

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 City Development Directorate at the Customer Service Centre or via the internet at www.sunderland.gov.uk/online-applications/

Peter McIntyre

Executive Director City Development

Reference No.: 18/01844/FUL Full Application**Proposal:** **Demolition of existing buildings and construction of a mixed use building for internal and external display, sale and storage of building supplies (including kitchens and bathrooms) to visiting members of the public and the trade, with associated car parking and servicing arrangements (Use Class: Sui Generis)****Location:** Former Dewhirst Factory, Pennywell Industrial Estate, Sunderland, SR4 9EP**Ward:** St Annes**Applicant:** North East Property Partnership Ltd**Date Valid:** 17 October 2018**Target Date:** 16 January 2019

PROPOSAL:

The application seeks full planning permission for the demolition of existing buildings and construction of a mixed use building for internal and external display, sale and storage of building supplies (including kitchens and bathrooms) to visiting members of the public and the trade, with associated car parking and servicing arrangements (Use Class: Sui Generis) at the former Dewhirst Factory, Pennywell Industrial Estate, Sunderland.

The site lies on an industrial estate, bounded by the A19 to the west, a woodland plantation to the north, residential to the east and the A183 / Chester Road to the south. The site itself comprises a broadly rectangular piece of land covering approximately 0.62 hectares which, at present, contains the frame of a former building and hardstanding. The land uses immediately surrounding the site include small industrial units to the north, a recently approved mixed use commercial development to the south (including a supermarket, public house and restaurant with drive thru) and Calsonic Kansei and Tecaz to the west.

The proposed development comprises a new build with a broadly rectangular plan form which would provide a total floorspace of circa 2,452 square metres spread across a ground floor and a mezzanine. The construction materials are shown as being grey blue / albatross colour metal cladding for the walls and a flat roof with a parapet.

The submitted site plan shows that to the rear of the building there would be an "outdoor project centre" (464 m²), a "service yard" (773 m²) and a "storage compound" (311 m²). The area to the front of the includes an "external sales area" (43 m²), 64 parking space and cycle / trolley shelters. The proposed boundary treatments are 350mm galvanised steel barriers to the front and 4 metre high mesh security fence to the rear.

The submitted application form indicates the proposed development would generate the equivalent of 24 full-time jobs. The Noise Impact Assessment states that the operating times would be 6am-9pm Monday-Friday and Saturday 9am-5pm.

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

The application does not require referral to the Secretary of State; under the provisions of the Town and Country Planning (Consultation) (England) Direction 2009.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Flood And Coastal Group Engineer
Northumbrian Water
Tyne And Wear Archaeology Officer
Natural England
Environmental Health
Network Management
St Annes - Ward Councillor Consultation
Environment Agency
The Highways England
Southern Area Command - Police
Nexus
Fire Prevention Officer
NE Ambulance Service NHS Trust

Final Date for Receipt of Representations: **13.12.2018**

REPRESENTATIONS:

Ward Cllrs - no comments received.

Environmental Health - "development is acceptable".

Highway Authority - sufficient parking, swept paths are acceptable.

Lead Local Flood Authority - "suggest the application is approved".

Tyne & Wear Archaeologist - "no comments".

Ambulance - no comments received.

Fire & Rescue - no objections.

Nexus - "no comments to make on this application"

Northumbrian Water - "no issues".

Police - no comments received.

Environment Agency - "no objections".

Highways England - "no objection".

Natural England - "no comments to make on this application".

There have been two representations received raising objections on the grounds of the industrial estate becoming a retail estate, effect on residents and traffic (including pollution).

POLICIES:

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

Publication Draft Core Strategy and Development Plan (2015-2033): EG2.

Officers consider the above policy in the Core Strategy can be given substantial weight when determining the current application; given that the employment land allocations have been based upon an up to date understanding of the current situation.

EC4 - Retention and improvement of existing business and industrial land

S1 - Provision of enhanced shopping service, including local provision, based on existing centres.

S2 - Encouraging proposals which will enhance / regenerate defined existing centres.

EN5 - Protecting sensitive areas from new noise/vibration generating developments

EN14 - Development on unstable or contaminated land or land at risk from landfill/mine gas

B2 - Scale, massing layout and setting of new developments

CN22 - Developments affecting protected wildlife species and habitats

T14 - Accessibility of new developments, need to avoid congestion and safety problems arising

T22 - Parking standards in new developments

SA1 - Retention and improvement of existing employment site

COMMENTS:

Principle

The site lies on land allocated, via policies EC4 and SA1.5 of the UDP, as an "Area to be retained and improved". The policy states that

"Established industrial / business areas and available sites within them will be retained and improved for the primary uses indicated below:

(5) Pennywell:

Light industry, offices, research and development, general industry, storage and distribution (B1, B2, B8).

The submitted Core Strategy and Development Plan (2015-2033), via policy EG2, allocated the site as a "Key Employment Area". The policy states that

"The following are allocated as Key Employment Areas and will be safeguarded for B1 (Business - excluding B1a), B2 (General Industrial) and B8 (Storage and Distribution)

iii. Pennywell (KEA3)."

The proposal would therefore be contrary to both existing and emerging development plan policy.

In terms of material considerations, the agent has drawn to attention a series of material considerations; which are summarised below

(1) The site could not be viably developed for industrial purposes as the development costs would exceed the development value.

(2) Their client, Wickes, currently operate a store at Thomson Retail Park, off Wessington Way. The agent has stated that the current store "is constrained in terms of both servicing and customer vehicle access. In addition the store is too large, and in the wrong location, the physical fabric of the building is such that refurbishment is not a viable option. The company is clear that, if planning permission is not secured here, then Wickes will start their search again, but in a wider geographical area. The potential loss of Wickes from the local area - along with the jobs supported by their existing store (19 full and part time) - is another significant consideration".

(3) The agent has stated that the operations of Wickes "focus on the 'trade', sales to which typically make up more than 50% of a branch's turnover" and that their client "is not a pure retail use and cannot be compared to any other proposals for comparison and / or convenience retail floorspace". The concept of Wickes being a sui generis A1 / B8 has been accepted twice at appeal. The "B" element of the site would accord with the UDP and emerging Core Strategy.

(4) Detailed points concerning planning policy; including querying whether the site has been classed as "available" within the Council's Compliance Statement, the allowance within the Employment Land Review for employment land to be developed for other uses, the proposed development would only represent a loss of 2% of supply,

The agent has also agreed to a description of the development which defines the proposal as "sui generis"; which means that any other subsequent use of the site, for example a retail use, would require planning permission for a change of use.

Officers would advise that significant weight can be given to points (2) and (3). There would be concern at giving material weight to (1) and (4) given the potential to undermine the emerging Core Strategy.

Officers would also advise that, as a further material consideration, there have been recent grants of planning permission to the south of the site for commercial uses comprising a drive through restaurant (refs: 13/02596/FUL, 16/01388/VAR, 18/02075/ADV and 19/00028/VAR), a public house (refs: 16/01562/FUL and 18/01180/VAR), and a supermarket (ref: 17/00417/FUL). The area therefore has a mixed character, rather than being purely industrial.

Officers consider that the above material considerations, i.e. points (2), (3) and the paragraph immediately above, outweigh the conflict with the existing and emerging development plan to the extent that the principle of the development, in terms of employment land, can be supported.

The proposed development includes an element of retailing to the public; which means that planning policies for town centres are relevant.

The two policies within the UDP of most relevant, S1 and S2, can only be given limited weight in the determination of the application as they are not consistent with the development management impact tests for application for out-of-centre retail development, as contained within paragraphs 86-90 of the Framework.

The Framework, at paragraph 86-87, states that "Main town centres uses should be located in town centres, then in edge of centre locations, and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered" and "preference should be given to accessible sites that are well-connected to the town centre".

The Planning Policy Guidance, at ID 2b-011, states that "use of the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations".

The agent has identified their client's requirements as being a site with a size of around 0.6 hectares. The Council has commissioned a retail planning consultant who has advised the suggested size of the site to be "reasonable".

The agent, via the submitted planning statement, has assessed alternative sites within and on the edge of the City, Town, District and Local Centres. The retail planning consultant has advised that the main opportunity to be a site formerly occupied by Crowtree Leisure Centre. The consultant has, however, advised that they do not consider the site to be suitable or available given that the type of development proposed in the current application would not be the best use of the site and the extant consent on the site has been designed to meet the requirements of Next (ref: 16/00892/FU4).

The planning statement identifies other sites within the Retail Core Boundary; including the former Joplings Department Store. The retail consultant has, however, noted that an extant planning permission, currently under construction, exists for a change of use to retail and student accommodation and that the type of development proposed would not be a suitable use of the site.

The retail planning consultant has further advised that the other opportunities within the defined Retail Core Boundary are vacant premises within the Bridges Shopping Centre and in secondary streets, all of which are too small to meet the needs to the type of development proposed.

The retail planning consultant has also advised that, in terms of edge-of-centre opportunities, the only sites of sufficient size are the Vaux Brewery Site and the vacant land between the buildings at Nile Street and Villers Street. The retail planning consultant has, however, advised that the extant consent for the Vaux site envisages a Major mixed-use development; which means the site would not be suitable for the type of development proposed. In terms of the site between Nile Street and Villers Street, the retail consultant has advised that they accept the site does not benefit from a frontage to a main vehicular route and has been occupied for other uses.

In terms of sites at Washington Town Centre, the retail planning consultant has advised that the car park sites at the Galleries could take some years to materialise; given the need to construct parking in a multi-level format. The retail planning consultant has advised that other opportunity sites on the edge of Washington Town Centre would not be suitable for the type of development proposed. The retail planning consultant has also accepted the point raised by the agent that Washington Town Centre would be somewhat peripheral to the core catchment sought by the proposed development, i.e. focussed on the urban area of Sunderland.

The retail planning consultant has further advised that, in terms of District and Local Centres, they accept that all of the sites and vacant premises are not suitable for the type of development proposed.

The retail planning consultant has advised that they consider the application passes the sequential test and that there are no other sites or premises location within and on the edge of existing centre that would be both suitable and available for the broad type of development which is proposed in the application by approximate size, type and range of goods.

The Framework, at paragraph 89, also provides two impact tests for retail and leisure developments which are located outside town centres which are not in accordance with an up-to-date Local Plan. The gross external area of the proposed development would be at, or marginally above, the 2,500 square metre threshold noted within paragraph 89 of the Framework. The two tests are therefore (a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal and (b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider retail catchment.

The retail planning consultant has advised that the approach taken by the agent, in terms of the impact methodology, would be reasonable and proportionate.

In terms of (a), the retail planning consultant has advised that they agree with the agent in that the "developments which are coming forward, or being planned for, within existing centre in Sunderland are very different to the use proposed in the current application on the former Dewhirst site". The retail planning consultant has advised that they consider "there is highly unlikely to be any 'significant adverse' impact on existing, committed and planned investment in any of the defined centres within the store's catchment area".

In terms of (b), the retail planning consultant has advised that whilst the highest impacts identified by the agent are locations which contain a range of bulky and non-bulky goods national multiple retailers in larger format accommodations, these retail parts are generally in out-of-centre location and do not enjoy policy protection. The retail planning consultant has advised that "there is no realistic prospect of any 'significant adverse' impacts on vitality and viability on the City Centre, or on any nearby Town, District or Local Centre".

The retail consultant has concluded that "there is no reason to refuse the application"; subject to a condition confining the range of goods to be sold.

In terms of other material considerations beyond the Framework, there has been an objection on the ground that the industrial estate would essentially be converted into a retail estate. Officers would, however, draw to attention that there are other material considerations, as noted above, that outweigh the conflict with the existing and emerging development plan.

The principle of the proposed development can therefore be supported and consideration needs to be given to any detailed impacts. These can be seen below.

Amenity

The proposed development, due to being sited towards the middle of the site, would not lead to a loss of privacy or day light for the occupiers of adjoining land and buildings.

The submitted noise impact assessment identifies that the "assessment of delivery noise for proposed operations has concluded that this will be of 'low impact' at residential dwellings on

Prestbury Road with no mitigation measure". The assessment further identifies that the "assessment of car park noise has concluded the impact will be 'not significant' for proposed weekday and weekend operations for residential dwellings on Prestbury Road". The assessment also makes recommendations for best practice covering HGVs and fork lift trucks.

The Environmental Health Officer has advised that "the development is acceptable"; subject to a condition covering operational hours.

In the absence of any material considerations to the contrary, the proposal accords with policy EN5 of the UDP.

Design

The submitted design and access statement states that the

"The external appearance of the proposed building is to be simple, elegant and it will use a modern palette of materials which has been informed by the industrial nature of the surrounding buildings on the Industrial Estate".

The Council's Urban Design Officer has advised that

"The development proposes an industrial unit located within the Pennywell Industrial Estate. The site is not located directly onto Chester Road Strategic Route or on a gateway location and will only be partially visible from Chester Road due to the development to the south.

Given the site's location and the nature of the development urban design does not have any comments."

In the absence of any material considerations to the contrary, the proposal accords with policy B2 of the UDP.

Drainage

The submitted Flood Risk and Drainage Assessment identifies that the site lies within a flood zone 1 (i.e. land with a low probability of flooding) and that there would be a low risk of flooding from rivers, sea, groundwater, sewers and reservoirs, canals and other artificial sources. The Assessment continues by identifying that "ground conditions are not suitable for the use of infiltration techniques in the form of soakaways or permeable paving" and that "there is no watercourse available for direct discharge local to the site".

The Assessment identifies that the detailed design could include "subterranean storage and restricted discharge", interceptors and permeable paving. The Assessment states that "the peak run-off rate for surface water from the proposed development provides a betterment to that of existing and is approaching greenfield run off".

The Lead Local Flood Authority has stated that they "suggest the application is approved".

Northumbrian Water have stated they "have no issues provided the application is approved and carried out within strict accordance with the submitted document entitled 'Drainage Strategy'".

In the absence of any material considerations to the contrary, the proposal accords with policy EN12 of the UDP.

Ecology

The submitted Ecological Appraisal states that the "grassland habitat on site is considered to be of low habitat value due to its small area and isolation within an industrial estate". The Appraisal continues by stating that the "site is considered to provide low suitability foraging habitat for common bird species, limited to small sections of grassland" and that "due to the lack of suitable habitats and/or connectivity to areas with suitable habitats, badger, reptiles, water vole, red squirrel, white-clawed crayfish, otter, great crested newt, brown hare, hedgehog and common toad are considered absent from the site.

The Appraisal states that potential impacts include loss of a very small area of foraging habitat for bats if the grassland is lost, disturbance to bats commuting and foraging within the local area if lighting on site is increased post construction, loss of a small area of habitat for ground foraging birds if the grassland and disturbance to foraging birds through increased lighting/noise on site.

The Appraisal recommends mitigation including grassland around the boundaries being retained where design allows, increased levels of external lighting that may reduce bat foraging within or adjacent to the site will be avoided and on-site tree/shrub planting to include a range of berry and fruit bearing species providing foraging opportunities to a range of bird species.

The Appraisal concludes by stating "with the recommended mitigation and / or compensation, proposals can proceed with no significant adverse effect on notable species and / or habitats".

The Council's Ecologist has advised that they "have no objections to the proposal".

Natural England have advised they have "no comments to make on this application".

In the absence of any material considerations to the contrary, the proposal accords with policy CN22 of the UDP.

Groundworks

The submitted Preliminary Contamination Risk Assessment identifies that the site "comprised open rural space until the early 1970's when an industrial factory had been developed. By 2000, a commercial factory shop had been constructed in the west. The buildings were subsequently demolished by 2018". The Assessment continues by identifying sources of potential hazard / pollutant include heavy metals, fuels oils and asbestos and landfill gas. The Assessment advises that "potentially unacceptable risks have been identified from the made ground associated with the former industrial development and its subsequent demolition".

The Assessment recommends that "intrusive ground investigations are proposed to address the significant risks identified in this report"; including investigating ground conditions, chemical and geotechnical testing and gas monitoring.

The Council's Environmental Health Officer has advised that the "development is acceptable"; subject to conditions covering land contamination.

The Environment Agency have advised that they have "no objections".

In the absence of any material considerations to the contrary, the proposal accords with policy EN14 of the UDP.

Highways

The submitted Transport Assessment identifies that the site has "good links to public transport" and benefits from "existing walking and cycling connections". The Assessment continues by stating that the "vehicular trips generated by the development can be accommodated on the highway network and sufficient on-site car parking will be provided to accommodate all parking demand within the site". The Assessment concludes by stating "the proposed development will not adversely affect local transport networks".

The Council's Highway Authority have commented that "it appears that the proposal has sufficient parking for this development" and that "the proposed swept path arrangements are deemed acceptable".

Nexus have advised that they have "no comment to make on this application".

Highways England have stated that they are "satisfied that the proposed development is unlikely to have a significant impact on the A19 / 183 Chester Road junction or the A19 itself and would offer no objection to the application proceeding.

In terms of material considerations, there has been objection on the grounds that there should be improvements and / or a review into the local traffic conditions. Officers would, however, draw to attention that the proposed development has been supported by a Transport Assessment which has been given consideration by the Local Highway Authority, Highways England and Nexus. A recommendation of refusal on highway grounds would therefore not be reasonable.

In the absence of any material considerations to the contrary, the proposal accords with policies T14 and T22 of the UDP.

CONCLUSION

The site lies on land allocated for industrial development in both the UDP and Publication Draft Core Strategy. There are, however, material considerations which outweigh this conflict; including the potential for Wickes to be lost from the local area as they intend to close down their current store at Wessington Way, the focus of Wickes on sales to the trade and the recent commercial development immediately to the south of the site for a drive-thru restaurant, public house and supermarket.

The application passes the sequential test and there are no other sites or premises location within and on the edge of existing centre that would be both suitable and available for the broad type of development which is proposed in the application by approximate size, type and range of goods.

There are no realistic prospects of any significant adverse impacts on vitality and viability on the City Centre, or on any nearby Town, District or Local Centres.

In terms of detailed considerations, the proposal accords with the relevant development plan policies relating to amenity, design, drainage, ecology, groundworks and highways.

There are not any material considerations that indicate a decision should be made otherwise.

The application has therefore been recommended for approval; subject to the draft conditions 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: APPROVE, subject to the draft conditions below:

Conditions:

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

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

Proposed Site Plan (Drawing No. 3207-FBA-00-XX-DR-A-05_10-100 P5)

Temporary Drainage Strategy (Drawing No SK1000 0)

Drainage Strategy (Drawing No. 1000 C) (including foul and surface water flows discharging to the combined sewer near to manhole 1403 and ensuring that surface water discharges are restricted to 3.2l/sec)

Drainage Strategy Details (Drawing No. 1001 0)

Landscape Proposals (Drawing No. 1085.01 Rev A)

Level 00 Floor Plan (Drawing No. 3207-FBA-00-00-DR-A-00_10-000 P3)

Level 01 Floor Plan (Drawing No. 3207-FBA-00-01-DR-A-00_10-100 P4)

Proposed North and East Elevations (Drawing No. 3207-FBA-00-XX-DR-A-00_10-55 P3)

Proposed South and West Elevations (Drawing No. 3207-FBA-00-XX-DR-A-00_10-54 P3)

Roof Plan (Drawing No. 3207-FBA-00-02-DR-A-00_10-200 P3)

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 No development shall commence until a construction management plan has been submitted to and approved in writing by the Local Planning Authority. The construction shall thereafter be carried out in accordance with the approved details.

Reason: To ensure, in accordance with Unitary Development Plan Policy T14, the development hereby approved makes appropriate safe provision from the outset for access and egress of vehicles during the construction phase.

4 If any hazards are identified from any form of contaminant by any site investigation which require remediation, as determined by the Local Planning Authority, no development shall commence until a detailed Remediation Strategy and Verification Plan to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved, in writing, by the Local Planning Authority. The strategy shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures.

Reason: To ensure that risks from land contamination to future users of the land, neighbouring land, controlled waters and ecological systems are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy EN14 of the Unitary Development Plan.

5 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, all works within the affected part of the site shall cease until an investigation and risk assessment and, when remediation is necessary, a remediation scheme in accordance with the details of the respective conditions set out above have been submitted to and approved, in writing, by the Local Planning Authority and any necessary remediation is carried out in accordance with the approved details.

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

6 If any hazards are identified from any form of contaminant by any site investigation which require remediation, as determined by the Local Planning Authority, the use shall not commence until the approved remediation works have been completed in accordance with the approved Remediation Strategy and a verification report that demonstrates the effectiveness of the remediation works and accords with the terms of the approved Verification Plan has been submitted to and approved, in writing, by the Local Planning Authority.

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

7 The development hereby approved shall not open for trading until the area allocated for parking on the proposed site plan (Drawing No 3207-FBA-00-XX-DR-A-05_10-100 P5) has been provided on site. The parking spaces shall thereafter be kept free of obstruction and only used for the parking of vehicles in association with the development hereby approved.

Reason: To ensure, in accordance with policies T14 and T22 of the Unitary Development Plan.

8 The development hereby approved shall not open for trading until the cycle shelter has been fully provided on site, in accordance with the details shown on the proposed site plan (Drawing No 3207-FBA-00-XX-DR-A-05_10-100 P5). The cycle stands shall thereafter be retained for the lifetime of the development hereby approved.

Reason: To ensure, in accordance with Unitary Development Plan Policy T14, the development would be readily accessible by cyclists.

9 Within the first available planting season of the development hereby approved being substantially completed, the landscaping shown on the submitted Landscape Proposals (drawing no. 1085.01 Rev A) shall be planted on site. The landscaping shall be maintained thereafter for a period of at least two years.

Reason: To ensure, in accordance with Unitary Development Plan policy CN22, the development hereby approved would not be detrimental to the species and overall biodiversity of the City.

10 The premises hereby permitted shall only be used for the sale, display and storage of the following range of goods: DIY and building materials, timber, joinery and sheet metal, decorating products, plumbing materials and associated and ancillary products, together with the sale and display of kitchens and bathrooms.

Reason: To ensure, in accordance with paragraphs 85-87 of the National Planning Policy Framework (2019), that the development hereby approved supports the role of town centres.

11 The premises shall only be open for customers between the following hours: 6am-9pm Monday-Saturday and 9am-5pm Sundays.

Reason: To ensure, in accordance with policy EN5 of the Unitary Development Plan, the development hereby approved does not significantly increase the existing ambient sound levels.

12 The below ground gravity drainage and permeable paved parking bays shall be maintained in accordance with the maintenance schedule found within Appendix 7 of the Flood Risk and Drainage Impact Assessment (2018035 Revision B).

Reason: To ensure, in accordance with Unitary Development Plan Policy EN12, the development hereby approved does not materially impede the flow of flood water, or increase the risk of flooding elsewhere.

Reference No.: 19/01386/VA3 Variation of Condition (Reg 3)

Proposal: **Variation of Condition 2 attached to planning approval: 18/01664/VA3, to make minor amendments, comprising alterations to approved drainage, pitch location, boundary treatment, and landscaping.**

Location: Ford Quarry Recreation Area, Keelmans Lane, Sunderland

Ward: Pallion

Applicant: Sunderland City Council

Date Valid: 20 August 2019

Target Date: 19 November 2019

PROPOSAL:

The proposal relates to the variation of condition 2 attached to planning approval 18/01664/VA3, to make minor amendments comprising alterations to approved drainage, pitch location, boundary treatment and landscaping at Ford Quarry Recreation Area, Keelmans Lane, Sunderland.

The proposals affect the Ford Quarry Recreation Area, which occupies land to the north of St. Luke's Road in the Ford area of the city. The Recreation Area afforded a series of grass playing pitches (primarily used for football) as well as a small car park and changing room building.

The Recreation Area is situated within a wedge of generally open land identified as a 'settlement break' by the Council's Unitary Development Plan, which separates Ford estate from South Hylton and drops steeply northward to the River Wear. The Recreation Area is bounded by St. Luke's Road to the south and dwellings on its south side face northward across the site. The Tyne and Wear Metro line lies to the north and Keelman's Lane is to the west, which provides the vehicular access into the site's car park. To the east and north-east, the site is bordered by the Ford Quarry and Claxheugh Rock Sites of Special Scientific Interest (SSSIs), designated on account of the rare Magnesian Limestone geology and grassland habitats they exhibit.

Members may recall that the Ford Quarry Recreation Area was recently subject to a planning application (ref. 17/02426/LP3) for its development as part of the 'Parklife' programme, a collaborative enterprise between the Football Association, Sport England and Sunderland Council to create a sustainable model for improved football facilities, delivery and participation based around the provision of new Artificial Grass Pitches (AGPs) at three 'hub' sites. In addition to Ford Quarry, hub sites are being developed at the Northern Area Playing Fields (Washington) and the Community North Sports Complex (Downhill).

The application for the development at Ford Quarry, which was approved at the Council's Planning and Highways Committee meeting held on 18th April 2018, involved the following works:

- o Development of 3 no. artificial grass pitches (one of which with stadia) and associated fencing and floodlighting;
- o Ancillary buildings; including toilet block and coffee kiosk;

- o An extension and refurbishment of existing changing facilities, to include club room and bar, kitchenette and education space;
- o 255 no. car parking spaces (including 12 disabled) - an increase of 174;
- o 4 no. coach parking spaces;
- o Standage for 25 no. cycles;
- o Signage and associated landscaping

A subsequent application proposing amendments to the drainage scheme approved as part of app. ref. 17/02426/LP3 was then approved by Members at the Council's Development Control (South) Area Sub-Committee meeting held on 17th December 2018 (application ref. 18/01664/VA3). This now represents the extant planning permission for the development which, at the time of the officer site visit, had commenced.

The current application has been made under s73 of the Town and Country Planning Act 1990 (as amended) and it proposes to vary condition 2 of planning permission ref. 18/01664/VA3, which sets out the list of plans the approved development must accord with. The application proposes to vary the list of approved plans to secure permission for a series of minor amendments to the approved scheme. The proposed amendments entail:

- o Drainage routes amended to avoid pipes running under the new all-weather pitches, to prevent future issues with maintenance (i.e. access and repair would likely require closure of pitches);
- o Rotation of pitch 3 by 90 degrees so that it better relates to site boundaries and contours, reduces the number of trees to be felled and enables easier construction, access and maintenance;
- o Revisions to layouts of pitches 1 (moved westward) and 2 (repositioned 5 metres further south) to accommodate revised drainage routes and widened footpath;
- o Amendment to location and design of drainage swales in response to changes to pitch layout;
- o Paths and fencing changed within all-weather pitch area to provide better viewing experience for spectators;
- o Creation of landscaped mound to east of coach park to reduce amount of spoil taken away from site;
- o Mound to north-west of pitch 1, with some trees/vegetation removed. Trees lost to be compensated for through revised landscaping proposals;
- o Re-routing of part of existing site boundary fencing adjacent to new mounds;
- o New fencing to south elevation of hub building to improve security;

The application has been accompanied by a range of supporting information, including a Planning Statement, which provides commentary on the fresh material considerations raised by the revised scheme, an Ecology note and a revised sustainable drainage strategy.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted

CONSULTEES:

Pallion - Ward Councillor Consultation
Environment Agency
Natural England
Network Rail
Network Management
Environmental Health
Northumbrian Water
Flood And Coastal Group Engineer
Sport England

Final Date for Receipt of Representations: **20.09.2019**

REPRESENTATIONS:

Public consultation - no representations received.

Northumbrian Water - no comments to make, on the basis that the submitted drainage information indicates that surface water from the proposed development will discharge to highway drainage and foul flows are in line with Northumbrian Water's pre-development enquiry response.

Network Rail (consulted due to proximity of site to Metro line) - no comments to make.

Sport England - no objection to the proposed changes.

Natural England - no comments to make on the proposed variation of condition 2.

Environment Agency - no objections to the proposed variation of condition, provided that regard is given to the advice provided in respect of the original planning application. This requested that conditions relating to ground conditions be imposed in the event the Council was minded to approve the application.

Council's Flood and Coastal team (in capacity as Lead Local Flood Authority) - advise that the submitted drainage layout amendments can be approved.

Council's Highways team - no objections to the development. The following comments have been offered:

Access

Retaining the existing priority junction arrangement is considered to be appropriate. Peak demand for use of this access can be accommodated within existing traffic flows on St. Luke's Road.

Parking

Parking meets FA requirements and additional parking to meet the Council's requirements. Coach parking is also provided.

Works to existing highway

Any works to existing highways (e.g. widening of Keelman's Lane, new footway provision and streetlighting layout) will require the developer to enter into an agreement under s278 of the Highways Act.

Traffic Regulation Order

Required for waiting restrictions along Keelman's Lane and St. Luke's Road.

Council's Ecology team - no objections to the development. It is advised that the recommendations summarised in the Extended Phase 1 Survey (Version 4, February 2018, by Durham Wildlife Services, submitted with the initial planning application) are implemented as part of the approved development, subject to finalising landscape and ecological design details. Such details should include on- and off-site improvements to existing woodland, hedgerows, trees and geological features, wetland, grassland and scrub creation, bat and bird roost and nest units in buildings and a long-term maintenance schedule to sustain habitats in a favourable condition. An ecological method statement is also recommended.

Council's Environmental Health team - no objections to the development.

POLICIES:

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

B2 - Scale, massing layout and setting of new developments
B3 - Protection of public/ private open space (urban green space)
CN6 - Retain / enhance important open breaks & wedges between / within settlements
CN16 - Retention and enhancement of existing woodlands, tree belts and hedgerows
CN17 - Tree Preservation Orders and replacement of trees
CN18 - Promotion of nature conservation (general)
CN20 - Developments affecting designated/proposed SSSI's
CN21 - Developments affecting designated / proposed LNR's, SNCI's or RIGS
CN22 - Developments affecting protected wildlife species and habitats
EN1 - Improvement of the environment
EN5 - Protecting sensitive areas from new noise/vibration generating developments
EN12 - Conflicts between new development and flood risk / water resources
EN14 - Development on unstable or contaminated land or land at risk from landfill/mine gas
L1 - General provision of recreational and leisure facilities
L4 - Standards for outdoor sport and recreation
L7 - Protection of recreational and amenity land
T14 - Accessibility of new developments, need to avoid congestion and safety problems arising
T22 - Parking standards in new developments
SA25 - Protection of land associated with Grove Europe (Pallion) as open space

COMMENTS:

The principle of the proposed development of the site to create a playing pitch hub has already been established through the approval of planning application refs. 17/02426/LP3 and 18/01664/VA3. In determining the initial planning application, regard was given to the full range of material considerations relevant to the proposed development, including the implications of the development in respect of land use and open space/playing pitch policies, its impact on residential amenity, visual amenity, highway and pedestrian safety, ecology and its implications in relation to land contamination and drainage.

The proposed variation of condition 2 of the extant planning permission seeks permission for a series of minor amendments to the approved scheme and it gives rise to fresh implications in

respect of a number of the considerations listed above. However, rather than fully revisit all matters previously addressed in the determination of the initial planning application, it is considered appropriate that this report focuses on the matters requiring fresh consideration in light of the proposed revisions to the approved development. For a consideration of the full range of matters listed above, please refer to the Committee report produced in respect of app. ref. 17/02426/LP3.

In considering the revised proposals, regard must be given to the National Planning Policy Framework (NPPF), which provides the Government's current planning policy guidance. Development plans must be produced, and planning applications determined, with reference to the NPPF and its over-arching aim of delivering sustainable development.

In terms of local policy, the Council's adopted Development Plan remains its Unitary Development Plan (1998). Of relevance to the current application are UDP policies B2, B3, CN6, CN16, CN17, CN18, CN20, CN21, CN22, EN1, EN5, EN12, EN14, L1, L4, L7, T14, T22 and SA25.

Members may be aware that the Council has also produced a new Core Strategy and Development Plan (CSDP), which is designed to become the strategic development plan for the City for the period up to 2033. The CSDP has been subject to an Examination in Public by the Planning Inspectorate and subsequent to this, the Council is undertaking public consultation on proposed modifications to the CSDP ahead of possible adoption in early 2020. Given the advanced stage of the adoption of the CSDP, it is considered that significant weight can be given to its policies which are relevant to the current application. In this case, policies SP7, HS1, HS2, HS3, VC6, BH1, NE1, NE2, NE3, NE4, ST2, ST3, WWE2, WWE3 and WWE5 are considered to be pertinent.

Land use considerations/principle of development

In terms of land use considerations, it is observed that the application site is located within a settlement break, as identified by the Proposals Map of the UDP. The Proposals Map also identifies the land as forming public open space/playing pitches. Whilst the settlement break designation has not been carried through to the CSDP, as noted above the UDP remains the Council's adopted Development Plan and so regard must be given to the UDP's settlement break policy. To this end, policy CN6 of the UDP states that such important open breaks and wedges will be retained and enhanced. Meanwhile, UDP policies B3, L1, L4, L7 and SA25 and CSDP policies NE1 and NE4 seek to protect open space and playing pitches from inappropriate development.

In considering the initial planning application, it was concluded that the proposed development would not conflict with the UDP's settlement break designation; given the relatively minor nature of the proposed amendments to the approved scheme, it is considered that the revised development will not be injurious to the settlement break and will still satisfy policy CN6's objectives.

In addition, it is considered that the proposed revisions to the approved development will still address and support the objectives of the 'Parklife' programme and the wider sport, open space and playing pitch policies in the NPPF, the Council's UDP, draft CSDP and Playing Pitch Strategy in that the scheme will deliver new artificial playing pitches at an established, sustainable location. In reaching this conclusion, it is noted that Sport England has no objections to the application.

Given the above, it is considered that the proposed revisions to the approved scheme do not give rise to any conflict with the land use policies relevant to the application site and will still serve to support the 'Parklife' programme.

Amenity considerations

In terms of visual amenity, section 12 of the NPPF, policy B2 of the Council's UDP and policy BH1 of the CSDP support development which delivers a high standard of design and which is respectful to its surroundings. With regard to this matter, it is considered that the proposed revisions to the scheme will not have a substantially different impact on the visual amenity of the locality than the approved development. The overall area covered by the pitches will remain as approved, with the changes to their orientation not significantly altering their visual impact. The position of floodlights around the pitches will change, but again it is considered that this rearrangement will not increase the effect of the floodlights on visual amenity.

The other physical changes to the approved scheme involve revisions to landscaping, including the creation of earth mounds; changes to the design of approved pitch fencing, which will be altered to provide better viewing for spectators; and changes to the route of sections of boundary fencing, primarily around the new earth mounds. Again, however, these changes are not considered to have a significant effect on the visual amenity of the area in the context of the extensive scope of the overall development.

In terms of residential amenity, policy B2 of the UDP and policy BH1 of the CSDP require new development to maintain acceptable standards of amenity to existing properties, whilst paragraph 180 of the NPPF, UDP policies EN1 and EN5 and CSDP policies HS1 and HS2 require consideration to be given to ensuring that amenity isn't unacceptably harmed by pollution from sources such as noise and intrusive lighting.

The approved separation distances (minimum of approximately 75 metres) between the new artificial pitches and the dwellings fronting St. Luke's Road to the south will be retained or increased and overall, it is considered that the revisions to the approved scheme will not lead to any of these dwellings experiencing any additional loss of outlook or privacy.

The Planning Statement submitted with the application provides an assessment of the light spill generated by the revised floodlighting arrangements. This concludes that the pitch realignments and changes to the layout of floodlights will, in fact, reduce spill to the northern Metro line and south-eastern tree line/boundary. As with the previously-approved scheme, the proposed floodlighting has been chosen to minimise light spill and eliminate upward lighting, to minimise the emission of UV light (which can be harmful to insects) and to provide optimum coverage of the sports pitches. The lighting will also be timer controlled so that it can be switched off at appropriate or specified times.

Given the above, it is considered that the revised development will not cause any properties in the area to experience any additional light spill and nor would light spill have any additional harmful effect on visual amenity.

In terms of noise, it is considered that the proposed changes to the existing planning permission will not materially alter the situation in comparison to the approved development, given that the proposals will involve the same number of playing pitches with the same capacity and the same parking and access arrangements.

With regard to the above comments, it would appear that the revisions to the scheme will not have any appreciably greater impact on visual or residential amenity than relative to the approved development. In reaching this view, it is noted that the Council's Environmental Health team has raised no objections to the development relative to noise and light spill issues. The proposals would therefore accord with the requirements of the NPPF, policies B2 and EN5 of the UDP and policies BH1, HS1 and HS2 of the CSDP.

Other considerations

In addition to the above, consideration should be given to the implications of the development in relation to ecology, sustainable drainage and ground conditions/land contamination.

In terms of ecology, as set out in the 'Representations' section of this report, both Natural England and the Council's Ecology team have raised no objections to the proposed revisions to the approved scheme. The Council's Ecology team do request, however, that a condition be imposed requiring the submission of final landscaping and ecological design details. It is recommended that Members impose a condition to this effect in the event they are minded to grant consent for the development. Subject to such a condition, it is considered that the development will comply with UDP policies CN18, CN20, CN21 and CN22 and CSDP policy NE2, which seek to protect and maintain biodiversity and designated habitat sites.

In terms of sustainable drainage, the Council's Flood and Coastal team, in their capacity as Lead Local Flood Authority, have confirmed there are no objections to the revised drainage arrangements, including the re-routing of drainage pipes and the re-design of drainage swales. Consequently, the proposals will satisfactorily address UDP policy EN12 and CSDP policies WWE2, WWE3 and WWE4, which seek to ensure that new development does not materially increase the risk of flooding.

In terms of ground conditions/land contamination, in determining the initial planning application, it was concluded that adequate information had been provided to be confident that the site could be developed without posing a risk to persons involved in the development of the sports hub, future users of the hub and the wider public. There is not considered to be reason to reach a differing conclusion relative to the current proposal and in this regard, it is noted that the Environment Agency have no objections to the revised scheme, subject to the imposition of the recommended conditions. It is recommended that conditions to this effect are imposed in the event Members are minded to grant consent for the development. Subject to such conditions, it is considered that the development will comply with the requirements of UDP policy EN14 and CSDP policy HS3.

In terms of highway and pedestrian safety, as set out previously, the revised scheme does not involve any amendments to the approved access and parking arrangements and so the current proposals are not considered to give rise to any fresh concerns in respect of these matters and are compliant with UDP policies T14 and T22 and CSDP policies ST2 and ST3.

CONCLUSION

For the reasons set out above, it is considered that the proposed revisions to the approved sports hub development at Ford Quarry Recreation Area do not give rise to any concerns in relation to land use policies and will enable the implementation of the 'Parklife' strategy and associated playing pitch/sports participation objectives. Additionally, subject to the recommended conditions, it is considered that the proposals do not raise any fresh concerns in respect of visual and residential amenity, ecology, sustainable drainage, highway and pedestrian safety and ground conditions/land contamination.

The development is consequently considered to be compliant with the objectives and requirements and objectives of the relevant NPPF, UDP and CSDP policies as referenced in this report. It is therefore recommended that Members Grant Consent for the revisions to the approved scheme, 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: GRANT CONSENT, under Regulation 3 of the Town and Country Planning (General Regulations) 1992, subject to the conditions below.

Conditions:

1 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 approved plans and documentation, including recommendations therein:-

NF037-002 Rev A - Location Plan dated 21.03.2018
928.001.2A (10)01- Rev A03 - Existing Site Location Plan
928.001.2A (10)02 - Existing Plans
928.001.2A (10)03 - Existing Elevations
(F) 2101 Rev. B - Ford Quarry Proposed Site Plan
928.001.2A (10)05 - Proposed Site Plan (Detail)
928.001.2A (10)06 - Proposed Ground Floor Plan
928.001.2A (10)07 - Proposed Roof Plan
928.001.2A (10)08 - Proposed Elevations
928.001.3 (10)08 - Bin Store
928.001.2A (10)09 - Proposed Sections
928.001.2A (10)11 - Proposed Stadia Terrace Stand
928.001.2A (10)12 - Proposed Stadia Seating Stand
928.001.2A (10)13 - Proposed Spectator Toilet Block
928.001.2A (10)14 - Proposed Turnstile Building
928.001.2A (10)15 - Proposed Coffee Kiosk
LS000064/030 Rev P2 - Soft Landscaping Plan
LS000064/034 Rev P01 - Landscape Mitigation Proposal
SSL2287 Lighting Assessment dated 12.12.2017
SSL2287_1 - Floodlighting Performance Results Document dated 16.10.2017
LSNV/17/2188/29461/02 Rev D - Fencing Layout
LSNV/17/2188/29461/12 - Proposed Floodlighting
LSNV/17/2188/29461/11 - Overspill Comparison
LSNV/17/2188/29461/14 - New Floodlighting Overspill
SS2287-09 Rev 01 - Proposed External Lighting Locations
(F) 2104 Rev. A - Ford Quarry Proposed Contour Plan
928.001.2_(10)00 - Design and Access Statement
Planning Statement
Flood Risk Assessment and Drainage Strategy, Version 2-dated March 2018, together with Micro Drainage Summary, Drainage Layout sheets (drawing nos. 125896/2301 Rev. F and 125896/2303 Rev. D), manhole schedule (drawing no. 125896/2303 Rev. F), Design Table for Storm and Cascade Micro Drainage submitted with planning application ref. 19/01386/VA3
Transport Statement dated October 2017
Playing Pitch Assessment Report, by Knight, Kavanagh and Page - dated November 2017
Playing Pitch Plan by Knight, Kavanagh and Page - dated January 2018
Extended Phase 1 Survey, version 4 by Durham Wildlife Services - dated February 2018
Arboricultural Impact Assessment JKK9870 by RPS - dated December 2017
Visual Impact Assessment by LK2
Noise Impact Assessment 6956/AW by Acoustic Consultants Ltd - dated December 2017
Ventilation and Extraction technical data M3-1

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.

2 The development hereby permitted shall not be occupied until a final detailed scheme for the disposal of surface water from the development (based upon the principles set out in the Ford

Quarry Flood Risk Assessment and Drainage Strategy, Version2, March 2018) have been submitted to and approved in writing by the Local Planning Authority in the interest of public safety and in order to prevent the increased risk of flooding from any sources in accordance with the NPPF and policy EN12 of the UDP.

3 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping and treatment of hard surfaces which shall include indications of all existing trees and hedgerows on the land and details for their protection during the course of development. Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below:

Acceptable:

Birch (Betula), Crab Apple (Malus Sylvestris), Field Maple (Acer Campestre), Bird Cherry (Prunus Padus), Wild Pear (Pyrus Communis), Fir Trees - Pines (Pinus), Hawthorne (Cretaeagus), Mountain Ash - Whitebeams (Sorbus), False Acacia (Robinia), Willow Shrubs (Shrubby Salix), Thuja Plicatata "Zebrina"

Not Acceptable:

Acer (Acer pseudoplatanus), Aspen - Poplar (Populus), Small-leaved Lime (Tilia Cordata), Sycamore - Norway Maple (Acer), Horse Chestnut (Aesculus Hippocastanum), Sweet Chestnut (Castanea Sativa), Ash (Fraxinus excelsior), Black poplar (Populus nigra var, betulifolia), Lombardy Poplar (Populus nigra var, italica), Large-leaved lime (Tilia platyphyllos), Common lime (Tilia x europea)

A comprehensive list of permitted tree species is available upon request.

The approved landscaping scheme shall then be carried out in accordance with the timings set out by condition 6 of this decision notice, in the interests of visual amenity and the ecological and biodiversity value of the site and to comply with policies B2 and CN22 of the UDP.

4 All planting, seeding or turfing comprised in the details of landscaping approved pursuant to condition 5 of this decision notice shall be carried out in the first planting season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation, in the interests of visual amenity and to comply with policy B2 and CN22 of the UDP.

5 Prior to the commencement of the use of the new facility, final details of the recommendations and measures set out in the Extended Phase 1 Survey dated February 2018 by Durham Wildlife Services should be submitted to and approved in writing by the Local Planning

Authority. For the avoidance of doubt, these details should include on and off site improvements to existing woodland, hedgerows, trees and geological features; wetland, grassland and scrub creation; bat and bird roost and nest units in buildings, and a long-term maintenance schedule to sustain habitats and features in a favourable condition. Once agreed, these measures should be implemented and managed in accordance with these details thereafter, in order to ensure a satisfactory form of development is achieved and in order to accord with Policy CN18 of the Unitary Development Plan.

6 The development hereby approved shall be undertaken in complete accordance with the recommendations / protective measures / conclusions of the submitted Arboricultural Impact Assessment Report dated December 2017, by RPS Group in order to ensure a satisfactory form of development is achieved and in order to accord with Policies CN17 and CN18 of the Unitary Development Plan.

7 No development, including demolition, shall take place until a site specific Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority in consultation with Network Rail. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The plan should include, but not be limited to:

- o Procedures for maintaining good public relations including complaint management, public consultation and liaison;
- o Arrangements for liaison with the Council's Pollution Prevention & Regulatory Services;
- o Risk assessment in relation to the railway.
- o Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works;
- o Construction Traffic Management
- o Hours of construction, including deliveries;
- o Control measures for dust and other air-borne pollutants;
- o Measures for controlling the use of site lighting whether required for safe working or for security purposes;
- o Erection and maintenance of security hoarding;
- o Operation, loading and unloading of plant and materials;
- o Storage of plant and materials used in constructing the development.

The development shall then be carried out in full accordance with approved Construction Environmental Management Plan, in order to ensure a satisfactory form of development and to comply with policies EN1, B2 and T14 of saved Unitary Development Plan.

8 No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:

- i. A preliminary risk assessment which has identified:
 - o all previous uses;
 - o potential contaminants associated with those uses;
 - o a conceptual model of the site indicating sources, pathways and receptors; and
 - o potentially unacceptable risks arising from contamination at the site.

- ii. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- iii. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- iv. 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 (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components shall require the prior written consent of the Local Planning Authority. The scheme shall be implemented as approved.

9 Prior to any part of the permitted development being brought into use a verification report demonstrating the 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. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved, , in order to ensure a satisfactory form of development and to comply with policy EN1 of the Unitary Development Plan.

10 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reasons

- o Unsuspected contamination may exist at the site which may pose a risk to controlled waters. The information provided with the planning application indicates that the site has been subject to a potentially contaminative land-use (i.e. landfill). The environmental setting of the site is sensitive as it lies on the Ford Formation, part of the Magnesian Limestone, a principal aquifer. Conditions 10-12 will ensure that the risks posed by the site to controlled waters are assessed and addressed as part of the redevelopment.
- o To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with paragraph 109 of the National Planning Policy Framework.
- o To prevent cause deterioration of a drinking water protected area (groundwater body - the Wear Magnesian Limestone, which the Ford Formation forms part of).

11 Prior to the use of the AGPs hereby approved commencing, a Noise Management Plan shall be submitted to the Local Planning Authority for their written approval. The Noise

Management Plan, which should detail measures designed to prevent disturbance to local residents resulting from the approved development, shall include undertakings and procedures for:

- o An on-site supervisor responsible for the behaviour of patrons of the sports facility and for liaison with local residents;
- o The control and use of outside areas;
- o The recording of complaints and response to those complaints;
- o The annual review of the approved Noise Management Plan and, if necessary, the submission and approval of a revised Noise Management Plan.

The approved Noise Management Plan shall be followed and/or implemented at all times for the lifetime of the development, in order to minimise the risk of noise leading to harm to amenity and to comply with the requirements of paragraph 123 of the NPPF and policy EN5 of the UDP.

12 Amplified music shall not be played within the interior of the pavilion building unless a Noise Management Plan has first been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt the management plan will be expected to contain details of the procedures and mitigation measures to be put into place as required to minimise harm to the amenity of the nearest noise-sensitive properties. At all times thereafter the Noise Management Plan shall be implemented in accordance with the approved details in the interests of limiting noise pollution and to comply with paragraph 123 of the NPPF and policy EN5 of the Unitary Development Plan.

13 Within 3 months of the use of the AGPs hereby approved commencing, a validating noise monitoring and assessment exercise shall be undertaken and submitted to the City Council, as Local Planning Authority, for its written approval. The assessment shall validate the predicted levels of noise in respect of the use of the AGPs and car park activity. In the event the noise levels predicted by the Noise Assessments (prepared by Acoustic Consultants Ltd, December 2017) submitted with the application are exceeded, the assessment shall include details of suggested additional means of attenuation/ mitigation for the consideration and written approval of the City Council. The approved attenuation/ mitigation measures must be in place within one month of obtaining written approval and shall be maintained thereafter for the lifetime of the approved use, in the interests of minimising noise from operations at the site and to comply with the requirements of policy EN5 of the adopted UDP and paragraph 123 of the NPPF.

14 The use of the extended pavilion building hereby approved shall not be carried out outside the hours of 09:00 - 22:45 Monday to Sunday, inclusive of Bank Holidays, in order to safeguard the amenity of nearby occupiers and to accord with the core principles of the NPPF and UDP policies B2 and EN5.

15 The floodlighting to the AGPs hereby approved shall not remain operational outside the hours of 09:00 - 22:10, in the interests of minimising intrusion from artificial lighting at the site and to comply with the requirements of the core principles of the NPPF and policies EN1 and B2 of the UDP.

16 The development hereby permitted shall not be occupied until a final detailed scheme for the disposal of foul drainage from the development (based upon the principles set out in the Ford Quarry Flood Risk Assessment and Drainage Strategy, Version 2, March 2018) have been submitted to and approved in writing by the Local Planning Authority.

Reference No.: 19/01407/LP3 Local Authority (Reg 3)**Proposal:** **Temporary change of use of land off Cowan Terrace for the retention of a surface level car park for an additional three year period****Location:** Land Off Cowan Terrace Sunderland SR2 7BA**Ward:** St Michaels**Applicant:** Sunderland City Council**Date Valid:** 29 August 2019**Target Date:** 24 October 2019

PROPOSAL:

The application seeks full planning permission for a temporary change of use of previously vacant land to a car park at Cowan Terrace, Sunderland.

The site lies opposite Park Lane Metro station and has a square plan form; covering around 0.25 hectares. The surrounding land uses include open green space to the east, apartments to the south and a Grade II listed church to the west.

There have been previous grants of planning permission for a car park at the site - namely for a three year period in August 2010 (ref: 10/02214/FUL) and a further three year period in September 2013 (ref: 13/01615/VAR). The site, since the expiration of the most recent planning permission, has continued to be used as a car park.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted

CONSULTEES:

St Michaels - Ward Councillor Consultation
Network Management

Final Date for Receipt of Representations: **01.10.2019**

REPRESENTATIONS:

Public consultation – no representations received to date. However, the period for receipt of representations does not expire until 1st October 2019. Any representations received following the publication of this report will be reported to Members ahead of the Committee meeting.

POLICIES:

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

CF7 - Promotion of development related to the University of Sunderland

EN5 - Protecting sensitive areas from new noise/vibration generating developments

B2 - Scale, massing layout and setting of new developments

B4 - Development within conservation areas

B10 - Development affecting the setting of listed buildings

T14 - Accessibility of new developments, need to avoid congestion and safety problems arising

T23 - Provision of public parking

COMMENTS:

Principle

The Unitary Development Plan (1998), at policy CF7. identifies the site as "Existing University Premises". The policy states that

"The City Council will assist the University of Sunderland to secure the implementation of its proposals to secure the implementation of its proposals to consolidate its educational activities onto two campuses and to provide an adequate level of students' residential accommodation to meet the needs identified in its development programme"

In terms of material considerations, planning officers are not aware of any immediate development proposals from the University. The proposal would therefore enable the site to remain in use as a car park for a temporary period and enable the situation to be reviewed in three years time.

The use of the site as a car park would also contribute towards the aims of policy T23 which states that the "Council will ensure an adequate supply of temporary and permanent public car parks in the city centre".

The principle of the proposed development can therefore be supported; subject to consideration of detailed matters. These can be seen below.

Amenity

The site lies within the city centre and there are a variety of land uses surrounding the development; including a metro station opposite. Given the above context, the continued use of the site as a car park would be unlikely to materially affect the amenity of surrounding land and buildings. In the absence of any material considerations to the contrary, the proposal would accord with policy EN5 of the UDP.

Design

The site lies within the city centre and there are a variety of land uses surrounding the development; including a metro station opposite. Given the above context, the continued use of the site as a car park would sit comfortably within the surrounding urban area. In the absence of any material considerations to the contrary, the proposal would accord with policy B2 of the UDP.

Heritage

The site lies within Ashbrooke Conservation Area.

The Listed Buildings and Conservation Areas Act 1990 states, at section 66, that

"special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area".

The adopted Ashbrooke Conservation Area Character Study identifies the land immediately to the east as a "significant green space". The Study also identifies the Civic Centre, to the east of the site, as a "Landmark Building".

The Study, at policy ASH4, identifies amongst other points, that

"All forms of new development should:-

Preserve and reinforce the distinctive pattern of historic development

Preserve and reinforce the distinctive landscape character of the area".

The Grade II listed United Reformed Church lies immediately to the west of the site.

The Listed Buildings and Conservation Areas Act 1990 states, at section 66, that

"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses".

The submitted Heritage Statement states that

"The introduction of the two modern, high density residential buildings directly to the south of the car park and the presence of the Park Lane Interchange building set the application site within a modern, contemporary urban context."

The Council's Conservation Officer has advised that they have

"no objections to the temporary car park being retained on Cowan Terrace whilst development proposals for the site are explored. Should the car park become more of a permanent feature the Conservation Team would look to encourage a higher standard of finish to better reflect the site's proximity to the Grade II listed Cowan Terrace church and Ashbrooke Conservation Area"

In the absence of any material considerations to the contrary, the proposal would accord with policies B4 and B10.

Highways

The submitted Transport Assessment states that "no collisions have been recorded near the car park" and "the collision data for other parts of the city centre on the A1231 indicate that there are no underlying highway design and / or safety issues". The Assessment also states that "there are no obvious indications of network issues to give cause for concern with regards to traffic operation. The Assessment concludes that "there are no reasonable grounds for refusal of the continued use of the car park".

The Local Highway Authority have stated that the "Transport Statement has been reviewed and is considered acceptable in principle".

In the absence of any material considerations to the contrary, the proposal accords with policies T14 of the UDP.

CONCLUSION

To approve the application in accordance with Regulation 3 of the Town and Country Planning General Regulations 1992 (as amended) for the reasons set out in the report subject to the draft conditions below.

As noted previously, the period for receipt of public consultation does not expire until 01.10.2019. Any representations received following the publication of this report will be reported at the Committee meeting. The recommended decision is also made on the basis that no representations are received in advance of the expiration of the consultation period on 01.10.2019, i.e. the day following the Committee meeting. In the event no representations are received, consent will be granted as per the recommendation; however, should any objections to the proposal be received, the application will be referred back to Members for final determination.

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, in accordance with Regulation 3 of the Town and Country Planning (General Regulations) 1992, subject to draft conditions below and subject to no representations being received ahead of the expiry of the public consultation period on 1st October 2019.

Conditions:

1 This permission shall be granted for a limited period of three years from the date hereof and the use authorised shall be discontinued and the site reinstated to its former condition at or before the expiry of the period specified in this permission.

Reason: To ensure, in accordance with policy CF7 of the Unitary Development Plan, the University of Sunderland can secure the implementation of its proposals to consolidate its educational activities onto two campuses.

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

Scale 1:500

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.