

## **DEVELOPMENT CONTROL (NORTH SUNDERLAND) SUB-COMMITTEE**

### **AGENDA**

**Extraordinary Meeting to be held in Committee Room No. 2 on  
Tuesday, 31<sup>st</sup> May, 2016 at 3.45 p.m.**

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

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

Civic Centre,  
SUNDERLAND.

20<sup>th</sup> May, 2016



## Development Control North Sub-Committee

31st May 2016

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### REPORT ON APPLICATIONS

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#### REPORT BY THE EXECUTIVE DIRECTOR OF COMMERCIAL DEVELOPMENT

#### PURPOSE OF REPORT

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

#### LIST OF APPLICATIONS

Applications for the following sites are included in this report.

1. 16/00338/OUT  
Land Adj To North Hylton House North Hylton Road Southwick Sunderland
2. 16/00426/FUL  
Former The Coffee Mill Cafe 146 Newcastle Road Sunderland SR5 1NA
3. 16/00437/FU4  
Fulwell Mill Visitor Centre Newcastle Road Sunderland SR5 1EX
4. 16/00567/LP3  
Land Adjacent To Roker Pier Marine Walk Sunderland
5. 16/00568/LB3  
Land Adjacent To Roker Pier Marine Walk Sunderland
6. 16/00626/LAP  
Roker Park Entrance Sidecliff Road Sunderland SR6 9NE

#### COMMITTEE ROLE

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

## **DEVELOPMENT PLAN**

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

### **Unitary Development Plan - current status**

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

## **STANDARD CONDITIONS**

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

## **SITE PLANS**

The site plans included in each report are illustrative only.

## **PUBLICITY/CONSULTATIONS**

The reports identify if site notices, press notices and/or neighbour notification have been undertaken. In all cases the consultations and publicity have been carried out in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

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

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

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

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

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

Alison Fellows  
Executive Director of Commercial Development

1.

North  
Sunderland

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**Reference No.:** 16/00338/OUT Outline Application

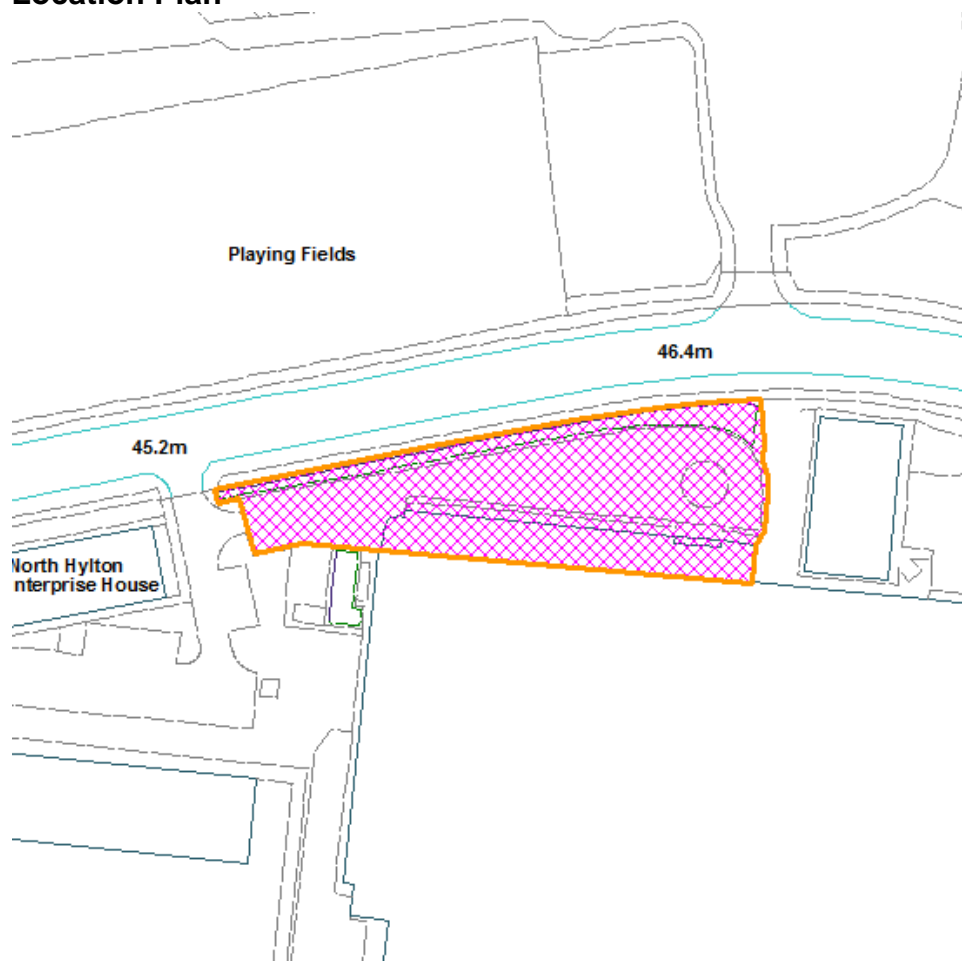
**Proposal:** Demolition of existing building and erection of 2no. units for either storage or distribution with trade counter (Use Class B8) or bulky goods retail (Use Class A1) and associated provision of car parking, cycle shelter and bin store and alterations to access

**Location:** Land Adj To North Hylton House North Hylton Road Southwick Sunderland

**Ward:** Southwick  
**Applicant:** MBN Investments Limited  
**Date Valid:** 7 March 2016  
**Target Date:** 2 May 2016

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#### Location Plan



## **PROPOSAL:**

The site to which the application relates is situated within the North Hylton Road employment area immediately to the north of the former John Porter Doors Ltd. factory and to the south of North Hylton Road from which it is accessed. The site is currently vacant, has an area of 0.24 hectares and in a state of disrepair and comprises a single-storey building, hardstanding accommodating vehicular access, car parking and overgrown planting. The site is set below North Hylton Road, owing to the overall southerly downward gradient from this road to the River Wear, and is bordered by high palisade fencing whilst trees run along the northern boundary. A two-storey office block borders the site to the east and a two-storey training centre exists to the west whilst the North Hylton Campus of Sunderland College is situated on the opposite side of Hylton Road. The nearest residential properties are also on the opposite side of North Hylton Road, namely the Aged Miners Homes which are situated approximately 110 metres to the northwest and those in Pinewood Road situated some 140 metres to the northeast; the latter are set behind the former Torrens public house, which has recently been converted to a retail unit and a hot food takeaway.

Outline planning permission is sought with all matters reserved (appearance, means of access, landscaping, layout and scale) to demolish the existing single-storey building and erect two units to provide an overall gross internal floorspace of 929sq.m which would be used for storage/distribution incorporating a trade counter, which falls within Class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended), and/or bulky goods retail, which falls within Class A1 of the Order.

The existing building which is proposed to be demolished runs along the southern boundary of the site and is currently vacant and in a state of disrepair. This building has a gross internal floorspace of 425sq.m (according to the application form) and served as the front office for the former John Porter Doors factory which has consent to be demolished; the existing building is considered to constitute a Class B2 use, being ancillary to the wider former factory.

The proposed 929sq.m of storage/distribution and/or retail floorspace would be provided by erecting two separate units within the curtilage of the site. The indicative plans which have been submitted set out that each proposed building would have a gross floor area of 464.5sq.m, to be positioned adjacent to the eastern and southern boundaries respectively, the existing access from the west via North Hylton Road would be used and widened and two bin stores would be accommodated within the site. Two potential car parking layouts have been provided, one comprising a total of 26no. spaces and the other comprising 22no. spaces and a cycle shelter.

The applicant anticipates that 30no. full-time and 10no. part-time members of staff would be employed at the premises and no hours of operation are proposed at this stage.

Members may recall that planning permission was granted in September 2015 (ref. 15/00775/FUL) for the partial demolition of the adjacent former John Porter Doors factory and to retain part of building as workshop, erect two portal frame steel buildings, site six inter-connected office pods to provide hire, service, storage and distribution facilities for portable storage containers, accommodation units and self-storage facilities, to carry out repairs to existing hardstanding and to provide car parking on this adjacent site.

## **TYPE OF PUBLICITY:**

## **CONSULTEES:**

Network Management  
Northumbrian Water  
Environmental Health  
Southwick - Ward Councillor Consultation  
Flood And Coastal Group Engineer

Final Date for Receipt of Representations: **21.04.2016**

## **REPRESENTATIONS:**

No representations have been received from neighbouring occupants.

Northumbrian Water (NWL) advised that insufficient details were provided with the application in its original form to allow NWL to assess the capacity of its system to treat the flows from the development and therefore requested the imposition of a condition requiring the submission of a scheme for the disposal of surface and foul water.

The Council's Environmental Health section provided comments on the submitted Phase 1 Land Quality Report and accepts its conclusions that generic solutions are likely to be available to mitigate impacted soils whilst recommending that an asbestos survey and construction environmental management plan be prepared.

The Council's Flood and Coastal Group Engineer initially objected to the proposal on the basis that a 'greenfield runoff rate' would not be achieved, but subsequently retracted this objection after being informed that this is not a 'major' application and, as such, such a runoff rate is not required.

The Council's Network Management section raises no objection but recommend that the proposed car parking bay / cycle shelter adjacent to the site entrance be relocated and that pedestrian and vehicle route be clearly marked in order to avoid conflict between motorists and pedestrians.

The Council's Planning Policy section offers no objection and has provided commentary on the potential loss of employment land and the requirement for a sequential assessment, as elaborated upon in the 'land use allocation' and 'retail policy' sections of this report below.

## **POLICIES:**

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

B\_2\_Scale, massing layout and setting of new developments  
B\_24\_Appropriate provision for utility services in building development  
CN\_17\_Tree Preservation Orders and replacement of trees  
EC\_4\_Retention and improvement of existing business and industrial land  
EN\_1\_Improvement of the environment  
EN\_5\_Protecting sensitive areas from new noise/vibration generating developments

EN\_11\_Restrictions upon new development or intensified use of land liable to flooding  
EN\_12\_Conflicts between new development and flood risk / water resources  
EN\_14\_Development on unstable or contaminated land or land at risk from landfill/mine gas  
NA\_1\_Retention and improvement of existing industrial area  
S\_1\_Provision of enhanced shopping service, including local provision, based on existing centres.  
S\_3\_Support to other existing centres, local groups and small shops, including new provision  
T\_8\_The needs of pedestrians will be given a high priority throughout the city.  
T\_9\_Specific provision will be made for cyclists on existing/new roads and off road  
T\_10\_Protect footpaths; identify new ones & adapt some as multi-user routes  
T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising  
T\_22\_Parking standards in new developments  
R\_2\_Taking account of spare infrastructure / reduced travel / vacant & derelict land

## **COMMENTS:**

The National Planning Policy Framework (NPPF) provides the current Government planning policy guidance and development plans must be produced, and planning applications determined, with regard to it. The NPPF sets out a series of 12 'core planning principles' which underpin plan-making and decision-taking and are considered to contribute to the over-arching aim of delivering sustainable development.

Particularly relevant in this case is the principle that the planning system should always seek to proactively drive and support sustainable economic development, with every effort made to objectively identify and then meet the housing, business and other development needs of an area and respond positively to wider opportunities for growth, taking into account market signals. The planning system should also encourage the effective use of land by re-using land that has been previously developed.

In addition, the core principles also require the planning system to secure high standards of design and amenity, to take full account of flood risk and coastal change and to contribute towards the conservation and enhancement of the natural environment. More specific guidance of the NPPF is referred to, where relevant, throughout this report.

The relevant guidance of the NPPF detailed above feeds into policies B2, B24, CN17, EC4, EN1, EN5, EN11, EN12, EN14, NA1, R2, S1, S3, T8, T9, T10, T14 and T22 of the City Council's adopted Unitary Development Plan (UDP), which are considered to be pertinent to the determination of this application with varying degrees of weight. These policies have been 'saved' following a direction by the Secretary of State and, with regard to paragraph 215 of the NPPF, which dictates that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. As such, they are considered to remain relevant and material to the determination of this planning application, although where there is any specific point of conflict with the NPPF, this will be highlighted.

The main issues to consider in assessing this application are:

- land use allocation;
- retail policy;
- residential and visual amenity;
- highway implications;
- flood risk and drainage; and
- ground conditions / contamination.



## **Land Use Allocation**

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

Policies EC4 of the adopted Unitary Development Plan (UDP) advises that existing business and industrial land amounting to some 1,215 hectares be retained and improved for a range of uses. These are defined on a site specific basis, but in general, this policy advises that acceptable primary uses of allocated employment land are offices, research and development, light industry (Use Class B1), general industry (Use Class B2) and warehouses and storage (Use Class B8). Policy NA1.2 of the UDP expands upon policy EC4 and is specific to the 31.95 hectare North Hylton Road employment site in which the current application site is located, which sets out offices, research, light and general industry, car sales and servicing, storage and distribution (Uses falling within Use Classes B1, B2 and B8, with the exception of car sales which is a Sui Generis use) as acceptable. Proposals for other uses are to be considered on their individual merits.

It is currently proposed to provide two units which may fall within either Use Class B8, which accords with the land use allocation of the site, or Use Class A1, which is not listed as an acceptable use by the UDP policies set out above.

However, the Council has recently commissioned an Employment Land Review (dated 09.03.2016) which is to form part of the evidence base of the emerging Local Plan and was approved by Cabinet in March 2016. This review indicates an expected shortfall of between 2.5 and 3.5 hectares of employment land within the Sunderland North sub-area over the period of the emerging Local Plan. Given that the north area is very urbanised and tightly constrained by Green Belt to the north, the river to the south and the coast to the east, there are very few opportunities available to meet this shortfall. However, the Employment Land Review recognises that the Sunderland North and South sub-areas are seen as one market area by the commercial sector and, therefore, any shortfall in Sunderland North could realistically be addressed by the oversupply of employment land which the Review has identified in the Sunderland South sub-area.

In addition, the site has been vacant for a significant period of time and it is set out in the submitted Planning Statement that it has been actively marketed for Class B1/B2/B8 use for two years with little interest. Furthermore, it is not considered that either of the proposed uses would be likely to compromise the operation of the wider employment site.

For such reasons, the loss of allocated employment land to provide bulky goods retail units is, on balance, considered to be acceptable.

## **Retail Policy**

Paragraphs 23 of the NPPF requires any policies drawn up by Local Planning Authorities to foster and support competitive town-centre environments.

Paragraph 24 sets out that a 'sequential test' must be applied to planning applications for main town centre uses (which includes retail development) that are not to be located within an existing centre and are not in accordance with an up-to-date Local Plan. Applications for such uses should firstly 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. When considering edge- and out-of-centre sites, preference should be given to accessible sites that are well-connected to the town centre whilst applicants and Local Planning Authorities are advised to demonstrate flexibility on issues such as format and scale.

The Tesco Stores Ltd. v Dundee City Council Supreme Court judgment established that, for a site to be 'suitable' for the purposes of paragraph 24, the potential opportunity at a sequentially preferable location must be able to provide for a development that will serve a similar function and achieve similar objectives to the development being sought by the application proposal.

Paragraph 26 sets out the impact tests for applications for town-centre development located in out-of-centre locations and which is not in accordance with an up-to-date Local Plan and where a gross external floorspace of 2500sq. m (or a locally set threshold) would be created.

Paragraph 27 of the NPPF goes on to advise 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 (i.e. in paragraph 26), it should be refused'.

On a local level, policies S1 and S3 of the UDP seek to sustain and enhance the City's network of existing centres and incorporate the sequential test to the consideration of development proposals. Policy S1 states that, where appropriate, new town centre development will be based on existing centres and that development elsewhere should result from the application of the sequential test, be in accordance with other policies of the UDP and complement existing facilities. It must be noted, however, that this requirement for such proposals to 'complement' existing facilities is not replicated by paragraph 26 of the NPPF and, as such, in accordance with paragraph 215 of the NPPF, limited weight can be given to this policy and this application will, instead, be assessed against the criteria set out by the NPPF.

In addition, UDP policy S3 states that the Council will support the retention of existing shopping centres, local groups and small shops catering for everyday needs, which the current proposal would not achieve.

The application site is situated in an out-of-centre location (as defined by annex 2 of the NPPF) and the nearest local centre is that in Southwick which is situated approximately 2km away.

The submitted Planning Statement includes a Sequential Analysis which considers the availability of sites in or on the edge of Southwick local centre and sets out the following search criteria:

- o Able to accommodate a gross area of 929sq.m, 26no. car parking spaces and a service area for 10m long delivery vehicles with the safe movement of customers and delivery vehicles
- o A prominent road frontage to attract passing trade
- o Accessible by a choice of means of transport
- o A level site of approximately 1 acre (0.4 hectares)

The Sequential Analysis concludes that there are no available sites within the search area which are available and suitable to meet the needs of the proposed development. This Analysis

identifies three specific units, all of which are available to let, within Southwick. However, the largest of these, Unit 13 Beaumont Street, has an area of 476sq.m

It is noted that the search criteria of 929sq.m has been used, whereas two individual units are proposed which would each have an area of 464.5sq.m, so Unit 13 Beaumont Street could be utilised in place of one of the proposed units. However, the legal case referred to above established that the entire of the development being proposed must be considered in undertaking the sequential test.

It is also noted that the search criteria set out by the submitted Sequential Analysis includes a requirement for a site of at least 0.4 hectares, whereas the current application site measures 0.24 hectares, which is capable of accommodating 26no. spaces, whereas one of the indicative layouts proposes only 22no. spaces. However, given that there does not appear to be any available site which meets the remaining criteria set out by this Analysis, most pertinently the quantum of floor space to be provided, these matters are not considered to be crucial to the conclusions of the sequential test.

Paragraph 24 of the NPPF also sets out that preference should be given to accessible sites that are well-connected to the town centre and no such out of centre sites appear to have been considered by the Sequential Analysis. Notwithstanding this, the current site is afforded good transport connections by North Hylton Road and the existence of bus stops within close proximity, so is considered to be well connected to Southwick, as well as the City Centre to a lesser extent, and it is not apparent that there are any preferable sites in this respect.

On this basis, it is considered that the proposal complies with the requirements of the sequential test set out by paragraph 24 of the NPPF given that none of the sites which are currently available within or on the edge of Southwick are realistically suitable for the proposed development, having applied the appropriate degree of flexibility in relation to format and scale.

Given that a maximum gross retail floorspace of 929sq.m is proposed, which is well below the 2,500sq.m threshold set out by paragraph 26 of the NPPF and the Council does not have any locally set threshold, there is not requirement for a retail impact assessment to be carried out in this instance. In addition, Southwick predominantly retails in convenience goods and contains a low proportion of bulky goods retailers and the Sunderland Retail Needs Assessment which the Council commissioned in 2009, which was updated in 2012, suggests that comparison goods sales from Southwick is particularly low, indeed Southwick Green is limited to two card shops, a chemist, two computer shops, two pet stores, a two furnisher retailers, a blinds shop, two baby clothes retailers, a florist and opticians and B&M Bargains. Therefore, to the proposed sale of bulky goods would not divert a significant amount of trade from Southwick and, given the limited availability of large sites, would not significantly compromise any future development aspirations in this local centre. The 2012 update report recommends that the sale of comparison goods be primarily aimed at the City Centre, however given the limited scale of the current proposal, well below the NPPF threshold, it is not considered that it would pose a significant impact. Therefore, it is not considered that any evidence is apparent to suggest a 'significantly adverse' impact on the vitality and viability, consumer choice or overall trading levels of any local centre.

Should Members be minded to approve the application, given that this proposal has been assessed on the basis of the details set out above and to protect the vitality and viability of local centres it is recommended that a condition be imposed prohibiting convenience goods (i.e. food, beverages, tobacco, newspapers and periodicals and non-durable household goods) from being sold from the premises.

## **Residential and Visual Amenity**

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

UDP policy B2 reflects the above, stating that the scale, massing, layout and/or setting of new developments should respect and enhance the best qualities of nearby properties and the locality whilst large scale schemes, creating their own individual character, should relate harmoniously to adjoining areas'.

As set out above, the nearest residential properties to the application site are the Aged Miners Homes which are situated approximately 110 metres to the northwest and those in Pinewood Road situated some 140 metres to the northeast. Both of these are situated on the opposite side of North Hylton Road, a particularly busy high-speed road which serves numerous bus routes, and the site is located within an active industrial area, so ambient noise levels are typically high during daytime hours. Whilst no operating hours are currently proposed, given the natures of the proposed uses it is unlikely that they would operate during evenings when ambient noise levels are lower and, in any event, storage/distribution and retail units, as currently proposed, do not typically generate an excessive level of noise. In addition, construction hours, together with the generation of dust and vibration, can be controlled by the imposition of an appropriate condition requiring the submission of scheme of working, should Members be minded to grant planning permission, in order to limit noise and disturbance during the construction phase.

Given that all matters have been reserved for subsequent approval, a full assessment of the impact of the proposal on the visual amenity of the area cannot be made at this time. However, the indicative details which have been provided indicate that Unit 1 would be sited adjacent to the rear boundary and some 4m back from the front boundary onto North Hylton Road, which is considered to be appropriate in terms of minimising its visual impact. It is noted that the indicative details illustrate Unit 2 abutting the front boundary, which may result in a form of development which would appear highly prominent within the street. However, the prominence and visual impact of this unit would be dependent on its appearance and scale (which are reserved for subsequent approval) and, if deemed necessary, this unit could be relocated, altered in shape or reduced in size. The proposed development should also ensure the retention of the trees which line the front of the development and, to this regard, it is recommended that a condition be imposed requiring the submission of an appropriate method statement. Crucially, given its size and shape, it is considered that the site could realistically accommodate the proposed development without compromising the visual amenity of the local area.

## **Highway Implications**

Paragraph 32 of the NPPF states that, 'development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe' whilst paragraph 75 states that, 'planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails'.

UDP policies T8, T9 and T10 promote the facilitation of mobility for pedestrians and cyclists whilst upgrading and identifying new paths and multi-user routes. Policy T14 aims to ensure that new developments are easily accessible to both vehicles and pedestrians, should not cause traffic problems, should make appropriate provision for safe access by vehicles and pedestrians and indicate how parking requirements will be met whilst policy T22 seeks to ensure that the necessary levels of car parking provision will be provided.

Given that means of access have been reserved for subsequent approval, only the principle of achieving an acceptable means of access/egress and providing an acceptable level of car parking without otherwise compromising highway safety or the free passage of traffic can be considered at this stage.

As set out above, the Council's Network Management section has advised that, subject to relatively minor amendments, each indicative layout is considered to be acceptable to this regard.

Whilst no indication of staff numbers or likely parking requirements for customers or delivery vehicles have been provided at this stage, Topic 13 of the Council's adopted Supplementary Planning Guidance Development Control Guidelines (SPG) provides a broad guide to parking provision and recommends, for retail units, one car parking space per 50sq.m of gross floor space be provided, with a lesser requirement for storage and distribution uses. This would equate, as a worst case, to some 19no. spaces for the proposed development whereas the submitted details demonstrate that in excess of 20no. spaces could be provided within the site, subject to an appropriate layout which ensures that there would be no conflict between pedestrians and goods vehicles. Given the size and shape of the site it is considered that an appropriate arrangement could realistically be achieved.

It is also noted that the application site is well-connected and accessible both by private vehicle and public transport, with bus stops situated within particularly close proximity. In order to improve sustainable modes of transport to the site, it is recommended that a condition be imposed, should Members be minded to grant planning permission, requiring the provision of secure cycle storage.

## **Flood Risk and Drainage**

Paragraph 103 of the NPPF states that when determining planning applications, Local Planning Authorities should ensure flood risk is not increased elsewhere and should only consider development to be appropriate in flood-risk areas where certain criteria are satisfied.

Policies EN11 and EN12 of the UDP require appropriate protection measures to be incorporated in development proposals within areas at risk of flooding and require the LPA, in conjunction with the EA, to ensure that proposals would not impede the flow of flood water, increase the risk of flooding or adversely affect the quality or availability of ground or surface water.

As Members may be aware, the City Council is now the Lead Local Flood Authority (LLFA) in respect of major development proposals, with responsibility for matters pertaining to the management of surface water. Guidelines produced by the Department for Environment, Food and Rural Affairs (DEFRA) essentially now require sustainable drainage systems (SuDS) to be provided in major development schemes wherever appropriate. This requirement is echoed by the Council's Local Flood Risk Management Strategy, which has recently been approved by Cabinet.

However, the current application is not classed as a 'major' planning application and, as such, there is no requirement to provide SuDS in this instance. In addition, the site lies within Flood Zone 1, so is of low sensitivity in respect of potential flooding.

A Flood Risk Assessment has been provided which identifies flooding from rainfall in respect of surface water runoff as being the critical issue to consider in this instance and notes that the total impermeable area of the site would be increased from 0.185ha to 0.228ha. The Assessment also sets out a drainage strategy which would, effectively, provide a runoff rate of 10.65l/s, which constitutes a betterment of 50% of the existing runoff rate which has been calculated at 21.3l/s.

Given that the submitted details are indicative at this stage, it is recommended that a condition be imposed requiring a detailed drainage strategy to be provided, should Members be minded to approve this application. However, it is considered that the submitted details demonstrate that a significant betterment of the drainage of the site can realistically be achieved.

### **Ground Conditions / Contamination**

Policy EN1 of the UDP seeks improvements to the environment by minimising all forms of pollution whilst policy EN12, as eluded to above, states that the Council, in conjunction with the Environment Agency and other interested parties, will seek to ensure that proposals would:

- (i) not be likely to impede materially the flow of flood water, or increase the risk of flooding elsewhere, or increase the number of people or properties at risk from flooding (including coastal flooding); and
- (ii) not adversely affect the quality or availability of ground or surface water, including rivers and other waters, or adversely affect fisheries or other water-based wildlife habitats.

In addition, policy EN14 dictates that, where development is proposed on land which there is reason to believe is either unstable or potentially unstable, contaminated or potentially at risk from migrating contaminants or potentially at risk from migrating landfill gas or mine gas, adequate investigations should be undertaken to determine the nature of ground conditions below and, if appropriate, adjoining the site. Where the degree of instability, contamination, or gas migration would allow development, subject to preventive, remedial, or precautionary measures within the control of the applicant, planning permission will be granted subject to conditions specifying the measures to be carried out.

A Phase 1 Land Quality Report has been provided which concludes that the environmental risk from the ground conditions of the site associated with the proposal is low to medium, by virtue of the potential existence of contaminants beneath the site and the presence of sensitive controlled water receptors underlying the site. Accordingly, the Report recommends the carrying out of further investigative works to allow a fully informed assessment of such risks to be made and mitigation to be provided, where appropriate, and advises that such environmental issues are unlikely to preclude the proposed development.

This Report has been assessed and its findings generally accepted by the Council's Environmental Health section and it is therefore recommended, should Members be minded to grant outline planning permission, that conditions be imposed requiring the submission of a Phase 2 remedial strategy and a verification plan/report prior to the commencement of development and for such details to be provided should any unexpected contamination be encountered during construction works. The Phase 2 investigation should consider risk from ground vapours, in particular chlorinated hydrocarbons, and whether monitoring is required for

onsite or off-site generated ground gas whilst the investigation of risk to groundwater must establish whether the site is a possible source, or could be a pathway for, groundwater pollution to both the abandoned Federal Mogul well and the CBL Drinks Ltd well close to the junction between Riverside Road and Burntland Avenue. The comments provided by Environmental Health provide further details of the matters which much be addressed.

In addition, should Members be minded to grant consent, it is recommended that the afore-suggested condition requiring the submission of a scheme of working include an asbestos survey and details of how noise, lighting, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated.

## **Other Issues**

It is also noted that the proposed development would bring about some wider benefits to the local area, in particular through the redevelopment of a vacant brownfield site, in accordance with UDP policy R2, the creation of additional jobs and affording residents of the area greater consumer choice.

## **Conclusion**

For the reasons given above, it is considered that the proposal broadly accords with the provisions of the adopted UDP, as well as the relevant sections of the NPPF, and in lieu of any material considerations to suggest otherwise, it is recommended that Members grant planning permission, subject to the conditions set out below.

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

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

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

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

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

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

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

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

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

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

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

**RECOMMENDATION:** it is recommended that Members grant planning permission, subject to the conditions set out below.

### **Conditions:**

- 1 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and 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 approved, pursuant to the provision of Section 92 of the Town and Country Planning Act 1990, as amended by section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 Approval of the appearance, means of access, landscaping, layout and scale of the development (hereinafter referred to as the "reserved matters") shall be obtained from the Local Planning Authority, in writing, before any development is commenced. Plans and particulars of the reserved matters shall be submitted utilising an appropriate planning application form and shall be carried out as approved. As the application is in outline only and no details have been submitted of the reserved matters set out above, they are reserved for subsequent approval by the Local Planning Authority.
- 3 The development hereby approved shall be carried out wholly within the application site as defined by the red line boundary of drawing number AL(0)001 received 29.02.2016, in order to ensure that the completed development accords with the scheme approved and to comply with policy B2 of the adopted Unitary Development Plan.
- 4 No convenience goods (i.e. food, beverages, tobacco, newspapers and periodicals and non-durable household goods) shall be sold from the premises and the gross external retail floor area of the development shall not exceed 929 square metres, in order to



protect the vitality and viability of local centres and to comply with paragraphs 26 and 27 of the National Planning Policy Framework and policies S1 and S3 of the adopted Unitary Development Plan.

- 5 Notwithstanding any indication of materials which may have been given in the application, no development shall take place, other than site investigation and remediation works, until a schedule and/or samples of the materials and finishes to be used for the external surfaces, including walls, roofs, doors and windows has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details; in the interests of visual amenity and to comply with policy B2 of the adopted Unitary Development Plan.
- 6 No development shall commence until a tree impact assessment and method statement for the protection of all trees to be retained have been submitted to and approved, in writing, by the Local Planning Authority and all tree protection measures have been fully installed in accordance with the agreed details, which shall remain in place until the development is completed, 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.
- 7 No development shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site has been submitted to and approved, in writing, by the Local Planning Authority:
  - 1) A site investigation scheme, based on the submitted Phase 1 Land Quality Report and comments provided by the Council's Environmental Health section dated 19.05.2016, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
  - 2) The results of the site investigation and detailed risk assessment referred to in 1) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
  - 3) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in 2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the Local Planning Authority. The scheme shall be implemented as approved, in order to comply with the requirements of paragraph 109 of the National Planning Policy Framework and policy EN14 of the adopted Unitary Development Plan.
- 8 No use hereby approved shall commence until a verification report demonstrating Completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation

criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved, in order to comply with the requirements of paragraph 109 of the National Planning Policy Framework and policy EN14 of the adopted Unitary Development Plan.

- 9 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority) shall be carried out until a remediation strategy has been submitted to and approved, in writing, by the Local Planning Authority detailing with how this unsuspected contamination shall be dealt. The remediation strategy shall then be implemented in accordance with the approved details, in order to comply with the requirements of paragraph 109 of the National Planning Policy Framework and policy EN14 of the adopted Unitary Development Plan.
- 10 No development shall take place, other than site investigation and remediation works, until a scheme of working has been submitted to the satisfaction of the local planning authority; such scheme shall include an asbestos survey, days and hours of working, siting and organisation of the construction compound and site cabins, routes to and from the site for construction traffic and measures to ameliorate noise, lighting, dust and other airborne pollutants, vibration, smoke, and odour from construction work, including a method of ensuring that no dirt and debris spreads on to the surrounding road network. All works shall be carried out in accordance with the submitted details, in order to protect the amenity of the area and the wellbeing of workers to comply with policies, B2, EN5 and T14 of the adopted Unitary Development Plan.
- 11 No development shall take place, other than site investigation and remediation works, until full details of the management of foul and surface water, including a timetable for their implementation and a strategy for their maintenance, have been submitted to and approved, in writing, by the Local Planning Authority and the scheme shall be implemented in full accordance with the approved details, to ensure that satisfactory drainage is provided for the development to prevent the increased risk of flooding, to improve and protect water quality, habitat and amenity and to comply with paragraph 103 of the National Planning Policy Framework and policies EN12 and B24 of the adopted Unitary Development Plan.
- 12 No development shall take place, other than site investigation and remediation works, until details of the provision of secure storage for bicycles have been submitted to and approved, in writing, by the Local Planning Authority and the development shall not be brought into use until such facilities have been fully installed in accordance with the approved details, which shall be appropriately maintained thereafter, in order to promote a sustainable mode of transportation and to comply with paragraph 75 of the National Planning Policy Framework and policy T9 of the adopted Unitary Development Plan.

**Reference No.:** 16/00426/FUL Full Application

**Proposal:** Change of use from now vacant existing cafe/coffee shop style use to Hot Food Takeaway (Use Class A5) to include single storey extension to rear and installation of 2 no. extraction flues to rear.

**Location:** Former The Coffee Mill Cafe 146 Newcastle Road Sunderland SR5 1NA

**Ward:** Fulwell

**Applicant:** Dr Anton Lang

**Date Valid:** 14 March 2016

**Target Date:** 9 May 2016

### Location Plan



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### PROPOSAL:

Planning permission is sought to change the use of a former coffee shop to a hot food takeaway to include a single storey extension to the rear and the installation of 2no extraction flues to the rear.

The host site is located within a small parade of six commercial properties with residential flats above on the eastern side of Newcastle Road which is a classified road leading into the city centre. The uses currently found within the parade include a funeral director, two hot food takeaways, a convenience store and a hair and beauty business. The unit subject of this application was understood to have operated as a coffee shop/café until December 2015.

Beyond the confines of the commercial parade the fronting street scene is largely residential in character although the expansive Monkwearmouth Hospital site lies to the immediate south. The residential terraces of Elizabeth Street and Joanna Street sit behind the commercial parade to east of the access lane which runs to the rear.

Internally the layout indicates that a waiting area would be provided to the front of the unit with the service counter and cooking range positioned behind. The ground floor offshoot would be utilised as a kitchen/preparation area, store room, w.c and bin store. The upper floor is, in common with the remainder of the commercial parade, utilised as a residential flat and the agent has intimated that it would be occupied by the future manager of the business.

Physical development is proposed within the rear yard area comprising a single storey rear extension which would infill the full depth of the yard. The extension would be flat roofed and would serve to house a notable proportion of the ducting works as required for the proposed canopy extraction and range extraction. The ducting would exit the flat roof at two points with one flue running up the side of the first floor offshoot and the other running up the rear elevation of the main building. The remainder of the rear extension is shown to be utilised as a rear store room.

The operating times as stipulated within the application form are between 09:00 - 22:30 Monday to Fridays and Sundays and Bank Holidays whilst it is proposed to operate from 09:00 to 23:00 on Saturdays. It is anticipated that the use would provide 5 full time and 4 part time jobs.

A planning application of this nature would normally be determined under the powers afforded to Officers under the Council's scheme of delegation; however, it has been referred to the Development Control Sub-Committee (North area) at the request of Councillor Francis.

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

Site Notice Posted  
Neighbour Notifications

#### **CONSULTEES:**

Fulwell - Ward Councillor Consultation  
Environmental Health  
Network Management

Final Date for Receipt of Representations: **04.05.2016**

## **REPRESENTATIONS:**

### Public Consultation -

As a result of the public consultation carried out objections were received from 7 properties within the nearby vicinity. Some households submitted multiple representations (4 were received from No.1 Elizabeth Street and 3 were received from 2 Joannah Street). In addition a petition containing 36 signatures was also submitted.

In respect of the above, the main areas of concern relate to;

1. Noise, disturbance and smells emanating from the use.
2. Parking issues and general traffic generation within the area.
3. Litter/antisocial behaviour.
4. The existing number of hot food uses within the terrace and wider area.
5. The correlation between hot food uses, health and levels of obesity.

### Internal consultation -

Network Management - Following consultation with the City Council's Network Management Section the following observations were made.

1. Newcastle Road is a busy distributor road with a high demand for on-street parking, this particular premises is located within a small parade of shops with a dedicated parking area to the front.
2. Visibility at the junctions on Newcastle Road is extremely poor due to the nature of the on street parking in the area although there are no recorded incidents over the last 3 years at the junction to the north (Joannah Street) or south (Elizabeth Street).
3. Clarification should be sought on servicing/deliveries and staff/delivery parking.
4. It would appear that 1-2 in-curtilage parking spaces would be removed as a result of the extension. This is to be strongly resisted and the parking should be retained.
5. There are existing parking restrictions to the front of the parade (Mon-Sat 8am-6pm, 1 hour, no return within 1 hour).
6. The change of use from coffee shop/cafe to a hot food takeaway is considered an intensification of use and would likely increase traffic in the nearby residential streets and back lane, to the detriment of road safety and residential amenity.

### Environmental Health -

Regard should be had to the potential for odorous and noise emissions from the proposed hot food shop to give rise to complaints of nuisance and disturbance from nearby residential properties.

The ventilation, extraction system and filtration systems/equipment and the sound and odour insulation materials shown on the submitted plans and documents are considered acceptable and must be installed as per the approved plans and documents, operated at all times the use is operational, and maintained as per the manufacturers advice and guidelines. Should any element of the approved systems be altered then full detail must be submitted for further approval in writing by the Local Planning Authority before installation or commencement of use.

A residential dwelling is located directly above the proposed takeaway. As such particular attention must be given to the design specification and construction methods and practice to ensure that adequate protection is afforded to the first floor occupants with regard to noise and odorous emissions.

It is recommended that the opening hours of the proposed takeaway be restricted to prevent late night disturbance that may result in a statutory nuisance to local residents.

To minimise disturbance to local residents it is recommended that a condition be placed on any consent prohibiting the use of the rear of the premises for deliveries relating to any takeaway service that may be offered.

The applicant must ensure that suitable provision for the disposal of refuse, in particular food waste, to deter the attraction of pests.

## **POLICIES:**

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

EN\_10\_Proposals for unallocated sites to be compatible with the neighbourhood

B\_2\_Scale, massing layout and setting of new developments

S\_3\_Support to other existing centres, local groups and small shops, including new provision

S\_12\_Criteria for hot food take-aways, restaurants, other A3 uses and amusement centres

T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising

## **COMMENTS:**

Relevant policy background -

The National Planning Policy Framework (NPPF) provides the current Government's national planning policy guidance and development plans must be produced, and planning applications determined, with regard to it. The NPPF sets out a series of 12 'core planning principles' which underpin plan-making and decision-taking and are considered to contribute to the over-arching aim of delivering sustainable development. Particularly relevant in this case are the principles that development should always seek to secure a high quality design and a good standard of amenity; should proactively drive and support sustainable economic development and should encourage the effective re-use of land and property.

The relevant guidance of the NPPF detailed above feeds into policies EN10, B2, S3, S12 and T14 of the City Council's adopted Unitary Development Plan (1998), which are consequently considered to be pertinent to the determination of this application.

Policy EN10 of the UDP requires new development proposals to respect the existing pattern of land use in areas where there is no specific land use allocation.

Policy S3 of the UDP seeks to retain existing shopping centres, local groups and small shops providing for everyday needs including those falling into the former use class A3 (food and drink uses where appropriate), providing that an acceptable level of everyday shopping remains and the proposed use will not conflict with the established uses in the neighbourhood or other relevant UDP policies. It should be noted at this point that the Town and Country Planning (Use

Classes) Order was amended in 2006 and the former use class A3, which incorporated all food and drink related uses, was replaced by a new use class A3 (restaurants, snack bars and cafes), use class A4 (pubs and bars) and use class A5 (hot food takeaways).

Policy S12 states that hot-food takeaways are generally acceptable if they are located within an existing town or local centre but proposals must not have a detrimental impact on the environment, residential amenity and public or highway safety. The requirements of policy S12 are expanded upon in section 9 of Supplementary Planning Guidance (SPG) to the UDP, which states that applications for A5 uses must be set against the need to protect the amenities of residential properties from noise and disturbance associated with food preparation and vehicle and pedestrian movement. Hot-food takeaway proposals for units set within smaller retail parades will not normally be considered acceptable where there are residential dwellings within 50 metres and applications for hot food takeaways which are likely to lead to car parking on residential roads in evening periods and which would be likely to cause nuisance to nearby residents should not normally be permitted.

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

#### Considerations -

With regard to the above, it is considered that the main issues to assess in the determination of this application are as follows:

1. The principle of the proposed use;
2. The impact of the development on visual amenity
3. The impact of the development on residential amenity
4. The impact of the development on highway and pedestrian safety
5. Other matters arising

### **1. Principle of development**

The application premises and adjoining units are not allocated for a specific land use on the proposals map of the UDP. As such the proposal is subject to policy EN10. This policy dictates that where the UDP does not indicate any proposals for change, the existing pattern of land use is intended to remain and development in such areas must be compatible with the prevailing character of the area.

The unit is located within a longstanding commercial parade within which a variety of uses are found including two hot food takeaways the most recent of which was approved in 2013. The parade serves to provide small scale facilities and amenities for residents within the general vicinity and within this context the introduction of a takeaway would not be considered particularly out of character with the existing commercial nature of the parade. Consequently, the proposal is therefore considered to broadly accord with the requirements of policies EN10 and S12 of the UDP in this regard.

However, in line with the requirements of both policies S3, S12 and Section 9 of the SPG, an assessment of the impact of the proposed use on the amenity of nearby residential dwellings

(many of which are within 50 metres of the application site) and highway and pedestrian safety is necessary in order fully consider the merits of the proposal. Such an assessment is provided below.

## **2. Impact of development on visual amenity**

The physical works proposed by the application include the erection of a single storey rear extension which will run the full depth of the rear yard and the installation of 2no extraction flues to serve the new use. The extension would present a flat roof to a maximum height of 3.3m and would serve to house a proportion of the ducting for the two extraction ranges and a rear store room.

Due to the high boundary walls that run along the rear of the site the majority of the extension would not be visible from the rear lane. It is however noted that a proportion of the development would be constructed above the existing height of the rear boundary wall (approximately 1m) and this element would be visible from within the confines of the rear lane environment. The application confirms that a red brick to match the rear boundary walls is proposed within the build.

It was evident during the officer site visit that existing development to the rear of the commercial properties was not consistent in form or scale and that significantly more substantial development has been constructed to the rear of No.150 and 132 to the north and south of the terrace respectively. Consequently, it is not considered that the rear extension would appear out of character or visually discordant within the context of what is considered a secondary street scene.

The two extraction systems would exit through the roof of the new rear extension with one positioned adjacent to the first floor of the offshoot and the other running up the rear elevation of the main building and adjacent to a further flue at the neighbouring property. Due to the scale and massing of the development that is present to the rear of No.150, the flues would be largely screened from Joannah Street to the north whilst only limited views would be afforded from Elizabeth Street to the south. Whilst the installations would be of prominence when viewed within the rear lane they would not directly interface at close quarters with any neighbouring residential windows.

Within such a context, it is considered that whilst the rear extension and flues would be visible from within the rear lane environment, they would not appear unduly obtrusive or harmful to the visual amenity of the locality, in accordance with the requirements of policy B2 of the UDP.

## **3. Impact of development on residential amenity**

Policies S3 and S12 of the UDP and section 9 of the SPG require the impact of the use on the amenity of nearby residential properties to be duly considered. In this respect, the host unit forms one of six commercial units which are located on a heavily trafficked arterial route into the city. Flats are however located above the ground floor commercial uses whilst the wider area is largely residential in character and a number of dwellings sit within 50m of the application site.

The amenity of residential properties can be detrimentally affected by a hot food takeaway due to the noise, disturbance and smells/odours which such a use may generate. Each matter is considered in turn below.



## Smells/odours and waste

The generation of smells and odours emanating from the use and the presence of litter/waste within the lane to the rear of the parade has been raised as a concern by a number of residents who have objected to the development. In this particular instance it is evident that there are already two takeaways operating from within the parade and following consultation with the City Council's Public Protection and Regulatory Service it is apparent that there have, very recently, been two complaints received regarding odour and waste nuisance from the existing hot food shops. At the time of writing this report these complaints are currently under investigation and have yet to be substantiated but Public Protection and Regulatory Service have confirmed that they have the appropriate powers available to them to resolve any issues that are identified should action be warranted.

Notwithstanding the above, it is the City Council's experience that, in determining appeals against the refusal of hot-food takeaways, Planning Inspectors generally accept that modern extraction and ventilation systems are able to mitigate smells and odours to the extent that residential amenity is not unduly impinged upon. This approach is evident in the following appeal decisions issued by the Planning Inspectorate (PINS):

- 159 Hylton Road - application ref. 09/04325/FUL, PINS ref. APP/J4525/A/10/2124863/NWF
- 41-43 Eden House Road - application ref. 12/00945/FUL, PINS ref. APP/J4525/A/12/2178337/NWF
- 53 Revelstoke Road - application ref. 12/01445/FUL, PINS ref. APP/4525/A/13/2191861/NWF

This application is accompanied by full details of the specification and layout of the proposed extraction system and the City Council's Public Protection and Regulatory Service have considered the system to be of a high quality specification.

The plans also illustrate that a designated bin store will be provided to the rear of the existing offshoot which will ensure that all waste associated with the use will be contained within the confines of the site. In more general terms the dropping of litter is a criminal offence and can be controlled by the relevant policing authority. There is a public litter positioned at the front of the parade and others throughout the street to allow for any waste from the proposed takeaway to be properly disposed and there clearly has to be a large proportion of personal accountability in such matters. In planning terms this issue can only be given limited material weight in determining the overall acceptability of the proposal.

The concerns of objectors in relation to the generation of smells, odours and waste have been noted, but, having regard to the aforementioned appeal decisions and the comments offered by the Council's Public Protection and Regulatory Service, it is considered that there is no material evidence to suggest that the proposed extraction system would not be capable of appropriately mitigating smells and odours to a satisfactory level. A condition would however need to be attached to any consent granted to ensure that the specified ventilation, extraction and filtration systems and sound & odour insulation material are installed as per approved plans.

## Disturbance

The disturbance associated with a hot-food takeaway is generated by the activities surrounding the use, such as the noise of customers' conversation inside and outside the unit, the noise from the engines of customers' vehicles parked on streets around the property and the slamming of doors of the building and customers' vehicles.

Whilst it could be argued that the presence of the takeaway may result in some local residential properties experiencing a limited degree of additional noise and disturbance in the evening, regard must also be given to the context of the application site. The business premises lie on a heavily trafficked arterial route into the city and within a parade which already experiences a degree of early to late evening activity due to the existence of two takeaways. As such, it could not be considered that the use would be introducing a level of noise and disturbance to the area that does not already exist in some form already. In addition the presence of the dedicated parking area for the front of the parade (6 bays) would appear to be able to accommodate the majority of car borne visits to the proposed and existing hot food uses during the evening periods thereby minimising future disturbance for residential occupiers of Joannah and Elizabeth Street to the east.

It is noted that there is a residential flat above the unit and it has been confirmed that the flat would likely be occupied by the manager of the takeaway. Notwithstanding, the submitted plans illustrate that sound proofing and odour mitigation measures are to be installed between the ground and first floor of the properties and it would be expected that such mitigation is fitted prior to the operation of the hot food use. This can be conditioned accordingly.

Any potential noise emanating from the extraction system is likely to be diminished given the housing and insulation that would be provided by the rear extension.

Within a number of objections comparison has been made between this proposal and two previous planning applications which were refused on the corner of Newcastle Road and Crozier Street in 2014. (No's 91 and 93 Newcastle Road)

Having considered the reports prepared for those applications there are considered to be notable material differences between the site specific circumstances. The officer reports compiled for those applications clearly identifies that the properties of 91 and 93 are situated adjacent to the traffic light-controlled junction of Newcastle Road and Crozier Street and that parking and waiting restrictions associated with the traffic lights precludes vehicles stopping directly in front of the premises. Consequently, it was concluded that car-borne customers, staff and delivery vehicle drivers would be solely reliant on the adjacent Crozier Street and the wholly-residential side-streets of Warwick Street and Netherburn Road thereby leading to the generation of noise and disturbance for residents in the later evening periods as a result of comings and goings associated with the use.

Each planning application must be considered on its own individual merit and as has been identified above, the principle of hot food uses has already been established within this parade following approvals in 1984 and more recently in 2013, whilst the parade also benefits from dedicated parking to the front of the units thereby minimising the potential for customer parking to be carried out within the adjacent side streets.

In general the operational hours proposed by the applicant are considered to be reasonable however it is considered that Saturday closing of 23.00 rather than 23.30 would be more appropriate given the wider character of the area. In addition it is considered to be reasonable to expect that any takeaway deliveries associated with the use are dispatched from the front of the premises to avoid disruption to residential occupiers to the rear. Both the operational hours and deliveries can be conditioned accordingly.

#### 4. Highway Implications

Paragraph 32 of the National Planning Policy Framework (NPPF) sets out that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe.

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

Section 9.1b(i) of the SPG states that 'take-away hot food shops will not normally be permitted without adequate on-street or other short stay parking provision, which should be conveniently located for use by customers and should not result in hazardous conditions for pedestrians, vehicles and other road users.'

As discussed earlier in the report and following the initial consultation, the Council's Network Management team had requested further clarification from the agent in respect of serving, deliveries and staff parking, whilst concern was expressed over the loss of the in-curtilage parking within the rear yard as a result of the rear extension.

The agent has responded on the basis that they do not believe that the loss of a single in-curtilage parking space could be classed as a severe cumulative impact and has cited the sustainable location of the parade on a bus route. The agent has also confirmed that deliveries and servicing will be undertaken using the roadways that surround the site and the existing access points to the front and back.

Evidently there is currently a high demand for on street parking within the surrounding streets and many representations have identified that this is a significant issue for residents living in the area. The vast majority of the on-street parking would appear to be related to the nearby presence of Monkwearmouth Hospital and during an officer site visit conducted around midday, it was noted that there was little parking capacity within surrounding highway network. Further, visits to the site and surrounding streets post 6pm did however identify that the streets were much less intensively parked once the hospital staff/visitors had gone home for the day.

By way of addressing the evident parking issues within the area the City Council's Network Management Section has confirmed that there is a draft proposal to create a Parking Management Scheme which would include the host parade, the rear lane, Joannah Street and Elizabeth Street. The intention of the scheme is to prohibit parking in these streets between the hours 09.30 - 10.30 and 14.30 - 15.30. Residents and business owners will however have the opportunity to obtain a permit permitting parking during the aforementioned hours.

Given the nature of the use it is anticipated that most of the customer led parking would be carried out during the early to late evening periods when hot food uses generally do the majority of their trade and when the surrounding highway network is not so intensively parked. Whilst the comments received from Network Management have suggested that the proposal would result in an intensification in use and a likely increase in traffic within the nearby streets, given the context of the site there is no reason to suggest that the majority of the vehicular movements associated with the proposal would not be confined to the allocated bays to the front of the parade where access to the unit is more convenient. Any overspill from these bays could likely

be accommodated along the southern and northern gables of No's 132 and 150 Newcastle Road respectively without causing detriment to highway safety whilst precluding direct any interface with nearby residential properties on Joannah Street and Elizabeth Street.

On the basis of the above, Network Management have confirmed that whilst the change of use would likely generate an increase in traffic movements to the site, these would be contained outside of peak periods. Consequently, the overall impact of the development, including the loss of the in-curtilage parking space to the rear is not considered to represent sufficient grounds to suggest that the residual cumulative impacts of the development would be severe enough to warrant a refusal based on highway grounds.

In this instance the impact of the proposed use on highway and pedestrian safety is considered to be acceptable, in accordance with the requirements of policy T14 of the UDP, Section 9 of the SPG and paragraph 32 of the NPPF

## **5. Other matters arising**

Representations have been received from a number of nearby occupiers referencing that there is generally an oversupply of takeaways within the wider area (Citing Sea Road, Fulwell Road and North Bridge Street) and that another hot food use is not needed or wanted.

Comments have also been received from objectors regarding the Council's agenda for improving health and well-being. These comments are understood and echo many of the sentiments of communities across the country where local authorities have observed a rise in the number and density of hot food takeaways in recent years.

Evidently an approval in this instance would result in 50% of the parade being utilised for the purpose of hot food, however the City Council, acting in its capacity as Local Planning Authority (LPA), has no adopted policy grounds to resist or curtail hot food takeaways based simply on numbers within a general area or the fact that grouping may occur within a particular parade or shopping street.

Further, in terms of health, takeaway owners can make choices regarding their menus just as customers can choose when and what to buy. On a more strategic scale, in order for the Council, to consider resisting proposals of this type, it would need to be appropriately demonstrated through the provision of a co-ordinated evidence based policy approach, that an overconcentration of A5 uses would be harmful to a particular community and that there is a link between the numbers of uses and issues regarding health/obesity within a particular community.

The above is considered to be pertinent because in determining a planning application a decision must be reached on the basis of the City Councils existing adopted planning policies. As the Council do not have a co-ordinated evidence based policy approach that can demonstrate and thus inform adopted planning policy that an overconcentration of A5 uses would be harmful to a communities health or well-being, there are considered to be no planning grounds to resist the application based health related concerns.

Some objections have also questioned the morality/decency of opening a takeaway next to a chapel of rest particularly in light of potential anti-social behaviour. In respect of this point it must be stressed that it is not for the planning system to take a moral stance on an individual proposal or the content of any objections that are received. Further it cannot be presumed that a hot-food takeaway use will automatically give rise to anti-social behaviour and such concerns

could equally be attributed to a late opening retail store/off license within the unit for which planning permission would not be required. In any case, if anti-social issues were to arise, they can be addressed through effective management by staff at the premises and, if necessary, policing.

## **Conclusions**

In considering a planning application regard must be given to the broad aims and objectives of the NPPF, which is generally supportive of any development proposals which will lead to sustainable economic growth and the effective re-use of land and buildings. Local Planning Authorities should only refuse planning permission where the adverse impacts of a development proposal would demonstrably outweigh the benefits it otherwise brings. The Localism Act has also demanded that Local Planning Authorities take greater heed of the opinions, needs and requirements of local residents and communities in both plan-making and decision-taking. In this respect and whilst the strength of feeling expressed by local residents is acknowledged, when reaching a planning decision, the overriding merits of a proposal must be considered and appropriately assessed against the adopted plans and policies that are in place.

In this particular case, it is evident that the principle of establishing hot food uses within the parade has historically been considered to be acceptable with the most recent hot food use approved no less than 3 years ago. Having considered the content of the officer report at that time and based on the reasoning provided within this report, there are considered to be no significant material grounds that have arisen within this intervening period to suggest that a different decision should be reached.

The proposed change of use will have the effect of bringing a vacant commercial unit back into a sustainable use and there are considered to be no overriding material grounds to consider a refusal of planning permission based on amenity grounds or highway safety.

As such, on the basis of the conclusions reached above, it is recommended that Members be minded to approve the application subject to the imposition of the conditions outlined below.

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

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

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

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

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity

between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

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

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

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

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

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

**RECOMMENDATION:** it is recommended that Members be minded to approve the application subject to the imposition of the conditions outlined below

### **Conditions:**

- 1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time
- 2 Unless otherwise first agreed in writing with the Local Planning Authority, the development hereby granted permission shall be carried out in full accordance with the following approved plans:
  - The floor plans and elevations as existing and proposed received 14.03.2016 (Plan ref's AD-15-80, Sheets 1 and 2).
  - The site plan as existing and proposed 14.03.2016 (Plan ref AD-15-80, Sheet 3).
  - The location plan received 14.03.2016.

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

- 3 Notwithstanding any indication of materials which may have been given in the application; the external materials to be used in the construction of the rear extension shall be of the same colour, type and texture as those used in the existing building, in the interests of visual amenity and to comply with policy B2 of the Unitary Development Plan.

- 4 The use hereby approved shall not be operated outside the hours of;

08:00 and 22:30 (Monday to Fridays and Sundays and Bank Holidays)

08:00 and 23:00 (Saturdays)

In order to protect the amenity of local residents and to comply with policies B2 and S12 of the adopted Unitary Development Plan.

- 5 The ventilation, extraction, insulation and filtration system shall be installed as detailed on the submitted plans (Drawing No. AD-15-80: Sheet 2, entitled Proposed Plans and Elevations), and the associated specifications and technical documents received 14.03.2016, prior to the commencement of use of the premises for the purposes hereby approved. Once installed, the system shall be maintained and serviced according to the manufacturer's instructions so that it is fully operational for the lifetime of the use hereby approved, in order to protect the amenities of the area and to comply with policies B2 and S12 of the adopted Unitary Development Plan.
- 6 The scheme of sound proofing illustrated on Drawing No. AD-15-80: Sheet 2, entitled Proposed Plans and Elevations received 14.03.2016, shall be fully installed according to the manufacturers instructions prior to the commencement of the use of the premises for the purposes hereby approved. Once installed, the scheme of sound proofing shall be retained in perpetuity for the lifetime of the use hereby approved, in order to protect the amenities of the residential occupier above and to comply with policies B2 and S12 of the adopted Unitary Development Plan.
- 7 No hot food deliveries shall be dispatched from the rear yard of the premises in order to safeguard the level of amenity currently afforded the neighbouring residential properties to comply with policy B2 of the approved Unitary Development Plan

**Reference No.:** 16/00437/FU4 Full Application (Reg 4)

**Proposal:** Change of use of ground floor to tea room, first floor from living accommodation to visitors centre and ancillary sui generis uses. Installation of ground floor window to east elevation and 5 no. conservation roof windows to north elevation.

**Location:** Fulwell Mill Visitor Centre Newcastle Road Sunderland SR5 1EX

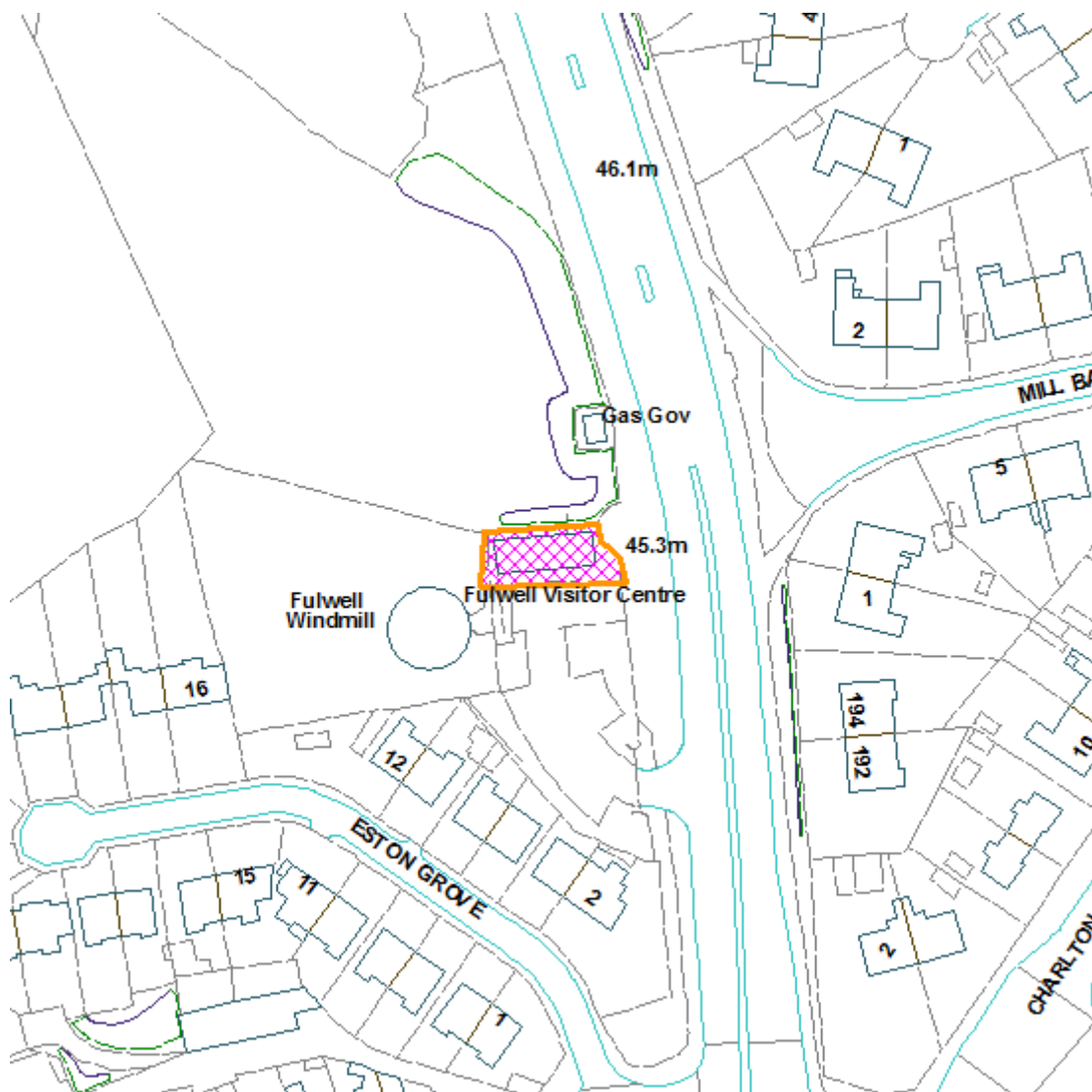
**Ward:** Southwick

**Applicant:** Sunderland North Community Business Centre

**Date Valid:** 5 April 2016

**Target Date:** 31 May 2016

### Location Plan



\*This map is based upon the Ordnance Survey material with the permission of the Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office ©



## **PROPOSAL:**

The application site relates to the Fulwell Mill Visitors Centre, Newcastle Road, Sunderland. Planning permission is sought for the change of use of the ground floor from a visitors centre into a tea room and from living accommodation on the first floor to a new visitors centre with ancillary uses. The proposal also includes the installation of several new windows and a kitchen extract fan, as described below. The site comprises a visitor centre that was erected in C 2000 and a car park to its south side that is accessed off the A1018 Newcastle Road.

To the north of the site is an area of open space; adjoining to the west is the listed Fulwell Mill whilst to the south west and east are residential dwellings.

The visitor centre has been closed for several years. It previously operated from the ground floor of the building with a managers flat on the first floor above. During 2014 Sunderland North Community Business Centre were selected to re-open the visitor centre and the windmill site. The planning application stems from the need to create a level of income to contribute to the site's operational costs, hence the creation of a 'bistro cafe' on the ground floor and the substitution of the living accommodation on the first floor with the visitor centre itself. The upper floor (which has two rooms and a W.C.) would also be used to run community activities such as children's activity sessions, art and heritage educational classes, therefore fully utilising the upstairs space.

Externally, a new window is proposed in the east elevation of the building facing Newcastle Road, to create an new opening for the cafe on the ground floor. This would effectively replace an existing doorway that is positioned towards the south east corner of the building. It is designed with brick headers and has a vertical emphasis to reflect the existing style of the fenestration on the building. Five no. conservation style roof windows are also proposed along the north elevation of the roof, facing the adjoining area of public open space. Also along the north elevation a small kitchen extract fan is shown. However, the applicant's agent has confirmed that the tea room kitchen is domestic in scale; there are no deep fat fryers or commercial fittings. The main food served will be salad, quiche and jacket potatoes; there will be no hot food preparation on site as such. For this reason a commercial size flue and extract fan is not required.

To accommodate the alterations some internal changes to the building would take place partly to ensure that the public spaces are fully accessible and DDA compliant. In this case the internal alterations do not require planning permission as the building is not listed.

## **TYPE OF PUBLICITY:**

Neighbour Notifications

## **CONSULTEES:**

Fulwell - Ward Councillor Consultation  
Network Management  
Redhill - Ward Councillor Consultation  
Environmental Health  
Southwick - Ward Councillor Consultation

Final Date for Receipt of Representations: **26.04.2016**

## **REPRESENTATIONS:**

Neighbours - no responses have been received as a result of the neighbour consultation process.

Network Management - Have raised several comments regarding the how the proposed uses would operate, in particular, the parking and servicing arrangements of any larger vehicles for school visits and other events. This to ensure that no servicing or deliveries take place from the adopted highway. However, it is stated that such matters could be dealt with by way of a condition requiring the submission of an 'Events Management Plan', should planning permission be forthcoming.

## **POLICIES:**

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

NA\_5\_Provision / improvement of visitor facilities at tourist attractions

EC\_8\_Support for tourist and visitor attractions.

B\_2\_Scale, massing layout and setting of new developments

T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising

T\_22\_Parking standards in new developments

## **COMMENTS:**

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

- 1) Principle of the Development
- 2) Amenity Issues
- 3) Heritage Issues
- 5) Highway Issues
- 6) Environmental Issues

### **1) Principle of the Development**

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

Within the adopted Unitary Development Plan (UDP), policy NA5.7 states that the provision and/or improvement of visitor facilities and other works to enhance the attraction of Fulwell Mill will be encouraged. Proposals which adversely affect the attraction will normally be resisted.

This policy is an expansion of policy EC8, which states that the Council will support the expansion of activities catering for tourists and other visitors by:

- o Identifying, consolidating and safeguarding attractions;
- o Refusing proposals which would have an adverse impact on tourist attractions;
- o Actively encouraging opportunities for new tourist initiatives, especially where they are near existing areas of visitor interest;
- o Providing cycle and car parking for visitors and footpaths and interpretive facilities at tourist attractions;
- o The environmental implications of any proposals will be taken into consideration.

Planning permission and listed building consent was recently given by the City Council for the refurbishment of the mill and this goes hand in hand with the current proposal to encourage its use as a heritage led learning centre. As the proposal would see the building brought back into use, it would enhance its status as a visitor attraction in accordance with the aims of policies EC8 and NA5.7. The external alterations to the building are considered to be relatively low key and are in keeping with the overall character and appearance of the visitor centre, which is a relatively modern development. For these reasons, the principle of the proposed change of use and enabling physical alterations to the building is considered to be acceptable with regard to relevant planning policy.

## **2) Amenity Issues**

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

Policy B2 of the adopted UDP relates to new developments and extensions to existing buildings and states that their scale, massing, layout or setting should respect and enhance the best qualities of nearby properties and the locality and retain acceptable levels of privacy.

In respect of residential amenity, the closest dwellings to the site are those to the south side in Eston Grove, some 30 m away from the visitor centre. However, the car park that serves the centre has a common boundary with several of these properties. It is acknowledged that the visitor centre in conjunction with the tea room would generate more general activity (visitors, cars and buses, servicing, etc.) than the previous use of the building as a visitor centre with flat above. The potential increase in noise and disturbance, however, must be measured against the fact that the visitor centre has been in situ since C 2000 and, when operating, it would have generated some levels of activity that, at times, might be higher than would be expected in a residential environment. Further mitigation is provided in the fact that the overall floor area of the building are relatively small, which would restrict the number of visitors using the premises at any one time. The tea room facility also has a limited offer, there being no hot food facilities provided that requires an extraction system that could generate smells. This would further ensure that the proposed use does not cause undue detriment to the amenities of neighbouring occupiers to the south. Finally, whilst no details have been submitted with the application regarding hours of operation, it is recommended, should planning permission be forthcoming, that a condition be imposed to ensure that opening hours are controlled to ensure that the impact of the development on nearby residential occupiers is minimised.

In terms of visual amenity, the external works to the visitor centre would see its external appearance only slightly altered, with the introduction of several new openings, mainly on one side of the roof facing open space. As such they are not considered to impact detrimentally upon visual or residential amenity.

In light of the above it is not considered that the proposal would impact detrimentally upon residential or visual amenity and accords with the aims of NPPF paragraph 17 and UDP policy B2.

### **3) Heritage Issues**

Paragraph 17 of the NPPF sets out 12 core planning principles identified by the Government as being important. Within these principles, it is identified as being important that Local Planning Authorities should always seek to secure high quality design.

As an expansion of this, paragraph 56 of the NPPF identifies that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development is indivisible from good planning and should contribute positively to making places better for people. Furthermore, paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

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

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

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

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

The proposal re-opening of the visitor centre would allow the continued enjoyment of the listed Fulwell Windmill as an important heritage asset and the proposal therefore satisfies the requirements of NPPF paragraphs 131, 132 and, 137.

### **4) Highway Issues**

Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe

Policies T14 and T22 of the UDP stipulate that development should not cause traffic congestion or highways safety problems on existing roads whilst adequate provision shall be made for the parking of vehicles.

As set out above, the Network Management Team has offered a number of observations and areas where clarification is required.

Having discussed the concerns raised with Network Management it has been agreed that the issues pertaining to school visits, servicing and delivery arrangements for events may be subject to conditions requiring appropriate details to be submitted to and approved in writing by the Local Planning Authority prior to the site being brought into use for the proposed purpose. If Members are minded to grant planning permission for the development, it is recommended that conditions in respect of events management should be imposed and subject to this, the proposal is considered to be acceptable with regard to NPPF paragraph 32 and UDP policies T14 and T22.

## **Conclusion**

In light of the above, the development is considered to be acceptable in terms of all relevant material planning considerations.

It is recommended that Members should be minded to grant consent subject to Regulation 4.

Recommendation: Grant Consent, in accordance with Regulation 4 of the Town and Country Planning General Regulations 1992

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

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

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

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

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

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

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

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

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

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

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

**RECOMMENDATION:** Grant Consent in accordance with Regulation 4 of the Town and Country Planning General Regulations 1992

**Conditions:**

- 1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time
- 2 Unless otherwise first agreed in writing with the Local Planning Authority, the development hereby granted permission shall be carried out in full accordance with the following approved plans:
  - Existing layout, drawing no. 1601 received 15 March 2016, Proposed layout drawing and location plan, drawing no. 1601 2 D received 10 May 2016.

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

- 3 The building shall not be brought into use for the purposes hereby approved until a detailed written management plan, in connection with the staging of large scale events has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the premises shall not be operated other than in complete accordance with the approved management plan, unless the Local Planning Authority first agrees to any variation in writing, in the interests of highway safety and to accord with policy T14 of the Unitary Development Plan.

- 4 Notwithstanding any indication of materials which may have been given in the application; the external materials to be used, including walls, roofs, doors and windows shall be of the same colour, type and texture as those used in the existing building, unless the Local Planning Authority first agrees any variation in writing; in the interests of visual amenity and to comply with policy B2 of the Unitary Development Plan.
- 5 The premises shall be used for a visitors centre, special events and educational visits on the first floor and as a tea room (Class A3) on the ground floor and for no other purpose as defined by the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order), in order to achieve a satisfactory form of development and to accord with policy B2 of the UDP.
- 6 Prior to the commencement of the use hereby permitted full details of the opening hours for the premises shall be submitted to and approved by the Local Planning Authority. The approved details shall be implemented as approved at all times unless a variation shall have been agreed in writing by the Local Planning Authority. In order to protect the amenities of the area in accordance with policy B2 of the UDP.

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**Reference No.:** 16/00567/LP3 Local Authority (Reg 3 )

**Proposal:** **Change of use from public highway to facilitate erection of new entrance structure to pier tunnel.**

**Location:** Land Adjacent To Roker Pier Marine Walk Sunderland

**Ward:** St Peters

**Applicant:** Commercial Development Directorate

**Date Valid:** 28 April 2016

**Target Date:** 23 June 2016

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## **PROPOSAL:**

The proposal relates to the change of use from public highway to facilitate the erection of a new entrance structure to the pier tunnel on land adjacent to Roker Pier, Marine Walk, Sunderland.

The application represents the final phase of the pier and lighthouses restoration, with the vast majority of the works already completed following the approval of application ref. 15/00559/LAL at North Sunderland Sub-Committee dated 28.04.2015.

### Site Description

Roker Pier is situated at the southern end of Roker beach lying approximately 05.km north of Sunderland Harbour. Together with the new South Pier, it forms the outer sea defences of the docks and river mouth. The curved pier is 609.6 metres long, 10.4 metres wide at the shore side, increasing to 12.10 metres in width at the seaward end, and terminating in a roundhead measuring 20.10 metres across.

Roker Pier is a Grade II listed structure and lies within the Roker Park Conservation Area. The pier is constructed of red Aberdeen granite, accommodating an integral tunnel along its full length, originally provided to allow the lighthouse keeper access during adverse weather.

### **Proposal**

The current phase of works involves restorative works to the tunnel steps and the construction of a new entrance structure that seeks to improve access and allow the operation of tours by a volunteer group. Covering a floor area that measures approximately 7.0 metres in length and 3.5 metres in width, the four sided structure measures 2.850 metres in height. Access to the structure is provided via an entrance door sited within the west facing elevation.

It is proposed to construct the entrance building with a mix of flamed grey granite and grey tinted glass.

The proposal has also been supported by an accompanying application for listed building consent (ref : 16/00568/LB3) and the following documents:

Design, Access and Heritage Statement

Habitats Regulation Assessment.



## **TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

## **CONSULTEES:**

Network Management  
St Peters - Ward Councillors Consultation  
Tyne And Wear Archaeology Officer  
Natural England

Final Date for Receipt of Representations: **24.05.2016**

## **REPRESENTATIONS:**

Natural England.

Internationally Designated Sites - No objection : Natural England notes that Sunderland City Council as the competent authority under the provisions of the Habitats Regulations, has screened the proposal to check for the likelihood of significant effects and concluded that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination.

Nationally Designated Sites - No objection : The application is in close proximity to the Durham Coast SSSI. Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the site has been notified. We therefore advise that this SSSI does not represent a constraint in determining this application.

Third Party Representations. No representations were received.

## **POLICIES:**

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

B\_2\_Scale, massing layout and setting of new developments  
B\_4\_Development within conservation areas  
B\_6\_Measures to preserve and enhance conservation areas  
B\_10\_Development affecting the setting of listed buildings  
T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising  
CN\_19\_Development affecting designated / proposed SAC's, SPAs and RAMSAR Sites

## **COMMENTS:**

In determining the application the main issues to consider are:

1. The principle of the use.
2. The visual impact of the alterations upon the setting of the listed pier and lighthouse and the character of the conservation area.
3. The impact of the proposal upon highway safety.

4. The impact upon residential amenity.
5. The impact upon protected species.

## **1 Principle of Use**

By virtue of section 38(6) of the Planning and Compulsory Purchase Act, 2004, the starting point for consideration of any planning application is the saved policies of the development plan. A planning application must be determined in accordance with the development plan unless material considerations indicate otherwise.

However, since the publication of the National Planning Policy Framework (NPPF) in March 2012 (which is a material consideration for the purpose of Section 38(6)), the weight that can be given to the development plan depends upon the extent to which the relevant policies in the plan are consistent with the more up to date policies set out in the NPPF. The closer the relevant policies in the NPPF, the greater the weight can be given to the development plan.

In assessing the principle of the use, the proposal has been considered against the relevant policies of the saved adopted Unitary Development Plan (UDP), B2, B4, B6, B10, B13 and EN10 to which the proposal is in accordance. In addition to the UDP policies, the City Council has produced The Seafront Regeneration Strategy which provides a strategic platform to guide the regeneration of Roker and Seaburn seafront and to act as a tool to deliver the objectives set out in the Sunderland Strategy (2008-2025) the overarching strategy for the city which states that "by 2025 Roker and Seaburn will have a key role in providing cultural tourism attractions."

The Marine Walk Masterplan is a Supplementary Planning Document (SPD) forming part of Sunderland City Council's Local Development Framework. As such the document has been taken forward through the statutory planning process in accordance with the Town and Country Planning (Local Development) (England) Regulations 2004 (as amended).

The proposed usage is considered to support the aims and objectives of the aforementioned documents , by opening up the tunnel as a tourist attraction and as such the principle of the development is considered to be acceptable.

## **2. Visual Impact upon the setting of the Listed pier and lighthouse and the character of the conservation area.**

In assessing the visual impact of the proposed alterations the proposal has been considered against Section 12 : Conserving and enhancing the historic environment of the National Planning Policy Framework (NPPF) relevant policies of the UDP B2, B4, B6 and B10 of the UDP and Management Objective 6 and Proposal 6a of the Roker Park Conservation Area Management Strategy.

Further to consultations with the City Council's Heritage Protection Team, it is noted that the restoration of the pier, lighthouse and tunnel has been subject to detailed discussions and monitoring with the Heritage Protection Team and Historic England (HE) for some time, with this application representing the final stage in the structures restoration.

The tunnel entrance was subject to a design competition, with the deciding panel comprising HE Officers, SCC Officers, Members, businesses, HLF Officers and local community. The brief for the entrance structure focused on delivering a piece of architecture that befitted the quality of the Roker Park Conservation Area and the Grade II listed pier and lighthouse complex.

It is considered that the applicant has satisfied the requirements of the NPPF in identifying the relevant heritage assets and assessing the impact of the proposal on them. The Design and Access Statement and Heritage Statement gives a brief history of the pier complex, identifies relevant policies and justifies the proposal.

The proposed scheme offers a modern solution to the access issues of the tunnel, with clean lines, large amounts of glass and matching grey granite ensuring the building settles into its surroundings. Focusing on maintaining panoramic views, glazing has been used on all elevations, ensuring the lighthouse and the two beaches that bound the pier to the north and south are nearly always visible from both inside and outside the structure.

It is considered that the use of the matching materials will result in a building which is robust, functional and yet subtle. Improving the stairs in the tunnel will allow greater access for the public and by removing the hatch will allow others who cannot or do not wish to go through the tunnel a glimpse of what lies beneath.

The Heritage Protection Team is satisfied that the proposal represents a sympathetic addition to the pier, a high quality addition to the conservation area and will improve access to one of the city's most recognisable structures. The proposal accords with the NPPF, UDP and CAMS policies and will help secure the long term future of the complex.

### **3 The impact upon highway safety.**

Policy T14 of the UDP requires in part that proposals for new development should be readily accessible by pedestrians and cyclists and not cause traffic congestion or highway safety problems.

The proposal does involve the enclosure of an area of public highway in order to open up the steps to the tunnel and as such the development will require a stopping up under Section 247 of the Town and Country Planning Act 1990.

Further to consultation with the Network Management Section no objections to the proposal have been received.

### **4 Impact upon residential amenity.**

Paragraph 17 Core Planning principles states in part that a set of core land-use planning principles should underpin both plan making and decision-taking and highlights 12 key points. One of these points states that planning should:

"always seek to secure a high quality design and good standard of amenity for all existing and future occupants of land and buildings."

Policy B2 of the UDP reaffirms this position in seeking to ensure levels of privacy are maintained and developments are respectful and enhance the best qualities of nearby properties.

In assessing the impact of the proposed development upon levels of residential amenity, it is worthy of note that Marine Walk currently provides 5 No. residential units at first floor level above the operational commercial units, with an added residential property at No.2 Roker Pier Cottage.

The current proposal is only to operate on a voluntary basis and the building itself is not to be illuminated either inside or out. With these factors in mind it is not considered that the proposed

development will have a significant impact upon existing levels of residential amenity and is in accordance with both local and national policies.

## **5 The impact upon protected species.**

Under Section 40(1) of the Natural Environment and Rural Communities Act 2006, every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity. This duty covers the protection, enhancement and restoration of habitats and species. In addition to the above The Conservation of Habitats and Species Regulations 2010 (as amended) is also of particular relevance in the assessment of this proposal.

The NPPF provides that Local Planning Authorities should aim to conserve and enhance biodiversity. Paragraph 118 of the NPPF provides as follows:-

- If significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused;
- Proposed development on land within or outside a SSSI which is likely to have an adverse effect on a SSSI should not normally be permitted. Where an adverse effect is likely, an exception should only be made where the benefits of the development clearly outweigh the impacts on the features of the SSSI;
- Opportunities to incorporate biodiversity in and around development should be encouraged;
- The following wildlife sites should be given the same protection as European Sites:
  - potential Special Protection Areas and possible Special Areas of Conservation;
  - listed or proposed Ramsar sites and
  - sites identified, or required, as compensatory measures for adverse effects on European sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

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

A Habitat Regulation Assessment (HRA) is the mechanism to be implemented to ensure the above legislation is complied with and determines whether a plan or project would adversely affect the integrity of any European site in terms of its conservation objectives.

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

Regulations require that HRA's must consider in-combination effects cumulatively, with all relevant plans and projects. If it can be concluded that no likely significant effects will arise from the plan or project, including in combination then no further stages of the HRA are required (on the basis that the proposal is screened out and appropriate mitigation if required is provided).

There are two designated statutory sites within the vicinity of the proposal, these being the Northumbria Coast Special Protection Area which is located approximately 0.75 km to the north of the development site and the Durham Coast Special Area of Conservation located to the south.

Policy CN19 of the UDP is of particular relevance and states that :

"Special Areas of Conservation, Special Protection Areas and Ramsar sites, either designated or proposed for designation, will be conserved. Development will not be permitted unless;

(i) it is directly connected with or necessary to the management of the nature conservation interest of the site;

(ii) it would not adversely affect the nature conservation interest of the site either directly or indirectly; or

(iii) the developer can demonstrate that there are imperative reasons of overriding public interest for the development and no alternative site is available.

Where such development does proceed, it may be subject to planning conditions and obligations to secure mitigation or compensatory measures, including those necessary to ensure that the overall coherence of Natura 2000 is protected."

The above policy is fully compliant with the NPPF.

In light of the above policies, the development proposals proximity to the Natura 2000 sites at the coast, the application has been supported by a Habitats Regulations Assessment - Commercial and Residential Development at Marine Walk, Roker, Sunderland.

Following consultations with City Council's Heritage Protection Team it is considered that the development proposal alone and in combination is unlikely to have a significant effect on the interest features of the coastal European Sites, nor incidentally the Durham Coast Site of Special Scientific Interest, and as such the proposal can proceed as described without the need for an Appropriate Assessment through the Habitats Regulations Assessment process.

The proposal is considered to comply with relevant international, national and local policies and is considered to be acceptable.

## **Conclusion.**

It is considered that the proposed development will contribute to the achievement of sustainable development from an economic, social and environmental perspective as identified within the key themes of the NPPF, via the introduction of an entrance structure necessary to facilitate the opening up to the public of the pier tunnel. Whilst it is recognised that the development will impinge upon the public highway, the footprint of the proposed building is such that access along the pier is not inhibited. Furthermore as a result of a design competition with architectural practices the submitted proposal is considered to provide a contemporary form of development that reflects the design qualities of the pier, whilst maintaining important views of the coastline and lighthouse.

The proposal is considered to comply with relevant NPPF and UDP policies and is in accordance with the Marine Walk Masterplan.

In light of the continued regeneration of the Marine Walk promenade area, it is recommended that Members be minded to Grant Consent Under Regulation 3, of the General Regulations Order 1992 , due to the period for consultation not expiring till 24<sup>th</sup> May 2016 and subject to the conditions listed.

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

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

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

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

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

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

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

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

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

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

**RECOMMENDATION:** Members be minded to Grant Consent Under Regulation 3, of the General Regulations Order 1992 , due to the period for consultation not expiring till 24<sup>th</sup> May 2016 and subject to the conditions listed.

**Conditions:**

- 1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time
- 2 Unless otherwise first agreed in writing with the Local Planning Authority, the development hereby granted permission shall be carried out in full accordance with the following approved plans:
  - Drawing No. T1 General Arrangement received 05.04.2016.

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

- 3 The external materials to be used, including walls, roofs, doors and windows shall be as indicated within Section 14 : Materials of the application form submitted 05.04.2016, unless the Local Planning Authority first agrees any variation in writing; in the interests of visual amenity and to comply with policy B2 of the Unitary Development Plan.

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**Reference No.:** 16/00568/LB3 Listed Building Consent (Reg3)

**Proposal:** **Change of use from public highway to facilitate erection of new entrance structure to pier tunnel.**

**Location:** Land Adjacent To Roker Pier Marine Walk Sunderland

**Ward:** St Peters

**Applicant:** Commercial Development Directorate

**Date Valid:** 19 April 2016

**Target Date:** 14 June 2016

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## PROPOSAL:

Listed building consent is sought for modifications to the pier tunnel entrance to facilitate the erection of a new entrance structure on land adjacent to Roker Pier, Marine Walk, Sunderland.

The application represents the final phase of the pier and lighthouse restoration with the vast majority of the works already completed following the approval of application ref. 15/00559/LAL at North Sunderland Sub-Committee dated 28.04.2015.

## Site Description

Roker Pier is situated at the southern end of Roker beach lying approximately 05.km north of Sunderland Harbour. Together with the new South Pier, it forms the outer sea defences of the docks and river mouth. The curved pier is 609.6 metres long, 10.4 metres wide at the shore side, increasing to 12.10 metres in width at the seaward end, and terminating in a roundhead measuring 20.10 metres across.

Roker Pier is a Grade II listed structure and lies within the Roker Park Conservation Area. The pier is constructed of red Aberdeen granite, accommodating an integral tunnel along its full length, originally provided to allow the lighthouse keeper access during adverse weather.

One of the hidden treasures of the pier complex is the tunnel that runs from the promenade to the basement of the lighthouse. It measures approximately 1.40 metres across and stands 1.8 metres high and runs the entire length of the pier. Currently accessed via a hatch at the shore end - located just to the west of the Roker gates, the hatch was formerly protected by a hut.

## Proposal

The current phase of works involves restorative works to the tunnel steps and the construction of a new entrance structure that seeks to improve access and allow the operation of tours by volunteer group. Covering a floor area that measures approximately 7.0 metres in length and 3.5 metres in width, the four sided structure measures 2.850 metres in height. Access to the structure is provided via an entrance door sited within the west facing elevation.

It is proposed to construct the entrance building with a mix of flamed grey granite and grey tinted glass.



The proposal has also been supported by an accompanying application for planning permission (ref : 16/00567/LP3) and the following documents:  
Roker Lighthouse and Pier Tunnel Repair and Refurbishment - Outline Schedule of Work.  
Design and Access and Heritage Statement.

**TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

**CONSULTEES:**

Network Management  
St Peters - Ward Councillors Consultation  
Tyne And Wear Archaeology Officer  
Natural England

Final Date for Receipt of Representations: **24.05.2016**

**REPRESENTATIONS:**

No representations have been received.

**POLICIES:**

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

B\_10\_Development affecting the setting of listed buildings

**COMMENTS:**

The main issues to consider in the determination of the proposal are the impact of the development upon the integrity and appearance of the listed pier.

At the heart of the National Planning Policy Framework (NPPF) is the presumption in favour of sustainable development. Protecting and enhancing the historic environment is an important component of the NPPF's drive to achieve sustainable development. The appropriate conservation of heritage assets forms one of the 'core planning principles' that underpin the planning system. Section 12 of the NPPF, incorporating paragraphs 126-141, principally expands upon this and seeks to conserve and enhance the historic environment. The paragraphs from section 12 relevant to this application are as follows:-

Paragraph 128: In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require

developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

Paragraph 129: Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise.

Paragraph 131: In determining planning applications, local planning authorities should take account of:

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

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

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

Paragraph 141: Local planning authorities should make information about the significance of the historic environment gathered as part of development management publicly accessible. They should also require developers to record and advance understanding of the significance of any heritage assets to be lost in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible.

In addition to the above Local adopted planning policy and guidance

The council's saved Unitary Development Plan (UDP) adopted in 1998 is the statutory development plan for Sunderland. Highlighted below are the relevant planning policies for this application.

#### B10: Development and listed buildings

The city council will seek to ensure that development proposals in the vicinity of listed buildings do not adversely affect their character or setting.

Further to consultations with the City Council's Heritage Protection Team, it is noted that the restoration of the pier, lighthouse and tunnel has been subject to detailed discussions and monitoring with the Heritage Protection Team and Historic England (HE) for some time, with this application representing the final stage in the structures restoration.

The tunnel entrance was subject to a design competition, with the deciding panel comprising HE Officers, SCC Officers, Members, businesses, HLF Officers and local community. The brief for

the entrance structure focused on delivering a piece of architecture that befitted the quality of the Roker Park Conservation Area and the Grade II listed pier and lighthouse complex.

It is considered that the applicant has satisfied the requirements of the NPPF in identifying the relevant heritage assets and assessing the impact of the proposal on them. The Design and Access Statement and Heritage Statement gives a brief history of the pier complex, identifies relevant policies and justifies the proposal.

The proposed scheme offers a modern solution to the access issues of the tunnel, with clean lines, large amounts of glass and matching grey granite ensuring the building settles into its surroundings. Focusing on maintaining panoramic views, glazing has been used on all elevations, ensuring the lighthouse and the two beaches that bound the pier to the north and south are nearly always visible from both inside and outside the structure.

It is considered that the use of the matching materials will result in a building which is robust, functional and yet subtle. Improving the stairs in the tunnel will allow greater access for the public and by removing the hatch will allow others who cannot or do not wish to go through the tunnel a glimpse of what lies beneath.

The Heritage Protection Team is satisfied that the proposal represents a sympathetic addition to the pier, a high quality addition to the conservation area and will improve access to one of the city's most recognisable structures. The proposal accords with the NPPF, UDP and CAMS policies and will help secure the long term future of the complex.

In light of the continued regeneration of the Marine Walk promenade area, it is recommended that Members be minded to Grant Consent Under Regulation 3, of the General Regulations Order 1992 , due to the period for consultation not expiring till 24<sup>th</sup> May 2016 and subject to the conditions listed.

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

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

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

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

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

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

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

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

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

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

**RECOMMENDATION:** Members be minded to Grant Consent Under Regulation 3, of the General Regulations Order 1992 , due to the period for consultation not expiring till 24<sup>th</sup> May 2016 and subject to the conditions listed.

#### **Conditions:**

- 1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time.
- 2 Unless otherwise first agreed in writing with the Local Planning Authority, the development hereby granted permission shall be carried out in full accordance with the following approved plans:
  - Drawing No. T1 General Arrangement received 05.04.2016.

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

- 3 The development hereby approved shall be carried out in complete accordance with the Roker Lighthouse and Pier Tunnel Repairs and Refurbishment Schedule of Works dated

24.11.2014 unless agreed otherwise in writing by the Local Planning Authority, in the interest of visual amenity and to protect the integrity of the listed building in accordance with policies B8 and B10 of the UDP and Section 12 of the National Planning Policy Framework.

- 4 Notwithstanding the details provided within the submitted Design, Access and Heritage Statement dated March 2016, a comprehensive photographic record of the work shall be undertaken and all materials recorded shall be deposited with the Tyne and Wear Historic Environment Record. The site is located within an area identified the Unitary Development Plan 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 National Planning Policy Framework.

Reference No.: 16/00626/LAP Development by City(Regulation 3)

**Proposal:** Installation of 1.4m high double steel gates to create new temporary events access within the boundary fence on Sidecliff Road. (amended description)

**Location:** Roker Park Entrance Sidecliff Road Sunderland SR6 9NE

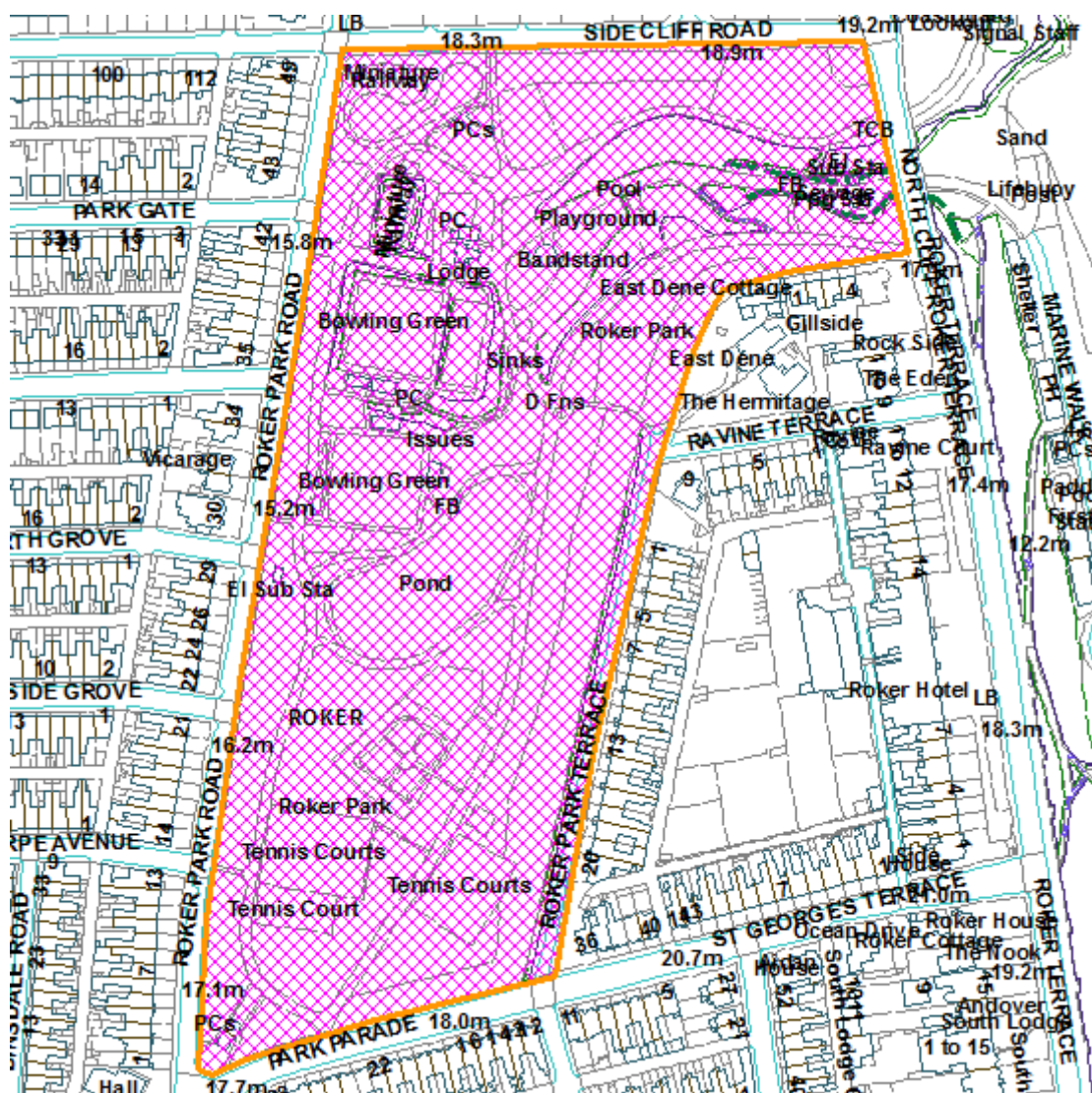
**Ward:** St Peters

**Applicant:** Commercial Development Directorate

**Date Valid:** 11 April 2016

**Target Date:** 6 June 2016

## Location Plan



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## **PROPOSAL:**

The application relates to the installation of 1.4m high double steel gates to create new temporary events access within the boundary fence on Sidecliff Road at Roker Park, Sunderland, SR6 9NE.

Roker Park is a registered Historic Park and Garden and is located towards the centre of the Conservation Area bound to the north, south and west by residential properties whilst to the east is Roker Terrace.

The proposal comprises the modification of a section of the northern boundary opposite the dwellings located on David Gardens. The modification involves the installation of 1.4 metre high double steel vertical bar gates which provide a combined opening of 2.9 metres. The gates are to be powder coated black and designed to match the existing fence line.

The submitted Design and Access Statement confirms that the gates are to be installed and utilised during periods of heavy pedestrian traffic, namely the Sunderland Air Show and Illuminations whilst locked at all other times.

## **TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

## **CONSULTEES:**

Network Management  
St Peters - Ward Councillors Consultation  
Environmental Health

Final Date for Receipt of Representations: **17.05.2016**

## **REPRESENTATIONS:**

Neighbours

No representations or observations have been received following the expiry of the public consultation period which included neighbouring occupier letters, site and press notices.

Consultees

Executive Director of City Services (Transportation)

Following consultation with the Transportation Section, no objections or recommendations were received in relation to the proposal, noting access is required for pedestrian use only, during events where there is heavy pedestrian traffic.

Public Protection and Regulatory Services

It was identified that the site has previously accommodated industrial activity which may have resulted in contamination of the land. However, given the nature of the works relating to the modification of the fence line, it is unlikely that this matter will affect the development.

Additionally, given the close proximity of the site to residential premises it was recommended noisy on-site operations should be limited to the hours of 7:00 and 19:00 Monday to Friday and 7:30 and 14:00 on Saturdays with no works on Sundays or Bank Holidays.

It was also stated provision should be made for the reasonable prevention of dust generation.

In accordance with the above, a condition and informative can be placed on the decision notice to suitably address the above matters should Members be minded to approve the application.

### Built Heritage

No comments or recommendations were received from the Conservation Team following the expiry of the consultation period.

### **POLICIES:**

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

B\_2\_Scale, massing layout and setting of new developments

B\_4\_Development within conservation areas

B\_6\_Measures to preserve and enhance conservation areas

NA\_5\_Provision / improvement of visitor facilities at tourist attractions

T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising

### **COMMENTS:**

The main issues to consider in the assessment of this application are:

- Principle of development
- Design and impact to visual amenity
- Highway implications

### **Principle of development**

Policy B4 of the Unitary Development Plan (UDP) states that 'all development within and adjacent to conservation areas will be required to preserve or enhance their character or appearance.' In this respect, policy B6 of the UDP adopts measures to encourage the retention of existing buildings and the improvement of features, open spaces, historic street patterns and plot boundaries.

Tourism considerations are also applicable to the application with policy NA5 of the UDP stating the provision and or improvement of visitor facilities and other work to enhance the attraction of the Roker and Seaburn seafront zone will be encouraged.

In light of the above and considering the proposal is of a particularly minor nature, to be infrequently used and seeking improvements to ease pedestrian traffic during two key events, the proposal is deemed to comply with the above policies and is therefore considered acceptable in principle.



## **Design and impact to visual amenity**

In addition to Policy B4 outlined above, Policy B2 of the UDP relates to new development, redevelopment and alterations to existing buildings and states in part that the scale, massing, layout or setting of new developments and extensions to existing buildings should respect and enhance the best qualities of nearby properties and the locality and retain acceptable levels of privacy.

With this in mind it is considered that the size and form of the proposed gates will not detract from the appearance of Roker Park or the wider Conservation Area, with the materials selected to match the existing fence line.

As such, it is considered that the design and appearance of the development is satisfactory without compromising visual amenity, in accordance with the requirements of Policy B2, B4 and B6 of the adopted UDP.

### **Highway Implications**

UDP Policy T14 aims to ensure that new developments do not cause traffic problems, should make appropriate provision for safe access by vehicles and pedestrians and indicate how parking requirements will be met.

The proposal has been submitted in order to improve pedestrian access to the park during events whilst Network Management has offered no objections to the proposal. As such, the proposal raises no concerns in terms of highway and pedestrian safety in accordance with policy T14 of the UDP.

## **CONCLUSION**

In conclusion, the proposed installation is considered to be particularly minor works and will not detrimentally affect Roker Park or the wider Conservation Area whilst improving pedestrian access during events. The development therefore complies with policies B2, B4, B6 and T14 of the adopted UDP.

In light of the above, Members are therefore recommended to Grant Consent Under Regulation 3 the General Regulations Order 1992 subject to the conditions listed

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

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

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

- o age;
- o disability;
- o gender reassignment;
- o pregnancy and maternity;

- o race;
- o religion or belief;
- o sex;
- o sexual orientation.

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

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

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

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

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

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

**RECOMMENDATION:** In light of the above, Members are therefore recommended to Grant Consent Under Regulation 3 the General Regulations Order 1992 subject to the conditions listed

### **Conditions:**

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

- Drawing No. 1: Existing elevations and floor plans, received 07.04.2016
- Drawing No. 2: Proposed elevations and floor plans, received 07.04.2016
- Drawing No. 3: The Location plan, received 07.04.2016
- Drawing No. 4: Position of new gates, received 07.04.2016

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

- 3 The construction works required for the development hereby approved shall only be carried out between the hours of 07.00 and 19.00 Monday to Friday and between the hours of 07.30 and 14.00 on Saturdays and at no time on Sundays or Bank Holidays in order to protect the amenities of the area and to comply with policy B2 and EN5 of the UDP.

## ITEMS FOR INFORMATION

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

Application Ref and Ward	Applicant and Address	Proposal	Date Valid	Determination Date
16/00522/LP3	<b>Commercial Development Directorate</b>	Change of use from car park to public convenience and the erection of a single storey public convenience block with associated landscaping (revised description 14.4.2016).	06/04/2016	01/06/2016
<b>St Peters</b>	Car Park Pier View/Marine Walk Sunderland			
15/02544/FUL	<b>Lidl UK GmbH</b>	Erection of new food store including access, car park and associated works	07/01/2016	07/04/2016
<b>Castle</b>	Land To South Of North Hylton Road And North Of Riverbank Road			

Application Ref and Ward	Applicant and Address	Proposal	Date Valid	Determination Date
15/02379/FUL	Mr R Wooler	Demolition of existing building and erection of five storey student accommodation, to provide 75 student bedrooms.	21/01/2016	21/04/2016
St Peters	Former Speedings Sailworks15 Whickham StreetMonkwearmouth SunderlandSR6 0ED			