

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

### **AGENDA**

**Meeting to be held in Committee Room 2 on  
Tuesday 3<sup>rd</sup> July, 2018 at 3.45 p.m.**

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

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

Civic Centre,  
SUNDERLAND.

25<sup>th</sup> June, 2018

## Development Control North Sub-Committee

3rd July 2018

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### REPORT ON APPLICATIONS

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#### REPORT BY THE EXECUTIVE DIRECTOR OF ECONOMY AND PLACE

##### PURPOSE OF REPORT

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

##### LIST OF APPLICATIONS

Applications for the following sites are included in this report.

1. 17/02446/FU4 - The Cheadle Centre, Cheadle Road, Hylton Castle, Sunderland, SR5 3NN
2. 18/00380/FUL - 40 Park Avenue, Roker, Sunderland, SR6 9DJ
3. 18/00781/LP3 - Northern Spire Bridge, Wessington Way, Timber Beach Road, Hylton Park Road, European Way and Groves Coles Site, Sunderland, SR4 6UG.

##### COMMITTEE ROLE

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

## **DEVELOPMENT PLAN**

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

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

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

## **STANDARD CONDITIONS**

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

## **SITE PLANS**

The site plans included in each report are illustrative only.

## **PUBLICITY/CONSULTATIONS**

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

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

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

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

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

These reports are held on the relevant application file and are available for inspection during normal office hours at the 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/)

Peter McIntyre

Executive Director Economy and Place

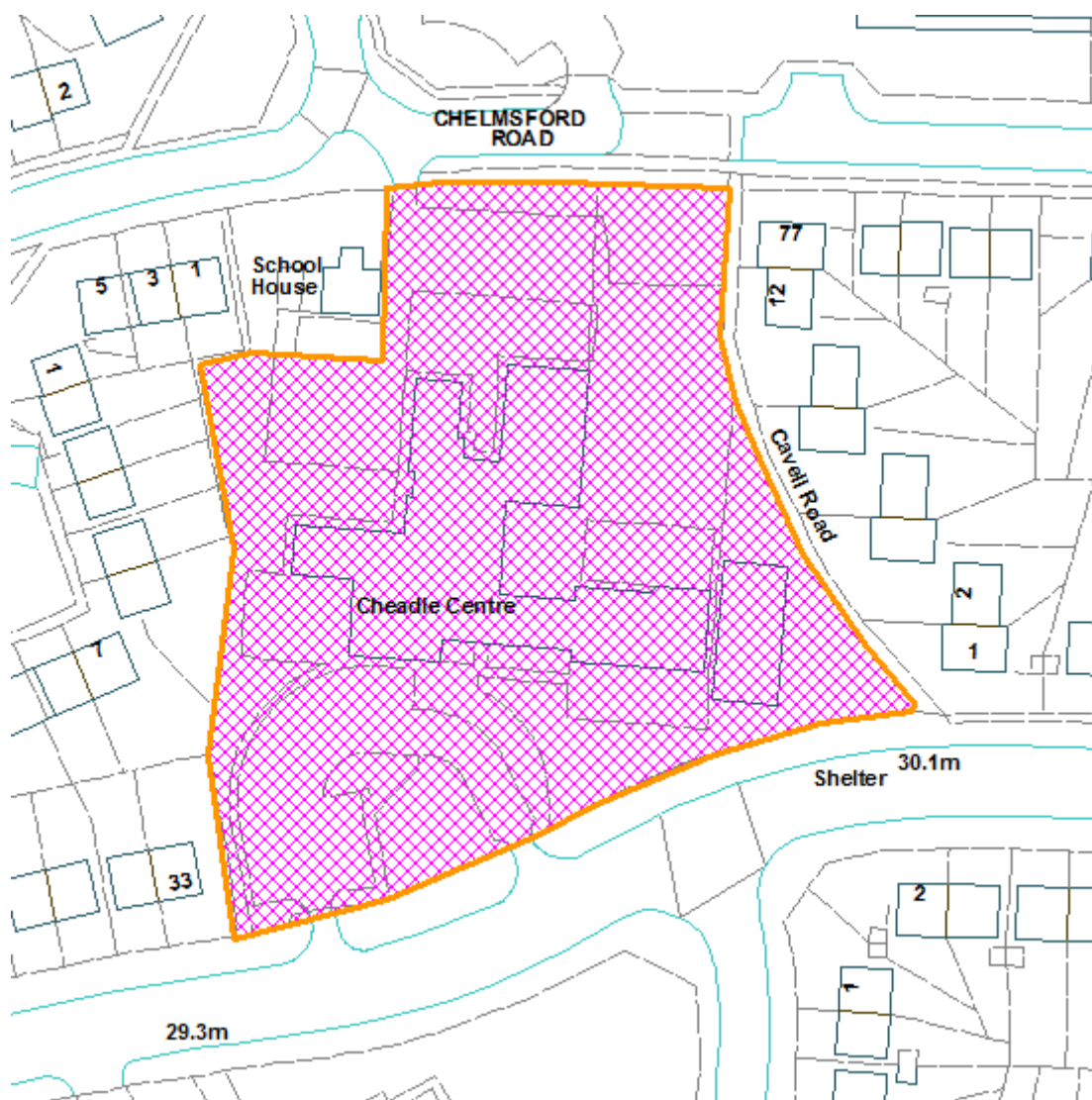
**Reference No.:** 17/02446/FU4 Full Application (Reg 4)

**Proposal:** **Demolition of Cheadle Centre and redevelopment of site for 19 no. residential units, comprising of 15 no. two bed bungalows and 4 no. two bedroom semi-detached flats, alterations to existing access and associated works. (Amended description)**

**Location:** The Cheadle Centre Cheadle Road Hylton Castle Sunderland Sunderland

**Ward:** Castle  
**Applicant:** Karbon Homes  
**Date Valid:** 15 January 2018  
**Target Date:** 16 April 2018

### Location Plan



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## **PROPOSAL:**

Full planning permission is sought for the demolition of the Cheadle Centre and the redevelopment of the site to provide 19 residential dwellings, comprising 15no. two bed bungalows and 4no. semi-detached flats, on land at Cheadle Road, Hylton Castle, Sunderland. The description has been amended to account for the removal of a single bungalow from the scheme.

The application site is of an irregular shape and comprises approximately 0.56ha of land. The overall site is generally quite level with only minor gradient increases evident on a south to north axis (in the region of 600mm). The buildings which make up the former Cheadle Centre are predominantly low rise/single storey in stature whilst several trees are interspersed throughout the site.

The surrounding area is predominantly residential in nature with dwellings bounding the western and eastern curtilage of the host site (Conway Road/Square and Chelmsford Road/Cavell Road). Two schools are also located nearby with the grounds of Hylton Castle Primary lying to the south and New Bridge Academy opposing to the north.

The application under consideration proposes a total of 15 bungalows and 4 semi-detached flats together with associated car parking and landscaping. The layout of the residential scheme has been informed by the constraints of the site and the context of the surrounding street scene with three groups of bungalows presenting an outward face onto Cheadle Road, a single pair of bungalows presenting an outward face onto Cavell Road and a pair of bungalows and a pair of two storey flats presenting an outward face onto the new estate road which is to run alongside the western perimeter of the site. Two further pairs of bungalows are to be located to the north and will face into the site to assist in natural surveillance.

Each new property will be afforded front and rear gardens and an in-curtilage car parking space. A further six car parking spaces for visitors are located throughout the development.

The bungalows will provide their occupiers with a kitchen, shower/bathroom, living room and two bedrooms whilst the two storey flats will also provide similar level of amenity over each floor plate. The proposed dwellings are considered to be of a relatively simple, traditional design with a predominance of brick interspersed with sections of render used in the finish.

The application has been submitted by NORR Consulting on behalf of Karbon Homes. The proposed housing is designed for, and is to be occupied by, persons over the age of 55 years, with occupation on a letting basis. Rents will be based on 80% of open market value, as is stipulated by the terms of grant from the Homes and Communities Agency being used to fund the development.

## **TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

## **CONSULTEES:**

Castle - Ward Councillor Consultation

DC North Chair And Vice Chair Consultation  
Network Management  
Environmental Health  
Northumbrian Water  
Flood And Coastal Group Engineer  
Nexus  
Southern Area Command - Police  
NE Ambulance Service NHS Trust  
Fire Prevention Officer

Final Date for Receipt of Representations: **22.02.2018**

## **REPRESENTATIONS:**

### **Public consultation**

One representation has been received as a result of the public consultation carried out. The objection, which has been received from an occupier at nearby Cavell Road, raises concerns that the occupiers of Cavell Road have no vehicular access to the front or rear of their properties. As such they currently park on street in front of the Cheadle Centre. The new development will therefore reduce their ability to park near to their dwelling.

### **Northumbrian water**

No objections to the development, provided that it is carried out in strict accordance with the drainage strategy submitted with the application. It is requested that a condition requiring the implementation of the drainage scheme be imposed in the event the application is approved.

### **Council's flood and coastal team (In capacity as Lead Local Flood Authority (LLFA))**

The LLFA initially objected to the proposed development as some detail was missing from the submitted Flood Risk Assessment and Drainage Strategy. The applicant's drainage consultant has since provided the additional detail(s) and it has now been confirmed by the LLFA that there is no objection to the development in relation to flood risk and drainage, subject to a condition requiring a final drainage layout, levels of connections to the sewer, confirmation of source control locations and depths and full infiltration testing as required to determine possible partial infiltration in areas of source control.

### **Council's Environmental Health team**

The Environmental Health team has advised that the proposals are acceptable, subject to appropriate conditions in respect of land contamination, construction management and noise. With regard to land contamination, the submitted reports indicate that contamination is not a significant constraint to the development of the site but in the event the application is approved, Environmental Health recommend that conditions are imposed requiring the preparation, submission and approval of a 'Phase II' site investigation, remediation strategy, verification plan/validation report and a method for dealing with unexpected contamination. It is also recommended that a condition is imposed which requires the submission and approval of a Construction Environmental Management Plan (CEMP) in respect of the development of the site

and that the noise mitigation measures be implemented as per the recommendations of the noise assessment.

### **Council's Highways team**

The Council's Highways team has no objections to the development and has provided the following advice/information:

- The development should be built to an adoptable standard;
- Visitor parking should be evenly distributed throughout the site (at a ratio of 1 space per three dwellings);
- Shared private accesses should not serve more than three properties (Plot 17-20 should be revised);
- Turning heads within the development should be capable of accommodating the turning movements of a large refuse vehicle (up to 11.6m long). The in curtilage parking bays at the head of the cul-de-sac should be move back to achieve this;
- The footpath adjacent to plot 1 is not required and could be removed, alternatively this footpath would require adoption as it connects two adopted footpaths.

The Highways comments also provide advice on the agreements the developer should reach with the Council as Local Highway Authority in respect of works within the existing highway, the adoption of the new road and parking court and the Advance Payments Code. These matters can be brought to the applicant's attention via informative notes in the event Members approve the application.

### **Council's Natural Heritage team**

The Council's Natural Heritage team has no objections to the proposed development in respect of ecology and biodiversity. It is requested, however, that a condition requiring Section H of the bat survey (Recommendations) is imposed. In addition it has been requested that the mitigations proposed within the Habitats Regulation Assessment also be conditioned.

### **POLICIES:**

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

EN\_10\_Proposals for unallocated sites to be compatible with the neighbourhood  
EN\_11\_Restrictions upon new development or intensified use of land liable to flooding  
EN\_12\_Conflicts between new development and flood risk / water resources  
EN\_14\_Development on unstable or contaminated land or land at risk from landfill/mine gas  
H\_1\_Provision for new housing  
H\_4\_Density of housing development to at least reflect that of the locality  
H\_16\_Negotiation for affordable housing in major developments  
H\_21\_Open space requirements in new residential developments (over 40 bed spaces)  
R\_3\_Infrastructure provision, etc. in association with developments  
B\_2\_Scale, massing layout and setting of new developments  
CF\_1\_Ensuring that land / buildings are available for community facilities  
CF\_2\_Consideration of alternative community uses when existing sites become surplus  
NA\_16\_Allocation of land for replacement community centre and an "aim high centre"

CN\_17\_Tree Preservation Orders and replacement of trees  
CN\_20\_Developments affecting designated/proposed SSSI's  
CN\_21\_Developments affecting designated / proposed LNR's, SNCI's or RIGS  
CN\_22\_Developments affecting protected wildlife species and habitats  
T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising  
T\_22\_Parking standards in new developments

## COMMENTS:

### Consideration

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

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

The NPPF sets out a presumption in favour of sustainable development and paragraphs 7 and 8 therein explain that there are three dimensions to sustainable development - economic, social and environmental - and that these are mutually dependent, so that gains in each should be sought jointly and simultaneously.

Paragraph 14 goes on to explain that the presumption in favour of sustainable development should be viewed as a 'golden thread' running through both plan-making and decision-taking and means that when determining planning applications, authorities should:

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

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:

- proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;
- encourage the effective use of land by re-using land that has been previously developed (i.e. brownfield land);
- always seek to secure a high quality of design and a good standard of amenity;
- take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside;



- take full account flood risk and coastal change;
- actively manage patterns of growth to make fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable; and
- contribute to conserving and enhancing the natural environment.

These core principles of the NPPF feed into policies EN10, EN11, EN12, EN14, H1, H4, H16, H21, R3, B2, CF1, CF2, NA16, CN17, CN20, CN21, CN22, T14 and T22 of the Council's adopted Unitary Development Plan (1998), which are relevant to the consideration of this application.

As Members may be aware, on 19th July 2017 the Council's Cabinet approved a Draft Core Strategy and Development Plan (CDSP) for consideration and a public consultation on the first draft ended on 2nd October 2017. The Council is currently in the process of considering and addressing the comments received in response to the consultation exercise. Paragraph 216 of the NPPF states that:

"From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given)
- The extent to which there are unresolved objection to relevant policies (the less significant the unresolved objections, the greater the weight that may be given) and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given"

In terms of the above advice, clearly the Draft Plan has been prepared after the publication of the NPPF. The first consultation on the CDSP has, however, only expired recently. The weight that can be given to the draft CDSP is therefore extremely limited to the extent that consideration of the application in question, in terms of the development plan, will be only made using the aforementioned relevant policies within the Council's adopted Unitary Development Plan and with regard to any other material considerations.

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:

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

- The principle of the proposed development;
- The impact of the development on visual and residential amenity and urban design considerations;
- The impact of the development in respect of highway and pedestrian safety;
- The impact of the development in respect of ecology and biodiversity;
- The impact of the development in respect of flooding and drainage;
- The impact of the development in respect of ground conditions;
- The impact of noise upon the development;
- Planning obligations

## **1. Principle of development**

The host site is allocated within the Council's proposals map under policies CF1 and NA16 whilst policy CF2 is also considered to be of relevance. Policy CF1 advises that the City Council will

seek to ensure that land and buildings are made available to enable the City Council, other public bodies and statutory undertakers to carry out their responsibilities and policy CF2 states that where buildings in a 'community use' become surplus to requirements, priority will be given to alternative public/community uses. This echoes the advice of paragraph 70 of the National Planning Policy Framework (NPPF), which states that the planning system should guard against the unnecessary loss of valued community facilities and services (e.g. local shops, meeting places, sports venues, cultural buildings, public houses and places of worship), particularly where this would reduce the community's ability to meet its day-to-day needs'. NA16 advises that the host land is allocated at the former Hylton Castle infant school site as a replacement community centre and 'aim high centre'.

With regard to the above it is acknowledged the proposal involves the demolition of buildings and the redevelopment of a former school site, consequently it is necessary to be able to demonstrate that there is no identifiable need for the existing use or that it can be suitably accommodated elsewhere.

The site has been vacant for some time now and following internal discussions with Officers within the Council it is understood that the pupils of the former Cheadle Centre were relocated to Pallion (now Links School Pallion). In this respect it is evident that the 'community need arising' has been taken up at another site therefore in this instance it is considered appropriate to consider the provision of alternative uses on the site. In assessing the general nature of the area it is clear that residential uses predominate and therefore it is reasonable to suggest that residential would represent an appropriate land use.

Of relevance to this application is section 6 of the NPPF, which is concerned with achieving the delivery of a wide choice of high quality homes. Paragraphs 47 and 49 of the NPPF are especially pertinent, with paragraph 47 stating that in order to significantly boost the supply of housing, Local Planning Authorities should:

- Use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the NPPF, including identifying key sites which are critical to the delivery of the housing strategy over the plan period;
- Identify and update annually a supply of specific deliverable sites (i.e. sites which are available, suitable and viable for housing) sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land;
- Identify a supply of specific, developable site or broad locations for growth, for years 6-10 and where possible, for years 11-15;
- For market and affordable housing, illustrate the expected rate of housing delivery through a housing trajectory for the plan period and set out a housing implementation strategy for the full range of housing describing how they will maintain delivery of a five-year supply of housing land to meet their housing target; and;
- Set out their own approach to housing density to reflect local circumstances.

Meanwhile, paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant local policies in a development plan for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

As indicated by paragraphs 47 and 49 of the NPPF (set out above), the NPPF demands that a planning authority should identify an available and deliverable five-year supply of housing land. If

such a supply of housing land cannot be robustly demonstrated, relevant local policies for the supply of housing are regarded as out of date, and therefore should be afforded little weight.

At this juncture the Council as Local Planning Authority cannot robustly demonstrate a five-year supply of housing land that has been subject to independent examination via a public enquiry. As such, and in line with the guidance of aforementioned paragraph 49 of the NPPF, the more up to date development management and housing policies in the NPPF must be given greater weight when considering this application than the housing policies in the Council's saved Unitary Development Plan.

This requires new development proposals to respect prevailing patterns of land use and to this end, it is considered that a development of the site which involves the erection of new dwellinghouses, in the form of bungalows and flats, would be compatible with the primarily residential nature of the locality.

The proposal would also accord with policy H1 of the UDP, which generally supports the provision of new housing in the City in order to maximise locational choice, reduce out-migration and increasing household formation, assist in regeneration objectives and, wherever possible, secure the re-use of vacant and derelict land.

In this regard, although the application site is not allocated for housing development by the UDP, it has been identified in the Council's 2017 SHLAA (site 693). As such, the approval of planning permission for residential development of the site would serve to make a positive, albeit modest, contribution to the supply of deliverable housing land in the City.

Given the above, it is considered that the broad principle of erecting dwellinghouses at the site is acceptable, particularly as the scheme will result in residential development in an established residential area and would secure the appropriate re-development of a previously-developed brownfield site. Nevertheless, in order to fully establish the acceptability of the proposed development, an assessment must firstly be made of all other relevant material planning considerations raised by the scheme as discussed below.

## **2. Impact of development on visual and residential amenity and urban design considerations**

Policy B2 of the UDP requires new development proposals to respect visual and residential amenity, whilst the core principles of the NPPF set out an objective for schemes to deliver high standards of design and amenity.

Policy H4, meanwhile, states that new housing development should be of a density which reflects the existing density found in the locality, whilst policy H21 seeks to ensure that new residential development is afforded appropriate levels of amenity open space and/or casual playspace, with the levels recommended dependent on the type of housing proposed (in terms of total numbers of bedrooms) and proximity to existing areas of open space.

In terms of visual amenity, it is evident that the locality is dominated by post-war two storey semi-detached housing therefore the introduction of scheme largely comprising of semi-detached/linked bungalows could be considered a departure from the prevailing form of built development in the area. Nonetheless, in this instance it is clear that the existing site is already characterised by a low rise form of development of both limited visual and architectural quality. Consequently the introduction of modern bungalows would serve to maintain the lower rise built form on the land, meet a defined need and improve the visual appearance of the site and wider

street scene. Whilst it is appreciated that the density of the development is somewhat greater than surrounding residential plots, this is dictated to some extent by the larger footprints of the bungalows. In the majority of cases the proposed plots still offer reasonably sized front and rear garden areas which are proportionate to those of nearby dwellings. Although some garden areas are slightly smaller (most notably plots T10 and T12), these plots will house the 'Tyneside flats' and thus it is likely that the level of external amenity will not be as integral to a potential occupier.

In terms of layout the scheme would see two pairs of semi-detached bungalows and a block of three bungalows presenting an outward face onto Cheadle Road which is considered to be consistent with the established pattern of development in the area. However, it was noted that the orientation of the two pairs of semi-detached bungalows to the north would differ from the established front facing properties on Chelmsford Road and as such the developer was requested to provide a rationale for this approach. Within the response the developer noted that Chelmsford Road has been turned into a one way drop off loop which accesses New Bridge Academy, in this respect the introduction of further cars and parking at this juncture would be undesirable in terms of manoeuvrability and highway safety. In addition as the new dwellings would be constructed adjacent to a section of Chelmsford Road which has been stopped up, this section of the road would appear to offer a 'natural break' from the general uniformity that characterises the remainder of the street.

Notwithstanding, the developer has also advised that the intention was to create a development with a single identity that maintains the principles of secured by design with a layout that serves to provide a natural surveillance of the respective properties.

The rationale offered by the developer is considered to be sound, however, in order to ensure that the development doesn't present a harsh edge on to Chelmsford Road it was requested that the originally proposed close board fence be revised to include brick piers which would serve to break up the impact of the boundary treatment. This has been annotated onto the landscaping plan.

The Council's Residential Design Guide Supplementary Planning Document (SPD) requires that 21 metres is retained between properties with elevations containing main living room windows and 14 metres between elevations containing living rooms windows and blank elevations, this arrangement ensures dwellings are afforded acceptable levels of privacy and main living room windows are afforded a middle- to long-distance outlook.

In terms of the impact of the development on the amenity of existing nearby dwellings, it is considered that layout of the development and the separation distances between the new dwellings and existing properties is satisfactory. As has been noted towards the beginning of the report, one dwelling has been removed from the proposal due to concerns over the limited interfacing distance that would have resulted between No's 77 Chelmsford Road/12 Cavell Road and B18. The revised layout now demonstrates that just over 14m would be retained between the eastern gable of the bungalow and the main facing windows within No's 12 and 77 as per the requirements of the SPD.

Proposed plots B18 and B19 would sit at an oblique angle to No's 8 and 10 Cavell Road therefore the spacing of between 18.6m and 23.7m is considered to be acceptable and would not serve to reduce privacy of existing or prospective occupiers. Plot B1 would also be positioned at an oblique angle to the front elevations of No's 1 and 2 Cavell Road with ample spacing of between 19m and 22m evident between the gable of B1 and these properties. On the western side ample spacing of between 22m and 28m would be retained between the front elevations of the proposed two storey flats and the rear elevations of No.3-6 Conway Road.

Internally the spacing between the new builds is broadly in accordance with the SPD with 14.5m retained between Plot B14 and the side gable of Plot T12/T13 and over 16m retained between Plot B17 and the gable of Plot B18.

The spacing between Plots B6 and B8 is tighter than would normally be desired (between 11.5m and 13.8m) although it is appreciated that outlook from B6 would be onto a relatively low rise gable that angles away. Consequently, the design response proposed in the layout is considered to be sufficient to allow for a relaxation of the spacing standards in this particular instance.

On the basis of the above, the layout and design of the development is considered to be acceptable without causing detriment to the amenity of the area.

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

Paragraph 32 of the NPPF advises that all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Planning decisions should take account of whether opportunities for sustainable transport modes have been taken up, that safe and suitable access to the site can be achieved and whether improvements can be undertaken within the transport network that cost-effectively limit the significant impacts of the development. Paragraph 32 is clear in stating that development should only be refused on transport grounds where the residual cumulative impacts of the development are severe.

On a local level, policy T14 of the UDP requires new development proposals to be accessible, to not cause traffic congestion or highway safety problems on existing roads, make appropriate access for the safe access and egress of vehicles and pedestrians and to indicate how parking requirements will be accommodated. Policy T22 of the UDP, meanwhile, requires new development proposals to be afforded appropriate levels of dedicated parking; in this regard, the Council's 'Residential Design Guide' SPD setting out recommended levels of one in-curtilage parking space per new dwelling and visitor parking afforded at a rate of one space for every third dwelling.

The proposed development proposes 19 in curtilage car parking spaces together with 6 visitor parking spaces.

The visitor parking spaces have been interspersed relatively evenly throughout the development to enable easy access for all visitors and the Council's Highways team has raised no objections to this approach. The Highways team did however note that the turning head didn't appear to offer sufficient depth to allow for the turning of a refuse vehicle/large delivery wagon. In this respect the site layout has been revised slightly to ensure sufficient turning space is provided.

Overall the proposed access, parking, layout and servicing arrangements are all considered to be acceptable, whilst it is also observed that the development will occupy a site within an established residential area with good private and public transport links.

One representation has been received from an occupier of Cavell Road over the potential loss of on-street parking along the frontage of Cheadle Road. Although these concerns are noted, on-street parking cannot be considered a right and therefore only limited weight can be given to these concerns.

With regard to the comments provided by the Council's Highways team and for the reasons set out above, it is considered that the proposed development does not give rise to any significant highway safety concerns. As such, the development is compliant with the objectives of paragraph

32 of the NPPF, policies T14 and T22 of the UDP and the recommended parking standards set out in the Council's 'Residential Design Guide' SPD.

#### **4. Implications of development in respect of ecology and biodiversity**

Section 11 of the NPPF sets out a general strategy for the conservation and enhancement of the natural environment, and it advises that the planning system should recognise the wider benefits of ecosystem services and minimise impacts on biodiversity and provide net gains in biodiversity where possible. On a local level, policies CN20 and CN21 of the UDP seek to protect Sites of Special Scientific Interest (SSSIs) and Local Nature Reserves respectively from development proposals with harmful direct or indirect impacts, whilst policy CN22 states that development proposals which would adversely affect any animal or plant species afforded special protection by law, or its habitat, will not be permitted unless mitigating action is achievable.

##### **Trees**

The application has been accompanied by an Arboricultural Impact Assessment and Method Statement. The impact assessment qualifies that there is a total of 10 trees located either within or close to the site. The impact assessment qualifies that it will be necessary to remove some of the existing trees to facilitate the development. These include;

- Trees 3, 4 and group 1 (as required to facilitate construction and infrastructure).
- Trees 1, 5, 6, 7 and 8 are advised to be removed due to structural defects and limited life expectancy.

Tree T2 is considered to be suitable for retention.

In terms of the removals tree's 3 and 4 (both Cherry's) are noted to be classified as being Category A (Good Quality). In general category A trees should be retained and assimilated where possible into the development however in this particular instance it is appreciated that the central location of these trees makes retention impractical. Overall the benefits arising from the provision of new homes is considered to outweigh the retention of trees 3 and 4 and therefore their removal is considered to be acceptable.

Trees 1, 5, 6 and 7 are all classified as being of low value and consequently their loss is not considered to be of significance to the amenity of the area. Trees 8, 9 and 10 are located adjacent to the boundary of the site but fall outside the control of the applicant. These trees have been classified as either low or moderate quality and are likely to be impacted by virtue of the new access road which is to be laid. Their long term health cannot therefore be guaranteed and whilst their removal is recommended, this would be a civil matter which would need to be addressed between the developer and neighbouring occupiers(s).

The proposed landscaping plan does offer indications of compensatory planting although no specifics have been provided in terms of species. This will need to be conditioned accordingly.

##### **Protected Species and biodiversity enhancement**

The initial Bat Survey advised that the existing buildings were of low suitability for roosting bats and that good quality habitat within the surrounding area is limited. However a small number of features within the buildings had the potential to be used by roosting bats and as such a single dusk activity survey was recommended to be undertaken between May and August.

On the basis of the above, the second survey was undertaken with the report submitted May 2018. The dusk activity survey recorded no roosts within the site with general activity levels low.

The Council's Natural Heritage team has no objections to the development but recommends that if Members are minded to approve the proposed development, a condition should be imposed on any approval granted requiring the developer to adopt and deliver the measures summarised in section H of the Bat Survey which includes details of working methods and best practice and delivering a biodiversity net gain through the inclusion of 'bat bricks' and landscape planting to enhance structural diversity.

In addition to the above, the application has been supported by a Habitats Regulations Assessment which serves to assist the Local Planning Authority to determine whether the development may have a 'likely significant' effect on the Natura 2000 sites, which lie within the zone of influence of the proposed development site. The report concludes that the development will not result in any loss of habitat from the SPA or loss of habitats considered to have a functional link with the identified protected sites. Further, given the distance from the development to the Natura 2000 sites, no direct impacts during development such as construction disturbance is envisaged.

The above has been considered by the Natural Heritage team and they are satisfied with the conclusions reached. The mitigation proposes that homeowner packs are provided to future residents highlighting the importance of the designated sites and how to minimise effects. This will need to be conditioned.

With regard to the above, and subject to the recommended conditions, it is considered that the implications of the development in relation to on-site and off-site biodiversity and ecology will be acceptable, in compliance with the requirements of section 11 of the NPPF and policies CN20, CN21 and CN22 of the UDP.

## **5. Implications of development in respect of flooding/drainage**

Paragraph 103 of the NPPF states that when determining planning applications, Local Planning Authorities should ensure flood risk is not increased elsewhere and should only consider development to be appropriate in flood-risk areas where certain criteria are satisfied. Meanwhile, policy EN12 of the UDP states that in assessing development proposals, the Council will seek to ensure that the proposal will not materially impede the flow of flood water, or increase the number of people or properties at risk of flooding.

As Members may be aware, the City Council is now the Lead Local Flood Authority (LLFA) in respect of major development proposals, with responsibility for matters pertaining to the management of surface water. A Ministerial Statement from the Department for Communities and Local Government (dated 18th December 2014), to be read in conjunction with the policies of the NPPF, sets out that the Government expects decisions on planning applications relating to major development to ensure that sustainable drainage systems (SuDS) for the management of run-off are put in place, unless this is demonstrated to be inappropriate.

In considering planning applications, the LLFA should be satisfied that the proposed minimum standards of operation are appropriate and ensure through the use of planning conditions or obligations that there are clear arrangements in place for ongoing maintenance over the lifetime of the development. Technical Guidance produced by DEFRA (March 2015) sets out non-statutory technical standards for SuDS and this should be used to inform the preparation of a

SuDS scheme in association with a development proposal. In this regard, it is recommended that the surface water run-off rate for new development should not exceed the existing greenfield run-off rate for the site.

The application has been accompanied by a Flood Risk Assessment (FRA) and Drainage Strategy which concludes that the development site is located within Flood Zone 1 (at lowest risk of flooding) and that flood risk from other sources is low. There are indications that surface water flooding currently effects the site with water entering the site via the existing adopted highways to the north and flows through the development to the south. The proposals will therefore block the existing flows from entering by the introduction of new kerb lines and higher floor levels with water directed through the proposed gardens.

The Council as Lead Local Flood Authority considered the FRA that was submitted to support this application for permission, however upon inspection the LLFA considered that a number of updates were required to provide sufficient detail and clarity.

These revisions have been made and the LLFA is now satisfied that scheme is acceptable. A condition has however been recommended to be attached to any approval granted in respect of a final drainage layout, levels of connections to the sewer, confirmation of source control locations and depths and full infiltration testing as required to determine possible partial infiltration in areas of source control.

## **6. Implications of development in respect of land contamination/ground conditions**

Paragraph 121 of the NPPF states that planning decisions must ensure that development sites are suitable for the new use, taking account of ground conditions and land instability, including from former activities such as mining and pollution. Meanwhile, policy EN14 of the UDP states that where development is proposed on land where there is reason to believe is contaminated or potentially at risk from migrating contaminants, the Council will require the applicant to carry out adequate investigations to determine the nature of ground conditions below and, if appropriate, adjoining the site. Where the degree of contamination would allow development subject to preventative, remedial or precautionary measures within the control of the applicant, planning permission will be granted subject to conditions specifying the measures to be carried out.

A combined Phase I and Phase II report and Gas Risk Assessment have been submitted to support this application for development. These documents have been assessed by the City Council's Public Protection and Regulatory Services Team which has confirmed no objection to the proposed development but has recommended that conditions are imposed to any approval granted requiring that a Phase II Assessment (to include an updated gas risk assessment), Remediation Statement, Verification Report and a condition to deal with unexpected contamination.

With regard to the above comments, it is considered that subject to the imposition of the recommended conditions, the implications of the development in respect of land contamination is acceptable, in accordance with the requirements of paragraph 121 of the NPPF and policy EN14 of the UDP.

## **7. Noise**

The proposed development site is located adjacent to Caithness Road and as a result may be subject to high levels of noise from traffic. The Council's Public Protection and Regulatory Services Team has been consulted regarding this proposal and has confirmed no objection to the



proposal but has suggested that if Members are minded to approve the proposed development a condition requiring that the mitigations presented within the submitted noise assessment be implemented prior to the first occupation of the dwellings proposed.

## **8. Planning obligations**

Paragraph 203 of the NPPF states that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations - such obligations are usually secured via legal agreements under Section 106 of the Town and Country Planning Act 1990 (as amended) and should only be used where it is not possible to use planning conditions. Paragraph 204 goes on to advise that planning obligations should only be sought where the following tests can be met (also set out at Regulation 122(2) of the Community Infrastructure Levy (CIL) Regulations 2010):

- o Necessary to make the development acceptable in planning terms;
- o Directly related to the development; and
- o Fairly and reasonably related in scale and kind to the development;

It is normally the practice of the City Council to seek financial contributions towards education provision and the maintenance of off-site play facilities in respect of development proposals for 10 no. or more residential units. In this case, however, it is acknowledged that the proposed housing is designed for occupation by persons over the age of 55, rather than by families with children, and as such, it is considered that the development is unlikely to place any additional pressure on education and play facilities in the area. In these circumstances and with regard to the 'tests' provided by paragraph 204 of the NPPF, it is considered that the Council cannot reasonably justify requesting financial contributions towards education and off-site play facilities in this case.

Clearly, to enable the Council to consider such an approach, there must be some certainty that the dwellings will be occupied by persons over the age of 55 and that this arrangement will be maintained in perpetuity. To this end, Members should note that the applicant will enter into a nominations agreement with the City Council, which will initially give the Council 100% control over the initial occupancy of the dwellings and then allows the Council to retain control of 50% of the units thereafter. It is also intended that the Sale and Nomination contracts will include a clause requiring any successors in title, other than their lender or permitted disposals (e.g. to Right to Buy etc.), to enter into a nomination agreement with the Council, which would mean that if the whole site were transferred or sold, the new owner would be bound to enter into a similar nominations agreement with the Council, thus allowing retention over control of occupancy.

It is considered that the proposed nominations arrangements as set out above offer sufficient surety to the Council, in its capacity as Local Planning Authority, that the dwellings proposed at the site will be occupied by the over-55s from the outset and thereafter. On this basis, there is not considered to be reason to require the developer to enter into a legal agreement in respect of making financial contributions towards education and off-site play facilities.

With regard to affordable housing, the Council's current approach is to seek affordable housing in respect of schemes involving 15 or more residential units; However, it is noted that the proposed development is intended to deliver 100% affordable housing (with rents pegged at 80% of open market value) and the funding required by the developer to deliver the scheme is only available where affordable housing is being built. Consequently, and notwithstanding there not being a Section 106 Agreement in place, the scheme will still make a valuable contribution to the provision of affordable housing in the area.

## **Conclusion**

In summary, the principle of housing development is considered to be acceptable in this location when assessed against the impact tests set out in the NPPF. To this end, the proposals will see an appropriate and sympathetic development of a brownfield site located within an established residential area.

Additionally, and for the reasons set out above, the proposed development is considered to be acceptable in terms of urban design, visual and residential amenity, highway access and car parking, flood risk and drainage, ground conditions and ecology/biodiversity impacts and in respect of these matters, the proposals are considered to be compliant with the aims, objectives and detailed policies of the NPPF, the up-to-date policies of the Council's UDP and the Council's 'Residential Design Guide' SPD.

Given that the proposed development has been found to be acceptable with regard to all relevant material planning issues, with regard to the overarching aims, objectives and detailed policies of the NPPF the up-to-date relevant policies of the Council's UDP and 'Residential Design Guide' SPD, it is considered that the scheme will achieve the sustainable development sought by paragraph 14 of the NPPF and should therefore be approved.

To conclude, following examination of all relevant material planning considerations, it is considered that the proposal has clearly demonstrated that it is sustainable development and in light of the guidance provided by paragraphs 14 and 49 of the NPPF, it is recommended that Members Grant Consent for the development under Regulation 4 of the Town and Country Planning (General Regulations) 1992 (as amended), subject to the conditions set out below.

## **EQUALITY ACT 2010 - 149 Public Sector Equality Duty**

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

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

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

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

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected

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

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

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

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

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

**RECOMMENDATION:** , it is recommended that Members Grant Consent for the development under Regulation 4 of the Town and Country Planning (General Regulations) 1992 (as amended), subject to the draft conditions set out 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 and documents:
  - The Site location plan received 21 December 2017 (Plan ref: A1-00-03);
  - The proposed site plan as amended received 15 June 2018 (Plan ref: BPS-NOR-A1-00-02, Rev M);
  - The proposed site boundary and landscape plan as amended received 15 June 2018 (Plan ref: BPS-NOR-A1-00-11, Rev J);
  - The Tyneside Flats floor plans and elevations received 8 March 2018 (Plan ref: BPS-NOR-A2-00.RVT Rev D) ;
  - The floor plans and elevations semi-detached bungalows received 8 March 2018 (Plan ref: BPS-NOR-A2-00-05 Rev D)
  - The floor plans and elevations terraced bungalows received 8 March 2018 (Plan ref: BPS-NOR-A2-00-01.RVT Rev D)
  - The Arboricultural Impact and Method Statements prepared by All About Trees received 21 December 2017;

- The Bat Survey received 31 May 2018 prepared by E3 Ecology Ltd and Shadow Habitats Regulations Assessment Cheadle Centre, Sunderland, December 2017? received 2 January 2018;
- Noise impact assessment "Cheadle Centre, Sunderland Revision A" received 16 March 2018
- Flood risk assessment, Cheadle Road, Sunderland, Revision E, 2017113, received 15 June 2018.

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 above damp proof course shall take place on any of the dwelling houses hereby approved until elevation and section drawings of all boundary treatments have been submitted to and approved in writing by the Local Planning Authority. Thereafter the agreed boundary treatment shall be erected prior to the occupation of the first dwelling.

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

- 5 No development above damp proof course shall take place on any of the dwelling houses hereby approved until a scheme of hard and soft landscaping has been submitted to and approved in writing, by the Local Planning Authority. For the avoidance of doubt the soft landscape scheme shall include a full schedule of planting including numbers/densities and species, to be informed by the enhancement recommendations contained within Section H.5 of the Bat Survey undertaken by E3 Ecology Ltd dated May 2018. The approved landscape works shall be completed no later than the end of the first planting season following the first occupation of the development or in accordance with a programme agreed in writing with the Local Planning Authority. Thereafter the approved landscape works shall be maintained in accordance with the current version of the British Standard 4428 for a period of 5 years commencing on the date of Practical Completion and during this period any trees or plants which die or become diseased shall be replaced in the first available planting season with others of similar size and species and any grass which fails to establish shall be re-established.

Reason: In the interests of protecting the amenity of the area and to comply with policy B2 of the adopted Unitary Development Plan.

- 6 The development hereby approved shall be carried out in complete accordance with all recommendations and tree protection measures set out by the submitted Arboricultural Method Statement prepared by All About Trees (issued 22.11.2017) and British Standard 5837 (2012) and, for the avoidance of doubt, no development, including demolition, shall commence until all identified tree protection measures have been fully installed, which shall remain in place until the development is complete.

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

- 7 The development hereby approved shall be carried out in complete accordance with the recommendations, mitigation and enhancement measures detailed in Section H (Recommendations) of the Bat Survey prepared by E3 Ecology Ltd dated May 2018.

Reason: In order to ensure best practice in respect of the demolition work and to ensure the retention of and future biodiversity of the site in accordance with policies CN20, CN21 and CN22 of the Unitary Development Plan.

- 8 The dwelling houses hereby approved shall not be occupied until full details of the proposed mitigation measures identified within Section F, (F.4.1) of the Habitat Regulations Assessment prepared by E3 Ecology Ltd and dated June 2018, have been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt the submitted details shall include a copy of the homeowner pack to be distributed to occupiers of the approved dwellings.

Reason: In order to ensure best practice in respect of the mitigation and to ensure the proposed future biodiversity of the site in accordance with policies CN20, CN21 and CN22 of the Unitary Development Plan.

- 9 The areas indicated on the submitted plans for the in-curtilage parking of vehicles shall be laid out in accordance with the approved plans before each respective dwelling is occupied and the visitor parking bays laid out in accordance with the approved plans prior to the occupation of the final dwelling. The parking areas shall then be made available for such use at all times thereafter.

Reason: In the interests of highway safety and to comply with policy T22 of the Unitary Development Plan.

- 10 No development, other than demolition and remediation work, shall commence until drainage details to include site specific construction management details identifying mitigation and site best practise to manage surface water, a final drainage layout, levels of connections to the sewer, confirmation of source control locations and depths and full infiltration testing as required to determine possible partial infiltration in areas of source control together with a timetable for implementation has been submitted to and approved, in writing, by the Local Planning Authority. Thereafter, the development shall be carried out in full accordance with the agreed details and the Flood Risk Assessment and Drainage Strategy undertaken by Portland Consulting Engineers (Revision E, June 2018).

Reason: To ensure that satisfactory drainage is provided for the development to prevent the increased risk of flooding, to improve and protect water quality and to comply with policies EN12 and B24 of the adopted Unitary Development Plan and paragraph 103 of the National Planning Policy Framework.

- 11 The development hereby approved shall not commence until a Construction Environmental Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall provide full details in respect of:
- i. provision and location of facilities for the parking of vehicles of site operatives and visitors;
  - ii. provision and location of facilities for the loading and unloading of plant and materials;
  - iii. provision and location of areas dedicated to the storage of plant and materials used in constructing the development;
  - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - v. wheel washing facilities;
  - vi. measures to control noise, dirt, dust and other airborne pollutants, vibration, smoke and odour during construction;
  - vii. full details of any lighting required during the construction phase;
  - viii. a scheme for recycling/disposing of waste resulting from demolition and construction works;

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

- 12 No development other than demolition, shall commence until a Phase 2 investigation and assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

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

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

- 13 Development shall not commence until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must

include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation.

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

- 14 The dwelling houses hereby approved shall not be occupied until the approved remediation works have been completed in accordance with the approved Remediation Strategy and a verification report that demonstrates the effectiveness of the remediation works and accords with the terms of the approved Verification Plan has been submitted to and approved in writing by the Local Planning Authority.

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

- 15 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it shall be reported, in writing, immediately to the Local Planning Authority and all works within the affected part of the site shall cease on site until an investigation and risk assessment and, when remediation is necessary, a remediation scheme has been submitted to and approved, in writing, by the Local Planning Authority. The development of the affected part of the site will be carried out in accordance with the approved details. Following completion of measures identified in the approved remediation scheme and prior to the occupation of the dwelling, a verification report shall be submitted to and approved, in writing, by the Local Planning Authority.

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

- 16 Notwithstanding the submitted plans, the noise mitigation measures recommended by Table 1 of the 'Cheadle Centre', Sunderland, Noise Impact Assessment', by Apex Acoustics, 15th March 2018, shall be implemented in full prior to the occupation of the dwelling hereby approved and maintained as such thereafter for the lifetime of the development, in order to ensure the dwelling benefits from acceptable internal living conditions and to comply with the objectives of paragraph 123 of the NPPF and policies B2 and EN5 of the UDP.

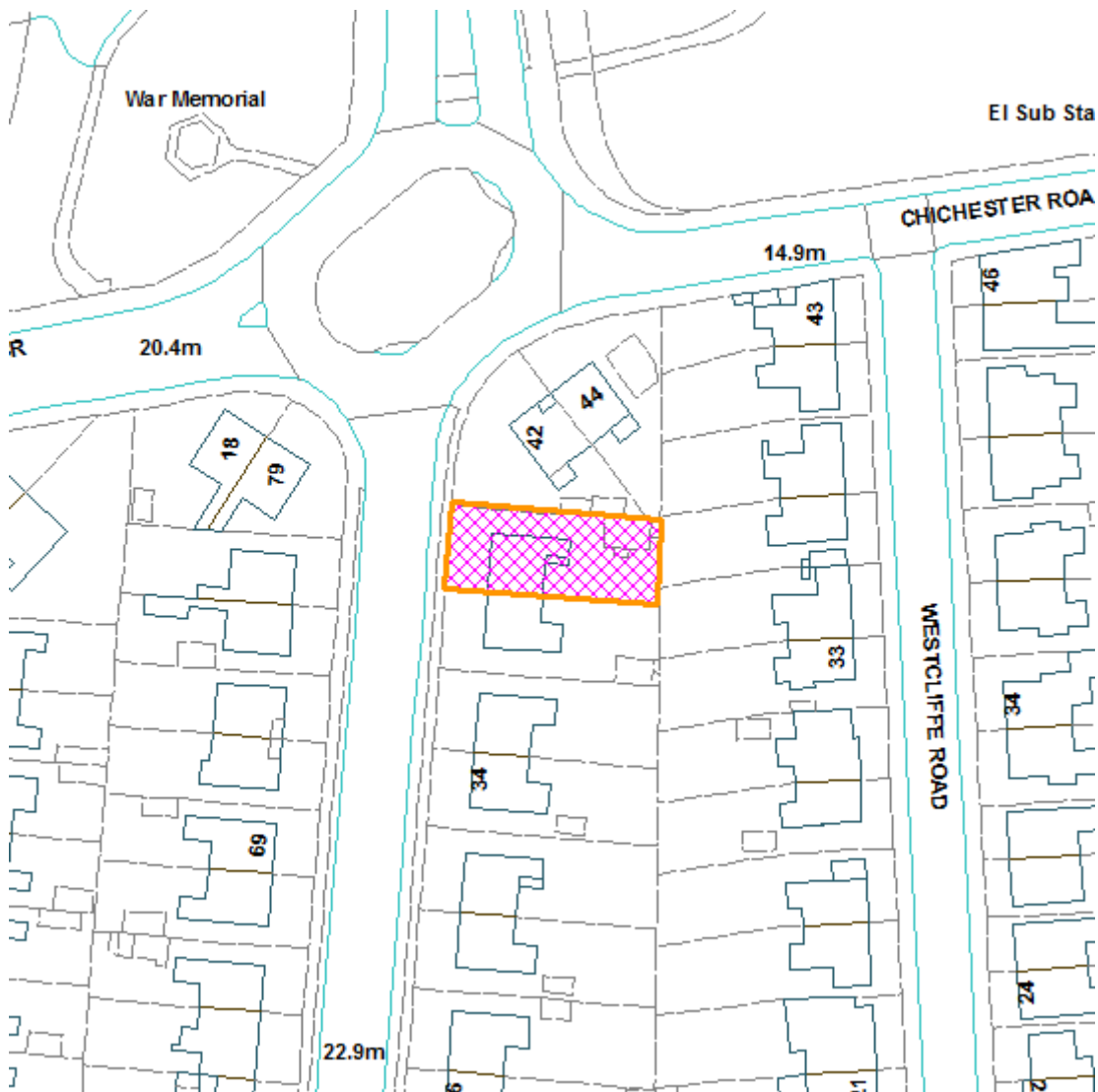
**Reference No.:** 18/00380/FUL Full Application

**Proposal:** **Extension to existing rear decking. (Amended plan received on 27.4.18) (RETROSPECTIVE)**

**Location:** 40 Park Avenue Roker Sunderland SR6 9DJ

**Ward:** St Peters  
**Applicant:** Karen Tansey  
**Date Valid:** 7 March 2018  
**Target Date:** 2 May 2018

### Location Plan



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## **PROPOSAL:**

The plans illustrate that the development consists of a raised decked area which had replaced and extended an existing decking area, formerly constructed at a height of 1.3 metres and projection of 2 metres. It had been constructed with steps in the centre onto the lower ground level abutting the common boundary. The dining room extension was designed with 5 full length glazed opening doors which resulted in the requirement for a wide platform to accommodate egress from those doors. There are no records of planning permission for the decking and it is not known when it was constructed.

The original proposed plans illustrate that the decked area was extended a further 912 mm in projection at a height of 1.5 metres, totalling 2.9 metres. At the time of the site visit the extended decking had been constructed, but no handrails or balustrades were added.

The site relates to a semi-detached bungalow at 40 Park Avenue, SR6 9DJ. The property is a gable fronted dormer cottage in a street of variously designed properties. The site level descends to the rear and to the north resulting in a steep descending rear garden therefore the property has raised floor levels to the rear. The property has been extended in the last few years by way of a single storey rear extension and more recently an enlarged decked platform projecting from the extension.

At the time of the site visit on 20.3.18, the decking had been constructed, therefore the application was retrospective. There were no handrails or balustrade attached to the structure which may be as the applicant was awaiting the decision of the application.

## **TYPE OF PUBLICITY:**

Neighbour Notifications

## **CONSULTEES:**

Network Management  
St Peters - Ward Councillors Consultation

Final Date for Receipt of Representations: **23.05.2018**

## **REPRESENTATIONS:**

### **REPRESENTATIONS**

Five representations have been received four against the application and one in support.

The four objections against the structure raised the following concerns:-

- The applicant's built a kitchen /diner where the old decking used to be, the neighbours felt uncomfortable when they were on the previous decking.
- The structure is well over 3 feet from the natural ground level. We spoke to applicant and said we were not happy with the decking and were no back to having no privacy from each other.
- The applicant suggested the fence could be made higher or some plants added. However neither of these would stop then overlooking us in our garden.
- We asked the applicant to lower the decking and they could step down into their garden. Unfortunately we could not agree.
- For years we have put up with the raised decking but did not realise it cm e under planning permission. If only we had known earlier this could have been dealt with years ago.

- The decking directly overlooks our garden and the rooms to the rear of our house robbing us of our privacy.
- The application asks to extend decking to the rear, which has puzzled us as the previous decking was removed to make way for the new house extension. The old decking seemed to be lower than the new decking but was just as intrusive as the new decking.
- We have looked at the amended plans and strongly feel that the decking be lowered.
- We also object to the other proposal of further screening to the top of our existing fence.
- The new proposed plans have not addressed the concerns we have about our privacy.
- The proposed decking is at the same height as the initial planning application and allows for seating which would still give a direct view into our property.
- We feel that the decking should be built at a lower height which would offer us greater privacy.

## RESPONSE

The above issues will be dealt with below in the body of the main report.

In support:-

- It is relevant to the consideration of this application that prior to the construction of the rear extension at the application site, there was a large elevated decked area to the rear of the property. This measured approximately 5m long, 5.7 m wide and 1.36 m high and was in place in excess of 10 years.
- RESPONSE
- The previous decking did not have planning permission and there are no records of any documents relating to the decking. The objections above state that the decking was in place of the existing extension, which would have been set back towards the original property. Nonetheless, the objectors mention that they did then feel that their privacy was compromised on account of that original decking. Once the structure is removed, the new rear extension and the creation of another decked platform is subject to permitted development rights.
- Following the construction of the rear extension, my clients erected the new decked area without knowing planning permission was required. The new decked area extends approximately 0.9m beyond the decked area that was removed to allow the construction of the rear extension.
- RESPONSE
- There is a pre application advice process available for the public to check whether planning permission is required.
- You will be aware from your site visit that the new rear extension, that was constructed under permitted development rights, has full height glazing which extends almost the full width of the extension and includes bifold doors. Therefore even, without the decked area, there is already a high degree of overlooking of the neighbouring gardens.
- The revised plans submitted by my clients on 27th April 2018 have substantially reduced the decked area, in effect it will only allow access to the rear of my clients' property. This is necessary given the significant change in site levels.
- The amended proposal incorporates a fence to provide screening at the boundary with no. 38. This will increase levels of privacy to those that would exist without the decked area, as it provides a barrier when viewed from the application site, behind the existing glazing and bifold doors.
- The occupier of 44 Park Avenue has objected. Given the distance between the application site and the angles at which the properties and their gardens are situated, as well as the position of the garage at number 42, it is considered that the decked area will have no

greater impact on their privacy than that which currently exists as a result to the glazed rear extension.

## RESPONSE

- The concern is that the construction would not prevent and would retain the ability for a person to stand and walk along the platform with a view over the gardens and windows of all adjacent properties which could lead to additional noise and loss of amenity to adjacent properties. The screen at 1.5 metres high could still allow some overlooking into the windows of the neighbouring property at eye level.

## POLICIES:

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

EN\_10\_Proposals for unallocated sites to be compatible with the neighbourhood  
B\_2\_Scale, massing layout and setting of new developments

## COMMENTS:

## CONSIDERATIONS

## POLICY

In order to properly assess the development, due regard must be given to relevant national policies and the policies and guidance provided by the Council's Unitary Development Plan (UDP), Household Alterations and Extensions Supplementary Planning Document (SPD) and Residential Design Guide SPD, all of which have been formally adopted and therefore carry significant weight, as detailed under section 38(6) of the Planning and Compulsory Purchase Act 2004.

In view of the need to consider policy coverage beyond the UDP period, the Council sought a direction from the Secretary of State (SoS) which confirms agreement of the policies that are to be saved for a further period, pending formal adoption of the Local Development Framework (LDF). Accordingly, a list of the proposed 'saved' policies was submitted to the SoS - via Government Office for the North East (GO-NE). Confirmation of the saved policies and the direction provided by the SoS was received on the 4th September 2007, supporting the intention to maintain the extension of existing adopted policies to maintain continuity in the Development Plan, and ensure a stable planning framework locally, and a continual supply of land for development.

Subsequently, Annex 1: Implementation of the National Planning Policy Framework (NPPF), particularly paragraph 215, dictates that 'due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)'.

## ISSUES

The main issue of the structure to consider is the impact upon the amenity of the adjacent properties. Due consideration has been given to paragraphs 17 and 56 of the NPPF, Policy B2 of the Unitary Development Plan (UDP) and relevant sections of the Council's Household Alterations and Extensions Supplementary Planning Document (SPD).

## **SITING DESIGN AND EXTERNAL APPEARANCE**

The site is subject to policy EN10, which dictates that, where the UDP does not indicate any proposals for change, the existing pattern of land use is intended to remain. In this regard, the surrounding land use is predominantly residential and as such, the extension, being residential in nature reflects the existing pattern of land use.

Paragraphs 17 and 56 of the NPPF and policy B2 of the UDP state that proposals should always seek to secure a high quality design and good standard of amenity for existing and future occupants of buildings and should contribute positively to making places better for people.

During the first site visit, it was apparent that the decking, allowed a direct overlooking aspect into the window and garden of the adjacent property at No. 38 and an overlooking aspect to the windows and gardens of other surrounding properties in the vicinity, on account of the descending land levels and the elevated position of the decking.

In an attempt to mitigate harm to the overlooking impact of neighbouring gardens. The agent submitted amended plans on 27.4.18 to reduce the top platform to a projection of 900mm and set in the decked area 300mm from the common boundary with No. 38, with a close boarded timber screen up to 1.5 metres in height, adjacent No. 38 to mitigate the overlooking issue into the windows of the adjacent property. A further site visit confirmed that an overlooking impact would be retained as the platform would allow a person to stand and look over into the garden and windows of adjacent properties and allow a person to walk along the platform and the impact would not be reduced to an acceptable degree.

The applicant had attached a single wooden fence board to the top of the existing boundary fence between the application site and No. 38, which did reduce some overlooking of their patio area, however it resulted in the height being in excess of 2 metres in places. The applicant was invited to add the additional fence to the amended plan to be considered, however the request was declined and as such those sections of fence remain unauthorised.

In this instance the amended plans would not be considered to achieve a good standard of amenity for the current and future occupants of the adjacent dwellings and their outdoor space. The development is therefore contrary to policy B2 of the UDP and paragraphs 17 and 56 of the NPPF.

Section 7 of the SPD states, that following the erection of any extension, neighbouring properties should still have a reasonable level of privacy.

Section 7.4 of the SPD states that any extension to the rear should not dominate neighbouring properties or significantly alter a neighbour's existing level of sunlight, daylight or privacy. Applications to the rear will be considered on their individual merit heaving regard to their mass and height, distance to the boundary, its position in relation to the main house and neighbouring properties. One of the key objectives is to avoid overshadowing or having an overbearing or oppressive effect upon the neighbouring property, thus affecting their residential amenity.

Section 7.8 of the SPD states that the addition of raised decking over 300mm can be problematic. Application for such additions will be considered with close regard to their impact on the privacy of nearby residents. These particular types of application will not normally be approved if there is significant overlooking of a neighbouring garden or a main living room window. Not only may they allow direct overlooking into neighbouring properties or private gardens, they can also increase the general level of noise and disturbance. Raised decking is more likely to be approved in

relation to detached properties with spacious gardens or where a staggered building line results in privacy not being an issue.

## **CONCLUSION**

With reference to the above guidance, the decking allows an unacceptable degree of overlooking and a detrimental impact upon the level of privacy afforded to the adjacent dwellings on account of its scale massing and design and is therefore considered to be unacceptable and contrary to Paragraphs 17 and 56 of the NPPF policy B2 of the UDP and Section 7.8 of the SPD in this respect and is therefore recommended for refusal.

## **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 Refuse planning permission for the reason set out below:-

**Reasons:**

- 1 The proposal would be detrimental to the visual amenities of adjacent residents by reason of its size, position and materials used in its construction and as such would be contrary to policy B2 of the UDP, Section 7.8 of the SPD and paragraphs 17 and 56 of the NPPF.

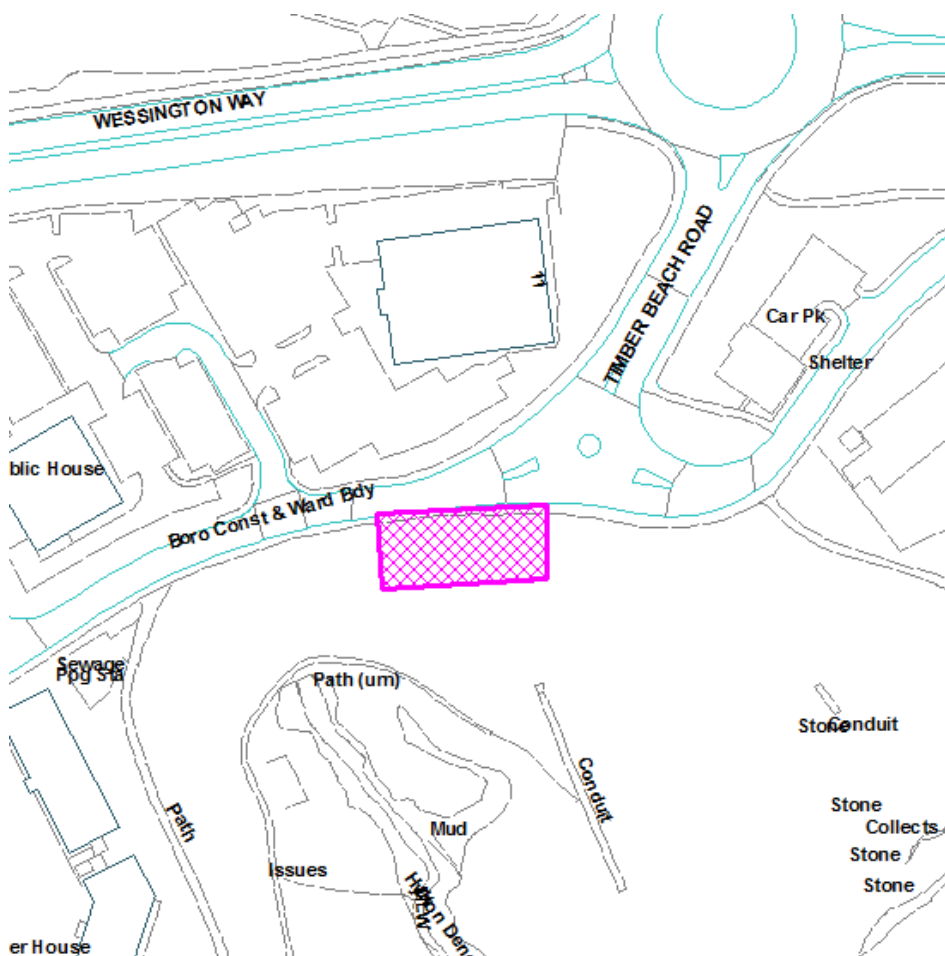
**Reference No.:** 18/00781/LP3 Local Authority (Reg 3 )

**Proposal:** Provision of a lectern mounted commemorative plaque and viewing platform area to the North West elevation of the Northern Spire bridge, consisting the realignment of earthworks/landscaping previously approved under the previously approved planning application Ref 14/01199/LVA & 09/04661/LAP and facilitates the provision of an access footpath rising from the recently realigned Timber Beach Road up to the viewing platform overlooking the southern aspect of the Northern Spire bridge.

**Location:** Northern Spire Bridge Wessington Way, Timber Beach Road, Hylton Park Road, European Way And Groves Coles Site, Sunderland. SR46UG

**Ward:** Castle  
**Applicant:** Sunderland City Council  
**Date Valid:** 24 May 2018  
**Target Date:** 19 July 2018

### Location Plan



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## **PROPOSAL:**

The proposal is for the provision of a lectern mounted commemorative plaque and viewing platform area to the North West elevation of the Northern Spire bridge, consisting the realignment of earthworks/landscaping previously approved under the previously approved planning application Ref 14/01199/LVA & 09/04661/LAP and facilitates the provision of an access footpath rising from the recently realigned Timber Beach Road up to the viewing platform overlooking the southern aspect of the Northern Spire bridge.

## **TYPE OF PUBLICITY:**

Site Notice Posted

## **CONSULTEES:**

Castle - Ward Councillor Consultation  
Pallion - Ward Councillor Consultation  
DC North Chair and Vice Chair Consultation  
Network Management  
Environmental Health

Final Date for Receipt of Representations: **22.06.2018**

## **REPRESENTATIONS:**

### **Statutory and Non Statutory Responses**

Network Management

No adverse comments received as there is parking available next to the area.

Environmental Health

No response received.

### **Neighbour Notification**

No letters were sent out due to the location. The application was advertised by the way of a Site Notice.

## **POLICIES:**

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

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

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



## **COMMENTS:**

The main areas to consider on the proposed development are the scale, massing, layout of the proposed development.

The development submitted proposes the provision of a lectern mounted commemorative plaque and viewing platform area to the North West elevation of the Northern Spire bridge, consisting the realignment of earthworks/landscaping previously approved under the previously approved planning application Ref 14/01199/LVA & 09/04661/LAP and facilitates the provision of an access footpath rising from the recently realigned Timber Beach Road up to the viewing platform overlooking the southern aspect of the Northern Spire bridge.

The proposed erection of the plaque and lectern are considered acceptable in terms of the scale, massing and layout in connection with the wider project. The lectern will 1m in height and the proposed sign will be 1m in width and 1m in height as set out on the submitted drawings.

The proposed developments are not considered to have an adverse impact on the street scene or highway safety. The proposed developments are therefore considered to be in compliance with policies B2 and T14 of the adopted Unitary Development Plan.

## **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 Grant planning permission in accordance with Regulation 3 of the Town and Country Planning General Regulation 1992 subject to the draft 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:
  - Plan no 5137076 MWC ATK DR- D- HGN 0005 Rev B
  - Plan no 5137076 MWC ATK DR- D- HGN 0010 Rev A

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.

## ITEMS FOR INFORMATION

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

Application Ref and Ward	Applicant and Address	Proposal	Date Valid	Determination Date
18/00609/FU4	Miller Homes And The Univ	Development of 64 dwellings along with associated access, landscaping and other ancillary development.	13/04/2018	13/07/2018
Fulwell	Land North Of Seaburn Camp SeaburnSunderland			
17/01855/SUB	Sunderland City Council	Erection of 6no detached dwellings with associated works and landscaping.	18/09/2017	13/11/2017
Fulwell	Land Adjacent Fulwell Methodist ChurchDovedale RoadSunderland			

Application Ref and Ward	Applicant and Address	Proposal	Date Valid	Determination Date
18/00527/FUL	<b>Gentoo Homes</b>	Erection of 71 dwellings with associated access, infrastructure and landscaping.	16/04/2018	16/07/2018
Redhill	Land West Of Hylton Lane Downhill Sunderland			
15/02266/OUT	<b>Bolbec Hall Ltd</b>	Construction of 4 storey building to provide 55 units of student accommodation to comprise 1 bedroom, 2 bedroom and studio apartments with associated access and parking.	14/06/2016	13/09/2016
St Peters	Land To The South Of Saint Benets Church The Causeway Sunderland			
15/02265/FUL	<b>Bolbec Hall Ltd</b>	Change of use from monastery to create 15 no units of student accommodation to comprise 1 bedroom, 2 bedroom and studio apartments and 1 bedroom apartments with associated car parking and access.	14/06/2016	13/09/2016
St Peters	Saint Benets Roman Catholic Monastery The Causeway Sunderland R6 0BH			

Application Ref and Ward	Applicant and Address	Proposal	Date Valid	Determination Date
18/00823/REM	Stirling Investment Properti	Reserved matters to previously approved outline application 14/00292/OUT (Erection of 140 dwellings with associated access) - Approval sought for appearance, landscaping, layout and scale.	18/05/2018	17/08/2018
Southwick	Land At Castletown Way/ Riverside RoadSunderland			