

DEVELOPMENT PLAN

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

Unitary Development Plan - current status

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

STANDARD CONDITIONS

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

SITE PLANS

The site plans included in each report are illustrative only.

PUBLICITY/CONSULTATIONS

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

LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION

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

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

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

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

Janet Johnson
Deputy Chief Executive

Reference No.: 13/00198/FUL Full Application

Proposal: **Erection of 42 dwellings with associated landscaping, infrastructure and car parking (revision of previously approved layout ref. 06/02209/FUL) .**

Location: Land At Murton Lane/ South Of Firtree Lane Easington Lane Houghton-le-Spring

Ward: Hetton

Applicant: Persimmon Homes

Date Valid: 17 July 2013

Target Date: 16 October 2013

PROPOSAL:

This planning application is effectively a resubmission of a previous approval at the site. A Hybrid planning application (ref. 06/02209/FUL) was approved by Members of the 6 February 2007 Development Control (Hetton, Houghton & Washington) Sub Committee meeting. However, as a Section 106 Agreement needed to be signed and sealed by all parties of the Development Consortium the application was not formally issued until the 22 April 2010. The Section 106 pertains to financial contributions in respect of education (£354,722), sport and recreation (£226,027) and public open space (£628,744.25).

The description of 06/02209/FUL is as follows:-

"Hybrid planning application comprising: Outline application for residential development and neighbourhood park; full application for Phase 1 residential on two parts of site; and stopping up of public footpath with change of use to residential development."

Of particular relevance of the above approved description to the current application is the "full application for Phase 1 residential on two parts of the site". Both Taylor Wimpey and Persimmon each have detailed planning permission for a portion of their respective development areas of the Murton Lane site and it is Persimmon's detailed portion that is the subject of the current application. Persimmon is now seeking permission to remodel their detailed Phase 1 approval, which totalled 46 units, in order to allow the development to build to its maximum potential yet still accord with the design and layout principles set by the Masterplan on which the 06/02209/FUL approval was based.

Although the proposed development consists of 42 no. units in light of 8 no. units approved by the 06/02209/FUL application remaining unaltered means that should Members be approve the application the total number of units on Phase 1 will total 50 no. units, representing a total increase of 4 units at the site. Members may also wish to note that Phases 2 & 3 of Persimmon's 3 phase part of Murton Lane site now also benefit from reserved matters approval for 97 dwellings, please see reference 13/00540/REM. This reserved matters application was

approved under delegated powers in accordance with the Council's scheme of delegation.

The Taylor Wimpey portion of Murton Lane is significantly developed out whilst Persimmon's Planning Statement asserts their area of the Murton Lane has stalled due to the changing housing market and the size of previously approved units. The purpose of the current application is to remix the Phase 1 area to allow the development to build to its maximum potential while ensuring the design and layout principles set by the wider Masterplan are followed.

- Application site

The proposed development is located at the most northerly extent of the Murton Lane site, which itself is situated on the eastern edge of Easington Lane. The Murton Lane site was formerly in agricultural use, although active farming had ceased 10 years prior to the submission of the 06/02209/FUL application. At the time of the 06/02209/FUL application the Committee report explained that the site had been vacant and unused and as such, suffered from a range of typical urban fringe problems including trespassers, dog walking, use by motor vehicles and grazing by tethered ponies.

The surrounding area is predominantly residential in form and character. The A182 Easington High Street, running through the centre of Easington Lane, is less than 400m from the application site. The High Street contains a range of small shops, services and community facilities and is a major public transport route with direct and frequent services to Hetton le Hole, Houghton le Spring, Sunderland, Washington, South Shields, Newcastle, Durham, Seaham, Hartlepool & Peterlee.

In respect of the application site boundary which is the subject of this planning submission the site is bordered to the north by existing residential development (Lyons Avenue & Firtree Lane), to the west by detached garden areas of existing properties in Lyons Avenue, to the south and east by Persimmon's Phases 2 & 3, which consists of 97 units (reserved matters approval 13/00540/REM). The proposed development will be accessed from Firtree Lane, which in turn will be extended to form the spine road that will ultimately connect the Persimmon and Taylor Wimpey developments, as approved via 06/02209/FUL.

The application has been supported by:-

- Flood Risk Assessment
- Drainage and Highways Study (20 February 2005)
- Verification Ecological Survey
- Topographical Survey
- Design and Access Statement
- Planning Statement
- Plans & Elevations

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Network Management
Environment Agency
Environmental Health
Hetton Town Council
Director Of Childrens Services
Easington Office
Nexus
Network Management
Hetton - Ward Councillor Consultation
Northumbrian Water

Final Date for Receipt of Representations: **30.08.2013**

REPRESENTATIONS:

Representations

Following the public consultation exercise 40 representations in objection have been received. The issues raised can be summarised as follows:-

37 letters of objection were identical in form and content and expressed concern in respect of the amount of development now being proposed. The letters assert that the site had to be reduced when Persimmon had to give land back to residents in the north-west corner of the site (i.e. the track to the north west of the site providing access to two existing properties in Lyons Avenue). Concerns were also expressed in respect of this track in respect of issues with youths, fly tipping, dog fouling etc and that there appears to be no provision for lighting or maintenance to this track. The letters also remarked that when development was first approved it was supposed to be for spacious properties. The letters asserted that an increase in development will result in more parked cars, increase in traffic and therefore greater danger for children playing in the development and Firtree Lane.

A letter of objection was received from the corner property at the entrance to the existing and retained track. The letter expressed concern in respect of that access road being used for heavy plant, thereby damaging their house and garden, as well as concerns over the safety of their children. They also expressed worry that the road will be used as a shortcut to the new site.

An additional two letters of objection was received from the same individual. Further to the concerns already detailed above the letters asserted that the increase in the number of homes and reduction in the sizes of the homes are incongruous to neighbouring properties. The letter asserted that the proliferation of small new homes in the area were contributing acutely to its decline, as part exchanges meant older properties were being sold at reduced prices, becoming neglected, thereby contributing to the downward spiral of the area.

The objection also raised the issue of flood risk and that the development would exacerbate existing problems. It was asserted that Northumbrian Water does not envisage upgrading their network for at least for 2 years, although Members

should note that this objection was received in August 2013. The objector insisted that none of the homes should be occupied until Northumbrian Water has completed their upgrade. The representations also highlighted the loss of visual amenity and considered that the scale and massing of the development would adversely affect the character of the area.

Northumbrian Water

In making their response Northumbrian Water assessed the impact of the proposed development on their assets and the capacity within Northumbrian Water's network to accommodate and treat the anticipated flows arising from the development. Having assessed the proposed development accordingly they have requested that a detailed scheme for the disposal of surface water and foul water be submitted to the LPA prior to development commencing on site.

Environment Agency

The previous approval 06/02209/FUL, which has been implemented and is therefore extant, agreed a discharge rate of 44 litres per second for the whole of the Murton Lane development site. This application addresses the majority of Phase 1 of Persimmon's 3 phase element of the Murton Lane site, which when all three are combined equates to 33.3% of the overall area and thus the maximum discharge rate is to be 14.70 litres per second.

Based on the above discharge rate and subject to the imposition of their requested conditions the EA consider the development meets the requirements of the National Planning Policy Framework (NPPF). The conditions require the development to be restricted to a surface water discharge rate of (maximum) 14.70 litres per second as well as agreeing a surface water management scheme.

Hetton Town Council

Members of Hetton Town Council noted that this development was adjacent to existing developments under construction at Neil Street and Murton Lane. The construction of this development would join up all the developments into a large estate and create a through road into Firtree Lane. Hetton Town Council expressed concern in respect of a rat-run being created as traffic sought to avoid congestion at the High Street's traffic lights system. Consequently, Hetton Town Council's formal comments on the application requested that traffic calming measures need to be examined, resolved and incorporated into the road network whilst under construction, and not later, when problems are caused to pedestrians living in the area.

Nexus

Nexus stated that they have no objection for the revision to the previously approved layout.

POLICIES:

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

B_2_Scale, massing layout and setting of new developments
T_14_Accessibility of new developments, need to avoid congestion and safety problems arising
EN_14_Development on unstable or contaminated land or land at risk from landfill/mine gas
EN_12_Conflicts between new development and flood risk / water resources
CN_18_Promotion of nature conservation (general)
CN_22_Developments affecting protected wildlife species and habitats
HA_4_Sites for new housing

COMMENTS:

The main issues to consider in the assessment of the proposal are as follows:

1. Principle of use
2. Highway considerations
3. Design and Residential Amenity considerations
4. Ecological considerations
5. Section 106

1. Principle of use

The development proposal is seeking to vary an extant permission (06/02209/FUL) which has commenced on site by virtue of the extensive development Taylor Wimpey have undertaken in implementing their approval. The Murton Lane site has long been identified for housing via Unitary Development Plan (UDP) policy HA4, while Paragraph 49 of the NPPF requires Local Planning Authorities (LPA) to consider housing applications in the context of sustainable development. Consequently, due regard must therefore be had to Paragraph 14 of the NPPF as this requires decision-takers to approve development proposals that accord with the development plan without delay.

Notwithstanding the fact that this application is only proposing 4 additional units over and above that which is approved by the extant 06/02209/FUL approval, the Council's Strategic Housing Market Assessment (SHMA) 2013, which the Authority is required to undertake by virtue of Paragraph 159 of the NPPF, identifies an imbalance of house types amongst the City's housing stock, with low levels of family, detached housing. The SHMA identifies a need for a mix of housing types in the Coalfield. This lack of choice is a major cause of out-migration to areas with more appropriate housing and is one of the main reasons behind the longstanding population decline in the City. The housing mix proposed by the scheme will largely comprise of detached and semi-detached, mid- to higher- value family dwellings, and as such are aligned to the local needs identified in the 2013 SHMA.

In conclusion, given the local and national planning policy context and in view of the fact that residential development is well established on site, it is considered that the principle of development is considered acceptable.

2. Highway considerations

UDP policy T14 requires new development to be readily accessible by pedestrians and cyclists, whilst proposals should not cause traffic congestion or

highway safety problems and make appropriate safe provision for access and egress.

The original planning application in 2006 (06/02209/FUL) was accompanied by a comprehensive Transport Assessment. The junction assessments are still considered to be valid based on the evidence that traffic volumes in the area have not increased significantly. Traffic volumes are regularly monitored and there is no indication of a general trend in increased traffic in recent years.

Regarding the main and only access into the site this will be taken from Firtree Lane, as approved via the 06/02209/FUL approval. From a highway engineering perspective the development now proposed is essentially the same as that previously approved. The main access road connecting Firtree Lane to Murton Lane is still integral to the scheme and the layout of the development has had to be fixed and designed around this constant.

The track to the north-west rear corner of the site is separate from the development proposal. This track provides access to existing properties in Firtree Lane (Bowes & Montrose) and would continue to do so should Members be minded to approve the scheme. The applicant has confirmed in writing the likelihood that they will look to sell or transfer the track to these properties and as such they are not proposing any form of adoption on this land. The track will remain as it is now while the proposed curtilages abutting the track will be enclosed by typical rear boundary fencing. Members may wish to that there will be no vehicular access to and from the development at this location; all vehicular access will come off the main spine road that will connect Firtree Lane and Murton Lane.

Each property will benefit from at least one in-curtilage parking space while the majority will also benefit from a garaging. The distribution of visitor parking is considered acceptable and is similar to that previously approved via 06/02209/FUL. Furthermore, a Section 38 (of the Highways Act 1980) Agreement has been entered into with the Local Highway Authority. Colleagues in Network Management (Street Scene) have confirmed that as part of this adoption process traffic calming measures have already been assessed and agreed. Traffic coming into the site from Firtree Lane and into the subsequent sub areas within the development will be calmed via round top road humps that are placed at strategic locations.

In conclusion, the development now proposed is not considered to be materially different to the extant 06/02209/FUL approval. As the development will be accessed from within the site, which itself will be accessed from the adopted highway on Firtree Lane, there are to be no other through routes from other areas of the surrounding highway network, whilst traffic calming measures have already been agreed to via the Section 38 Agreement. Consequently, the scheme now proposed is considered to be acceptable and in accordance with UDP policy T14.

3. Design and Residential Amenity considerations

In assessing the design merits of the scheme UDP policy B2 requires the scale, massing and layout of new developments to respect and enhance the best qualities of the area. Policy B2 also requires proposals to provide for an

acceptable amount of privacy amenity, whilst also protecting visual and residential amenity.

Planning application 06/02209/FUL was based upon the principles enshrined in the supporting Masterplan, which itself was subject to the Easington Lane Development Framework (ELDF) Supplementary Planning Guidance. In this respect it is noted that the general principles are being retained i.e. a perimeter block form of development and a varied street hierarchy as the narrower estate roads connect to the wide main through route connecting Firtree Lane and Murton Lane. The layout of the proposed development will also incorporate soft landscaping to the front and side of the plots abutting the residential streets, thereby further improving visual amenity within the scheme and assimilating the development with the rest of Persimmon's portion of the Murton Lane site. In summary, it is considered that the proposed layout in general terms accords with the Masterplan and ELDF.

In terms of the spacing implications for existing properties surrounding the site it is noted that there are existing properties to the north (Firtree Lane) and west (Lyons Avenue), while Persimmon's Phases 2 & 3, which have recently benefited from reserved matters approval via 13/00540/REM, enclose the site to the south and east. Indeed the proposed development has been designed to accord with these two Phases of development, which in turn provides the transition from the Persimmon and Taylor Wimpey areas of the Murton Lane site.

Returning to the spacing considerations with the nearest existing residential properties, it is noted that the curtilage of Number 20 Firtree Lane is perpendicular and adjacent to Plots 1 - 4. The spacing distances between Number 20 and 1 - 4 are broadly similar to that which has been approved via the extant 06/02209/FUL. It is noted that an addition of an extra plot to the south of Plots 1 - 4 i.e. between Plots 16 - 21, translates to a notional 0.5m creep of Plots 2 & 3 towards Number 20. However, at 10.5m the rear garden areas of these Plots will still be of a reasonable size and larger than that approved by drawing *****A/GA--1 Rev C** of 06/02209/FUL. These garden areas are considered to be relatively spacious and should ensure the amenity of these Plots and more crucially Number 20 is adequately maintained.

Regarding Plots 125 - 130, which are positioned so that their rear elevations face towards the rear elevations of Bowes and Montrose in Lyons Avenue, it is noted that the scheme now proposed will actually increase, comparatively, the spacing distance by 1m from the 19m approved via the extant 06/02209/FUL. Furthermore, by retaining the existing access track, which at present affords rear access to these existing properties, will provide further mitigation from the development as the previously approved Plots (27, 28 & 30) along with their garages are no longer proposed. However, it is noted that in their place a Swale house type is proposed (Plots 126 - 130) complete with roof lights in their rear roof slopes. Nevertheless, it is considered that overlooking will be limited by virtue of the angle at which the roof lights can be opened, which should ensure the privacy amenities of these two existing properties are reasonably protected.

In respect of the spacing relationships between the Plots now proposed along the western boundary and the existing properties in Lyons Avenue, it is considered that on balance the layout and positioning of development is largely the same as that already approved via the extant 06/02209/FUL approval. Moreover, the properties in Lyons Avenue are also separated from the site by a rear lane and

detached garden areas. This ensures that even when factoring the ground level differences between the development site and the lower lying properties in Lyons Avenue that minimum spacing standards are achieved and exceeded.

It is noted that Plots 19 & 20 of the extant 06/02209/FUL approval are to be replaced by Plots 117 - 120, which again are Swale house types and will therefore incorporate roof lights. It is also noted that these Plots will be sited closer to Numbers 7 & 8 Lyons Avenue. However, and again by virtue of the rear lane and detached garden areas, it is noted that a spacing of 35m will be achieved between the existing properties and proposed development, thereby ensuring more than adequate interfacing spacing. Furthermore, it should also be noted that the detached garden areas are located to the west of the proposed development which will mitigate against sun and day lighting amenity impacts i.e. limiting impacts to morning periods only.

Further to the objection received in respect of the perceived incongruity of the proposed development relative to the properties surrounding the site, it should also be noted that the proposed Plots are similar to those already approved in the earlier iteration of Phase 1, which is still extant via 06/02209/FUL, as well as the on-going Taylor Wimpey development and the nearby, recently complete Bett Homes site. In addition, the reserved matters approval for Persimmon's Phases 2 & 3 have positioned the larger house types to the more rural area of their site i.e. to the eastern boundary abutting the area of open space and agricultural fields beyond.

In terms of internal spacing relationships it is considered that as the road layout conforms to the Masterplan and ELDF it also by its nature provides for an acceptable degree of spacing within the site. The dwellings are arranged geometrically around a grid road system and as such the housing relationships are logical and provide for reasonable garden/ amenity spaces and spacing between plots.

In conclusion, it is not considered that the proposed development represents an overdevelopment of the site. The design and residential amenity impacts are essentially similar in nature to that which has already been approved via 06/02209/FUL. The proposal is considered to be acceptable and in accordance with policy B2.

4. Ecological considerations

UDP policy CN22 highlights that development which would adversely affect any animal or plant species afforded special protection will not be permitted.

A verification survey was undertaken in March 2013 given the time that had lapsed since 06/02209/FUL was approved in 2010. This verification survey represented a check of the site to identify whether any changes ecologically had occurred. The verification survey has confirmed that very little change has occurred. It nevertheless did note that grazing appeared to have ceased and that there was considerable littering within the site. It also noted that there were no trees within the development, only hedging abutting the detached garden areas of Lyons Avenue.

The Verification survey also stated that no European or UK protected species are known to occur within the surveyed area. Furthermore, a northern peripheral

ditch was checked for signs of water vole and otter, but no positive evidence of occupation was located. Moreover, in 2010 a breeding bird survey noted ground nesting birds across the site. However, the 2013 verification survey has noted that the site is now considerably less suitable due to the high level of disturbance through human and animal activity, particularly by dog walkers.

The conclusion of the verification survey is that the development of the site will have no significant impacts on ecological receptors identified in any of the surveys carried out previously. Other than a deterioration in the quality of grassland, the survey found few changes in on-site habitats. It was in fact noted that there was an increase in the amount of disturbance by dog walkers and cyclists.

Nevertheless, in consideration of the bird breeding potential it is advised that vegetation clearance should not be undertaken during the bird breeding season (March - end of July) unless prior checks have been carried out by a suitably qualified ecologist which, if Members are minded to approve, will be included as a condition.

In conclusion the proposed development is considered to be acceptable in respect to ecological considerations and in accordance with policy CN22.

5. Flood Risk and drainage considerations

UDP policy EN12 stipulates that in assessing proposals for development, the Council, in conjunction with the Environment Agency and other interested parties, will seek to ensure the proposal would not likely impede materially the flow of flood water, or increase flooding elsewhere, or increase the number of people or properties at risk from flooding and not adversely affect the quality or availability of ground or surface water, including rivers and other waters.

The Flood Risk Assessment (FRA) submitted in support of the application identified the site as being located within Flood Zone 1, which has the lowest probability of flooding and as such residential development is acceptable in principle. Ground investigations have previously confirmed that impermeable soils (Glacial Tills) extend across the site making direct infiltration techniques unsuitable for the discharge of surface water.

Flood Risk assessment work carried out in respect of the extant 06/02209/FUL approval set the current maximum surface water flow of the overall Murton Lane site at 44.0 litres per second. The surface water from the development is to flow into an adjacent existing watercourse (to the east of the site). In light of the fact that Persimmon's portion equates to approximately a third of the overall Murton Lane site the subsequent discharge rate for their development is 14.70 litres per second. The FRA has also confirmed that any flows above this agreed restricted discharge rate will be stored on site in flow attenuation structures such as oversized pipes.

Furthermore, consultee responses from Northumbrian Water and the Environment Agency offer no objection to the development proposal, subject to their requested conditions being imposed, one of which restricts the discharge rate to 14.70 litres per second. This will ensure conformity to the surface water design strategy approved via the extant 06/02209/FUL, which to stress covers

the whole of the Murton Lane site and therefore the Taylor Wimpey and Persimmon sub areas.

An objector has stated that development should not be occupied until Northumbrian Water has completed their upgrade works. However, in light of the conditions requested by Northumbrian Water, which requires the applicant to agree a detailed surface and foul water discharge scheme prior to development commencing, and in particular the first Environment Agency condition, which requires the 14.70 litres per second infrastructure to be operational prior to occupation, it is considered that these provide for a reasonable and appropriate level of control when approaching flood risks and drainage at the site and of course beyond, in view of the fact that the ultimate receptor of surface water will be the adjacent watercourse.

In conclusion, the area of land lies within Flood Zone 1 which has the lowest risk of flooding and subject to the development adhering to those conditions requested by the Northumbrian Water and the Environment Agency, the scheme should provide for an appropriate method of control surface water discharges whilst ensuring that there no increased flood risks on downstream properties. The proposal is therefore considered to be acceptable and in accordance with policy EN12.

6. Section 106

Paragraph 204 of the NPPF states that planning obligations should only be sought where they meet all of the following tests:-

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

Planning application 06/02209/FUL was subject to a Section 106 for financial contributions in respect of education (£354,722), sport and recreation (£226,027) and public open space (£628,744.25). It should be noted that excluding the detailed Phase 1 areas the approved description of 06/02209/FUL states "residential development" and as such the exact number of properties to be developed have been fixed via the subsequent reserved matters submissions. Furthermore, in reporting the 06/02209/FUL item to Committee in 2010 the case officer at that time explained in his report that the agent, acting on behalf of the applicants, envisaged that the site could accommodate some 370 dwellings.

Reviewing the recent planning history of the site it is noted that further to the original 42 (Persimmon Phase 1) and 53 dwellings (Taylor Wimpey Phase 1) approved via 06/02209/FUL, reserved matters 11/03439/REM approved 146 dwellings (Taylor Wimpey Phases 2, 3 & 4) while reserved matters 13/00540/REM approved 97 dwellings (Persimmon Phases 2 & 3). This equates to a total of 338 dwellings overall. In this context it is considered that an additional 4 units will have limited impact on the Section 106 contributions, especially as the agreement was predicated on the basis that the site could potentially deliver upwards of 370 dwellings.

The applicant has, as a consequence, submitted a Supplemental Agreement so that in the event that Members are minded to approve the application the development now proposed will still be beholden to the required financial contributions that have previously been agreed. Given the limited increase in the overall density of development it is considered reasonable to proceed on the basis of the Supplemental Agreement to the original Section 106, thereby ensuring that the development now proposed will still contribute to the above Education, Sport & Recreation and Open Space requirements.

Conclusion

The principle of residential development on the site has long been established via UDP policy HA4 and the previous and numerous planning approvals detailed above. Furthermore, the NPPF requires LPAs to consider housing applications in the context of a presumption in favour of sustainable development.

In terms of highway, visual and residential amenity, ecology and infrastructure considerations the remix and increase of development by 4 units is considered to be on balance acceptable and subject to the signing of the Supplemental Section 106 Agreement the proposed development is therefore ultimately recommended for approval. However, given that this Supplemental Agreement still needs to be signed Members are therefore recommended to delegate the application to the Deputy Chief Executive to complete the legal agreement in order to then approve the application subject to the draft conditions listed below:-

RECOMMENDATION: Delegate to Deputy Chief Executive

Conditions:

- 1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time.
- 2 Unless otherwise first agreed in writing with the Local Planning Authority, the development hereby granted permission shall be carried out in full accordance with the following approved plans:

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

- 3 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) 25 June 2013 and the following mitigation measures detailed within the FRA:

Surface Water discharge is restricted to a maximum of 14.70 litres per second for this area of the development.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/ phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority. In order to prevent flooding by ensuring the satisfactory storage of/ disposal of surface water from the site and to comply with UDP policy EN12.

- 4 The development hereby permitted shall not be commenced until such time as a scheme of surface water management has been submitted to, and approved in writing by, the Local Planning Authority.

- 1) Network can operate without flooding
- 2) Confirmation that climate change has been considered in the storage
- 3) Ensure access to/ improvement/ protection and maintenance of the drainage network
- 4) Outfall design

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing/ phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason:

- 1) To prevent flooding by ensuring the satisfactory storage of/ disposal of surface water from the site
- 2) To reduce the risk of flooding to the proposed development and future users
- 3) To ensure the structural integrity of the network thereby reducing the risk of flooding
- 4) To ensure structural integrity of the outfall.

In order to prevent the increased risk of flooding from any sources in accordance with the NPPF and policy UDP policy EN12.

- 5 Development shall not commence until a detailed scheme for the disposal of surface water and foul water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water. Thereafter the development shall take place in accordance with the approved details. In order to prevent the increased risk of flooding from any sources in accordance with the NPPF and policy UDP policy EN12.

- 6 No development shall take place until a survey of the existing and proposed ground levels; and details of the finished floor levels of each property, has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in complete accordance with the agreed details, unless otherwise agreed in writing by the Local Planning Authority, in order to achieve a satisfactory form of development and to comply with policy B2 of the UDP.

- 7 The felling of any tree, shrubs or other tree works as a consequence of the development, hereby approved, shall be undertaken outside the bird nesting season (i.e. not during the period mid-February to end of August).

If this is unavoidable, a nesting bird survey must be undertaken on the day before removal is to commence in order to ensure no breeding bird will be disturbed. If nests are found, removal works shall not commence until any dependent chicks have fledged, unless otherwise first agreed in writing with the Local Planning Authority. In the interests of nature conservation and in order to comply with policy CN18 of the UDP.

- 8 Notwithstanding any specifications on the submitted plans, details of all walls, fences or other means of boundary enclosure shall be submitted to and approved by the Local Planning Authority before the development is commenced. The agreed boundary treatment shall be completed before occupation or in accordance with an agreed timetable, in the interests of visual amenity and to comply with policy B2 of the Unitary Development Plan.
- 9 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v. wheel washing facilities
 - vi. measures to control the emission of dust and dirt during construction
 - vii. measures to control any surface water runoff during the construction of development.

To protect the amenities of the area and highway safety, in accordance with Unitary Development Plan policies B2 and T14.

- 10 The construction works required for the development hereby approved shall only be carried out between the hours of 07:00 and 19:00 Monday to Friday and between the hours of 07:30 and 14:00 on Saturdays and at no time on Sundays or Bank Holidays, unless otherwise agreed in writing by the Local Planning Authority, in order to protect the amenities of the area and to comply with policy B2 of the Unitary Development Plan.
- 11 Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
 - 1) A preliminary risk assessment which has identified: all previous uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways and receptors; potentially unacceptable risks arising from contamination at the site.

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

The information provided with the planning application 06/02209/FUL indicates that the site has been subject to a potentially contaminative land-use. The environmental setting of the site is sensitive as it lies on the Magnesian limestone, a principal aquifer. This condition will ensure that the risks posed by the site to controlled waters are assessed and addressed as part of the redevelopment and that it accords with policy EN14 of the UDP.

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

The information provided with the planning application 06/02209/FUL indicates that the site has been subject to a potentially contaminative land-use. The environmental setting of the site is sensitive as it lies on the Magnesian limestone, a principal aquifer. This condition will ensure that the risks posed by the site to controlled waters are assessed and addressed as part of the redevelopment and to accord with policy EN14 of the UDP.

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

Unsuspected contamination may exist at the site which may pose a risk to controlled waters and in order to accord with policy EN14 of the UDP.

- 14 No dwelling shall be occupied on site until the access roads within the development have been completed to at least base level and off street parking has been made available for the parking of vehicles within the development, in the interests of highway safety and the free passage of traffic and to comply with Unitary Development Plan policy T14.
- 15 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 planting 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 nature conservation and to comply with policies B2 of the Unitary Development Plan.

Reference No.: 14/01490/REM Approval of Reserved Matters

Proposal: **Reserved matters for appearance, landscaping, layout and scale of the D2 multi use games area of approved hybrid application 10/03726/HYB and 12/01014/VAR (Amended Description 22.08.2014).**

Location: Land East Of Pattinson Road Pattinson Industrial Estate
Washington

Ward: Washington East

Applicant: John Hellens (Contracts) Ltd

Date Valid: 24 June 2014

Target Date: 19 August 2014

PROPOSAL:

The proposed development site is located to the east of Pattinson Road in Washington and has an area of 6.273 hectares, of the 6.273 hectares 0.77 hectares of the site comprises the outline element.

This planning application is a reserved matters application to provide landscaping, layout and scale of the Multi User Games Area, approved in conjunction with a former "hybrid" planning application (10/03726/HYB), which sought full planning permission for a mixed use development comprising B1* (Business) B2* (General Industry) and B80* (Storage and Distribution) units, A1* (retail) A2* (Financial and Professional Services) and A5* (Hot Food Takeaway) units and 95 dwelling houses (C30*), The application also sought outline planning permission (i.e. agreeing the principle of development) for a public house/restaurant (A3*/A4*) (up to 580.6 square metres and a multi-use games area (D2*).

Subsequently, recently relative to this reserved matters is planning application 12/01014/VAR, which varied condition 5 of the hybrid application, granted approval on 26 May 2011 to allow the planning authority to amend condition 5 which read "No more than 50 houses shall be occupied until the buildings for employment and A1/A2/A5 uses have been built and made ready for occupation - to ensure that a mixed use development is achieved on this site, in accordance with policy EC5". This application brought forward the conditions which required the reserved matters application to be submitted within 3 years of the date of consent.

The employment element was removed from the proposal, in particular as a result of the cost of mitigating site contamination and site instability, associated with the former industrial use of the site, which meant that employment development could only be profitably implemented where such costs were largely met by associated housing development. In the present financial climate such costs can now only be met on these sites with increasing proportions of housing development and decreasing proportions of employment development, otherwise

lenders will not provide the capital and as such it was considered that the development would have been achievable with that condition attached. This application also carried forward the conditions from the previously approved Hybrid application and was approved and omitted the words "employment and" within condition 5.

The outline application referred to the MUGA and for indicative purposes illustrated that the area would be placed to the rear of the public house and reserved all other matters, which are referred to within this application.

The matters reserved in this instance are:-

- Appearance
- Landscaping
- Layout
- Scale

Appearance

Drawing No. MD0835.PS.02 and the design and access statement provide details and illustrative details of the appearance of the proposal which would consist of a green acrylic finished macadam surface, constructed as illustrated in the accompanying supplementary remediation strategy. It is bounded by galvanised fencing power coated dark green, to stand at a general height of 2 metres and up to a maximum height of 3 metres (Northern boundary), measuring 10 metres by 8.5 metres with an enclosed, with a recessed (1.2metres) goal to the eastern end and basketball hoop.

The area is located within an existing unused grassed area, located a minimum of 3.5 metres from the main access route into the estate sited 1.8 metres east of utility housing and opposite the retail development at the entrance to the site.

Landscaping

The landscaping is within a mature landscaped setting and no new landscaping is appropriate. There is a mature tree belt buffer positioned to the north east of the site which would be situated between the MUGA and the footpath/cycleway. The surrounding area would be made good or re-seeded as required, using amenity grass seed mix.

Layout

The MUGA layout lies to the east of the retail area on an area of open space, adjacent the main access to the estate.

Scale

The scale of the development covers an area of 85m² and is considered sufficient to cater for the size of the development and needs of the local community.

TYPE OF PUBLICITY:

Site Notice Posted

Neighbour Notifications

CONSULTEES:

Washington East - Ward Councillor Consultation
Sport England
Parks
Environmental Health
Network Management

Final Date for Receipt of Representations: **17.09.2014**

REPRESENTATIONS:

A total number of 53 representations have been received. 26 representations have been received in relation to support for the scheme and 27 objections against it, the issues for objections have been summarised below:-

- Road safety in relation to children crossing road and volume/speed of traffic
- Proposed location of the MUGA from originally planned location
- Fear of anti-social behaviour/vandalism stretching existing policing resources
- Poor access
- Loss of privacy
- Increased Litter
- Inappropriate use
- Visual amenity
- Noise from children using area and disturbance
- Design not in character with area
- Maintenance of MUGA
- Discourage home buyers from investing in property within area
- Support only received from older Teal Farm estate not affected by any issues.
- Poor location within close proximity to homes
- No purchasers were informed of the proposed MUGA when purchased homes.
- Devaluation of properties in close proximity
- Consideration should be given to an alternative location that wont impinge on residential housing.
- Proposal is not in best interests of the local residents.
- Condition of original outline application stated that reserved matters should be submitted within 3 years (by 26.4.11) this application was submitted on 24.6.14 should it still stand?
- Loss of heritage
- These areas become run down and not properly maintained
- No indication who will be financially responsible for possible damage.
- It is unlocked and open at all times.
- It is positioned at a lower level surrounded by 3m fence with no lighting and would be underused and unsafe for play, except the height of summer surrounded by trees away from lighting.
- Family style pub is now not viable on account of lack of space.

- No warning signs for road users, speed limit should be reduced no traffic calming proposed.
- Families living next to the site would not benefit from the proposal and would be burdened by negative aspects.
- Who would benefit from this facility?
- Doubt that any potential future benefit would overcome concerns and problems it would cause to families.
- Teal farm residents association make representations which do not represent all the views held by Teal Farm Village residents. There are growing concerns over the understanding of how people's views are being represented.
- Figures show 72% object and only 4% support it.
- Risk assessment carried out by resident results in injury or death if hit by traffic or multiple vehicle collision for which the residents would hold the council responsible.

Having read the above points I would advise that the following comments are not material planning considerations and would not be taken in to consideration during the determination of this application:-

- Devaluation of properties within area
- Anti social behaviour
- No purchasers were informed of the MUGA when buying homes
- Discourage buyers from investing in properties

Summarised below is a list of comments in support:-

- There is not anywhere for kids to safely play since helicopter field was developed for housing.
- No other facilities like this in area for kids to play within walking distance from their homes.
- The residents that bought houses there knew that it was proposed.
- The kids will play there as they do now and it will be safer for them with the MUGA.
- Excellent facility to use for future years.
- Residents have chosen to reside here on account of MUGA facility.
- Estates cannot be built and not provide for the children.
- Is about time the local children had some facilities.
- Greatly needed as surrounded by industrial estates.
- Consideration could be given to locking it after 8pm?
- Would help children interact with each other and form new friendship groups.
- No apparent evidence to support objections that new games facility will lead to antisocial behaviour.
- Ideal location, central to all estates.
- Is safe due to recent traffic calming measures and reduced road speed and traffic lights for safe crossing from all estates.
- Refusing this would make situation unsafe as children have to use roads which don't have benefit of a MUGA.
- Hellens have made fantastic job of ensuring estate is designed for families.
- Some parents would be supervising children which would prevent any anti-social behaviour.

- Teal Farm has waited for a play area for over 20 years.
- For the age that the MUGA will cater for would be an idea location as closest facility would be Washington Village.
- Children have experienced being moved on from every location when trying to play, police called to deal with them when not causing problems.
- The facility which is well laid out, well managed and safely enclosed would be of huge benefit to the residential area.
- Can be built without lockable gates therefore no input from local authorities.
- Lack of facilities for years has been to the detriment of local families.
- Easy access.
- The established estate is good at being self-sufficient at aiding its own well-being and disciplined at looking after neighbourhood.
- Additional facilities can only enhance the area, maintaining that housing can work in and around industrial areas.

Northumbrian Water

No comments to make

Sport England

No comments to make

Parks Section

Suggest that if developer wishes to progress with providing own play provision there has to be an agreement that the developer will follow / agree to ;

- consultation and agreement of location for fixed play provision - in collaboration with council principle landscape architect
- agree to carry out consultation and engagement exercises with ward members, local schools, resident groups, community groups re 'type of play provision ' wanted / needed (officers involvement in this required)
- agree to engage with city council (sport and leisure and street scene) prior to any purchase of play equipment to ensure meets standards and is of appropriate play value - this step requires sign off from us
- work with above officers to agree time frame for consultation / engaging and site works to be carried out and completed
- agreement on commuted sum for continued maintenance of play provision

As this is an independent scheme, the developer does not have to adhere to the above, unless they chose to.

Street scene - Network Management

The MUGA should not be used for purposes that would generate excessive visitor parking i.e. Group fitness activities or organised matches / events. To be used on an ad-hoc basis for residents only, in the interests of highway safety.

Environmental Health

The proposed Multi-Use Games Area was considered within a Noise Assessment undertaken at the time of the Outline Planning Application for the development of

the site. The assessment concluded that due to the distance of the facility from residential premises it was unlikely that it would cause a nuisance.

The location plan accompanying the application appears to show the location of the MUGA in a different position to the Outline Planning Application. Should the position of the MUGA be closer than 30m to the boundary of the residential premises the noise assessment suggests that in accordance with guidance from Sport England and the National Playing Fields Association it may cause disturbance to occupants of residential properties.

The MUGA is sited greater than 30m from the boundary of the nearest residential premises therefore there are no representations.

POLICIES:

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

B_2_Scale, massing layout and setting of new developments

T_14_Accessibility of new developments, need to avoid congestion and safety problems arising

L_6_Development of a hierarchy of playspace provision for children

L_8_Encourage and enhance the provision and distribution of allotments

H_21_Open space requirements in new residential developments (over 40 bed spaces)

COMMENTS:

1. The principle of the proposed development;
2. The impact of the development on visual and residential amenity;
3. The impact of the development on highway and pedestrian safety;

PRINCIPAL OF DEVELOPMENT

The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied by Local Planning Authorities. It has served to replace a wide range of national planning policy statements and guidance. For the purposes of decision-taking, the policies contained within the Framework are material considerations which Local Planning Authorities should take into account in addition to the Development Plan policies outlined above.

Paragraph 7 of the NPPF sets out three dimensions in relation to sustainable development and in particular, the social element which aims to support strong, vibrant and healthy communities, by providing the supply of housing to meet the needs of present and future generations; by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health and cultural well-being.

Paragraph 69 of the NPPF is also relevant in that it states that the planning system can play an important role in facilitating local interaction and creating healthy, inclusive communities and local planning authorities should create a shared vision of the residential environment and facilities they wish to see.

Paragraph 70 is also relevant as it seeks to deliver the social, recreational and cultural facilities and services the community needs and decisions should plan positively for the use of shared space, community facilities and local services to enhance the sustainability of communities and residential environments.

Policy H21 of the Council's Unitary Development Plan (UDP) states that new residential developments of more than 40 bedspaces amenity open space/casual playspace should be provided.

Policy L6 and L8 of the UDP expand upon playspace provision and seek to cater and develop a hierarchy of playspace provision for children up to 16 years old, with satellite play areas to be provided within 1km of every child in the city and local doorstep play areas available for children up to 11 years old, where practicable.

VISUAL AND RESIDENTIAL AMENITY

Policy B2 of the UDP which dictates that the scale, massing, layout or setting of new developments should respect and enhance the best qualities of nearby properties and the locality and should relate harmoniously to adjoining areas.

In this regard, the key impacts to assess are the appropriateness and visual impact of the proposed physical works on the street scene and whether any element of the proposed works would be harmful to the amenities of neighbouring residents.

In respect of the amenities of neighbouring residents the closest part of the proposal would be set at a distance of 40 metres to the nearest dwelling at No. 2 Eaton Close, which would be closest plot to the area. With regard to the distance from dwellings, design, scale and appearance within its surroundings, it is not considered that the amenities of residents would be unacceptably compromised as a result of the physical works and would therefore comply with policy B2 of the UDP.

There has been concern expressed with regard to the visual amenity of the proposal, however as it is sited within unused amenity space, coloured green and set at low level, the visual impact is not considered to be to an unacceptable level and acceptable for this reason in compliance with B2 of the UDP.

Concern has been raised with regard to the inappropriate use of the land and necessary to provide such a facility. The MUGA was approved, in principle, originally in 2010 and subsequently carried to the 2012 consent, which illustrated the MUGA, closer to the public house and further north than it is currently positioned. The former applications were at outline stage only and the siting and position of the MUGA at that stage was for illustrative purposes only and was approved with all matters reserved to follow, which would include its siting to be submitted before the expiry of the 2012 permission. The MUGA has been provided to facilitate the development and provide facilities for the benefit of the locality in order to comply with policy L6 and L8 of the UDP.

With regard to the upkeep and maintenance, the developer has confirmed that there would be regular visits, to repair and maintain and they would also be financially responsible for the upkeep. Anti-social behaviour would be policed on occurrence.

Highway issues

Policy T14 of the UDP states that new development proposals must not result in conditions which are prejudicial to highway and pedestrian safety. In this respect it is noted that no observations have been raised by the Executive Director of City Services (Network Management).

In the interest of highway safety, the developer has confirmed that traffic calming measures have been introduced to reduce the speed of Pattinson Road from 60mph to 40mph and one controlled crossing and two uncontrolled crossings provided to link up the various Teal Farm developments. They have also confirmed that all entrance roads are reduced to 30mph.

The functionality of the games area would create a social, recreational development to facilitate the neighbourhood and provision required. The scale massing and design is not considered to adversely affect the amenity of adjacent residents and with suitable highway safety measures in place it is considered to comply with paragraphs 7, 69 and 70 of the NPPF and policies B2, H21, T14, L6 and L8 of the UDP.

It is therefore considered that members should be minded to approve the application subject to the conditions set out below:

RECOMMENDATION: Approve

Conditions:

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

2 Unless otherwise first agreed in writing with the Local Planning Authority, the development hereby granted permission shall be carried out in full accordance with the following approved plans:

- Existing and proposed site plan drawing No. MD0835.PS.01
- Existing and proposed site sections drawing No. MD0835.PS.02 received on 24.6.14
- Location plan drawing No. MD0835/PS.03 received on 24.6.14

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

3 The development should be carried out in accordance with the noise assessment dated 2 July 2010 (document reference NIA/3129/10/2554 REV A), submitted with the outline application reference 10/03726/HYB to protect the amenity of adjacent residents and to accord with policy B2 of the UDP.

RECOMMENDATION: Approve

Conditions:

- 1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time
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In order to ensure that the completed development accords with the scheme approved and to comply with policy B2 of the adopted Unitary Development Plan.

- 3 The development should be carried out in accordance with the noise assessment dated 2 July 2010 (document reference NIA/3129/10/2554 REV A), submitted with the outline application reference 10/03726/HYB to protect the amenity of adjacent residents and to accord with policy B2 of the UDP.

Reference No.: 14/01634/FUL Full Application

Proposal: **Erection of a two storey side extension and single storey extension to front and rear.**

Location: 9 Alderwood Harraton Washington NE38 9BS

Ward: Washington East

Applicant: Mr Ray Trueman

Date Valid: 15 July 2014

Target Date: 9 September 2014

PROPOSAL:

INTRODUCTION

Planning permission is sought for the erection of a two storey side extension, single storey front and single storey rear extensions to 9 Alderwood, Harraton, Washington.

The property is detached and is surrounded by residential development on three sides, although to the rear (west) is an area of woodland, believed to be owned by the Woodland Trust. The dwelling is located on a bend in the road and dwellings on the west side have a staggered building line.

PLANNING HISTORY

The application has been submitted following the withdrawal of a similar application (ref: 14/01090/FUL) during July of this year. On that occasion several of the plans were found to be inaccurate and several concerns were raised regarding the impact of the proposed side extension on the amenities of adjoining residential occupiers. The current application seeks to address both these concerns and has been amended to reduce the overall size and scale of the side extension, and to make accurate the submitted drawings.

PROPOSAL

It is proposed to erect a two storey side extension, along with single storey extensions to the front and rear of the property.

Currently the property has an attached garage/utility room that fills the gap between it and the common boundary with the neighbouring dwelling to the north. This single storey element of the building runs the full length of the house and is slightly forward of the main building line along the front elevation (800 mm). It has a flat roof construction. The proposed side extension involves building a first floor over the garage/utility area. It is shown to be set back from the front elevation by 700 mm and would be flush with the rear elevation of the property. The roof is shown to be set down from the main ridge by 600 mm and is designed with a pitched roof with gable end to match the existing roof design. There are no

windows proposed in the gable wall of the extension, which would provide an additional ensuite bedroom.

At ground floor level a monopitch roof would be constructed above the flat roof to the garage that projects forward of the main building line. A further monopitch roof would also be erected above the existing flat roof porch area that projects 800 mm from the main front elevation.

To the rear of the property a single storey extension is proposed that is part enclosed/part open. Along the north elevation the extension projects 3 m from the rear elevation of the dwelling and this wraps around the rear elevation for a short distance of 900 mm, thus providing a 'privacy screen'. A monopitch roof would be constructed above that runs across the rear elevation of the house, for a distance of 5.5 m, at a height of 3.5 m. On the southern side of the dwelling, a further sun lounge extension is proposed that projects 5 m from the rear elevation and is 4 m wide. However, the proposed roof above the extension is 7.8 m wide and this reflects the fact that half of the floor area underneath is partly open sided and supported by steel columns. The roof is shown to be pitched and hipped to a maximum height of 3.8 m at ridge level and 2.5 m at eaves level.

TYPE OF PUBLICITY:

Neighbour Notifications

CONSULTEES:

Washington East - Ward Councillor Consultation
Network Management

Final Date for Receipt of Representations: **10.09.2014**

REPRESENTATIONS:

Neighbours -

Three letters of objection have been received as a result of the consultation exercise. The planning objections relate, in summary to the following:

- It is considered that the submitted plans are inaccurate as they show the rear boundary in the wrong place and the plot sizes of nearby houses to be incorrectly proportioned. Some details are also missing, which is misleading and therefore the application should be rejected as invalid. Planning Officer response: 'the development does not encroach on to the land subject of this dispute and the applicant has declared the land shown within the red line to be in his ownership. In any event, ownership issues are normally ones that must be dealt with under Civil Law rather than as part of the planning legislation. The fact that some buildings are missing from the plans is also not a reason to invalidate the application given that the site inspection carried out on all applications will inform the recommendation made'.

- the only difference between the previously withdrawn application and the current one is that the roofline shows some subordination, although the setback

is only 500 mm, when guidelines suggest this should be 1 metre. There is also a difference in ground levels and, together, this could result a terracing effect.

- as the side wall of the extension has not been set back from the side wall of the neighbouring property it will block out light to and overshadow the only window serving the kitchen. It would also dominate and have an overbearing effect to the kitchen given the close proximity of the extension to it.

- it will overshadow part of the neighbouring garden and cause darkness in the cloakroom downstairs and the side bedroom, given that they only have side facing windows.

- loss of privacy to rooms and garden.

- noise created by proximity to neighbouring dwelling.

- detrimental impact on appearance and character of street as it does not respect and maintain the visual quality of the surroundings and unbalances the spaces between properties.

- the rear garden area would be too small, if the rear extension is built, which is not characteristic of the area.

- views to the front and rear of the property would be restricted from the kitchen. Also views of the woodland to the rear as a result of the rear extension.

- the extensions are excessive for the plot.

- shared drainage issues.

- reduction in value of properties.

- no part of the development should overhang the boundary, e.g. soffits, fans, etc.

Network Management

No observations.

POLICIES:

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

B_2_Scale, massing layout and setting of new developments

EN_10_Proposals for unallocated sites to be compatible with the neighbourhood

T_14_Accessibility of new developments, need to avoid congestion and safety problems arising

COMMENTS:

In order to properly assess the proposal, due regard must be given to relevant national policies and the policies and guidance provided by the Council's Unitary Development Plan (UDP) and Household Alterations and Extensions

Supplementary Planning Document (SPD), both of which have been formally adopted and therefore carry significant weight, as detailed under section 38(6) of the Planning and Compulsory Purchase Act 2004.

In view of the need to consider policy coverage beyond the UDP period, the Council sought a direction from the Secretary of State (SoS) which confirms agreement of the policies that are to be saved for a further period, pending formal adoption of the Local Development Framework (LDF). Accordingly, a list of the proposed 'saved' policies was submitted to the SoS - via Government Office for the North East (GO-NE). Confirmation of the saved policies and the direction provided by the SoS was received on the 4th September 2007, supporting the intention to maintain the extension of existing adopted policies to maintain continuity in the Development Plan, and ensure a stable planning framework locally, and a continual supply of land for development.

Also of relevance is the Supplementary Planning Document (SPD) entitled 'Household Alterations and Extensions' which is part of the Council's emerging Local Development Framework, which aims to further expand upon the City's adopted UDP policy B2 and provides detailed guidance for home owners on the design of household extensions and/or alterations. The SPD was adopted as policy with effect from 21 July 2010 and currently supplements policy B2 of the UDP as detailed above.

Paragraph 10.28 of the UDP states that the degree to which a development conforms to supplementary design guidance will be a material consideration in the determination of the planning application. As such this SPD should be accorded due weight under Section 38(6) of the Planning and Compulsory Purchase Act, 2004.

Subsequently, Annex 1: Implementation of the National Planning Policy Framework (NPPF), particularly paragraph 215, dictates that 'due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)'.

PRINCIPLE OF DEVELOPMENT

The site in question is not allocated for any specific land use within the Council's Unitary Development Plan and, as such, is subject to policy EN10. This policy dictates that, where the UDP does not indicate any proposals for change, the existing pattern of land use is intended to remain. This policy is considered to be broadly compliant with the NPPF.

In this regard, the proposal is considered to be acceptable in principle insofar as it represents alterations to an existing residential property in an area wherein residential dwellings are the prevalent land use. For this reason and without prejudice to the findings below in respect of amenity and highway issues, the proposed development is considered to be acceptable in principle.

ISSUES

The main issues are whether the proposal would adversely affect residential amenity, or the character and appearance of the dwelling and the locality.

IMPACT ON RESIDENTIAL AMENITY

Paragraph 17 of the NPPF sets out 12 core planning principles identified by the Government as being important. Within these principles, it is identified as being important that Local Planning Authorities should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Policy B2 of the UDP dictates that the scale, massing, setting and layout of new developments should respect and enhance the best qualities of nearby properties and the locality and retain acceptable levels of privacy. As an expansion of the requirements of UDP policy B2, the Council has produced the Household Alterations and Extensions and Residential Design Guide Supplementary Planning Document (SPD). Policy B2 is considered to be fully compliant with the NPPF.

Section 7.3 of the SPD relates specifically to proposals for side extensions and requires them to be designed to maintain the character of the existing property and the street scene. It is also stated that they should have minimal impact on the residential amenity of neighbouring properties. In design terms they should have a ridgeline that is lower than the host property and a front wall set back by no less than 1 m, at least at first floor level. However, all cases will be assessed on their individual merits, bearing in mind that there may be greater flexibility to extend a detached property.

Overlooking/Privacy issues

The proposed side extension would abut the common boundary with the neighbouring dwelling to the north. The flank wall of the extension would therefore be within 1.8 m of the gable wall of the neighbouring property. There is a kitchen window in the side elevation of the neighbour's dwelling that provides the sole means of light into this main habitable room. Presently, although the window faces a garage wall, this is single storey and light is able to penetrate the kitchen window whilst glimpses of the sky are also visible above and to the sides of the garage when standing near the window. The additional storey above the garage would create a solid wall in front of the window that would both block out light and create an oppressive and over dominating effect when in the kitchen. Although the neighbouring property is set at a slightly higher level than the host dwelling, and the proposed extension has been designed with a 700 mm set back from the front wall at first floor level, neither would overcome the harm that would occur to the living conditions of the neighbouring property as a result of the proximity and height of the building in front of the kitchen window. Nor does the fact that the orientation of the host property currently limits sunlight to the kitchen area mitigate the harm that the extension would cause.

It is acknowledged that there is a bathroom and a bedroom window also in the gable wall of the property to the north. However, these are not major habitable rooms and therefore the same weight cannot be given to the impact of the extension on loss of light and domination of outlook as that described above. Further no significant loss of privacy would occur to the rear rooms and gardens of neighbouring dwellings given that there are no windows proposed in the gable wall of the extension. The first floor window at the rear serves a bathroom, and is likely to be obscure glazed.

Turning to the proposed single storey rear extension, it is acknowledged that the sun lounge area toward the south elevation of the dwelling has a projection of 5 m. However, it would be set off the boundary with the neighbouring property to the south by 1.8 m, which helps reduce its impact. Due to the staggered building line in this part of the street the host property is set back from the dwelling to the south and therefore its side elevation projects beyond the rear wall of the neighbour by 6 m. The proposed extension would therefore be positioned 6 m away from the rear elevation of the neighbour and is designed with a roof that is hipped away from the neighbouring property, which would minimise its impact on the adjoining rear rooms and garden. The orientation of the plot is such that there would be no loss of sunlight into adjoining gardens as a result of the proposal. There is no right to retain views under the planning legislation and although some trees in the wooded area to the west would be obscured by the extension, this is no reason refuse planning permission. The rear extension is sufficiently distant from the dwelling to the north so as not to interfere with light, outlook or privacy.

For the reasons set out above, the proposed development is considered to create conditions unacceptably detrimental to the amenities of the occupiers of number 10 by way of loss of light and outlook in the kitchen area. contrary to paragraph 17 of the NPPF, policy B2 of the adopted UDP and section 7.3 of the adopted Household Alterations and Extensions SPD.

IMPACT ON VISUAL AMENITY

The rear extension would be visible only from private garden land and there is a dense treed area to the west of the street. It is therefore not considered that this single storey extension would impact unacceptably upon the street scene. Further, whilst the extension is relatively large, having a 5 m long projection, this is not considered to be excessive in relation to the amount of remaining garden land for the plot and would not unduly affect the character or appearance of the dwelling and its setting.

The proposed side extension would partly fill the existing gap between no's 9 and 10 Alderwood. It is therefore important to ensure that this would not undermine the appearance of the property so as not to affect visual amenity and the character of the street scene. In this regard, the proposal is considered to comply with the section 7.3 of the SPD, above, which suggests that side extensions should be of a size which is no more than 50% of the overall width of the original dwelling, in order to ensure that the extension remains subordinate to the host dwelling. It has also been designed with a roof shape that matched the existing property and has a ridgeline that is lower than the host property. Whilst the first floor front wall is set back by 700 mm rather than 1 m, this is considered to be sufficient to give adequate relief and subordination and to limit any 'terracing effect' within the street. A gap of 1.8 m would, in any event, remain between the proposed extension and the neighbouring property to the north to maintain the space between the houses. As such a refusal of planning permission based on the inter-relationship with the other adjacent properties and the character of the street scene could not be justified.

HIGHWAY ISSUES

UDP Policy T14 aims to ensure that new developments are easily accessible to both vehicles and pedestrians, should not cause traffic problems, should make appropriate provision for safe access by vehicles and pedestrians and indicate

how parking requirements will be met. This policy is considered to be broadly compliant with the NPPF.

The proposal does not impact on the highway network or the availability of in-curtilage car parking and no observations have been received in response to consultation with the Network Management Team. The proposal is therefore considered to accord with policy T14.

CONCLUSION

In light of the above, it is considered that the proposal is unacceptable, in that it falls contrary to paragraph 17 of the NPPF, UDP policy B2 and Section 7.3 of the adopted Household Alterations and Extensions Supplementary Planning Document.

It is therefore recommended that the application be refused, for the following reasons.

RECOMMENDATION: Refuse

Reasons:

- 1 The proposed side extension would be detrimental to the amenities of the adjacent residential property to the north by virtue of domination of outlook and loss of daylight and sunlight to the kitchen area and as such would be contrary to paragraph 17 of the NPPF, policy B2 of the adopted UDP and section 7.3 of the adopted Household Alterations and Extensions SPD.

Reference No.: 14/01747/FUL Full Application

Proposal: **Retrospective change of use to retail garden nursery / farm shop and coffee shop, provision of 68-space car park to front and ancillary structures including canopy, 3no. timber storage containers, 1no. water container and 1no. chicken coop, temporary retention of 6no. steel containers and 1no. haulage container and proposed erection of extension to main building to provide addition to coffee shop**

Location: Elm Tree Farm Washington Road Usworth Sunderland NE37 3HQ

Ward: Washington North

Applicant: Riverside Equestrian Centre

Date Valid: 28 August 2014

Target Date: 23 October 2014

PROPOSAL:

Proposed Development

Planning permission is sought in retrospect to change the use of an existing building to a retail garden nursery / farm shop (Use Class A1) and coffee shop (Use Class A3), to provide a 68-space car park and ancillary structures including a partially enclosed canopy, 3no. timber storage containers, 1no. water container and 1no. chicken coop, for the temporary retention of 6no. steel containers and 1no. haulage container and prospectively for the erection of an extension to the main building to extend the coffee shop.

The applicant claims that the main building within the site, identified as 'Existing Farm Shop' on the submitted location plan, was erected as an agricultural building and therefore benefitted from 'permitted development' rights as set out by Part 6 of The Town and Country Planning (General Permitted Development) Order 1995 (as amended) (the "GPDO"). This building, which has a total internal area of 325sq.m, is currently operated predominantly as a retail garden nursery / farm shop (257sq.m including office) and includes a coffee shop (68sq.m including kitchen) which is physically divided from the remainder of the building. It is set out in the application form that this use commenced in April 2013 and the Council, as Local Planning Authority (the "LPA") can confirm that the building has been used for retail since at least May 2013 and the coffee shop was included some time later. The current application seeks to retain the building for such uses and extend the building by 75sq.m eastward to result in an expansion of the floor area of the coffee shop to 143sq.m.

The subject canopy is situated immediately to the rear of the main building and in front of the existing polytunnels (which are not part of the current application).

This structure has a domed roof which, according to the submitted plans, is some 250mm lower than the ridge of the main building and a floor area of 235sq.m which is dedicated to retail.

The subject car park is constructed of tarmac, has an area of approximately 1950sq.m and provides 68no. spaces, including 6no. disabled bays, which are marked out on site. The submitted plans identify that this hard surfaced area has been laid to slope down eastward toward an existing drain and soakaway and indicate the provision of permeable sleeper edging along the eastern extent of this surface. The car park is accessed from an existing access point directly from the A1290 Washington Road to the south which the applicant indicates was provided using agricultural 'permitted development' rights, as set out by Part 6 of the GPDO, and the LPA estimates has been in situ since 2011.

In addition, the application proposes the retrospective erection of 3no. timber-clad containers, one measuring 12m by 2.5m and 3.2m in height and the others measuring 6.15m by 2.5m and 2.85m in height, all to the west of the main building and aforementioned canopy. One of these smaller containers would provide a w.c. and the remaining two would provide storage. An existing cylindrical water container with a diameter of 5.05m and an overall height of 3.25m and a chicken coop measuring 2.5m by 9.15m and 2.25m at maximum height which have been erected to the rear of the existing polytunnels are also proposed to be retained.

The site also contains a number of containers situated to the west of the main building, canopy and polytunnels which the applicant intends to retain on site for a further three months, namely:

2 x 12.15m by 2.45m by 2.6m steel containers
3 x 6.1m by 2.45m by 2.6m steel containers
1 x 7.15m by 2.4m by 2.8m light haulage container
1 x 4.9m by 2.95m by 2.6m steel container

The following operating hours are proposed for the facility:

Retail (Class A1)

09:00 to 17:00 on Mondays to Saturdays inclusive

09:00 to 16:00 on Sundays and Bank Holidays

Coffee Shop (Class A3)

09:00 to 16:00 every day

It is set out in the application form that there are currently 9no. full-time members of staff employed at the premises, which would rise to 11no. as a result of the proposed extension.

Supporting Documentation

The following documentation has been submitted in support of the application.

- Planning, Design and Access Statement (which includes a Statement of Community Involvement)
- Flood Risk Assessment
- Bat and Great Crested Newt Risk Assessment

- Transport Statement
- Two petitions in support of the coffee shop element of the retrospective proposal dated 25 April 2013 (91 signatures) and 13 May 2013 (142 signatures)

Application Site

The application site is located on the inside of a bend of the A1290 (Washington Road), which runs along the south and east of the site, and forms part of the Tyne and Wear Green Belt. The site contains a large pitched roofed building finished with grey-coloured metal cladding, a series of polytunnels which are linked to this building by a domed-roof canopy, a 68-space car park and various detached structures, the vast majority of which does not have the requisite planning permission. The site otherwise comprises open field and is bordered by high paladin fencing along the south and east boundaries and access is afforded from the south directly off Washington Road and the wider area of land is bordered by mature trees. There are a series of terraced dwellings on the opposite side of Washington Road to the southeast, behind which exists open fields, a residential terrace exists to the west and Nissan occupies land to the east.

Planning History

Planning permission was refused under powers delegated to the Deputy Chief Executive to change the use of part of the subject main building to a coffee shop on 06 June 2013 (ref. 13/00812/FUL) for the following reasons.

1. The proposed use constitutes inappropriate development in the Green Belt and the application fails to demonstrate very special circumstances and essential need for a coffee shop on the site, contrary to policies CN2, CN3 and WA19.1 of the adopted Unitary Development Plan and paragraphs 87-90 of the National Planning Policy Framework.
2. The proposal, by means of its commercial nature and generation of additional car-borne visitors to the site, would compromise the openness of the Green Belt, contrary to policies CN2, CN5 and WA19.1 of the adopted Unitary Development Plan and paragraphs 79 and 80 of the National Planning Policy Framework.

During the course of this application, the applicant maintained his claim that the retail and coffee shop functions were ancillary to the main use of the building for agriculture, however the applicant's position on this matter has subsequently changed.

As set out previously, the applicant claims that this main building was originally erected utilising permitted development rights for agricultural buildings and operations, as set out by Part 6 of Schedule 2 to the GPDO. As required by Part 6, applications were submitted in February 2011 for determinations as to whether the prior approval of the LPA is required for the siting, design and external appearance of the subject main building (ref. 11/00376/AGR) and the siting and means of construction of the site access (ref. 11/00375/AGR). The LPA confirmed that it offered no observations in connection with these applications on 06 April 2011, thereby allowing the permitted development rights afforded by Part 6 to be utilised. However, this confirmation was provided prior to the erection of

the subject building and provision of the access and does not confirm the LPA's satisfaction that the development was carried out fully in accordance with the requirements of Part 6 and constituted permitted development, as will be elaborated upon subsequently in this report.

Planning permission was granted in retrospect to erect the 3no. polytunnels which exist on the site in 05 September 2013 through the approval of applications ref. 13/01509/FUL, 13/01510/FUL and 13/01511/FUL.

Planning permission was refused on 11 December 2012 (ref. 12/01330/FUL) and dismissed at appeal on 04 October 2013 (Planning Inspectorate ref. APP/J4525/A/13/2193414/NWF) for the erection of a dwellinghouse for agricultural workers adjacent to the current application site.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Washington North - Ward Councillor Consultation
Environmental Health
Network Management
Business Investment
Natural England
Environment Agency
Northumbrian Water

Final Date for Receipt of Representations: **24.09.2014**

REPRESENTATIONS:

The application has been publicised by means of site and press notices and letters to neighbouring properties as a departure as development which fails to accord with the local plan. No representations have been received have been received as a result of such publicity.

Councillor John Kelly has requested that this application be referred to the Development Control Sub-Committee for consideration and has expressed his support for the development given its creation of local job opportunities.

The Environment Agency confirmed that it has no objection but advised that consideration be given to the presence of protected species, in particular Great Crested Newt and water voles, the presence of Australian Swamp Stonecrop and means for the disposal of surface water and foul sewage.

Natural England confirmed that it does not consider that the development is unlikely to affect any statutorily protected sites or landscapes, but did not assess the application in respect of any impact on protected species.

Northumbrian Water offered no objection but noted that a public sewer crosses the site which may be affected by the proposed development and will therefore contact the developer directly to establish its exact location and ensure any necessary diversion, relocation or protection measures are carried out prior to the commencement of development.

The Council's Natural Heritage section have advised that the submitted ecology report is inadequate and the development has the potential to have posed a significant impact on local biodiversity. The contents of these comments are expanded upon subsequently in this report.

The Council's Network Management section raised no objection but advised that a footway be provided on both sides of the access from Washington Road (A1290), extending to the existing bus stop, and that dropped kerb crossing points be provided to aid the pedestrian desire line, to be completed by an agreement under Section 278 of the Highways Act 1980 with the Council, as Local Highway Authority.

The Council's Planning Policy section advised that the proposal constitutes inappropriate development within the Green Belt.

POLICIES:

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

B_2_Scale, massing layout and setting of new developments
B_3_Protection of public/ private open space (urban green space)
CN_2_Purpose of the Green Belt in Sunderland
CN_3_Control of development within the Green Belt
CN_5_Safeguarding the visual amenity of the Green Belt
CN_18_Promotion of nature conservation (general)
CN_22_Developments affecting protected wildlife species and habitats
EN_1_Improvement of the environment
EN_5_Protecting sensitive areas from new noise/vibration generating developments
EN_12_Conflicts between new development and flood risk / water resources
T_8_The needs of pedestrians will be given a high priority throughout the city.
T_9_Specific provision will be made for cyclists on existing/new roads and off road
T_10_Protect footpaths; identify new ones & adapt some as multi-user routes
T_14_Accessibility of new developments, need to avoid congestion and safety problems arising
T_22_Parking standards in new developments
WA_19_Maintenance of a Green Belt

COMMENTS:

The main issues to consider in the assessment of this application are set out as follows:

- Procedural Matters;
- Appropriateness of Development within Green Belt;
- Impact on Openness of Green Belt;

- Very Special Circumstances;
- Design and Impact on Visual Amenity;
- Flood Risk and Drainage;
- Ecology;
- Highway Implications / Sustainability; and
- Residential Amenity;

Procedural Matters

As set out above, the applicant claims that the main building on the site, identified as 'Existing Farm Shop' on the submitted drawings, was constructed using agricultural permitted development rights as set out by Class A of Part 6 of Schedule 2 to the GPDO. In order to utilise such rights, certain criteria and conditions as set out by the GPDO must be met. If any of these criteria or conditions are not met, the building cannot be erected using the permitted development rights set out above. The onus for compliance lies solely with the developer.

Most pertinently, the land on which the building has been erected (i.e. the "unit") must be agricultural and the erection of the building must be 'reasonably necessary for the purposes of agriculture within that unit'.

For the avoidance of doubt, Section 336 of the Town and Country Planning Act 1990 defines 'agriculture' as including 'horticulture, fruit growing, seed growing, dairy farming, the keeping and breeding of livestock (including any creature kept for the production of food, wool, skins, fur, or for the purpose of the farming of the land), the use of land as grazing land, meadowland, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and 'agricultural' shall be construed accordingly'.

It is not evident that the erection of the main building was reasonably necessary for the purposes of agriculture within the unit and no evidence has been provided to the contrary. Indeed, the applicant has confirmed to the LPA that this building is not of sufficient size to fulfil its originally intended purpose. In particular, the applicant originally set out that the land was to be used for grazing and to grow grass and cereal crops and the subject building was originally erected for the storage of items such as machinery, feed and bales of hay which are produced on site. However these items are, in fact, stored off site due to the insufficient size of the host building to accommodate them.

It has been argued by / on behalf of the applicant that the main building is required for agriculture and that the retail function and cafe provided within this building are 'ancillary'. However, the only explanation of this appears to be solely limited to the storage of products such as animal feed and soil. These products are displayed for sale rather than stored within the building and, notwithstanding this, a building of such size is clearly not necessary for the storage of such a limited number of products. Indeed, the applicant has now conceded, through the submission of the current application, that the building is used as a retail garden nursery / farm shop (Use Class A1) rather than for agriculture.

It is noted that a farm shop may be ancillary to agricultural use, however paragraph 6 of Appendix C to A Farmer's Guide to the Planning System, issued jointly by the former Office of the Deputy Prime Minister and Defra in 2002, points

out that, 'It is normally assumed that the use of a farm shop only for the sale of unprocessed goods produced on that farm is a use which is ancillary to the use as a farm, and therefore does not require specific planning permission. However, use as a farm shop selling a significant amount of produce from elsewhere is a separate use and therefore requires planning permission'. This advice is supported by court decisions such as *Williams v M.H.L.G. & another* 1967. *Allen v SoS & Reigate & Banstead B.C.* 10/7/89 also established that the sale of plants grown at a nursery was ancillary to a primary use of agriculture, but that if those sales extended to produce which was imported to the holding then it was likely that there would be a material change of use.

The latter case also established that a limited amount of retailing can be considered to be ancillary to an agricultural use and, following this case, a 10% figure has tended to become the benchmark used by many local authorities, and included within other case law and appeal decisions, as an amount of imported retailing which could remain within an ancillary category.

In this case, whilst it is accepted that the land can be considered an agricultural holding and therefore is afforded agricultural permitted development rights, as set out by Part 6 of the GPDO, the LPA does not consider that the subject building was ever reasonably necessary for the purposes of agriculture within the unit.

In addition, Class A.2(7) of Part 6 sets out the condition that, 'where development is permitted by Class A(a), the developer shall notify the local planning authority, in writing and within 7 days, of the date on which the development was substantially completed'. The LPA can confirm that it has no record of notification of the date on which the development was substantially completed.

For such reasons, the developer has failed to accord with the criteria set out by Part 6 of the GPDO when erecting the main building on the site and, in lieu of any planning permission having been granted, this building is considered to be unlawful. Given its unlawful status, it is not considered that the Council can lawfully grant planning permission to change the use of this building.

The applicant was advised by the LPA prior and subsequent to the submission of the application that consent should be sought for the retrospective erection of the main building, rather than to change its use, for the reasons set out above, however the applicant declined to adopt such advice in his submission.

Appropriateness of Development within Green Belt

The site is situated within the Tyne and Wear Green Belt and, as such, policy WA19.1 of the Council's adopted Unitary Development Plan (UDP) is applicable, which dictates that this particular section of the Green Belt shall be retained. Paragraph 80 of the National Planning Policy Framework (NPPF) sets out five purposes of including land in Green Belts, which are reflective of policy CN2 of the UDP, namely to:

- check the unrestricted sprawl of large built-up areas;
- prevent neighbouring towns merging into one another;
- assist in safeguarding the countryside from encroachment;

- preserve the setting and special character of historic towns; and
- assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Paragraph 81 of the NPPF goes on to advise that, 'once Green Belts have been defined, local planning authorities should plan positively to enhance the beneficial use of the Green Belt, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land'.

The essential characteristic of Green Belts is their permanence and their protection must be maintained as far as can be seen ahead. In order to safeguard the Green Belt, paragraph 87 of the NPPF considers 'inappropriate development' to be, by definition, harmful and should therefore not be approved except in very special circumstances. Paragraph 88 goes on to state that, 'when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations'.

Within this context, paragraph 89 of the NPPF indicates that the construction of new buildings inside the Green Belt is inappropriate unless for one of the following purposes:

- agriculture and forestry;
- appropriate facilities for outdoor sport, outdoor recreation, and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;
- the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or
- limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

Paragraph 90 states that certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. These are:

- Mineral Extraction;

- Engineering Operations;
- Local transport infrastructure which can demonstrate a requirement for a Green Belt location;
- The re-use of buildings provided that the buildings are of permanent and substantial construction; and
- Development brought forward under a Community Right to Build Order.

The development for which consent is currently sought clearly does not fall within any of the above purposes, so constitutes inappropriate development within the Green Belt.

The justification set out in section 5 of the Planning, Design and Access Statement relates primarily to the proposed extension and retrospectively proposed canopy, both of which the document argues do not result in disproportionate additions over and above the size of the original building. Notwithstanding validity of this approach, it is noted that the main building has a total internal area of 325sq.m whilst the proposed extension has a floor area of 75sq.m and that of the canopy is 235sq.m, so the LPA does not agree that such additions can be considered proportionate to the original building.

The Planning, Design and Access Statement makes no reference to the appropriateness of the proposed use or several other aspects of the application and wrongly claims that the majority of the structures within the site benefit from planning permission. The LPA does not consider that the proposal can merely be considered as an extension, given that the existing main building is currently unlawful and the application includes several other forms of development. Therefore, regardless of whether the works are considered 'disproportionate additions', it is not considered that this, or any of the purposes set out above for which development within the Green Belt can be considered appropriate, applies in this instance.

Impact on Openness of Green Belt

As set out above, (paragraph 89 of the NPPF) development can only be considered to be appropriate within the Green Belt on the proviso that it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. Reflective of paragraph 89, UDP policy CN5 sets out that care will be taken to ensure that the visual amenities of the Green Belt will not be injured by proposal for development within, or conspicuous from, the Green Belt.

As set out above, the submitted Planning, Design and Access Statement wrongfully claims that 'many of the physical structures on the site already benefit from planning consent'. In fact, express planning permission has only been granted for the 3no. polytunnels; all other development within the site is considered by the LPA to be unlawful.

Prior to such development, the application site existed as an open field and the current application must therefore be judged on this basis. The site is highly visible in an exposed position and the extent of the Green Belt is clearly defined

by the A1290 (Washington Road) which borders the application site to the south and east. The subject development has resulted in a clear incursion into the Green Belt, in direct conflict with paragraph 80 of the NPPF which identifies one of the five purposes of the Green Belt is to 'assist in safeguarding the countryside from encroachment'. The character of the site has clearly changed from agricultural / open space to a commercial enterprise. Indeed, a 68-space car park has been provided within the site, which demonstrates the level of commercial activity taking place / likely to take place. It is considered that such a commercial operation and the activity associated with it, particularly the attraction of additional car-borne visits to the site, is, in itself, harmful to the openness of the Green Belt.

In respect of the particular operational development which has taken place and is currently proposed, the main building, which according to the submitted plans measures some 5m in height by 35.8m in length and is proposed to be extended by a further 8.4m, is considered to represent a significant incursion into the openness of the Green Belt, which would be worsened by the proposed extension. Such significant detriment on the openness of the Green Belt is compounded by the canopy immediately to the rear of the main building and the plethora of detached structures which exist within the site, although it is accepted that the applicant proposes to remove a number of these within three months. The expanse of tarmac used to construct the subject car park is considered to be an unsympathetic addition which further erodes the openness of the Green Belt. All of this development is situated within what was an entirely open field and, apart from the polytunnels which are notably lower than the main building and canopy, is not viewed against the backdrop of any built-up area. It is noted that dwellings exist to the southeast, namely a terrace known as Severn Houses, however these are situated some 140m from the main building and 115m from the subject car park on the opposite side of the A1290 and outside the designated Green Belt.

Very Special Circumstances

As set out above, paragraph 88 of the NPPF states that 'when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt and that "very special circumstances" will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations'.

The previous two sections of this report demonstrate that the subject development constitutes inappropriate development in the Green Belt which, in itself, according to paragraph 87 of the NPPF, is, by definition, harmful and should therefore not be approved except in very special circumstances. The development has also resulted in further significant harm in respect of its impact on the openness of the Green Belt. Therefore, the development could only be viewed favourably if 'very special circumstances' are demonstrated which outweigh such harm.

The submitted documentation does not attempt to demonstrate or make any reference to any very special circumstances. Section 5.15 of the Planning, Design and Access Statement does set out benefits which have / would be brought about by the development, namely to the rural economy, local business and employment opportunities. Indeed it is set out in the application form that

there are currently 9no. full-time members of staff, which would rise to 11no. (although these figures have not been substantiated), and a petition has been submitted in support of the coffee shop (albeit not in response to the LPA's publicity of the application).

It is agreed that these are, indeed benefits. However, they clearly do not constitute 'very special circumstances' to allow inappropriate development in the Green Belt, as defined by the NPPF. These points are merely benefits which could be attributed to any form of commercial development, which could be more appropriately located outside the Green Belt.

In lieu of any 'very special circumstances', the development is considered to be inappropriate and unacceptable development in the Green Belt.

Design and Impact on Visual Amenity

One of the core principles of the NPPF, as set out by paragraph 17, is that planning should 'always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings'. Paragraphs 56 and 57 expand upon this principle, highlighting the importance Central Government place on the design of the built environment, including individual buildings, public and private spaces and wider area development schemes. Paragraph 64 of the NPPF goes on to state that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. One of the purposes of including land within the Green Belt, as set out by paragraph 80 of the NPPF (see above) is to 'assist in safeguarding the countryside from encroachment'.

Policy B2 of the UDP reflects the above, stating that the scale, massing, layout and/or setting of new developments should respect and enhance the best qualities of nearby properties and the locality whilst large scale schemes, creating their own individual character, should relate harmoniously to adjoining areas' whilst policy B3 states that 'public and private open space will be protected from development which would have a serious adverse effect on its amenity, recreational or nature conservation value; proposals will be considered in the light of their contribution to urban regeneration and to the importance of such space to the established character of the area'.

As set out above, the subject development, particularly the main farm shop building, has a distinctly commercial appearance and therefore appears at odds with its agricultural setting, especially considering the confirmation from the applicant that the site constitutes an agricultural holding.

Flood Risk and Drainage

Policy EN12 of the UDP dictates that the Council, in conjunction with the Environment Agency (EA) and other interested parties, will seek to ensure that proposals would not be likely to impede materially the flow of flood water, or increase the risk of flooding elsewhere, or increase the number of people or properties at risk from flooding (including coastal flooding) or adversely affect the quality or availability of ground or surface water, including rivers and other waters, or adversely affect fisheries or other water-based wildlife habitats.

In addition, paragraph 100 of the NPPF states that 'inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. For these purposes, paragraph 2 of the Technical Guidance to the NPPF sets out that:

"areas at risk of flooding" means land within Flood Zones 2 and 3; or land within Flood Zone 1 which has critical drainage problems and which has been notified to the local planning authority by the Environment Agency;

"flood risk" means risk from all sources of flooding - including from rivers and the sea, directly from rainfall on the ground surface and rising groundwater, overwhelmed sewers and drainage systems, and from reservoirs, canals and lakes and other artificial sources'.

As summarised above, the Environment Agency (EA) offered no objection in respect of surface water drainage, advising that run off from the car park be passed through an oil interceptor and noting its standing advice regarding general surface water drainage issues. The EA also recommended consultation with the local sewerage undertaker, namely Northumbrian Water (NWL), who, having regard to impact on its assets and the capacity of its network to accommodate and treat the anticipated flows arising from the development, raised no objection on the proviso that the development does not proposed to affect its apparatus, which NWL will address directly with the applicant.

The site is situated within Flood Zone 1, so is at a low risk of fluvial flooding, however given the scale of development, in particular the extent of hard surface which has been provided, the applicant was requested by the LPA to submit a Flood Risk Assessment (FRA).

In addition to fluvial flood risk, the submitted FRA identifies potential sources of flood risk, namely coastal and estuarine, groundwater, sewer and highway drain, surface water, infrastructure failure and climate change, and concludes no or low risk in each instance.

Having particular regard to surface water flood risk, it is noted that a significant amount of former open space has been developed with impermeable material which includes, but is not limited to, a tarmac car park of approximately 1950sq.m in area. This car park has a gradual downward slope eastward toward a large expanse of grassland, to which surface water is directed after it has been contained by an edging of timber railway sleepers which allows a restricted discharge of runoff. A land drain and soakaway arrangement allows dispersal of outflow back into the ground, although full details of this arrangement have not been provided so, as set out by the FRA, it is not possible to fully assess this form of infiltration. The FRA also recommends the adoption of a remedial drainage strategy should further monitoring of the site reveal that excess runoff from the site as a result of intense or prolonged storms causes localised flooding of the land to the east of the car park.

The FRA goes on to advise that, should this arrangement be inadequate and due to the site topography, runoff from the car park would discharge across the grassed area to the east and into the Local Wildlife Site (LWS), so would not pose a risk of flooding to the buildings within the site or public highway. On this basis, the FRA recommends that the existing drainage system is likely to be

adequate for short return period rainfall intensities but is likely to experience limited capacity for more extreme events, although this would present only a minor hazard.

Based upon the details of the FRA, its conclusions are considered to be reasonable. However, this documents assesses only the impact of the subject car park and none of the other development for which consent is currently sought. Such development has resulted in the replacement of further grassland with impermeable structures and surfacing, including the large canopy and the paving underneath and around this structure and the various outbuildings, and the impact of the proposed extension (for which the foundations have already been provided) has not been included. It is noted that no notable intrusive investigations have been carried out to the adjacent fields and, in lieu of such information, a full assessment of the proposed means of infiltration has not been provided and an accurate assessment of flood risk cannot be made.

For such reasons, it is not considered that the risk of flooding as a result of the development for which consent is sought has been fully assessed.

Ecology

Chapter 11 of the NPPF sets out the Government's aims to conserve and enhance the natural environment through the planning process.

Reflective of such aims, policy CN18 promotes the preservation and creation of habitat for protected species where possible. Policy CN22 goes on to state that 'development which would adversely affect any animal or plant species afforded special protection by law, or its habitat, either directly or indirectly, will not be permitted unless mitigating action is achievable through the use of planning conditions and, where appropriate, planning obligations, and the overall effect will not be detrimental to the species and the overall biodiversity of the city'.

As summarised above, the Environment Agency (EA) has noted that consideration must be given to any impact on the following protected species, in relation to which appropriate risk assessments, surveys, impact assessments and mitigation must be undertaken and the advice of Natural England sought:

- Great Crested Newt - records from 2002-2007 indicate a presence to the north and south of the application site, the closest of which are potentially within 50m, mainly for Severn Houses Pond, Severn Houses Pool and Barmston Pond which is 700m to the southeast.
- Water voles - records from 2008 note existence in relation to Usworth Hall Southern Ditch, which runs north and south about 400m northwest of the site.

The EA has also noted its records from 2007 of the presence of the invasive species Australian Swamp Stonecrop within and around the environment of Barmston Pond 700m to the southeast and the importance of ensuring that this is not spread.

Also as summarised above, Natural England (NE) has advised that the development is unlikely to affect any statutorily protected sites or landscapes, but NE has not assessed the impact on protected species, instead making reference

to its standing advice and noting that it is the responsibility of the Local Authority to make such an assessment.

Given the significant potential cumulative impact on biodiversity from various phases of development on the land and the probable negative impacts of development such as the car park on protected species either directly or indirectly, including contamination from run-off, any proposals for development (existing or proposed) must be supported by up to date ecological data and assessments to ensure, for example, that species' population and distribution are clear and that new and previously employed mitigation and enhancement measures are appropriate, effective and monitored and managed accordingly. The application site includes part of Severn Houses Local Wildlife Site (LWS) and, although direct impacts on the key features of the LWS appear negligible, indirect impacts and opportunities for buffering and enhancements should be considered and applied. The effect of developments (construction and operational) on the water table and water quality of the catchment and LWS should be clear and addressed accordingly.

Upon consultation with the Council's Natural Heritage team, the ecological impact of the development has been assessed, having regard to the submitted ecology report entitled 'Bat and Great Crested Newt Risk Assessment' dated 11 June 2014. However, as per the FRA as discussed above, this report provides commentary only on the car park area and only with respect to impact on great crested newt and contains no information pertaining to other elements of development (existing or proposed), bats (as suggested by the title of the document) or other protected and important species or habitats.

As set out above, the FRA identifies that the subject car park alone will discharge surface water to the grassland to the east and into the LWS. Whilst this would, to some degree, address the risk of flooding, it may pose a negative impact on the species which occupy the LWS and their habitat. It is noted, as alluded to above, that the EA has specified that drainage to a soakaway from a car parking area of greater than 50 spaces should be passed through an oil interceptor before discharging to ground. Whilst this could be conditioned to prevent the discharge of pollutants to the LWS, the additional of an alternative water source could still have a notable impact on this wildlife habitat.

In summary, the ecology fails to provide up to date ecological data and assessments to assess the cumulative harm of all development for which consent is sought and, as such, from the information provided, the appropriate mitigation and enhancement measures cannot be fully ascertained.

Highway Implications / Sustainability

Paragraph 32 of the NPPF states that consideration should be given to:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development

should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

In addition, paragraph 75 of the NPPF states that, 'planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails'.

Policies T8, T9 and T10 of the UDP promote the facilitation of mobility for pedestrians and cyclists whilst upgrading and identifying new paths and multi-user routes. Policy T14 aims to ensure that new developments are easily accessible to both vehicles and pedestrians, should not cause traffic problems, should make appropriate provision for safe access by vehicles and pedestrians and indicate how parking requirements will be met. UDP Policy T21 relates to the provision of parking within the City and the need to take account of the need to maintain safe road conditions and ensure the economic viability of existing retail and commercial centres whilst UDP policy T22 seeks to ensure that the necessary levels of car parking provision will be provided.

The application site is not considered to be situated within a particularly sustainable location, being remote from residential areas (with the exception of Severn Houses) and other shops and services, which is evidenced by the size of the car park which has been provided. However, a bus stop exists within particularly close proximity and, upon condition that a footway be provided along the north side of Washington Road (A1290) on both sides of the access to the site, extending to the existing bus stop, and that dropped kerb crossing points should be provided to aid the pedestrian desire line, as suggested by the Council's Network Management section, it is not considered that the development is prejudicial to highway or pedestrian safety.

Residential Amenity

Reflective of paragraph 17 of the NPPF, as set out above, and in addition to policy B2, policy EN1 of the UDP seeks to minimise all forms of pollution whilst policy EN5 states that, 'where development is likely to generate noise sufficient to increase significantly the existing ambient sound or vibration levels in residential or other noise sensitive areas, the Council will require the applicant to carry out an assessment of the nature and extent of likely problems and to incorporate suitable mitigation measures in the design of the development'.

The nearest residential properties to the application site are those known as Severn Houses. However, these are situated some 140m from the main building and 115m from the subject car park on the opposite side of the A1290. Given the nature of the use, it is not considered that residents of these dwellings would be subject to any excessive noise or disturbance and any potential disturbance could be mitigated by an appropriate condition limiting the operating hours.

Conclusion

For the reasons set out above, the main building on the site is considered to be unlawful and, as such, it is not considered that consent can lawfully be granted to change its use. Notwithstanding this, the proposal is considered to constitute inappropriate development in the Green Belt which is harmful to the openness of the Green Belt and no very special circumstances exist to outweigh such harm.

It is also not considered that the submission adequately addresses the potential risk of flooding or the ecological impact of the development.

However, the statutory period for the receipt of representations does not expire until 24 September 2014, subsequent to the preparation of this report but prior to the Sub-Committee meeting.

Therefore, it is recommended that Members refuse planning permission subject to no further representations being received. If any representations or additional information is received prior to the Sub-Committee meeting, these will be reported to the Sub-Committee, any new information/evidence will be addressed and the recommendation reappraised if necessary.

Should Members be minded to approve the application against the recommendation set out in this report, please note that the Town and Country Planning (Consultation) (England) Direction 2009 requires local planning authorities in England to consult the Secretary of State before granting planning permission for certain types of development. This includes 'development which consists of or includes inappropriate development on land allocated as Green Belt in an adopted local plan, unitary development plan or development plan document and which consists of or includes-

- (a) the provision of a building or buildings where the floorspace to be created by the development is 1,000 square metres or more; or
- (b) any other development which, by reason of its scale or nature or location, would have a significant impact on the openness of the Green Belt'.

The floorspace of the buildings which are subject to the current application is less than 1000sq.m, however the application is considered to meet the latter of the above criteria in that it is considered that the development has a 'significant impact on the openness of the Green Belt'. As such, as set out by the Direction, unless Members are minded to refuse planning permission, the application must be referred to the Secretary of State.

RECOMMENDATION: Refuse

Reasons:

- 1 The building identified as 'Existing Farm Shop' on the submitted Site Location and Site Context Plans is unlawful, in that it does not and has never constituted 'permitted development' as set out by Part 6 of The Town and Country Planning (General Permitted Development) Order 1995 (as amended). Therefore, it is not considered that planning permission can be granted for its change of use.
- 2 The development constitutes inappropriate development in the Green Belt, contrary to paragraphs 87-90 of the National Planning Policy Framework and policies CN2, CN3 and WA19.1 of the adopted Unitary Development Plan.
- 3 The development, by means of its commercial nature, scale, massing, location and design, is harmful to the openness of the Green Belt, contrary

to paragraphs 79 and 80 of the National Planning Policy Framework and policies CN2, CN5 and WA19.1 of the adopted Unitary Development Plan.

- 4 The application is not accompanied by an adequate flood risk assessment which takes into account the impact of all development for which planning permission is sought and it is therefore considered that due regard has not been given to such impact. As such, in lieu of any conclusive evidence to the contrary or any appropriate means of mitigation, it is considered that the proposal would increase the risk of flooding locally, contrary to the requirements of paragraph 100 of the National Planning Policy Framework and policy EN12 of the adopted Unitary Development Plan.
- 5 The application is not accompanied by an adequate ecological report which takes into account the impact of all development for which planning permission is sought and its impact on all protected and important species or habitats. As such, in lieu of any conclusive evidence to the contrary, the proposal is considered to be harmful to local wildlife and its habitat and contrary to the requirements of chapter 11 of the National Planning Policy Framework and policies CN18 and CN22 of the adopted Unitary Development Plan.

5.

Washington

Reference No.: 14/01929/TP3 Tree Preservation order LAP Reg 3

Proposal: **Fell dying horse chestnut tree (TPO 19)**

Location: Holy Trinity Church The Avenue Washington Village
Washington NE38 7LE

Ward: Washington Central

Applicant: Sunderland City Council

Date Valid: 18 August 2014

Target Date: 13 October 2014

PROPOSAL:

Introduction

Consent is sought for the felling of one horse chestnut tree at Holy Trinity Church, The Avenue, Washington Village, Washington, NE38 7LE. The application has been submitted by the City Council as the Church yard is considered to be closed and the responsibility of its up keep has been transferred to the Authority. As such the application is required to be determined by Committee.

The tree is situated adjacent to public footpaths within the grounds of the Church. The wider area is well stocked with a variety of trees benefitting from protection by way of tree preservation orders (TPO) and the fact the area forms part of Washington Village Conservation Area. These measures ensure any works to trees are appropriately considered.

Proposal

Consent is sought to fell one horse chestnut tree which is protected via TPO19. The subject tree is clearly in a poor condition whilst the City Councils Arboroculturist has confirmed that the tree is dying.

TYPE OF PUBLICITY:

None

CONSULTEES:

None

Final Date for Receipt of Representations:

REPRESENTATIONS:

No representations have been received during the consideration of the proposal.

POLICIES:

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

CN_17_Tree Preservation Orders and replacement of trees

COMMENTS:

Considerations

The main issues to consider is whether the proposed works are reasonable and the assessment of the contribution of the tree to the character of the area.

Policy CN17 of the UDP is applicable in this instance and states that the City Council will encourage the retention of trees which make a valuable contribution to the character of an area by the making of Tree Preservation Orders and replacing trees in highways and other public areas, with species that help maintain the character of the locality. The retention of trees, hedges and landscape features in all new development will be required where possible.

In accordance with the above, the subject tree is clearly in a poor condition whilst the City Council's Arboriculturist has confirmed the tree is dying. As such, it is considered the felling of the tree is appropriate and reasonable.

The horse chestnut offers little contribution to visual amenity and does not significantly add to the character of the area. The remaining trees within the grounds of the Church are to be unaffected and as such the felling of the tree is considered to be acceptable, in accordance with policy CN17, detailed above.

Given that the immediate area is well stocked with trees it is considered unnecessary to require the replacement of the tree on this occasion.

In light of the above, the proposal is considered to be compliant with the requirements of policy CN17 of the City of Sunderland's adopted Unitary Development Plan (1998) and it is recommended that Members approve the application, in accordance with Regulation 3 of the Town and Country Planning General Regulations 1992, subject to the following conditions.

RECOMMENDATION: Approve in accordance with Regulation 3

Conditions:

- 1 No tree shown to be retained on the approved plans shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 "Tree Work", in the interests of visual amenity and to comply with policy CN17 of the UDP.
- 2 This permission shall be for a limited period of 2 years from the date hereof and the works shall not be undertaken after the expiry of the period

specified to ensure the protection of the amenity value of the tree and to comply with policy CN17 of the UDP.