

## **PLANNING AND HIGHWAYS COMMITTEE**

### **AGENDA**

**Extraordinary Meeting to be held in the COUNCIL CHAMBER, CIVIC CENTRE on Wednesday, 28<sup>th</sup> June, 2017 at 4.00 p.m.**

ITEM		PAGE
1.	<b>Receipt of Declarations of Interest (if any)</b>	
2.	<b>Apologies for Absence</b>	
3.	<b>Reference from Development Control (North Sunderland) Sub-Committee</b>	1
	<b>Planning Application Reference: 16/02056/HY4</b>	
	<b>Land and buildings to the west of Whitburn Road and north of Dykelands Road, Sunderland</b>	
	Report of the Executive Director of Economy and Place	
	(copy attached)	

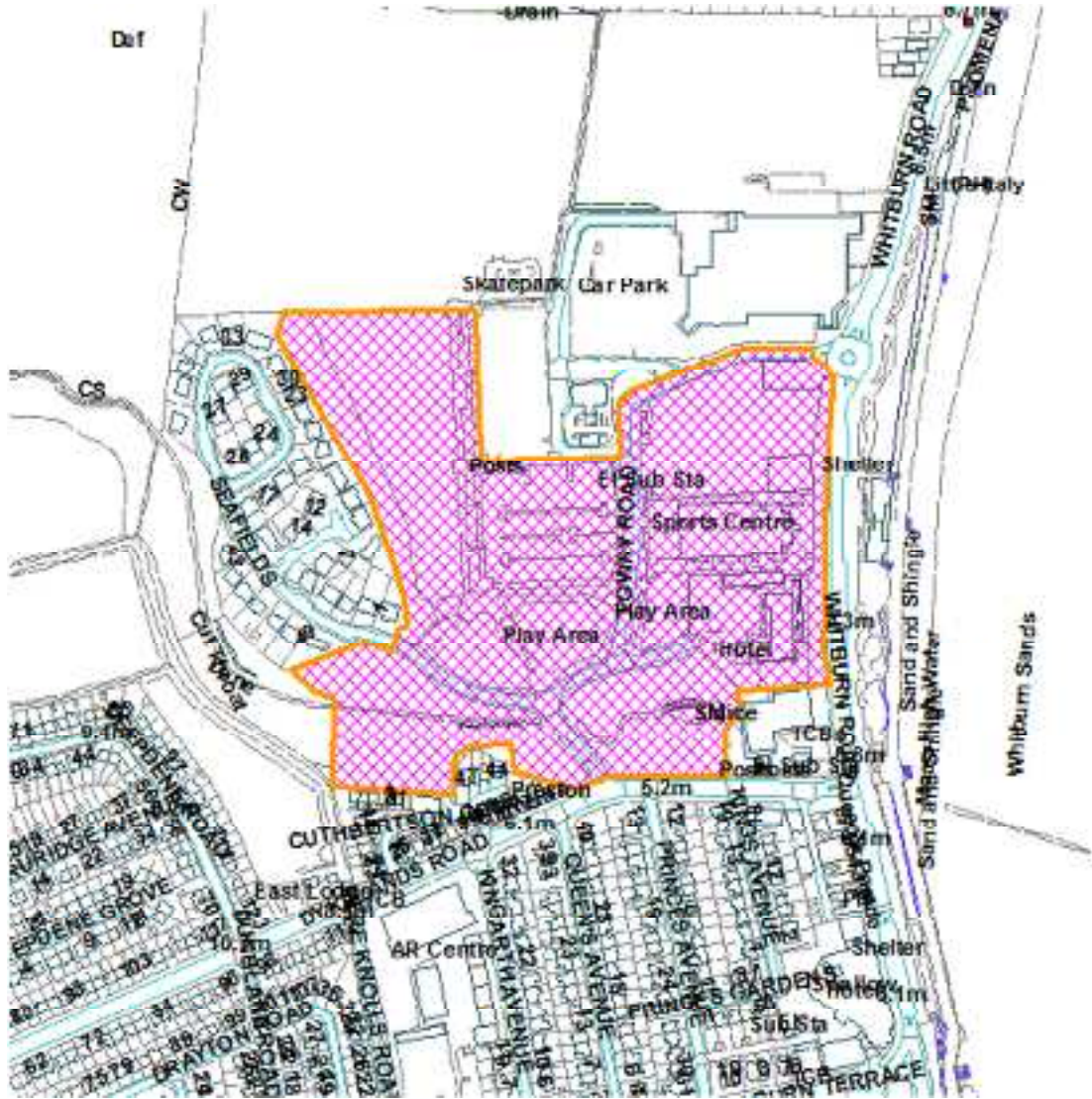
Elaine Waugh,  
Head of Law and Governance,  
Civic Centre  
SUNDERLAND

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



## Planning Application Reference: 16/02056/HY4

### Land and buildings to the west of Whitburn Road and north of Dykelands Road, Sunderland



### Proposal

The planning submission is a Hybrid application which seeks outline planning permission for the demolition of existing buildings and creation of a leisure-led mixed use development on 8.3 Hectares of land to the west of Whitburn Road and North of Dykelands Road, Seaburn, Sunderland. The proposed development will include use classes; D1, D2 and Sui-Generis uses (amusement centre and/or privately managed park and/or funfair); A1 (maximum of 2000 m<sup>2</sup> across the entire site), A2, A3, A4, A5; C1 (Hotel), C3 (up to 279 residential units); along with associated landscaping and public realm improvements and stopping up of highways. Detailed consent is also sought for a first phase of infrastructure works which include improvements to

access roads and change of use from open space for the provision of public/ visitor parking spaces on land to the north of Dykelands Road.

The uses proposed are set out as follows:

Use		Most likely Areas	Upper limits
Commercial	D1/D2 Leisure and sui generis*	4268m <sup>2</sup>	5268m <sup>2</sup>
	A2, A3, A4, A5	3000m <sup>2</sup>	4000m <sup>2</sup>
	Retail: A1	<2000m <sup>2</sup>	2000m <sup>2</sup>
<p>Maximum commercial floor space (A1, A2, A3, A4, A5, D1 and D2) across the site is capped at <b>9268m<sup>2</sup></b> GEA. Therefore an increase in floor space in one or more use category up to the maximum allowable for that category would require a reduction of floor space in another use category to compensate.</p> <p>*Sui generis use could include; amusement centre and/or privately managed park and/or funfair</p>			
Residential	C3 Residential	230 units <sup>1</sup>	279 units
	C1 Hotel	5000m <sup>2</sup>	5000m <sup>2</sup>

Regarding the outline of the proposal the application seeks to allow for flexibility in relation to the precise mix and quantum of the various land uses. However, the guiding principles are set out in the following six Regulatory Plans:

- Regulatory Plan 01, which is entitled '**Red Line Boundary**', it also shows the boundary of the detailed part of the application.
- Regulatory Plan 02, entitled '**Streets and Access**', which shows flexibility of up to five metres in relation to the position of the seafront, the approximate position of the linear park and pedestrian routes.
- Regulatory Plan 03, entitled '**Use Classes**', shows the location of the residential area to the west of the site, the area of outdoor activity to the south of the site, and the area for mixed-use development to the east of the site, incorporating Use Classes C3, A1, A2, A3, A4, A5, D1 and D2, together with *sui generis* uses.
- Regulatory Plan 04, entitled '**Building Heights**', shows the maximum heights that the buildings can be built up to, but with no design details.
- Regulatory Plan 05, entitled '**Activation**', shows the position of the active frontage.

<sup>1</sup> Applies if 5000m<sup>2</sup> of hotel accommodation is provided

- Regulatory Plan 06, entitled '**Public Realm and Landscaping**', shows the areas for outdoor activity, formal and informal play, landscaping and tree retention.

Furthermore, notwithstanding the matters that will be fixed via the above regulatory plans Members should note that all matters are being reserved for future reserved matters approval, for the avoidance of doubt these are:-

- **Access**  
The accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network.
- **Appearance**  
The aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture.
- **Landscaping**  
The treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes: (a) screening by fences, walls or other means; (b) the planting of trees, hedges, shrubs or grass; (c) the formation of banks, terraces or other earthworks; (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features;
- **Layout**  
The way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development.
- **Scale**  
The height, width and length of each building proposed within the development in relation to its surroundings.

### **Application site**

The application site is an irregular-shaped parcel of land extending to approximately 8.3 hectares. To the north of the site is Morrisons Supermarket with its associated car park and the Seaburn Camp. To the west of the site is Seafields, a residential estate constructed in the early 1990s, to the south is Dykelands Road and the residential area of Seaburn and Roker beyond. To the east of the site is the A183, Whitburn Road, which separates the site from the promenade and coast. The site itself is dissected by Lowry Road, which connects the A183 to the north to Dykelands Road to the south.

Most recently the site has had a mix of uses, comprising hotel, restaurant, amusement park, the Seaburn Centre, car parks, landscaped areas and grassland areas. There is a man-made channel for Cut Throat Dene in the south of the site, which is culverted beneath existing commercial properties to the southeast of the site.

The planning submission has been supported by the following documents:-

- Air Quality Assessment
- Archaeological Assessment
- Biodiversity Survey and Report
- Construction Management Strategy
- Design and Access Statement
- Drainage Strategy
- Economic Benefits Statement
- Flood Risk Assessment
- Geotechnical Report
- Information to support the Habitat Regulations Assessment
- Noise Assessment
- Regulatory Plans
- Retail and Leisure Impact and Sequential Assessment
- Statement of Community Involvement
- Transport Statement
- Tree Survey
- Utilities Statement

### **Environmental Impact Assessment**

In September 2015 the agent, acting on behalf of the applicant, submitted a Screening Request for the re-development of Seaburn to ascertain whether it was Environmental Impact Assessment (EIA) development (please see ref. 15/01302/SCR). In assessing this Schedule 2 development due regard was given to the selection criteria as laid out in Schedule 3 of the Town and Country Planning (Environmental Impact Assessment)(as amended) Regulations 2011. It was considered that within the parameters of Schedule 3 there was no specific evidence to suggest that particularly complex and potentially hazardous environmental effects would arise from the development so as to require the submission of an Environmental Statement.

In adopting its Screening Opinion the LPA was mindful of National Planning Policy Guidance, wherein it states at Paragraph 018 Reference ID 4-018-20140306, that "...Only a very small proportion of Schedule 2 development will require an (Environmental Impact) Assessment".

To expand further the LPA's Screening Opinion noted that the site is predominantly brownfield, in an urban location and is afforded by excellent transport links. It was also noted that a 2015 winter bird survey had confirmed the site did not support habitats used by the qualifying features of the Durham Coast Site of Special Scientific Interest (SSSI), while the applicant's walkover of the site found no priority

habitats to be present, as such the screening request considered the potential of the site to support protected species was very low. Reviewing the selection criteria of Schedule 3, as well as Natural England's MAGIC database, it was not considered that the impacts of the characteristics and location of the development or the characteristics of potential impact were of such significance so as to warrant the preparation of an EIA.

The submitted Planning Statement highlights that the red line boundary of the site has been amended since the submission of the above Screening Request. The applicant explains that the site has been enlarged in order to provide a greater area of open amenity space for future public use. The additional area concerns the land located to the west along Cut Throat Dene. The Planning Statement confirms that no physical development is proposed in the enlarged area and as such, considers there to be no material change in the significance of environmental impact to warrant the submission of an EIA.

Reviewing the submitted plans and the extent of the enlarged red line boundary it is noted that it will be used as a passive area of open space with no physical development proposed. It is considered that the conclusion of the applicant is reasonable and as such, the modification of the proposal is not one that has such significance on the environment, whether individually or cumulatively with the wider development proposal, to warrant the submission of an EIA.

Lastly, and as will be discussed in further detail later in this report, there has been an objection received from a business owner in the area where it is alleged that the existing sewerage system is operating outside of its consent conditions; and that while Northumbrian Water may be installing underground tanks he considers that it will not help the situation as storm flows are not the problem. The objector asserts that it is foul flows combined with the shortage of capacity downstream in the system that are the non-compliance problem. The objector believes that it is essential that the scheme has a full EIA.

In response to this particular issue and as will be discussed in further detail in the flood risk consideration section of this report, the Council must not place itself in a position of questioning the sewerage undertaker's strategy towards its network or the capacity of its infrastructure. This is the statutory responsibility of OFWAT as the regulatory body, as laid down by the Water Industries Act 1991. The Council, as the Local Planning Authority (LPA), does not have the legal remit or access to relevant network data to perform an informed overview function. Furthermore, nothing has been forthcoming from either the Council, as the Lead Local Flood Authority (surface water), Environment Agency (Environmental Permit) or Northumbrian Water (Sewerage Undertaker) to suggest that there will be significant impacts on the water environment so as to warrant the preparation of an EIA.

In addition, Northumbrian Water's on-going upgrade of its sewerage network is part of its overall management of its infrastructure. It has been designed to reduce the amount of surface water entering into the existing network. Furthermore, the area served by this upgrade project covers not only Seaburn and the application site but also Cleadon, Roker and St Peter's. It is therefore considered to represent an overall management strategy for the area rather than a project to facilitate a particular

development. The development proposal must only account for its impact and cannot be used to account or rectify any perceived existing problem.

### **Seaburn Masterplan and Design Code Supplementary Planning Document (SPD)**

Before moving onto the assessment of the development proposal it is important to highlight the relevance of the Seaburn Masterplan and Design Code Supplementary Planning Document (SPD). This planning document supports Unitary Development Plan (UDP) policies NA26 (Coastal and Seafront Zone) and EC8 (Tourist Facilities) and is a material consideration to the determination of this application. The SPD covers the application site and was formulated on the back of various public consultation exercises. Its inception followed the Council's Sunderland Strategy and Seafront Regeneration Strategy.

The Sunderland Strategy (2008-2025) is the overarching strategy document for the Council that sets out what the people who live, work and study in the City would like to see by 2025. One of the main objectives of the Sunderland Strategy is for the regeneration and development of the City's coastal zone.

In order to provide a strategic platform to guide the regeneration of Seaburn and Roker seafronts the Council then prepared and adopted the Seafront Regeneration Strategy in February 2010. Similar to the Sunderland Strategy the Seafront Regeneration Strategy involved extensive public consultation, including a city-wide consultation survey, workshop focus groups and public exhibitions, and as with the previous two strategy documents, when formulating the Seaburn Masterplan and Design Code the SPD was also subject to a similar extensive consultation exercise.

In summary, the SPD has been prepared to guide the planning and regeneration of the site by developing broad principles for the area, reflecting identified constraints and opportunities as well as the messages from the extensive consultation exercises that have underpinned the entire process from the Sunderland Strategy through to the SPD.

### **Consultation responses**

The application has been publicised by the City Council, as the LPA in accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order (2015), that is, by:

- Site Notice
- Press Notice and
- Neighbour Notification Letters

The application is a departure from the Unitary Development Plan (UDP) and has been advertised as such.



In total 55 contributors commented on the planning submission. 54 of these were in objection with 1 being in support.

## Impacts

- Infrastructure – impact on local schools, doctors and dentists  
*Please see 8. Planning Obligations where these issues will be discussed relative to the merits of the application;*
- Loss of privacy; Privacy impacts on the eastern end of Seafields  
*The development areas are in outline i.e. it is the principle of use that is being determined at this time. Reserved matters will be required for the approval of the LPA prior to development commencing in such areas. It is at this stage where privacy impacts will be appropriately considered e.g. spacing distances etc.;*
- Overdevelopment – height of the proposed seafront buildings are too high, cast shadows and spoil overall appearance; too many houses and flats  
*Please see 6. Urban Design and Landscaping where these issues will be discussed in further detail;*
- The boulevard will be a wind tunnel and in shade all year round  
*Please see 6. Urban Design and Landscaping where these issues will be discussed in further detail;*
- Visual amenity  
*Please see 6. Urban Design and Landscaping where these issues will be discussed in further detail;*
- Noise from use  
*Please see 7. Noise, Land Contamination, Air Quality and Noise where these issues will be discussed relative to the planning submission;*
- Encroachment  
*Please see 1. Land-use and Policy where these issues will be discussed in further detail;*
- Loss of light  
*Please see 6. Urban Design and Landscaping where this issue will be discussed;*
- Increased litter  
*Not considered relevant to the consideration of the planning submission;*
- Commercial development should be limited to seafront to avoid disturbance  
*Commercial development is located to the east of Lowry Road i.e. on the seafront side of the site. Please see 6. Urban Design and Landscaping for further discussion on this aspect;*

- Proposed car park is prominently located and will visually impact the amenity of the area  
*The car park will be surrounded by landscaping, which will help soften the visual impact of the car park on the area. The proposed location also has the benefit of being in close proximity to existing commercial operators on Queen's Parade;*
- Martino's will remain a blot on the landscape  
*Outside the scope of this planning application.*

## **Traffic**

- Access road to Seafields – confirm there will only be access for 2 of the houses on the new development;  
*The development areas are in outline i.e. it is the principle of use that is being determined at this time. Reserved matters will be required for the approval of the LPA prior to development commencing in such areas. It is at this stage where the exact location of development and resultant access points will be determined;*
- Traffic Generation – extra traffic and impact of the development on parking in the area  
*Please see 2. Highway considerations where these issues will be discussed;*
- Poor access  
*Please see 2. Highway considerations where this issue will be discussed;*
- Implement resident only parking schemes for existing residents at the Council's and siglion's expense  
*As will be discussed in section 2. Highway considerations, only a small amount of public parking will be lost overall given the Dykelands Road car park and the north Lowry Road car park. Furthermore, the proposed leisure uses and residential uses will also have to provide a satisfactory amount of parking in their own right.*

## **Maintenance**

- Tree line – access and maintenance of the tree line between Seafields and new development  
*The trees between Seafields and the site will be retained and maintained by Responsive Local Services;*

## **Use**

- Siglion have not listened to the public consultations;  
*The planning application consultation process accords and exceeds that required by the statutory instrument. Sunderland Strategy, Seafront Regeneration Strategy and SPD have been subject to extensive public consultation exercises. siglion have undertaken numerous consultation events. The application before Members has been considered in accordance with relevant local and national planning policy and material planning considerations.*

- Inappropriate use - should always be for leisure and tourism  
*Please see 1. Land-use and Policy considerations where this issue will be discussed in further detail;*
- Inappropriate to build housing on green space, which is popular as a playing field, picnic area and dog walking; Loss of play parks, greenbelt land and public car parks is contrary to the Strategic Housing Land Availability Assessment  
*Please see 1. Land-use and Policy considerations where these issues will be discussed in further detail;*
- Development is only interested in housing and profits for shareholders - Sunderland does not have a housing shortage, there are massive planned housing developments at Burdon, empty land at Pennywell and Ford Estate;  
*Please see 1. Land-use and Policy considerations where these issues will be discussed in further detail;*
- Should be enjoyed by everyone and not the privileged few who can afford a house there;  
*Please see 1. Land-use and Policy considerations for discussion over the acceptability of the proposed uses;*
- Improvements should be targeted towards swimming pools, ice/ roller skating, indoor rock climbing, mini golf centre etc. Also restaurants, pub and some commercial;  
*The uses include Sport & Leisure uses, as well as commercial. Please see 1. Land-use and Policy considerations for discussion over the acceptability of the proposed uses;*
- Loss of (seafront) Heritage;  
*Please see 1. Land-use and Policy considerations where the principle of use is discussed in further detail;*
- How will boutique shops survive when Sea Road is nearby  
*Please see 3. Town Centre considerations where this issue will be discussed in further detail;*
- With the loss of the Seaburn Centre there should be a replacement area with a mixture of amenities for wet and cold days; Many groups and organisations use the Seaburn Centre for events and meetings; Seaburn Centre should be replaced;  
*The uses being sought include Sport & Leisure uses, as well as commercial. Please see 1. Land-use and Policy considerations for discussion over the acceptability of the proposed uses;*
- Council previously stated that wheeled sports park was on land reserved exclusively for leisure use, therefore building housing betrays past declarations on land use.

*Wheeled park is outside of the application site, also please see 1. Land-use and Policy considerations where the principle of use is discussed in further detail;*

### **Drainage**

- Drainage concerns over extra housing; Has the dyke been strengthened and made flood resistant now all the surface water from Morrisons, Boldon Flats etc. is being diverted to it?

*Please see Flood Risk and Water Environment considerations where this matter relative to the merits of the application will be discussed in further detail;*

### **Other matters**

- Will the fire station in Fulwell be re-opening?  
*Not material to the consideration of this application;*
- Lack of clarity in the proposed plans  
*An outline planning application is a valid planning submission. The application has been supported by a number of detailed reports;*
- Data relied upon by Siglion is seriously flawed  
*Transport Assessment has been subject to scrutiny by highway engineering colleagues, surface water management has been scrutinised by water engineers in the Lead Local Flood Authority;*
- Conflict of interest given the Council's Chief Executive is also on the board of the applicant  
*Members of the Planning Committee determine the application in accordance with local and national planning policy and material considerations.*

### **Seldon's**

A letter of objection was received on behalf of the Seldon family, who hold a lease on parts of the site and have rights over other parts. They occupy and operate an amusement arcade and have living accommodation within the fairground area of the application site. The objection states that the form of application makes it impossible to establish the impact of the scheme on Seldon's business and their living accommodation. It was also highlighted that Seldon's hold a long lease and have indicated a willingness to try and fit in with the new development. It was also asserted that the applicant has declined to make a commitment to Seldon's about their future at the site or discuss terms on which they might remain/ relocate. The objection urges that planning permission should not be granted without some commitment as to the future of this long term commercial and residential occupier.

In response, it is important to note that planning permission runs with the land and not the applicant. Any person or organisation can apply for planning permission on land whether they own it or not so long as the relevant notice (Certificate B) is served on the freeholder or anyone with a leasehold interest i.e. with seven or more years remaining on their term. In accordance with Article 13 of The Town and Country Planning (Development Management Procedure)(England) Order 2015 the

submitted application form confirms that the applicant served a Certificate B on Seldons Leisure World on the 1 November 2016.

In respect of the point made regarding the lack of clarity over the development proposal it should be noted that outline applications are a legitimate form of planning submission. Such an application enables the applicant to establish whether the principle of their development proposal is acceptable. In the event that an applicant is successful they are then required to submit 'reserved matters' for the approval of the LPA prior to any development commencing on site. The only caveat as to whether an outline application can be submitted is that the proposal must relate to the erection of buildings, which is the case in the application before Members.

It is also noted that the area of the site subject to Seldon's leasehold interest is within the mixed use area, as defined by the 'Regulatory Plan 03: Use Classes'. This area incorporates C3 (dwellings), D2 (Leisure) and Sui Generis uses, the latter including Amusement Centre and/ or funfair uses. It is therefore conceivable that should Members be minded to grant outline planning permission then the subsequent and required reserved matters will have the scope to accommodate Seldon's. Nevertheless, any disputes between those advancing the development and the freeholder (City Council) and/ or leaseholder (Seldons Leisure World) is a civil matter and outside the remit of the consideration of this planning application.

### **Capacity of Northumbrian Water's infrastructure/ EIA**

An objection was received from a business owner in South Tyneside, whose business is in close proximity to the Whitburn Steel Pumping Station, which is one of the pumping stations that have a permit from the Environmental Agency to discharge waters (foul and surface water flow) into the environment, in this case the North Sea. The objector stated that he was not against Seaburn being developed but only on the basis of a full assessment of the sewerage system. The objector sought to corroborate his assertions by referring to numerous occasions, meetings, Inquiries (in 2001) along with previous dealings with various groups and organisations, including Northumbrian Water and the Environment Agency over the years that he has been involved in. Furthermore, and in addition to the written objections, a meeting also took place between the objector, case officer and Council's Lead Local Flood Engineer.

To summarise, the objector alleges that the existing sewerage system operates outside the consent conditions and is in breach of its CSO (Combined Sewer Overflow). It is also alleged that although Northumbrian Water may be installing underground tanks within the wider area the objector considers that this will not help the situation as storm flows are not the problem. It is asserted that it is the everyday foul flows combined with the shortage of capacity downstream in the system that are the non-compliance problem. The objector considers that it is essential that this scheme has a full EIA.

In response, the introductory section of this report explains why the application is not EIA development, including impacts on the water environment.

Regarding the assertion that the sewerage system is operating outside of its consent conditions Northumbrian Water have confirmed that the sewerage system is complying with its Permit. Nevertheless, and as will be expanded on in the Flood Risk considerations section of the report, it is not the LPA's role to "second guess" the sewerage undertaker's strategy to its management of its infrastructure or question the regulatory role of the Environment Agency.

### **Northumbrian Water**

In making their response Northumbrian Water assessed the impact of the proposed development on their assets and the capacity within Northumbrian Water's network to accommodate and treat the anticipated flows arising from the development. Having assessed the proposed development Northumbrian Water confirmed that they have no issues to raise in respect of the foul flows provided the application is carried out in accordance with the submitted Drainage Strategy i.e. foul flow of 15 litres/ second will discharge to the existing 300mm diameter combined sewer at manhole 5301.

With regard to surface water Northumbrian Water were unclear whether the surface water from Plot 1 was to discharge to a surface water sewer, which would be the responsibility of Northumbrian Water, or a culverted watercourse, which would be the responsibility of the Lead Local Flood Authority. Northumbrian Water have confirmed that they no issues to raise with the remaining plots as they are proposed to discharge directly to the watercourse.

As the planning application does not provide sufficient detail with regards to the management of surface water from Plot 1 of the development for Northumbrian Water to be able to assess their ability to treat the flows from the development they have requested that a negatively worded condition be placed on the approval notice so that no development is commenced until a detailed scheme for the disposal of surface water has been submitted to and approved in writing.

### **Lead Local Flood Authority**

The Council, as the Lead Local Flood Authority (LLFA), initially considered that a number of details were not evidenced in the submission and on this basis recommended a refusal of the application.

In particular the LLFA have evidence that the tidal defences were overtopped in this area in 2013 and flooding occurred on Dykelands Road. It was requested by the LLFA that modelling exercises be rerun with a level of 5.8 AOD. This exercise has since been undertaken by the agent and has been submitted as a 'Drainage Strategy and Flood Risk Assessment Addendum'. The LLFA has now considered the updated submission and have now advised that the application is acceptable subject to their requested conditions. This will be discussed in further detail in the subsequent Flood Risk consideration section of this report.

## **Nexus**

Due to the excellent level of public transport in the area Nexus has no objection to the application. Comments were made in respect of the Travel Plan, clarifying that it should be Nexus' website link not the Transport for London that should be provided and that two four-weekly Network One All Zone Passes should be provided per dwelling. These comments can be addressed via the imposition of an agreement of the Travel Plan condition.

## **County Archaeologist**

An archaeological desk based assessment was produced in May 2015, whilst a geophysical survey and six archaeological trial trenches were excavated in June and September 2016 respectively. Two pieces of prehistoric flint were recovered from buried soil in the north part of the site (trench 2). Concrete features were found but they were more likely to be part of the 1970s Seaburn Ocean Park, rather than the World War Two camp, whilst finds also included a sherd of medieval pottery.

Following on from the existing archaeological work already undertaken the County Archaeologist has requested trenches in the eastern part of the site to investigate the World War Two features. This can only be done after the existing buildings have been demolished. Demolition should be to ground level only as grubbing up of foundations may destroy buried archaeological remains.

The Country Archaeologist has therefore requested three conditions be imposed i.e. excavation and recording; post excavation report; and report publication. Where archaeological features are found in the preliminary trenches these will need to be fully archaeologically excavated before development can commence.

## **South Tyneside Council**

The response raises no objection in principle to the proposed development, but recommends the provision of a Transport Statement with a request to consider the potential impact of traffic on the A184 in Whitburn and associated junctions. This will be discussed in further detail the highway considerations section of the report.

## **Environment Agency**

The Environment Agency responded by confirming that from their perspective planning permission could be granted if their suggested condition was imposed. The condition requires that prior to development commencing on-site details of the flood resilience measures shall be agreed.

Comments were also provided in light of the reach of the watercourse (Cut Throat Dene) along the site boundary, which is a designated 'main-river' under the Environmental Permitting Regulations 2010, as such the development will require an Environmental Permit (unless an exemption applies). The permitting process and its consideration is administered and controlled by the Environment Agency.

## **Natural England**

Initially Natural England considered that there was insufficient information to enable Natural England to provide a substantive response. Natural England concurred with the conclusion that there are no Likely Significant Effects (LSEs) on Durham Coast Special Area of Conservation (SAC). However, Natural England did not agree with the conclusion of no LSEs on Northumbria Coast Special Protection Area (SPA) and Ramsar Site with the proposed mitigation measures included.

Consequently, in order to correctly identify LSEs, Natural England required additional information, particularly in respect of a more appropriate understanding of likely dog ownership and more detail on the proposed mitigation measures, such as Suitable Alternative Natural Greenspace (SANG) and the coastal warden.

Natural England also noted that no assessment of the potential impacts on the Durham Coast Site of Special Scientific Interest was provided. Consequently, they advised that an assessment of potential impacts of the proposal on this designated site was also required.

The applicant has subsequently submitted an updated report in response and following this Natural England has now responded stating that they have no objection subject to appropriate mitigation being secured. This will be discussed in more detail in the following Ecological and Arboricultural considerations section of this report.

## **Considerations**

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

1. Land-use and Policy considerations
2. Highway considerations
3. Town Centre Uses considerations
4. Ecological and Arboricultural considerations
5. Flood Risk and Water Environment considerations
6. Urban Design and Landscaping considerations
7. Health Issues (Noise, Land Contamination, Air Quality and Noise)
8. Planning Obligations

### **1. Land-use and Policy considerations**

As stated previously the planning application is a hybrid submission in that full planning permission is only being sought for the first phase of infrastructure works (Dykeland Road car park) whilst the majority of the site is in outline with all matters reserved (access, appearance, landscaping, layout and scale).

By virtue of Section 38(6) of the Planning and Compulsory Purchase Act (2004) the starting point for the determination of a planning application must be the saved policies of the development plan. However, since the publication of the National



Planning Policy Framework (NPPF) the due weight that can be given to development plans adopted prior to the 2004 Act, such as the Council's UDP, rests on their consistency with the policies of the NPPF. The closer the local planning policy is to the NPPF the greater the weight that may be given to that policy.

Paragraphs 7 and 8 of the NPPF explains there are three dimensions to sustainable development – economic, social and environmental – and that these are mutually dependent, so that gains in each should be sought jointly and simultaneously.

Paragraph 14 sets out the presumption in favour of sustainable development in more detail and states that it “should be seen as a golden thread running through both plan-making and decision-taking. For decision taking this means:

- Approve applications that accord with an up to date development plan without delay; and
- Where the development plan is absent, silent or its relevant policies are out of date, grant permission unless:-
  - (a) there are any adverse impacts that would significantly and demonstrably outweigh the benefits when assessed against the provisions of the NPPF taken as a whole; or
  - (b) Any specific policies in the NPPF indicate that development should be restricted.”

Paragraph 17 sets out 12 core planning principles which “should underpin both plan-making and decision-taking”. These principles, amongst other things, include the need for the planning system to:

- Be a creative exercise that seeks to enhance and improve the places in which people live and not simply be about scrutiny;
- Be a proactive driver of sustainable economic development, so as to deliver the homes, business, industry and infrastructure that are needed;
- Secure high quality design and a good standard of amenity;
- Be aware of the different roles and character of different areas and promote the vitality of our main urban areas;
- Encourage the effective use of previously developed land that is not of high environmental value;
- Promote mixed use developments; and
- Focus significant development in locations which are, or can be made, sustainable.

Paragraphs 186 and 187 also require local planning authorities to approach decision-taking in a positive way to foster the delivery of sustainable development. In particular Paragraph 187 states that “...planning authorities should look for solutions rather than problems, and decision takers at every level should seek to approve applications for sustainable development where possible” and work with applicants to “secure developments that improve the economic, social and environmental conditions of the area”.

## Open space

UDP policy NA22 covers the western section of Cut Throat Dene and states that improvements in the level of provision and quality of amenity open space will be required. In this respect and as will be discussed in further detail in the paragraphs that follow, it is considered that with the introduction of an adventure play area and the passive recreational space within this area ensures the development proposal accords with the requirements of this particular land use policy.

UDP policy L7 provides the criteria for the consideration of development proposals resulting in the loss of recreational and amenity land. Policy L7 states, in part, that land allocated for open space or outdoor recreation will be retained in its existing use. Permission for other uses on such sites will only be granted if alternative provision is made and there would be no significant effect on the amenity, recreational and wildlife habitat value of the site.

In terms of the planning submission it is noted that development is proposed within areas allocated as open space under this policy i.e. the proposed housing area to the west adjacent to the Seafields Estate, the existing play area adjacent to the Seaburn Centre and the proposed car park and SuDS/ boardwalk/ landscaping area fronting onto Dykelands Road.

In terms of understanding the consistency of Policy L7 to the NPPF it is noted that Paragraph 73 requires planning policies to be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. Assessments should identify specific needs and quantitative and qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Paragraph 74, in part, states that existing open space should not be built on unless an assessment has been undertaken which has clearly shown the open space to be surplus to requirements or the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality.

In light of the existing UDP allocation and given the requirements of Paragraph 73 of the NPPF, the Council's Strategic Policy team, who are drafting the next iteration of the City's plan (i.e. the Local Plan), audited the City's greenspace in 2012 culminating in the 'Draft Sunderland Greenspace Audit and Report 2012', hereby referred to as the "Audit".

Reviewing the Audit the application site is located within the City Village of Seaburn and South Bents, which the Audit notes as having a High Quantity of Amenity Greenspace with 9.05 hectares for 1000 population, as opposed to the City average of 5.34 hectares. In terms of the Quality of Amenity Greenspace the City Village has been identified as having an Above Average score of 82.06, as compared to a city-wide score of 81. The area also has a Good Provision of Outdoor Play, while the provision of Natural and Semi-Natural Greenspace is considered to be Very High. In terms of Formal Park Access and Formal Park Quality the City Village is considered as having an Above Average and Good provision respectively; and for Outdoor Sports, Greenspace Value and Cycle Route and Rights of Way Network Access these are all considered as being Above Average. It is therefore clear that at the City

Village level the application site is within a locality that is presently well catered for in terms of its provision and quality of greenspaces.

Regarding the open space on the land to the west of the Morrison's and public car park, which was formerly a pitch and putt green, the Seaburn SPD considers it to be of poor quality and in light of its proximity to existing residential areas it was identified as being potentially suitable for housing should it form part of the wider regeneration of the Seaburn site. This was in recognition that the green space did not function as intended and is somewhat isolated from major areas of footfall with no apparent use to draw people to the area, thereby giving the space a 'backland' feel that is insecure and intimidating. Northumbria Police also confirmed during the drafting of the SPD that while the Seaburn area does not suffer from particularly high levels of crime generally, the western side of the masterplan area does attract anti-social behaviour.

Furthermore, the submitted 'Regulatory Plan 06: Public Realm and Landscaping' plan confirms the provision of a Linear Park within the proposed western housing area, thereby providing a connecting landscape open space link through the site to Seaburn Camp. The Regulatory Plan also designates areas of 'Outdoor Activity, Formal and Informal Play, and Landscaping', in particular the adventure play area and passive recreation open space and on-site Suitable Alternative Natural Greenspace (SANG) within the western portion of Cut Throat Dene.

The Habitat Regulations Assessment (HRA) work has also established a total of 8.9 hectares of SANG, including a 2.78 hectares of 'seasonal' SANG (caravan park to the north of Morrison's), which opens this area up for public use outside the summer months. The design of the proposed development will ensure that the SANG in the adjoining areas, and links to the wider footpath network, are readily accessible to residents and the wider community. And further to the introduction of the publicly accessible Adventure Play area, which is to be located within the western portion of Cut Throat Dene, the development proposal will also deliver a financial contribution of "up to" £195,579 to be spent on off-site children's play, sport and recreation within the Fulwell Ward.

In addition, the proposed uses table in the introductory chapter of this report clarifies the most likely areas, along with the upper limits. The table highlights that the most likely areas for the D1 (Non-residential – such as art galleries), D2 (Leisure – such as indoor or outdoor sports) and Sui Generis (i.e. amusement centre and/ or privately managed park and/ or funfair) uses will be 4268 square metres; along with an upper limit of 5268 square metres. This highlights that the outline element of the planning submission includes significant sport and leisure provision in the proposal.

In respect of the open space area where the proposed Dykelands Road car park is proposed i.e. within the eastern portion of Cut Throat Dene, the Audit identifies this area as being of Very Low Value. This enclosed grassed area of open space surrounds the culverted Cut Throat Dene and is bound by Martino's and its car park to the east and Lowry Road and Dykelands Road to the south, west and north. It is noted that the detailed designs of the proposed car park area will incorporate a boardwalk and improved landscaping/ SUDS along the Dene, thereby visually enlivening this area of the site and providing a connecting route with the wider site and the promenade and coast beyond.

Regarding the open space area where the existing children's play facility is located i.e. adjacent to the Seaburn Centre, it is noted that this is located within what is proposed to be mixed use, again please refer to the 'Regulatory Plan 03: Use Classes'. Further to the introduction of the adventure play area in the west of Cut Throat Dene, it is noted that the mix of uses include D2 and Sui Generis uses; and again attention is also drawn to the financial contribution from the development to be provided via a Section 106 Agreement towards the provision of off-site children's play within the Fulwell Ward.

## **Policy EN10**

The remainder of the site is allocated via policy EN10, which states that all proposals for new development will be judged in accordance with the policies and proposals of the plan. Where the plan does not indicate any proposals for change, the existing pattern of land use is intended to remain; proposals for development in such areas will need to be compatible with the principal use of the neighbourhood. Consequently, reviewing the mix of uses proposed and in recognition of the mix of residential, leisure and commercial uses within and surrounding the site it is considered that this aspect of the development accords with policy EN10.

## **Housing**

Paragraph 158 of the NPPF requires the LPA to base their plan-making on adequate, up-to-date and relevant evidence. The LPA should ensure their assessments and strategies for housing, employment and other uses are integrated, taking full account of relevant market and economic signals.

In terms of housing, NPPF Paragraphs 47 and 159 require that local planning authorities should have a clear understanding of housing needs in their area. This is demonstrated by a Strategic Housing Market Assessment (SHMA) and Strategic Housing Land Availability Assessment (SHLAA). The SHMA is the means through which the LPA identifies the scale and mix of housing and range of tenures that the local population is likely to need over the plan period, whilst the SHLAA is the means through which the Authority establish realistic assumptions about the availability, suitability and likely economic viability of land to meet that identified need.

In terms of decision-taking, Paragraph 49 then states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the Council cannot demonstrate a five-year supply of deliverable housing sites, as demonstrated in the Council's SHLAA. In the event that a five-year supply cannot be met, the LPA may have to favourably consider planning applications for housing on unallocated sites.

The Council's Strategic Housing Land Availability Assessment (SHLAA) 2016 provides a speculative assessment of housing potential and is part of the evidence base that supports the forthcoming Sunderland Local Plan. The purpose of the SHLAA is to identify and assess potential housing site options in terms of suitability, availability and viability issues. In estimating potential housing supply on individual

sites, the assessment involves making assumptions about whether sites can be developed for housing and when.

The 2016 SHLAA has earmarked the site as 'Site 413 Seaburn Amusements, Whitburn Road' and identified it as a Deliverable 1-5 Year site for 150 homes. Sites are considered to be deliverable if they are available now, offer a suitable viable location for development now, and are achievable with a realistic prospect that housing will be delivered on the site within five years (NPPF – footnote 11).

It is noted that an objector referred to the 2013 SHLAA, given that this document states at paragraph 5.11 that when assessing the five year supply of housing land sites some were initially excluded if they were subject to certain policy and land use constraints. However, the objector incorrectly refers to 'Play Parks' as being one of the exclusion criteria – it is in fact 'Parks', whilst the objector refers to 'Green Belt' which, although was and still is an exclusion criteria in the 2016 SHLAA, no part of the application site is designated as Green Belt and is therefore not relevant to the proposal.

Regarding the 'Public car parks' exclusion criteria, it is noted that development is proposed on existing public car parking areas. However, it is also noted that the detailed element of proposal also includes car parking to off-set the loss of the exiting spaces, whilst 'Regulatory Plan 03: Use Classes' confirms that subsequent reserved matters will also deliver a minimum of 92 public car parking spaces – this aspect will be considered in further detail in the highway considerations section of the report. It should also be noted that paragraph 5.12 of the 2013 SHLAA document states that "...whilst these sites have been excluded from the initial assessment, the exclusion criteria was on the basis that if it was subsequently found that there was an overall shortfall of sites against requirements, some of them may be re-considered for inclusion". In this respect attention is again drawn to the fact that the application site was identified as a site in the 2013 SHLAA and has been carried forward into the more up-to-date 2016 SHLAA.

## **Conclusion**

Policy L7 states, in part, that land allocated for open space or outdoor recreation will be retained in its existing use. Permission for other uses on such sites will only be granted if alternative provision is made and there would be no significant effect on the amenity, recreational and wildlife habitat value of the site. Reviewing the Draft Sunderland Greenspace Audit (2012) it confirms that at a City Village level (Seaburn and South Bents) the application site is within a locality that is presently well catered for in terms of its provision and quality of greenspace.

Furthermore, when considering the development proposal's impact in so far as it relates to Policy L7 it is noted that the western housing area is located on a parcel of land that does not function as intended, as it is somewhat isolated with no apparent us to draw people to the area, whilst the area of the proposed car park onto Dykelands Road is considered to be of Very Low Quality. In addition, and as will be discussed in further detail in the following ecology section, the site is not of high ecological value. Consequently, development of this land is not considered to have significant effects on the amenity, recreational or habitat value of the site.

In considering this aspect due regard is given to the provision of an adventure play area to the west of Lowry Road, the provision of what the applicant has terms a 'Linear Park' within the proposed western housing area, along with other areas of outdoor activity, formal and informal space. Moreover, the design of the proposed development will ensure that the SANG in the adjoining areas, and links to the wider footpath network, are readily accessible to residents and the wider community.

In terms of the principle of housing it is noted that the site forms part of the City's deliverable 5 year supply of housing land (as required by Paragraph 47 of NPPF). Officers are therefore mindful of Paragraph 49, which states that housing applications should be considered in the context of a presumption of sustainable development and in this regard, and along with Paragraph 14, the delivery of housing within the site is being given significant weight. When reaching this conclusion, and as will be discussed in detail in the subsequent sections of this report, there are not considered to be any other conflict with local or national planning policy, or any adverse impacts that would significantly and demonstrably outweigh the benefits of the development proposal, one that would represent significant regenerative benefit to this strategic site of the City.

## **2. Highway considerations**

UDP policy T14 requires new development to be readily accessible by pedestrians and cyclists, whilst development proposals should not cause traffic congestion or highway safety problems and make appropriate safe provision for access and egress. Policy T13 identifies the need for highway improvements, whilst policies T8 and T9 seek to improve facilities for pedestrians and cyclists respectively.

Paragraph 32 of the NPPF requires that all developments that generate significant amounts of movement should be supported by a Transport Assessment and development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

The proposed master plan includes a mix of residential, small retail units, leisure uses, public realm and landscaping; with detailed consent sought for highway alterations to access roads and a new public car park accessed from Dykelands Road. The planning application is supported by a Transport Assessment, a Framework Travel Plan and a Parking Survey Report.

### **Accessibility**

The development is proposed within a location that is readily accessible to both residents and visitors to the seafront by various modes of travel including walking, cycling and public transport.

### **Traffic Impact**

The need for a Parking Report was highlighted as an essential requirement to enable a detailed assessment of parking demand during typical weekday and weekend periods. To enable an assessment of parking demand over a Bank Holiday weekend

a parking survey was also undertaken over the Easter first public bank holiday weekend of 2015. This information was required to ensure an evidence based recommendation can be made based on traffic survey data.

Key junctions have been assessed using traffic data based on typical weekday and weekend peak hours. This is considered to be an appropriate method of assessment, and should not be based on periods where traffic levels are significantly high during a limited number of days per year. In terms of traffic Impact, the junctions assessed will operate within capacity in the opening year.

1. Whitburn Road/ Lowry Road roundabout junction:

An assessment of traffic generated by the new residential development proposals concludes that there will be minimal impact with no changes required to the operation of the junction.

2. Whitburn Road/ Dykelands Road signalised junction:

Whitburn Road/ Dykelands Road signalised junction experiences high volumes of traffic during the summer and busy holiday periods. During these periods queuing on Dykelands Road is greater than normal peak hour flows, which is mainly down to the high number of calls on the controlled pedestrian crossing on both Whitburn Road and Dykelands Road. This provides a greater priority in terms of pedestrian road safety to cater for a higher number of pedestrian movements across both Whitburn Road and Dykelands Road above normal weekday/ weekends.

An assessment of traffic generated by the new residential development proposals concludes that there will be minimal impact with no changes required to the operation of the junction.

3. Dykelands Road/ Lowry Road priority junction:

The Dykelands Road/ Lowry Road priority junction will experience an increase in delays for cars turning west onto Dykelands Road, however these are minimal and still leave capacity to maintain the current priority junction arrangement.

4. Lowry Road West/ Lowry Road North/ Service Access/ Seafields junction:

The proposals include a change in priority from Seafields to Lowry Road. Vehicles existing Seafields will need to give way but with minimal delay and queuing expected during peak hour periods.

5. Morrisons/ Lowry Road/ New Car Park Access:

The proposed alterations to the main access to Morrison's car park include the installation of a mini-roundabout which will be able to accommodate the retail store traffic and access to the proposed public car park. The development trips are based on traffic surveys and include existing traffic flows associated with Morrisons.

## **Proposed Development**

The master-plan includes development of up to 279 dwellings, 50 of which could potentially be replaced by a hotel development. A number of small to medium leisure and retail uses are proposed to the east of Lowry Road, which will also provide parking for both customers and staff. Any traffic issues associated with the leisure/ retail uses will be considered as and when the proposals are put forward given that the scale of development will not be significant.

The proposed development will result in an overall reduction of vehicle trips associated with previously approved leisure uses within the site boundary by the removal of the Seaburn Centre. Based on the seafront location, the number of vehicle trips has been maintained to enable a robust assessment of traffic movements.

The proposed residential and small to medium scale leisure businesses will generate less trips than current land and building uses.

## **Access to the Proposed Development**

The proposed development includes changes to the Lowry Road/ Seafields junction. The current arrangement allows Seafields as the priority movement, and the intention is to change this to make Lowry Road the priority movement. The number of vehicle trips generated by Seafields will not be significantly impacted by this change; however, it is recommended that 'keep clear' carriageway markings be included at the junction as part of the detailed design.

Existing access arrangements to Morrisons, and the filling station will need to be maintained for deliveries and servicing arrangements.

Lowry Road will be subject to a reduction of road width to take into account change of character with a change junction priority and modify layout at Lowry Road/ Seafields. It should be noted that Lowry Road is used as diversion route for bus services if Whitburn Road is closed between Dykelands Road and Morrison's roundabout.

A Stage 2 Road Safety Audit will be required to review the detailed design of the highway alterations.

## **Residential Development**

No details have been formally submitted in relation to the residential proposal other than the potential for up to 279 dwellings. These will need to be submitted and agreed as part of any future reserved matters application.

It is recommended that the main residential access road is taken from a location at the mid-point of Lowry Road. A priority change should be considered to direct the main traffic flow towards the existing roundabout junction of Whitburn Road/ Lowry Road.



The development should be designed to ensure traffic speeds are managed within the development with physical measures provided to deter speeds in excess of 20mph within the internal road layout.

Appropriate provision of private driveway and visitor parking space will need to be agreed as part of the approval of the layout for the residential scheme.

New homes should be provided with the option of installing home charging equipment for electric vehicles. Additional publically available EV charging points should be included within communal parking facilities for the local retail/ leisure uses.

Other considerations to address include:

- No through route for vehicles onto Seafields
- Shared surface approach with single lane (2.75m/ 3.0m lane) circulatory road and links and passing places
- Highways to be constructed to adoptable standard
- Private driveways to serve no more than three dwellings
- Visitor parking space provision centrally located
- Central footpath through open space
- Tree planting including maintenance and commuted sums

### **Existing Car Parking Provision**

An assessment of usage for the existing car parks was essential to understand the level of demand during a normal week-day and weekend and compare use against times when the car parks are significantly increased during the summer. The main entrance and exit points were surveyed to record all traffic using both video surveys and vehicle counts to provide information on actual usage and the findings detailed within the Parking Report.

An existing 204 public car parking spaces are proposed to be displaced and reallocated to two separate locations Lowry Road (to the north of the development) and Dykelands Road (to the south of the development).

The existing 517 private car parking spaces serving Morrisons retail store are not part of this application, and are to be retained and remain in their current location.

### **Proposed Public Parking Provision**

#### **1. Dykelands Road Car Park**

The detailed application includes the creation of a new public car park to be accessed from Dykelands Road. A right-turn pocket is to be provided in the centre of the road to provide waiting space for motorists travelling from the direction of Whitburn Road. It is understood that the car park is to be constructed at an early stage of the redevelopment proposals.

The car park will provide a total of 94 spaces. This car park is likely to be managed as a pay and display car park by the Council. The formation of the new access will

require the relocation of an on-street bus bay. This can be accommodated to the existing stop to the west of the junction with Seafields and Dykelands Road.

The 4 parking spaces for disabled parking are at the minimum requirement based on a 1 per 30 space standard.

2 bays should be allocated for Electric Vehicles with charging posts provided to replace those located within Ocean Park.

Details of car park construction details, cycle parking, public lighting, signing, any cctv apparatus and ticket machines will need to be agreed with Parking Services. The car park will be subject to an off-street parking places order and include introduction of any pay and display charging.

It is recommended that the current recycling facility in Ocean Park is not relocated to the new public car park.

The proposed car park will help address issues based on complaints of non-resident parking in the streets located off Dykelands Road. It will also be beneficial by providing parking space to help remove short-stay opportunist parking at the junction of Whitburn Road/ Dykelands Road and to the rear of The Parade.

It is recommended that the existing public parking remains open for use until the residential development is progressed. The removal of parking should be phased and closed in stages to reduce the impact of lost parking to help manage the relocation of public parking space in stages with new provided before removal of existing provision.

The construction of the new car park should be covered by a Grampian condition, to ensure the new car park is complete and open for use prior to any closure of existing.

The walkway to the immediate north proposed to be constructed of composite decking is not appropriate for adoption as public highway. The decking connects to a new footpath link proposed to be constructed of resin bound coloured asphalt. Arrangements for maintenance of this public realm space will need to be agreed with Responsive Local Services including any waste bin provision.

A suitably worded planning condition should be included to secure the delivery of the Dykelands Road car park and to require the car park to be open to the public, before the closure and removal of any existing public car parking provision located at Ocean Park accessed from Lowry Road.

## 2. Lowry Road Car Park

A second public car park comprising a minimum of 92 spaces is to be provided, and accessed from Lowry Road. This car park is likely to be managed as a pay and display car park by the Council. It is understood that the car park is to be constructed at a later stage of the redevelopment proposals.

Details of car park construction details, cycle parking, public lighting, signing, any cctv apparatus and ticket machines will need to be agreed with Parking Services. The car park will be subject to an off-street parking places order and include introduction of any pay and display charging.

A mini-roundabout is to be provided at the access to the new car park, and includes upgrading of the existing car park access to the Morrisons retail store. All works are located within existing public highway and will be subject to a Section 278 Agreement.

The existing Morrisons car park is to be retained with parking space numbers remaining as current number which provides a total of 517 spaces.

The provision of both these public car parks will provide a total of 186 spaces, which in comparison to the existing parking provision of 204 public parking spaces is an overall reduction on the existing level of off-street parking by 18 spaces.

A suitably worded planning condition should be included to secure the delivery of the proposed Lowry Road car park and to require the car park to be open to the public, before the closure and removal of any existing public car parking provision associated with the proposed residential development scheme to the west of Lowry Road.

### 3. Whitburn Road On-Street Parking

There is the potential to introduce on-street parking bays along the western side of Whitburn Road, some of which will include parking space for disabled users, and loading bay provision. These are likely to be considered as part of the leisure/ retail uses and introduced at a later stage.

## **Traffic Management**

To assist with the provision of the access to the new car park, it will be necessary to alter some existing parking restrictions on sections of Dykelands Road and to introduce a new bus stop clearway.

Parking restrictions will also need to be introduced on sections of Lowry Road in the form of junction protection measures and to control on-street parking.

Kings Avenue is already subject to parking restrictions.

A permit parking scheme for residents is operated on a temporary basis during Sunderland Airshow. These arrangements will continue.

## **Princes Avenue**

It is recommended that traffic management measures be introduced on Princes Avenue to deter any potential increase in vehicle movements associated with the development proposals along this route. These measures are to assist with addressing an existing issue and should be considered through a separate

consultation process to the planning application. However, through on-going discussions with the applicant in relation to this application, representatives of Siglion have agreed to fund the introduction of a traffic management scheme.

A number of traffic management proposals have been considered to discourage increased use of this route. Parking restrictions have been considered and discounted, mainly due to the limited availability of off-street driveway parking along Princes Avenue. Two options have been produced, and will be subject to consultation with residents, Ward Councillors and other relevant parties.

Option 1 is to introduce a one-way system restricting vehicles to southbound movements only. Proposals will include build-outs, speed cushions, signing and road surface gateway treatments.

Option 2 is to install a set of demountable bollards, footway build-outs and a central speed cushion adjacent the junction of Princes Avenue and Douglas Road. This option will retain the existing two-way flows with a section as access only at the southern end to 30 and 31 Princes Avenue.

Both options will involve consultation with residents, Ward Councillors and statutory bodies.

## **Road Safety**

The applicant has undertaken a full review of road safety over a three year period. Detailed analysis indicates that there has been no traffic incidents involving personal injury with vehicle speed recorded as a contributory factor. There are records of collisions at junctions but those identified have no single or underlying issue highlighted as a reason.

## **Public Rights of Way**

There is an existing registered public rights of way routed directly through the proposed residential development site. The existing public right of way located to the western side of the Ocean Park car park is hard paved and lit, and will need to be stopped up and diverted.

This is considered acceptable subject to the provision of an alternative route to accommodate the diversion of the public right of way through the development site. This would need to be provided as direct a route as possible and be paved and lit, with details provided in the site layout plan. There is also a public right of way within the red line boundary to the south of the residential proposal which follows Cut Throat Dene, which will need to be retained and if necessary upgraded to an acceptable standard.

The layout of the residential development proposal will need to incorporate appropriate footpath connections to ensure a permeable development.

The site layout will need to include positive footpath links to nearby public rights of way, bridleway and multi-user routes. Any diversions to routes would need to be covered by a legal order.

The applicant should also be aware of the provisions of section 31 of the Highways Act 1980 which relates to presumed dedication of public rights of way where there has been 20 years use by the public as of right and without interruption, and also of Section 53 of the Wildlife and Countryside Act 1981 by means of which such ways may be added to the Definitive Map.

There is the potential for desire lines and claimed routes across the development site. Should evidence of any claimed routes come forward then will need to be submitted to Sunderland City Council's Public Right of Way Officer.

### **Nexus Response**

Nexus have not raised any objection to the proposed development.

The response requests that they be referenced for information on journey planning and local bus stop information.

The response also requests that public transport travel passes be provided as part of the sale and occupation of new dwellings and for employees of new businesses. This measure would help reduce reliance on car borne journeys.

### **South Tyneside Council Response**

The response raises no objection in principle to the proposed development, but recommends the provision of a Transport Statement with a request to consider the potential impact of traffic on the A184 in Whitburn and associated junctions.

New vehicle trips for the new housing, private/ retirement apartments and retail uses have been considered and journeys distributed onto the local road network using census data for journeys. This information is used to determine the impact on the existing junction arrangements and consider any issues with capacity.

South Tyneside has suggested a Transport Statement would be required. However, a more detailed Transport Assessment has been provided which has reviewed traffic generation and impact on the local road network and key junctions surrounding the development site. The assessment confirms that all of the junctions in immediate proximity to the development can accommodate the traffic generated by the development, therefore any junctions further afield including the A184 and in the surrounding area to Whitburn Village would not be significantly impacted by this proposal.

Furthermore, the agent, acting on behalf of the applicant, has also confirmed that the only trips predicted to enter South Tyneside's road network are vehicles travelling north on Whitburn Road, past its junction with Lowry Road. A review of the development generated trips included within the Transport Assessment shows that the development would generate a two-way flow of 28 vehicles in the AM peak and

25 in the PM peak. The planning application submission does not anticipate that this would have a discernible impact on the road network.

### **Construction Phase – Management Plan**

A Construction Management Plan will need to be submitted for approval, which will need to clearly define routes for site deliveries and construction traffic. The routing and control of construction traffic will need to be agreed through a Scheme of Work condition and include a routing plan and signing strategy.

This also applies to any demolition works and associated traffic management required.

Details will include locations of site compounds, contractor parking, wheel washing and/ or road cleaning operations. The latter will be needed to ensure appropriate control measures are in place to prevent mud or debris being deposited on the highway.

There will be a need to introduce Temporary Traffic Regulation Orders to assist with the implementation of any demolition or construction works as part of managing the road network.

The developer will be responsible for providing any temporary footpaths/ walking routes necessary during demolition/ construction works.

### **Section 38 and Section 278 Agreements - Highway Works**

The proposed alterations to existing public highway and the forming of the new access roads will involve construction works within adopted public highway. The developer will need to enter into agreements under Sections 38 and 278 of the Highways Act to ensure the necessary technical and funding arrangements are in place before works start on site.

### **Conclusion**

The planning submission, which includes a Transport Assessment, has demonstrated that there are no issues as a direct result of the development proposals that will lead to a significant impact on the highway network. Engineering colleagues in Network Management have confirmed their support of the scheme, subject to the imposition of a Grampian condition relating to the provision of the Dykelands Road and Lowry Road car parks, and conditioned agreement to the phased removal of existing public parking, construction phasing and traffic management arrangements.

The proposal is therefore considered to be acceptable and in accordance with UDP Policies T8, T9 and T14, as well as Paragraph 32 of the NPPF.

### **3. Town Centre Uses considerations**

It is considered that there is a deficiency in the relevant saved Shopping Policies in the UDP, namely Policies S1 and S2. These are strategic and aspirational policies, but they do not address the up-to-date development management impact tests for retail development which is located outside town centres, as set out in Paragraphs 26 and 27 of the NPPF. Similarly, it is considered that the UDP's strategic leisure Policy L1 does not satisfactorily reflect the sequential and impact tests which apply to leisure uses, under the provisions of Paragraphs 24 and 26 of the NPPF.

As a consequence, it is considered that relevant policies in the development plan are not fully up-to-date, so that the second part of Paragraph 14 of the NPPF comes into force. Thus, the hybrid application being appraised benefits from the presumption in favour of sustainable development.

Given the requirement to assess the development against the provisions of Paragraph 24 and 26 and given the specialist nature of town centre and retail planning considerations the LPA instructed hollissvincent to undertake an independent audit of the retail policy aspects of the planning submission. For Member information hollissvincent have detailed knowledge of all centres within the City given that they recently completed, on behalf of plan-making colleagues in Strategic Policy, the Sunderland Retail Needs Assessment Report (the SRNA) in December 2016. The SRNA is a key document that will form part of the evidence base for the Local Plan.

#### **- Sequential Test assessment**

Paragraph 24 of the NPPF sets out the sequential test that applies to planning applications for main town centre uses that are not in an existing centre and not in accordance with an up-to-date Local Plan. Paragraph 24 states that '...applications for main town centres uses should be located in town centres, then in edge-of-centre locations, and only if suitable sites are not available should out-of-centre sites be considered.' In considering out-of-centre proposals, such as this hybrid application at Seaburn, Paragraph 24 states that '...preference should be given to accessible sites that are well-connected to the town centre'.

Given the scale of development proposed it is considered that the relevant sites that could conceivably accommodate the development proposal are the Holmeside Triangle, former Crowtree Leisure Centre, former Vaux Brewery site and Farringdon Row. The Local Centres, such as Sea Road, Southwick Green and Monkwearmouth are not considered to be appropriate for the scale of town centre uses proposed.

In terms of the Holmeside Triangle site, following completion of the City Centre Campus for Sunderland College, and excluding the inaccessible land over the railway, it is considered that, at approximately 1.2 hectares, the remainder of Holmeside would be too small to accommodate the quantum of town centre uses proposed by the applicant. Of even more fundamental importance is the fact that the remaining part of Holmeside is not currently available and is in a variety of land ownerships, so that a Compulsory Purchase Order procedure may be required if a development opportunity is to be made available in the future. At present, the

remainder of Holmeside is neither suitable, nor available for accommodating the main town centre use components of the Seaburn application.

Regarding the former Crowtree Leisure Centre, this is to form Phases 3 and 4 of extensions to the Bridges Shopping Centre. Phase 3 is the subject of a detailed planning permission for a retail unit of up to 4,180 sq.m gross (together with public open space), targeted at Next who wish to develop a Home & Garden style format store on this site. Phase 4 is intended to provide for leisure and food/ drink uses, but the opportunity afforded by Phase 4 could not accommodate the scale of development being proposed at Seaburn, even having applied the appropriate degree of flexibility. Nor is the site likely to be available to Siglion, given the ambitions of the owner of the Bridges Shopping Centre to secure an improved food and beverage offer within an expanded Centre. As a consequence, the site of the former Crowtree Leisure Centre is neither available, nor suitable for the scale and form of main town centre uses proposed in the hybrid application at Seaburn.

Siglion is also redeveloping the former Vaux Brewery site as a business-led, mixed-use development, the first phase of which has recently commenced. Indeed, the Vaux site benefits from a consent in respect of hybrid application Ref. 15/02557/HY4. The detailed part of the hybrid consent provides for a first phase of 7,319 sq.m Gross Internal Area (GIA), to include 6,319 sq.m GIA of offices and 1,000 sq.m GIA at ground floor, to provide for leisure, food/ drink and retail uses. The outline consent provides for up to 201 residential units, commercial uses in Use Classes B1 (a further 53,000 sq.m), C1 (a maximum of 4,000 sq.m), D1 and D2 (Exhibition Centre, up to 6,000 sq.m), food/drink (A3/ A4, up to 4,000 sq.m) and retail (A1), but with a limit for Class A1 retail use of 2,499 sq.m, across the entire site.

It is clear, therefore, that the dominant elements of the redevelopment at the Vaux site will be in the form of business park development (59,376 sq.m) and housing (27,013 sq.m), with the Exhibition Centre, food/ drink and retail elements being very much of an ancillary nature. As a consequence, it is not considered that the Vaux site is suitable for accommodating a leisure-led, mixed-use scheme of the sort being promoted in Seaburn.

The Development Framework for Farringdon Row envisages redevelopment, primarily, for residential and open space purposes, so as to be complementary to the business-led, mixed-use development at the Vaux site. The retail and leisure space at Farringdon Row is intended to be limited to around 1,000 sq.m. As a consequence, it is considered that Farringdon Row is entirely unsuitable for the scale and form of retail and leisure development being put forward in the hybrid application at Seaburn.

The overall conclusion is that the applicant has satisfied the requirements of the sequential approach, and that the hybrid application at Seaburn passes the sequential test set out in Paragraph 24 of the NPPF. There are no sites or premises within, or on the edge of, the City Centre, or in nearby Local Centres, that are currently available and suitable for meeting the scale and form of the leisure, retail and other main town centre uses incorporated in the hybrid application at Seaburn. Furthermore, it is accepted that there is a site specific regeneration need in Seaburn in seeking to reverse the decline in this seaside resort.



- Impact Tests

Paragraph 26 of the NPPF sets out the impact tests for applications for retail, leisure and office development that are located outside town centres and which are not in accordance with an up-to-date Local Plan. For applications of over 2,500 sq.m gross, or over a locally set threshold, these tests require an assessment of:

- a) 'the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made.'

a) Existing, committed and planned public and private investment

The floorspace incorporated in the hybrid application proposal that relates to main town centre uses is capped at 9,268 sq.m GIA, which is well above the 2,500 sq.m threshold set out in Paragraph 26 of the NPPF. Thus, given that the application proposal is in an out-of-centre location, and not in accordance with an up-to-date local plan, it is clear that both of the impact tests set out in Paragraph 26 of the NPPF should be applied.

Paragraph 27 of the NPPF then confirms that 'Where an application fails to satisfy the sequential test, or is likely to have a significant adverse impact on one or more of the above factors [in Paragraph 26], it should be refused'. However, it seems clear from the Zurich High Court Judgment, of December 2012, that Paragraph 27 of the NPPF is not necessarily determinative, if there are significant material considerations which displace its presumption for refusal in the event of a failure of the sequential and/ or impact tests.

The agent contends, in Section 5 of its Retail and Leisure Impact Assessment, that the nature of the retail and leisure uses proposed for the Seaburn application site are not comparable to that currently available elsewhere in the City of Sunderland. The Class A1 retail component is limited to 2,000 sq.m Gross Internal Area (GIA), and Siglion anticipates that the retail offer will be very much geared to the seaside location of the application site, with a focus on ice creams, buckets and spades, arts and crafts, gifts, swimwear, sun glasses, sun cream, towels, flip flops, kites and other toys, confectionary, other niche shops and so on. The Class A2/A3/A4/A5 uses, which are expected to amount to between 3,000 sq.m and 4,000 sq.m GIA, will similarly be targeted to the needs of Seaburn. Furthermore, much of the leisure floorspace is likely to be accounted for by an amusement centre, and/or privately-managed park, and/or funfair, of the sort found in seaside centres such as Seaburn, and the hotel component is likely to be a three star boutique-style facility that is complementary to the nearby four star Marriott hotel.

Thus, given the type of retail, leisure and food/beverage uses proposed, it is considered highly unlikely that there will be any material impact on the existing, committed and planned investment in the City Centre.

## b) Vitality and Viability

In so far as the City Centre is concerned, the SRNA identified many more positive findings in relation to its current health, compared to negative findings. In light of this very recent health check it is considered highly unlikely that the development proposal would have a significant adverse impact in the City Centre's overall vitality and viability, or on local consumer choice, or on trade in the City Centre.

The SRNA 2016 also provides an appraisal of the health of the Local Centres at Sea Road and Southwick Green. So far as Sea Road is concerned, hollissvincent consider it is a healthy centre, with few vacancies. Indeed, the convenience sector representation is considered to be particularly strong, as confirmed by the presence of Sainsbury's, Best One, Premier, One Stop, Subway and Greggs, together with independent traders that include a butcher, a fishmonger, a greengrocer and a confectioner. In the comparison goods sector, there is a focus on bulky furniture and home interior goods, but a limited representation in the clothing sector, despite the presence of a boutique style fashion clothing outlet, called Corner 93. In the services sector, Sea Road benefits from a range of hair and beauty related businesses, and good representation in financial and professional services. Moreover, there are very few hot food takeaways in Sea Road Local Centre.

Sea Road also enjoys excellent accessibility by bus and is served by Seaburn Metro Station. Sea Road is therefore considered to be a healthy Local Centre, which benefits from: a vacancy level that is almost half of the UK average; a reasonable convenience provision; a clean, pleasant and safe shopping environment, with a well maintained public realm; an appropriately-sized free car park; unrestricted parking areas along the residential streets that run perpendicular to Sea Road; good levels of connectivity and accessibility (particularly with the Seaburn Metro Station to the west of the centre); and a strong level of pedestrian footfall. In these circumstances, it is considered unlikely that Sea Road would experience a 'significant adverse' impact on its vitality and viability as a result of the hybrid application proposal at Seaburn.

The SRNA 2016 concludes that Southwick Green is moderately healthy, but that, unlike Sea Road, it is showing some signs of weakness, particularly in relation to the rising vacancy rate and the high number and proportion of takeaway units. Nevertheless, Southwick Green Local Centre functions, primarily, as a top-up convenience shopping destination and as a service centre, with a range of banks, a dental surgery, a health centre, hair and beauty salons, public houses, takeaways, and an amusement arcade. However, Southwick Green is further away from Seaburn than Sea Road, and we consider it unlikely that it would face a 'significant adverse' impact in relation to its overall vitality and viability.

So far as the 'main town centre uses' are concerned hollissvincent advise that there are no reasons for refusal of this outline application proposal that could be sustained, either in relation to the sequential test, or in relation to the two impact tests set out in Paragraph 26 of the NPPF. Nevertheless, if Members are minded to grant outline planning permission, hollissvincent advise that conditions should be attached which have the effect of:

- a) setting a maximum commercial floorspace cap for the A1, A2, A3, A4, A5, D1, D2 and indoor sui generis uses, combined, at 9,268 sq.m GIA;
- b) limiting the amount of Class A1 retail floorspace to a maximum of 2,000 sq.m GIA;
- c) limiting the amount of Class D1/D2 leisure and indoor sui generis floorspace to a maximum of 5,268 sq.m GIA;
- d) limiting the amount of Class A2/A3/A4/A5 floorspace to 4,000 sq.m GIA;
- e) limiting the size of the hotel to a maximum floorspace of 5,000 sq.m GIA; and
- f) limiting the number of Use Class C3 residential units to 230 (if the hotel is provided), or up to 279 (if no hotel is included in the scheme).

There is also a need to ensure that the Class A1 retail accommodation is in the form of small units, so as to be appropriate for seaside retailing of the sort envisaged by the applicant. It is therefore recommended that a condition be imposed that limits the maximum size of each Class A1 retail unit to 400 sq.m gross.

The reason for these conditions is to safeguard the vitality and viability of the City Centre and nearby Local Centres, in line with Policies S1, S2 and L1 of the UDP, and the requirements of the National Planning Policy Framework.

#### **4 Ecological and Arboricultural considerations**

UDP policy CN17 states that the City Council will encourage the retention of trees which make a valuable contribution to the character of the area and the retention of trees, hedges and landscape features will be required where possible. Policy CN18 requires the Council to seek opportunities for new habitat creation in development proposals. Policy CN22 highlights development that would adversely affect any animal or plant species afforded special protection will not be permitted.

Paragraphs 109 and 118 of the NPPF state that local authorities should minimise impacts on biodiversity and provide net gains in biodiversity where possible, including by establishing coherent ecological networks that are more resilient, and that new development should aim to provide opportunities to incorporate biodiversity in and around developments. Paragraph 111 of the NPPF also encourages the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value. Paragraph 119 states that the presumption in favour of sustainable development (paragraph 14) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.

##### **- On-site ecology considerations**

The site consists of an area of hard-standing, amenity grassland, disused buildings, a heavily modified stream channel, and a small area of broadleaved plantation woodland. An Extended Phase 1 Habitat Survey was carried out in 2015 on all accessible parts of the site and following the assessment a more detailed Bat Risk Assessment and Bird Survey was undertaken (again in 2015). No protected species

were recorded during the survey work, whilst it was considered that habitats on the site were of negligible nature conservation value. The proposed development site is therefore considered to be of low ecological value.

The Phase 1 Survey also considers that the land-take for construction works will not result in the loss of any habitats of significant conservation interest at the local scale or above. It is noted that there are some habitats likely to be used by breeding birds, which is considered to be pose a risk of legislative contravention if these are cleared while birds are nesting. In order to maintain legislative compliance clearance of potential nesting habitats will take place outside the breeding season. Any works necessary within the breeding season will only take place following a nesting bird survey by a suitably qualified ecologist. This can be conditioned in the event that Members are minded to approve the development.

The Phase 1 Survey also confirms that the development will not reduce habitat connectivity, as it maintains the open space corridor along Cut Throat Dene. Furthermore, the Phase 1 survey also confirms that measures will be incorporated in the Construction Environmental Management Plan (CEMP) in order to avoid pollution and maintain biodiversity. Similar to the potential impacts on breeding birds this can be conditioned in the event that Members are minded to approve the development.

In terms of operational impacts and given the low present ecological value of the site the loss of open space could impact nature conservation relative to baseline conditions. However, the design of the development proposal incorporates ecological enhancement measures, particularly in the Cut Throat Dene area, improving habitat quality and connectivity with adjoining habitats such as the adjacent Mere Knolls Cemetery Local Wildlife Site. Furthermore, cat predation, garden waste or light spillage is not predicted to affect any sensitive flora or fauna.

- Natura 2000 sites

Given the implications of Paragraph 119 it is clear that this aspect of the development should be given significant weight in the decision-making process. Consequently, following the initial consultation response from Natural England the applicant submitted an updated 'Information to support a Habitats Regulations Assessment (dated 15 May 2017). The primary requirement of this report is to ultimately provide information to assist the Competent Authority (in this case the Council, as the independent LPA) in determining whether the proposed project (i.e. planning application) would have a likely significant effect on Natura 2000 sites (European conservation sites).

Natura 2000 sites comprise Special Areas of Conservation (SAC) designated under the EU Habitats Directive and Special Protection Areas (SPA) designated under the EU Birds Directive. Ramsar sites are wetland site of international importance designated under the 1971 Ramsar Convention on Wetlands. Although not part of the Natura 2000 network, the UK government has chosen to apply the same assessment procedures to plans and projects affecting Ramsar and they therefore need to be considered in the HRA process.

The nearest Natura 2000 and Ramsar site is located approximately 0.3km south-east of the site boundary, with a further section 0.56km north-east i.e. Northumbria Coast SPA and Ramsar Site. Durham Coast SAC is located 0.56km north-east of the site boundary. There are no other sites within 5km of the site boundary, which can be taken as an appropriate buffer for a development of this nature. The mixed-use development will not involve significant emissions to air or water, which may otherwise extend the spatial reach of ecological effects.

The most important ecological features in the wider vicinity of the site are associated with the coast, and include both nationally and European/ internationally designated conservation sites. In the absence of mitigation, there would be a risk that the proposed development could have a significant effect on these sites, through increased recreational pressure causing displacement of qualifying species.

Natural England has considered the amended May 2017 report and welcome the amendments contained within the updated report and therefore ultimately the development proposal. Natural England concur with the report's conclusion that the project is unlikely to have significant effects on Northumbria SPA and Ramsar site if the proposed mitigation is implemented. The measures proposed include a contribution per dwelling to fund a coastal warden and Public Space Protection Order and the provision of SANG. These measures will be secured by a Section 106 Agreement and are to be delivered in advance of occupancy of the development. Natural England also consider these measures will also prevent adverse effects on Durham Coast SSSI.

Further to Natural England's response colleagues in the LPA's Natural Heritage Team reviewed the report and agreed with its conclusion that 'no likely significant effect' of the proposed development subject to the incorporated mitigation measures. Ecology colleagues confirmed that a Section 106 Agreement will need to be secured to ensure work is adequately provisioned throughout the phasing of the development.

It should be noted that Appendix 1 of the updated May 2017 report i.e. the calculation for developer contribution is incorrect and will need to be revised. This has been noted by the agent, acting on behalf of the applicant. Furthermore, a contribution of £14,757 will also need to be provided towards the provision and maintenance of the SANG (installation and servicing of dog bins as well as footpath maintenance for 20 year period) will need to be detailed in any legal agreement. The agent, acting on behalf of the applicant, has been notified that this will be a requirement of the Section 106 Agreement.

#### - Arboricultural considerations

An Arboricultural Impact Assessment (AIA) was submitted in support of the development proposal. The AIA confirms that there are trees on the edges of the car park, the access roads/ paths and open areas. To the north-west of the site there is a young plantation woodland forming a screen between the site and a residential estate approximately 210m long and 20m wide; 232 trees were identified as category C, 12 as category B, while the plantation woodland is regarded as B and 3 were U category.

BS 5837:2012 'Trees in Relation to Design, Demolition and Construction details the above categories as:-

- Category B are those trees of moderate quality and value;
- Category C are those trees of low quality and value;
- Category U are those trees that in such a condition that any existing value would be lost within 10 years and which should, in the current context, be removed regardless of development.

The AIA details that 134 category C trees and 7 category B trees constrain the proposed layout of development, whilst the 3 category U trees should be felled regardless of the constraining development. It also confirms that protective fencing will be erected around the retained trees Root Protection Areas. In so far as it relates to the detailed element of the submission and if Members are minded to approve, the development shall be required to be constructed in accordance with Arboricultural Method Statement, as detailed in the Appendices of the AIA. Regarding the outline elements of the development i.e. the majority of the site, given that these areas will be subject to reserved matters, if Members are minded to approve, it is recommended that a condition be imposed that requires the applicant to agree a detailed arboricultural method statement prior to development commencing on the relevant part of the site.

The development proposal will also bring an opportunity for best practice tree management of the remaining trees and an opportunity for further native tree and hedgerow planting. Indeed the proposed car park fronting onto Dykelands Road involves a number of trees within and surrounding the detailed element. The submitted DAS also explains the applicant's approach to soft landscaping in more detail, illustrating the likely treatment of Cut Throat Dene and the North-South linkage i.e. what the applicant has termed the linear park running through the western housing area. The trees will be selected in view of the prevailing site conditions, especially in view of the proximity of the site to the North Sea. Given the planning submission is in outline any subsequent reserved matters submission will have to agree a scheme of landscaping, it will be at this point that a detailed landscaping scheme will be submitted for determination.

It is considered that for the purposes of this outline application the submitted AIA provides for a sufficiently detailed basis on which to recommend an approval of permission in respect to its impact on trees. Through the imposition of conditions requiring the adherence to and agreement of an Arboricultural Method Statement and in light of the fact that landscaping is a reserved matter, it is considered that this outline planning submission is on balance acceptable and in accordance with policy CN17.

## **5. Flood Risk and Water Environment considerations**

Paragraph 103 of the NPPF states that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere. UDP policy EN12 stipulates that in assessing proposals for development, the Council, in conjunction with the Environment Agency and other interested parties, will seek to

ensure the proposal would not likely impede materially the flow of flood water, or increase flooding elsewhere, or increase the number of people or properties at risk from flooding and not adversely affect the quality or availability of ground or surface water, including rivers and other waters.

In terms of demonstrating and understanding flood risk planning is primarily concerned with the location of receptors (e.g. homes), taking account of potential sources (e.g. river or sea) and pathways (e.g. overland flow) that might put those receptors at risk. Flood risk is a combination of the likelihood of flooding and the potential consequences arising. A core aim of flood risk management is to manage flood risk by using a suite of proactive measures which avoid placing receptors further at flood risk.

Planning applications therefore require those who are promoting sites for development to demonstrate whether their scheme is likely to be affected by current and future flooding (e.g. climate change) while satisfactorily demonstrating that their development is safe. This is done via a Flood Risk Assessment (FRA) and Drainage Strategy. The principle aim of a FRA is to determine the acceptable management of flood risk. FRAs should demonstrate that new development is not at risk from flooding from existing drainage systems or potential overland flow routes, and they should demonstrate that proposed development **will not worsen the existing situation**. This is why managing surface water discharges is recognised as being crucial in managing and reducing flood risk to new and existing development.

The planning submission's FRA confirms that the majority of the site lies within Flood Zone 1 (land having less than 1 in 1000 annual probability of river or sea flooding), however part of the site falls within Flood Zone 2 and Flood Zone 3. Flood Zone 2 relates to land that has between 1 in 100 and 1 in 1000 annual probability of river flooding or land having between 1 in 200 and 1 in 1000 annual probability of sea flooding. Flood Zone 3a relates to land having a 1 in 100 or greater probability of river flooding or land having a 1 in 200 or greater annual probability of sea flooding, whilst Flood Zone 3b is the functional floodplain – land where water has to flow or be stored in times of flood.

In respect of the application site Flood Zones 2 and 3 follow the path of Cut Throat Dene, extending over the southern section of Seafields and the junction with Dykelands Road. Flood Zones 2 and 3 extend along Dykelands Road to the east, covering a small area to the north and south of the road and meeting with the extent of coastal flooding over Whitburn Road.

The FRA confirms that the development lies within National Flood Zone 1 land and partly in Zones 2, 3a and 3b. In its current form, the existing development area consists of parking and mixed use leisure and commercial facilities, including a hotel and restaurant. The existing hotel is considered 'more vulnerable' with regards to flood risk vulnerability classification as are the dwellings, in accordance with Table 2 of the NPPF Technical Guidance. The 'more vulnerable' facilities are located wholly within Flood Zone 1. The remainder of the site is classified as 'less vulnerable'.

With regards to the proposed development, the proposed dwellings will be classified as 'more vulnerable'. All proposed dwellings will be located within Flood Zone 1 land.

Other facilities classified as having a 'more vulnerable' usage will be directed to the compatible Flood Zones of 1 and 2. Proposed leisure facilities such as restaurants/cafes and shops are classified as 'less vulnerable' and are therefore compatible with all flood zones except the functional floodplain (3b) in accordance with Table 3: Flood Risk Vulnerability and Flood Zone Compatibility from the NPPF. The Dene will be developed to include amenity open space with outdoor recreation activities. This is considered as water compatible development and therefore acceptable in Zones 2, 3a and 3b in accordance with Table 3.

At the request of the LLFA additional modelling of Cut Throat Dene has been completed in order to assess the effect of the outlet from the Dene to the beach being surcharged in the scenario where the highest recorded tidal surge of 5.8m Above Ordnance Datum (AOD) occurs at the same time as the 1 and 100 year storm event plus 30% allowance for climate change. This additional work came in the form of an Addendum to the FRA and Drainage Strategy.

The new modelling has shown that the proposed car park development is in an area of flood risk, however this has been considered in detail and an appropriately detailed appraisal has been made of the risk to any users of the proposed car park within the addendum. On this basis the LLFA have now confirmed that the application is acceptable with conditions to require the construction of the car park to be based on the updated drawing (ref. 1010618-CLXX(52)1001) and for submission of detailed surface and foul water management proposals for any future development phases of the application prior to construction for approval.

It was also confirmed that source control will be considered on all the resultant development in order to deal with both water quality and quantity of discharge from each phase. In addition, where possible and practical, green roofs will be considered along with the provision of permeable surfaces within the car park and external hard landscaped areas. The use of swales, filter trenches and basins will also be considered within the soft landscaping areas. The principles of the national guidance for Sustainable Urban Drainage Systems - CIRIA 753 will be utilised throughout the agreement and submission of the final surface water drainage solutions, which will be submitted for approval via condition, in consultation with the LLFA.

In terms of the management of the SuDS it is envisaged that a management company will be responsible for dealing with all hard and soft landscape areas within the proposed site. This company will be responsible for regular inspection and maintenance of the permeable surface, the filter drain, flow restrictor/ orifice and outlet to the Dene.

In terms of the Lowry Road modifications the Addendum report highlights that the road is currently adopted highway with gullies making connection to Northumbrian Water sewers which, after completion of the works that have been occurring in the area, discharge to the Dene. The development proposal does not seek to amend or add to the current regime with the surface water continuing to operate as the current situation. Nevertheless, modelling work has been carried out by Northumbrian Water and the agent in order to understand the impact of the development on Northumbrian Water's sewerage system. Essentially the works being undertaken by Northumbrian Water to their Lowry Road network, in combination with the restrictive flows that the



development proposal will be subject to, translates to a peak potential flow rate of less than 400l/s, which offers significant improvement to the current 822l/s possibility.

To re-iterate the LLFA have reviewed the application's FRA, Drainage Strategy and Addendum Report and have confirmed that the development proposal is now acceptable subject to their requested conditions. Moreover and as discussed previously both the Environment Agency and Northumbrian Water have offered no objection to the development subject to the imposition of their requested conditions.

### **Foul Sewerage Network and Environmental Permit**

Regarding the foul sewerage network and the objection received in respect of the capacity of Northumbrian Water's infrastructure, it is of critical importance to note that all water utility companies have a legal obligation under Section 94 (and Section 106) of the Water Industry Act 1991 to provide developers with the right to connect to a public sewer regardless of capacity issues. Within the planning context the legal case precedent on rights of developers to connect new developments into existing sewers is the Supreme Court's landmark ruling in 2009 involving Barratt Homes and Welsh Water. The court held that the developer has an absolute right to connect their development into the existing sewer, whether or not it overloads the system. It ruled that the specific wording of the legislation allows for this right to be exercised.

Due to this legal right to connect Grampian conditions are often requested by water companies. Negatively worded conditions enable the sewerage undertaker to agree with the developer a drainage strategy and preferred point of connection, whilst also providing the scope to assess existing capacity and whether upgrading work is required and as such programmed. Such an approach allows the legal right to connect to be sensibly managed prior to implementation. The LPA has no further purpose in pursuing such a condition and should not put itself in a position of trying to "second guess" or duplicate a water company's decision on strategy or capacity. This is the regulatory role and statutory responsibility of OFWAT, whose duties include ensuring the long-term resilience of water supply and wastewater systems and that undertakers take steps to enable them, in the long term, to meet the need for water supplies and wastewater services.

Regarding the assertion by an objector that Northumbrian Water is not complying with their Permit it should be noted that the granting and regulation of permits is the statutory responsibility of the Environment Agency. It is an offence to cause or knowingly permit a water discharge activity unless you are complying with an environmental permit or exemption. Most activities that could pollute water are regulated under environmental permits. A person or business wishing to carry out such an activity must obtain a permit from the Environment Agency and comply with its conditions. If they do not, they will be committing an offence. They could also face a notice requiring them to comply with the permit, or have their permit revoked or suspended.

For Member information Northumbrian Water requires two permits i.e. at their Whitburn Steel and St Peter's Combined Sewer Overflows (CSOs). Northumbrian Water has also confirmed that the Seaburn and Roker works will in part reduce the

spill frequency at Whitburn Steel and St Peter's CSOs i.e. the amount of times these have to discharge into the environment, although Northumbrian Water have confirmed that they comply with parameters of their permit in any event. Nevertheless, to re-iterate, the issue of permits are considered to be outside the scope of the planning regime, as they are granted under the Environmental Permitting Regulations, which are controlled and administered by the Environment Agency.

In conclusion, the submitted FRA, Drainage Strategy and Addendum report have adequately demonstrated that the detailed and outline elements of the planning submission are acceptable in respect of flood risk and, subject to the imposition of the conditions as stated above, the planning submission is considered to be acceptable and in accordance with the requirements of Paragraph 103 of the NPPF and UDP policy EN12.

## **6. Urban Design and Landscaping considerations**

In terms of design considerations UDP policy B2 requires that the scale, massing, layout and setting of proposed development should respect and enhance the best qualities of nearby properties and the locality. Paragraph 17 of the NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

The indicative masterplan shows the removal of the Seaburn Centre, which in its current form is somewhat underused, lacks architectural merit and adds very little aesthetic value to the seafront. Currently the positioning and relationship of the Seaburn Centre with surrounding buildings contributes to a fragmented development. In addition, as a large building, the Seaburn Centre's location at the heart of the site constrains opportunities for a comprehensive regeneration of the entire area. The masterplan seeks to provide a coherent frontage along the seafront with Ocean Park, providing a gateway and focus point to the masterplan area.

The submitted DAS explains that the applicant is seeking to focus the seafront area on leisure and commercial. Above this will be residential apartments looking out over the sea. The applicant explains that this will not only provide the critical mass of shops, restaurants and leisure uses but will also create life and activity at times when the ground floor uses are closed or are less busy. The presence of the apartments also provides passive surveillance over Whitburn Road.

In terms of height and massing the DAS highlights that the overarching pattern is one where building heights and density increase as you move through the site from west to east, resulting in a strong presence on the seafront. Most of the housing to the rear of the site is proposed to be 2 storeys, at a density in line with that of the local area. The heights then increase up to a maximum of 5 storeys along the sea front. The 5 storey blocks would be made up of 6m ground floor and four 3m residential storeys on the upper floors (total 18m).

The DAS considers the scale of the Whitburn Road blocks are appropriate for a seafront site. The blocks face the open spaces of the beach and the sea. The DAS

refers to various seaside resorts that have a strong building line of taller buildings along their seafronts e.g. Scarborough, Brighton and even smaller places such as Llandudno. These precedents include buildings of up to 6 storeys with heights rising at key moments along their frontage.

The DAS considers that four residential storeys (3m height) over a 6m leisure floor creates a well-proportioned building as well as assisting with the viability of building housing over leisure uses. The DAS highlights that as the residential blocks will require cores from ground level through the leisure uses, the capital and service charge costs require the critical mass of four residential storeys. It is also highlighted that having a greater height at the seafront will create a sense of arrival with height acting as a presence and a marker to establish Seaburn as a destination.

Furthermore, the DAS highlights that computer models have been used to assess the extent to which the blocks will cast shadows, as will be discussed in further detail in the climatic condition section of this report. This modelling work has been used to create the parameter plans that have been submitted, particularly the no more than 75% of the Whitburn Road frontage will be (up to) 5 storey with the other 25% being no more than (up to) 2 storey. In addition, the seafront blocks are set back from the Whitburn Road by up to 15m, thereby creating a wide pavement and pedestrian friendly area. This creates a setting for the buildings and ensures that for majority of the time shadows fall across the road.

In terms of activation the DAS draws attention to the regulatory plan (05: Activation). This plan confirms that in order to create an active, vibrant development the seafront element of the development will be the focus of the commercial and leisure uses. This will ensure that the commercial uses are focused away from existing residential areas onto the most public area within the vicinity i.e. the Promenade, which also ensures that pedestrians are not presented with a blank, windowless façade. The applicant has highlighted that measures will be taken to create activity in order to set the street scene to the front of these units such as awnings extending out into the street, outside areas for cafes/ restaurants, pop stalls etc.

The DAS also confirms that in terms of the seafront neither galvanised steel, large areas of render or UPVC frames or drainpipes will be used. In terms of the residential areas it is envisaged that main material will be predominately brick so as to be in keeping with the local vernacular. Similar to the seafront area the DAS also confirms that galvanised steel and UPVC will not be used.

In terms of sustainability the DAS highlights that all non-residential buildings will be required to be built to a BREEAM excellent rating, whilst all the retail and leisure units with large areas of roof will be required to accommodate mat-based green roofs (sedum or meadow flowers). This will provide new habitats for wildlife and will aid the management of water on the site.

In terms of the residential buildings and in accordance with the SPD a minimum of 10% of the site's energy consumption will come from renewable sources located on site. Although the DAS explains that if constraints mean that renewables are not feasible, the 10% renewables requirement may be discharged if the development

demonstrates an additional 10% reduction in energy consumption, on top of the current Target Emission Rate (TER).

The DAS also confirms that majority of the residential blocks will be design to be dual aspect. The intention is to have no single aspect apartments however, if this is not possible in some areas, the overall number of single aspect apartments will not exceed 10% of the overall number of apartments.

Comments have been received from the LPA's Urban Design section who has confirmed that there is no objection to the proposal. Urban Design recognises the danger of an overly detailed, prescriptive masterplan that is unable to bend and flex to an emerging development proposal, given that the majority of the application has been submitted in outline form. Nevertheless, Urban Design consider that there is still a need to ensure that there is sufficient detail to help regulate the production of future planning applications, as such it is recommended that a Design Code should be prepared prior to the approval of the first reserved matters application. In the event that Members are minded to approve the application it is recommended that this is imposed as a condition.

In order to inform the Design Code, Urban Design colleagues have highlighted a number of issues that will need to be tackled, as a minimum within the Design Code, these being:

- Streets and Access - provide further detail in relation to the different street types, character description, cross sections and rules applicable to the street typology;
- Heights and Massing – further details on the interface and transition from different storey heights, and in respect of residential development, provision of detail in relation to building lines, densities and parking;
- Activation – further details in terms of the positive activation onto Whitburn Road and other key public areas of the site;
- Public\ Realm and Green Space – details in respect of the key landscape elements and strategy.

### **Climatic conditions**

The DAS contains a section on wind modelling and assessment of daylighting conditions in order to model the climatic conditions at the site. Given the largely outline nature of the submission and the fact that the exact details of the resultant built development will be determined at reserved matters stages the assessments have been based on the submitted illustrative masterplan.

#### **- Wind considerations**

The wind modelling exercise was based on the wind rose for Newcastle Airport, which confirms that the prevailing wind direction is from the west, although an easterly is also modelled for completeness. The most common wind speed (rounded up for robustness) was identified as being 7m/s, which formed the basis of the exercise. Nevertheless, the modelling exercise also tested a “worst case scenario” and looked at the highest recorded wind speed of 10m/s.

- 7m/s West

At wind speeds of 7m/s the majority of the site does not generate a velocity above 7.5m/s, with the majority of the streets experiencing a wind speed of between 1 & 3m/s. The Lawson Comfort Criteria, which quantifies the worst wind conditions that most users are likely to find tolerable, states that an acceptable velocity for Pedestrian Business Walking Through velocity is 10.95m/s, and 8.25m/s for Pedestrian Walk Through. The modelling exercise therefore indicates that at street level when the wind is entering from the west the velocities do not exceed the comfort criteria.

- 7m/s East

The modelling exercise illustrates that the majority of the site does not generate a velocity above 7.5m/s, although certain areas were modelled at between 8 & 9m/s. The street level area with the highest wind speeds was the central boulevard, however, the modelling exercise did not include the redeveloped Seaburn Shelter, which has an increased height and would likely act as a buffer to wind coming in from the sea, whilst landscaping and public realm works would further serve to enhance the comfort of this public realm.

- 10m/s West

In terms of the westerly the majority of the site appears to generate a velocity of around 11m/s, with the focus being on the main boulevard and gaps between the buildings along the seafront. Nevertheless, the north to south orientation of the majority of the streets creates a good degree of shelter at street level, with wind speeds indicated around 1-3m/s.

- 10m/s East

Again, attention was drawn to the fact that the modelling exercise did not incorporate the redeveloped Seaburn Shelter, which would have afforded significant shelter to the central boulevard.

This modelling exercise generated the highest velocity results across the whole of the site. Many sections at street level reach a velocity of 13m/s, which is above the levels of any category within the Lawson Comfort Criteria and indicate that in these conditions the east to west routes would not provide a pleasant environment for pedestrians. Nevertheless, in light of the fact that the majority of the streets in the masterplan run north to south they are afforded a good level of shelter with velocities of between 1 and 3m/s.

Overall the model indicates that the site, as based on the masterplan, would create an acceptable pedestrian environment. The wind speeds in the streets that run east to west, particularly along the central boulevard, could also be mitigated through public realm and landscape design, such as tree planting and street furniture, whilst further mitigation could also be provided via setbacks and fluctuations in building design.

## - Solar Analysis

The images provided within the DAS show overhead perspectives at four points in the year: March 21 (Spring Equinox), June 21 (Summer Solstice), September 21 (Autumn Equinox) and December 21 (Winter Solstice). For each of these scenarios three points within the day have been modelled: 9:00am, 12:00 midday and 3:00pm.

Based on the submitted materplan it can be observed that the beach is not overshadowed by the proposed development before 3pm in either the March, June or September scenarios. However, overshadowing does occur in the December scenario due to the low solar angle at this time of the year. This is also presently the case along the sea front due to Morrions, Sunderland Marriot Hotel and the Seaburn Centre. Overshadowing does occur on the western side of Whitburn Road in the afternoon March and September scenarios. However, in the June scenario the overshadowing is less significant and fragmented due to breaks in the building line onto Whitburn Road.

The solar analysis also highlights that neighbouring properties in the Seafields are largely unaffected by overshadowing after 9am in the March and June scenarios, with the exception of one property for a small proportion of the day (AM) in the September scenario. In the 9am December scenario there is overshadowing of properties along Seafields eastern edge, however again this is only for a small proportion of the day.

The solar analysis indicates that the development, as laid out by the illustrative masterplan, receives a good amount of sun, particularly in the June (Summer) scenario. Due to the location of the site shadows extending east onto the North Sea coast are inevitable as the sun sets. In order to alleviate this natural consequence of geography, and as illustrated by the masterplan, the varied building height allows light to penetrate through onto Whitburn Road. This aspect has been embedded within the Regulatory Plan via the 75% and 25% split ratio for the “up to” 5 storey and “up to” 2 storey respectively. It should be noted that these are the maximum proposed building heights and as such, the worse-case scenario in this respect.

## - Landscaping considerations

Comments have been received from the LPA’s landscape architects, in conjunction with Responsive Local Services, concerning the proposed landscaping strategy for the overall site. Landscape colleagues have highlighted for the need to strike an appropriate balance between the softening and screening of the development from adjacent residents and ensuring that the chosen design solution does not lead to maintenance difficulties going forward. Last year RLS removed significant areas of shrub planting either side of Lowry Road due to persistent vermin problems.

Consequently, in the event that Members are minded to approve and going forward to the detailed reserved matters submissions it has been highlighted to the applicant that any proposed landscaping scheme should not promote new areas of planting against the fences of existing properties. This is to ensure that provide potential ground cover is created that could increase the likelihood for anti-social behaviour. Landscaping colleagues and RLS have instead suggested that these areas should

be clear and populated by woodland flora grass mixes, spring bulbs and isolated specimen shrubs.

In terms of the detailed Dykelands Road car park it was noted that a curved 1200mm high gabion wall is proposed within the south-eastern corner. Landscaping colleagues' preference was that should ideally be of a walled construction given other examples within the coastal area. However, in response the agent highlighted the cost implications of introducing this type of boundary treatment. By way of a compromise it has since been agreed that a more rigid, angled gabion wall will be delivered. The more rigid gabion construction will allow for more round beach stone within it and as such, use a material that is native to the area. It should also be noted that majority of the car park will be screened by hedgerow, which will not also screen the cars from the adjacent residential area to the north, but also help to soften the majority of the boundary to the car park.

Landscaping colleagues have also made comment in respect of the landscaping scheme for the detailed element of the proposal. Overall the approach is considered acceptable, however during the consideration of the submission elements of the landscaping scheme have been highlighted, particularly the susceptibility of some of the proposed tree planting locations in view of the proximity of the north sea, as well as the need to consider the control of potentially invasive species entering the site from further along Cut Throat Dene.

In the event that Members are minded to approve the development it is considered that a boundary enclosures condition should be incorporated for the gabion wall, as well as an agreement of a detailed landscaping scheme for the proposed Dykelands Road car park.

## **7. Health Issues (Noise, Land Contamination, Air Quality and Noise)**

UDP policies EN5 and EN6 aim to ensure that likely noise and vibration problems are investigated, including any necessary mitigation measures, before development is undertaken. Furthermore, policy EN9 considers potential implications of air pollution, dust etc. arising from development proposals, whilst policy EN14 requires the consideration of ground conditions and to ensure that contamination issues are taken into account.

### **Noise**

A noise assessment by the agent (dated September 2016) has been prepared in support of the application. The assessment considers the impact that existing noise may have on the proposed development and the potential impact that noise from the proposed development may have on existing receptors, having regard to the existing background noise levels.

Colleagues in Public Protection and Regulatory Services (PPRS) have confirmed that the report demonstrates that with appropriate façade treatments in place along with mitigation for outdoor amenity areas, the noise levels set out in British Standard 8233 can be achieved in relation to existing noise sources. However, due to the fact

that the end users of the leisure/ commercial portions of the site have not yet been determined, the noise assessment has not been able to fully evaluate the likely noise impact of the full development on both the existing and future noise sensitive receptors.

To ensure that future residents of the development along with the existing residents nearby are protected from unwanted noise it is recommended that a condition be placed on any consent granted requiring the submission and approval of a further noise impact assessment that demonstrates impact and the need for any additional mitigation once the end users and therefore potential noise sources are known.

## **Land Contamination**

The site comprises Pelaw Clay and Glacial Till in the north/centre of the site overlying Roker Formation (Dolostone) Permian deposits. The south of the site is denoted as Made Ground and is expected to contain Alluvium associated with Cut Throat Dene / Roker Burn. Boreholes from the BGS onshore database indicate presence of soft alluvial deposits including sand and peat up to 5.5m thick (often noted as wet or saturated). The Coal Authority Report has not been provided however no legacy coal mining risks have been identified.

The site contains a water course (Cut Throat Dene/ formerly Roker Burn), which is part culverted below the site. The site is not within a Source Protection Zone. The south of the site is susceptible to flooding near to the site, the southern third of the site is at risk from extreme flooding.

It is concluded by agent that the contamination risks are Moderate to construction workers, neighbours, site users, water resources and building materials/services. A Phase 2 (intrusive ground investigation) is proposed for the site including service clearance, trial pits, cable percussion boreholes with rotary follow-on, dynamic samplers ("mini-rig"). Installation of gas monitoring boreholes is proposed to target areas of infill (e.g. former boating lake), together with chemical and geotechnical sampling and analysis.

Following a review by PPRS of the Desk Study (Phase 1) they have advised that there are no significant barriers to the safe development of the site on the proviso that the standard Phase 2, Remedial strategy/ Verification Plan, Verification Report and unexpected contamination conditions are imposed, in the event that Members are minded to approve. The Phase 2 and Remedial Strategy/ Verification Plan will need to be agreed prior to development commencing on-site.

## **Air Quality**

The planning submission's Air Quality Assessment (AQA) considered the operational impacts of increased traffic emissions arising from the development. The AQA included modelling for 12 worst case receptors, representing existing properties where impacts are expected to be greatest, along with relevant sensitivity testing. The AQA has confirmed that the impacts arising from the development on air quality both for the existing and proposed residents will be acceptable. The operational air quality impacts arising from the development are judged not to be significant. The



AQA confirms that the scheme will not cause any exceedence of air quality objectives nor lead to any significant adverse air quality impacts.

### **Construction Phase**

In order to ensure the environmental impact of the construction of the development is adequately managed and mitigated and in the interests of the amenity of nearby residents/ occupiers, it is recommended that a condition be attached to any granted consent which requires the provision of a Construction Environmental Management Plan (CEMP). The CEMP should include details of how noise, lighting, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated

In coming to the above conclusion it was noted that a Construction Management Strategy (CMS) was provided as part of the planning submission. The CMS largely covered air quality (including dust); noise and vibration; and transportation impacts. The information provided in the CMS is considered by PPRS to be comprehensive, whilst the suggested mitigation measures and best practice construction techniques are likely to control any adverse impacts from the construction phase if they are diligently adhered to by the contractor. The stated construction hours of 08.00 to 18.00 hours Monday to Friday, and 08.00 and 13.00 hours Saturday, are thought to be suitable for the area.

Furthermore, PPRS colleagues have advised that the contractor (or developer) responsible for the construction works should make an application under Section 61 of the Control of Pollution Act 1974. Through the use of such an application, the Local Authority will be able to review the proposals in advance and will also require that best practicable means are employed to control and minimise noise and vibration impacts. If an application is not made by the contractor, the Local Authority may decide to serve a Section 60 under the same legislation and impose the methods to be used, time of workings etc. This is controlled and administered by colleagues in PPRS under Public Health legislation and such, in the event that Members are minded to approve, can be re-iterated to the applicant by way of an informative.

### **Conclusion**

In conclusion, in light of the submitted assessments pertaining to land contamination, air quality and noise and subject to the imposition of conditions as detailed above, the proposed development is on balance acceptable, in accordance with policies EN5, EN6, EN9 and EN14.

## **8. Planning Obligations**

Regulation 122(2) of the 2010 Community Infrastructure Levy (CIL) introduced into law three tests for planning obligations. The three tests are also repeated in the NPPF via Paragraph 204.

Both CIL and the NPPF state that planning obligations should only be sought where they meet all of the following tests:-

- necessary to make the development acceptable in planning terms;
- directly related to the proposed development;
- fairly and reasonably related in scale and kind to the development proposal.

Paragraph 203 of the NPPF also requires local planning authorities to consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through planning conditions.

Further to the Section 106 requests already discussed the development proposal also requires obligations in respect of Affordable Housing, Education and Recreation play space.

- Affordable Housing

Policy H16 of the UDP states that the Council will negotiate with developers, on the basis of site suitability, for elements of affordable housing to be provided on major new housing sites of 50 dwellings or more. The SHMA and recent Economic Viability of Affordable Housing Requirement Study highlight a need for 10% affordable housing. In light of the development seeking "up to 279" dwellings this equates to a maximum of 28 affordable units. The applicant has agreed to the provision of "up to" 28 units. This will be set out in the Section 106 agreement.

- Education

Based on the number of new houses proposed i.e. "up to 279", the Council's Children's Services section has confirmed that an Education contribution for primary school places is required. Children's Services have also confirmed that in light of projected capacity at Monkwearmouth Secondary School a financial contribution is not required in this respect.

In light of the outline nature of the submission the Section 106 figure will be determined based on Children's Services agreed multiplier for each dwelling. The monies made available by the development will be co-ordinated and allocated by colleagues in Children's Services.

The requested sum will be necessary to make the development acceptable in planning terms as it will mitigate the impact of new primary school children being brought to the area by the development proposal. It is directly related to the development as it relates to the funding of education provision in the local area that serves the development site. It is considered fair and reasonable as it based on the Council's estimate of demand for school places based on the size of the development and published Department for Education formula.

- Recreation play space

As the scheme proposes over 10 dwellings with 2 bedrooms or more a requirement of UDP policy H21, supplemented by policy R3, is the provision of formal equipped play and recreational facilities. Given there is no formal children's play space being provided on the site a financial contribution for off-site play/ recreation is appropriate, at the current rate of £701 for each two bed unit i.e. "up to" £195,579 (£701 multiplied by the "up to 279" units). The contribution will be for the provision of new play facilities or the improvement of existing play facilities, where appropriate, within the Ward with funds being utilised to support on-going maintenance of the play park(s).

This requested sum is considered necessary to make the development acceptable in planning terms by meeting the rise in demand for additional formal recreation, whilst being directly related to the development given that it will accommodate the new residents to the area and it is fair and reasonable as it is based on the Council's standard formula for the provision of play facilities.

- Other requests

Regarding those objections to the scheme in terms of the surrounding doctor and dentist surgeries being able to accommodate the new residents, it is not considered reasonable to pursue a financial contribution in light of the tests detailed above. There is no specific adopted local or national planning policy that requires developers to provide financial contributions in terms of either doctor or dentist surgeries. Furthermore, given the nature of both, it is not unreasonable to suggest that these will expand as their customer base expands. It is therefore not considered reasonable to pursue this as a Section 106 request.

In conclusion, and as detailed throughout the report, the applicant has agreed to various planning and financial contributions via a Section 106 Agreement. For completeness these are as follows:-

- Affordable Housing (10% on-site) – detailed above
- Education – detailed above
- Children's Play Space (up to £195,579) – detailed above
- Habitat Regulations Assessment £2696.50 per dwelling (up to 279) i.e. up to £752,323.50 plus £14,757 towards provision and maintenance of the SANG

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

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

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

- o age;

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

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

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

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

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

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

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

## **CONCLUSION:-**

The development proposal delivers a main priority site for the City and represents a development proposal that regenerates a key strategic site. The site has been identified as a 'deliverable' housing site, which is available, suitable and viable, and as such, is contributing towards the City's five year housing supply and should therefore be considered in the context of the presumption in favour of sustainable development, as stipulated by Paragraph 49 of the NPPF.

Further to the significant regenerative benefits and delivery of leisure and commercial uses, the loss of allocated open space is in part off-set by the delivery of compensatory green and recreational space which, subject to the completion of the Section 106 Agreement, will ensure that the development proposal will have 'no likely significant effect' on the Natura 2000 sites.

The planning application has been supported by a number of technical documents that have demonstrated that the scheme, both in terms of the detailed and outline elements, is acceptable subject to the draft conditions listed below.

The considerations sections of this report have discussed the various technical aspects relating to the development proposal and there are not considered to be any significant material planning considerations or adverse impacts arising from the development that would significantly and demonstrably outweigh the benefits of the scheme, when assessed against the UDP and NPPF, when both are taken as a whole.

The applicant has agreed to the various planning obligation requests, to be delivered via a Section 106 Agreement, which will assist in the development proposal having a neutral impact on the N2K sites, whilst also ensuring a sustainable form of development via the provision of affordable housing, education and recreation contributions.

Notwithstanding the negative impacts being brought about by the development proposal significant weight is being given to the housing and development management policies of the Framework. It is clear that the NPPF is directing decision takers to approach housing proposals in a positive and pro-active manner and that they should only be refused if any adverse impacts of doing so would significantly outweigh the benefits of the scheme, when assessed against the paragraphs of the NPPF, when taken as a whole.

Accordingly, it is recommended that planning permission be granted as the adverse impacts referred to in the above report are not considered significant to outweigh the strong positive benefits of the development proposal.

#### **RECOMMENDATION:**

Members delegate to the Director of Economy and Place to approve the application subject to the completion of a Section 106 Agreement (as detailed above) and the draft conditions outlined below:

#### **Conditions:**

1. Time Limit - Full

The development for which full planning permission is hereby granted must commence not later than three years beginning with the date on which permission is granted.

Reason:

To ensure that the development is carried out within a reasonable period of time and to comply with section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

## 2. Reserved Matters

No development except remediation, archaeological and drainage work of any Phase of development for which outline planning permission is hereby granted shall not commence until the details of access, appearance, landscaping, layout and scale (hereinafter referred to as the "reserved matters") of that Phase have been submitted to and approved, in writing, by the Local Planning Authority.

Reason:

To allow such details to be reserved for subsequent consideration and to comply with the requirements of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

## 3. Time Limit – Outline

The application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last reserved matters to be agreed.

Reason:

To ensure that the development is carried out within a reasonable period of time and to comply with section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

## 4. Plans

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

Enabling Works General Arrangement, Drawing No. 460.011 Revision B;  
Enabling Works Tree Removals, Drawing No. 460.014 Revision B;  
Enabling Works Hard Landscape, Drawing No. 460.015 Revision B;  
Enabling Works Proposed planting, Drawing No. 460.017 Revision A;  
Enabling Works Indicative Cut Throat Dene section, Drawing No. 460.111 Revision B;  
Enabling Works Car park wall Indicative detail, Drawing No. 460.112 Revision B;  
Regulatory Plan 01, Red Line Boundary;  
Regulatory Plan 02, Streets and Access;  
Regulatory Plan 03, Use Classes;  
Regulatory Plan 04, Building Heights;  
Regulatory Plan 05, Activation;  
Regulatory Plan 06, Public Realm and Landscaping;  
Planning Application Existing Site Plan, Drawing No. CLXX(40)1006

Reason:

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

#### 5. Archaeological Excavation and Recording

No groundworks or development shall commence until a programme of archaeological fieldwork (to include evaluation and where appropriate mitigation excavation) has been completed. This shall be carried out in accordance with a specification provided by the Local Planning Authority.

Reason:

The site is located within an area identified as being of potential archaeological interest. The investigation is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded, in accordance with paragraph 141 of the NPPF and Unitary Development Plan Policies B11, B13 and B14.

#### 6. Archaeological Post Excavation Report

The building(s) shall not be occupied/ brought into use until the final report of the results of the archaeological fieldwork undertaken in pursuance of condition 5 has been submitted to and approved in writing by the Local Planning Authority.

Reason:

The site is located within an area identified as being of potential archaeological interest. The investigation is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded, in accordance with paragraph 141 of the NPPF and Unitary Development Plan Policies B11, B13 and B14.

#### 7. Archaeological Publication Report

The buildings shall not be occupied/ brought into use until a report detailing the results of the archaeological fieldwork undertaken has been produced in a form suitable for publication in a suitable and agreed journal and has been submitted to an approved in writing by the Local Planning Authority prior to submission to the editor of the journal.

Reason:

The site is located within an area identified as being of potential archaeological interest and the publication of the results will enhance understanding of and will allow public access to the work undertaken in accordance with paragraph 141 of the NPPF and Unitary Development Plan Policies B11, B13 and B14.

#### 8. Design Code

Prior to the submission of any reserved matters application, full details of the design code to be adopted for the development shall be submitted to and approved in writing by the Local Planning Authority, in order to ensure that the development adheres to the design principles provided within the Design and Access Statement.

For the avoidance of doubt, the design code should include mandatory and non-mandatory elements and provide a clear set of requirements to bring future development forward. The design code should include (but not be limited to) the following sections supported by regulatory plans in order to provide robust parameters for the site:

- Movement framework, streets and access with illustrated cross sections
- Building heights and massing
- Activation of Whitburn Road and other key public areas
- Public realm and green space
- Aspect of apartments

Any reserved matters application will need to demonstrate full compliance with the Design Code.

Reason:

In the interest of ensuring a high quality form of development and to accord with Paragraph 59 of the National Planning Policy Framework and policy B2 of the Unitary Development Plan.

#### 9. Construction Environmental Management Methodology

No development (including demolition) shall commence within each Phase until a Demolition and Construction Management Plan has been submitted to and approved, in writing, by the Local Planning Authority, which shall include the following:

- i) Hours within which demolition and construction works shall take place
- ii) Traffic management, traffic routes of plant and heavy goods vehicles
- iii) Parking of vehicles of site operatives and visitors
- iv) Loading and unloading of plant and materials
- v) Storage of plant and materials used in constructing the development
- vi) Erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- vii) Measures to ensure public highway remains sufficiently clean of dirt
- viii) Measures to control the emission of dust, dirt and other airborne pollutants
- ix) Scheme for recycling/ disposing of waste resulting from demolition and construction works
- x) Measures to control noise and vibration
- xi) Communication plan for liaising with the public
- xii) Fuel storage area which shall include bunding and wash down facilities
- xiii) Inspections and maintenance of the watercourse in compliance with riparian responsibilities

The development, including demolition works, within each Phase shall be implemented in accordance with the approved Plan for that Phase.

Reason:

In order to protect the amenity of adjacent occupiers, the adjacent highway network, local wildlife and its habitat and neighbouring heritage assets and to comply with



policies B10, CN22, EN1, EN5, EN14 and T14 of the adopted Unitary Development Plan and paragraphs 32, 109, 118, 134 of the National Planning Policy Framework.

#### 10. Land contamination

Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation within each phase of development must not commence until conditions number 11 to number 13 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition number 14 has been complied with in relation to that contamination.

##### Reason:

To ensure that risks from land contamination to future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy EN14 of the Unitary Development Plan and paragraphs 109 and 120 of the National Planning Policy Framework.

#### 11. Site investigation

Unless otherwise agreed in writing by the Local Planning Authority development within each phase of development must not commence until an investigation and risk assessment for that phase, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site (site characterisation), whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination, including shallow mine workings;
- (ii) an assessment of the potential risks to: human health, property (existing or proposed) including building, crops, livestock, pets, woodland and service line pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments.
- (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR11.'

##### Reason:

To ensure that risks from land contamination to future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

in accordance with policy EN14 of the Unitary Development Plan and paragraphs 109 and 120 of the National Planning Policy Framework.

## 12. Remediation scheme

Unless otherwise agreed by the Local Planning Authority, development must not commence within each phase of development until a detailed remediation scheme to bring the relevant part of the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation.

### Reason:

To ensure that the risks from land contaminated to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy EN14 of the Unitary Development Plan and paragraphs 109 and 120 of the National Planning Policy Framework.

## 13. Verification report

The remediation scheme approved under Condition number 11 (Submission of Remediation Scheme) must be carried out in accordance with its terms prior to the commencement of development within each phase other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report for that phase that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

### Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimise, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy EN14 of the Unitary Development Plan and paragraphs 109 and 120 of the National Planning Policy Framework.

## 14. Unidentified contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition number 11

(Site Characterisation), and when remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition number 12 (Submission of Remediation Scheme), which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared which is subject to the approval in writing of the Local Planning Authority in accordance with condition number 13 (Implementation of Approved Remediation Scheme). If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until this condition has been complied with in relation to that contamination.

**Reason:**

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks and in accordance with policy EN14 of the Unitary Development Plan and paragraphs 109 and 120 of the National Planning Policy Framework.

**15. Noise – Proposed residents**

No development, other than remediation, archaeological and drainage works, for which outline planning permission is hereby granted shall commence until a specification of mitigation works detailing the measures to be put in place to protect residents of the proposed dwellings, in accordance with British Standard 8233:2014 (Guidance on sound insulation and noise reduction for buildings) and World Health Organisation Guidelines for Community Noise, have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out other than in accordance with the approved details and all specified mitigation measures shall be fully installed prior to the occupation of any dwelling for which the Assessment identifies mitigation is required.

**Reason:**

In order to protect residents from exposure to excessive noise and to comply with policies B2 and EN5 of the adopted Unitary Development Plan and paragraph 123 of the National Planning Policy Framework.

**16. Outline – Tree survey and AIA**

No development (including demolition), ground works or vegetation clearance, shall commence within any Phase for which outline planning permission is hereby granted until the following has been submitted to and approved, in writing, by the Local Planning Authority for that Phase:

- i) an up-to-date tree survey including details of all trees and a plan showing which trees are to be retained, which are to be removed and which are to be lopped, topped or otherwise treated

- ii) an Arboricultural Impact Assessment including details of the position and specification of fencing and other measures for the protection before and during the course of any tree to be retained

**Reason:**

In order to ensure that no damage is caused to trees during construction work and to comply with policy CN17 of the adopted Unitary Development Plan and paragraph 58 of the National Planning Policy Framework.

## 17. Materials

No construction works on the external elevations of any building on the site shall commence until samples of the materials to be used in the construction of the external surfaces of the building has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

**Reason:**

In the interest of visual amenity and to comply with policy B2 of the adopted Unitary Development Plan and paragraph 58 of the National Planning Policy Framework.

## 18. Boundary Treatments (Outline)

No development, other than remediation, archaeological and drainage works, shall commence within any Phase for which outline planning permission is hereby granted until full details of the boundary treatments of that Phase have been submitted to and approved, in writing, by the Local Planning Authority. No dwelling for which outline planning permission is hereby granted shall be occupied until the boundary treatment serving that dwelling has been provided in accordance with the approved details and the final dwelling for which outline planning permission is hereby granted shall not be occupied until all boundaries have been provided in accordance with the approved details.

**Reason:**

In the interest of visual and residential amenity and to comply with policy B2 of the adopted Unitary Development Plan and paragraph 58 of the National Planning Policy Framework.

## 19. Parking and Servicing (Outline)

No development, other than remediation, archaeological and drainage works, shall commence within any Phase for which outline planning permission is hereby granted until details of the car parking arrangements for that phase have been submitted to and approved, in writing, by the Local Planning Authority. Such details shall include resident and visitor parking and the car parking, cycle storage and servicing arrangements for any building for a purpose falling within Class A1, A2, A3, A4 or A5, as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order revoking and re-enacting that Order). The development shall be carried out in accordance with the approved details.

Reason:

To ensure that adequate and satisfactory provision is made for the parking of vehicles and to comply with policies T14 and T22 of the adopted Unitary Development Plan and paragraph 32 of the National Planning Policy Framework.

#### 20. Hours of operation

No construction works of any building for a purpose falling within Class D1, D2 & Sui Generis; A1, A2, A3, A4 or A5, as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order revoking and re-enacting that Order) shall commence until the operating hours of that use have been submitted to and approved, in writing, by the Local Planning Authority. The use shall not operate within its approved Use Class outside of the approved hours.

Reason:

In the interest of the residential amenity and to comply with policies B2 and EN5 of the adopted Unitary Development Plan and paragraph 123 of the National Planning Policy Framework.

#### 21. Extraction/ Filtration

No use falling within Class A3, A4 or A5, as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order revoking and re-enacting that Order) in which the preparation and serving of hot food on a commercial basis would be carried out shall commence until details of a scheme for the extraction and filtration of cooking fumes has been submitted to and approved, in writing, by the Local Planning Authority for that use. Such details shall include all external ducting and stacks, an appropriate noise assessment and mitigation measures, where appropriate. The approved equipment shall be fully installed prior to the commencement of the use and shall be maintained to operate in accordance with the approved details for the lifetime of the use.

Reason:

In order to protect nearby residents and the local environment and to comply with policies B2 and EN1 of the adopted Unitary Development Plan and paragraph 123 of the National Planning Policy Framework.

#### 22. Arboricultural Impact Assessment – Detailed element

The development hereby approved shall be carried out in complete accordance with all recommendations set out by the submitted Arboricultural Impact Assessment (revision A issued 09.02.2016) and British Standard 5837 (2012) and, for the avoidance of doubt, no development shall commence within each Phase until all tree protection measures for that Phase of development as set out by this Assessment have been fully installed, which shall remain in place until the development is complete.

Reason:

In order to ensure that no damage is caused to trees during construction work and to comply with policy CN17 of the adopted Unitary Development Plan and paragraph 58 of the National Planning Policy Framework.

#### 23. Travel Plan – outline area

No development, other than remediation, archaeological and drainage works, for which outline planning permission is hereby granted shall commence until a detailed Travel Plan supported by travel surveys and sustainable travel incentives has been submitted to and approved, in writing, by the Local Planning Authority, which shall be implemented in accordance with its terms thereafter.

Reason:

In order to promote sustainable modes of travel and to comply with policies R1 and T14 of the adopted Unitary Development Plan and paragraph 36 of the National Planning Policy Framework.

#### 24. Detailed area drainage scheme

The Dykelands Road Car Park and associated development hereby approved shall be carried out in full accordance with the submitted Flood Risk Assessment, Drainage Strategy and FRA and DS Addendum and drawing number 1010618-CLXX(52)1001.

Reason:

In order to prevent the increased risk of flooding from any sources in accordance with paragraph 103 of the NPPF and Policy EN12 of the saved UDP.

#### 25. Vegetation clearance

All vegetation clearance works shall be undertaken outside of the bird nesting season of mid-March to August inclusive. If it is considered necessary to undertake the works during the bird nesting season, the site will require an inspection by a suitable qualified ecologist immediately prior to works commencing on site. If active nests are found works will have to cease and an acceptable method statement put in place that will safe guard the birds affected.

Reason:

In order to ensure a satisfactory form of development and to comply with policy CN18 of the saved adopted Unitary Development Plan.

#### 26. Hard and soft landscaping – detail area

Notwithstanding the submitted plans, no above ground construction shall take place within the area of the site that has been hereby approved in detail, until the full details of both the hard and soft landscaping works for that area have been submitted to and approved in writing by the Local Planning Authority. The soft landscape works shall include contour levels; planting plans; written specification (including cultivation and other operations associated with plant and grass establishment); schedules of trees and plants; noting species; tree and plant sizes

and proposed numbers/densities where appropriate, these works shall be carried out in complete accordance with the approved details.

The hard landscaping works shall include but not be limited to details of the boundary enclosures, including gabions, seating, steps and handrails and all surfacing materials.

Reason:

In the interests of visual amenity, nature conservation and mobility and to comply with the National Planning Policy Framework and policies B2, T14, CN18 and CN22 of the saved UDP.

#### 27. Landscaping 5 years

All planting, seeding or turfing within each reserved matters area that are not subject to the Section 106 maintenance regime pursuant to this planning permission and comprised in the approved details of landscaping within the reserved matters area shall be carried out in the first planting season following the occupation of the specific reserved matters area or the completion of that reserved matters area, whichever is the sooner, which within a period of 5 years from the completion of the reserved matters area of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason:

In the interest of visual amenity and nature conservation and to comply with policies B2, T14, CN18 and CN22 of the saved UDP.

#### 28. CO2

No above ground construction shall commence on any specific plot until details of building construction and design measures which minimise the developments energy demand and reduce its whole life CO2 equivalent emissions impact for that plot have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development is brought into use and shall remain operational thereafter.

Reason:

To ensure that the development will be sustainable and able to function effectively in an changing climate and address impacts on climate emissions , in accordance with the National Planning Policy Framework and policy R4 of the Unitary Development Plan. The details are required to be submitted and approved in advance of works commencing on site to ensure the development is undertaken in a sustainable manner.

#### 29. BREEAM

Within 6 calendar months of the completion of all non-residential buildings, a Post Construction Review undertaken by a licensed assessor and a BRE Final Code

Certificate shall be submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, the results of the report shall conclude that the development has been constructed to the BREEAM 'Excellent' rating, or equivalent accreditation, unless otherwise agreed in writing by the Local Planning Authority.

Reason:

In the interests of sustainability, in accordance with the National Planning Policy Framework, policies R1 and R4 of the Unitary Development Plan.

### 30. External lighting

No building shall be brought into use until details of the external lighting of that building and external areas have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason:

In the interests of amenity, highway safety and in order to protect the railway infrastructure, in accordance with the National Planning Policy Framework, policies B2, EN1 and T14 of the Unitary Development Plan.

### 31. Biodiversity

No development within a particular phase of the scheme shall take place until details of the Ecology Mitigation and Enhancement measures within that phase including where appropriate long term management strategies have been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt the scheme shall include precise written details of biodiversity enhancement measures, a written timetable for the implementation of the ecological enhancement measures and a methodology for the management of those measures on site. Once approved, the ecological enhancement/ mitigation measures shall be installed as approved and in strict accordance with the agreed timetable, and retained as such for the lifetime of the development, unless otherwise first agreed in writing with the Local Planning Authority.

Reason:

In the interests of nature conservation and to comply with the National Planning Policy Framework and policies CN18 and CN22 of the Unitary Development Plan.

### 32. NWL Surface water

Development shall not commence until a detailed scheme for the disposal of surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and Lead Local Flood Authority. Thereafter the development shall take place in accordance with the approved details.

Reason:

To prevent the increased risk of flooding from any sources in accordance with the NPPF.



### 33. EA condition

Before each phase of development approved by this planning permission no development shall take place until such time as a scheme has been submitted to, and approved in writing by, the local planning authority. Reserved matters include agreement on:

1. Details of flood resilience measures, including demonstration that the design flood standards are met for dwellings if they are in flood zone 2 or 3. The design flood is defined in the Planning Practice Guidance (PPG). Development is only permitted in these flood zones 2 and 3 if the sequential and exception test is passed.

Reason:

To reduce the risk of flooding to the proposed development and future users, as well as mitigate flood risk elsewhere.

### 34. Cycle parking

No building shall be brought into use until details of cycle parking for that building has been submitted to and approved in writing by the Local Planning Authority. The approved cycle parking shall be implemented before the development is brought into use. Thereafter, the cycle parking shall be retained in accordance with the approved details and shall be kept available for the parking of cycles at all times.

Reason:

In the interests of highway safety, in accordance with the National Planning Policy Framework, policies T2 and T14 of the Unitary Development Plan.

### 35. Floor levels

No development shall commence on any specific plot, other than those investigative works required in pursuance of land contamination, until details of the existing ground and proposed finished floor levels for that plot have been submitted to and approved in writing by the Local Planning Authority.

Reason:

The scheme shall be implemented in accordance with the agreed details in order to ensure a satisfactory form of development and to comply with the National Planning Policy Framework and policy B2A of Alteration No. 2 of the Unitary Development

### 36. Foul Water

The development hereby approved shall be only be carried out in accordance with Section 4.4 of the submitted Seaburn - Drainage Strategy, Document Ref – 1010618-RPT-C002.

Reason:

In order to ensure a satisfactory storage and disposal of foul water and to comply with policy B2 of the Unitary Development Plan.

### 37. Dykelands Road car park

Prior to the occupation of the development for which outline planning permission is hereby granted, the Dykelands Road car park shall be constructed, surfaced, sealed and made available in accordance with the approved plans. This parking area shall be retained and permanently reserved for the parking of vehicles.

Reason:

To ensure that adequate and satisfactory provision is made for the off street parking of vehicles and to comply with policies T14 and T22 of the UDP.

### 38. Public car park provision

No construction work shall take place on any building for which outline planning permission is hereby granted until details of the replacement public car park spaces, as detailed on the Regulatory Plan 03: Use Classes (945-REG-03\_Rev0) have been submitted to and agreed in writing by the Local Planning Authority. For the avoidance of doubt the details shall agree the location and the timing of the construction of the replacement car park spaces. Thereafter the car parking spaces shall be constructed, surfaced, sealed and made available in accordance with the approved scheme and timescales.

Reason:

To ensure a satisfactory form of development, in accordance with Policy T14 of the UDP.

### 39. Maximum floorspace

The maximum floorspace for A1, A2, A3, A4, A5, D1, D2 and indoor Sui Generis uses (as defined by the Town and Country Planning (Use Classes) Order or the equivalent of any of these classes set out in any subsequent Statutory Instrument revoking or amending that order either in whole or in part) hereby approved shall not exceed 9,268 square metres Gross Internal Area.

Reason:

To safeguard the vitality and viability of the City Centre and nearby Local Centres, in line with policies S1, S2 and L1 of the UDP, and the requirements of the National Planning Policy Framework.

### 40. Class A1 Retail

The maximum amount of Class A1 Retail floorspace hereby approved shall not exceed 2,000 square metres Gross Internal Area. (Class A1 as defined by the Town and Country Planning (Use Classes) Order or the equivalent of any of these classes set out in any subsequent Statutory Instrument revoking or amending that order either in whole or in part).

Reason:

To safeguard the vitality and viability of the City Centre and nearby Local Centres, in line with policies S1, S2 and L1 of the UDP, and the requirements of the National Planning Policy Framework.

#### 41. Class D1/ D2 and Sui Generis

The maximum amount of Class D1/ D2 and indoor Sui Generis floorspace (as defined by the Town and Country Planning (Use Classes) Order or the equivalent of any of these classes set out in any subsequent Statutory Instrument revoking or amending that order either in whole or in part) hereby approved shall not exceed 5,268 square metres Gross Internal Area.

**Reason:**

To safeguard the vitality and viability of the City Centre and nearby Local Centres, in line with policies S1, S2 and L1 of the UDP, and the requirements of the National Planning Policy Framework.

#### 42. Maximum commercial floorspace

The maximum amount of Class A2, A3, A4 and A5 floorspace (as defined by the Town and Country Planning (Use Classes) Order or the equivalent of any of these classes set out in any subsequent Statutory Instrument revoking or amending that order either in whole or in part) hereby approved shall not exceed 4,000 square metres Gross Internal Area.

**Reason:**

To safeguard the vitality and viability of the City Centre and nearby Local Centres, in line with policies S1, S2 and L1 of the UDP, and the requirements of the National Planning Policy Framework.

#### 43. Hotel

The maximum amount of Class C1 (Hotel) floorspace (as defined by the Town and Country Planning (Use Classes) Order or the equivalent of any of these classes set out in any subsequent Statutory Instrument revoking or amending that order either in whole or in part) hereby approved shall not exceed 5,000 square metres Gross Internal Area.

**Reason:**

To safeguard the vitality and viability of the City Centre and nearby Local Centres, in line with policies S1, S2 and L1 of the UDP, and the requirements of the National Planning Policy Framework.

#### 44. Residential

In the event that Class C1 (Hotel) is delivered on site in pursuance of condition 43 of this permission the maximum amount of C3 (Residential) shall not exceed 230 units. (Class C1 and C3 as defined by the Town and Country Planning (Use Classes) Order or the equivalent of any of these classes set out in any subsequent Statutory Instrument revoking or amending that order either in whole or in part).

**Reason:**

To ensure a satisfactory form of development, in accordance with policies B2 and EN10 of the UDP and the requirements of the National Planning Policy Framework.

#### 45. Class A1 400 square metres restriction

The maximum Gross Internal Area of any Class A1 (Retail) unit hereby approved shall not exceed 400 square metres. (Class A1 as defined by the Town and Country Planning (Use Classes) Order or the equivalent of any of these classes set out in any subsequent Statutory Instrument revoking or amending that order either in whole or in part).

##### Reason:

To safeguard the vitality and viability of the City Centre and nearby Local Centres, in line with policies S1, S2 and L1 of the UDP, and the requirements of the National Planning Policy Framework.

#### 46. Surface and Foul drainage

No construction work shall take place on any building for which outline planning permission is hereby granted until details of how the surface water and foul water drainage for that area, which includes details of the disposal of surface water and the phasing of implementation and is based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before development is commenced. The scheme shall also include details of how the scheme shall be maintained and managed after completion.

##### Reason:

In order to ensure provision of a sustainable form of surface water drainage and satisfactory drainage from the site, and to protect the railway infrastructure, in accordance with National Planning Policy Framework and policies T16 and B24 of the Unitary Development Plan.