

## **DEVELOPMENT PLAN**

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

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

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

## **STANDARD CONDITIONS**

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

## **SITE PLANS**

The site plans included in each report are illustrative only.

## **PUBLICITY/CONSULTATIONS**

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

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

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

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

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

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

Ms. Irene Lucas CBE  
Chief Executive

1.

South  
Sunderland

**Reference No.:** 16/01556/FUL Full Application

**Proposal:** **Conversion of existing bedsits (Sui Generis) to 13no. self-contained apartments (Use Class C3)**

**Location:** 18/19 Murton Street Sunderland SR1 2QY

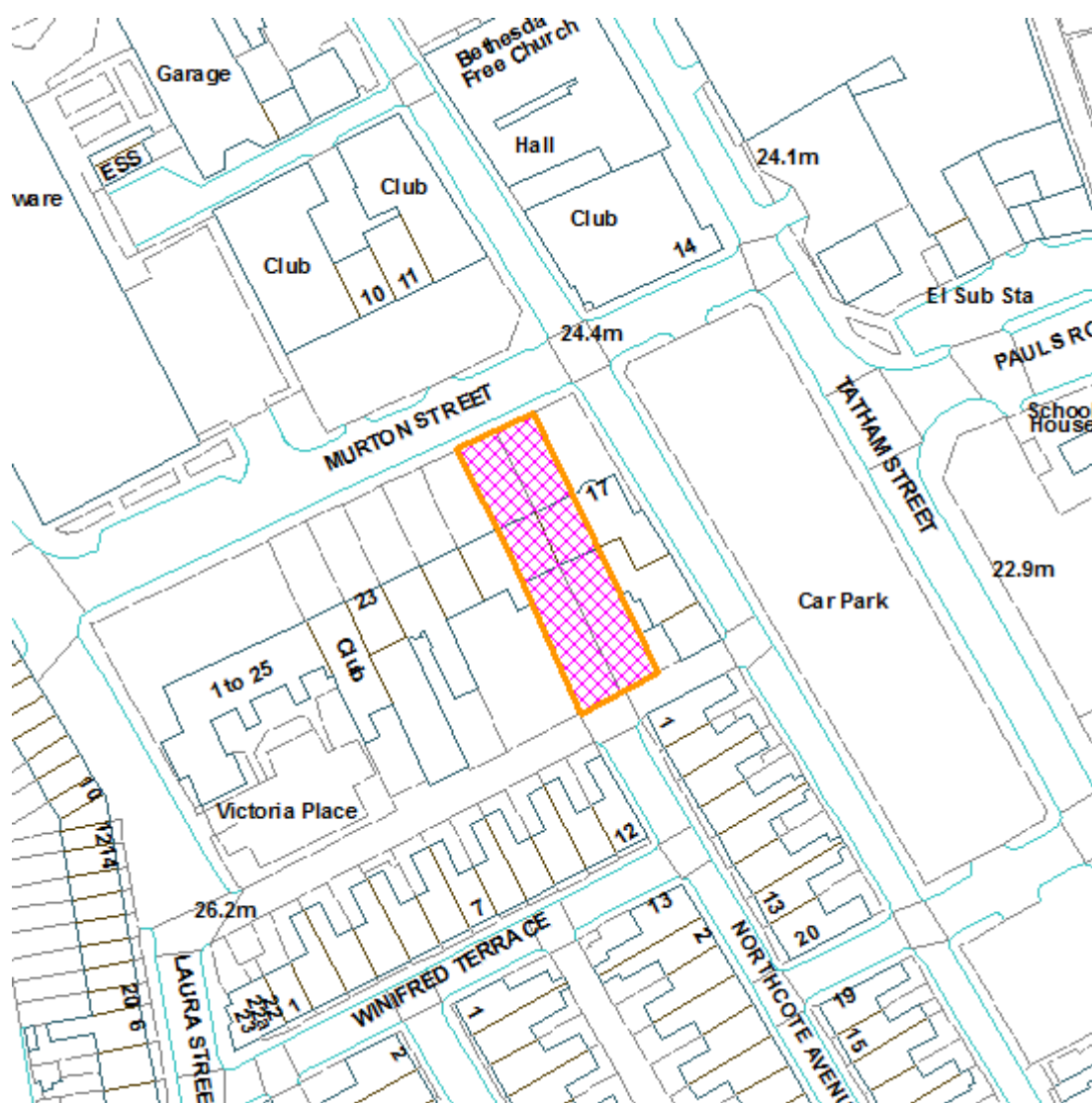
**Ward:** Hendon

**Applicant:** Mr Anthony Conlon

**Date Valid:** 2 September 2016

**Target Date:** 2 December 2016

### Location Plan



## PROPOSAL:

### Site

This application relates to a Grade II listed building which originally comprised two units and is situated one from the eastern end of a predominantly residential historic terrace located in the eastern section of the City Centre and outside the southern boundary of the Sunnyside Conservation Area. Number 18 has three storeys whilst the remainder of the terrace is two storey (the roof space of no. 19 is served by rooflights), nos. 17-23 of the terrace are Grade II listed and all properties in the terrace have a basement level, stepped front entrance with a portico and large front windows with decorative headers and cills. Each property also has a long front and rear yard and vehicular access is afforded to the front and rear of the terrace. Vacant units exist on the opposite side of Murton Street to the north and a series of residential terraces are situated to the rear.

The host property is currently vacant, having previously accommodated bedsits and a ground floor office. The submitted plans indicate that building accommodated a total of 17no. bed spaces which shared communal facilities including bathrooms, kitchens, dining rooms and a living room. An enclosed parking area exists to the front of the host units, as well as no. 17, which appears capable of accommodating approximately 8no. cars.

### Proposal

Planning permission is sought to change the use of the host building to a total of 13no. self-contained flats, which fall within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended). It is proposed to provide four flats in each the basement, ground and first floors and one further flat would be accommodated within the second floor of no. 18 and the roof space of no. 19. Six of the proposed flats would be studios, accommodating a single room which would serve as the living room, kitchen and bedroom and a separate shower room, and seven of the proposed units are one bedroom flats incorporating a shower room and open-plan kitchen / living room, with the exception of the upper floor flat which would have a separate kitchen / dining area and living room. No external alterations are proposed and the proposed internal alterations are subject to a separate application for listed building consent (ref. 16/01719/LBC), which is also on the agenda of this Sub-Committee meeting.

Members may recall that this application was presented to the Sub-Committee on 22 November 2016 when a total of 14no. flats were proposed. An amended layout has subsequently been received following concerns raised to the applicant over the living conditions which would be afforded to some of the proposed flats and that the original layout would contravene Building Regulations.

### Planning History

Numbers 17-21 Murton Street have been subject to a number of applications in recent years; those which are most relevant to the current proposal are set out below.

Planning permission was refused in 2008 (ref. 08/00731/FUL) to change the use of nos. 17-21 to an extended hostel and to relocate the taxi booking office.

Planning permission (ref. 92/1397) and listed building consent (ref. 92/1618/LB) were granted in 1993 to change the use of nos. 17-19 to student accommodation and to carry out associated alterations to the interior of the building and rear car parking area.

At no. 20, planning permission was granted in 1987 (ref. 87/1185) and 1995 (ref. 93/0024) to change the use of part of the building to a taxi booking office. Most recently, in July 2016, planning permission (ref. 16/00364/FUL) and listed building consent (ref. 16/00365/LBC) were granted to change the use of no. 20 to 7no. flats and to carry out the associated internal alterations.

Planning permission (ref. 09/01206/FUL) and listed building consent (ref. 09/01207/LBC) were granted in 2009 to change the use of no. 21 Murton Street from offices to 7no. studio apartments.

In addition, planning permission (ref. 08/01162/FUL) and listed building consent (ref. 08/01163/LBC) were granted in 2008 to change the use of no. 23 Murton Street from offices to 4no. apartments and to carry out associated works.

## **TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

## **CONSULTEES:**

Network Management  
Environmental Health  
Hendon - Ward Councillor Consultation  
Flood And Coastal Group Engineer  
Northumbrian Water  
Nexus  
Southern Area Command - Police  
Fire Prevention Officer  
NE Ambulance Service NHS Trust

Final Date for Receipt of Representations: **26.10.2016**

## **REPRESENTATIONS:**

No representations have been received from neighbouring occupants.

Nexus and Northumbrian Water confirmed that they have no comments to make in this instance.

The Council's Flood and Coastal Team, in its capacity as Lead Local Flood Authority, advise that, as the development only includes for internal works, there are no requirements for further information relating to drainage and flood risk, however consultation should be undertaken with Northumbrian Water to ensure appropriate capacity, particularly relating to foul drainage if there would be an increase in occupancy.

The Council's Network Management offered no objection, noting that the site is within the Central Parking Area and well connected to public transport and there is a public car park adjacent to the site, and recommended that a secure covered cycle store be provided, all servicing and refuse collection take place from the rear and all refuse bins are stored wholly within the rear yard. Network Management also note that there is a residents parking scheme available in this area

and the Council's Network Operations section be contacted for any temporary works on the highway.

## **POLICIES:**

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

HA\_18\_Major existing developed site in the Green Belt at Stoneygate

T\_9\_Specific provision will be made for cyclists on existing/new roads and off road

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 the application are the principle of the proposed change of use, residential amenity and the highway implications of the proposal.

### **Principle of Use**

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

The application site is situated within an approximately 27.5ha area named Sunnyside allocated by policy SA55B.1 of the adopted Unitary Development Plan Alteration Number 2 (Central Sunderland) as a Strategic Location for Change. This policy sets out Use Classes A2 (Financial and Professional Services), A3 (Restaurants and Cafés), A4 (Drinking Establishments), B1 (Business) and C3 (Housing) which are contained within this defined area already contribute significantly its character and should therefore remain predominant. Policy SA55B.1 goes on to identify that Use Classes A1 (Retail) and C1 (Hotels) in addition to art galleries / exhibition spaces and health and upper floor health and fitness uses as also being acceptable within Sunnyside. It is noted that the site falls outside the area affected by the adopted Sunnyside Planning and Design Framework Supplementary Planning Document.

Policy H18 of the UDP is also of relevance, which states that the conversion of dwellings into bed-sitting rooms, self-contained flats or multiple shared accommodation will normally be approved where the intensity of use would not affect the character and amenity of the locality and appropriate arrangements are made to secure the maintenance of external spaces. This policy goes on to advise that the conversion of non-residential buildings which are vacant or under-used into residential accommodation will normally be approved where it will not conflict with other policies and proposals of the Plan and there is satisfactory provision for parking, servicing and other design aspects.

The current proposal accords with the land-use allocation of the site, as set out by policy SA55B.1 of UDP Alteration Number 2, and would not result in the loss of a local service given that the existing ground floor office, whilst not currently in use, appears to be associated with the wider most recent residential operation of the building as bedsits. Given that the host terrace is

predominantly residential, comprising a variety of unit size including studios, it is considered that the proposal accords with the character of the terrace in terms of the type, size and density of units, particularly in relation to no. 20 where planning permission has recently been granted for accommodation of equal density.

### Residential Amenity

Policy B2 of UDP Alteration Number 2 seeks the security of the highest possible quality of built environment and the creation of desirable places to live, work, shop and visit.

Topics 4.2a(vi) and 4.3(viii) of the Development Control Guidelines Supplementary Planning Guidance (SPG) provide guidance in relation to the provision of a reasonable separation of habitable room windows from parking bays to avoid problems of noise and pollution and outlook from main habitable rooms, advising that main living rooms should not be lit solely by rooflights. In addition, topic 4.2a(vii) sets out that external entrances should normally be located on main road frontages.

As set out above, the proposed use of the property is compatible with the local type and density of residential accommodation. It is considered that the proposal represents a significant improvement of the existing arrangement by providing self-contained units as opposed to bedrooms with shared cooking and living facilities.

In terms of the amenity value which would be provided, it is noted that the proposed studios would afford limited internal area to occupants given that all living space would, essentially, be contained within a single room. However, these units would be afforded a gross floor area of at least 23sq.m and the submitted plans, which provide an improved layout to those originally submitted, demonstrate that all necessary facilities for a single residence could comfortably be accommodated in each room. This form of studio accommodation would offer a choice of affordable accommodation which would be appropriately integrated with larger flats and, crucially, represent a notable improvement and less dense arrangement than the existing layout. In addition, as set out above, such a density of accommodation is typical of the locality, including the adjoining property of the host terrace.

Each proposed unit would be accessible from the front doorway of the building and the large rear yard has the potential to provide substantial external amenity space to residents; whilst the rear yard would not be directly internally accessible to all flats, it could still be accessed by walking a short distance around the terrace.

Every flat and all but two of all primary habitable rooms of the proposed units would be afforded at least one window providing good levels of outlook and natural light. The two main rooms which would not have a window are the living room / kitchen of the basement flat and the kitchen / dining room to be provided in the roof space of no. 19. However, the basement flat has a glazed doorway which provides a commensurate level of outlook and natural light to the front basement windows of the terrace. In addition, the revised plans propose a single flat, rather than two as originally proposed, in the upper floor of the building. The kitchen / dining room of this flat would be served by a total of 6no. existing rooflights which, by virtue of their height from floor level (as set out by a submitted sectional drawing), would provide a reasonable degree of outlook, and this unit would be afforded a separate living room containing two windows which afford a good level of outlook.

## 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'.

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 and policy T9 promotes the facilitation of cycling.

Given the position of the site within the City Centre and its particularly good public transport links, it is unlikely that residents of the proposed accommodation would be reliant on the use of a car and, as such, it is not considered that any dedicated car parking provision is necessary in this instance. Notwithstanding this, the area immediately in front of the host building is capable of accommodating at least 4no. cars whilst the current arrangement, with the front yard extending across no. 17, can accommodate up to 8no. cars and further parking could be provided in the rear yard to accommodate any additional demand which the proposal could reasonably generate. In order to further promote sustainable modes of transportation, it is recommended that a condition be imposed requiring the provision of secure sheltered bicycle storage within the rear yard.

In addition, the rear yard is comfortably of sufficient size to accommodate refuse bins at an appropriate distance from windows of the proposed flats and, as set out above, is considered to be reasonably accessible from each proposed unit.

## Other Issues

Whilst not necessarily relevant to the planning merits of the proposal, the Council's Building Control section has advised that the revised proposed layout broadly adheres to Building Regulations, subject to detailed assessment through the submission of the necessary application for Building Regulation Approval.

## **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.

## **Summary**

For the reasons given above, the principle of the proposed use is considered acceptable and of a density which is appropriate for the local area and less intensive than the existing lawful use of the property. It is not considered that the proposal would be detrimental to the amenity of neighbouring residents and it is considered that acceptable living conditions would be afforded to residents of all proposed units. In addition, it is not considered that the proposal would be detrimental to highway safety or the free passage of traffic.

For such reasons, the proposal is considered to accord with the UDP and, in lieu of any material considerations which indicate otherwise, it is recommended that Members approve this application subject to the conditions set out below.

**RECOMMENDATION:** Members are recommended to Approve the application 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 The development hereby granted permission shall be carried out in full accordance with the following approved plans:

Location plan received 23.08.2016

Site plan received 23.08.2016

Existing basement plan received 23.08.2016

Existing ground floor plan received 23.08.2016

Existing first floor plan received 23.08.2016

Existing second floor plan received 23.08.2016

Proposed basement plan received 01.12.2016

Proposed ground floor plan received 01.12.2016

Proposed first floor plan received 01.12.2016

Proposed second floor plan received 01.12.2016

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

3 No flat hereby approved shall be occupied until covered storage facilities for at least 10no. bicycles have been provided within the rear yard, which shall be retained thereafter, in order to promote cycling and to comply with policy T9 of the adopted Unitary Development Plan.

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**Reference No.:** 16/01569/VAR Variation of Condition

**Proposal:** Variation of condition 2 of planning approval 15/01588/FUL to vary open roof terrace area, 3no. roof vents, glazed parapet to loading bay roof and caged access ladder, omission of customer WC to rear elevation and inclusion of CCTV room under stairs.

**Location:** LIDL Ryhope Road Sunderland SR2 9TB

**Ward:** Ryhope

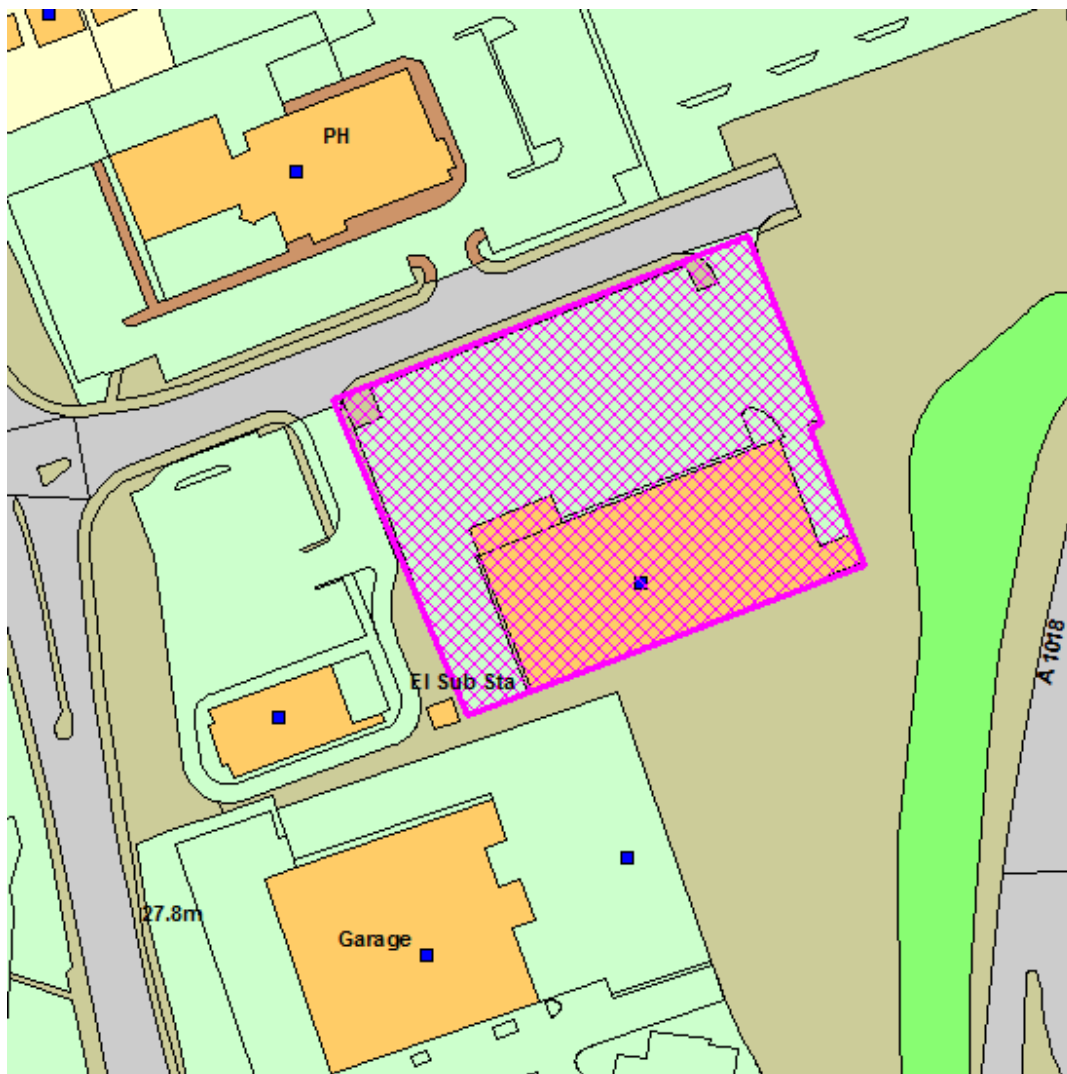
**Applicant:** Lidl UK GmbH

**Date Valid:** 30 September 2016

**Target Date:** 30 December 2016

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### Location Plan



## **PROPOSAL:**

The proposal relates to the variation of condition 2 of application reference 15/01588/FUL (Erection of a foodstore (Class A1) and associated works including access, parking and landscaping (as amended)) to seek amendments to the open roof terrace area, introduce 3 no. roof vents, glazed parapet to loading bay roof and caged access ladder, omission of customer WC to rear elevation and inclusion of CCTV room under stairs at Lidl, Ryhope Road, Sunderland, SR2 9TB.

The application proposes to vary a condition of planning permission reference 15/01588/FUL which, as Members may recall, was approved at the Development Control (South) Area Sub-Committee meeting on 24th November 2015. The development proposed by the approved application involved the erection of a new Lidl foodstore on an area of vacant land adjacent to Lidl's existing foodstore off Ryhope Road in Grangetown, together with revised access arrangements, areas of parking and landscaping. The existing Lidl building is to be retained and is planned to be occupied by a different retailer.

The site of the new Lidl forms part of the Salterfen commercial estate which, as well as the existing Lidl store, features a McDonalds restaurant, a home furniture store and a public house, all accessed from Ryhope Road. To the north, the site is abutted by the rear gardens of the recently-built dwellings of Angram Drive and Rydale Park and the plots of three further dwellings, which are in the process of being constructed. To the east, meanwhile, the site is bordered by the Durham coastal railway line at the point where it is bridged by the recently-built A1018 Southern Radial Route.

The approved foodstore has a gross external floor area of 2566 sq. metres and its main customer entrance is to the south-west corner, facing the approach from Ryhope Road. The store's delivery/loading area, meanwhile, is to the north side of the building, towards the rear boundaries of the dwellings fronting Angram Drive and Rydale Park and, as approved, comprises a part-sunken vehicle docking bay and a flat-roofed internal delivery handling area which projects from the north elevation of the main body of the building. Construction of the store is nearing completion and it is understood to be due to open by March 2017.

Planning permission for the new foodstore was granted subject to a series of conditions, one of which (condition no. 2) requires the development to be undertaken in accordance with the list of approved plans set out by the condition. Section 73 of the Town and Country Planning Act 1990 (as amended) allows for applications to be made to vary or delete conditions attached to a planning permission and to this end, the current application seeks to vary the list of the approved plans set out by condition 2 in order to allow for a series of minor material amendments to be made to the approved development.

The amendments to the approved scheme sought by the current application involve:

- alterations to size and shape of small roof terrace, which is contained within the slope of the store's roof and is accessed via a mezzanine floor providing staff quarters;
- the provision of 3 no. roof vents to the main roof of the store building. The vents stand approximately 500mm proud of the slope of the roof;
- introduction of a parapet around the edge of the flat-roof over the delivery area, to be primarily clad in the same material as the rest of the store. The parapet serves to increase the height of the

roof (when viewed externally) from 4.1 metres to 6.2 metres, whereas the main building has a maximum height of 7.5 metres (at its front elevation);

- the introduction of a caged ladder, to provide access from the fenced storage area at the rear of the building onto the delivery/loading area roof;

The submitted information also advises of the omission of a customer WC at the rear of the store and the introduction of a small CCTV monitoring room to the ground floor of the building; however, as these revisions solely relate to the interior of the building, they do not constitute 'development' for planning purposes and as such do not require any further consideration.

The proposals do not affect the access and parking arrangements or the treatment of the wider site (e.g. hard and soft landscaping proposals, drainage arrangements etc.) approved as part of the initial planning application.

## **TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

## **CONSULTEES:**

Network Management  
Ryhope - Ward Councillor Consultation  
Environmental Health

Final Date for Receipt of Representations: **02.11.2016**

## **REPRESENTATIONS:**

Public consultation - 4 no. letters of representation have been submitted in respect of the application, from the occupiers of 21 Angram Drive, 17 and 20 Rydale Park and 'Plot 3' Rydale Park (i.e. one of the new dwellings being constructed immediately to the north of the new store). The following concerns have been raised by the objections:

- the approved building is argued to be domineering in relation to the nearby dwellings and the introduction of the parapet to the delivery/loading area roof only increases its impact;

- a greater break should have been provided between the new store and the dwellings of Rydale Park/Angram Drive; it is questioned why grass buffer between The Sandcastle public house and dwellings of Angram Drive was not carried through to the new development;

- concerns over the hours of delivery to the store and potential for noise intrusion, particularly if deliveries occur early in the morning or late in the evening. It is requested that consideration is given to revising the approved delivery hours (set at one delivery per day, between 06:00 - 23:00 Monday to Saturday (except Bank Holidays) and 07:00 - 22:00 on Sundays and Bank Holidays);

- the building is not in keeping with the area, which features brick-built buildings with tiled roofs;

- the 'tree belt' along the northern boundary of the site should not have been removed as they would have screened the new store;
- the revised roof has the effect of making the store appear closer to no. 17 Rydale Park than as approved and there is no reason to change it;
- the loading bay is too close to the neighbouring dwellings and its approval is an example of large organisations 'riding roughshod' over the rights of residents and being able to threaten Local Planning Authorities with appeals against refusal of planning permission;
- the Council should reject this amendment to protect the right of individuals and families to lead a peaceful life;
- the value of dwellings will be decreased as a result of the store being so close;

Members should note at this stage that whilst the concerns of objectors regarding the location of the store and its relationship with the nearest dwellings are acknowledged, the current application only seeks permission for the minor amendments to the store's design outlined in the previous section of this report and the only matter to consider in determining the current application is the acceptability of the amendments relative to the approved development. To this end, the current application does not afford an opportunity to revisit the decision to approve the initial planning application and nor does it afford an opportunity to reconsider the approved store opening hours and delivery arrangements (the initial approval would still stand even if the current application were refused).

In addition, Members should note that any concerns regarding the value of property are of private interest and as such, are not material to the determination of a planning application.

## **POLICIES:**

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

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

EN\_5\_Protecting sensitive areas from new noise/vibration generating developments

## **COMMENTS:**

### **CONSIDERATION OF APPLICATION**

The principle of the proposed redevelopment of the site to deliver a new foodstore, with associated access, parking and landscaping has already been established through the approval of application ref. 15/01588/FUL at the Development Control (South) Area Sub-Committee meeting on 24th November 2015. In determining the initial 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, impact on local retail centres, visual and residential amenity, ecology, flood risk and drainage, land contamination and highway and pedestrian safety.

The proposed variation of condition 2 of the initial approval seeks the permission for a range of minor amendments to the approved foodstore building, which involve the provision of a parapet to the roof of the delivery/loading area, an access ladder to the roof of the delivery/loading area, new roof vents and alterations to the design of the staff roof terrace. Given their minor nature, the proposals are only considered to give rise to fresh material issues in relation to design/visual

amenity and residential amenity and as such, it is not considered necessary to revisit the full range of matters previously addressed in the determination of the initial application. For a consideration of the full range of matters listed above, please refer to the report to the Sub-Committee produced in respect of app. ref. 15/01588/FUL.

In assessing the merits of the proposed variation to the approved scheme, regard must be given to the guidance provided by the National Planning Policy Framework (NPPF). It sets out current Government planning policy and planning applications must be determined with regard to it. The NPPF outlines a series of 12 'core planning principles' which underpin plan-making and decision-taking and are considered to contribute to the over-arching aim of delivering sustainable development. Particularly relevant in this case are the principles that the planning system should always seek to secure a high quality design and a good standard of amenity for residential properties.

The relevant guidance of the NPPF as detailed above feeds into policies EN5 and B2 of the Council's adopted Unitary Development Plan, which are consequently considered to be pertinent to the determination of this application.

As noted above, the NPPF requires new development to deliver a high standard of design and amenity, an approach which is echoed by policy B2 of the Council's adopted UDP.

In terms of visual amenity, the revisions to the scheme sought by the proposed variation of condition 2 are relatively minor in scope in relation to the overall scale of the initially approved foodstore building. The most notable difference is the addition of the parapet to the flat roof of the delivery/loading area roof, but this element of the building is to its north side and as such is not especially conspicuous when approaching the building from Ryhope Road. The wider public's impression of the building will not, therefore, be significantly altered and the amendments to the approved scheme are consequently considered to be acceptable in relation to design and visual amenity.

With regard to residential amenity, a number of the objectors have expressed the view that the addition of the parapet to the delivery/loading area roof will mean the building is more dominant when viewed from the rear elevations of the dwellings of Rydale Park and Angram Drive which back on to the site.

In respect of this matter, it is observed that the roof over the delivery/loading area projects 6 metres out from the north side of the building, to within a minimum distance of 16.5 metres from the northern boundary of the site, a distance which increases to over 30 metres at the rear corner of the new building. The rear elevations of the new dwellings being built to the north of the affected part of the new store are then a minimum distance of 6.5 metres beyond the northern boundary, although the closest property to the northern boundary (no. 19 Rydale Park) does not directly face the location of the parapet roof. The height of the parapet does not, however, exceed the height of the north side elevation of the main building, from which the roof over the delivery/loading area extends and against which it would otherwise be viewed. In addition, the parapet adds a maximum of only 2 metres to the height of the previously-approved flat roof.

Given the distance between the area of flat roof to be surrounded by the parapet and the rear of the nearby dwellings, the limited increase in the height of the roof resulting from the addition of the parapet and the relationship between the flat-roofed area and the main body of the building, it is considered that this amendment to the approved scheme will not serve to significantly increase the impact of the new building on the outlook from the rear gardens and rear rooms of dwellings fronting Rydale Park and Angram Drive than in comparison to the approved building. Nor will the

revision give rise to any significant additional overshadowing of the nearby dwellings than in comparison to the approved foodstore building.

The other amendments to the scheme do not, meanwhile, raise any significant concerns in relation to the outlook and privacy of nearby residential properties - the new vents represent very minor protrusions from the roof, whilst the outdoor terrace is positioned above the building's south-west corner, close to the store entrance and over 60 metres from the building's northern end. The external ladder, meanwhile, is only intended to provide access to the roof over the delivery area to allow for maintenance and repair.

In determining the initial planning application, and as is required by paragraph 123 of the NPPF and policy EN5 of the UDP, careful consideration was given to the implications of the proposed development in relation to the potential impact of noise generated by the general use of the store and its car parks, delivery events and plant and machinery. To this end, as detailed in the 'representations' section of this report, objectors to the application have expressed concern in relation to the potential noise generated by the operation of the store, in particular from delivery events, and its effect on the living conditions of neighbouring dwellings.

Given the above, the applicant's agent was asked to clarify whether the revisions to the approved development would give rise to any additional sources of noise or result in any change to the noise levels predicted by the assessment submitted with the initial application. The agent has advised (by email dated 14.11.2016) that the proposed revisions are not anticipated to give rise to any additional noise - the new roof vents are essentially flues/vents with no motor or machinery, whilst the parapet has been added to screen any potential plant to be located on the loading area roof, with the associated ladder providing the necessary access. There are not, however, any current plans to accommodate new plant on the roof; rather the scheme has been designed to be 'future proof' and be able to cater for additional plant if ever required.

The plans and information provided by the agent have been considered by the Council's Environmental Health officers and it is accepted that the revisions to the approved scheme do not appear to give rise to any additional noise concerns. In this regard, it is also noted that the applicant is required to submit a 'validating' noise assessment as a condition of the initial approval of the foodstore, the purpose of which is to verify some of the predictions and assumptions made by the initial noise assessment once the store is operational and to provide details of any additional mitigation required in the event measured noise levels exceed those predicted. Such a validation assessment would, therefore, have to consider the noise levels generated by the operation of the store as per the amended design. Members should note that it would be intended to transpose the condition requiring the submission of the validating noise survey to any approval of the current application.

The Environmental Health team has suggested, however, that it would be prudent to impose a condition on any approval of the current application which would require the applicant to provide full details of any new plant or machinery proposed to be located on the loading area roof, in order to afford the Council opportunity to consider any fresh noise implications arising from such works. It is recommended that Members impose such a condition in the event they are minded to approve the application.

In addition to the above, the proposed amendments to the approved scheme do not raise any concerns relating to highway and pedestrian safety given that the previously-approved parking and access arrangements remain unchanged.

## **CONCLUSION**

For the reasons set out above, it is considered that the implications of the proposed revisions to the previously-approved scheme in relation to visual and residential amenity and the overall design quality of the development scheme are acceptable. As such, the proposal is considered to comply with the requirements of the NPPF and policies B2 and EN5 of the Council's adopted Unitary Development Plan (1998). Consequently, the application is recommended for approval.

## **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:** Approve, subject to the 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 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 submitted with app. ref. 15/01588/FUL, received 30/07/2015 (drawing no. A(90)EXP001, rev 3);

The existing site layout submitted with app. ref. 15/01588/FUL, received 30/07/2015 (drawing no. A(90)EXP002, rev 1);

The existing elevations submitted with app. ref. 15/01588/FUL, received 30/07/2015 (drawing no. A(00)EXE001, rev 01);

The existing ground floor plan submitted with app. ref. 15/01588/FUL, received 30/07/2015 (drawing no. A(00)EXP001, rev 01);

The existing roof plan submitted with app. ref. 15/01588/FUL, received 30/07/2015 (drawing no. A(00)EXP201, rev 01);

The amended proposed site layout submitted with app. ref. 15/01588/FUL, received 12/10/2015 (drawing no. A(90)GAP005, rev 12);

The amended proposed elevations received 28/09/2016 (drawing no. A(00)GAE001, rev C1);

The amended proposed roof plan received 30/09/2016 (drawing no. A(00)GAP201, rev C1);

The amended proposed floor plans received 30/09/2016 (drawing no. A(00)GAP001, rev C1);

The amended landscaping plan submitted with app. ref. 15/01588/FUL, received 12/10/2015 (drawing no. R/1738/1A);

The amended proposed car park levels submitted with app. ref. 15/01588/FUL, received 12/10/2015 (drawing no. 001, rev P3);

The proposed lighting plan submitted with app. ref. 15/01588/FUL, received 12/10/2015 (revision C);

The lighting specifications submitted with app. ref. 15/01588/FUL (produced by Philips, dated 20/05/2015);

The proposed drainage plans submitted with app. ref. 15/01588/FUL received 12/10/2015 (drawing nos. D101, rev P3 and D103, rev P2);

The Flood Risk and Foul Drainage Assessment submitted with app. ref. 15/01588/FUL (produced by WYG, revision B dated 08/10/2015);

The Service Yard Management Plan submitted with app. ref. 15/01588/FUL (produced by WYG, dated October 2015);

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

3 Notwithstanding any indication of materials which may have been given in the application, no development shall take place until a schedule and/or samples of the materials and finishes to be used for the external surfaces, including walls, roofs, doors and windows has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not

be carried out other than in accordance with the approved details; in the interests of visual amenity and to comply with policy B2 of the Unitary Development Plan.

4 No development shall take place until a scheme of working has been submitted to the satisfaction of the Local Planning Authority, in consultation with Network Rail. Such a scheme shall include siting and organisation of the construction compound and site cabins, routes to and from the site for construction traffic, measures to ameliorate noise, dust, vibration and containing construction dirt and debris within the site and construction methods (having regard to the proximity of the adjacent railway line). The development shall proceed in accordance with the agreed scheme, in the interests of the proper planning of the development and to protect the amenity of adjacent occupiers and in order to comply with policy B2 of the adopted Unitary Development Plan.

5 During construction, no deliveries shall be taken at or despatched from the site outside the hours of 07:00-19:00 Monday to Friday, 07:30-14:00 Saturdays, nor at any time on Sundays or Bank Holidays to ensure that nearby properties are not adversely affected by the development and that highway safety is not compromised and to comply with policy EC12 and EC13 of the UDP.

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

7 The premises shall only be operated for the purposes hereby approved between the hours of 08:00 and 20:00 Monday to Saturday (except Bank Holidays) and 10:00 and 16:00 Sundays and Bank Holidays, in order to protect the amenities of the area and to comply with policy EN5 of the UDP.

8 Notwithstanding the submitted information, only one delivery per day shall be taken at, or despatched from, the store hereby approved and no deliveries shall take place outside the hours of:

Monday to Saturday (except Bank Holidays) 06:00 to 23.00;  
Sundays and Bank Holidays 07:00 to 22.00;

In order to protect the amenities of the area in accordance with policies EN5 of the UDP.

9 All planting, seeding or turfing comprised in the approved details of landscaping (received 12/10/2015, drawing no. R/1738/1A) 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 of the UDP.

10 No development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the City Council as Local Planning Authority:

1) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

2) 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.

3) The results of the site investigation and 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.

4) 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 require the express written consent of the Local Planning Authority. The scheme shall be implemented as approved, in order to comply with the requirements of paragraph 109 of the NPPF and policy EN14 of the UDP.

11 No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved, in order to comply with the requirements of paragraph 109 of the NPPF and policy EN14 of the UDP.

12 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved, in order to comply with the requirements of paragraph 109 of the NPPF and policy EN14 of the UDP.

13 Notwithstanding any specifications provided by the submitted plans, details of all walls, fences or other means of boundary enclosure shall be submitted to and approved by the Local Planning Authority, in consultation with Network Rail, before the development is commenced. For the avoidance of doubt, the boundary with the adjacent railway line shall be trespass-proof, in order to prevent unauthorised access onto the railway infrastructure, and details of the proposed boundary to the railway line shall be accompanied by proposed means of ensuring its future maintenance and renewal. The agreed boundary treatment shall be completed before occupation or in accordance with an agreed timetable and maintained as such thereafter, in the interests of visual amenity and the operational integrity of the railway and to comply with policy B2 of the UDP.

14 Notwithstanding any details which have been provided, no products or waste items shall be stored outside the building, including in the delivery area to the north elevation of the store, in the interests of visual amenity and highway safety and to comply with policies B2 and T14 of the adopted Unitary Development Plan.

15 Development shall not commence until a detailed scheme for the disposal of surface and foul water from the development hereby approved has been submitted to and approved in writing by the City Council as Local Planning Authority, in consultation with the Lead Local Flood Authority and Network Rail. For the avoidance of doubt, the submitted scheme shall include full drainage details, drawings and calculations. Surface and foul water arising from the development must be collected and diverted away from Network Rail property and any soakaways located so as to discharge away from railway infrastructure. The development shall then be carried out in complete accordance with the agreed details and the disposal system will then be monitored for a period of two years from the completion of development. Any unforeseen problems caused by the increase of surface water into the drainage system shall be rectified by the applicant to the written approval of the City Council. The scheme is required in order to minimise the risk of flooding from any sources and prevent flooding of adjacent railway infrastructure, in accordance with the requirements of paragraph 103 of the NPPF and policy EN12 of the UDP.

16 Notwithstanding the submitted plans and the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or any statutory instrument which revokes and re-enacts the provisions of that Order, the gross external area of the store hereby approved shall not exceed 2,566 sq. metres, in order to protect the vitality and viability of nearby local centres and comply with the requirements of the NPPF and policies S1 and S3 of the UDP.

17 Notwithstanding the submitted plans, the total sales area of the store hereby approved shall not exceed 1,450 sq. metres including, for the avoidance of doubt, any mezzanine floorspace, in order to protect the vitality and viability of nearby local centres and comply with the requirements of the NPPF and policies S1 and S3 of the UDP.

18 Notwithstanding the submitted plans, the comparison goods sales area within the new store shall not exceed 300 sq. metres, in order to protect the vitality and viability of nearby local centres and comply with the requirements of the NPPF and policies S1 and S3 of the UDP.

19 The development hereby approved shall not be brought into use until details (height, colour treatment etc.) of a noise barrier/fence to be installed adjacent to the delivery area have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the noise barrier/fence shall be installed in full accordance with the agreed details prior to the foodstore being brought into use and maintained as such thereafter for the lifetime of the development, in order to protect the amenities of the area, in accordance with policy EN5 of the UDP.

20 The plant associated with the development hereby approved shall only be installed at the locations detailed on the proposed site plans (drawing no. A(90)GAP005, rev 12) and in accordance with the specifications provided within the Noise Assessment (WYG, dated July 2015) submitted with the application, in order to protect the amenity of the locality and to comply with the requirements of the NPPF and policy EN5 of the UDP.

21 Within 3 months of the store hereby approved being fully operational, 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 building services plant, goods deliveries and customer car parking. In the event the noise levels predicted by the Noise Assessment (prepared by WYG, dated July

2015) 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 and B2 of the adopted UDP and the NPPF.

22 The servicing of the delivery area of the store hereby approved shall be undertaken in full accordance with the Service Yard Management Plan (prepared by WYG, dated October 2015) at all times, in order to protect the amenity of the locality and comply with the requirements of policy EN5 of the UDP and the NPPF.

23 Notwithstanding the submitted plans and supporting information, the development hereby approved shall be carried out in full accordance with the recommendations detailed at section 5.0 and summarised at section 6.0 of the 'Extended Phase 1 Habitat Survey, July 2015', prepared by WYG, in order to enhance biodiversity and comply with the requirements of paragraph 118 of the NPPF.

24 Prior to the commencement of development, a proposed mechanism to ensure the sustained maintenance of the biodiversity features/habitats created and enhanced pursuant to condition 23 of this decision notice shall be submitted to and agreed in writing with the City Council as Local Planning Authority. The features and habitats shall then be maintained in accordance with the agreed mechanism, in order to ensure the continued enhancement of ecology and biodiversity and to comply with the requirements of paragraph 118 of the NPPF.

25 Before the development hereby approved is commenced, final details of the external lighting to be installed in association with the approved development shall be submitted to and approved in writing by the Local Planning Authority, in consultation with Network Rail, in order to ensure that the lighting scheme will not dazzle train drivers and/or give rise to the potential for confusion with signalling arrangements. The lighting shall then be installed in accordance with the approved details, in order to ensure a satisfactory form of development and to comply with policies B2 and T16 of the UDP.

26 No external plant or machinery, other than that detailed by the approved plans and particulars, shall be installed to roof of the delivery area of the building hereby approved without full details of the proposed plant and machinery firstly being submitted to and approved in writing by the Council as Local Planning Authority. For the avoidance of doubt, the details to be submitted must include an assessment of the noise likely to be generated by the plant or machinery in question and its impact on the amenity of nearby noise-sensitive properties. Any such plant or machinery shall then be installed and operated in full accordance with the agreed details, in the interest of maintaining acceptable standards of amenity and to comply with the requirements of paragraph 123 of the NPPF and policy EN5 of the UDP.

**Reference No.:** 16/01588/VAR Variation of Condition

**Proposal:** Variation of Conditions 3 (number of deliveries) and 5 (hours of operation) and removal of Condition 4 (delivery hours) of planning permission 14/00398/VAR.

**Location:** LiDL Durham Road Sunderland SR3 4DF

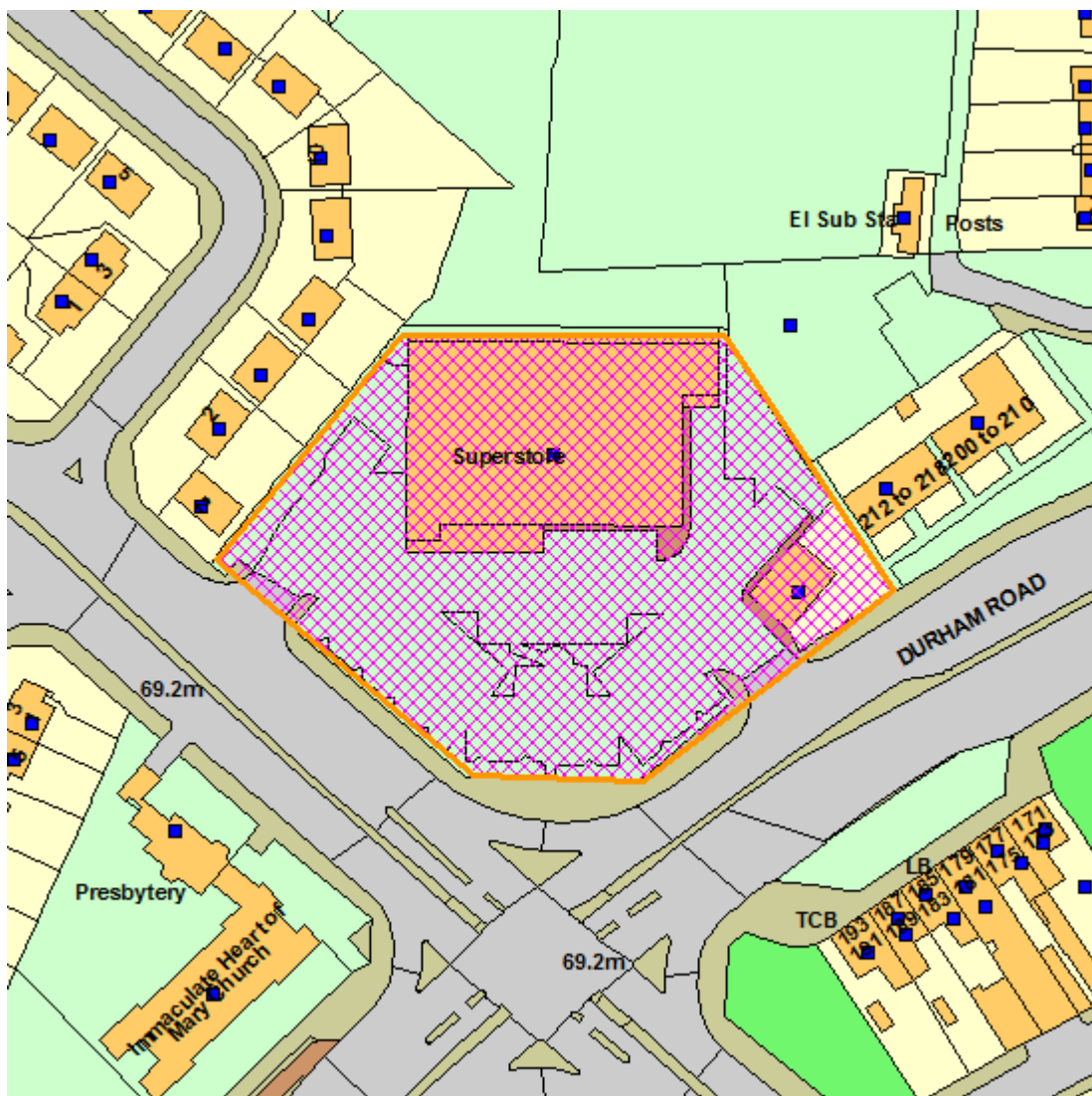
**Ward:** Barnes

**Applicant:** Lidl UK GmbH

**Date Valid:** 5 September 2016

**Target Date:** 5 December 2016

### Location Plan



## **PROPOSAL:**

The proposal seeks to vary condition 3 (number of deliveries), condition 4 (delivery hours) and condition 5 (hours of operation) of planning permission 14/00398/VAR at LiDL, Durham Road.

Members may recall that planning permission was originally approved dated 20.02.2009 for the erection of a single storey food store with associated parking, access and landscaping on the site of the former Prospect Public House. The original consent imposed a condition restricting opening hours from 08.00 to 20.00 Monday to Saturday and 10.00 to 16.00 Sunday.

Application 14/00398/VAR extended the aforementioned opening hours to 21.00 Monday to Saturday.

The site is located at the junction of Durham Road (South East) and Springwell Road (South West) where there are existing access and egress points, with the site being shared by William Hill Bookmakers at the south eastern access point to Durham Road. The existing delivery/unloading bay is sited at the east end of the store and is screened behind a 2m high, imperforate noise barrier (close boarded fence). Approximately 25 metres, to the east of the site, and separated by an area of landscaped open space is the rear building line of residential properties located along Durham Road. To the rear of the unit, the site is bound by an allotment site with a further residential area sited to the west of the site along Sackville Road.

Condition 3 states that :

"The number of deliveries to the development hereby approved in any one day shall not exceed one in total, to enable the Local Planning Authority to control the number of deliveries and delivery vehicles expected to visit the site to ensure that the amenity of nearby residents is not adversely affected by way of noise and disturbance, in accordance with policy EN5 of the UDP."

The applicant's seek to vary the above condition to allow for no more than two deliveries per day.

Condition 4 states that :

"No goods deliveries shall be taken to or dispatched from the site outside the hours of 07:00 - 19:00 Monday to Saturday and 10:00 - 16:00 Sundays, to ensure that nearby properties are not adversely affected by the development and that highway safety is not compromised and to comply with policies EC5 and T14."

The applicant's seek to vary condition 4 to allow for unrestricted delivery hours.

Condition 5 states that :

"The premises shall only be operated for the purposes hereby approved between the hours of 08:00 - 21:00 Monday to Saturday and 10:00 - 16:00 Sundays, in order to protect the amenities of the area and to comply with policy EN5 of the UDP. "

The applicant's seek to extend the hours of operation until 23:00 hours Monday to Saturday (including Bank Holidays).

The current proposal has been supported by a Noise Assessment dated August 2016 and has been advertised by neighbour notifications, press and site notices.

**TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

**CONSULTEES:**

Network Management  
Environmental Health  
Barnes - Ward Councillor Consultation

Final Date for Receipt of Representations: **19.10.2016**

**REPRESENTATIONS:**

One letter of representation was received from a neighbouring property raising concerns over noise during loading/offloading of vehicles which last in excess of 1 hour. Additionally the current fence between the application site and properties along Durham Road offers no shielding from noise, disrupting future sleeping patterns as the loading/unloading of vehicles may be during the evening.

**POLICIES:**

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

B\_2\_Scale, massing layout and setting of new developments  
EN\_5\_Protecting sensitive areas from new noise/vibration generating developments  
T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising

**COMMENTS:**

The main issues to consider in determining the proposal are:

- the impact upon levels of residential amenity;
- the impact upon the local highway network.

In assessing the proposal the main issue to consider in relation to the impact of the development upon levels of residential amenity relate specifically to noise and disturbance with particular emphasis placed upon existing residential properties that are sited near to the eastern boundary of the site.

Paragraph 14 of the National Planning Policy Framework (NPPF) states that:

"At the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as golden thread running through both plan-making and decision-taking. For decision-taking this means:



- approving development proposals that accord with the development plan without delay; and
- 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.

Paragraph 17 of the (NPPF) provides a set of 12 core land-use planning principles that should underpin both plan-making and decision-taking. One of these core principles states 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.

The NPPF, Section 12 : Conserving and Enhancing the Natural Environment states in paragraph 123 that Planning policies and decision should aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from the new development, including through the use of conditions;
- recognise that development will often create some noise and existing business 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
- 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.

With regard to "adverse impacts" the NPPF refers to the explanatory note to the Noise Policy Statement for England (NPSE), which defines three categories as follows:

SOAEL - Significant Observed Adverse Effect Level - This is the level above which significant adverse effects on health and quality of life occur.

LOAEL - Lowest Observed Adverse Effect Level - This is the level above which adverse effects on health and quality of life can be detected.

NOEL - No Observed Effect Level - This is the level below which no effect at all on health or quality can be detected.

The NPSE refers to the World Health Organisation (WHO) when assessing noise impacts. Guideline values for annoyance which relate to external noise exposure are set at 50 or 55 dB(A), representing day time levels below which a majority of the adult population will be protected from becoming moderately or seriously annoyed respectively.

Whilst policy EN5 of the saved adopted Unitary Development Plan states that:

"Where development is likely to generate a noise sufficient to increase significantly the existing ambient sound or vibration levels in residential or other noise sensitive areas, the Council will require the applicant carry out an assessment of the nature and extent of likely problems and to incorporate suitable mitigation measures in the design of the development. Where such measures are not practical, permission will normally be refused."

The proposal has been supported by Rapleys Noise Assessment for Lidl UK, Durham Road, Sunderland dated August 2016.

Following consultations with the City Council's Public Protection and Regulatory Services Section (PPRS) the following comments have been received relating to the above noise assessment.

**Deliveries** - The assessment has been undertaken using procedural guidance contained in BS4142:2014 : Method for Rating and Assessing Industrial and Commercial Sound, in respect of assessing the potential impact of deliveries occurring outside of the permitted 07.00-19.00 times.

Daytime background monitoring (19.00-23.00) has been measured at 48 dB LA90. Night time background noise measurements have been recorded at 39dB LA90.

Noise associated with deliveries was isolated during the assessment and recorded as 69dB LAeq (15 minute). The bangs noted during the measured delivery were awarded a character penalty of 6dB was added for impulsivity. Paragraph 5.14 states that no on/off characteristics were observed and no penalty was added. However, the engine of the HGV will create an on/off characteristic that is out of character of the environment and Public Protection and Regulatory Services consider that a penalty should be added to reflect this.

The daytime rating level was subsequently calculated as 52dB, 4dB above the measured background noise level of 48dB, this is an indication of a possible significant observed adverse effect. The night time rating level was calculated at 54dB, the background noise level was 39dB LA90. The rating level was 15dB above the background noise level, this is an indication of a possible significant observed adverse effect.

The report states that when nearby residential windows are closed WHO guideline values will not be exceeded during the night time period 23.00 - 07.00 (LAmax 45dB) and that this will be exceeded if windows are open. It is considered that the assumption and expectation that residents will keep windows closed at all times is unreasonable.

Whilst the report provides an assessment of the residual acoustic environment and context in which monitoring has taken place, PPRS consider that the report does not sufficiently demonstrate that nearby noise sensitive receptors will not be impacted by deliveries occurring outside of the currently consented hours.

Finally, the assessment has been undertaken on the assumption of one HGV delivery in a one hour period with delivery activity accounting for 40 minutes of this time. A second delivery during this 1 hour time period would impact on noise levels and it is recommended that this element be reassessed if it is likely that more than 1 delivery will take place in any 1 hour time period.

**External Plant** - Noise from the external plant such as air conditioning handling units has not been assessed within the report. If opening the store over a longer time period will involve increased use.

**Car Park** - Observation made during the attended noise monitoring showed that the dominant noise source was traffic from Durham Road and Springwell Road. It is considered that car park activity will have no significant effect on the existing noise environment. It is therefore recommended that further information be provided in respect of the above in order to facilitate a robust assessment of the proposals with particular regard to the appropriateness of noise mitigation to reduce anticipated development-borne noise so that it does not exceed measured background noise levels.

In light of the above comments, the agents have been contacted, to expand upon the initial assessment. A summary of their comments follows.

The agents disagree that a penalty should be added for intermittency as it is assumed that an HGV will arrive and the engine would be switched off and then back on when the delivery is complete to allow the HGV to depart.

PPRS comments state that given the above interpretation it is considered that reverse alarms should have been considered in terms of intermittency and that the additions of a penalty would be appropriate in this instance given the proximity of residential premises.

In terms of local residents being required to keep their windows closed to enjoy a satisfactory standard of amenity that conform to WHO guidelines and BS8233 it has been stated that:

"The Lidl store is located on a fairly busy road and the local receptors location are dominated by traffic noise, which is confirmed by the noise levels measured in the absence of deliveries. It should also be noted that the operations at Lidl do not require windows to be closed all of the time, as the operations don't happen all of the time, as the operations don't happen all of the time. However, the noise impact from road traffic would require windows to be closed more frequently and for longer periods."

PPRS consider that road traffic noise is something to which residents become habitually accustomed. Noise associated with HGV movements and delivery activities is likely to be far more intrusive because of its distinctive and impulsive nature. The suggestion that windows do not need to be open all of the time is implicit that they need to be closed some of the time and that a resident would have to do this manually. Whilst this may be acceptable during the day, the expectation that a resident would have to get up and out of bed at night to close a window to minimise noise disturbance from an external noise source such as a delivery is not.

With reference to the context in which the monitoring has taken place, the agent notes that the assessment illustrates that there is no significant change in ambient noise levels when including the delivery noise.

PPRS accept that the existing ambient noise levels are high on account of the proximity of the site and receptors to a busy road network. However, it is noted that delivery noise is very different in nature to that which influences the existing background noise and therefore context is less relevant than if it were influenced by industrial noise.

The agent has stated that the noise impact assumes a 40- minute delivery, as observed on site. It is understood that one delivery will take place per day. Furthermore, the appropriate assessment period for the night time is over a 15 minute, therefore no correction for on-time has been applied to the night time assessment.

PPRS reiterates that no more than two deliveries will take place each day.

Having regard to external plant, it is understood that for refrigeration, the existing plant currently operates all the time and there would be no increase in the plant operations. Therefore it is considered that there is no requirement to assess a source that is currently present.

PPRS are concerned that air conditioning units have still not been addressed as it is unlikely they will be running when the store is closed.

Previous correspondence that referred to observations relating to the car park emphasised that the ambient noise levels are dominated by existing traffic, and not noise associated with any Lidl operation or car park activity. Therefore, if the operating hours were to be extended there would be no significant effect on existing sensitive receptors, due to additional vehicle movements and car park activity. This point is now accepted by PPRS.

In summary the agent has intimated that their assessment has shown that when the site is assessed under the requirements of BS4142, including the context section, the noise impact is considered to be low. PPRS considers that this risk is not fully indicative of the impact that the proposals may have on existing noise sensitive receptors.

With the above in mind, it is considered that in line with both national and local planning policies the proposal to vary conditions 3 and 4 to provide up to 2 deliveries per day over a 24 hour period, will have a significant adverse impact upon existing neighbouring properties particularly throughout the evening and as such is contrary to both NPPF paragraph 123 and UDP policy EN5.

The impact upon local highway network.

Policy T14 of the UDP requires that proposals for new development should be readily accessible by pedestrians and cyclists, not cause traffic congestion or highway safety problems on existing roads, make appropriate safe provision for access and egress by vehicles, make provision for the loading and unloading of commercial vehicles and indicate how parking requirements will be accommodated.

The current proposal does not alter the previously approved access arrangements and as such given the proposed increase in the number of deliveries, the Network Management Team reported the following observations, deliveries should be outside peak traffic times, namely 08.00 - 09.00 and 16.00 - 17.00. Furthermore the Network Management Team requires details over how the increase in delivery vehicles will be controlled. It is noted that two HGV articulated delivery vehicles arriving/departing at similar times could disrupt the use of the car park and create issues at the entrance/exit points of the retail store.

With the above in mind, and until a detailed management plan for deliveries is submitted for consideration, there is no evidence to support that the proposal would not lead to conditions prejudicial to highway safety. In light of this lack of evidence the proposal is considered contrary to policy T14 of the UDP.

## **Conclusion.**

It is considered that the variations to conditions 3, 4 and 5 as sought cannot be fully supported as it would fail to secure a good standard of amenity for existing occupants of neighbouring residential properties by reason of noise and disturbance and without the imposition of an appropriate delivery schedule the increase in HGV's on site would lead to conditions prejudicial to highway safety.

The proposed variation to condition 3 to increase the number of deliveries to two, whilst acceptable in principle, is subject to the submission of details over an acceptable schedule that would remove any conflict between HGV's on site, without such details the proposal is considered to be prejudicial to highway safety and contrary to policy T14 of the UDP.

The alteration to condition 4 to allow for unrestricted delivery hours, has been assessed against the submitted noise assessment, and it is considered that the effect upon neighbouring residential properties in terms of noise and disturbance, outside of the agreed delivery hours would have a significant adverse impact on the amenities of residents and contrary to policy EN5 of the UDP. With reference to condition 5 and further to consultations with PPRS the proposed extension of the hours of operation are considered to be acceptable, however it is brought to Members attention that the current proposal is being considered in its entirety and a split decision is not available in this particular instance.

In light of the aforementioned, the variation of conditions 3, 4 and 5 are not considered to provide a sustainable form of development as would lead to conditions prejudicial to both residential amenity and highway safety, contrary to policies EN5 and T14 of the UDP.

### **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: REFUSE** subject to the reasons given below.

**Reasons:**

1 The proposed variation of condition 3 to allow up to two unrestricted deliveries per day would lead to the creation of conditions prejudicial to road safety via disrupting the use of the car park and restricting access and egress from the site and as such is contrary to policy T14 of the UDP.

2 The proposed variation of condition 4 to allow for unrestricted delivery hours would have a significant adverse impact on the amenities of residents by reason of noise and disturbance late at night, and as such is contrary to paragraph 132 of the National Planning Policy Framework and policy EN5 of the saved adopted Unitary Development Plan.

**Reference No.:** 16/01719/LBC Listed Building Consent

**Proposal:** Internal alterations to facilitate conversion of existing bedsits (Sui Generis) to 13no. self-contained apartments (Use Class C3)

**Location:** 18/19 Murton Street Sunderland SR1 2QY

**Ward:** Hendon

**Applicant:** Mr Anthony Conlon

**Date Valid:** 2 September 2016

**Target Date:** 28 October 2016

### Location Plan



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## PROPOSAL:

### Site

This application relates to a Grade II listed building which originally comprised two units and is situated one from the eastern end of a predominantly residential historic terrace located in the eastern section of the City Centre and outside the southern boundary of the Sunnyside Conservation Area. Number 18 has three storeys whilst the remainder of the terrace is two storey (the roof space of no. 19 is served by rooflights), nos. 17-23 of the terrace are Grade II listed and all properties in the terrace have a basement level, stepped front entrance with a portico and large front windows with decorative headers and cills. Each property also has a long front and rear yard and vehicular access is afforded to the front and rear of the terrace. Vacant units exist on the opposite side of Murton Street to the north and a series of residential terraces are situated to the rear.

The host property is currently vacant, having previously accommodated bedsits and a ground floor office. The submitted plans indicate that building accommodated a total of 17no. bed spaces which shared communal facilities including bathrooms, kitchens, dining rooms and a living room. An enclosed parking area exists to the front of the host units, as well as no. 17, which appears capable of accommodating approximately 8no. cars.

### Proposal

Listed building consent is sought to carry out internal alterations in association with the proposed change in the use of the property to 13no. self-contained flats, which is subject to a separate application for planning permission (ref. 16/01556/FUL), which is also on the agenda of this Sub-Committee meeting.

The proposed alterations comprise the removal and addition of internal walls on each level of the host building; no external alterations are proposed.

Members may recall that this application was presented to the Sub-Committee on 22 November 2016 when a total of 14no. flats were proposed. An amended layout has subsequently been received following concerns raised to the applicant over the living conditions which would be afforded to some of the proposed flats and that the original layout would contravene Building Regulations.

### Planning History

Numbers 17-21 Murton Street have been subject to a number of applications in recent years; those which are most relevant to the current proposal are set out below.

Planning permission was refused in 2008 (ref. 08/00731/FUL) to change the use of nos. 17-21 to an extended hostel and to relocate the taxi booking office.

Planning permission (ref. 92/1397) and listed building consent (ref. 92/1618/LB) were granted in 1993 to change the use of nos. 17-19 to student accommodation and to carry out associated alterations to the interior of the building and rear car parking area.

At no. 20, planning permission was granted in 1987 (ref. 87/1185) and 1995 (ref. 93/0024) to change the use of part of the building to a taxi booking office. Most recently, in July 2016, planning permission (ref. 16/00364/FUL) and listed building consent (ref. 16/00365/LBC) were



granted to change the use of no. 20 to 7no. flats and to carry out the associated internal alterations.

Planning permission (ref. 09/01206/FUL) and listed building consent (ref. 09/01207/LBC) were granted in 2009 to change the use of no. 21 Murton Street from offices to 7no. studio apartments.

In addition, planning permission (ref. 08/01162/FUL) and listed building consent (ref. 08/01163/LBC) were granted in 2008 to change the use of no. 23 Murton Street from offices to 4no. apartments and to carry out associated works.

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

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

#### **CONSULTEES:**

Tyne And Wear Archaeology Officer  
Hendon - Ward Councillor Consultation

Final Date for Receipt of Representations: **26.10.2016**

#### **REPRESENTATIONS:**

No representations have been received from neighbouring occupants.

The Council's Network Management offered no objection, noting that the site is within the Central Parking Area and well connected to public transport and there is a public car park adjacent to the site, and recommended that a secure covered cycle store be provided, all servicing and refuse collection take place from the rear and all refuse bins are stored wholly within the rear yard. Network Management also note that there is a residents parking scheme available in this area and the Council's Network Operations section be contacted for any temporary works on the highway.

#### **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 host Grade II listed building.

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 asset's conservation.

Whilst no description of the significance of the heritage asset has been provided by the applicant, the building, together with the submitted photographic record, has been inspected by the planning officer and Built Heritage officers of the Council who are satisfied that there are no features of heritage interest which would be affected by the proposal in either its original or revised form.

In addition, whilst not necessarily relevant to the planning merits of the proposal, the Council's Building Control section has advised that the revised proposed layout broadly adheres to Building Regulations, subject to detailed assessment through the submission of the necessary application for Building Regulation Approval.

### **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.

## **Summary**

For the reasons set out above, it is considered that the proposed works would appropriately conserve the character and would not compromise the historic fabric of the designated heritage asset or its significance, in accordance with section 12 of the NPPF.

**RECOMMENDATION:** It is therefore recommended that 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 The development hereby granted permission shall be carried out in full accordance with the following approved plans:

Location plan received 02.09.2016

Site plan received 02.09.2016

Existing basement plan received 23.08.2016

Existing ground floor plan received 23.08.2016

Existing first floor plan received 23.08.2016

Existing second floor plan received 23.08.2016

Proposed basement plan received 01.12.2016

Proposed ground floor plan received 01.12.2016

Proposed first floor plan received 01.12.2016

Proposed second floor plan received 01.12.2016

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

**Reference No.:** 16/01717/FU4 Full Application (Reg 4)

**Proposal:** **Creation of two outdoor seating areas, to include retractable roof and change of use of open space to car park.**

**Location:** Land Adjacent/ The Boars Head 134 High Street East East End SR1 2BL

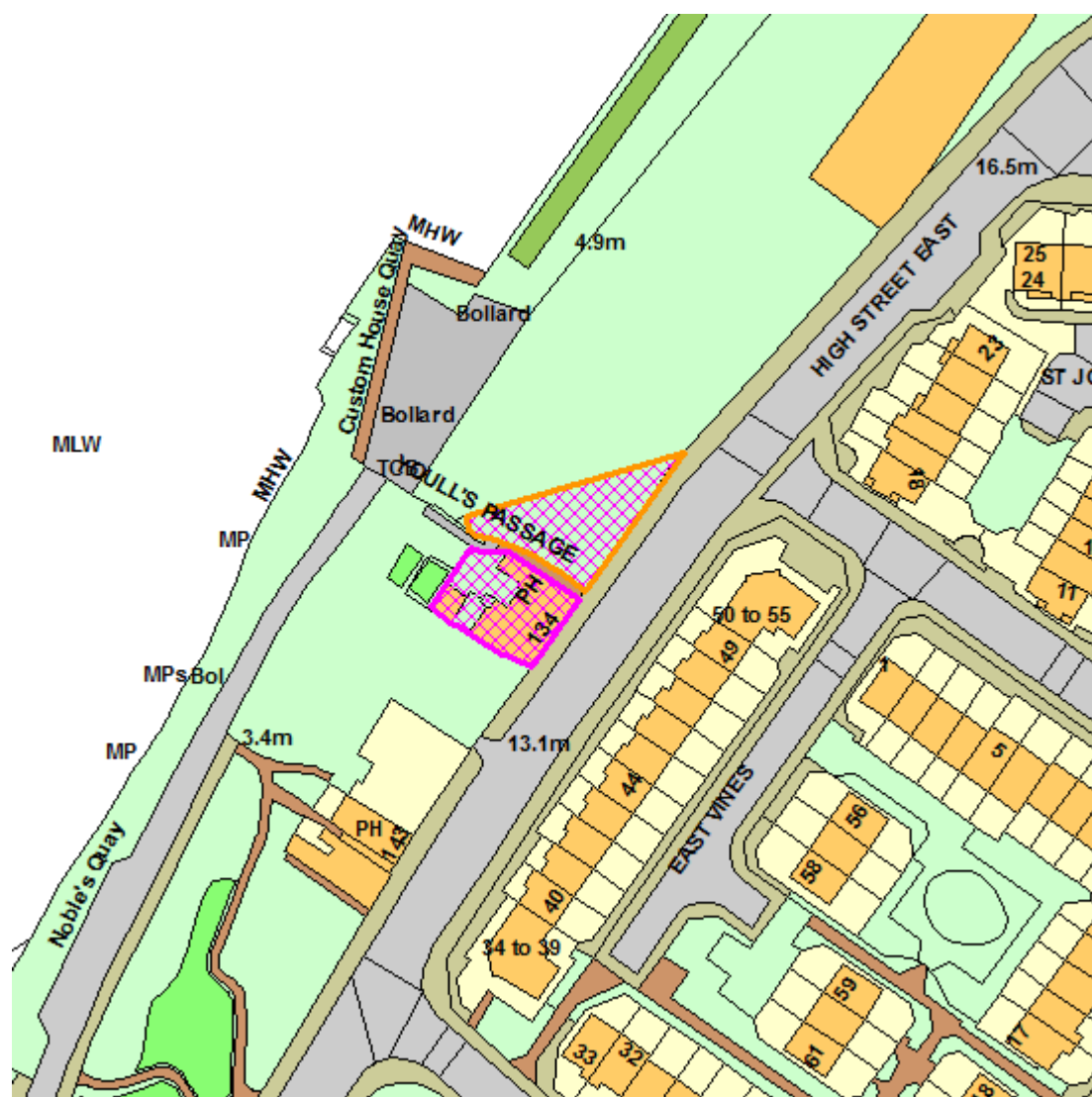
**Ward:** Hendon

**Applicant:** The Astrologer Ltd

**Date Valid:** 1 November 2016

**Target Date:** 27 December 2016

## Location Plan



## PROPOSAL:

Planning permission is sought for the creation of two outdoor seating areas, to include a retractable roof, and change of use of open space to car park at land adjacent to/The Boar's Head public house, 134 High Street East, East End, Sunderland, SR1 2BL.

The proposed development affects The Boar's Head public house, a large detached building fronting High Street East in the East End of Sunderland. The main body of the building is three storeys in scale, whilst to its rear and west side are a range of three, two- and single-storey offshoots and extensions, including a conservatory, which projects into a raised external patio. Beyond this, the land falls away very steeply to the Custom House and Corporation Quays on the banks of the River Wear. On its north side, meanwhile, is an area of roughly grassed landscaping in the ownership of the City Council, whilst the south side is bordered by a substantial raised planting bed, also in the Council's ownership.

The building stands within the Old Sunderland Riverside Conservation Area and would historically have formed part of a terrace fronting High Street East. It primarily dates from the 19th century (although it may include remnants of an earlier building), with the extensions added in the 20th century. The north side elevation of the building is flanked by Youll's Passage, a path (currently blocked behind the building) following the course of one of the historic alleyways which linked the High Street with the riverside. The Passage forms the boundary of the Conservation Area, so that the aforementioned area of grassed landscaping falls outside of the boundary.

The building has been vacant for some time and consequently, has fallen in a poor state of repair. Nevertheless, it has continued to make a positive contribution to this section of the High Street and the wider Conservation Area and it exhibits a particularly attractive, partly-tiled shop front. The building is, however, currently in the process of being renovated by the applicant, with the intention of it being re-opened as a public house/bistro and to this end, Members may recall that planning permission for a range of minor alterations and additions to the building was granted by the Development Control (South) Area Sub-Committee on 1st September 2015 (application ref. 15/01250/FU4).

The current application proposes a the provision of outdoor seating areas to the south side and rear of the property, together with the provision of a customer car park to the triangle of grassed open space on the north side.

The new seating area at the rear of the building will be created by constructing a cantilevered raised patio, which will extend from the existing patio, overhanging the steep grassed bank which falls away towards the riverbank. The proposed patio measures 5 metres in depth and 14.3 metres in width and would continue rearward on the same level as the existing patio. The patio will be supported by steel beams and the area below is proposed to be enclosed by a galvanised steel mesh guard for the purposes of ensuring safety and security. The patio will also include the provision of a retractable canopy.

The submitted plans also show the provision of lighting along the boundary wall with Youll's Passage, in order to provide a more attractive approach to the premises from the quayside. The plans also show the existing conservatory being re-roofed with slate or tiles.

The outdoor seating at the side of the property will affect the aforementioned raised planting bed, which covers an area of approximately 120 sq. metres and is roughly semi-circular in shape. The seating area will make use of the bed's existing retaining walls and it will be hard surfaced and fitted with tables and chairs and can be accessed either from the High Street (without needing to enter the pub building first) or via a short flight of steps leading from a door to be installed in the

building's south side elevation. The seating area is proposed to be enclosed by clear plastic panels fixed to existing metal railings to the side facing the river, whilst the side facing the High Street is proposed to be enclosed by hedge screen and a sound reduction barrier.

The proposed car park, meanwhile, affects the small, triangular area of grassed open space to the north of the building, immediately beyond the route of Youll's Passage and just outside the Conservation Area boundary. The grassed area covers approximately 340 sq. metres and it also features a row of semi-mature trees running along its north-west side, which are intended to be felled. The land is proposed to be hard-surfaced to create a parking area and it will be accessed directly from High Street East via a crossing over its footway. The boundary to the High Street is to be defined by a knee-high timber rail and the access will feature an arm barrier to manage access and egress.

The applicant's restoration/renovation of The Boar's Head has partly been financed by a contribution from the Heritage Lottery Fund and have been developed with advice and input from the City Council's Planning Implementation (Built Heritage) officers.

Whilst the public house building is in private ownership, the application involves the development of land owned by the City Council; the requisite notice of the submission of the application has been served on the Council's Land and Property team.

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

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

#### **CONSULTEES:**

Southern Area Command - Police  
Hendon - Ward Councillor Consultation  
Network Management  
Environmental Health  
Tyne And Wear Archaeology Officer  
Port Manager

Final Date for Receipt of Representations: **14.12.2016**

#### **REPRESENTATIONS:**

Public consultation - no representations received to date. The period for receipt of representations has, however, not yet expired; details of any comments received prior to the Committee will be provided to Members at the meeting.

Tyne and Wear County Archaeologist - no comments received to date. Details of any comments received prior to the Committee will be reported to Members at the meeting.

## **POLICIES:**

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

B\_2\_Scale, massing layout and setting of new developments  
B\_4\_Development within conservation areas  
B\_3\_Protection of public/ private open space (urban green space)  
CN\_17\_Tree Preservation Orders and replacement of trees  
CN\_22\_Developments affecting protected wildlife species and habitats  
EN\_10\_Proposals for unallocated sites to be compatible with the neighbourhood  
EN\_5\_Protecting sensitive areas from new noise/vibration generating developments  
T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising

## **COMMENTS:**

### **ISSUES TO CONSIDER**

The National Planning Policy Framework (NPPF) sets out a series of 'core principles', which are designed to underpin the plan making and decision-taking of Local Planning Authorities, with the overarching aim of delivering 'sustainable development'. The two core principles most pertinent to this application are that planning should 'always seek to ensure high quality design and a good standard of amenity for all existing and future occupants of land and buildings' and that planning should 'conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations'.

These core principles feed into policies EN10, B2, B3, B4, EN5, CN17, CN22 and T14 of the City Council's adopted Unitary Development Plan (1998), which are relevant to the determination of this planning application.

With reference to the abovementioned relevant national and local planning policies, it is evident that the main issues to consider in the determination of the application are as follows:

1. the principle of the development;
2. the implications of the development in relation to built heritage and visual amenity;
3. the impact of the development on residential amenity;
4. the implications of the development in relation to trees and ecology;
5. the implications of the development in respect of highway and pedestrian safety;

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

The development site is not allocated for a specific land use on the proposals map of the adopted UDP and as such, policy EN10 therein is applicable. This advises that where there is no specific land use allocation, the existing pattern of land use is intended to remain; new development proposals must respect the prevailing land uses in the neighbourhood. The development proposals are associated with and intended to support the revitalisation and prospective re-opening of the building as a public house (use class A4 of the Town and Country Planning (Use Classes) Order 1987 (as amended)) and so are considered to generally respect the prevailing pattern of land use found in the locality.

Also relevant, given that the proposals affect areas of landscaping/open space, is policy B3 of the UDP, which seeks to protect valuable areas of public and private open space from development which would have a serious adverse effect on its amenity, recreational or nature conservation value; any proposals must be considered against the importance of the land and its contribution to the established character of the area.

The area of land on the north side of the public house is roughly grassed, with its north-western side planted with semi-mature trees. It makes a modest contribution to the streetscene as a small area of green space within a generally built-up area, although it was observed during a visit to the site that there are a number of other pockets of grass and planting nearby. Its overall value is therefore considered to be fairly limited and as such, it is considered that the creation of the car park will not result in the loss of an area of open space which has any great significance, in accordance with policy B3's objectives.

The raised planting area to the south side of the building, meanwhile, is also considered to be of limited amenity value and is, in fact, in a fairly poor condition. It therefore makes a limited contribution to the character and amenity of the area and there is not considered to be any reason to resist its alternative development in planning terms.

With regard to the above comments, it is considered that the land use implications of the proposed development are acceptable and so the proposals are compliant with the requirements of aforementioned policies EN10 and B3 of the UDP.

## 2. Built heritage and visual amenity implications

Paragraphs 128-137 of the NPPF require LPAs to firstly understand the significance of a heritage asset (a term which includes Conservation Areas) affected by a proposal (para. 128), with the impact of the proposal on the particular significance of the asset then taken into account in the decision-making process (para. 129). In determining planning applications, LPAs should take into account the desirability of sustaining and enhancing the significance of a heritage asset, the positive contribution heritage assets can make to sustainable communities and economic vitality and the desirability of development making a positive contribution to local character and distinctiveness (para. 131).

Para. 132 of the NPPF requires LPAs to give great weight to the conservation of the significance of designated heritage assets, with significance potentially lost through alteration or destruction. Para. 133 states that substantial harm to a designated heritage asset should normally be refused, unless a range of requirements relating to public interest and the asset not being a viable proposition without the harm can be satisfied. Meanwhile, para. 137 requires LPAs to look for opportunities for new development within Conservation Areas to enhance or better reveal their significance; proposals that better reveal the significance of the Conservation Area should be treated favourably.

On a local level, policy B2 of the Council's adopted Unitary Development Plan (1998) seeks to ensure that new development proposals are respectful of visual amenity. Policy B4, meanwhile, requires all development within and adjacent to Conservation Areas to preserve or enhance their character or appearance, a requirement which is broadly consistent with the approach of the NPPF.

More detailed advice to guide development proposals within the Old Sunderland Riverside Conservation Area is provided by the Council's Old Sunderland Conservation Areas (which covers both the Old Sunderland and Old Sunderland Riverside Conservation Areas) Character



Appraisal and Management Strategy (CAMS). This document is, however, currently in a draft form and so can only be given limited weight in the determination of planning applications at this juncture.

The draft CAMS identifies The Boar's Head as one of the most notable buildings within the 'Riverside' sub-area of the Old Sunderland Riverside Conservation Area. It states that despite being much-altered and extended in the 20th century, it remains a characteristic building occupying a prominent, slightly elevated position on the High Street. It consequently makes a positive contribution to the townscape and character and appearance of the Conservation Area and is of some heritage significance. The draft CAMS also identifies the building as being 'at risk' due to its vacancy and deteriorating condition.

As noted in the first section of this report, the applicant's restoration and renovation of the building has been developed with advice and input from the City Council's Built Heritage officers and is partly funded by a grant from the Heritage Lottery Fund. The current proposals have also been developed with guidance from the Built Heritage team and, in response to consultation, the Council's Conservation Team Leader has confirmed that the proposals will help to sustain a significant historic building at the eastern edge of the Conservation Area in a beneficial use. Aesthetically, the proposed development will have a largely neutral, or even marginally positive, impact on the character and appearance of the Conservation Area and the proposals are therefore considered to be acceptable subject to approval of certain detailed elements of the scheme.

The consultation comments received recognise that the terrace at the rear of the building will be quite prominent and highly visible within the Conservation Area and along the river corridor, but its projection is considered to be reasonable and will serve to minimise its impact. The outdoor seating at the side of the building, meanwhile, will have less visual impact and is considered to be acceptable. It is acknowledged that the car park is required to encourage visitors and help sustain the use of the building and its visual impact will be limited in view of its existing urban context. It too, is therefore considered to be acceptable, with the proposed knee-high railing an appropriately discrete form of boundary treatment.

The Council's Built Heritage officer has, however, requested that a series of conditions be imposed in the event the application is approved. These would require the submission of:

- a sample/precise details of the mesh guard below the new rear terrace;
- final details of the hedge screen, sound reduction barrier and parasols to the outdoor seating area at the side of the property;
- final details of any new lighting to the patios/terrace and along Youll's Passage and the roofing material to be use for the conservatory;

It is recommended that Members impose conditions to this effect in the event they are minded to approve the application.

Given the above, it is considered that subject to the conditions recommended by the Council's Built Heritage officers, the impact of the proposed development on visual amenity and the character, appearance and significance of the Old Sunderland Riverside Conservation Area will be acceptable, in accordance with the objectives of policies B2 and B4 of the Council's UDP and the core principles and relevant paragraphs of the NPPF.

### 3. Impact of development on residential amenity

Policy B2 of the UDP also requires development proposals to respect the amenity of existing residential properties, whilst policy EN5 requires consideration to be given to the potential for development proposals to generate levels of noise which may cause detriment to the amenity of noise-sensitive property. This echoes the advice of paragraph 123 of the NPPF, which states that development which would cause a serious adverse noise impact should be refused planning permission unless adequate mitigation can be provided.

In this regard, the provision of the extended seating area to the rear of the property raises no significant amenity concerns given the absence of any other properties beyond the public house or to either side.

With regard to the seating at the south side of the property, it is observed that the opposite side of High Street East is flanked by the residential properties of East Vines. The provision of the outdoor seating at the side of the premises may give rise to some noise, especially on mild summer evenings, from its use by customers enjoying a drink or meal. The dwellings of East Vines stand approximately 25 metres from the site of the seating area, with the fairly busy 'B'-class High Street in between, an arrangement which should serve to limit the impact of any noise arising from the use of the seating area on their living conditions. In addition, it is noted that the applicant intends to install a hedge screen and noise barrier to the perimeter of the seating area, which would provide further noise mitigation.

It is therefore considered that the provision of the seating area to the side of the premises is unlikely to give rise to any significant adverse noise impacts. It is recommended, however, that in the event Members are minded to approve the application, conditions be imposed to prevent the playing of music within the seating area, to limit the hours in which it can be used (it is suggested that the seating area should be vacated by no later than 11pm) and to require the submission of final details of the screen and noise barrier to the perimeter of the seating area.

The provision of the car park, meanwhile, is not anticipated to give rise to any significant amenity concerns given its small size and the limited number of vehicles which will be able to access it at any one time. To this end, it is considered that any noise generated by the comings and goings of vehicles using the car park will largely be heard against the existing noise from traffic using the High Street.

Given the above, it is considered that subject to the aforementioned conditions, the proposals will not give rise to any significant residential amenity concerns. The proposals are therefore considered to comply with the requirements of policies B2 and EN5 of the UDP and the core principles and paragraph 123 the NPPF in this regard.

### 4. Implications of proposal in relation to trees and ecology

Paragraph 117 of the NPPF states that when determining planning applications, Local Planning Authorities should aim to conserve and enhance biodiversity by, amongst other measures, refusing planning permission that would have significant harm on biodiversity, refusing permission for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and aged/veteran trees and by encouraging opportunities to incorporate biodiversity in and around developments. On a local level, policy CN17 of the UDP seeks to protect trees which make a positive contribution to the amenity of an area, whilst policy CN22 of the UDP requires consideration to be given to the impact of development on protected species and their habitats.

The proposed development would see the shrub bed at the south side of the property removed, but the planting is of limited quality and value and its loss is not considered to conflict with policy CN17's objectives. The trees in the area to be developed as a car park stand outside the Conservation Area and as such, the trees are not afforded any statutory protection and the formal consent of the Council (as Local Planning Authority) is not required for their removal. Notwithstanding this position, it is noted that the trees are of a reasonable quality and do make a limited positive contribution to the setting of the Conservation Area and the public house; they are not, however considered to be worthy of formal protection via a Tree Preservation Order and consequently, their loss to allow for the development of the parking area in support of the public house is considered to be acceptable.

With regard to ecology and biodiversity, the applicant has submitted a 'Bat and Bird Risk Assessment', produced by Durham Wildlife Services (October 2016), which considers the habitat value of the areas affected by the development proposals and the risks of the development in relation to bats and birds. The report concludes that the trees within the surveyed areas hold no risk for use by roosting bats, although the trees and scrub do provide some suitable habitat for small numbers of breeding birds. The report sets out some recommended biodiversity enhancement measures, including the planting of sections of native hedgerow at selected locations around the site.

The Council's Natural Heritage team has considered the Assessment and confirmed that it addresses the relevant ecological issues associated with the site and proposed development. It is advised that in the event the application is approved, it should be subject to the recommendations contained within section 6 of the Assessment, namely those pertaining to breeding birds, controlled removal of non-native invasive species and provision of replacement habitat/landscape features where appropriate.

It is recommended that in the event they are minded to approve the application, Members impose a condition requiring the development to be carried out in accordance with the recommendations of section 6 of the Assessment, together with the submission of details of a proposed scheme of replacement habitat/landscape features. Subject to conditions to this effect, it is considered that the implications of the development in relation to trees and ecology and biodiversity are acceptable, in accordance with the objectives of paragraph 117 of the NPPF and policies CN17 and CN22 of the UDP.

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

Policy T14 of the UDP states that new development proposals must not give rise to conditions which are prejudicial to highway and pedestrian safety. In response to consultation, the Council's Network Management team have offered no objections to the development, but have provided some observations/recommendations for consideration.

In this regard, it is advised that the applicant will be required to enter into an agreement with the Council under section 278 of the Highways Act in respect of the access into the new car park. In addition, it has been requested that final details of any entry/exit signage to the car park is provided; it is recommended that Members impose a condition to this effect in the event they are minded to approve the application.

## CONCLUSION

For the reasons set out above, it is considered that subject to the recommended conditions detailed in the report, the principle of the development, its impact on the amenity of nearby dwellinghouses and its impact on the visual amenity of the locality and the character, appearance and significance of the Old Sunderland Riverside Conservation Area are acceptable. In addition, the implications of the scheme in relation to ecology and biodiversity and highway and pedestrian safety are also acceptable. The proposed development is therefore considered to be broadly acceptable and to comply with the core principles and relevant paragraphs of the NPPF and policies EN5, EN10, B2, B4, CN17, CN22, T14 and T22 of the UDP in relation to these matters.

However, as noted in the 'Representations' section of this report, the public consultation exercise undertaken in respect of this application has not yet expired, whilst consultation comments are still awaited from the Tyne and Wear County Archaeology officer. A Supplementary Report will provide details of any representations submitted by members of the public and responses from any outstanding external consultees, together with a recommended decision and a complete list of suggested conditions.

## **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** - Minded to Grant Consent under Regulation 4 of the Town and Country Planning General Regulations 1992 (as amended), subject to expiry of public consultation exercise and outstanding external consultation and subject to conditions to the following effect:

- development to be carried out within 3 years of approval;
- development to be carried out in complete accordance with approved plans;
- submission of final materials and finishes of new development;
- submission of final details of hedge and screen to outdoor seating area;
- submission of precise details/sample of mesh below terrace to rear;
- submission of details of lighting, roof to conservatory etc.
- restriction on hours of use of outdoor seating area at side of building, until no later than 11pm;
- prevention of playing music within outdoor seating area to side of building;
- submission of details of signage to car parking area;
- development carried out in compliance with section 6 of ecological risk assessment;
- submission of biodiversity enhancement scheme;
- any further conditions recommended by the Tyne and Wear County Archaeologist;

Reference No.: 16/01711/FUL Full Application

Proposal: **Erection of ANPR (automated number-plate recognition) cameras, pay and display machines and associated cabinets (RETROSPECTIVE)**

Location: Sunderland Royal Hospital Chester Road Sunderland SR4 7TP

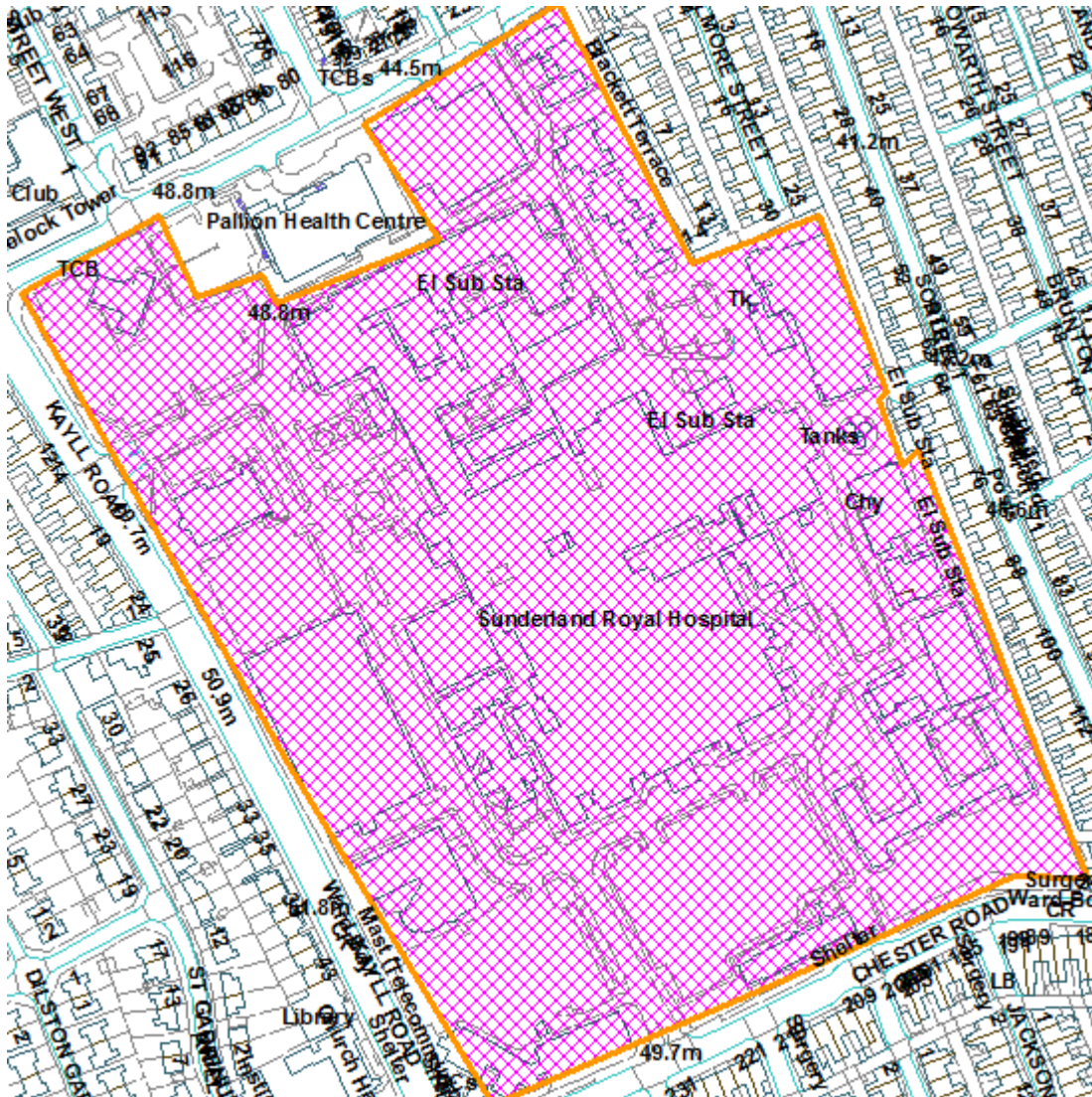
Ward: Millfield

Applicant: ParkingEye Ltd

Date Valid: 30 September 2016

Target Date: 30 December 2016

### Location Plan



## **PROPOSAL:**

Planning permission is being sought retrospectively for the erection of ANPR (automated number-plate recognition) cameras, pay and display machines and associated cabinets at Sunderland Royal Hospital, Chester Road, Sunderland, SR4 7TP.

The proposals affect Sunderland Royal Hospital, which occupies extensive grounds (approximately 13.7ha in area) off the A183 Chester Road. The grounds are bordered by Chester Road to the south, Kayll Road to the west, Hylton Road to the east and Blackett Terrace and the rear lane of Sorley Street to the east. The hospital occupies a sprawling complex of modern and older buildings spread around the site, with the remainder of the grounds affording areas of public and staff car parking and hard and soft landscaping.

This application seeks retrospective planning permission for the erection of a series of ANPR (automatic number plate recognition) cameras, pay and display machines and associated equipment cabinets at various locations around the hospital's grounds. No new development is proposed by the application.

The proposals comprise:

- 23 no. ANPR cameras, erected at various locations around the hospital's car parks. There are two types of camera, which are either affixed to the walls of existing buildings or mounted on 5 metre-high columns;
- 18 no. pay and display machines, again erected at various locations within the hospital's car parks. The machines have dimensions of 1.8 metres height x 484mm width x 412mm depth;
- 8 no. equipment cabinets, which have dimensions of 942mm height x 305mm depth x 735mm width;

The abovementioned development is associated with the management of the Eye Infirmary's car parks by ParkingEye, on behalf of Hospitals Sunderland NHS Foundation Trust. Vehicle entry and exit to/from the car parks is monitored in order to reduce car park abuse and ensure that spaces are available for genuine users.

Planning permission is being sought retrospectively, with the applicant (ParkingEye) advising that the development was undertaken between November and December 2012.

The current application has also been accompanied by an application for advertisement consent, which seeks to retain a range of informational and directional signage displayed at the hospital in association with the car parking arrangements (app. ref. 16/01712/ADV). Consent for the retention of the signage has already been granted by Officers under Delegated powers.

Members may recognise that this application is the third to be submitted by ParkingEye in respect of development associated with the management of NHS car parks. Members may recall that an application for cameras, pay and display machines and cabinets at Sunderland Eye Infirmary was approved by the Development Control (South) Area Sub-Committee in September 2016 (application ref. 16/01353/FUL), whilst an application for such apparatus at the Children's Hospital off Durham Road was refused planning permission by the Committee in October 2016 on grounds relating to the harmful impact of the development on the setting of the Grade-II Listed buildings at the site (application ref. 16/01359/FUL).

## **TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted

## **CONSULTEES:**

Network Management  
Millfield - Ward Councillor Consultation  
Environmental Health

Final Date for Receipt of Representations: **02.11.2016**

## **REPRESENTATIONS:**

Public consultation - the application has been publicised by means of notices displayed around the application site and a notice published in the Sunderland Echo. No representations have been received.

## **POLICIES:**

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

B\_2\_Scale, massing layout and setting of new developments  
CF\_1\_Ensuring that land / buildings are available for community facilities  
SA\_18\_Requirements for further redevelopment of Sunderland Royal Hospital  
T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising

## **COMMENTS:**

### **ISSUES TO CONSIDER**

The National Planning Policy Framework (NPPF) provides the current Government planning policy guidance and development plans must be produced, and planning applications determined, with regard to it. The NPPF sets out a series of 12 'core planning principles' which should underpin plan-making and decision-taking and are considered to contribute to the over-arching aim of delivering sustainable development. Particularly relevant in this case are the principles that development should always seek to secure a high quality design and a good standard of amenity and take account of the different roles and character of different areas.

These core principles of the NPPF feed into policies EN10, B2 and T14 of the Council's adopted Unitary Development Plan (1998), which are relevant to the consideration of this application.

With reference to the above national and local planning policy background, it is considered that the main issues to examine in the determination of this application are as follows:

1. the principle of the proposed development;
2. the impact of the development on visual and residential amenity;
3. the impact of the development on highway and pedestrian safety;



## 1. Principle of development

The hospital site is identified as an existing community facility by the proposals map of the adopted UDP and as such, policy CF1 therein is applicable. This advises that the City Council will seek to ensure that land and buildings are made available to enable the Council, other public bodies and statutory undertakers to carry out their responsibilities. Also relevant is policy SA18 of the UDP, which sets out that the Council will generally support applications involving the redevelopment of Sunderland Royal Hospital, subject to amenity, design and parking considerations.

The proposed development is not considered to give rise to any land use concerns and will not conflict with the established use of the site as a hospital, especially given that the apparatus simply supports the management of the hospital's existing parking facilities. Consequently, the proposals are not considered to conflict with the objectives of policies CF1 and SA18 of the UDP and the principle of the development is therefore considered to be acceptable.

## 2. Impact of development on visual and residential amenity

Policy B2 of the UDP requires new development proposals to respect the amenity of existing residential properties and the visual amenity of the locality in which the site is situated.

In terms of visual amenity, the proposed development essentially involves apparatus and equipment which would be typically expected in car parks of this nature. The number of camera columns, pay and display machines and cabinets is not considered to be excessive for a site of this size and they are also generally well-spread around the site. Furthermore, the form of the proposed apparatus is also considered to be acceptable - the camera columns are of a reasonable height and are substantially lower than, for example, standard street lighting columns.

As such, it is considered that the proposed apparatus will not result in harm to the visual amenity of the locality. It is recognised that the apparatus will combine with the advertisements granted consent under application ref. 16/01712/ADV, but even so, it is considered that there will not be an unsightly and unacceptable proliferation of apparatus, equipment, structures and signage at the site, especially when taking into account the extensive area covered by the hospital's grounds and the wide range of buildings they contain.

It is recognised that Members refused planning permission in respect of similar development to that proposed by the current application at the Children's Hospital off Durham Road (application ref. 16/01359/FUL, refused at Development Control (South) Area Sub-Committee on 25.10.2016). However, the sole reason for refusal related to the unacceptable impact of the development on the setting of the historic buildings of the Children's Hospital, which are Grade-II Listed. The grounds of the Royal Hospital do not contain buildings of such heritage significance; consequently, there is no such concern in respect of the current application and it is therefore only necessary to consider visual amenity on a more general level. To this end, as detailed above, the proposals are considered to be acceptable in this regard.

In addition to the above, the proposed development does not give rise to any residential amenity concerns given the minor scale and nature of the proposed apparatus and the distances between the respective structures and neighbouring dwellings. The closest distance is approximately 20 metres between apparatus closest to the hospital's eastern boundary and the dwellings of

Blackett Terrace and Sorley Street, but in any case, the hospital grounds are well screened to the east by tall boundary walls.

Although there have been no objections to the proposals in relation to privacy, it is considered worthwhile noting that the proposed cameras are designed to focus on the registration plates of vehicles entering and leaving the car park of the Eye Infirmary and as such, there does not appear to be any scope for filming of neighbouring residential properties. In any case, however, it must be noted that the operation of such cameras is subject to strict controls and working practices, with operators required to adhere to The Human Rights Act, The Data Protection Act, The Freedom of Information Act, The Data Commissioners Code of Practice, and The Regulatory and Investigatory Powers Act. Together, these forbid the misuse of such apparatus and any breach of these Acts would leave the operator liable to prosecution.

With regard to the above, it is considered that the impact of the proposed development on visual and residential amenity is acceptable, in accordance with the requirements of policy B2 of the UDP.

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

Policy T14 of the UDP states that new development proposals must not lead to conditions which are prejudicial to highway and pedestrian safety.

To this end, the City Council's Highways team has confirmed that the proposals raise no concerns in relation to highway and pedestrian safety. The development therefore accords with the requirements of UDP policy T14.

## CONCLUSION

For the reasons set out above, it is considered that the proposed development is acceptable in principle, whilst the development raises no significant concerns in relation to residential amenity and visual amenity. To this end, the proposed development is considered to comply with the requirements of the core principles of the NPPF and policies CF1, SA18 and B2 of the UDP and the application is therefore recommended for approval.

## 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** - Approve, subject to the following condition:

**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 following approved plans:

the location plan, site plans and proposed elevations received 20/09/2016,

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.

**Reference No.:** 16/02019/VAR Variation of Condition

**Proposal:** Variation of condition 5 (opening hours) attached to approved planning application 14/00398/VAR, to extend stores trading hours from 08.00 to 23.00 for a temporary period Monday 19th December 2016 to Friday 23rd December 2016.

**Location:** LIDL Durham Road Sunderland SR3 4DF

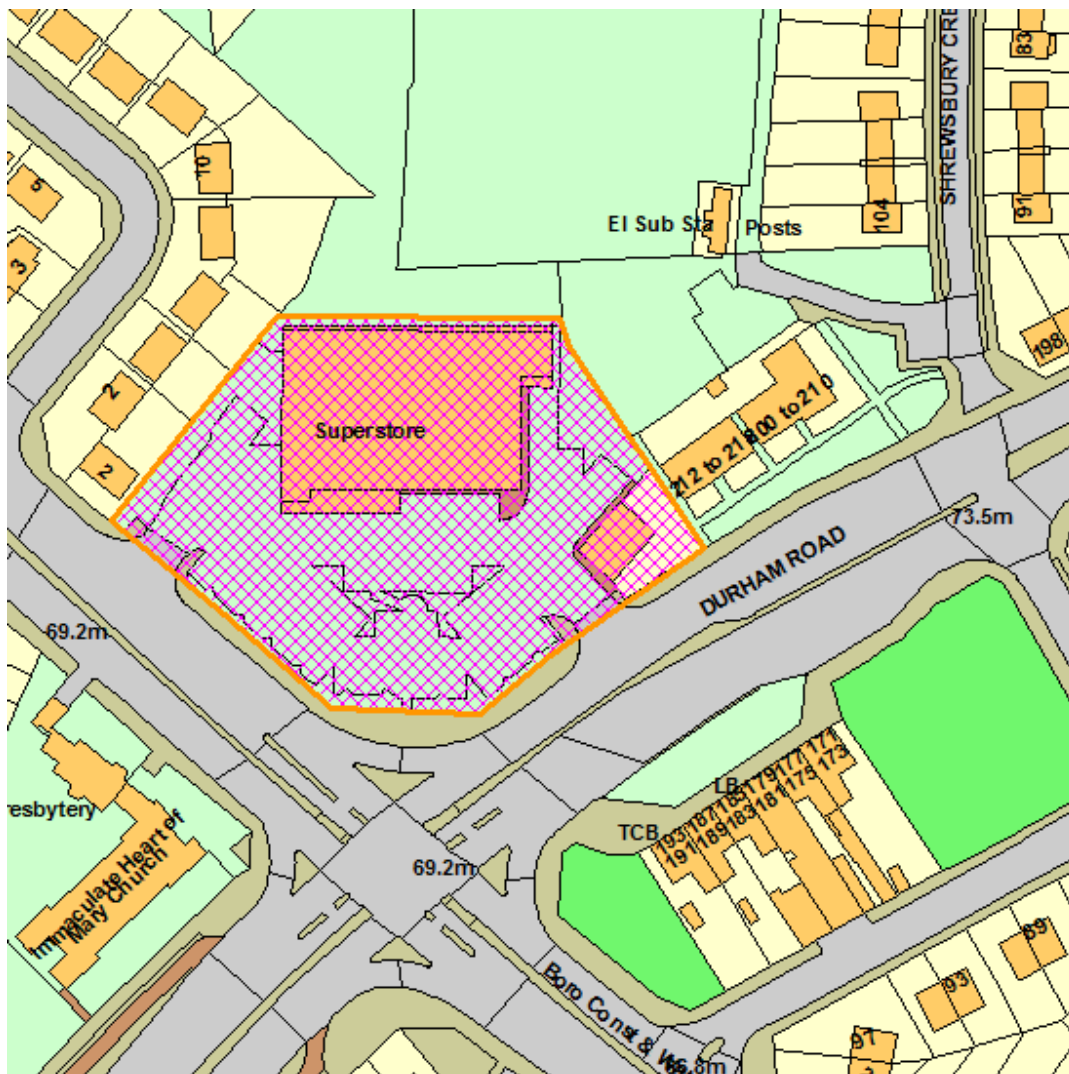
**Ward:** Barnes

**Applicant:** Lidl UK GmbH

**Date Valid:** 1 November 2016

**Target Date:** 31 January 2017

### Location Plan



## **PROPOSAL:**

The proposal seeks to vary condition 5 (opening hours) attached to approved planning application 14/00398/VAR, to extend stores trading hours from 08.00 to 23.00 for a temporary period Monday 19th December 2016 until Friday 23rd December 2016.

The proposal has been submitted as part of the applicant's wider business model to facilitate the shopping experience of Lidl's customers and the proposed extension to trading hours is only temporary.

The applicant's have submitted a further application for the site that seeks the following permanent variation of conditions attached to planning application 14/00398/VAR: Vary condition 3 (number of deliveries), condition 4 (delivery hours) and condition 5 (hours of operation).

Members may recall that planning permission was originally approved dated 20.02.2009 for the erection of a single storey food store with associated parking, access and landscaping on the site of the former Prospect Public House. The original consent imposed a condition restricting opening hours from 08.00 to 20.00 Monday to Saturday and 10.00 to 16.00 Sunday.

Application 14/00398/VAR extended the aforementioned opening hours to 21.00 Monday to Saturday.

## **TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

## **CONSULTEES:**

Barnes - Ward Councillor Consultation  
Network Management  
Environmental Health

Final Date for Receipt of Representations: **01.12.2016**

## **REPRESENTATIONS:**

One letter of representation has been received that supports the temporary request for extending the stores trading hours (providing the delivery hours don't change).

## **POLICIES:**

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

B\_2\_Scale, massing layout and setting of new developments  
EN\_5\_Protecting sensitive areas from new noise/vibration generating developments  
T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising

## **COMMENTS:**

The main issues to consider in determining the proposal are:

- the impact of the extended opening hours upon levels of residential amenity;
- the impact upon the local highway network.

### **The impact of the extended opening hours upon levels of residential amenity.**

The National Planning Policy Framework, Section 12 : Conserving and Enhancing the Natural Environment states in paragraph 123 that Planning policies and decisions should aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
- 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
- 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.

Whilst policy EN5 of the saved adopted Unitary Development Plan states that:

"Where development is likely to generate noise sufficient to increase significantly the existing ambient sound or vibration levels in residential or other noise sensitive areas, the Council will require the applicant to carry out an assessment of the nature and extent of likely problems and to incorporate suitable mitigation measures in the design of the development. Where such measures are not practical, permission will normally be refused."

The current proposal has been supported by a Noise Assessment dated August 2016. Within the submitted document Section 6 relates to vehicle movements, car park and extended opening hours.

Further to consultations with the City Council's Public Protection and Regulatory Services Section the following comments have been received.

Observations made during the attended noise monitoring showed that the dominant noise source was traffic from Durham Road and Springwell Road. It is considered that car park activity will have no significant effect on the existing noise environment. This has not however been adequately addressed in terms of measurement or assessment. It is therefore recommended that further information be provided in respect of the above in order to facilitate a robust assessment of the proposal with particular regard to the appropriateness of noise mitigation measures to reduce anticipated development-borne noise so that it does not exceed measured background noise levels.

The agent was informed and the following information received : The data presented in Appendix 1 (Noise Assessment) shows that the ambient noise levels are consistent from 19.00 (when the store is open) through to 00.00 hours when the store has been closed for three hours. This

suggests that the ambient noise levels are dominated by existing traffic, and not noise associated with any Lidl operation or carpark activity. Therefore, if the operating hours were to be extended there would be no significant effect on existing sensitive receptors, due to additional vehicle movements and car park activity.

The above comments have been considered by PPRS and are considered to be acceptable.

### **The impact upon local highway network.**

Policy T14 of the UDP requires that proposals for new development should be readily accessible by pedestrians and cyclists, not cause traffic congestion or highway safety problems on existing roads, make appropriate safe provision for access and egress by vehicles, make provision for the loading and unloading of commercial vehicles and indicate how parking requirements will be accommodated.

The current proposal does not alter the previously approved access arrangements and as such given the temporary extent of the proposed alteration to opening hours the Network Management Team have no observations to report.

### **Conclusion**

The proposed variation to condition 5 is considered to be acceptable, in that the evidence provided within the supporting noise assessments indicate that the use of the car park for the extended hours proposed would not lead to conditions prejudicial to residential amenity, furthermore the proposal is not considered to have implications upon highway safety and as such Members are recommended to 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 are recommended to Approve subject to the condition listed below:-

**Condition:**

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 following approved plans:

Drawing No. A(90)EXP011 Rev 01, Site Location Plan received 28.10.2016.

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.