

**DEVELOPMENT CONTROL (SOUTH SUNDERLAND)  
SUB-COMMITTEE**

**AGENDA**

**Meeting to be held in Committee Room No. 1 on Monday 30<sup>th</sup>  
October, 2017 at 4.45p.m.**

ITEM		PAGE
1.	<b>Receipt of Declarations of Interest (if any)</b>	
2.	<b>Apologies for Absence</b>	
3.	<b>Applications made under the Town and Country Planning Acts and Regulations made thereunder</b>	1
	Report of the Executive Director of Economy and Place (copy herewith).	

**E. WAUGH,  
Head of Law & Governance.**

Civic Centre,  
SUNDERLAND.

20<sup>th</sup> October, 2017



# Item 3

## Development Control (City Centre) Sub-Committee

30th October 2017

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### REPORT ON APPLICATIONS

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#### REPORT BY THE EXECUTIVE DIRECTOR OF ECONOMY AND PLACE

##### PURPOSE OF REPORT

This report includes recommendations on all applications other than those that are delegated to the Executive Director of Economy and Place determination. Further relevant information on some of these applications may be received and in these circumstances either a supplementary report will be circulated a few days before the meeting or if appropriate a report will be circulated at the meeting.

##### LIST OF APPLICATIONS

Applications for the following sites are included in this report.

1. 17/00202/FU4  
4-5 Foyle Street Sunderland SR1 1LB
2. 17/00434/LB4  
4-5 Foyle Street Sunderland SR1 1LB
3. 17/01563/FUL  
18 Westbourne Road Sunderland SR1 3SQ
4. 17/01593/FUL  
Land To The Rear Of Bevan Avenue Sunderland
5. 17/01860/LP3  
64 Otto Terrace Sunderland SR2 7LR

##### COMMITTEE ROLE

The Sub Committee has full delegated powers to determine applications on this list. Members of the Council who have queries or observations on any application should, in advance of the above date, contact the Sub Committee Chairperson or the Development Control Manager (0191 561 8755) or email [dc@sunderland.gov.uk](mailto:dc@sunderland.gov.uk).

## **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 2015.

## **LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION**

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

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

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

These reports are held on the relevant application file and are available for inspection during normal office hours at the Economy and Place Directorate at the Customer Service Centre or via the internet at [www.sunderland.gov.uk/online-applications/](http://www.sunderland.gov.uk/online-applications/)

Peter McIntyre

Executive Director Economy and Place

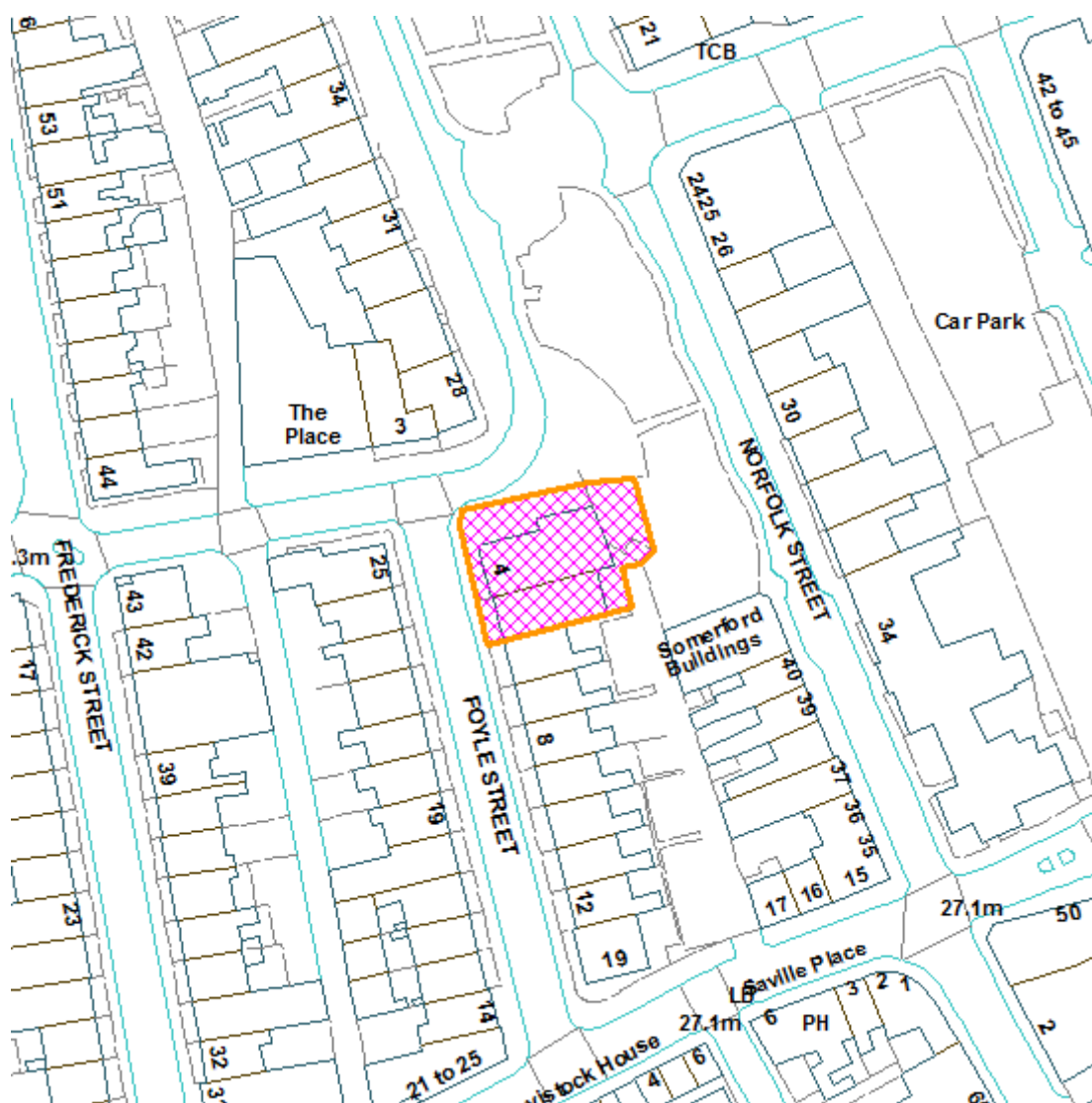
Reference No.: 17/00202/FU4 Full Application (Reg 4)

**Proposal:** Change of use from restaurant and residential accommodation (use classes A3 and C3) to bar with function suite and 1no residential unit (use classes A4 and C3), together with external decking area and external staircase and other external alterations.

**Location:** 4-5 Foyle Street Sunderland SR1 1LB

**Ward:** Hendon  
**Applicant:** Dailyclever Projects Ltd  
**Date Valid:** 28 February 2017  
**Target Date:** 25 April 2017

### Location Plan



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## **PROPOSAL:**

The proposed change of use affects the properties of 4-5 Foyle Street which are located within the heart of the Sunnyside Conservation Area in Sunderland City Centre. The Grade II Listed buildings occupy a prominent position on the corner of West Sunnyside and Foyle Street and are currently vacant following the closure of the former Thai Manor Restaurant which occupied both properties.

The application proposes to change the use of the two properties in question to provide a new bar, a function suite including an external decking area and rear stairwell and a separate self-contained residential unit. Associated internal and external alterations are proposed to the Listed Building and a separate application seeking Listed Consent has also been submitted (Ref: 17/00434/LB4).

No.4 Foyle Street would be utilised as bar at ground floor with a function suite above. A first floor roof terrace connected to the function suite is proposed to the rear of the property. A stairwell/fire escape would provide access into the rear lane.

No.5 Foyle Street, which was previously enveloped into the former Thai Manor restaurant, would be partitioned off to form a self-contained dwelling over three floors (including the basement). The residential dwelling would contain an open plan living room/diner/kitchen at ground floor and two bedrooms and a W.C at first floor.

The proposed bar/function suite use would create 4 full time employees and six part time employees. The application form outlines an intention to operate the bar between the hours of 10:00 and 02:00hrs.

## **TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

## **CONSULTEES:**

Environmental Health  
Hendon - Ward Councillor Consultation  
Network Management

Final Date for Receipt of Representations: **25.04.2017**

## **REPRESENTATIONS:**

Consultation

Network Management:

- It has been noted that off-street parking is available to the rear;
- The handrail to the rear elevation of the first floor decking area should be; heightened to avoid people falling over and dropping items;

- All servicing should take place to the rear of the premises;
- The development is located within the City Centre with good links to public transport.

#### Public Health:

- An odour assessment should be provided to assess any potential impact from any extraction system that is to be implemented. (in this respect it has been confirmed by the applicant that they intend to utilise the existing system)
- A noise assessment should be provided to assess any potential impact from the function room and roof terrace on the new dwelling proposed and wider residential uses in the area. The assessment would need to demonstrate that music from the proposed function room and terrace would be inaudible at the nearest residential premises whilst also taking account of patron noise.

#### Neighbours:

One representation has been received from a nearby residential occupier on Foyle Street. The concerns relate to the following;

Privacy and noise implications resulting from patrons utilising the external roof terrace at the rear and congregating in the rear lane.

#### **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\_4\_Development within conservation areas  
 B\_6\_Measures to preserve and enhance conservation areas  
 B\_10\_Development affecting the setting of listed buildings  
 EN\_5\_Protecting sensitive areas from new noise/vibration generating developments  
 T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising  
 T\_22\_Parking standards in new developments

#### **COMMENTS:**

##### Considerations

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

- 1) Principle of the development.
- 2) Impact on the conservation area
- 3) Impact on the amenity of neighbouring properties
- 4) Highway issues.

##### Policy background

Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise.

The National Planning Policy Framework (NPPF) is a material consideration in the determination of planning applications and paragraph 11 of the NPPF states that planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 expands upon this and advises that the NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved.

Whether or not the development plan is up to date is a material consideration in determining how much weight should be attached to the relevant policies in the development plan in light of other material considerations. In particular, Paragraph 214 of the NPPF states that where the relevant provisions of the development plan were not adopted in accordance with the provisions of the Planning and Compulsory Purchase Act 2004 (which is the case with the Council's Development Plan which was adopted in 1998), due weight should be given to the relevant policies of the plan according to their degree of consistency with the NPPF.

Paragraph 14 of the NPPF provides that in respect of decision making:-

- development proposals that accord with the development plan should be approved without delay;
- where the development plan is absent, silent or the relevant policies are out of date, planning permission should be granted unless:-
  - (i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole; or
  - (ii) specific policies in the NPPF indicate that development should be restricted.

## 1. Principle of Development

The Sunnyside area of the City Centre is identified as a strategic location for change by the City Council's adopted Unitary Development Plan Alteration No. 2 (Central Sunderland). Policy SA55B.1 of UDP Alteration No. 2 states that the City Council will encourage the continued development of the Sunnyside area as a lively mixed-use urban quarter with a high quality physical environment. In this respect the document confirms that there are a number of uses which already contribute to the character of the Sunnyside area and that such uses should remain predominant - uses falling into use class A4 and C3 (Drinking Establishments and housing) are within this list).

Further guidance in relation to development proposals in the Sunnyside area is provided by the Council's adopted Sunnyside Planning and Design Framework Supplementary Planning Document (SPDF), which seeks to encourage the regeneration of Sunnyside in a manner which is sympathetic to its historic significance. The SPDF identifies a number of character areas within Sunnyside; in order to ensure an appropriate mix of uses is maintained, it is a requirement that proposals should fall within the list of 'preferred' and 'acceptable' uses for the relevant character area.

Foyle Street/Sunnyside West is located in the Historic Core (east) of Sunnyside and A4 and C3 uses are considered to be acceptable within this character area, on all levels of buildings. The text to the policy clarifies, however, that pubs/bars should accord with guidance laid out within the Evening Economy Supplementary Planning Document. (SPD)



The Evening Economy SPD provides a more detailed strategy which aims to improve and manage the evening and night time economy with a view to ensuring harm is not caused to the physical and functional character of areas or nearby residents. Within the 'Sunniside Quarter' the focus of SPD largely mirrors the broader aspirations of Policy SA55B.1 and the SPDF through the encouragement of licensed premises which complement the mix of uses within the area. Notwithstanding, the SPD outlines that careful consideration will need to be given to the impact of such development on residential amenity and other noise sensitive uses in the area. In this respect, conditions will, where necessary, be applied to mitigate such impacts. It is noted that Section 4.23 of the Evening Economy Document states that Foyle Street was historically a residential street and that it has seen a shift back towards accommodating residential uses in recent times. In this respect there is a general stance that licensed premises will not be encouraged within the part of the quarter.

All of the adopted policies and documents outline that the provision of drinking establishments and residential uses within Sunniside are considered to be acceptable insofar that they would contribute towards creating a vibrant mixed use quarter within the city. Whilst it is noted that the Evening Economy SPD seeks to preclude licensed premises from Foyle Street it is nonetheless acknowledged that No.4 Foyle Street sits on the northern periphery of the street and effectively fronts onto West Sunniside. Furthermore, the property has historically been occupied by licensed premises in the form of a restaurant.

On the basis of the above reasoning, the principle of utilising 4-5 Foyle Street for a bar/function room and a residential dwelling is considered to be largely consistent with existing policy/guidance and is considered to be acceptable.

Notwithstanding, in determining the overall acceptability of the proposal it still needs to be ensured that the development satisfactorily addresses the following material planning considerations as outlined below.

## 2. Impact on the amenity of the Conservation area

Policy B4 of the UDP requires that all development within and adjacent to Conservation Areas will be required to preserve or enhance their character or appearance, whilst policy B6 seeks to ensure that the character and appearance of conservation areas are maintained through the retention and re-use of existing buildings. In addition and given the proximity of listed buildings, policy B10 is also considered to be of relevance. This policy seeks to ensure that development proposals in the vicinity of listed buildings do not adversely affect their character or setting.

The above policies are largely reflective of the aims and aspirations of Paragraph 131 of the NPPF which requires Local Planning Authority's to take account of,

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.
- The positive contribution that conservation of heritage assets can make to communities
- The desirability of new development making a positive contribution to local character and distinctiveness.

In addition, Paragraph 132 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation.

The proposed scheme would see a prominently positioned and disused listed building brought back into a viable use in accordance with land use policies for the Sunnyside area. No significant alterations are proposed to the external fabric of the building aside from the addition of Juliette balcony screens to the first floor patio doors on the northern elevation, a new emergency staircase within the rear lane environment and the physical works associated with the creation and implementation of the rear roof terrace.

The City Council's Built Heritage Section has raised no particular concern with the affixing of the first floor screens although full details of the specification would be expected to be submitted for subsequent approval in writing as part of the wider palette of materials via condition. The emergency stairwell is to be positioned at the end of a rear lane environment and within this context it is not considered that the structure would appear of undue prominence nor would it have any demonstrable impact on the significance of the listed building or wider views onto the listed building.

In order to facilitate the creation of the rear roof terrace it is proposed to make use of the existing flat roof which sits above the ground floor offshoot. Access to the roof space would be achieved via a new single door opening proposed from the upper floor function suite. An existing window would need to be removed to enable this. As a result of the noise mitigation measures (discussed in greater detail within the next section), it would be necessary for the applicant to erect a noise attenuation barrier between the southernmost section of the terrace and the adjacent flat roofed area to the rear of the proposed dwelling. As the noise assessment dictates that the specifications of the barrier would need to be 2.5m high, consideration needs to be given to how the structure would be viewed within the context of the Conservation Area. In this respect the applicant has submitted elevation drawings and a visual offering an insight in to the form the barrier may take.

Although the barrier would be positioned to the rear of the premises and thus would not be sited in an overtly prominent street fronting position, it is acknowledged that views onto the rear elevation of the property can be obtained from certain aspects of Norfolk Street to the east.

Notwithstanding, the City Council's Built Heritage Section have given further consideration to the elevation details and visual submitted by the applicant and on the basis that a high quality material/finish is utilised in the barrier, they are content that there would be no substantial harm to the character and appearance of the Conservation Area or the significance of the Listed Building. A condition would need to be attached to the decision ensuring that full specifications of the barrier are submitted for approval in writing.

### 3. Impact on residential amenity

Local Planning Policy B2a of UDP Alteration No. 2 seeks to ensure that the scale, massing, layout or setting of new developments should respect and enhance the best qualities of nearby properties and the locality and retain acceptable levels of privacy.

Policy EN5 of the UDP 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. Where such measures are not practical, permission will normally be refused.

The host building is situated within a street of mixed uses with some small businesses located on the western side of the street and residential uses largely occupying the properties on the eastern side. The host building is positioned to the far north of the eastern side and due to its orientation enjoys a more intimate relationship with West Sunnyside to the north. As access to the new bar

and function room would be retained from this elevation the potential for direct conflict to occur between the existing residents on Foyle Street and patrons of the bar would be reduced. Nonetheless, given the nature of the proposed use, the fact that a new residential use would be created within the extent of the existing building and the presence of existing residential occupiers on Foyle Street, the applicant was invited to carry out a noise assessment to ascertain the potential noise/ disturbance impact of the use on prospective and existing residents.

The assessment has considered the impact of noise emanating from the proposed function room on the adjoining (proposed dwelling) at No.5, the use of the external roof terrace by patrons, the noise impact of road traffic and 'breakout' music and noise from patrons on the facades of nearby residential properties.

The report recommends that a range of mitigation measures would need to be implemented in order to ensure that a satisfactory acoustic performance is achieved at the premises. Of principle significance is the proposed insertion of an internal block work partition wall between the ground floor bar area and the proposed new dwelling and the creation of a 2.5m high acoustic barrier/screen for the rear roof terrace. The report also outlines that a maximum of 16 people could use the terrace at any one time to ensure noise emanating from the terrace is kept within appropriate parameters.

The noise assessment report (final draft Revision D, prepared by Apex Acoustics dated 18 October 2017) has been the subject of consideration by the Councils' Public Health Section and they have qualified that they are satisfied that the report provides sufficient mitigation to ensure that noise emanating from the use would meet the relevant criteria as outlined by BS8233:2014 and the WHO guideline values. As such and subject to conditions which require that the proposed use is operated in full accordance with the mitigation measures outlined in the report and that no external music is played on the terrace, it is not considered that the proposal would have an unacceptable impact on the amenity of nearby residential occupiers or that of the prospective occupier at No.5 in terms of noise.

In terms of opening hours it is noted that the application form outlines that the proposed bar/function suite use would operate from 10.00 - 02.00, seven days a week.

The adopted Evening Economy SPD provides specific guidance on closing times for the various quarters of the City Centre. Within the Sunnyside Quarter Policy-SQ3 advises that the following closing times will be applied to planning permissions or new licensed premises.

- Monday to Thursday: 23:00 (23:30 for diners);
- Friday to Saturday: Midnight (12:30 for diners);
- Sundays 23:00.

The SPD advises that the restriction on the above hours is to ensure that licenced premises are not detrimental to nearby residential properties and the character of the Quarter.

Given the proximity of the building to existing residential properties on Foyle Street (including the creation of the new residential unit at No.5), it is considered that a 2am opening would have the potential to adversely impact on the amenity of nearby residential occupiers by virtue of comings and goings and the associated level of noise and disturbance that would be generated in the early hours of the morning.

Although the applicant has expressed a willingness to curtail the hours to 1am on Fridays and Saturdays and 12 midnight during the week (including restricting the use of the external terrace to 11pm midweek and 12 midnight on Fridays and Saturdays), these hours would still fail to adhere

with the SPD and the concerns would remain that the use would have an adverse impact by way of noise and disturbance in the early hours.

In light of the above and given the presence of nearby residential it is considered necessary to apply the closing restrictions outlined within the Evening Economy SPD in this particular instance. For such reasons it is also deemed necessary to restrict the use of the external roof terrace until 11pm (Fridays and Saturdays) and 10pm (Sundays to Thursdays).

In terms of privacy implications it is noted that representation has been made by a nearby occupier at No.6a Foyle Street. The concerns have been expressed with regard to overlooking from the terrace into their kitchen window. As has been discussed above, the noise mitigation measures would now dictate that a 2.5m high boundary screen would need to be erected. The erection of this screen would have the effect removing the possibility for patrons to experience outlook from and views onto, the rear of No.6a.

Concerns have also been expressed over the creation of the rear stairwell insofar that it would facilitate people to congregating within the rear lane. In response the applicant has confirmed that the rear stairwell would not be utilised for typical access into the premises rather it is required as an emergency escape. On this basis, there are no reasonable grounds to suggest that patrons of the bar/function room would congregate within the rear lane.

In light of the above and subject to the imposition of the appropriate conditions discussed above, the proposal is considered to be acceptable without unduly impacting on the amenities of nearby properties. The development therefore accords with policy B2a of UDP Alteration No. 2, EN5 and the adopted Evening Economy SPD.

#### 4) 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, whilst policy T22 requires development to be afforded an appropriate level of dedicated parking.

The Council's Network Management Section has observed that the property has some available space to the rear of the premises to accommodate in-curtilage parking although the presence of the proposed emergency staircase would remove a single bay. Notwithstanding the property is located within a defined city centre location and thus benefits from good links to public transport whilst on-street parking is available nearby. Furthermore it also needs to be acknowledged that majority of the property was previously used as a restaurant which would have generated a very similar level of vehicular comings and goings.

Further comments regarding the height of the handrail positioned to the rear of the terraced area have also been raised however this has been remedied by virtue of the revised boundary screen detail submitted by the applicant.

Network Management has also advised that all servicing/deliveries associated with the bar/function suite be carried out from the existing servicing area to the rear as was the former arrangement for Thai Manor. Should members be minded to grant consent a condition can be attached to this effect.

Based on the above the proposal is therefore considered to accord with the requirements of UDP policies T14 and T22.

## **Equality Act 2010 - 149 Public Sector Equality Duty**

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

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

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

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

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

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

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to'  
(a)tackle prejudice, and  
(b)promote understanding.

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

## **CONCLUSION**

With reference to the above, it is considered that the principle of utilising the building for the purposes of a bar/function room and a single dwelling is considered to be acceptable in keeping with the prevailing character of the area and the aims and objectives of the Unitary Development

Plan Alteration No. 2 (Central Sunderland), Policy SA55B.1 and the Sunnyside Planning and Design Framework Supplementary Planning Document (SPDF). In addition, it is not considered that the proposed external works would adversely impact on the character and appearance of the Conservation Area or the setting and character of the Listed Building as required by policies B4 and B6.

In terms of residential amenity it has been demonstrated that noise emanating from the bar/function suite can be appropriately mitigated through measures outlined within the noise assessment whilst restricting the opening hours would also reduce the potential for the associated comings and goings to impact on the amenity of nearby residential properties. The form and scale of the rear boundary treatment serving the roof terrace would dictate there would be no undue loss of privacy for nearby residential occupiers. On this basis there is considered to be no conflict with B2a of UDP Alteration No. 2, EN5 and the adopted Evening Economy SPD.

The site is sustainably located in a city centre location and benefits from good transport links. The proposal therefore accords with UDP policies T14 and T22.

Overall the proposed scheme will introduce a sustainable use to a vacant Listed Building located within a prominent location in Sunnyside Conservation Area.

#### **RECOMMENDATION:**

In this respect and for the reasoning offered above, Members are recommended to Grant Consent in accordance with Regulation 4 of the Town and Country Planning General Regulations 1992 and subject to the draft conditions listed below.

#### **Conditions:**

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

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

- The amended floor plans as existing and proposed received 04.07.2017 (REVA);
- The amended elevations as existing and proposed received 04.07.2017 (REVA);
- The existing site layout received 28.02.2017;
- The location plan received 26.01.2017.

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

3 Notwithstanding any indication of materials which may have been given in the application, no development shall take place until a schedule and where necessary, samples of the materials and finishes to be used for the external surfaces, including walls, roofs, doors and windows has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details; in the interests of visual amenity and to comply with policy B2 of the Unitary Development Plan.

4 Prior to the commencement of development full details of the proposed noise attenuation barrier to be installed to the rear roof terrace shall be submitted to and agreed in writing by the Local Planning Authority. For the avoidance of doubt, such details shall include full specifications of the barrier including dimensions, materials and finishes. All works shall be carried out in accordance with the agreed details before the roof terrace is brought into use in order to protect the amenity of adjacent dwellings and to comply with policy B2a of Alteration No.2 to the UDP.

5 The mitigation measures identified in the noise assessment undertaken by Apex Acoustics and dated 18.10.2017, shall be implemented in full prior to the bar and function suite commencing use and observed in full during the operation of the bar and function suite. Thereafter, the installed mitigation measures shall be retained for the lifetime of the development in order to achieve a satisfactory level of amenity for the occupants of the new dwelling and residents of nearby properties.

In order to comply with the requirements of policy B2a of Alteration No.2 to the UDP and Policy EN5 of the UDP.

6 The approved use, insofar that it relates to the internal operation of the bar and function suite, shall not be operated outside the hours of;

- 10:00 and 00:00 (Midnight) on Fridays and Saturdays;
- 10:00 and 23:00 Sunday through to Thursday.

The approved use, insofar that it relates to the use of the external roof terrace shall not be operated outside the hours of;

- 10:00 and 23:00 (Midnight) on Fridays and Saturdays;
- 10:00 and 22:00 Sunday through to Thursday.

In order to protect the amenity of local residents and to comply with policy B2a of Alteration No.2 to the UDP.

7 Notwithstanding the approved plans, all servicing and deliveries associated with the bar and function suite hereby approved shall take place from the rear of the premises and the rear yard shall remain unobstructed and be retained for such activities at all times, in the interests of highway safety and to comply with policy T14 of the UDP.

8 Notwithstanding any details provided within the application, no amplified music shall be played externally within the rear terraced area at any time and the access door shall remain closed at all times whilst the terrace is in use, in order to protect the amenity of neighbouring residential properties and to comply with policies B2 and EN5 of the adopted Unitary Development Plan.

**Reference No.:** 17/00434/LB4 Listed Building Consent (Reg 4)

**Proposal:** External alterations comprising installation of glazed Juliet balcony screens to first floor of north elevation, replacement of 2no. first floor windows with glazed doorway and provision of terrace with railings and raised platform and external stairway to east elevation and replacement of 1no. first floor window with doorway to south elevation. Internal alterations including removal and provision of walls, installation of bar at ground and first floor levels and associated works to facilitate proposed change of use.

**Location:** 4-5 Foyle Street Sunderland SR1 1LB

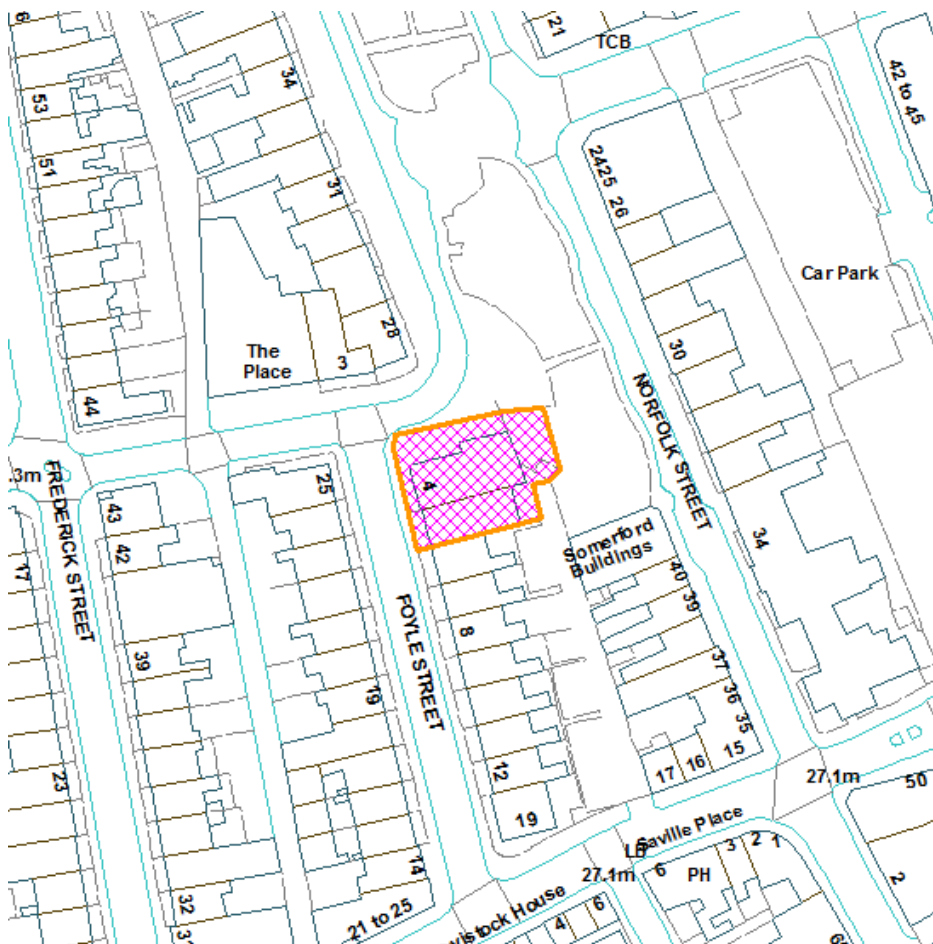
**Ward:** Hendon

**Applicant:** Dailyclever Projects Ltd

**Date Valid:** 28 February 2017

**Target Date:** 25 April 2017

### Location Plan



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## **PROPOSAL:**

This application for Listed Building consent affects the properties of 4-5 Foyle Street which are located within the heart of the Sunnyside Conservation Area in Sunderland City Centre. The Grade II Listed buildings occupy a prominent position on the corner of West Sunnyside and Foyle Street and are currently vacant following the closure of the former Thai Manor Restaurant which occupied both properties.

The consent is sought for the works as required to facilitate the conversion of the former restaurant to a new bar and function suite and a separate self-contained residential unit.

The proposed works include:

- The removal of selected stud and original walls and the installation of new stud partitions to accommodate the revised internal layout of the ground floor bar and new dwelling;
- the removal of a window and creation of a replacement first floor door to allow access to external terrace to the rear;
- the creation of an external decked roof terrace complete with acoustic/privacy fencing.
- the erection of a rear fire escape;
- the addition of two first floor Juliette balconies on the front (northern elevation).

The application is accompanied by an application for planning permission for the proposed development - application 17/00202/FU4.

## **TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

## **CONSULTEES:**

Hendon - Ward Councillor Consultation

Final Date for Receipt of Representations: **08.04.2017**

## **REPRESENTATIONS:**

Neighbours and Interested Parties

No representations have been received in respect of the application for Listed Building Consent.

## **POLICIES:**

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

B\_8\_Demolition of listed buildings

## COMMENTS:

The main issue to be considered in determining this application is:-

### Impact upon the Listed Building

Paragraph 131 of the NPPF relates to conserving the historic environment and states that in determining planning applications, local planning authorities should take account of:

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality and
- The desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.

Paragraph 133 states that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- The nature of the heritage asset prevents all reasonable uses of the site; and
- No viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- Conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
- The harm or loss is outweighed by the benefit of bringing the site back into use.

Paragraph 134 states that where a development will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Paragraph 137 states that Local planning authorities should look for opportunities for new development within Conservation Areas and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

Policy B8 of the Unitary Development Plan states that there will be a presumption in favour of retaining listed buildings.

Further to the abovementioned policies, the Council has produced and adopted the Sunnyside Conservation Area Character Appraisal and Management Strategy (CAMS). The primary objective of this strategy is to ensure that the special architectural or historic interest of the Sunnyside Conservation Area is preserved and enhanced for the benefit of current and future generations and for the enrichment of the city's built heritage. Management Objective 5 of the CAMS seeks to ensure that the repair, restoration and adaptation of historic buildings in Sunnyside Conservation Area is undertaken using the principles of 'informed conservation'.

Proposal 5a seeks to conserve the architectural integrity of the historic terraces at the core of the Conservation Area through the application of design guidelines.

This development is considered to be generally acceptable in the consideration of heritage matters. The proposed conversion would represent a viable and sustainable re-use of listed building which, whilst largely of good condition, is starting to degrade due to a prolonged period of inactivity. The proposal will importantly secure the future of vacant and key listed buildings in a long-term beneficial use in a manner that is on balance sympathetic to its significance, and that will sustain its conservation into the future.

The existing floor plan utilised by the former restaurant has seen several incisions made into the original walls, leaving nubs and supporting pillars within the main thoroughfare into the seating area. Whilst operationally acceptable for the restaurant, the retention of the pillars causes an obstruction and blind spot within the proposed bar which is understood to cause a security concern for the prospective tenant.

Through discussions with the architect it is the intention to leave the nubs of the original walls and the upper section in order to retain evidence of the historic wall position and allow its reinsertion at a later date if desired. Whilst this is acknowledged to be harmful to the fabric of the listed building, given the prospect of bringing this vacant building back into use and retaining elements of the wall, it is considered that the harm arising can be viewed as 'less than substantial', thus allowing the alteration to be agreed subject to the receipt of a cross-section drawing showing the nubs. This would need to be conditioned.

Various alterations are also proposed at first floor to facilitate the creation of the elevated roof terrace. Initially an intention was to provide 'French' doors within the main body of the first floor rear elevation following the removal of two original windows. However following concerns expressed over the impact this would have on the fabric of the building, a less intrusive solution has been agreed comprising the removal of a single window within the rear offshoot and the insertion of a single doorway to access the decked area.

Following initial reservations, the applicant has provided further details as to what form the acoustic/privacy fence could take (based on the requirements of the noise assessment submitted with application 17/00202/FUL). The height of the proposed fence would, at 2.5m, be relatively considerable and would undoubtedly impact on the how the rear of the building would be viewed and appreciated within the context of the area. In this respect it is considered that the significance of the building would, to some extent be impacted as a result of its erection. Nonetheless, within the wider context of bringing the building back into a viable use and securing a high quality material finish on the fence, the Council's heritage protection team have offered no objection to the structure. A condition will however need to be attached to secure full specifications and finishes of the fence.

The majority of the new partitions are being inserted to re-establish the residential unit that adjoins the restaurant. Currently, the building is a shell, with some areas missing plasterboard, skirting and walls. The proposed reuse of this building for residential is supported and the positioning of the walls follows a traditional Victorian pattern, helping to enhance significance of the building. Consequently no objections to this element of the proposal are offered although cross-section details showing skirting, architraves and plasterwork will need to be conditioned for subsequent approval.

The Juliette balconies are proposed across existing French doors positioned at first-floor level. Whilst not a feature ordinarily associated with a building of this age, it is appreciated that health and safety requirements dictate that these are required if the rooms behind the doors are to be

brought back into use. It is acknowledged that a relaxation of Building Regulations is possible when dealing with listed buildings but common sense about having an unprotected door leading from a residential unit or function room is not advisable. Therefore, subject to fixing details being submitted, this element is also considered acceptable.

## **Equality Act 2010 - 149 Public Sector Equality Duty**

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

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

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

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

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

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

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

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

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

## **CONCLUSION**

Whilst some elements of the work may not ordinarily be considered desirable, on the whole, the scheme generally demonstrates a sensitive approach to the conservation and adaptation of the listed buildings and would bring back into use a prominent building which has remained vacant for a sustained period of time.

## **RECOMMENDATION:**

Members are therefore recommended to Grant Listed Building Consent in accordance with Regulation 4 of the Town and Country Planning General Regulations 1992 and subject to the conditions set out below:

### **Conditions:**

1 The works 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 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the works are carried out within a reasonable period of time.

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

- The amended floor plans as existing and proposed received 04.07.2017 (REVA);
- The amended elevations as existing and proposed received 04.07.2017 (REVA);
- The existing site layout received 28.02.2017;
- The location plan received 26.01.2017.

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

3 Notwithstanding any indication of materials which may have been given in the application, no development shall take place until a schedule and where necessary, samples of the materials and finishes to be used for the external surfaces, including walls, roofs, doors and windows has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details; in the interests of visual amenity and to comply with policy B2 of the Unitary Development Plan.

4 No development shall commence until cross section drawings detailing the retention of the 'nubs' of the original walls, the creation of all new openings, skirting, architraves and plasterwork, have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details, in the interests of maintaining the significance of the heritage asset and to comply with policy B8 of the Unitary Development Plan and the heritage objectives of the NPPF.

5 No development shall take place until full specifications of the new emergency staircase have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the

development shall not be carried out other than in accordance with the approved details unless the Local Planning Authority first agrees to any variation in writing; in the interests of maintaining the significance of the heritage asset and to comply with policy B8 of the Unitary Development Plan and the heritage objectives of the NPPF.

6 Prior to the commencement of development full details of the proposed noise attenuation barrier to be installed to the rear roof terrace shall be submitted to and agreed in writing by the Local Planning Authority. For the avoidance of doubt, such details shall include full specifications of the barrier including dimensions, materials and finishes. In the interests of maintaining the significance of the heritage asset and to comply with policy B8 of the Unitary Development Plan and the heritage objectives of the NPPF.

7 No development shall take place until a method statement which includes detailed drawings of the Juliette balconies and the means of affixing them to the fascia of the building, have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details unless the Local Planning Authority first agrees to any variation in writing; in the interests of maintaining the significance of the heritage asset and to comply with policy B8 of the Unitary Development Plan and the heritage objectives of the NPPF.

**Reference No.:** 17/01563/FUL Full Application

**Proposal:** **Change of use from 3 bed residential to 4 bed HMO.  
(amended description)**

**Location:** 18 Westbourne Road Sunderland SR1 3SQ

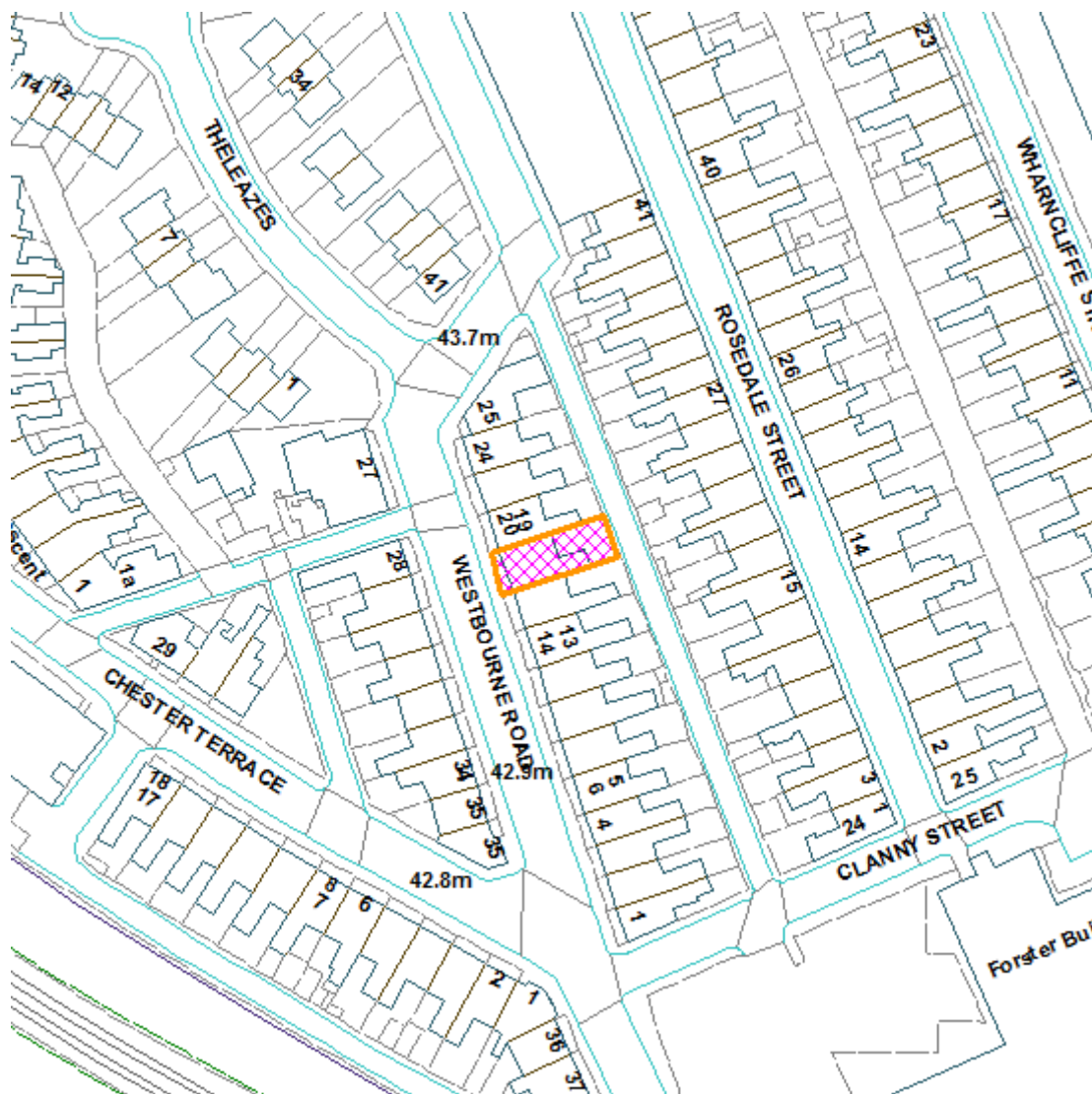
**Ward:** Millfield

**Applicant:** Mr Anthony Coatsworth

**Date Valid:** 31 July 2017

**Target Date:** 25 September 2017

### Location Plan



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## **PROPOSAL:**

The proposal is to change the use of the property from a 3 bedroomed single dwelling to a 4 bedroomed house in multiple-occupation. Originally the proposal was for a four bedroomed HMO and a self-contained flat in the rear offshoot, however it was noted that no amenity shared lounge area was available for the occupants and the applicant was requested to amend the scheme to alter the rear offshoot to a bedroom and change bedroom 2 as a shared lounge.

The ground floor would therefore accommodate two bedrooms, with one in the rear offshoot and one to the front of the property, a shared kitchen and lounge area and at first floor level two bedrooms. The bedrooms all exceed 10 square metres in area and include ensuite facilities with access to the front of and rear of the property for all occupants.

## **SITE**

The site relates to a two storey mid terraced dwelling in a street of residential properties. It is known that 13 other properties have been converted in to HMO's in this street. There is room to accommodate the parking of one vehicle to the rear of the property.

A shared house of the proposed scale falls within use class C4 and such a change of use is normally permitted by the Town and Country Planning (General Permitted Development) (England) (Order) 2015, however, the property is located within an area covered by an Article 4 direction that serves to remove this permitted development right. No physical alterations to the property are proposed.

The application would normally be dealt with under delegated powers but a request has been made by a Member for the application to be considered by the relevant Development Control Sub-Committee.

## **TYPE OF PUBLICITY:**

Site Notice Posted  
Neighbour Notifications

## **CONSULTEES:**

Network Management  
Millfield - Ward Councillor Consultation

Final Date for Receipt of Representations: **06.09.2017**

## **REPRESENTATIONS:**

Network Management:

The Council's Network Management team have commended that 1 space per 3 beds should be provided for an HMO and 1 space per 5 beds for student accommodation.



The property is within close proximity to the University and within walking distance to the City Centre. A bin store should be provided to the rear.

The applicant has not stated how or who will be occupying the property in this instance and as there is sufficient parking available in the rear yard and one space in the lay by to the front the proposal would be considered acceptable in compliance with policy T14 in this instance.

#### Public Representations:

One representation has been received from the owner of No 16, which sets out the following issues:-

- Noise from use
- Anti-social behaviour if students were to move in.
- Value of home would decrease due to have HMO next door resulting in financial problems and stress when comes to moving home or reselling current home.

With regard to the above comments, the applicant has not stated who would be likely to occupy the property and cannot predict that the proposed occupiers would create noise and disturbance, which would be a police matter, therefore the comments would not be a material consideration in the determination of this application. Devaluation of property is not a material consideration and cannot be taken into consideration when determining this application.

#### **POLICIES:**

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

EN\_10\_Proposals for unallocated sites to be compatible with the neighbourhood  
B\_2\_Scale, massing layout and setting of new developments

#### **COMMENTS:**

##### RELEVANT POLICY BACKGROUND

The National Planning Policy Framework (NPPF) provides the current Government's national planning policy guidance and development plans must be produced, and planning applications determined, with regard to it. The NPPF sets out a series of 12 'core planning principles' which underpin plan-making and decision-taking and are considered to contribute to the over-arching aim of delivering sustainable development. Particularly relevant in this case are the principles that development should always seek to secure a high standard of amenity for existing and future residential occupiers, should encourage the effective re-use of land and property and should meet the housing, business and other development needs of an area.

Paragraph 50 of the NPPF, meanwhile, sets out that Local Planning Authorities should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes).

The relevant guidance of the NPPF detailed above feeds into policies EN10, B2, T14, H18 and SA68 of the City Council's adopted Unitary Development Plan (1998), which are considered to be pertinent to the determination of this application.

Policy EN10 of the UDP requires new development proposals to respect the existing pattern of land use in areas where there is no specific land use allocation. Policy H18, meanwhile, states that the conversion of dwellings and other buildings into flats or multiple shared accommodation will normally be approved where the intensity of use will not adversely affect the character and amenity of the locality and appropriate arrangements are made to secure the maintenance of gardens and external spaces. Proposals must also include satisfactory provision for parking, servicing and other design aspects.

Also relevant are policies B2, which requires new development proposals to maintain an acceptable standard of visual and residential amenity, and T14, which states that new development must not result in conditions which are prejudicial to highway and pedestrian safety.

Policy H18 states that proposals for the provision of multiple shared accommodation will normally be approved where the intensity will not adversely affect the character of the locality.

Policy SA68 in the UDP which states that the Council will seek to improve older housing in the area. The re-use and refurbishment of the vacant property would therefore be acceptable in this instance.

## ISSUES TO CONSIDER

With regard to the above policy framework, it is evident that the main issues to consider in determining the application are:

1. Clarification of proposed use;
2. The principle of the proposal;
3. The impact of the proposal on the character and amenity of the locality;
4. The amenity afforded to residents of the accommodation;
5. The implications of the proposal in respect of highway and pedestrian safety.

### 1. CLARIFICATION OF PROPOSED USE

As set out in the first section of this report, the application proposes to change the use of the building to a 4 bedroomed house-in-multiple occupation (HMO).

The applicant has submitted a supporting statement which sets out how the property intends to be occupied and identifies that the property refurbishment would be undertaken utilising high quality materials and that the initial outcome would hopefully be to let the property to 'professionals'.

Members should be aware, however, that whilst the applicant may well preferably intend to use the building as accommodation for professionals, as a broad principle the planning system is concerned with the use and development of land and buildings and not the specific identity and background of any particular occupiers of any existing or proposed buildings. To this end, it is considered that the nature of the occupancy of the proposed facility as set out by the applicant is not materially crucial to the determination of this application and should not be a deciding factor in reaching a decision.

The merits of the application should therefore be considered on the basis that it simply proposes an HMO and Members should be mindful that in the event the application is approved, the planning decision and wider planning system cannot be used to restrict or control the specific identity and background of future occupiers of the accommodation.

## 2. PRINCIPLE OF PROPOSED DEVELOPMENT

The proposed change of use affects a building which was used as a dwelling house for many years and given that there are 13 other HMO's within the street it is believed there is a concentration of such a development within the vicinity and it is considered that a shared or multiple accommodation is broadly acceptable. Furthermore, the subject building is located within a predominantly residential area of Sunderland and as such, broadly speaking, the principle of the proposal is considered to accord with policy EN10's requirements insofar as it respects and maintains the established pattern of land use in the locality.

## 3. IMPACT OF PROPOSAL ON THE CHARACTER AND AMENITY OF THE LOCALITY

In determining an application of this nature, a key matter for assessment is whether the proposed change of use of the property to an HMO is compatible with the prevailing character and amenity of the locality.

The objection to the application has raised concerns in this regard, suggesting that an HMO is not suitable and students in particular would create noise and disturbance to the neighbouring residential property.

In this regard, it is recognised that the area in which the subject property stands is residential in character, with many of the adjacent properties being HMO's which would also generated levels and types of activity which are not necessarily typical of single residential dwellings, such as the comings and goings of multiple occupants, visitors to residents. With this in mind, the proposed use is considered to be compatible with a building of this size and type and at such a location, whilst as outlined above, it is considered that the type and level of activity associated with the proposed use of the building will not be uncharacteristic of the locality given the concentration of HMO's within the area.

In relation to the amenity of the locality, as detailed above, the proposed use of the building would be considered to be acceptable in this area. It is therefore considered that the amenity of residents in the vicinity of the application site will not be unduly harmed by the activity associated with the proposed use of the building.

The objector has also cited concerns in respect of anti-social behaviour, noise and disturbance, with the prospective occupiers of an HMO being seen as potential students. As noted previously, as a broad principle, the planning system is concerned with the use and development of land and buildings and not the identity and background of any particular occupiers of any existing or proposed buildings. To this end, there is not considered to be justifiable reason to conclude that prospective residents of the facility, being either students or professionals of any other nature or background, would engage in anti-social behaviour and in this regard, it must be recognised that the planning system cannot seek to exercise control over the specific background or identity of any future residents of the premises. Similarly, it cannot legislate for the behaviour of individuals wishing to engage in anti-social behaviour. In cases where anti-social behaviour does arise, this would be a matter for other agencies (e.g. the police) to address.

The applicant has submitted a supporting statement and a copy of their terms and responsibilities document which is given to all occupants as part of any tenancy agreement with a covering letter which identifies that the landlord is a member of the Sunderland Voluntary Accredited Landlord Scheme which work closely with the Council to improve the quality of the private rented sector. The Council also include a scheme to assist landlords with their selection of tenants. The terms and responsibilities document sets out terms and conditions which should be adhered to, in particular, anti-social behaviour. A copy of a brochure has also been submitted to given an example of the quality and standard of accommodation that they provide.

With regard to the above comments, it is considered that the proposed use is broadly acceptable in terms of its compatibility with the locality and the use will not result in the introduction of a type and level of activity which is uncharacteristic of the area. As such, the proposed change of use is considered to accord with the requirements of the core principles of the NPPF and policies H18 and B2 of the UDP in this regard.

#### 4. AMENITY OF PROSPECTIVE RESIDENTS

The core principles of the NPPF also require consideration to be given to the amenity of future occupiers of residential accommodation.

All rooms are of an acceptable size with en-suite and a shared kitchen and lounge area which is considered to be suitable to provide occupiers with a good standard of living in terms of private and shared space afforded to each resident, in accordance with the requirements of the core principles of the NPPF.

#### 5. HIGHWAY SAFETY AND PARKING CONSIDERATIONS

Paragraph 32 of the NPPF states that development proposals should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. Meanwhile, UDP policy T14 sets out that development proposals must not result in conditions which are prejudicial to highway and pedestrian safety, whilst policy T22 requires new development to be afforded an appropriate level of dedicated car parking. To this end, section 13 of the Council's adopted 'Development Control Guidelines' Supplementary Planning Guidance sets out that HMOs located outside of the Central Parking Area (i.e. Sunderland City Centre and its environs) should be afforded 1 no. parking space per three bed spaces.

The Council's Network Management team advised that there would be two spaces potentially available with one space in the rear yard and one in the layby to the front. Therefore the parking requirements in relation to the number of bedrooms is acceptable and accords with the requirements of aforementioned paragraph 32 of the NPPF, policies T14 and T22 of the UDP and the 'Development Control Guidelines' SPG.

#### **Equality Act 2010 - 149 Public Sector Equality Duty**

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

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

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

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

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

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

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

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

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

## **CONCLUSION**

With regard to the above comments, it is considered that the principle of the proposed change of use of the building is acceptable given that it involves the provision of a residential use in a residential area. In addition, it is considered that given the concentration of other HMO's within the street scene it would not result in conditions which are uncharacteristic of the locality. Furthermore it is considered that the implications of the proposed use in relation to the amenity of the area and parking, highway and pedestrian safety are acceptable, whilst the intensity of the use is now such that the proposed HMO would provide prospective residents with an acceptable standard of living.

The proposed development is therefore considered to be compliant with the requirements of the core principles and paragraph 32 of the NPPF, policies EN10, SA68, H22, B2, T14 and T22 of the Council's Adopted UDP and the Council's 'Development Control Guidelines' SPG.

In addition to the above, it is also recognised that the proposal will see the re-use of a building which is currently vacant and will assist in the provision of housing choice, as is encouraged by the core principles and paragraph 50 of the NPPF.

**RECOMMENDATION:**

Members are recommended to Approve subject to the draft conditions listed below.

**Conditions:**

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

2 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:

- Amended floor plans received on 13.9.17

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.

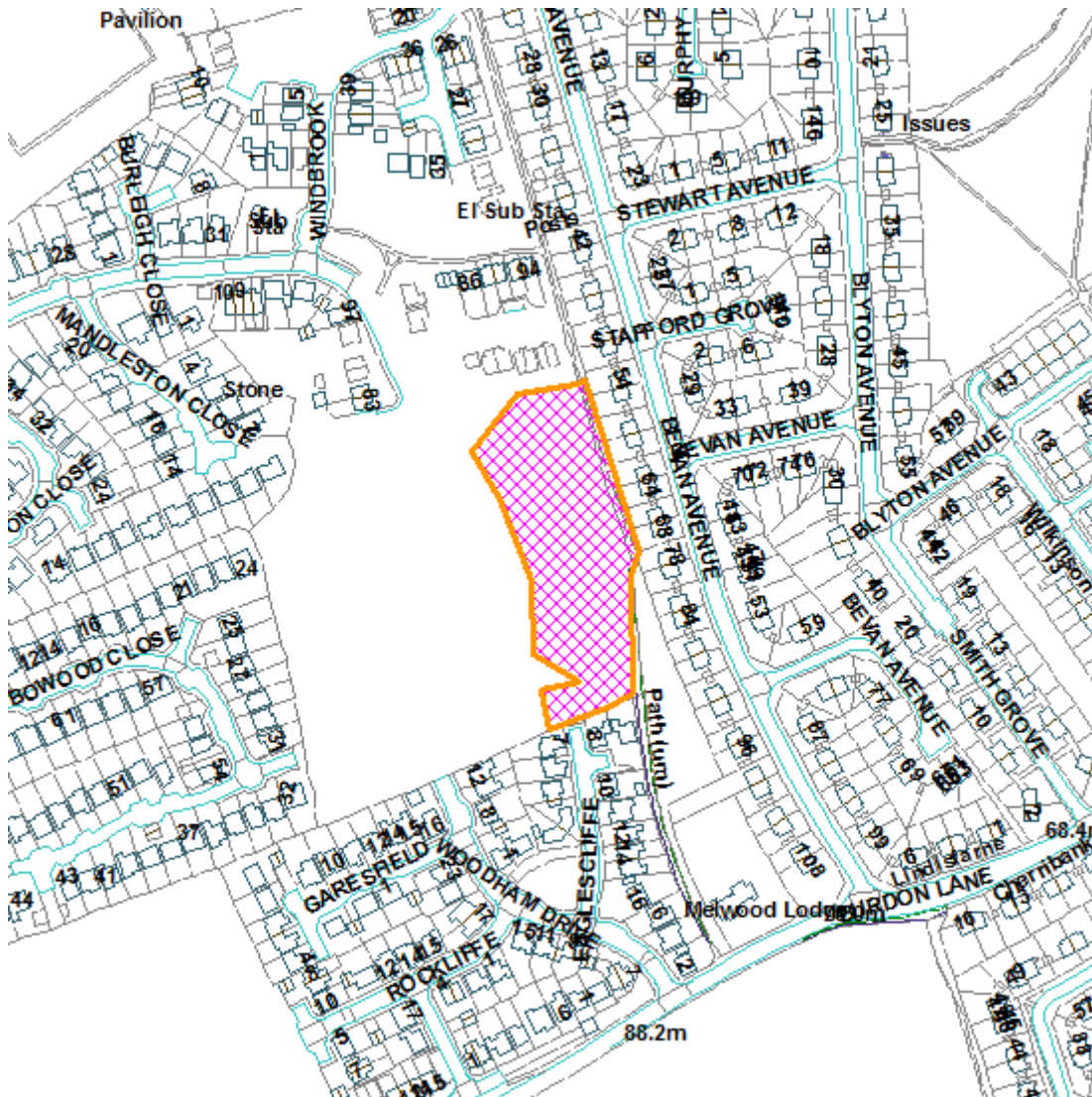
Reference No.: 17/01593/FUL Full Application

Proposal: **Erection of 17 dwellings (with revised site levels and retaining structure details RETROSPECTIVE) .**

Location: Land to The Rear Of Bevan Avenue Sunderland

Ward: Ryhope  
Applicant: Persimmon Homes  
Date Valid: 3 August 2017  
Target Date: 2 November 2017

### Location Plan



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## **PROPOSAL:**

The proposal relates to the erection of 17 dwellings (with revised site levels and retaining structure details) Retrospective on land to the rear of Bevan Avenue.

Members may recall that outline planning consent ref: 10/03941/OUT was approved 31st March 2014 for 150 residential dwellings with all matters reserved except access. The subsequent reserved matters application for the erection of 150 dwellings, with details relating to appearance, landscaping, layout and scale ref: 15/01789/SUB was approved January 2016. A further substitution of housetypes application was submitted ref: 16/02250/FUL to alter 6 dwellings previously approved.

The current proposal relates to 17 dwellings with revised site levels and retaining structure details. The proposal retains the existing housetypes and locations to those previously approved apart for site levels and retaining wall structures.

The changes have been sought to enable the rear gardens of the proposed plots to be levelled and ultimately more accessible to future owners. The effected plots which are identified as plots between Nos. 74 to 88 involve altering ground levels between 0.5 metre and 2 metres and re-engineered so they slope in a more gradual manner across the entire garden, with the majority of them having an overall continuous gradient slope of 1:10 downwards in an eastern direction.

The increased levels of the land are to be supported behind supporting gabion walls with close boarded fencing above.

## **TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

## **CONSULTEES:**

Network Management  
Flood and Coastal Group Engineer  
Ryhope - Ward Councillor Consultation

Final Date for Receipt of Representations: **10.10.2017**

## **REPRESENTATIONS:**

Lead Local Flood Authority

Further to discussions with the developer the following comments have been received. The proposed dwellings adjacent to the eastern boundary, Plots 72-90, have been raised slightly in comparison to the previous proposed levels. The levels were raised (by up to 900mm) to provide access to properties in accordance with building regulations following approval of the revised planning layout (ref. 16/02250/FUL). Private rear garden gradients remain at 1 in 10 and the difference in level between the new properties and the footway adjacent to the eastern site boundary has been accommodated by increasing the height of the retaining wall on the private



property boundary and steepening the open space, that has always fallen towards the footway, between the wall and the footway. It is also noted that relocating the rear garden retaining wall to the private boundary, from mid-way down the garden, has resulted in increased privacy to the existing dwellings on Bevan Avenue as the boundary fence on top of the retaining structure provides increased screening.

The "catchment" of the private gardens that will drain towards Bevan Avenue is the same as the previous approved drawings, as the gardens have not increased in size. The impermeable areas associated with the buildings and hardstanding areas of the new dwellings will still be collected and prevented from discharging towards Bevan Avenue. It is only surface run-off from gardens that will drain towards Bevan Avenue. This is consistent with the previous approval.

In light of the above commentary and additional supporting information to confirm that collection will be provided for surface water drainage running from the front of plots toward the site boundary in the east. The Lead Local Flood Authority is satisfied that with regard to flood risk and drainage the development can be recommended for approval.

Two letters of representation were received following the expiry of the consultation process. Matters raised included:

1. The fortification of the site by raising ground levels and boundary enclosures.
2. Reduction in levels of light resulting from raised ground levels.
3. Loss of views.
4. Reduction in levels of residential amenity through increased noise from ground pounding.

## **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\_6\_Limit exposure of new noise/vibration sensitive developments to existing sources  
EN\_11\_Restrictions upon new development or intensified use of land liable to flooding  
EN\_12\_Conflicts between new development and flood risk / water resources  
EN\_14\_Development on unstable or contaminated land or land at risk from landfill/mine gas  
CN\_17\_Tree Preservation Orders and replacement of trees  
CN\_19\_Development affecting designated / proposed SAC's, SPAs and RAMSAR Sites

## **COMMENTS:**

The key issues to consider in relation to this application are:

1. The principle of the development
2. Design and residential amenity
3. Highway considerations
4. Other material considerations

1. Principle of development

The development proposed benefits from outline planning permission, the reserved matters proposal is currently being constructed on site and subsequently the principle of locating residential development on this site is established and cannot be given any further consideration.

## 2. Design and Residential Amenity

The National Planning Policy Framework (NPPF) published in March 2012 sets out the Government's planning policies and how these are expected to be applied. The NPPF advocates a presumption in favour of sustainable development and seeks to boost the supply of new housing.

Section 7 of the NPPF identifies the need for development to provide good design. Paragraph 56 states in part that:

"Good design is a key aspect of sustainable development , is indivisible from good planning, and should contribute positively to making places better for people."

Policy B2 of the saved adopted Unitary Development Plan relates specifically to design and requires the scale, massing and layout of new developments to respect and enhance the best qualities of the area and to provide an acceptable amount of privacy, amenity, whilst protecting visual and residential amenity.

Whilst the current proposal does not intend to alter any of the previously approved housetypes or layouts, the boundary treatment along the eastern elevation of the site has been altered from the original consent with 17 properties affected along with minor modifications to the finished slab levels of each of the units.

The current proposal seeks to provide 5 No. Rockcliffe units, 2 No. Roseberry units, 3 No. Rufford units, 4 No. Alnwick units and 3 No. Souter units.

Although the fence-types remain consistent, in order to facilitate the regrading of the rear garden spaces, gabion features have been introduced that act as land stabilisation structures. These structures are encased within metal cages and filled with 100-150mm hard durable stone. The topography of the site that runs alongside the recently upgraded footpath to the east of the site requires the gabion wall feature to vary in height from approximately 1.5 metres to 2.320 metres. Alterations to the gradient of the intervening open space between the rear fence line and the public footpath have also been included within this current proposal.

In assessing the proposal, it is noteworthy that spacing standards between the existing properties along Bevan Avenue and the current development site have not been compromised and as such it is not considered that the proposal will reduce levels of residential amenity currently afforded these properties. Furthermore with reference to the visual appearance of the rear boundary enclosure, it is considered that the gabion wall supporting feature, does provide an element of architectural interest along this area of the site which is characteristic of rear close boarded fencing separated by the recently upgraded public footpath.

In conclusion, it is considered that the redesign of the rear plots of the 17 effected properties does not raise any concerns in terms of either residential or visual amenity, compliant with policy B2 of the UDP and in general conformity with the principles outlined in paragraph 56 of the NPPF.

## 3. Highway Considerations

Paragraph 32 of the NPPF relates specifically to highways and states in part that:

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

Whilst policy T14 of the UDP 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.

Further to consultations with the Network Management Section the proposal is not considered to raise any concerns in terms of highway safety.

#### 4. Other Material Considerations

The development site has been subject to both land contamination site investigations and sustainable urban drainage requirements and comprehensive schemes have been undertaken to ensure that the land is both suitable for residential accommodation and not likely to raise concerns in terms of surface water drainage.

#### Ecological and Open Space Considerations

It is a requirement of the EU Habitat Directive 1992 and the Conservation Regulations 2010 that any plan or project that is likely to lead to a significant adverse effect on a statutory European site will be subject to Habitat Regulations Assessment. The Habitat Directives applies the precautionary principle to protected areas; plans and projects can only be permitted having ascertained that there will be no adverse effect on the integrity of European sites. Rushford Phase 2 is in close proximity to the designations and is situated within South Sunderland Growth Area which has just recently undergone its own HRA and incorporates a very comprehensive suite of mitigation measures as well as strong safeguards for implementation through agreed funding proposals and extensive partnership working along with on-going monitoring proposals. It can then be concluded that the South Sunderland Growth Area SPD will not have an adverse effect on the integrity of the Northumbria Coast SPA/Ramsar site or Durham Coast SAC, either alone or in-combination.

The HRA of SSGA is the assessment of a strategic plan and does not remove the need for further HRA at lower planning level tiers but it should be used to inform and support project specific HRA where required. Rushford Phase 2 required the information from SSGA HRA to help inform their Screening Assessment which reached the conclusion that through the proposed comprehensive suite of mitigation measures identified in both assessments and paid for through a section 106 agreement, there will be no likely significant effects on the integrity of the Northumbria Coast SPA/Ramsar site or Durham Coast SAC, either alone or in-combination.

In light of the above a Deed of Variation was sought to the original Outline Consent via the original reserved matters application to remove a previously identified payment toward Burdon Lane Park and introduce a payment towards the provision of Strategic Access Management Measures.

#### **Equality Act 2010 - 149 Public Sector Equality Duty**

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

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

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

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

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

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

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

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

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

## **CONCLUSION**

The proposed scale, appearance, layout, landscaping and impact upon the local highway network are considered to be acceptable and in accordance with the policies contained within the Council's saved adopted UDP and Residential Design Guide SPD.

**RECOMMENDATION:** Approve, subject to the draft conditions listed below:-

### **Conditions:**

- 1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and

Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time.

2 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:

- Drawing No. TGR-001 Rev T, Red line location plan and site plan received 03.08.2017.
- Drawing No. TGR-002 Rev F, Material Layout received 03.08.2017.
- Drawing No. TGR-003 Rev STP, Landscape Layout received 03.08.2017.
- Drawing No. SK16-5553-01 Revision B, Gabion Retaining Wall, received 03.08.2017.
- Drawing No. SK16-5553-02 Revision C, Gabion Retaining Wall, received 03.08.2017.
- Drawing No. RC-WD01 Rockcliff Housetype, Plans and Elevations received 03.08.2017.
- Drawing No. RS-WD01 Roseberry Housetype, Plans and Elevations received 03.08.2017.
- Drawing No. RF-WD01 Rufford Housetype, Plans and Elevations received 03.08.2017.
- Drawing No. SU-WD01 Souter Housetype, Plans and Elevations received 03.08.2017.
- Drawing No. AN-WD01 Alnwick Housetype, Plans and Elevations received 03.08.2017.
- Drawing No.31 Proposed External Elevations (Initial Layout) received 03.08.2017.
- Drawing No.32 Proposed External Elevations (Initial Layout) received 03.08.2017.
- Drawing No. 279-ENG006 Rev D, Proposed levels, plots 1-34 & 81-106 received 03.08.2017.
- Drawing No. 279-ENG012 Rev C, Proposed levels, plots 35-80 received 03.08.2017.

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 Prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the LPA. 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. This condition is to ensure that the risks identified in relation to controlled waters are adequately addressed and to comply with policy EN14 of the adopted Unitary Development Plan.

4 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;. In case unsuspected contamination may exist at the site which may pose a risk to controlled waters. and to comply with policy EN14 of the adopted Unitary Development Plan.

5 All construction traffic will gain access to the development site via an existing private road and footpath running from Ryhope Street and east of the Recreation Ground to the site, unless otherwise agreed in writing by Council as Local Planning Authority. In order to comply with policies EN1 and T14 of the adopted Unitary Development Plan.

6 The construction works required for the development hereby approved shall only be carried out between the hours of 08.00 and 18.00 Monday to Friday and between the hours of 08.00 and 13.00 on Saturdays and at no time on Sundays or Bank Holidays in order to protect the amenities of the area and to comply with policies B2 and EN6 of the adopted Unitary Development Plan.

7 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 adopted Unitary Development Plan.

8 If any retained tree is removed, uprooted, destroyed or dies, another tree shall be planted at the same place and that tree shall be of such a size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority, in the interests of visual amenity and to comply with policy CN17 of the adopted United Development Plan.

9 The erection of fencing for the protection of any retained trees shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority, in the interests of visual amenity and to comply with policy CN17 of the adopted Unitary Development Plan.

**Reference No.:** 17/01860/LP3 Local Authority (Reg 3 )

**Proposal:** **Change of use from single residential dwelling to semi independent supported living accommodation.**

**Location:** 64 Otto Terrace Sunderland SR2 7LR

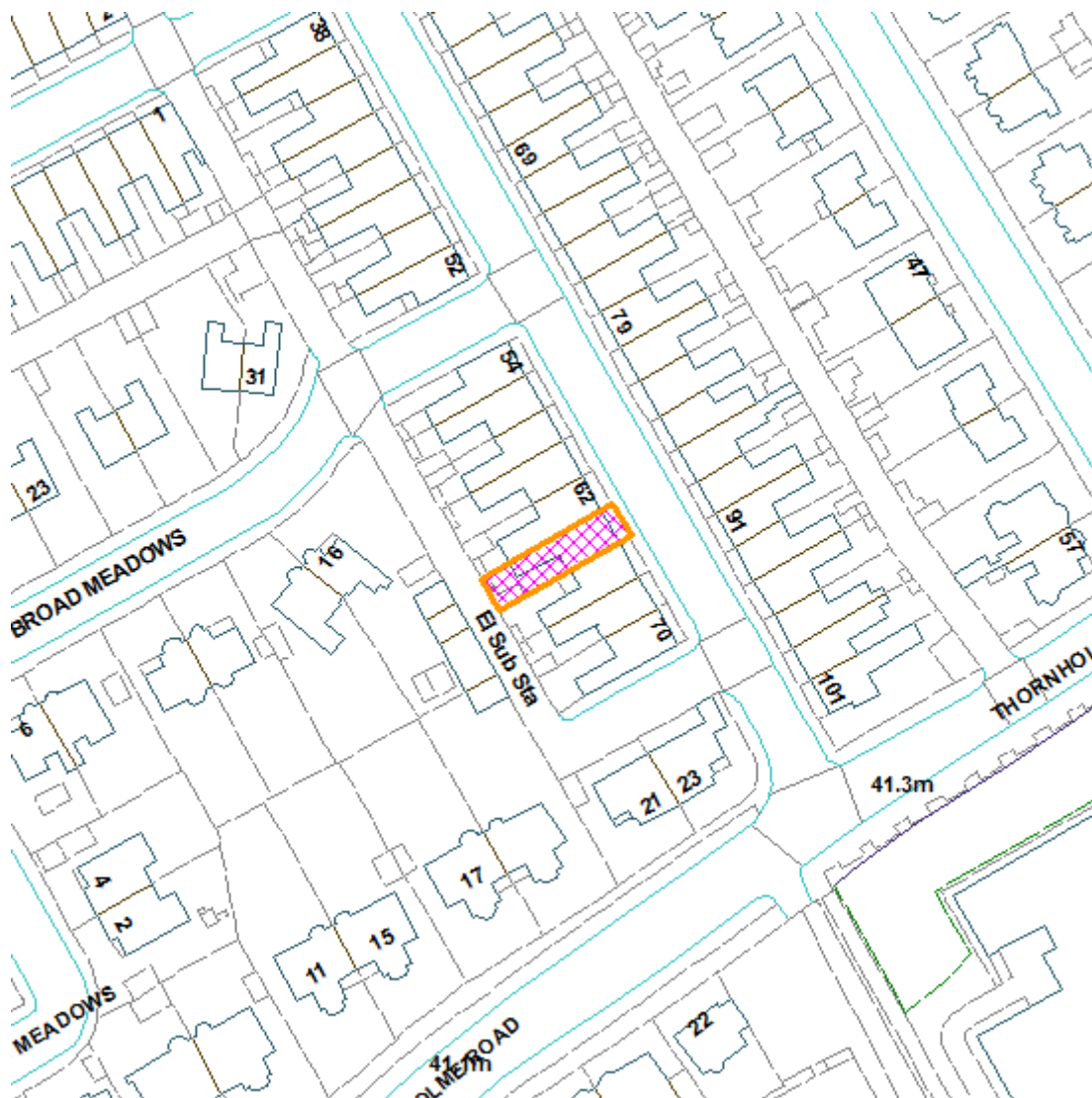
**Ward:** Millfield

**Applicant:** Sunderland City Council

**Date Valid:** 29 September 2017

**Target Date:** 24 November 2017

### Location Plan



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## PROPOSAL:

The proposal relates to the change of use of a single residential dwelling to semi-independent supported living accommodation at 64 Otto Terrace, Thornhill, Sunderland, SR2 7LR.

The proposed change of use affects a substantial two-storey terraced dwellinghouse fronting Otto Terrace, which is located in the Thornhill area, just to the west of the City Centre. The property is located mid-way within the first terraced block on the west side of Otto Terrace, just to the north of its junction with Thornholme Road. As is typical of the other dwellings within the terrace and wider street, the property features a two-storey rear offshoot, which projects into its rear yard and backs on to the offshoot at the rear of the adjoining no. 62. Beyond the property's yard is a lane serving the rear of the terrace.

The surroundings of the application site are primarily residential in nature and the terraces flanking the street predominantly accommodate single dwellings. Records held by the Council's Housing and Council Tax teams indicate, however, that other forms of residential accommodation exist in Otto Terrace, with a significant number of properties converted into houses in multiple occupation (HMOs) and others subdivided into self-contained flats. Although generally a residential locality, it is observed that the large Thornhill School is located to the south-east of the application site, across Thornholme Road.

The application proposes to change the use of the property from a single dwellinghouse to semi-independent supported residential accommodation. The application has been submitted by the City Council and Together For Children (TFC), the company set up in 2015 to deliver children's services on behalf of the Council. TFC is owned by the City Council but controlled by an independent board to maintain operational independence. It works with partner organisations to ensure that children's services across the City are delivered by a suitably qualified and experienced workforce.

TFC's 'Support to Independence' team operate semi-independent supported accommodation facilities designed to assist young people leaving care in managing a tenancy and developing life skills, in order to achieve a successful transition from care to independent living. The accommodation provided by the team is intended to provide a suitable environment for young people and encourages better choices in health, further education or employment.

To this end, the Council and TFC seek to use 64 Otto Terrace as accommodation for 4 no. young persons aged between 16 and 21 years old, who are in the process of leaving care. A supporting statement submitted with the application advises that young persons accommodated at the property would come from children's homes, foster care or external care providers and will be seeking further education or employment whilst residing at the property. Once a resident is ready to move on to full independence and their own accommodation, which typically occurs after around 18 months, they will vacate the property to reside at 'trainer' flats.

The intention is for the accommodation to operate as a 'household' as closely as possible - each resident will have their own bedroom (one to the ground floor and three to the first floor) and will share the use of a communal kitchen and dining room to the ground floor, a second small kitchen to the first floor and a bathroom and WC to the first floor. Three of the bedrooms are to be en-suite. Each resident will be subject to a tenancy agreement and required to follow 'house rules'.

In terms of staffing, the supporting statement advises that the property will be manned 24-hours-a-day, with two members of staff on duty during the day and one member of staff sleeping over (in a dedicated bedroom to the ground floor of the property). Staff will have



responsibility of safeguarding residents and assist in developing their independent living skills (e.g. financial management, self-care, shopping, cooking, cleaning etc.). They will also be responsible for property maintenance and security, with the door controlled via a door access system. Visitors to the property will be restricted and residents must abide by house rules which determine the times they can be at the property.

The staff will also be tasked with developing good relationships with local residents and assisting with the integration of the young people in the community, with the goal being that the property will be viewed and accepted as a 'normal' house in the street.

The application does not involve any external alterations to the building, save the apparatus associated with the door access system and a small CCTV camera to monitor the property's front door. The rear yard of the property is able to accommodate two parked cars, although these would have to be parked in 'tandem' fashion (i.e. one vehicle parked behind the other).

TFC currently operate similar facilities to that proposed at Chester Road, Elwin Terrace and Burlington Close and the Otto Terrace facility would serve to replace the Chester Road accommodation, which is no longer fit for purpose. These facilities are designed to provide quality 'move on' accommodation for young people leaving care, which are run by TFC and Council staff and are considered to afford a better, more intimate environment and deliver more successful outcomes than the larger, hostel-type accommodation also available in the City. The relocation and continuation of the service would therefore allow TFC to maintain an operating model which is viewed as being successful and one they are keen to keep.

Members should note that based on the information submitted with the application, it is the view of officers that the proposed use of the premises would fall into use class C2 (residential institutions) of the Town and Country Planning (Use Classes) Order 1987 (as amended).

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

Site Notice Posted  
Neighbour Notifications

#### **CONSULTEES:**

Network Management  
Millfied - Ward Councillor Consultation  
St Michaels - Ward Councillor Consultation

Final Date for Receipt of Representations: **26.10.2017**

#### **REPRESENTATIONS:**

Public consultation - one representation has been received to date, from the occupier of 89 Otto Terrace. The representation states support for the development, although it is requested that as the proposals affects a residential area, two conditions are imposed on any permission granted, these being:

- 1) that the property be reverted back to a single dwelling (including reversing any internal works carried out to accommodate the proposed use) if and when the use as semi-independent supported living accommodation ceases;
- 2) that the property cannot, under any circumstances, be used as an HMO if and when the proposed use ceases;

Whilst it is understood that the occupier of no. 89 is essentially seeking assurances that any future use of the property will be suitable for the locality, the Council can only impose conditions which satisfy the 'tests' set out by paragraph 206 of the National Planning Policy Framework. This states that planning conditions should only be imposed where they are: necessary; relevant to planning; relevant to the development permitted; enforceable; precise and; reasonable in all other aspects.

Having regard to the NPPF's guidance, it is considered that the conditions requested are not necessary and that it would not be reasonable for the Council, as Local Planning Authority, to attempt to regulate the future use of the property in the manner suggested. To this end, there is not considered to be any planning justification to require the property to be reverted back to a dwellinghouse in the event a use as supported accommodation ends and such a requirement would place an unreasonable and unacceptable burden on the owner of the property, who, in the event such circumstances arise, may wish to explore alternative uses of the building.

Furthermore, Members should note that any proposed future use of the property as an HMO would require planning permission (there being no 'permitted development' rights to allow a change of use from use class C2 to use class C4 (HMOs)), which would give the Council the opportunity to consider whether such a use is appropriate at this location. Indeed, there are currently no permitted changes of use from use class C2 to any other use class, which means that any future use which materially differs from the proposed use would require planning permission in its own right.

The period for submission of representations does not expire until 24th October 2017. Any further representations received will be reported to Members ahead of the meeting.

Council's Highways team - no comments received to date. It is anticipated that comments will be received prior to the Committee meeting and details will be provided to Members ahead of the meeting.

## **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  
H\_17\_Nursing and rest homes to respect amenity / established local character  
T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising  
T\_22\_Parking standards in new developments

## **COMMENTS:**

### **RELEVANT POLICY BACKGROUND**

The National Planning Policy Framework (NPPF) provides the current Government's national planning policy guidance and development plans must be produced, and planning applications

determined, with regard to it. The NPPF sets out a series of 12 'core planning principles' which underpin plan-making and decision-taking and are considered to contribute to the over-arching aim of delivering sustainable development. Particularly relevant in this case are the principles that development should always seek to secure a high quality design and a good standard of amenity, should encourage the effective re-use of land and property and should deliver the homes the country needs.

Paragraph 50 of the NPPF, meanwhile, requires Local Planning Authorities to deliver a wide choice of homes and types of accommodation, taking into account the needs of different groups in the community.

The relevant guidance of the NPPF detailed above feeds into policies EN10, B2, H17, T14 and T22 of the City Council's adopted Unitary Development Plan (1998), which are considered to be pertinent to the determination of this application.

Policy EN10 of the UDP requires new development proposals to respect the existing pattern of land use in areas where there is no specific land use allocation. Policy H17, meanwhile, states that the provision of residential accommodation for people in need of care will normally be approved provided it is not detrimental to general amenity and the established character of the locality. Proposals must also demonstrate how parking and servicing requirements will be met.

Also relevant are policies B2, which requires new development proposals to maintain an acceptable standard of visual and residential amenity, and T14, which states that new development must not result in conditions which are prejudicial to highway and pedestrian safety. Policy T22, meanwhile, sets out that development proposals should be afforded an appropriate level of dedicated car parking.

In addition, further guidance on proposals of this nature is provided by the Council's 'Development Control Guidelines' Supplementary Planning Guidance (SPG).

## **ISSUES TO CONSIDER**

With regard to the above policy framework, it is evident that the main issues to consider in determining the application are:

1. the principle of the proposal;
2. the impact of the proposal on the character and amenity of the locality;
3. the implications of the proposal in respect of highway and pedestrian safety.

### **1. Principle of proposal**

The proposed use of the premises is residential in nature and the building is located within an area which is primarily residential in character and so, in broad terms, the proposal does not conflict with the established pattern of land use in the neighbourhood or raise any new land-use implications. The proposal consequently accords with UDP policy EN10's requirements in this regard.

This conclusion does not, however, establish that the proposed use of the building is appropriate, rather it is considered to be broadly compatible with the established pattern of land use in the area. In order to reach a conclusion on this matter, regard must firstly be given to the more

detailed planning considerations raised by the proposed development and this exercise is carried out below.

## 2. Impact of use on character and amenity of locality

As noted above, policy H17 of the Council's adopted Unitary Development Plan (1998) states that the provision of residential accommodation for people in need of care and support will normally be approved provided they are not detrimental to general amenity and the established character of the locality. Proposals must also demonstrate how parking and servicing requirements will be met.

The supporting text to the policy and the more detailed advice provided by section 5 of the Council's adopted 'Development Control Guidelines' Supplementary Planning Guidance (SPG) states that the provision of such facilities in residential terraces can lead to a deterioration of amenity, through vehicle servicing, parking and other activities. The conversion of large units in their own grounds is therefore suggested as being more appropriate. The SPG also seeks to ensure that residents of such facilities are afforded a good standard of amenity, with garden areas provided for external recreation and rooms offering reasonable levels of outlook.

In addition to the above, policy B2 of the UDP requires new development proposals to maintain an acceptable standard of visual and residential amenity.

In terms of the character of the area, as noted earlier the application property is located within a residential street which predominantly affords family homes but with a number of properties converted into HMOs and self-contained flats. In addition, although primarily residential, the street and locality are relatively busy given their proximity to the City Centre to the east, the A690 Durham Road to the west and Thornhill School and Thornholme Road to the south.

It is acknowledged that the proposed accommodation will, by virtue of its inherent nature, generate some comings and goings, from staff, residents and other visitors. It is also recognised that as facilities of this nature are only ever intended to provide relatively short-term accommodation, the occupancy of the home would inevitably introduce a transient population to the locality.

It is considered, however, that the proposed use of the building would not necessarily be out of keeping with the character of the locality and its surroundings given its relatively busy nature and the range of types of residential accommodation in evidence nearby. Furthermore, the intensity of the proposed use of the building is relatively low, with no more than 4 no. residents and 2 no. staff present within a substantial mid-terrace building; as such, the comings and goings from residents and staff will be relatively infrequent and it is considered that this intensity of use would be compatible with the prevailing character and nature of the area. As such, the proposed change of use is considered to broadly comply with the aims and objectives of aforementioned policy H17 of the UDP.

It is recognised that residential uses such as that proposed can give rise to concerns in respect of anti-social behaviour, particularly where the accommodation is designed for young people. It must be recognised, however, that it is not reasonable to assume that a use of this nature will inevitably give rise to anti-social behaviour issues - rather, the merits of the proposal must be assessed with regard to the specific nature and details of the proposed use of the premises and its impact on the amenity of the locality must be determined objectively. In this regard, as a broad principle, the planning system is concerned with the use and development of land and buildings and not the identity and background of any particular occupiers of any existing or proposed buildings. Any

fears or concerns which may be held have to be attributable to the proposed use of the land or building and inherent to the nature of the proposed use. Where fears or concerns primarily relate to the potential behaviour of occupiers of a building, they must have some sound reasonable or evidential basis.

In relation to this matter, it cannot be assumed that prospective residents of the proposed facility will engage in anti-social behaviour - this would depend upon the nature and background of individual young persons and the supervision/quality of care they receive. In addition, the behaviour of young persons at the premises, and to an extent beyond the site, can be managed and supervised by the staff of the facility and in this regard, the Planning Statement submitted with the application sets out staffing plans and other arrangements which are intended to demonstrate that the facility will be properly managed by experienced staff. To this end, it is recognised that with effective management, anti-social behaviour issues can be limited and in the event problems do arise, these are able to be handled/addressed by other agencies.

It is also acknowledged that young persons living together in shared accommodation could be boisterous and noisy, but it is considered that the impact of any such noise on the amenity of the locality would be of a limited nature given the low number of residents and the proposed staffing arrangements.

In considering the matter of the impact of the proposed use on the character and amenity of the locality, regard has been given to a recent appeal decision in respect of a property at 5 Brookside Terrace, Ashbrooke, which followed the refusal of planning permission for its use as a childrens' home by the Development Control (South) Area Committee in October 2015 (application ref. 15/00848/FUL, appeal reference APP/J4525/W/16/3142205). In determining the appeal, the Planning Inspector gave little weight to the Council's concerns regarding the impact of the proposed use on character and amenity, ultimately concluding that the comings and goings of residents, staff and visitors in a small, managed facility would not be harmful to the character and amenity of the area.

In terms of the standard of accommodation to be provided to prospective occupiers of the facility, as detailed previously, the accommodation is of a low intensity and occupiers will consequently be afforded acceptable levels of private bedroom space. The property would also afford a range of internal communal facilities and whilst external amenity space is limited to the small rear yard, it is acknowledged that the property is within walking distance of the amenities and recreational facilities of the City Centre and is also very close to the frequent bus routes running along Thornholme Road and Durham Road. The building is therefore considered to provide acceptable standards of living to residents, in accordance with the objectives of section 5 of the 'Development Control Guidelines' SPG.

For the reasons set out above, it is concluded that the proposed use of the building as semi-independent supported living accommodation is acceptable in relation the prevailing character and nature of the locality and will not be of significant detriment to the amenity of neighbouring properties. Furthermore, the subject building is considered to provide an appropriate standard of accommodation for the young people intended to occupy the proposed facility. The proposed change of use is therefore considered to accord with the requirements of aforementioned policies H17 and B2 of the UDP, section 5 of the Development Control Guidelines SPG and the core principles and paragraph 50 of the NPPF.

This conclusion is informed by the particular nature and characteristics of the proposed use, including the number of young people intended to reside at the property. In order to ensure that the Council, in its role as Local Planning Authority, is able to ensure the use of the building remains appropriate for its location, it is recommended that in the event Members are minded to

approve the application, conditions are imposed which serve to stipulate that the premises are only be able to be used in the manner set out by the application and which limits the number of residents (excluding staff) to no more than 4 no. persons.

### 3. Impact of development on highway and pedestrian safety

Policy T14 of the UDP states that new development proposals must not result in conditions which are prejudicial to highway and pedestrian safety, whilst policy T22 requires proposals to be afforded an appropriate level of dedicated vehicular parking.

In this regard, the rear yard is able to accommodate 2 no. vehicles, although these would have to be parked in a 'tandem' manner, with one behind the other. It is anticipated that this level of parking will be appropriate for the proposed use and will provide sufficient parking given that no more than 2 no. staff are anticipated to be present at the premises at any one time. In considering this matter, it is noted that the property is very close to the frequent bus services of Thornholme Road and Durham Road and is within walking distance of the public transport and parking facilities available in the City Centre.

The Council's Highways team has not, however, yet provided a formal response to consultation - it is anticipated that comments will be received shortly and details of the response will be provided at the Committee meeting.

### **Equality Act 2010 - 149 Public Sector Equality Duty**

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

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

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

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

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

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

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

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

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

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

## **CONCLUSION**

For the reasons set out above, it is considered that given the nature and intensity of the proposed use of the property as semi-independent supported living accommodation, the development is acceptable in relation to the character and amenity of the locality. In addition, the proposed facility will provide prospective residents with an appropriate standard of accommodation.

It is also recognised that the proposed accommodation will support Together For Children's operational objectives in terms of providing a form of accommodation which is considered to be successful in assisting young people in their transition from leaving care to independent living.

The proposed development is therefore considered to be compliant with the aims and objectives of policies H17 and B2 of the Council's adopted Unitary Development Plan, section 5 of the Council's Development Control Guidelines SPG and the core principles and paragraph 50 of the NPPF.

Although the implications of the development in relation to parking and highway safety appear to be broadly acceptable, consultation comments are still awaited from the Council's Highways team. Furthermore, the period for receipt of public representations has not yet expired. A Supplementary Report will provide details of comments received from the Council's Highways team and details of any representations submitted by members of the public, together with a recommended decision.

**RECOMMENDATION: MINDED TO APPROVE**, subject to the receipt of Highways comments, expiry of public consultation period and subject to the draft conditions listed below:

### **Conditions:**

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

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

the location plan, site plan, existing floorplans and proposed floorplans, all received 18/09/2017;

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 two car parking spaces within the rear yard of the property shall be made available for the parking of vehicles prior to the approved use of the building being commenced and shall continue to be made available for the use of vehicle parking thereafter for the lifetime of the approved development, in order to provide an appropriate area of off-street parking and comply with the requirements of policies T14 and T22 of the UDP.

4 The accommodation hereby approved shall be occupied by no more than 4 no. persons (excluding any staff associated with the use) at any given time, in order to ensure an appropriate intensity of the use of the premises and to accord with the requirements of policies B2 and T22 of the UDP.

5 The subject property shall be used as semi-independent supported living accommodation and for no other purpose (including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order), in order to ensure the continued appropriate use of the premises and to accord with the objectives of policy B2 of the UDP.



## ITEMS FOR INFORMATION

LIST OF OTHER APPLICATIONS CURRENTLY ON HAND BUT NOT REPORTED ON THIS AGENDA WHICH WILL BE REPORTED WITH A RECOMMENDATION AT A FUTURE MEETING OF THE SUB COMMITTEE

Application Ref and Ward	Applicant and Address	Proposal	Date Valid	Determination Date
17/01442/FUL	Mahady Consultants Ltd	Conversion of upper floors to 12no. one-bedroomed apartments (AMENDED DESCRIPTION)	02/10/2017	01/01/2018
Hendon	23 Fawcett Street Sunderland SR1 1RH			
17/01698/FUL	Bede Brooke Lettings	Change of use from residential home to seven bedroom house in multiple occupation (Retrospective)(AMENDED DESCRIPTION - 02.10.17)	04/09/2017	30/10/2017
Hendon	24 Park Place West Sunderland SR2 8HT			

Application Ref and Ward	Applicant and Address	Proposal	Date Valid	Determination Date
15/01038/FU4	Mr John Cambell	Erection of two semi detached dwellings.	16/07/2015	10/09/2015
Hendon	Site Of 40/41Lawrence StreetSunderland			
17/01761/FUL	Your Life Management Services Ltd	Demolition of existing canteen and food technology block, erection of a extra care facility (Use Class C2) comprising of 55no bedrooms with associated landscaping (removal of trees) and car park.	11/09/2017	11/12/2017
Hendon	Sunderland Church High SchoolMowbray RoadSunderlandSR2 8HY			
17/00787/ADV	Community Partners Ltd	Display of non-illuminated freestanding signs to roundabouts as per submitted schedule.	10/05/2017	05/07/2017
Hendon	Various RoundaboutsCity Centre/South Sunderland			

Application Ref and Ward	Applicant and Address	Proposal	Date Valid	Determination Date
17/01640/FUL	T J Morris	External alterations to include new shop front and associated works.	30/08/2017	29/11/2017
Millfield	B & QB And Q WarehouseTrimdon StreetSunderlandSR4 6DW			
17/01780/VAR	Thirteen Group And Keepmoat (Joint)	Variation of conditions 2 (plans) and 9 (tree protection) of planning permission ref. 16/02081/SU4 comprising replacement of 1no. 1-bedroom suite for people with learning difficulties to office for support staff (resulting in reduction in number of dwellings to 74no.) and removal of additional hedgerow	05/10/2017	04/01/2018
St Annes	Land AtNooksideSunderland			

Application Ref and Ward	Applicant and Address	Proposal	Date Valid	Determination Date
15/02345/OUT	Mr Phillip Jefferies	Outline application for demolition of existing public house, to facilitate the erection of a residential development comprising of 7no detached dwellings - approval sought for layout, scale and access (amended description 18.08.2016).	04/08/2016	29/09/2016
Silksworth	The Hunters LodgeSilksworth LaneSunderlandSR3 1AQ			