

## **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

Reference No.: 16/00097/FUL Full Application

Proposal: **Extension to provide two additional floors comprising 35 no. studio apartments for the student letting market and an external roof terrace.**

Location: Upper Floors Cassaton House 43 - 49 Fawcett Street Sunderland SR1 1RR

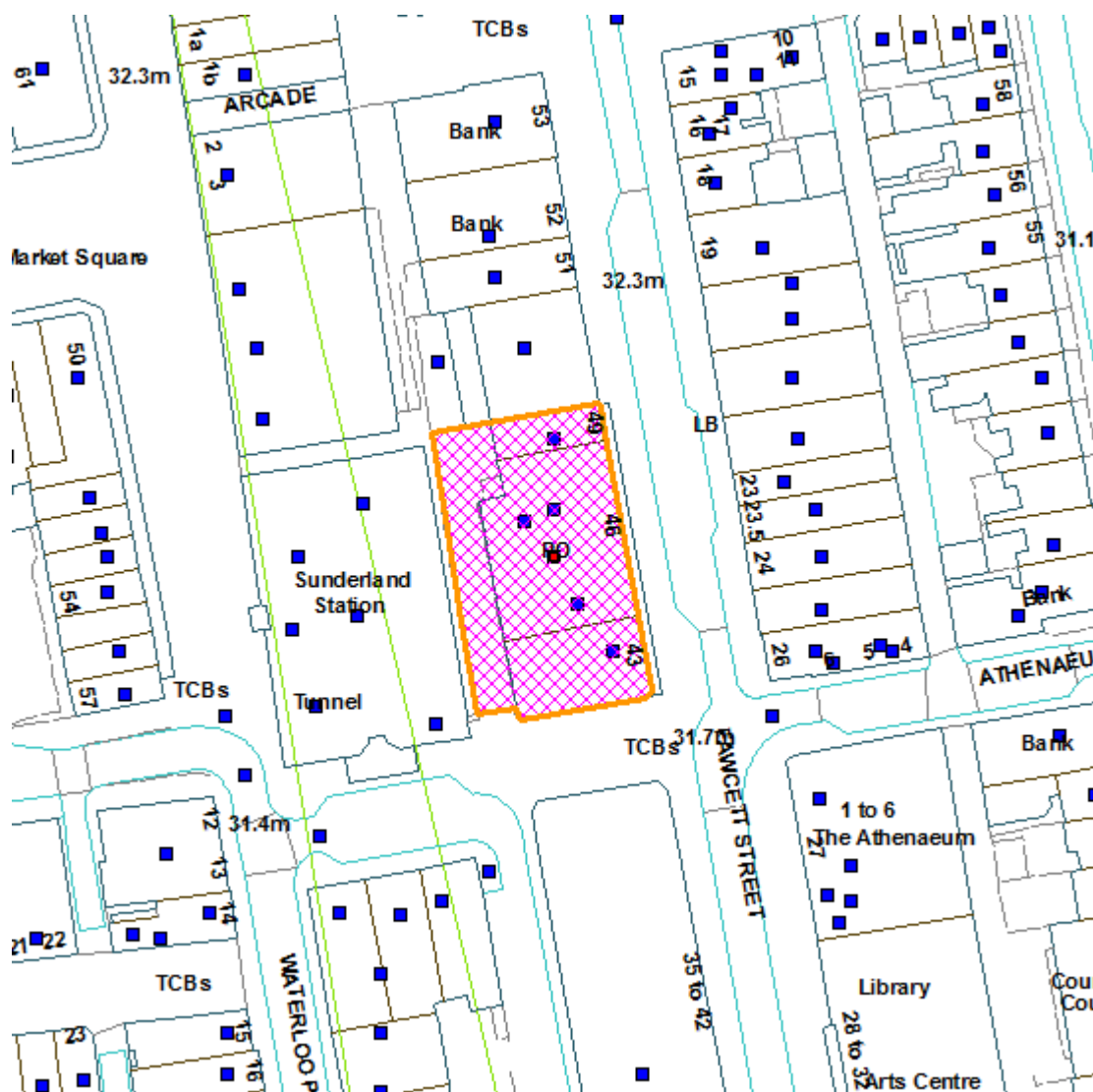
Ward: Millfield

Applicant: Minton Group Ltd

Date Valid: 23 February 2016

Target Date: 24 May 2016

## Location Plan



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## **PROPOSAL:**

This application relates to Cassaton House (43-49 Fawcett Street). The buildings comprise former retail/office premises constructed in the early 1970s consisting of concrete frame structures with pre-cast concrete cladding panels and aluminium windows. In common with the existing mix of uses on Fawcett Street, the ground floor of the building accommodates a mix of commercial uses, including the post office and a building society. These units are unaffected by this proposal.

Members may recall that planning permission was granted for the change of use from offices (Use Class B1a) to comprise 111 units of residential accommodation (Use Class C3) and ancillary facilities aimed at the student market in 2015. External alterations were also approved so as to form new window openings, install new glazing to some windows and externally re-decorate the building.

Planning permission is now sought for the erection of an extension to provide two additional floors comprising 35 no. studio apartments for the student letting market and an external roof terrace.

## **TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

## **CONSULTEES:**

Network Management  
Millfield - Ward Councillor Consultation  
Environmental Health  
Tyne & Wear Archaeology Officer  
Fire Prevention Officer  
Southern Area Command - Police  
Network Management  
Network Rail  
Nexus  
Flood and Coastal Group Engineer

Final Date for Receipt of Representations: **30.03.2016**

## **REPRESENTATIONS:**

### **Neighbours and Interested Parties**

No representations have been received.

## Consultees

### Network Management

The Network Management Team has been consulted in respect of the proposed development and has advised that the development is within the City Centre with good links to public transport with the railway and metro station nearby.

It is noted that there are existing parking restrictions in the rear lane and that there is a City Centre Residents' Parking Scheme available for residents with cars and the Parking Services Team can advise further in this regard.

It is noted that a 38 space secure covered cycle store is proposed and it is advised that all servicing and refuse collection should take place from the rear yard.

### Public Protection and Regulatory Services

The Public Protection and Regulatory Services Team has noted that a noise assessment has been provided in support of the application and that this recommends that habitable rooms of the development require an overall insulation of at least 30dB(A) to meet World Health Organisation and BS 8233 recommended internal noise levels. Therefore it is recommended that the particular glazing configuration specified in Table 5 of the report by LA Environmental Consultants (February 2016 MG/CH/003) be specified as a condition to any planning consent granted.

A vibration assessment was also submitted by the applicant. The conclusions of this have been accepted and no further actions are required.

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

### Lead Local Flood Authority

The Council has its own documents including the Strategic Flood Risk Assessment 2010 (SFRA) which is a Planning document and adopted by the authority says that "Development should aim for a reduction in surface water runoff rates for Brownfield sites up to a 1 in 100 year storm event, considering climate change and wherever possible, this should be achieved through the implementation of SUDS." There is also the Local Flood Risk Management Strategy (LFRMS) which states that "Under the changes all major Planning Applications should also include some form of SuDS attenuation and source control."

In this case, the building is being changed and additional floors and a new roof are being added and as such, there is an opportunity to install Suds (a green roof) and reduce flood risk which in turn introduces spare capacity into the sewer network.

This approach was previously discussed with the applicant and they stated that they would look into this however, they have obviously been unable to incorporate this approach and that is disappointing and obviously not the approach which would be expected and encouraged in all major applications where the installation of SUDs in new developments is recommended wherever appropriate to remove a potential risk from the Local Planning Authority that they are held responsible for a decision at some point in the future should a major flooding event occur.

## Tyne and Wear Archaeology Officer

The Tyne and Wear Archaeology Officer has offered no comments in respect of the proposals.

## Tyne and Wear Fire and Rescue Service

The Fire Authority has no objections to the proposal, subject to the provisions of the Building Regulations being adhered to.

## Network Rail

With reference to the protection of the railway, Network Rail has no objection in principle to the development, but there are some requirements which must be met,

Method statements may be required to be submitted to Network Rail's Asset Protection Project Manager for approval prior to works commencing on site. These should include an outline of the proposed method of construction, risk assessment in relation to the railway and construction traffic management plan. Where appropriate, an asset protection agreement will have to be entered into. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. "possession" which must be booked via Network Rail's Asset Protection Project Manager and are subject to a minimum prior notice period for booking of 20 weeks. Generally if excavations/piling/buildings are to be located within 10 metres of the railway boundary a method statement should be submitted for NR approval.

At least six weeks prior to works commencing on site, the Asset Protection Project Manager (OPE) must be contacted. The OPE will need to see any method statements/drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the railway.

Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed.

With a development of a certain height that may/will require use of a crane, the developer must bear in mind the following. Crane usage adjacent to railway infrastructure is subject to stipulations on size, capacity etc. which needs to be agreed by the Asset Protection Project Manager prior to implementation.

Network Rail is required to recover all reasonable costs associated with facilitating these works.

In particular, the method statements/OPE should be the subject of conditions, the reasons for which can include the safety, operational needs and integrity of the railway. For the other matters Network Rail would be pleased if an informative could be attached to the decision notice.

## Nexus

Nexus has observed that the development is well served by public transport and given the fact that it will be primarily occupied by students of Sunderland University who will have access to free travel on services 700 and 701, Nexus will not request in this instance that residents be offered a Network One introductory ticket. It is requested that residents be made aware of services 700 and 701 through distribution of timetable leaflets for these services in a travel pack which should

also contain details of other bus, rail and metro services and instructions on accessing the websites of Traveline and Nexus as well as national rail and local bus operators.

There is concern that the bus stop immediately outside Cassaton House on Fawcett Street could be adversely affected by the works or may need to be suspended. Were this to be the case, Nexus would object to the development on the grounds that Fawcett Street is already subject to a congestion review by Sunderland City Council, bus operators and Nexus. The stop in question is very busy and there is little scope for relocating services. Moving services to another stop would exacerbate a very congested and difficult to traverse section of road and increase delays which would impact on the ability of the bus operators to offer reliable and timely services to their customers. Nexus would like to receive assurances about the effect of the building works on this stop and its surrounding access routes.

## **POLICIES:**

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

B\_2\_Scale, massing layout and setting of new developments  
B\_4\_Development within conservation areas  
B\_6\_Measures to preserve and enhance conservation areas  
B\_10\_Development affecting the setting of listed buildings  
EN\_1\_Improvement of the environment  
EN\_6\_Limit exposure of new noise/vibration sensitive developments to existing sources  
EN\_7\_Proposals for residential development in the vicinity of railway tracks  
EN\_12\_Conflicts between new development and flood risk / water resources  
H\_18\_Proposals for provision/ conversion of dwellings for multiple occupation  
T\_2\_Promote the role of public transport, improving quality, attractiveness and range  
T\_4\_Maintain and improve a comprehensive network of bus routes  
T\_5\_Support infrastructure initiatives to improve rail passenger and freight services  
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
- 3) Heritage and Visual Amenity
- 4) Highways and Transportation
- 5) Noise and Vibration
- 6) Drainage

- 1) Principle of the Development

When considering any application for planning permission it is particularly important to establish the acceptability of the principle of development. Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise.

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

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

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

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

The Council's Development Plan comprises the saved policies of the Development Plan which was approved in 1998 and the UDP Alteration Number 2 (Central Sunderland) adopted in 2007.

The site lies within an area wherein the UDP alteration No.2 (Central Sunderland) is the relevant planning policy. Therein, policy EC5B identifies certain areas as Strategic Locations for Change. Acceptable uses within such locations are identified as A2 (Financial and professional services), A3 (Restaurants and cafes), A4 (Drinking Establishments), B1 (Business), C3 (housing), D1 (Non-residential institutions) and D2 (Assembly and leisure). Within such areas, the policy states that the Council will encourage environmental/access improvements and selective mixed use redevelopment which improves connection and integration with the surrounding urban area and with public transport infrastructure.

Proposals for redevelopment are required to:

- o Contribute to achieving increased intensity of development around public transport nodes and a concentration of land uses that are most likely to benefit from proximity to public transport;
- o Create linkages between different land uses;
- o Take account of the potential of these prominent locations in enhancing the image of the city;
- o Accord with UDP Supplementary Planning Guidance 'development control guidelines'.

Policy SA55B.1 of the Council's Unitary Development Plan (UDP) alteration no.2 (Central Sunderland) expands upon policy EC5B of the document and identifies the site as being within a Strategic Location for Change extending to 27.5 hectares covering the Sunnyside area of the City.

Uses falling within Use Class C3 - Housing are identified as already contributing significantly to the character of the area and should remain predominant, amongst a mix of other identified acceptable uses.

Furthermore, policy SA67A of alteration no. 2 states that the Council will support proposals for housing development within Central Sunderland and in particular the City Centre where sites are not identified or safeguarded for other purposes.

In this regard, the proposed re-use of the buildings to which this application relates residential accommodation is considered to be acceptable in principle with due regard to policies EC5B, SA55B.1 and SA67A.

With specific regard to the precise nature of the proposed use as student accommodation, it should be noted that the Council has recently produced and adopted an Interim Student Accommodation Policy. The policy states:-

To assist in the regeneration of the city centre and in creating a 'University City', the City Council will consider favourably proposals for purpose built student accommodation or the conversion of existing buildings for student accommodation within the city centre and on existing university campuses provided that proposals demonstrate that:

- a) The development meets an identified need in terms of quantity;
- b) The development meets an identified demand in terms of quality;
- c) The development is of a scale and appearance appropriate to its surroundings;
- d) The development is located within close proximity to local facilities and is accessible to the university by foot, cycle and public transport;
- e) The accommodation provides high quality living accommodation in terms of design, layout, standards and facilities provided within the development.

The Interim Policy also sets out potential Section 106 Heads of Terms and planning conditions which may be imposed where planning permission is granted for student accommodation developments.

In terms of potential Section 106 Heads of Terms, these include requiring the developer to submit details of the student residents on an annual basis for monitoring purposes and that the premises shall not be used as hostel accommodation. Potential planning conditions include limiting occupancy of the buildings to students only.

Aiming to justify the proposals, the applicant has provided a Supporting Statement on Market Viability. It is considered that this demonstrates the need for high quality student accommodation in this location. The proposed development is considered to provide high quality self-contained student accommodation with shared communal facilities supporting it. Thus, the proposal is considered to meet a demand for the quality of accommodation which it will provide. Being in the City Centre, the accommodation is close to local facilities and easily accessible to both university campuses by a variety of means including on foot, by cycle, by bus and by metro. On this basis, the proposal is considered to accord satisfactorily with the Interim Student Accommodation Policy.

In common with the previously approved application for the reuse of the existing buildings as student accommodation - 15/01267/FU4, it is considered that the requirement for a management plan can be a condition of any planning permission, should Members be minded to grant consent. This will ensure that the aims of the Interim Student Accommodation policy can be fully addressed, as at present, the applicant cannot be precise in respect of the detail of the



management plan and how the accommodation proposed to be included within the new extension would operate alongside that for which consent has been granted in the existing building. It is evident that the requirements of the policy can be met, but dealing with this matter by condition will enable full and accurate details to be received, later in the process.

On this occasion, given that the proposal is high quality accommodation, directly targeted at students, it is not considered that a Section 106 Agreement is so as to require the submission of student IDs for the future residents. This requirement is in place in the policy for schemes where it is not entirely clear that students will be the sole occupants of the building, but on this occasion, the applicant's proposals are considered to be such that the Local Planning Authority does not require this control.

In respect of preventing use as a hostel and ensuring that the premises remain as studios aimed at the student market, this can be achieved through imposition of a planning condition removing any future permitted change of use, which may normally be afforded to a residential dwelling. This will include prevention of change of use of the building to uses falling within Use Class C3b and C4 and would not allow for residential care uses or houses in multiple occupation to be created within the individual units. Hostel accommodation is a Sui-Generis use and given that this proposal is for individual self-contained studio apartments, such a use would represent a material change of use in any case and would require planning permission.

Subject to the imposition of conditions as detailed above, the proposal is considered to be acceptable in principle with due regard to the Interim Student Accommodation Policy.

## 2) Amenity

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

Policy B2A of UDP alteration No.2 relates to sustainable urban design and states that the City Council will seek to secure the highest possible quality of built environment and the creation of desirable places to live, work, shop and visit.

Policy H18 of the UDP states that proposals for the conversion of non-residential buildings which are vacant or under-used will normally be approved where they will not conflict with other policies and proposals of the plan. In all cases, proposals must include satisfactory provision for parking, servicing and other design aspects.

An expansion of this guidance is provided at section 4.1 of the Development Control Guidelines Supplementary Planning Guidance (SPG) which identifies general principles for flats and houses in multiple occupation. Therein, it is stated that proposals must reflect the general character and amenity of the area and those which represent an over intensive form of development will normally be resisted. Planning permission may be refused in an area of predominantly single family dwellings and where the development would have a detrimental effect on the established character of the area. Existing features which contribute to the character of the area should be retained. Depending on the degree of self containment, there may be a requirement to provide communal facilities.

It is further recommended at section 4.2 of SPG that in order to ensure the privacy of neighbours and occupants, habitable room windows should not be unduly overlooked by people going to and

from areas of car parking associated with properties. External entrances to flats or houses in multiple occupation should normally be located on the main road frontages.

Section 4.3 of SPG states that each self contained unit or house in multiple occupation must have direct pedestrian access to the front of the property, the allocated car parking area and the bin storage area. Furthermore, the SPG seeks to ensure that any new windows serving living rooms, kitchens, bedrooms or other habitable rooms should not overlook or be overlooked by adjoining properties to an unacceptable degree and should have a reasonable outlook. Main living room windows should have a reasonable outlook and should not be lit solely by roof lights and habitable windows should not be in close proximity to high boundary or gable walls. Bin storage should be at the rear of buildings and easily accessible to residents.

In specific regard to student accommodation, the Interim Student Accommodation Policy sets certain guidelines at paragraph 6.15 as to the quality of accommodation to be provided. Therein, it is stated that:

- I. Bedrooms to offer a choice in size and accommodate a bed, wardrobe and study desk and chair with the minimum size being 10 square metres for a single person, (excluding any en-suite facilities);
- II. Each bedroom shall include at least one window or skylight facing directly outdoors which can easily be opened;
- III. If bedrooms are not en-suite one bathroom and one separate WC with wash-hand basin should be provided for every 5 persons. However, for 6 persons or more one of the WC's with wash-hand basin must be separate, others can be contained within bathrooms;
- IV. Communal kitchens should be a minimum of 7 square metres for 1-5 people sharing, with larger residences requiring more sizeable kitchens;
- V. A communal lounge will be required of a size sufficient to accommodate the number of students in the unit;
- VI. Dining space shall be provided for all students, either separate to or as part of the lounge/kitchen area.

In terms of the accommodation to be provided as part of this development, it is considered that the proposed student accommodation use is in-keeping with the mix of uses already evident in the vicinity of the site and already approved within the existing building on this site, which is proposed to be extended. In terms of communal accommodation provided in the proposed extension, two social hubs (one on each new floor of accommodation) are proposed, along with three laundry rooms. Within the existing building, to which this accommodation would be linked, three further social hubs, a gym and a cinema are also provided. Each residential unit in the accommodation now proposed would benefit from its own window affording outlook to the occupants, with 13 units located on the fifth floor fronting Fawcett Street benefitting from access to an external roof terrace. Each unit is afforded access to a main road frontage in the form of either Fawcett Street or Athenaeum Street, whilst the bin and cycle stores to the rear of the property are accessible from all apartments. The smallest studio in the proposed extension is 23 square metres in size. As such, the standard of the proposed accommodation is considered to be acceptable with due regard to the aims of policy H18, Section 4 of SPG and paragraph 6.15 of the Interim Student Accommodation Policy, so as to provide adequate levels of amenity to future residents of the building.

In terms of the inter-relationship between the building and surrounding buildings, the distance of 20 metres between the front elevation of the building and the buildings on the opposite side of Fawcett Street, 10 metres between the rear elevation and the rear of the railway station and 13 metres between the side elevation and the adjacent Wilkinsons store are considered to be

appropriate in order that the amenities of occupiers and users of these buildings are not adversely affected as a result of the proposals. This position is supported by the City Centre location, wherein lesser distances between buildings are commonplace and also as the proposal relates to the conversion of an existing building. On this basis, the proposed development is considered to accord satisfactorily with UDP policy B2.

### 3) Heritage and Visual Amenity

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

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:

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

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.

In respect of local planning policy, Policy B2A of UDP alteration No.2 relates to sustainable urban design and states that the City Council will seek to secure the highest possible quality of built environment and the creation of desirable places to live, work, shop and visit.

Policy B4 states that all development within and adjacent to conservation areas will be required to preserve or enhance their character or appearance. To this end, the Council will issue planning/design guidance for the various areas from time to time.

Policy B6 states that the City Council will preserve and enhance the character or appearance of conservation areas; measures will include:-

1. Encouraging the retention of existing buildings and the improvement of features, open spaces, historic street patterns and plot boundaries;
2. Encouraging the retention of existing mature trees;
3. Introducing controls over the display of advertisements;
4. Seeking, where appropriate, to control development by the use of Article 4 directions;
5. Giving special attention to the preservation of important views into and out of the area;

6. Restoring highways and verges by use of appropriate materials and planting, encouraging utility companies to respect such works;
7. Reducing the impact of traffic where possible by diversion and traffic calming measures; and
8. Promoting environmental improvement and enhancement measures.

Furthermore, policy B10 states that 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 the abovementioned policies, the Council has produced and adopted the Sunnyside Conservation Area Character Appraisal and Management Strategy (CAMS). The primary objective of this strategy is to ensure that the special architectural or historic interest of the Sunnyside Conservation Area is preserved and enhanced for the benefit of current and future generations and for the enrichment of the city's built heritage.

The building to which the application relates is a mid-twentieth century building, identified in the CAMS as being of neutral townscape value. It stands between 50 Fawcett Street, which is also in the ownership of the applicant and formed part of the previous planning application, and the Wilkinson's retail store. Both of these adjacent buildings are significantly higher than the existing building to which the application relates and indeed, even with the addition of two additional floors to the application building, its overall height would be less than that of the adjoining 50 Fawcett Street. The impact of the development would be further limited through the setting back of the proposed fifth floor accommodation and the inclusion of the terrace and balustrade. Thus, the impact of the proposal is considered to be visually acceptable when viewed in the context of the existing adjacent buildings on Fawcett Street. In order to ensure this position, it is recommended that should Members be minded to grant planning permission, that a condition should be imposed requiring the use of construction materials which match the existing building in the carrying out of the development.

Subject to such a condition, the proposal accords satisfactorily with UDP policies B2A, B4 and B6 and the Sunnyside CAMS. In addition, whilst the proposal stands close to a number of adjacent listed buildings, it is not considered to adversely affect their setting given the site characteristics as described above. The proposal therefore accords with policy B10.

#### 4) Highways and Transportation

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 been consulted in respect of the proposed development and has advised that the development is within the City Centre with good links to public transport with the railway and metro station nearby. It is further noted that there is a City Centre Residents' Parking Scheme available for residents with cars and the Parking Services Team can advise further in this regard and that a 32 space secure covered cycle store is proposed as part of this development. The Network Management Team does not object to the application.

Given the characteristics of the site and the nature of the proposed development as detailed above, the proposal is considered to be acceptable in respect of the highway network and the

availability of car parking for residents who require it. The proposal is considered to accord satisfactorily with UDP policies T14 and T22.

UDP policy T2 seeks to promote the role of public transport within the City, whilst policy T4 seeks the maintenance and improvement of a comprehensive network of bus routes. In this regard, the comments of Nexus are noted and those in respect of promotion of bus routes can be passed to the applicant by way of an informative note. It is understood that the applicant has contacted Nexus to address its concerns over potential implications for the usability of bus stops on Fawcett Street. As works are contained to the existing building footprint and servicing is taking place from the rear lane, the operation of the bus stops on Fawcett Street is not likely to be adversely affected during the construction period.

UDP policy T5 seeks to protect rail infrastructure and in this regard, the comments of Network Rail are noted. In order to ensure that the safe operation of the adjacent railway line is not compromised, it is recommended that should Members be minded to grant planning permission, that the conditions and informatives recommended by Network Rail should be imposed as detailed above.

## 5) Noise and Vibration

Paragraph 123 of the NPPF which states that planning decisions should aim to:

- o Avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- o Mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development;
- o Recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established and
- o Identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

UDP policy EN6 seeks to ensure that where noise sensitive development is proposed which is likely to be exposed to unacceptable levels of noise from adjacent potentially noisy uses, the Council will require the applicant to carry out an assessment of the nature and extent of likely problems and to incorporate suitable mitigation measures in the design of the development.

In addition to the above, policy EN7 stipulates that proposals for residential development within 60 metres of any railway track shall include an assessment of the impact of vibration and shall incorporate any necessary preventative or precautionary measures as part of the scheme.

A noise assessment has been provided in support of the application. This recommends that habitable rooms of the development require an overall insulation of at least 30dB(A) to meet World Health Organisation and BS 8233 recommended internal noise levels. Therefore it is considered that should Members be minded to grant planning permission, that the glazing configuration specified in Table 5 of the report by LA Environmental Consultants (February 2016 MG/CH/003) be specified as a condition to any planning consent granted.

It is further noted that a vibration assessment was also submitted by the applicant. The conclusions of this have been accepted and no further actions are required.

On this basis, the proposal is considered to be acceptable with due regard to UDP policies EN6 and EN7, subject to the imposition of a condition in respect of the glazing specification as detailed above.

## 6) Drainage

Paragraph 103 of the NPPF states that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that:

1. within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
2. development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.

Policy EN12 of the UDP seeks to ensure that new development will not impede the flow of flood water or increase the risk of flooding elsewhere, nor adversely affect the quality of ground or surface water or other waters.

The applicant has requested that consideration be given to not requiring the inclusion of SUDS measures in this proposal. The reason for this is that when planning permission was granted for the conversion of the upper floors of the building to residential use there was no additional roof or hardstanding area created, nor were there any amendments to surface water drainage. On this basis, no SUDS or additional attenuation measures were provided as part of that development. This current proposal represents an extension to the building by way of the addition of two additional floors with no additional roof or hardstanding proposed and no amendments proposed to the surface water drainage save for extending the existing connections upwards. On this basis, the applicant has suggested that there is a nil affect on the existing surface water drainage system as a result of the proposed extension.

In this regard, the comments of the Lead Local Flood Authority are noted, along with the applicant's request not to require SUDS on this occasion.

Whilst it would be desirable to include such measures in the development, given that the proposal relates to an upward extension, the applicant's suggestion in respect of impact upon surface water drainage is accepted, insofar as no additional roof or hardstanding is to be provided. On this basis and on balance, whilst it is desirable that drainage enhancements be incorporated in the proposed development, when weighed against the benefits of the scheme in terms of provision of new accommodation and the regeneration of a prominent City Centre building, it is not considered that the lack of such enhancements would justify the refusal of planning permission for the proposed development.

On this basis, whilst drainage enhancements are not incorporated in the proposed development, there is no demonstrable harm in respect of drainage matters and as such, the proposal is considered to accord satisfactorily with UDP policy EN12.

## Conclusion

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

## **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:**

Members are recommended to approve the application subject to appropriate conditions, as detailed.

## Conditions:

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

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

- The Location Plan - Additional 2 Upper Floors - Drawing Number 153-A3-005, received 27 January 2016;
- The Existing Floor Plans - Drawing Number 153/A3/010, received 27 January 2016;
- The Existing Elevations Sheet 1 - Drawing Number 153/A3/020, received 27 January 2016;
- The Existing Elevations Sheet 2 - Drawing Number 153/A3/021, received 27 January 2016;
- The Floor Plans - Extant Application - 15/01267/FU4 - Drawing Number 153/A3/040-01, received 27 January 2016;
- The Elevations Sheet 1 -Extant Application - 15/01267/FU4 - Drawing Number 153/A3/041-01, received 27 January 2016;
- The Elevations Sheet 2 - Extant Application - 15/01267/FU4 - Drawing Number 153/A3/042-01, received 27 January 2016;
- The Proposed Elevations - 2 storey extension - Drawing Number 153/A1/1017-01, received 27 January 2016;
- The Proposed Elevations - 2 storey extension Sheet 2 - Drawing Number 153/A1/1018-01, received 27 January 2016;
- The Additional 2 Floors - Fourth Floor Plan - Drawing Number 153/A1/1024-01, received 27 January 2016;
- The Additional 2 Floors - Fifth Floor Plan - Drawing Number 153/A1/1025-01, received 27 January 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, 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.

4 Prior to the commencement of the use of the extension for the purposes hereby approved, glazing to the configuration specified in table 5 of the Addendum Noise Assessment (MG/CH/003) produced by LA Environmental Consultants dated February 2016 shall be installed in all of the apartments and shall be maintained as such at all times thereafter, in the interests of residential amenity and to accord with policy EN6 of the Unitary Development Plan.

5 The extension shall not be brought into use and occupied for the purposes hereby approved until a detailed written management plan has been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, the management plan shall include details of on site management, measures to control car parking, appropriate sound insulation



measures, an on-going programme of maintenance, security, refuse and recycling storage, lighting, cycle storage, a helpline contact for residents, arrangements for postal delivery, laundry and drying facilities, building security plans, fire evacuation plan, weekend arrivals procedures, warden and community liaison arrangements. Thereafter, the development shall operate in complete accordance with the approved details, in the interests of residential amenity and to accord with policy H18 of the Unitary Development Plan and the Interim Student Accommodation Policy.

6 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order and the Town and Country Planning (General Permitted Development) Order, or any subsequent Statutory Instrument, revoking or altering these Orders, the apartments hereby approved shall be used for the purposes of studio apartments for the student letting market (Use Class C3) only and shall be used for no other purpose, including any other purpose within Use Class C3, without the prior written consent of the Local Planning Authority, in order that the Local Planning Authority may retain control over the development and to accord with policy H18 of the Unitary Development Plan and the Interim Student Accommodation Policy.

7 No development shall commence until a method statement including an outline of the proposed method of construction, risk assessment in relation to the adjacent railway and a construction traffic management plan has been submitted to and approved in writing by the Local Planning Authority in consultation with Network Rail, in the interests of safety and the operational needs of the railway and to accord with policies T2 and T5 of the Unitary Development Plan.

8 Not less than six weeks prior to the commencement of works on site to carry out the development hereby approved, Network Rail's Asset Protection Project Manager (OPE) must be contacted. The OPE will require to see any method statements/drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the railway, in the interests of safety and the operational needs of the railway and to accord with policies T2 and T5 of the Unitary Development Plan.

9 The development hereby approved shall not commence until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors;
- ii. loading and unloading of plant and materials;
- iii. storage of plant and materials used in constructing the development;
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v. wheel washing facilities;
- vi. measures to control noise, lighting, dirt, dust and other airborne pollutants, vibration, smoke and odour during construction;
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works;

In the interests of residential and visual amenity and highway safety to accord with policies B2, EN1 and T14 of the Unitary Development Plan.

**Reference No.:** 16/00214/LP3 Local Authority (Reg 3 )

**Proposal:** **Change of use of nursery from wholesale horticulture to retail garden centre, to include widening of access, installation of a portacabin for additional rest room/training facilities, conversion of mess room to coffee shop and extension of car parking from 9 to 46 spaces.**

**Location:** Nursery Garden Chester Road Sunderland

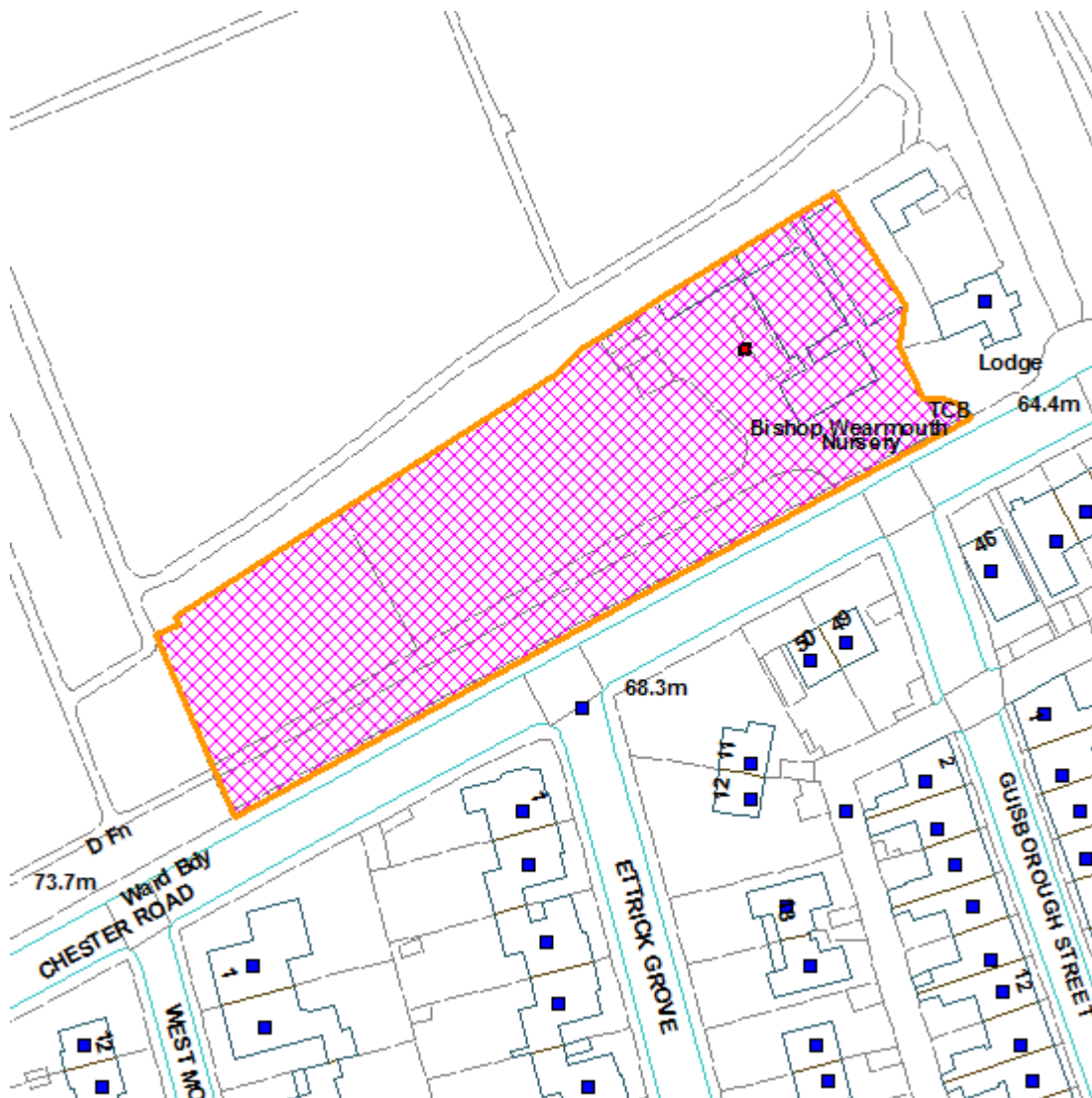
**Ward:** Pallion

**Applicant:** Sunderland Council - Peoples Service

**Date Valid:** 17 April 2016

**Target Date:** 12 June 2016

### Location Plan



## PROPOSAL:

The application site is situated on the north side of Chester Road adjacent to Bishopwearmouth Cemetery and has an area of 4255sq.m. The site is currently operated by the Council as a horticultural nursery and a day centre for people with disabilities wherein plants are grown and sold at wholesale; a Council-led landscape/florist community interest company also operates from the premises. The site accommodates a series of polytunnels and greenhouses as well as a mess room, a portacabin and external standing areas for plants in addition to limited parking along its front boundary. The premises slope gradually downward from west to east and are enclosed by a dwarf wall and iron railings along its boundary onto Chester Road which are Grade II listed. Access to the site is afforded directly from Chester Road and this access is shared by a two-storey lodge which is situated to the east and is also Grade II listed. The Cemetery surrounds the remainder of the site which has an attractive recessed entrance some 10m to the northeast of that of the application site. The south side of this section of Chester Road is entirely residential and the Sunderland Royal Hospital is situated some 500m to the northeast.

Planning permission is sought to change the use of the premises to a retail garden centre which would be open to members of the public and include, in addition to its existing facilities, a coffee shop, a portacabin providing rest and training areas and additional car parking and access improvements.

The proposed coffee shop would be incorporated in the northeasternmost building which exists on the site which currently accommodates offices, w.c. and shower facilities, storage and a mess hall. It is proposed to retain the majority of the existing facilities but convert the foremost office to a kitchen and incorporate this into the hall by removing an internal wall, which, together with the foremost w.c. facilities, would be available to members of the public.

The proposed portacabin is to be sited to the rear of the site adjoining an existing greenhouse and would provide an open-plan room for rest and training incorporating a locker area and kitchen. This proposed structure measures 9520mm by 7860mm, would have a flat roof to a height of 2906mm and its external walls would be coloured Goosewing grey.

The site currently accommodates 9no. car parking spaces and this is proposed to be increased to a total of 46no. spaces which would include 2no. dedicated disabled spaces near to the site entrance and a bus parking space would also be provided. The majority of the proposed spaces (32no.) would be provided to the southwest of the site which would be accessed along the northern boundary and a rear section of an existing polytunnel would be removed to accommodate this access. All new parking areas and their access would be constructed with self-binding gravel on a type 1 sub-base.

The access into the site is proposed to be widened which would accommodate a wider (5.2m) vehicular access, with a realigned kerb line, and a separate pedestrian access. This would be achieved by removing a repaired section of the Grade II listed front dwarf boundary wall and coping where a section of the railings is missing; the existing corner railing would then be attached to the remainder of the existing railings, effectively closing the existing gap. Members may have noted that a separate application for listed building consent (ref. 16/00215/LB3) is being considered for such works wherein the impact on the fabric of the boundary wall and railings will be considered.

The applicant anticipates that 9no. full-time and 3no. part-time members of staff would be employed at the premises, compared to the current 8no. and 2no. respectively, and operating hours of 09:00 - 17:00 on Mondays to Fridays and 10:00 - 16:00 on Saturdays, Sundays and Bank Holidays are proposed.

## **TYPE OF PUBLICITY:**

Site Notice Posted  
Neighbour Notifications

## **CONSULTEES:**

Pallion - Ward Councillor Consultation  
Network Management  
Environmental Health

Final Date for Receipt of Representations: **03.05.2016**

## **REPRESENTATIONS:**

Two representations have been received from neighbouring residents, one recommending the provision of cycle storage near to the entrance of the proposed coffee shop and associated signage to encourage visitors to travel by bicycle and the other in opposition to the proposal wherein concerns are raised that the proposal would exacerbate existing traffic problems in the local area by additional on-street parking and vehicular access into the site.

The Council's Heritage Protection Team confirmed its satisfaction of the proposed works to the listed boundary wall, subject to the agreement of a method statement and samples, and advised that all other proposed works would have a minimal impact on the setting of the listed structures.

The Council's Network Management section confirmed that it has no objection but recommended that directional signage to the car park to be provided to the southwest section of the site be displayed and that specified officers be contact prior to the commencement of works to arrange for a dilapidation survey of adjacent footway and roads to be carried out and to ascertain whether any consents will be required under the Highways Act 1980.

## **POLICIES:**

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

B\_2\_Scale, massing layout and setting of new developments  
B\_3\_Protection of public/ private open space (urban green space)  
B\_10\_Development affecting the setting of listed buildings  
B\_24\_Appropriate provision for utility services in building development  
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  
L\_1\_General provision of recreational and leisure facilities  
L\_3\_Encouragement to regional recreational developments in appropriate locations  
L\_7\_Protection of recreational and amenity land  
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

## **COMMENTS:**

The main issues to consider in assessing this application are as follows:

- o Land Use
- o Residential and Visual Amenity and Setting of Listed Structures
- o Highway Implications
- o Flood Risk and Drainage

### **Land Use**

Paragraph 14 of the National Planning Policy Framework (NPPF) sets out the presumption in favour of sustainable development as being a 'golden thread' running through plan-making and decision-taking. In respect of the latter, it is set out that applications which accord with the development plan should be approved without delay or, where the development plan is absent, silent or relevant policies are out of date, granting permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.

The site, together with the adjacent Cemetery, is allocated as existing open space to be retained by the Council's adopted Unitary Development Plan (UDP) and, as such, is subject to UDP policies L1, L3, L7 and B3. These policies relate to the provision of appropriate levels of recreational and leisure facilities including areas of open space. Most pertinently, policy L7 states that land allocated for open space or outdoor recreation, as shown on the proposals map, will be retained in its existing use. Policy B3 goes on to state that public open space will be protected from development which would have a serious adverse effect on its amenity, recreational or nature conservation value; proposals will be considered in the light of their contribution to urban regeneration and the importance of such space to the established character of the area.

In this instance, whilst the site is allocated as open space to be retained, it is apparent that it contains a significant amount of built development and is not publicly accessible, offering a limited amount of open space. All of the proposed development would be accommodated within the enclosed curtilage of the nursery premises, only a single additional building of limited scale is proposed and all proposed surfacing comprises gravel, which currently exists throughout the site. As such, it is not considered that the proposal would result in the erosion of any area of amenity open space.

### **Residential and Visual Amenity and Setting of Listed Structures**

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'.

Policy B2 of the UDP states 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'.

In addition, UDP policy B10 seeks to ensure that all development in the vicinity of listed buildings does not adversely affect their character or setting.

In terms of its impact on the amenity of neighbouring residents, it is not apparent that the proposal would include any operations which would be likely to generate excessive noise levels. It is noted that the proposed use would be likely to significantly increase the number of visitors to the site, many of which would travel by car. However, the proposed hours of operation would restrict such additional visits to daytime hours when ambient noise levels are typically high by virtue of the high volume of traffic along this section of Chester Road.

Having regard to visual impact, the proposed works to the listed front boundary wall are most pertinently visible from the public vantage. However, it is not considered that such works would have a significant impact on the street scene by utilising existing sections of railings, maintaining the existing height and broad form, and, as confirmed by the Council's Natural Heritage, it is not considered that such works would be detrimental to the fabric of this listed structure, as will be elaborated upon in the report to the Sub-Committee pertaining to the concurrent application for listed building consent (ref. 16/00215/LB3).

The proposed portacabin, whilst of limited aesthetic merit, would be positioned to the rear of the site and separated from the listed Lodge by an existing building, so it is not considered that it would pose any significant impact on the street scene or the setting of the nearby listed structures.

## **Highway Implications**

Paragraph 75 of the NPPF 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.

As set out above, the proposal would result in a significant increase in visitors to the site and, as highlighted by a local resident, there are existing traffic congestion / parking problems in the area. In order to accommodate the likely additional car borne visits to the site, additional parking would be provided which would afford space for a total of 46no. cars as well as a bus within the curtilage of the site, which it is considered would comfortably accommodate the additional demand. The alterations to the access/egress and realignment of the kerb line and internal accesses, including the removal of a section of a polytunnel, would afford two-way vehicle movement throughout the site and allow vehicles to enter and exit the site in forward gear whilst a condition can be imposed, should Members be minded to approve the application, requiring directional signage to be displayed directing motorists to the parking area to be provided to the southwest section of the site. Such provisions would ensure that vehicles will not have to park on the public highway or have to wait on Chester Road to enter the site.

As requested by a local resident, as summarised above, in order to promote sustainable transport to the site and reduce the number of car borne visits, it is recommended that a condition be

imposed, should Members be minded to approve this application, requiring cycle storage to be provided within the curtilage of the site, which should be provided near to the site entrance and the proposed coffee shop in order to ensure that it is readily visible to customers.

## **Flood Risk and Drainage**

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 whilst UDP policy B24 advises that appropriate provision for utilities be made.

The site is situated within Flood Zone 1, so is not at a particularly high risk of flooding, however the proposal constitutes the provision of an additional building and a notable proportion of gravel paving comprising self-binding gravel on a type 1 sub-base. Given the existing gradient, surface water would flow eastward from the proposed southwest parking area and a drainage verge is proposed along its eastern edge to protect the adjacent plant standing area whilst the northern access would be graded to direct water off the site to the Cemetery to the north.

This approach is considered to be broadly acceptable, however it cannot be fully established based upon the submitted details whether the proposal would improve or worsen the natural drainage of the site relative to its current form. Therefore, should Members be minded to approve the application, it is recommended that a condition be imposed requiring full details of all surfacing together with foul and surface water drainage to be provided prior to the commencement of the use.

## **Conclusion**

For the reasons given above and subject to the imposition of appropriate conditions as set out below, it is considered that the proposed development is acceptable in principle and it is not considered that the proposal would be detrimental visual or residential amenity, the setting of listed structures, highway safety or the free passage of traffic or flood risk.

It is therefore considered that the proposal accords with the provisions of the adopted UDP and relevant sections of the NPPF as set out above and, in lieu of any material considerations to suggest otherwise, it is recommended that Members approve the application.

## **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:**

Members approve the application subject to the conditions detailed 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:

- Location plan received 17.03.2016
- Drawing no. BISHOPGC/001 rev. A: General Arrangement received 12.02.2016
- Drawing no. BISHOPGC/002 rev. 00: Turning Movements received 12.02.2016
- Drawing no. BISHOPGC/003 rev. A: Cafe Existing/Proposed Floor Plan received 17.03.2016



- Drawing no. BISHOPGC/005 rev. A: Boundary Wall Existing/Proposed Elevations received 17.03.2016
- Drawing no. PKH0550543 Elevation ref. 0: Canteen Building dated 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.

3 The use hereby approved shall not commence until a full specification of all new surfacing, including the base layer(s), and details of foul and surface water drainage have been submitted to and approved, in writing, by the Local Planning Authority and such surfacing and means of drainage have been fully provided and installed in accordance with the approved details, which shall be maintained thereafter, in order to ensure that satisfactory drainage is provided for the development to prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity and ensure future maintenance of the surface water drainage system, in accordance with policies B24 and EN12 of the adopted Unitary Development Plan.

4 The use hereby approved shall not commence until details of cycle storage have been submitted to and approved, in writing, by the Local Planning Authority and the facility has been fully provided and installed in accordance with the approved details, which shall be retained thereafter, in order to promote cycling and to comply with policy T9 of the adopted Unitary Development Plan.

5 The use hereby approved shall not commence until details of signage to direct motorists to the car parking area to the southwest section of the site have been submitted to and approved, in writing, by the Local Planning Authority and such signage is displayed, in full, in accordance with the approved details, which shall be retained thereafter, in the interest of highway safety and the free passage of traffic and to comply with policies T14 and T22 of the adopted Unitary Development Plan.

6 The use hereby approved shall not commence until all access works, surfacing and demarcations have been completed in full accordance with drawings no. BISHOPGC/001 rev. 01 and BISHOPGC/005 rev. A, in the interest of highway safety and the free passage of traffic and to comply with policies T14 and T22 of the adopted Unitary Development Plan.

7 The premises shall not be operated for the purposes hereby approved other than between the hours of 09:00 and 17:00 on Monday to Fridays inclusive (except Bank Holidays) and 10:00 and 16:00 on Sundays and Bank Holidays, in order to protect the amenity of the area and nearby residents and to comply with policy EN5 of the adopted Unitary Development Plan.

3.

South  
Sunderland

**Reference No.:** 16/00215/LB3 Listed Building Consent (Reg3)

**Proposal:** Part removal of boundary wall to allow widening of access

**Location:** Nursery Garden Chester Road Sunderland

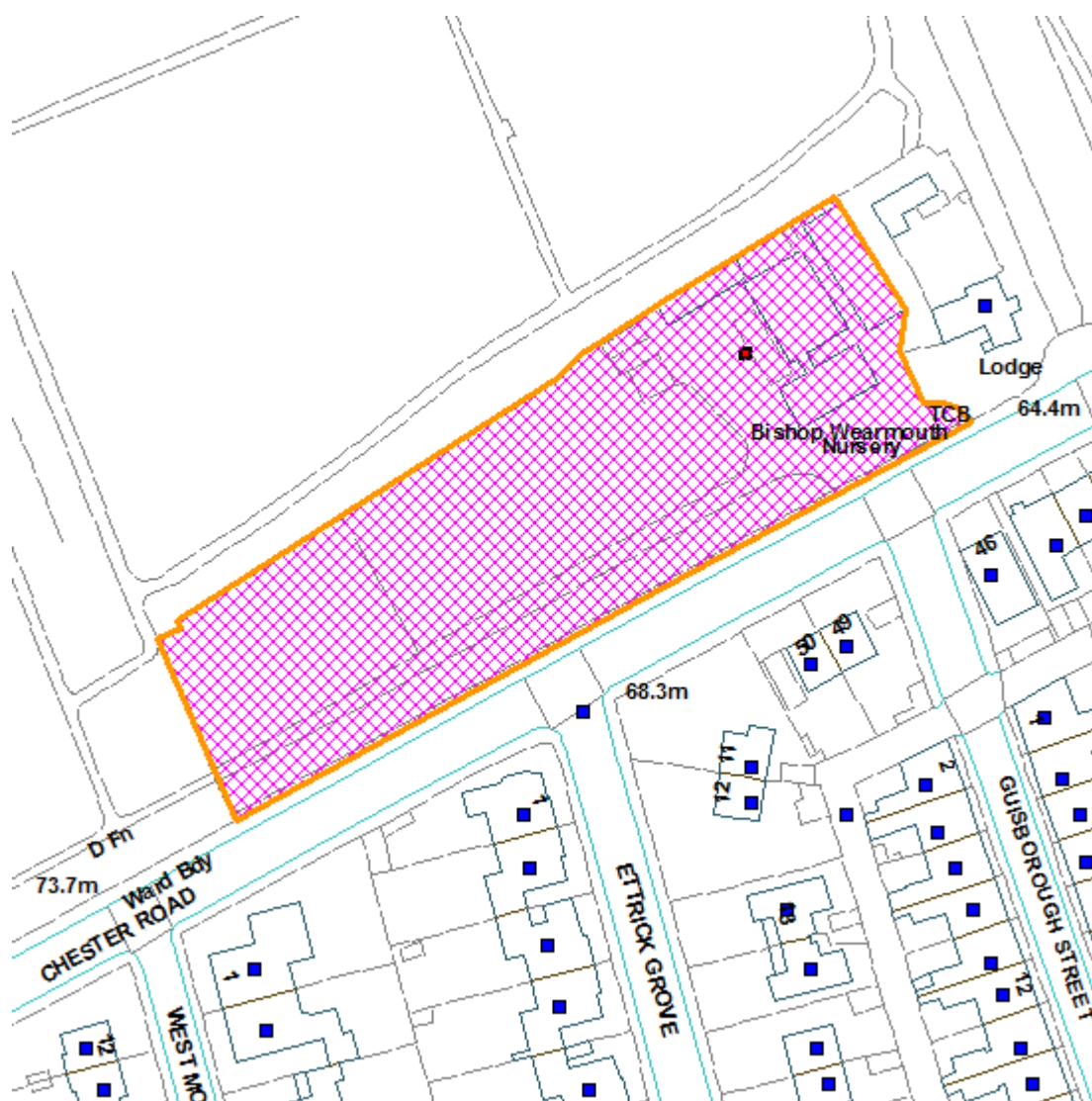
**Ward:** Pallion

**Applicant:** Sunderland Council - Peoples Service

**Date Valid:** 17 March 2016

**Target Date:** 12 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 © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence No. 100018385. Date 2016.

## **PROPOSAL:**

The application site is situated on the north side of Chester Road adjacent to Bishopwearmouth Cemetery and has an area of 4255sq.m. The site is currently operated by the Council as a horticultural nursery and a day centre for people with disabilities wherein plants are grown and sold at wholesale; a Council-led landscape/florist community interest company also operates from the premises. The site accommodates a series of polytunnels and greenhouses as well as a mess room, a portacabin and external standing areas for plants in addition to limited parking along its front boundary. The premises slope gradually downward from west to east and are enclosed by a dwarf wall and iron railings along its boundary onto Chester Road which are Grade II listed. Access to the site is afforded directly from Chester Road and this access is shared by a two-storey lodge which is situated to the east and is also Grade II listed. The Cemetery surrounds the remainder of the site which has an attractive recessed entrance some 10m to the northeast of that of the application site. The south side of this section of Chester Road is entirely residential and the Sunderland Royal Hospital is situated some 500m to the northeast.

Listed building consent is sought to remove part of the front boundary wall and coping to allow for the widening of the existing site access/egress, in association with the concurrent application for planning permission (ref. 16/00214/LP3) to change the use of the site to a retail garden centre and associated development which is also put to the Sub-Committee for its consideration.

The proposed widening of the existing opening would accommodate a wider (5.2m) vehicular access, with a realigned kerb line, and a separate pedestrian access. This would be achieved by removing a repaired section of the Grade II listed front dwarf boundary wall and coping where a section of the railings is missing; the existing corner railing would then be attached to the remainder of the existing railings, effectively closing the existing gap.

## **TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted

## **CONSULTEES:**

English Heritage  
Pallion - Ward Councillor Consultation  
The Ancient Monuments Society  
The Council For British Archaeology  
The Georgian Group  
The Society For The Protection Of Ancient Buildings  
Twentieth Century Society  
Victorian Society

Final Date for Receipt of Representations: **03.05.2016**

## **REPRESENTATIONS:**

No representations have been received from neighbouring residents.

Historic England confirmed that it has no comments to offer in this instance.

The Council's Heritage Protection Team confirmed its satisfaction of the proposed works to the listed boundary wall, subject to the agreement of a method statement and samples, which are elaborated upon below.

## **COMMENTS:**

The main issue to consider in assessing this application is the impact of the proposal on the historic character and fabric of the designated heritage asset, namely the Grade II listed boundary wall, coping and railings.

Paragraph 128 of the NPPF states that, in determining applications, LPAs should require an applicant to describe the significance of any heritage assets affected. Paragraph 129 states that LPAs should identify and assess the particular significance of any heritage asset that may be affected by a proposal whilst paragraph 132 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation. Paragraph 134 goes on to state that, where a 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.

The application site adjoins one of the most important cemeteries in Sunderland, with many of the most famous names in the city's history interred here. The wider cemetery site is littered with listed buildings including the cemetery chapel, south east lodge and four tombs adjacent to the business. In addition, the southern and northern walls are listed Grade II, along with their associated entrance pillars, railings and gates. The southern entrance, walls and railings are affected by the current proposal.

Whilst alterations to the host listed wall and railings would normally be resisted, in this instance the area of wall/coping which is to be removed was either damaged, obscured or not present as a result of a phone box which was previously situated adjacent to this affected section of the boundary. The brickwork which has been used to in-fill a previous gap is clearly modern and the bricks have not been pieced in as would normally have been expected whilst the coping stone heavily cleaned and likely to be new. Therefore, the proposal to re-join the original pieces of wall is considered to be a positive approach.

In addition, it is clear that the proposed works will improve the operation of the business, which has a focus on developing skills in the community and will not substantially harm the significance of the listed walls and railings, with the re-joining of two original pieces likely returning the wall to its original boundary line.

In order to ensure that the works are carried out and completed to a standard which is appropriate to the listed status of the structure, should Members be minded to grant consent it is recommended that conditions be imposed requiring the submission of a method statement detailing how the section of the wall will be demolished and how the corner-turning wall will be moved and fixed together with samples of any new materials which would be introduced.

## **Conclusion**

For such reasons and subject to the conditions set out below, it is considered that the proposed works would appropriately conserve the character of the heritage asset and would not

compromise the its historic fabric or significance, in accordance with paragraphs 128, 129 and 132 of the NPPF. It is therefore recommended that Members grant listed building consent.

### **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:**

Members grant listed building consent subject to the conditions listed below:-

## **Conditions:**

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

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

Drawing no. BISHOPGC/001 rev. A: General Arrangement received 12.02.2016

Drawing no. BISHOPGC/005 rev. A: Boundary Wall Existing/Proposed Elevations received 17.03.2016

In order to ensure that the completed development accords with the scheme approved and to comply with chapter 12 of the National Planning Policy Framework.

3 No development, including any demolition works, shall take place until a method statement has been submitted to and approved, in writing, by the Local Planning Authority detailing the means of demolition of the section of the boundary wall and coping and the moving and fixing of the 'corner turning wall', in order to protect the character and fabric of the Grade II listed boundary enclosure and to comply with chapter 12 of the National Planning Policy Framework.

4 Notwithstanding any indication of materials which may have been given in the application, no development, including any demolition works, shall take place until samples of the mortar mix together with all new brickwork, storework and railings to be used have been submitted to and approved, in writing, by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details, in order to protect the character and fabric of the Grade II listed boundary enclosure and to comply with chapter 12 of the National Planning Policy Framework.