: To ensure, in accordance with policy ST3 of the Core Strategy and Development Plan (2015-2033), includes an appropriate Travel Plan.

13. 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.

Reference No.: 23/02503/VA3 Variation of Condition (Reg 3)

Proposal: **Variation of planning conditions 1 (Plans), to swap positions of miniature railway and overflow car park, 4 (Remediation), 5 (Verification), 7 (CEMP) ,11 (Arboricultural method statement), 15 (Lighting strategy), 20 (Materials) and 21 (Travel Plan); and removal of conditions 3 (Ground investigation) and 10 (E-CEMP), attached to planning permission 22/01673/HY3 (Change of use of Former Elmore Golf Course to a Heritage and Eco Park with associated infrastructure).**

Location: Elmore Golf Club Elmore Golf Course Lorne Street Easington Lane Houghton-le-Spring

Ward: Hetton
Applicant: Sunderland City Council
Date Valid: 6 December 2023
Target Date: 6 March 2024

PROPOSAL:

This application is being made under s73 of the Town and Country Planning Act 1990 (as amended) and relates to the variation of conditions 1 (Plans), to swap positions of miniature railway and overflow car park, 4 (Remediation), 5 (Verification), 7 (CEMP) ,11 (Arboricultural method statement), 15 (Lighting strategy), 20 (Materials) and 21 (Travel Plan); and removal of conditions 3 (Ground investigation) and 10 (E-CEMP), attached to planning permission 22/01673/HY3.

22/01673/HYB is the extant planning permission relating to a Hybrid planning application comprising of: Full planning permission for change of use of Former Elmore Golf Course to a Heritage and Eco Park with associated infrastructure- including car parking, play areas, woodland planting, grazing areas and wetland creation. Outline planning permission for a community farm, camping/education facilities and miniature railway.

Members may recall that planning permission was originally approved at the Planning and Highways Committee meeting held on 09.01.23.

The current application has been accompanied by a Lighting Strategy, Construction Environment Management Plan (CEMP), Transport Statement Addendum and Travel Plan. The principal purpose of this Section 73 planning application is to swap the positions of the miniature railway and overflow car park. The secondary purpose is to regularise other planning conditions on the planning permission to provide clarity of the approved details.

TYPE OF PUBLICITY:

Press Notice Advertised
 Site Notice Posted

Neighbour Notifications

CONSULTEES:

Cllr Iain Scott
Cllr James Blackburn
Cllr Claire Rowntree
Planning And Highways
Hetton Town Council
Network Management
Environmental Health
Flood And Coastal Group Engineer
Natural Heritage
Northumbria Police
Land Contamination

Coal Bank Farm Hetton-le-Hole Houghton-le-Spring DH5 0DX
18 Lorne Street Easington Lane Houghton-le-Spring DH5 0QS
19 Lorne Street Easington Lane Houghton-le-Spring DH5 0QS
20 Lorne Street Easington Lane Houghton-le-Spring DH5 0QS
22 Lorne Street Easington Lane Houghton-le-Spring DH5 0QS
36 Lorne Street Easington Lane Houghton-le-Spring DH5 0QS
35 Lorne Street Easington Lane Houghton-le-Spring DH5 0QS
21 Lorne Street Easington Lane Houghton-le-Spring DH5 0QS
92 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0EP
152 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
78 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0EP
84 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0EP
7 Deepdale Street Hetton-le-Hole Houghton-le-Spring DH5 0DQ
19 Deepdale Street Hetton-le-Hole Houghton-le-Spring DH5 0DQ
17 Deepdale Street Hetton-le-Hole Houghton-le-Spring DH5 0DQ
15 Deepdale Street Hetton-le-Hole Houghton-le-Spring DH5 0DQ
13 Deepdale Street Hetton-le-Hole Houghton-le-Spring DH5 0DQ
11 Deepdale Street Hetton-le-Hole Houghton-le-Spring DH5 0DQ
9 Deepdale Street Hetton-le-Hole Houghton-le-Spring DH5 0DQ
5 Deepdale Street Hetton-le-Hole Houghton-le-Spring DH5 0DQ
3 Deepdale Street Hetton-le-Hole Houghton-le-Spring DH5 0DQ
1 Deepdale Street Hetton-le-Hole Houghton-le-Spring DH5 0DQ
51 Borrowdale Street Hetton-le-Hole Houghton-le-Spring DH5 0DG
108 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
124 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
33 Deepdale Street Hetton-le-Hole Houghton-le-Spring DH5 0DQ
126 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
148 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
142 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
25 Deepdale Street Hetton-le-Hole Houghton-le-Spring DH5 0DQ
112 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
118 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
128 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
132 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER

136 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
150 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
102 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
98 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
80 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0EP
90 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0EP
31 Deepdale Street Hetton-le-Hole Houghton-le-Spring DH5 0DQ
140 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
76 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0EP
82 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0EP
96 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0EP
29 Deepdale Street Hetton-le-Hole Houghton-le-Spring DH5 0DQ
35 Deepdale Street Hetton-le-Hole Houghton-le-Spring DH5 0DQ
120 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
86 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0EP
23 Deepdale Street Hetton-le-Hole Houghton-le-Spring DH5 0DQ
21 Deepdale Street Hetton-le-Hole Houghton-le-Spring DH5 0DQ
27 Deepdale Street Hetton-le-Hole Houghton-le-Spring DH5 0DQ
110 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
114 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
116 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
122 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
104 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
146 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
130 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
134 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
138 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
144 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
100 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
31 Pimlico Road Hetton-le-Hole Houghton-le-Spring DH5 0EX
72 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0EP
74 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0EP
D Farrow 106 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0ER
94 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0EP
88 Lambton Drive Hetton-le-Hole Houghton-le-Spring DH5 0EP
Hetton Moor House Farm Lawson Terrace Easington Lane Houghton-le-Spring DH5 0EY

Final Date for Receipt of Representations: **04.01.2024**

REPRESENTATIONS:

Public consultation - the application has been advertised by means of consultation letter, site notices and a notice published in the Sunderland Echo.

No representations have been received.

POLICIES:

Core Strategy and Development Plan 2015-2033 (CSDP)

BH1

HS1

HS3

ST2
ST3
NE2
NE3

COMMENTS:

Policy Framework

In considering the revised proposals, regard must be given to the National Planning Policy Framework (NPPF), which provides the Government's current planning policy guidance. Development plans must be produced, and planning applications determined, with reference to the NPPF and its over-arching aim of delivering sustainable development.

In terms of local policy, the Council has now adopted its Core Strategy and Development Plan (CSDP) and the policies therein can now be given full weight. In this case, policies BH1, NE2, NE3, HS1, HS3, ST2 and ST3 of the CSDP are considered to be pertinent.

Policy BH1 of the CSDP states that, to achieve high quality design and positive improvement, development should (amongst other requirements) be of a scale, massing, layout, appearance and setting which respects and enhances the positive qualities of nearby properties and the locality.

Policy NE2 sets out measures for the protection, creation, enhancement and management of biodiversity and geodiversity.

Policy NE3 of the Councils Core Strategy and Development Plan (CSDP) sets out that the Council will retain, protect and improve woodland and trees subject to Tree Preservation Orders (TPOs).

Policy HS1 of the CSDP sets out that development must demonstrate that it does not result in unacceptable adverse impacts which cannot be addressed through appropriate mitigation, arising from the following sources:

- i. air quality;
- ii. noise;
- iii. dust;
- iv. vibration;
- v. odour;
- vi. emissions;
- vii. land contamination and instability;
- viii. illumination;
- ix. run-off to protected waters; or
- x. traffic;

Policy HS3 sets out that where development is proposed on land which may be contaminated, 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.

Policy ST2 requires that development has no adverse impact on the local road network and will provide an acceptable level of vehicle parking and cycle parking, in line with the councils parking standards.

Policy ST3 requires development to provide safe and convenient access for all road users in a way that would not compromise the free flow of traffic on the public highway, pedestrians or any other transport mode. Nor should development exacerbate traffic congestion on the existing highway network or increase risk of accidents or endanger the safety of road users.

Consideration

Variation of planning condition 1 (plans)

Planning condition 1 sets out that:

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

Dwg No. LS000187.001 Rev P01, Existing Site Plan dated 07.10.21.

Dwg No. LS000187.001 Rev P07, Masterplan layout dated 01.04.22.

Dwg No. EGC-SCC-HKF-00-SK-CH-1100 Rev P02, Overflow Car Park dated 18.05.22.

Dwg No. EGC-SCC-HKF-00-SK-CH-1100 Rev P03, Overflow Car Park dated 25.10.22.

Dwg No. EGC-SCC-HMK-00-DR-CH-1200 Rev P02, Road Markings Plan dated 18.05.2022.

Dwg No. EGC-SCC-HPV-00-DR-CH-0700 Rev P02, Road Pavements dated 18.05.2022.

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.

The applicant is requesting that the original masterplan and plans referring to the original position of the overflow car park and its road markings and pavements be removed from the condition, and that master plan LS000187005 Rev T02 dated 18th December 2023, which details the new position of the miniature railway and overflow car park, be added to the condition.

The new condition would set out that:

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

Drawing Number LS000187.001 Rev P01, Existing Site Plan dated 07.10.21 and Drawing Number LS000187005 Rev T02 dated 9 November 2023.

The Councils Highway Team have considered the amended plan and have provided no objection to the amended scheme.

They noted that works had already taken place to move the existing 30mph terminal to the west of the proposed overflow car park.

They also note that the relocation of the overflow carpark, proposals with regard to EV charging points, proposed cycle storage, CEMP and swept path analysis are all satisfactory, and the new scheme would not have an unacceptable adverse impact on the local road network in accordance with policies ST2 and ST3.

With regard to residential amenity the transfer of the miniature railway and overflow car park on site would not be considered to cause issues with regard to noise and disturbance, given the type of use and also the fact that both elements are some distance from the nearest neighbouring dwellings, 34.3 metres from Elmside Villa and 36.1 metres from 36 Lorne Street.

Removal of planning condition 3 (Ground Investigation)

Condition 3 set out that:

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. The agent has confirmed within the covering letter that the information to discharge condition 3 was approved on 29 September 2023, under application reference: 23/00339/DIS. They request that, as any subsequent remediation is controlled by condition 4, condition 3 can now be removed. The Councils Land Contamination Officer has confirmed that they have no objection to the removal of condition 3. As such the removal of this condition is considered to be acceptable and to accord with CSDP policy HS1 and HS3.

Variation of Planning Condition 4 (Remediation)

Planning condition 4 states that:

Development shall not commence until a detailed Remediation Scheme to bring the site to 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 Page | 3 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.

The agent has set out that in this instance the only area that requires remediation is an isolated hotspot of asbestos contamination in the area of the previously proposed overflow carpark and new position of the miniature railway. Given this the agent suggested that the remediation scheme be provided prior to commencement of development in the area identified as having asbestos. The Councils Contamination Officer had no objection to an amendment to the condition but did request that a plan be submitted clearly showing the asbestos impacted area.

This plan was submitted by the agent on the 14.12.23, Exploratory Hole Location Plan A, drawing No. D10612/02A_00. Following clarification from the agent regarding the exclusion area that

would be maintained around area MBH1, the Councils Contamination Officer agreed the following re-wording of condition 4:

No development shall commence within 20m of MBH1 as shown on Drawing Number D10612/02A_00 until a detailed Remediation Scheme to bring this specific area 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.

Given the above, the amendment to condition 4 is considered to be acceptable and to accord with CSDP policy HS1 and HS3.

Variation of Planning Condition 5 (Verification)

Planning condition 5 states that:

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.

Given the discharge of condition 3 and the amendment to condition 4, it was suggested by the agent that condition 5 be updated to reflect this, the Councils Land Contamination Officer suggested the following amendment:

The Approved Remediation Scheme shall be implemented in accordance with the approved timetable of works. Within six months of the completion of measures identified in the Approved Remediation Scheme and prior to the development being brought into use, 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.

The agent agreed to the amendment and the amended condition 5 is considered to be acceptable and to accord with CSDP policy HS1 and HS3.

Variation of Planning Condition 7 (CEMP)

Planning condition 7 states that:

Prior to commencement of works on site a Construction Environmental Management Plan (CEMP) shall be submitted for the agreement of the LPA and implemented in full accordance thereafter. The plan shall identify potential impacts upon the local environment and sensitive receptors arising from site clearance, preparation and construction. Suitable mitigation measures to address those impacts shall be set out in the plan and shall be implemented.

It is noted that a CEMP accompanies this application, and the agent has requested that should the CEMP be considered acceptable, condition 7 be amended as follows:

Construction of the proposed development shall be undertaken in accordance with the Construction Environmental Management Plan dated November 2023.

The submitted CEMP has been assessed by the Councils Environmental Health Officer and they consider that it does not provide the detail necessary to discharge condition 7.

They note that the CEMP itself recognises the need to update its content at a later stage in the project. This suggests that it is too early a stage in the process to determine the range of mitigation measures available or necessary to minimise impacts upon the local environment and neighbouring occupiers (e.g. residents).

They stress that that, even though the submission has sought to draw a distinction between the outline and full elements of the permission, the CEMP must relate to any works that may be undertaken on site linked to a permission.

It is suggested that the applicant provide further detail in relation to dust management and suppression measures, topsoil and any material encountered that maybe contaminated, the content of dust cubes and noise mitigation measures.

Finally, the Environmental Health Officer has confirmed that the following should be either confirmed or addressed within the CEMP:

- o No site traffic or deliveries should arrive prior to 07.00 and no vehicles shall be allowed to queue off site or remain with their engines idling
 - o No measures have been identified to prevent or remedy carry-over of mud and debris onto the public highway.
 - o No burning of waste or vegetation should be permitted on site
 - o Site should be checked for Japanese Knotweed and similar invasive plant species.
 - o Site lighting - any site floodlighting should be located, rated and directed to prevent spill and glare impacting the highway and any nearby sensitive receptors.
 - o Measures should be set out to establish a complaints reception and management process, and information to neighbouring occupiers as to the extent or timing of proposed works.
- As such, the CEMP submitted with the application does not provide the necessary detail to discharge condition 7.

Following further discussion with the agent and the Councils Environmental Health Officer. It was confirmed that the CEMP condition relates to the wider scheme and the changes to the position of the carparking area and miniature railway would not be considered to cause harm to environmental health or the residential amenity of the wider area. The issues raised above could be dealt with via the submission of an amended CEMP, which would be submitted with the reserved matters application. The agent suggested that condition 7 be amended to:

Any subsequent Reserved Matters application must be accompanied by a Construction Environmental Management Plan (CEMP) for the agreement of the LPA and implemented in full accordance thereafter. The plan shall identify potential impacts upon the local environment and sensitive receptors arising from site clearance, preparation and construction. Suitable mitigation measures to address those impacts shall be set out in the plan and shall be implemented.

The Environmental Health Officer confirmed that this would be an acceptable amendment which would accord with CSDP policies BH1 and HS1.

Removal of planning condition 10 (E-CEMP)

Condition 10 states that:

No development, ground works or vegetation clearance shall commence until an Ecological Construction Environmental Management Plan (E-CEMP) produced by a suitably qualified

ecologist has been submitted to and approved in writing by the Local Planning Authority. This will include:

- o A review of ecological constraints
- o Requirements for, and timings of checking surveys for protected and/or notable species, including requirements for repeat visits where necessary
- o Details of the persons responsible for implementing the works
- o Details for disposal of any vegetative wastes arising from the works, particularly relating to Schedule 9 species
- o Details of any lighting and fencing proposed during the construction period, which will include input from a suitably qualified ecologist
- o Working methods to be implemented in order to minimise the risk of protected or notable species being adversely affected, or notifiable species being spread through the works
- o Details of habitat protection measures to be implemented through the works, particularly in relation to retained features such as trees and waterbodies/watercourses.

Reason: In order to protect the biodiversity of the site and to comply with CSDP Policy NE2 and paragraph 175 of the National Planning Policy Framework.

The agent has set out that following discussion with the Council Ecologist, given the nature and scale of works at the site that an E-CEMP would not be required in this instance.

The Councils Ecologist confirmed that they have no objection to the removal of this condition due to the nature of the works and the types of habitats affected. They have also confirmed there is no requirement for additional mitigation measures during the construction phase.

As such the removal of this condition is considered to be acceptable and to accord with CSDP policy NE2.

Variation of planning condition 11 (Arboricultural Method Statement)

Condition 11 states that:

Works will not commence until a site-specific arboricultural method statement produced by a suitably qualified arboriculturist has been submitted to, and approved in writing by the local planning authority, which details the working measures to be implemented to ensure the protection of key trees and/or groups of trees to be retained through the works.

The agent has confirmed within the covering letter that the information to discharge condition 11 was approved on 10 May 2023, under application reference: 23/00397/DIS. They request that condition 11 is revised as follows:

Tree protection measures contained in Appendix A of the Arboricultural Impact Assessment approved on 10 May 2023 shall remain in place during the construction phase of the proposed development.

This is considered to be an appropriate condition which would accord with CSDP policy NE3.

Variation of planning condition 15 (Lighting Strategy)

Planning condition 15 states that:

Works will not commence until a lighting strategy has been submitted to and approved by the LPA, which includes input from a SQE in line with current best practice guidelines, and includes measures to ensure that the proposals do not have a negative impact upon nocturnal species such as bats; this includes the confirmed roost, potential roost sites, and the waterbodies/watercourses, hedgerows and areas of tree cover within and bordering the site.

A lighting strategy was submitted with this application. The Councils Ecologist confirmed that they were broadly satisfied with the strategies approach with regard to the nature and timing of the

proposed lighting however, it was noted that the scheme related to the previous scheme with the car park located to the west of the main building.

Given this, it was suggested that the condition be amended as follows:

No external lighting shall be installed until a lighting strategy has been submitted to and approved by the LPA, which includes input from a Suitably Qualified Ecologist in line with current best practice guidelines, and includes measures to ensure that the proposals do not have a negative impact upon nocturnal species such as bats; this includes the confirmed roost, potential roost sites, and the waterbodies/watercourses, hedgerows and areas of tree cover within and bordering the site. The strategy shall include no lighting beyond 18:00 hours except in connection with occasional evening events.

The agent agreed to this amendment and this is considered to be an appropriate condition which would accord with CSDP policy NE2.

Variation of planning condition 20 (Materials)

Planning condition 20 states that:

Notwithstanding any indication of materials which may have been given in the application, no development shall take place until a schedule and/or samples of the materials and finishes to be used for the external surfaces, including footpaths, walls, roofs, doors and windows has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details; in the interests of visual amenity and to comply with policy BH1 of the Core Strategy and Development Plan.

The agent sets out that any subsequent development would be subject to Reserved Matters submissions, which would allow the Local Planning Authority to control the appearance of development.

The agent has however specified that material to be utilised in relation to the footpaths as whinstone chippings. Given this, it is requested that this condition is revised so that it relates solely to the footpaths:

The footpaths shall be constructed in accordance with the details shown on Drawing Number LS000187005 Rev T02 dated 18th December 2023.

The use of this material for the footpaths is considered appropriate and the revised wording of the condition is acceptable and would accord with policy BH1 of the CSDP.

Variation of planning condition 21 (Travel Plan)

Planning condition 21 states:

A detailed Travel Plan will be required to be submitted to and agreed in writing with the LPA, with targets based on surveys to be undertaken at future agreed dates, within 6 months of the opening of the facility.

A travel plan was submitted with this application setting out that the aims of the plan would be to reduce single occupancy car use for staff and visitors and to increase active and sustainable travel to the site. The use of public transport, walking routes to site and additional support for those cycling to work i.e. showers, cycling initiatives and secure storage.

The Council Highway Officer confirmed that they were satisfied with the travel plan and the following condition suggested by the agent is considered to be appropriate:

The proposed development shall be operated in accordance with the Travel Plan dated October 2023.

The revised wording of condition 21 is considered to be acceptable and would accord with policies ST2 and ST3 of the CSDP.

Based on the above, the variation of conditions 1 (Plans), to swap positions of miniature railway and overflow car park, 4 (Remediation), 5 (Verification), 7 (CEMP) ,11 (Arboricultural method statement), 15 (Lighting strategy), 20 (Materials) and 21 (Travel Plan); and removal of conditions 3 (Ground investigation) and 10 (E-CEMP) are considered acceptable and it is recommended that Members Grant Consent under Regulation 3 of the Town and Country Planning (General Regulations) 1992.

All other conditions of the original permission which remain applicable will be re-imposed.

Equality Act 2010 - 149 Public Sector Equality Duty

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:-

- o age;
- o disability;
- o gender reassignment;
- o pregnancy and maternity;
- o race;
- o religion or belief;
- o sex;
- o sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to?

- (a) tackle prejudice, and
- (b) promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

CONCLUSION

Based on the above, the variation of conditions 1 (Plans), to swap positions of miniature railway and overflow car park, 4 (Remediation), 5 (Verification), 7 (CEMP) ,11 (Arboricultural method statement), 15 (Lighting strategy), 20 (Materials) and 21 (Travel Plan); and removal of conditions 3 (Ground investigation) and 10 (E-CEMP) are considered acceptable and it is recommended that Members Grant Consent under Regulation 3 of the Town and Country Planning (General Regulations) 1992.

All other conditions of the original permission which remain applicable will be re-imposed.

RECOMMENDATION: It is recommended that Members GRANT CONSENT under Regulation 3 of the Town and Country Planning (General Regulations) 1992 (as amended), subject to the conditions listed below.

Conditions:

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

Drawing Number LS000187.001 Rev P01, Existing Site Plan dated 07.10.21 and Drawing Number LS000187005 Rev T02 dated 9 November 2023.

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.

- 2 The development to which this permission relates must be begun not later than three years beginning with the date on which the original planning permission for the development (ref. 22/01673/HY3 was granted, 10.01.2023), 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

Reason: to ensure that the development is carried out within a reasonable period of time.

- 3 No development shall commence within 20m of MBH1 as shown on Drawing Number D10612/02A_00 until a detailed Remediation Scheme to bring this specific area 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 the NPPF and Policy HS3 of the CSDP

- 4 The Approved Remediation Scheme shall be implemented in accordance with the approved timetable of works. Within six months of the completion of measures identified in the Approved Remediation Scheme and prior to the development being brought into use, 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 NPPF and policy HS3 of the CSDP.

- 5 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 NPPF and policy HS3 of the CSDP.

- 6 Any subsequent Reserved Matters application must be accompanied by a Construction Environmental Management Plan (CEMP) for the agreement of the LPA and implemented in full accordance thereafter. The plan shall identify potential impacts upon the local environment and sensitive receptors arising from site clearance, preparation and construction. Suitable mitigation measures to address those impacts shall be set out in the plan and shall be implemented.

Reason: To protect nearby residents and other occupiers, and the local environment, from adverse impacts arising from operational works; in accordance with policies HS1 and HS3 of the Core Strategy and Development Plan (2015-2033).

- 7 Works will proceed in accordance with the protection and enhancement measures as detailed in the submitted reports, including:
- o Ecological Impact Assessment - Elemore Golf Course by DWS Ecology, Final version, 21/10/2022.
 - o Biodiversity Net Gain Plan - Elemore Golf Course by DWS Ecology, Final version, 15/07/2022.

Reason: In order to protect the biodiversity of the site and to comply with CSDP Policy NE2 and paragraph 175 of the National Planning Policy Framework.

- 8 Vegetation clearance works will be undertaken outside of the bird nesting season (March - September inclusive). If this is not possible, works will not commence unless a checking survey by a suitably qualified ecologist has been undertaken no more than 3 days prior to the start of works, to ensure no active nests are present which would be affected. In the event any active nests are identified, the ecologist will implement a suitable buffer zone around this feature into which no works will progress until subsequent checks by the ecologist confirm that the nest is no longer active.

Reason: In order to protect the biodiversity of the site and to comply with CSDP Policy NE2 and paragraph 175 of the National Planning Policy Framework.

- 9 The tree protection measures contained in Appendix A of the Arboricultural Impact Assessment approved on 10 May 2023 shall remain in place during the construction phase of the proposed development.

Reason: In order to protect the biodiversity of the site and to comply with CSDP Policy NE2.

- 10 A landscape and ecological management plan (LEMP) covering a period of no less than 30 years shall be submitted to and approved in writing by the LPA prior to the completion of works, which is related to the Biodiversity Net Gain documentation submitted with the planning application. The plan should include contingency measures should the

biodiversity aims and objectives not be met to ensure the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The document will include details of the planting scheme (including how and when habitats will be created, and the species mixes to be used) and details of ongoing management and monitoring works, including frequency of inspections and timescales for addressing any issues which arise. The plan will be delivered in accordance with the approved details.

Reason: In order to protect the biodiversity of the site and to comply with CSDP Policy NE2.

- 11 A document will be submitted to the LPA prior to the completion of works on site, which provides details of a monitoring strategy to be implemented following the completion of works in relation to both breeding and wintering birds, due to the current ornithological value of the site. This will cover a period of no less than 5 years following the commencement of public access to the site, the results of which will be provided to the LPA in a report produced by a suitably qualified ecologist, which includes comparisons between the baseline data set and the results of the monitoring surveys. If the monitoring works indicate that there have been negative impacts on the ornithological assemblage which cannot be related to national trends relating to such species, then measures will be proposed by the ecologists, and agreed with the LPA, to try to reverse such trends on site, with the monitoring strategy to be extended for at least a further 5 years to provide an indication of the efficacy of the updated management measures.

Reason: In order to protect the biodiversity of the site and to comply with CSDP Policy NE2.

- 12 Prior to the completion of construction works, a plan showing the location and specification of bird and bat boxes to be installed on the site will be submitted to, and approved in writing by the local planning authority.

Reason: In order to protect the biodiversity of the site and to comply with CSDP Policy NE2.

- 13 No external lighting shall be installed until a lighting strategy has been submitted to and approved by the LPA, which includes input from a Suitably Qualified Ecologist in line with current best practice guidelines, and includes measures to ensure that the proposals do not have a negative impact upon nocturnal species such as bats; this includes the confirmed roost, potential roost sites, and the waterbodies/watercourses, hedgerows and areas of tree cover within and bordering the site. The strategy shall include no lighting beyond 18:00 hours except in connection with occasional evening events.

Reason: In order to protect the biodiversity of the site and to comply with CSDP Policy NE2.

- 14 No lighting will be permitted to be used for one hour either side of sunset, or one hour prior to sunrise which would illuminate any bat boxes installed on site or the confirmed roost site within the building between April and October inclusive, to ensure the roost or any bats present are not disturbed, or use of the roost site adversely affected. No restrictions will apply between November and March inclusive. The exception during the bat active season

(April - October inclusive) will be for security lighting controlled by PIR or similar, with a trigger time which is as short as possible while fulfilling its purpose (ideally no more than 30 seconds) which is only to be used when the site is unoccupied, for reasons of public health and safety.

Reason: In order to protect the biodiversity of the site and to comply with CSDP Policy NE2.

- 15 Where new permanent fencing will be installed, this will include gaps which are of a suitable size as to ensure the site remains permeable to species including hedgehog and badger.

Reason: In order to protect the biodiversity of the site and to comply with CSDP Policy NE2.

- 16 No development except remediation, for which outline planning permission was granted via application ref. 22/01673/HY3 on the 10.01.2023, shall commence until the details of:

- o Appearance.
- o Landscaping.
- o Layout.
- o Scale

(hereinafter referred to as the "reserved matters") of that Phase have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: To allow such details to be reserved for subsequent consideration and to comply with the requirements of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 and to ensure that the development is carried out within a reasonable period of time.

- 17 Application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of permission 10.01.2023 for application ref: 22/01673/HY3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last reserved matters to be agreed.

Imposed pursuant to the provision of Section 92 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.

- 18 The footpaths shall be constructed in accordance with the details shown on Drawing Number LS000187005 Rev T02 dated 18th December 2023.

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

- 19 The proposed development shall be operated in accordance with the Travel Plan dated October 2023.

Reason: To ensure that development provides safe and convenient access for all road users in order to comply with CSDP policies ST2 and ST3.

- 20 Prior to the opening of the site to the general public, the hardstanding areas and vehicle parking bays (including accessible bays and bays with electrical vehicle charging points) shall be installed / completed on-site and made available for use. The vehicle parking bays shall then be maintained and retained henceforth for their designated purposes.

To ensure a satisfactory form of sustainable development, in the interest of highway safety, and to comply with Policy ST2 and Policy ST3 of the adopted Core Strategy and Development Plan.

Reference No.: 23/02556/LP3 Local Authority (Reg 3)

Proposal: **Provision of a Changing Places modular toilet.**

Location: Land Adjacent Public Toilets/Visitors Car Park Herrington Country Park
Chester Road Shiney Row Houghton-le-Spring

Ward: Shiney Row
Applicant: Sunderland City Council
Date Valid: 14 December 2023
Target Date: 8 February 2024

PROPOSAL:

Planning permission is sought for the provision of a changing places modular toilet at Herrington Country Park.

The proposed development would be sited just outside the café and play area within Herrington Country Park near Penshaw and lies within the Green Belt.

The Park, which is owned by the City Council, can be traced back to a reclamation scheme in the early 1990's (refs: 91/00277/80 and 98/01856/VAR). There has been subsequent development; including the construction of a toilet block (ref: 04/02419/LAP), the laying out of 225 parking spaces (ref: 06/00518/LAP) and an extension to an existing building on site (ref: 08/03761/LAP).

There has also been a change of an existing building to a tea room (ref: 10/00896/LAP) and change of use of ground maintenance storage area to provide an extension to the café (ref: 21/02343/LP3).

The application sets out that the proposal has been submitted by Sunderland City Council for the Provision of a Changing Places modular toilet this would be sited to the South West on the existing car park bordering the play area. There would be a width of 5.8m and a depth of 4.0m. It would consist of a flat roof a height of approximately 3.3m. A door would be installed on the front elevation 1.2m wide by 2.0m high.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Environmental Health
Cllr Katherine Mason-Gage
Cllr David Snowdon

Cllr Melville Speding
Planning And Highways
Network Management
Land Contamination

Love Lily At Herrington Park Chester Road Shiney Row Houghton-le-Spring DH4 7EL

Final Date for Receipt of Representations: **06.02.2024**

REPRESENTATIONS:

Representation

There have been no objections or representations received from Ward Councillors.

Council's Land Contamination officer has no objections to the proposal. but have recommended that a condition be placed with regards to reporting of unexpected contamination.

The Council's Network Management Team have no observations or recommendations

The Council's Environmental Health - comments awaited.

Public consultation - comprised of letters to nearby residents and the display of 2 no. site notices within Herrington Country Park, and a notice published in the Sunderland Echo.

The date of expiry for representations is the 06 February 2024 and any further representations received will be reported to Members of the Committee ahead of the meeting.

POLICIES:

In the Core Strategy and Development Plan the site is subject to the following policies;

BH1

L_1

L_7

L_12

NE4

NE6

ST2

ST3

L_1_General provision of recreational and leisure facilities

L_7_Protection of recreational and amenity land

L_12_Promotion of the recreational and tourist potential of the coast and riverside

COMMENTS:

Consideration of application

National planning guidance is provided by the National Planning Policy Framework, which requires the planning system to contribute to the achievement of sustainable development by, amongst other objectives, delivering high standards of visual and residential amenity and protecting Green Belt land.

Core Strategy and Development Plan

As of the 30th January 2020 the Council adopted a new Core Strategy and Development Plan, which replaces the 1998 Unitary Development Plan (UDP). It should be noted that some of the policies within the UDP were saved by way of direction and if any UDP policies are referred to in this report they will be saved policies.

The policies which are considered to be pertinent to the determination of this application are the saved policies of the UDP L1, L7 and L12 and policies BH1, NE4, NE6, ST2 and ST3 of the CSDP.

With regard to the policy framework set out above, it is considered that the main issues to address in the determination of the application are as follows:

1. Principle of the development;
2. Impact on Visual Amenity

1. Principle of development

As noted above, the application site lies within the Green Belt. Policy NE6 of the CSDP says that

"Development in the Green Belt will be permitted where the proposals are consistent with the exception list in national policy subject to all other criteria being acceptable."

The national policy referred to immediately above, i.e. the National Planning Policy Framework, says at paragraph 154 that Local Planning Authorities should regard the construction of new buildings in the Green Belt as inappropriate, unless exceptions apply. One such exception, at sub-paragraph 154(b), is where the building is for 'the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it'.

Herrington Country Park is an established recreational facility for the City and the proposed modular toilet is considered to represent an appropriate facility for such a venue. Paragraph 154(b) does require any such buildings to preserve the openness of the Green Belt and in this regard, the toilet is positioned immediately adjacent to the existing cafe buildings at the main car park. As such, it will be viewed in the context of these existing buildings and this, coupled with its very minor scale, will ensure the Green Belt's openness is preserved.

Furthermore, it is considered that this very minor development will not conflict with the purposes of including land within the Green Belt, which are set out within policy NE6 and include checking unrestricted urban sprawl, safeguarding the countryside from encroachment, assisting in urban regeneration, preserving the character of villages and preventing the merger of individual urban areas, including Sunderland and Houghton-le-Spring.

Given the above, it is considered that the proposed toilet block is not inappropriate development in the Green Belt, as per the exception at paragraph 154(b) of the NPPF.

Herrington Country Park is identified as an area of existing public open space by the proposals map of the UDP and consequently saved policies L1 and L7 of the UDP are of relevance. Policy L1 states that the Council will, amongst other objectives, seek to provide a high quality range of recreational, sporting, cultural and community facilities and retain existing parks and recreation grounds and maintain and upgrade facilities therein. Policy L7, meanwhile, states that land allocated for open space or outdoor recreation will be protected from development unless certain criteria are met.

Also of relevance in this case is saved policy L12 of the UDP, which sets out that the Council will promote the recreational and tourist potential of the coast by, amongst other measures, encouraging development which provides for the needs of visitors without adversely affecting the environment and conservation requirements.

Policy NE4 within the Council's CSDP is relevant, given that the park is identified as existing public open space. This policy sets out that green space will be protected from development that would have a serious adverse effect on its amenity, recreational or nature conservation value. Proposals for the development of green space will be considered in light of their contribution to urban regeneration and the importance of such space to the established character of the area.

The proposed provision for a changing places a modular toilet would be located at the South West corner of the existing car park, and the materials used in the construction are considered to be sympathetic to the character within the locality. There have been no representations received and the proposed development is not considered to unacceptably harm the recreational and amenity value of Herrington Country Park and the wider area. Rather, it will provide an important facility for visitors to the park with mobility issues and will complement the existing range of facilities available within the park. The development will not, therefore, conflict with policy NE4's objectives.

Given the above, it is considered that the principle of the development is acceptable and is considered to satisfy the objectives of UDP policies L1, L7, L12 and CSDP policies NE4 and NE6.

2. Impact of development on visual and residential amenity

Policy BH1 of the CSDP states that, to achieve high quality design and positive improvement, development should (amongst other requirements) be of a scale, massing, layout, appearance and setting which respects and enhances the positive qualities of nearby properties and the locality.

The proposed building does not give rise to any visual or residential amenity concerns given its very minor scale and location within the Country Park.

Equality Act 2010 - 149 Public Sector Equality Duty

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:-

- o age;
- o disability;
- o gender reassignment;
- o pregnancy and maternity;
- o race;
- o religion or belief;
- o sex;
- o sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to?

- (a) tackle prejudice, and
- (b) promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

Conclusion

For the reasons set out above, the proposal is considered acceptable in principle and accords with the NPPF and CSDP policies BH1, NE4, NE6, ST2 and ST3. It is considered to be an acceptable form of development within the Green Belt which would not cause unacceptable harm to the recreational or nature conservation value of the country park.

Public consultation on the application has, however, not yet expired, whilst a consultation response from the Council's Environmental Health officer is awaited. Details of any responses received will be provided to Members ahead of the Committee meeting.

RECOMMENDATION:

It is recommended that Members be MINDED TO GRANT CONSENT under Regulation 3 of the Town and Country Planning General Regulations 1992 (as amended), subject to no objections being received from the Council's Environmental Health Officer by 15/02/2024, no objections being received following the expiry to the publicity period on 06/02/2024, and subject to the conditions listed 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.

- 2 The development hereby granted permission shall be carried out in full accordance with the following approved plans:
Received 11/12/2023
Location Plan
Proposed Floor Plans & Elevations

13/12/2023
Proposed Site Plan Including Distances to Boundaries

14/12/2023
Proposed Site Plan

In order to ensure that the completed development accords with the scheme approved and to comply with policy BH1 of the adopted Core Strategy and Development Plan.

- 3 The materials used in the development hereby approved shall be those detailed in the 'Materials' section of the submitted 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.

- 4 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. A Risk Assessment must be undertaken in accordance with the requirements of the Environment Agency's "Land Contamination: Risk Management" and where remediation is necessary a Remediation Scheme must be prepared and submitted to the Local Planning Authority in accordance with the requirements that the Remediation Scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. Once the Remediation Scheme has been approved in writing by the Local Planning Authority it shall be known as the Approved Remediation Scheme. Following completion of measures identified in the Approved Remediation Scheme a verification report must be prepared and submitted in accordance

with the approved timetable of works. Within six months of the completion of measures identified in the Approved Remediation Scheme and prior to the occupation of any building, a validation report (that demonstrates the effectiveness of the remediation carried out) must be submitted to the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with the National Planning Policy Framework Paragraphs 174f and 183

Reference No.: 23/02561/LP3 Local Authority (Reg 3)

Proposal: **Provision of a Changing Places modular toilet.**

Location: Roker Park Roker Park Road Sunderland

Ward: St Peters
Applicant: Sunderland City Council
Date Valid: 14 December 2023
Target Date: 8 February 2024

PROPOSAL:

Planning permission is sought for the provision of a changing places modular toilet at Roker Park.

The proposed development affects Roker Park, a Grade-II Registered Historic Park and Garden located within the Victorian and Edwardian coastal suburb of Roker. The Park, the residential terraces surrounding it and areas of the nearby seafront and promenade also form the basis of the Roker Park Conservation Area.

The Park, which is owned by the City Council and dates from 1880, is a popular amenity facility, offering play areas, a pond utilised for model boating, a model railway and a ravine leading to the promenade and beach. The Park also features a range of historic buildings and structures, including a bandstand and drinking fountain, both of which are Grade-II Listed.

The application sets out that the proposal has been submitted by Sunderland City Council for the Provision of a Changing Places modular toilet, which would be sited to the North East of the bowling green in the park. The toilet building would have a width of 4.5m and a depth of 3.4m. It would consist of a flat roof a height of approximately 2.6m. A door would be installed on the front elevation 1.2m wide by 2.0m high.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted

CONSULTEES:

Planning Implementation
Environmental Health
The Garden Trust
Cllr Lynn Vera
Cllr Joshua McKeith
Cllr Sam Johnston
Network Management
Land Contamination

Planning And Highways

Final Date for Receipt of Representations: **29.01.2024**

REPRESENTATIONS:

Representations

Ward Councillor Sam Johnston supports the application and accepts that the provision of accessible toilets is vitally important for disabled residents, disabled visitors to this city and their families. Improving accessibility to Roker Park should be at the forefront of what we are doing, so that everyone can enjoy this public space. The application, if approved, would materially improve the Park as a community asset.

The Gardens Trust (a statutory consultee on planning applications affecting registered historic parks and gardens) - comments not yet received.

Council's Land Contamination officer has no objections to the proposal.

Council's Conservation Team - comments not yet received.

Council's Environmental Health Team - No objections

Public consultation - comprised of letters to nearby residents and the display of 2 no. site notices within Roker Park, and a notice published in the Sunderland Echo.

The date of expiry for representations is the 29th January 2024 and any further representations received will be reported to Members of the Committee ahead of the meeting.

POLICIES:

In the Core Strategy and Development Plan, and Unitary Development Plan, the site is subject to the following policies;

L_1

L_7

L_12

BH1

BH8

NE2

L_1_General provision of recreational and leisure facilities

L_7_Protection of recreational and amenity land

L_12_Promotion of the recreational and tourist potential of the coast and riverside

COMMENTS:

Consideration of application

National planning guidance is provided by the National Planning Policy Framework, which requires the planning system to contribute to the achievement of sustainable development by,

amongst other objectives, delivering high standards of design and amenity and conserving and enhancing heritage assets such as Conservation Areas and Historic Parks and Gardens.

Core Strategy and Development Plan

As of the 30th January 2020 the Council adopted a new Core Strategy and Development Plan, which replaces the 1998 Unitary Development Plan (UDP). It should be noted that some of the policies within the UDP were saved by way of direction and if any UDP policies are referred to in this report they will be saved policies.

The policies which are considered to be pertinent to the determination of this application are the saved policies of the UDP L1, L7 and L12 and policies BH1, BH7 and NE4 of the CSDP.

With regard to the policy framework set out above, it is considered that the main issues to address in the determination of the application are as follows:

1. Principle of the development;
2. Impact on visual amenity and built heritage;

1. Principle of development

Roker Park is identified as an area of existing public open space by the proposals map of the UDP and consequently saved policies L1 and L7 of the UDP are of relevance. Policy L1 states that the Council will, amongst other objectives, seek to provide a high quality range of recreational, sporting, cultural and community facilities and retain existing parks and recreation grounds and maintain and upgrade facilities therein. Policy L7, meanwhile, states that land allocated for open space or outdoor recreation will be protected from development unless certain criteria are met.

Also of relevance in this case is saved policy L12 of the UDP, which sets out that the Council will promote the recreational and tourist potential of the coast by, amongst other measures, encouraging development which provides for the needs of visitors without adversely affecting the environment and conservation requirements.

Policy NE4 within the Council's CSDP is relevant, given that the park is identified as existing public open space. This policy sets out that green space will be protected from development that would have a serious adverse effect on its amenity, recreational or nature conservation value. Proposals for the development of green space will be considered in light of their contribution to urban regeneration and the importance of such space to the established character of the area.

The proposed provision for a changing places a modular toilet would be located at the North East corner of the existing bowling green and the materials used in the construction are considered to be sympathetic to the character within the locality. There have been no representations received and the proposed development is not considered to unacceptably harm the recreational and amenity value of Roker Park and the wider area. Rather, it will provide an important facility for visitors to the park with mobility issues and will complement the existing range of facilities available within the park. The development will not, therefore, conflict with policy NE4's objectives.

Given the above, it is considered that the principle of the development is acceptable and is considered to satisfy the objectives of UDP policies L1, L7, L12 and CSDP policy NE4.

2. Impact of development on visual amenity and built heritage

Policy BH1 of the CSDP states that, to achieve high quality design and positive improvement, development should (amongst other requirements) be of a scale, massing, layout, appearance and setting which respects and enhances the positive qualities of nearby properties and the locality.

Meanwhile policies BH7 and BH8 of the CSDP relate to proposals which affect heritage assets. Policy BH7 states that the Council will ensure that great weight will be given to "the conservation of heritage assets", such as Conservation Areas and Historic Parks and Gardens, while policy BH8 states that in relation to Conservation Areas, the Council will "preserve or enhance their significance including their diverse and distinctive character, appearance and their setting". A similar approach must be taken to development affecting an Historic Park or Garden, such as Roker Park, with development required to respect their designed landscape character.

It is considered that the proposed toilet building will be a relatively discrete addition to the park and it does not give rise to any obvious visual amenity concerns or issues relative to the heritage significance of Roker Park or the wider Roker Park Conservation Area. Consultation responses are, however, awaited from The Gardens Trust and the Council's Built Heritage officer. Details of any responses received will be provided to Members ahead of the Committee meeting.

The Council's Environmental Health team have, however, raised no objections to the proposal.

Equality Act 2010 - 149 Public Sector Equality Duty

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:-

- o age;
- o disability;
- o gender reassignment;
- o pregnancy and maternity;
- o race;
- o religion or belief;
- o sex;
- o sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c)

encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to?

- (a) tackle prejudice, and
- (b) promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

Conclusion

For the reasons set out above, the proposal is considered acceptable in principle and accords with the NPPF and CSDP policies BH1, BH7, BH8 and NE4. It is considered to be an appropriate form of development within the park which would not cause any harm to its recreational or nature conservation value or give rise to any concerns in respect of visual and residential amenity.

Additionally, the proposal appears acceptable in relation to heritage considerations, however consultation comments are awaited from The Gardens Trust and the Council's Built Heritage officer in respect of this matter.

The period for receipt of representations from members of the public does also not expire until 29th January.

Details of responses received from the consultees and any representations submitted by members of the public, together with a final recommended decision, will be provided to Members ahead of the Committee meeting.

RECOMMENDATION: It is recommended that Members be MINDED TO GRANT CONSENT under Regulation 3 of the Town and Country Planning General Regulations 1992 (as amended), subject to no objections being received from consultees by 15/02/2024 and subject to the conditions listed 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 12/12/2023:
Location Plan
Site Plan
Proposed Plans & Elevations

In order to ensure that the completed development accords with the scheme approved and to comply with policy BH1 of the Core Strategy and Development Plan.

- 3 Notwithstanding any indication of materials which may have been given in the application; the materials to be used, shall be in accordance with those stated on the proposed wildlife platform plan, received 22.10.22. Unless the Local Planning Authority first agrees any variation in writing; in the interests of visual amenity and to comply with policies BH1, BH7 and BH8 of the CSDP.

Reference No.: 23/02565/LP3 Local Authority (Reg 3)

Proposal: **Demolition of the previous covered external play area and full refurbishment and extension of the former standalone nursery building to provide an additional SEN resource unit. Modified elevational treatment to allow for new fenestration and access to external rear yard and associated external works.**

Location: Hudson Road Primary School Hudson Road SunderlandSR1 2AH

Ward: Hendon

Applicant: Together For Children

Date Valid: 18 December 2023

Target Date: 12 February 2024

PROPOSAL:

SITE

The site in question comprises the Nursery Building located within the grounds of Hudson Road Primary School. The building is no longer in use as a nursery facility and is currently vacant. The building is located within the boundary of the existing school and faces onto Tatham Street with the car park for the Bangladeshi Community Centre opposite this and the residential properties on Meaburn Street 58 metres beyond this. It is noted that there is pedestrian access located to the side of the property and beyond this are the nearest residential properties on Bishop Morton Grove.

PROPOSAL

Planning permission is sought for the demolition of the previous covered external play area and full refurbishment and extension of the nursery building to provide an additional Special Educational Need (SEN) resource unit. The accompanying planning statement sets out that the nursery building is no longer in use and nursery provision is now provided within the main school.

Internally the unit will provide 2no. classrooms and a shared group space between both classroom areas, with direct access to the external play area. The pupils will be able to use this space for quiet time, 1-2-1 work and break and lunch time food provision. The proposals have included a small kitchen so that food can be brought from the main school and children can have their snacks and meals within the new building.

The statement advises that the new building has been redesigned to meet the educational needs of reception KS1 (age 5-7) and KS2 (age 7-11) pupils and goes on to state that the proposal "can provide Hudson Road Primary School the additional space to enable such wider education facilities it currently does not have, whilst repurposing a building already within the secure boundary of the site".

With regard to the external appearance new windows (which will match the existing), will be inserted into the rear elevation and the new extension will utilise brick to match the existing. Worn timber will be replaced with cladding and the existing render will be repainted and refreshed.

The applicant confirmed on the 23.01.24 that the refurbishment will allow the addition of 16 pupils and 4 members of staff.

Members should note that the application has been submitted by the City Council's Capital Projects team on behalf of Together For Children.

TYPE OF PUBLICITY:

Site Notice Posted
Neighbour Notifications

CONSULTEES:

Cllr Lynda Scanlan
Cllr Michael Mordey
Cllr Ciaran Morrissey
Planning And Highways
Network Management
Environmental Health
Land Contamination

Hendon Health Centre Meaburn Terrace Sunderland SR1 2LR
20 Wylam Grove Sunderland SR1 2RN
8 Bishop Morton Grove Sunderland SR1 2RX
6 Bishop Morton Grove Sunderland SR1 2RX
10 Bishop Morton Grove Sunderland SR1 2RX
7 Bishop Morton Grove Sunderland SR1 2RX
9 Bishop Morton Grove Sunderland SR1 2RX

Final Date for Receipt of Representations: **23.01.2024**

REPRESENTATIONS:

Public consultation - the application has been publicised via letters sent to nearby residential properties and the posting of site notices in the area.

No representations have been received as a result of the publicity carried out.

Council's Environmental Health team - considers that the development is acceptable in principle, subject to a condition relating to the submission of a Construction Environmental Management Plan.

Ground contamination - It is considered that land contamination does not represent an impediment to granting planning permission for the development subject to an unexpected contamination condition being added to any approval.

Council's Highways team - No objection to the proposal subject to a Construction Management Plan (CTEMP) being provided.

POLICIES:

Core Strategy and Development Plan 2015-2033 (CSDP)

VC5

NE4

BH1

HS1

HS3

ST3

Unitary Development Plan (saved policies) (UDP)

L7

COMMENTS:

Considerations

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 requires the planning system to contribute to the achievement of sustainable development. To this end Paragraph 131 of the NPPF sets out that good design is a key aspect of sustainable development, creating better places in which to live and work. Paragraph 135 meanwhile requires that development should function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development, and should offer a high standard of amenity for existing and future users and create places that are safe, inclusive and accessible Paragraph 139 states that planning permission should be refused for development of poor design where it fails to reflect local design policies and government guidance on design.

The Council's Core Strategy and Development Plan (CSDP) was adopted in January 2020 and is considered to represent an up-to-date development plan for the purposes of the NPPF. 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 most of the policies within the Council's Unitary Development

Plan (1998) and the UDP Alteration No. 2 (Central Sunderland), although some UDP policies have been saved.

Policies VC5, NE4, BH1 and HS1 of the CSDP are pertinent to the determination of this application. Additionally, saved policy L7 of UDP Alteration No. 2 remains applicable to the application site.

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

1. Principle of the proposed development
2. Impacts of the development on amenity
3. Considerations relating to ground conditions
4. Highways considerations

1. Principle of the proposed development

The site in question is still allocated as school playing fields within the Councils UDP and therefore saved UDP Policy L7, relating to the retention of playing fields, is relevant here.

Policy NE4 is also relevant as it sets out that greenspace will be protected from development that would have a serious adverse effect on its amenity, recreational or nature conservation value. Proposals for the development of green space will be considered in light of their contribution to urban regeneration and the importance of such space to the established character of the area.

It is noted that the building in question has been utilised as an educational facility for a number of years and no school playing field would be impacted by the proposal. Further to this, the proposal would extend and refurbish an existing building on site and would not negatively impact greenspace.

Given the above, it is considered that the use of this building to support special educational needs within the School, would correspond with the prevailing land use and would be acceptable in principle.

The school is considered to be a 'community facility' in planning terms and policy VC5 sets out that community facilities will be protected and enhanced by (inter alia) supporting development of new and extended community facilities. Development for new community facilities should be located in accessible neighbourhood and centre locations.

With regard to the above, the special educational needs of pupils will be met onsite, and this will improve the current school's facilities and educational offer, in line with the objectives of Policy VC5.

Notwithstanding this conclusion, in order to determine the acceptability of the proposed development, consideration must be given to all other relevant material considerations; this exercise is undertaken below.

2. Residential and visual amenity considerations

Policy BH1 of the Council's Core Strategy and Development Plan seeks to achieve high quality design and positive improvement by, amongst other measures, ensuring development is of a scale, massing, layout, appearance and setting which respects and enhances the qualities of

nearby properties and retains acceptable levels of privacy and ensures a good standard of amenity for all existing and future occupiers of land and buildings.

CSDP Policy HS1 states that development must demonstrate that it does not result in unacceptable adverse impacts which cannot be addressed through appropriate mitigation, arising from sources such as air quality, noise, dust, odour, illumination and land and water contamination. Where unacceptable impacts arise, planning permission will normally be refused. The works involve a small extension to the existing building, new windows facing onto the highway and external improvement works.

In terms of impact on visual amenity, the materials to be used will largely match the existing building and the proposal will provide a good standard of development which will sit comfortably and appropriately within the context of the established built form of the locality.

In terms of residential amenity, the extension would be some distance from the nearest neighbouring dwelling and the new windows within the unit will overlook the highway, rather than any neighbouring dwelling. Given this, the proposal will not appear overbearing and existing levels of privacy will be maintained.

With regard to the function of the building, it would still be as educational space and the Councils Education Officer has confirmed that it is the expectation that the pupils won't spend 100% of their time in the unit.

They have gone on to confirm that the children that attend should be capable of accessing a mainstream school environment with some bespoke support (and it's that bespoke element that they'll use the former nursery building for), so some of the pupils may only actually spend 50% of their time in the unit and the SEN building will only play a part in their wider schooling.

They'll have access to an outside area that supports any bespoke element of their curriculum (i.e. a horticulture or allotment element for therapy), but equally should be using the main school field, play areas etc (and classrooms).

The Councils Environmental Health Officer accepts that the development will provide a continuation of the existing childcare use but will also form part of the primary school.

Designated external areas may be provided to support supervised outdoor learning or therapy for bespoke elements of the curriculum. Children will also have access to the main school facilities, such as outdoor play provision.

Given this, the Environmental Health Officer considers that the operation of the SEN unit will have less of an impact on local amenity, when compared to the previous nursery operation.

Therefore, in terms of noise and disturbance, it would not be considered that the SEN unit would have a greater impact on the amenity of neighbouring dwellings than the previous use.

During the construction phase the Environmental Health Team have requested that a Construction Environmental Management Plan (CEMP), should be conditioned, to ensure the amenity of local residents is not negatively impacted.

Subject to an appropriate condition, the impact of the development on the amenity of existing properties in the area is acceptable, whilst the school will also provide pupils with a high-quality learning environment, in accordance with the requirements of policy BH1 and HS1 of the CSDP.

3. Implications of development in respect of land contamination

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 Councils Land Contamination Officer has confirmed that as the proposed development does not involve an increase in the sensitivity of the end use of the site, they would be satisfied with an unexpected contamination condition being added to any approval.

Subject to the imposition of this condition, it is considered that the risks posed by potential contamination and ground conditions can be adequately addressed to satisfy the objectives of the NPPF and policy HS3 of the CSDP.

4. Impact of the development on highway and pedestrian safety

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.

As is set out in the submission, there will be no alteration to existing ingress and egress points and no changes to the existing car parking provision on site. The Councils Highway Engineers consider that the small increase in pupil and staff numbers would not be considered to negatively impact the existing carparking provision on site.

Consequently, they have no objection to the proposal subject to a Construction Management Plan (CTMP) being provided. They set out that the CTMP shall set out the proposed access, parking and materials delivery arrangements for demolition/construction related vehicles, along with proposed working hours. It should also be stated within the plan that construction activities and deliveries should not take place during peak school drop-off and pick-up times, in the interest of safety.

Consequently, the proposals are considered to satisfy policies BH1, ST2 and ST3 of the Council's adopted CSDP.

Equality Act 2010 - 149 Public Sector Equality Duty

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:-

- o age;
- o disability;
- o gender reassignment;
- o pregnancy and maternity;
- o race;
- o religion or belief;
- o sex;
- o sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to?

- (a) tackle prejudice, and
- (b) promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

Conclusion

For the reasons set out above, it is considered that the proposed development is acceptable in principle and with regard to residential and visual amenity, highway safety and land contamination, subject to the conditions set out within the report.

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

RECOMMENDATION: It is recommended that Members GRANT CONSENT under Regulation 3 of the Town and Country Planning (General Regulations) 1992 (as amended), subject to the conditions below;

Conditions:

- 1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and

Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time.

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

- Location plan, received 18.12.23
- Existing site plan, drawing number 0523001-SCC-01-XX-DR-A-6001 P01.01, received 18.12.23
- Existing floor plan, drawing number 0523001-SCC-01-DR-A-1001 P02.01, received 18.12.23
- Existing elevations, drawing number 0523001-SCC-01-XX-DR-A-1010 P01.03, received 18.12.23
- Proposed site plan, drawing number 0523001-SCC-01-XX-DR-A-6002 P01.01, received 18.12.23
- Proposed floor plan, drawing number 0523001-SCC-01-DR-A-2010 P01.01, received 18.12.23
- Proposed elevations, drawing number 0523001-SCC-01-XX-DR-A-3001 P02.01, received 18.12.23
- Proposed roof plan, drawing number 0523001-SCC-01-R1-DR-A-2001 P01.01, received 18.12.23
- Proposed sections, drawing number 0523001-SCC-01-XX-DR-A-4001 P01.01, received 18.12.23

In order to ensure that the completed development accords with the scheme approved and to comply with policy BH1 of the Core Strategy and Development Plan.

3 Notwithstanding any indication of materials which may have been given in the application; the materials to be used, shall be in accordance with those stated within the application form received on the 13.12.23. Unless the Local Planning Authority first agrees any variation in writing; in the interests of visual amenity and to comply with policy BH1 of the CSDP.

4 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. A Risk Assessment must be undertaken in accordance with the requirements of the Environment Agency's "Land Contamination: Risk Management" and where remediation is necessary a Remediation Scheme must be prepared and submitted to the Local Planning Authority in accordance with the requirements that the Remediation Scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. Once the Remediation Scheme has been approved in writing by the Local Planning Authority it shall be known as the Approved Remediation Scheme. Following completion of measures identified in the Approved Remediation Scheme a verification report must be prepared and submitted in accordance with the approved timetable of works. Within six months of the completion of measures identified in the Approved Remediation Scheme and prior to the occupation of any building, a validation report (that demonstrates the effectiveness of the remediation carried out) must be submitted to the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with the National Planning Policy Framework Paragraphs 174f and 183.

5 Prior to the commencement of any works on site the applicant should submit for the approval of the LPA a suitable construction environmental management plan that addresses all potential impacts upon nearby occupiers and the local environment that may arise from demolition works and subsequent construction. The plan shall, amongst other matters, address the following:

- o Confirmation of the conclusions of an asbestos survey
- o Recognition of the nearest sensitive receptors, which are considered to be existing dwellings on Bishop Morton Grove.
- o Measures to control noise and vibration, dust, and other air pollutants arising from the site works, and prevention of light spill and glare affecting properties.
- o Heavy vehicle routing and avoidance of queuing and engine idling
- o Prohibition of the burning of waste
- o Proposed working hours.
- o Notification to nearby residents of the intended duration of works
- o Compliance with BS5228 code of practice

Thereafter, the works shall be carried out in full accordance with the agreed details.

Reason: In the interests of amenity and to accord with policies BH1 and HS1 of the Core Strategy Development Plan.

6 No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to the Local Planning Authority for approval in writing. For the avoidance of doubt, the CTMP shall set out the proposed access, parking and materials delivery arrangements for demolition/construction related vehicles, along with proposed working hours. It should also be stated within the plan that construction activities and deliveries should not take place during peak school drop-off and pick-up times, in the interest of safety. Thereafter, the works shall be carried out in full accordance with the agreed details.

Reason: In the interests of amenity and highway safety to accord with policies BH1 and ST3 of the Core Strategy Development Plan.