

## **DEVELOPMENT PLAN**

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

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

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

## **STANDARD CONDITIONS**

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

## **SITE PLANS**

The site plans included in each report are illustrative only.

## **PUBLICITY/CONSULTATIONS**

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

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

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

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

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

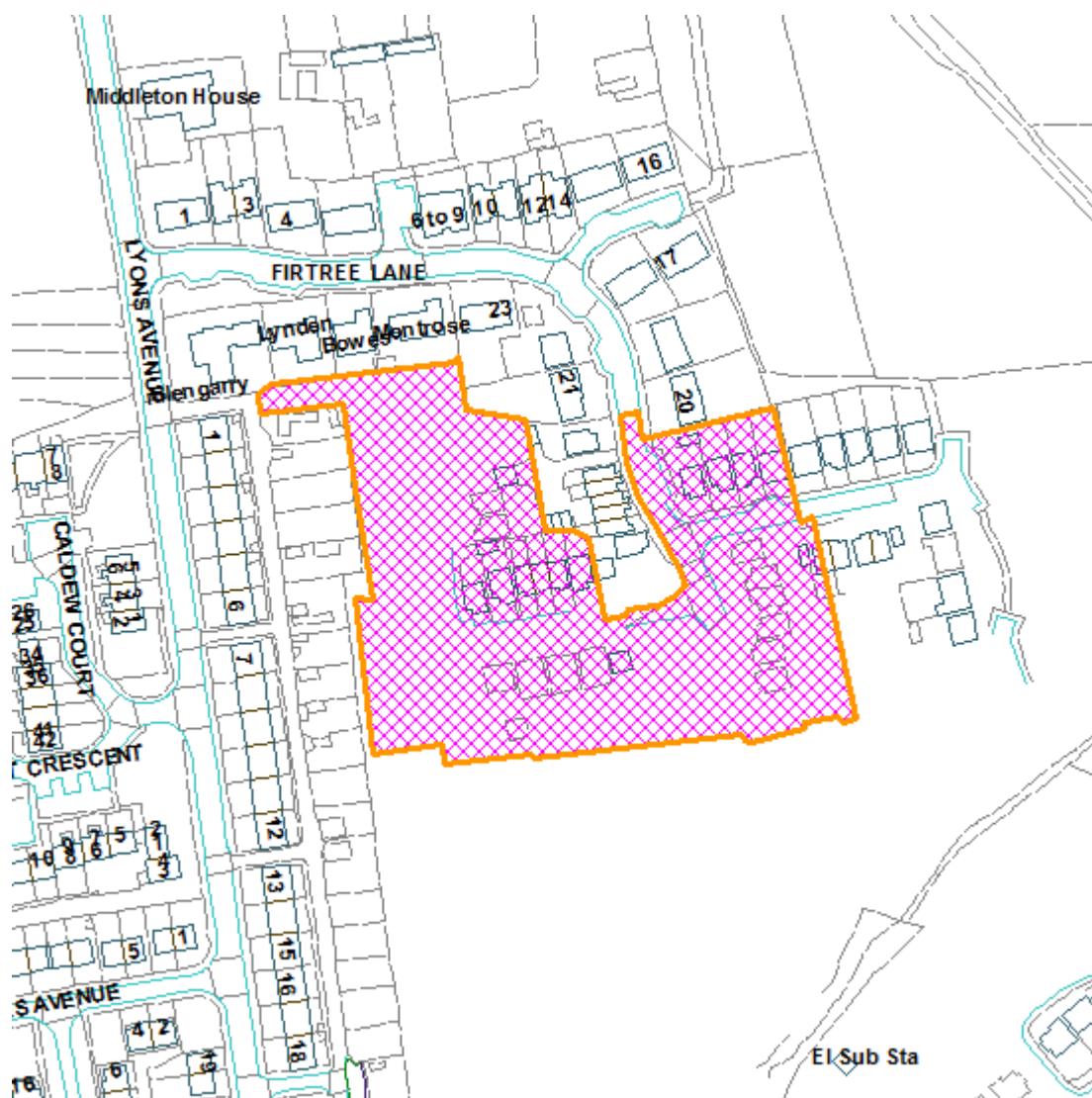
These reports are held on the relevant application file and are available for inspection during normal office hours at the Economy and Place Directorate at the Customer Service Centre or via the internet at [www.sunderland.gov.uk/online-applications/](http://www.sunderland.gov.uk/online-applications/)

Ms. Irene Lucas CBE  
Chief Executive

**Proposal:** Variation of Condition 2 attached to planning approval 13/00198/FUL (Erection of 42 dwellings with associated landscaping, infrastructure and car parking (revision of previously approved layout ref. 06/02209/FUL)) to allow the replacement of 9 no. swale housetypes (plots 117-120 & 126-130) with 9.no souter housetype.

**Ward:** Hetton  
**Applicant:** Mr Adam McVickers  
**Date Valid:** 24 August 2016  
**Target Date:** 23 November 2016

## Location Plan



## **PROPOSAL:**

Members may recall that application ref. 13/00198/FUL granted planning permission to erect 42 dwellings with associated landscaping, infrastructure and car parking within the previously approved Phase 1 of Persimmon's portion of the Murton Lane housing site. Application 13/00198/FUL was heard and approved by Members of the 1 October 2014 Development Control (Hetton, Houghton & Washington) Sub Committee meeting and subsequently approved on the 4 June 2015.

As just stated planning application 13/00198/FUL was a "re-mix" of the detailed Phase 1 of the initial Hybrid approval at the site, ref. 06/02209/FUL. The Hybrid 06/02209/FUL was approved by Members of the 6 February 2007 Development Control (Hetton, Houghton & Washington) Sub Committee meeting. The planning approval is subject to a Section 106 Agreement, which secures financial contributions of £354,722 towards Education, £226,027 towards Sport & Recreation and £628,744.25 towards public open space. Given that the 13/00198/FUL "re-mix" application formed an integral and sizeable portion of the overall Murton Lane site, this approval was also tied to the above financial obligations via a Supplemental Agreement to the original Section 106 Agreement.

The application that is now before Members is being made via Section 73 of the Town and Country Planning Act 1990. Section 73 allows applications to be made for permission to develop without complying with a condition(s) previously imposed on a planning permission, in this case the "re-mix" permission 13/00198/FUL. The Local Planning Authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide that the original condition(s) should continue. Members should note that the original permission (i.e. 13/00198/FUL) will continue to subsist whatever the outcome of the Section 73 application.

The proposed variation being sought relates to the replacement of the previously approved Swale housetype with a Souter housetype on Plots 117-120 and 126-139. Both housetypes are essentially similar in design and layout and are on the same footprint, however, there are changes and these are due to the fact that the Souter is slightly taller in terms of eaves height but lower overall given its lower ridge height. Furthermore, while the Swale has two rear roof-lights serving a bedroom the Souter has only one rear roof-light and this serves a non-habitable en-suite. Of most significance from a visual perspective however, is to the front of the dwelling as the two rooflights serving the bedroom in the Swale is served by a dormer window in the Souter. The Applicant, Persimmon, has stated that the reason for seeking the replacement with the Souter is due to the fact that this housetype is proving more popular with prospective purchasers.

Therefore, in order to accommodate these changes this variation application is seeking to vary the relevant plans approved via condition no. 2 i.e. the "in accordance with the approved plans" condition.

For completeness Condition no. 2 states:-

### **Condition 2 - Plans**

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

Phase 1 Architectural site layout, DRG. No. 242/A/GA/002 REV A;  
Phase 1, Location Plan, DRG. No. 242/A/LP/001 received 23 July 2013;

Topo Survey, DRG. No. ENG-HET-TOPO received 7 February 2013;  
Detailed Landscape Proposals: Ph 1, Drawing No 1733/14 received 28 January 2013;  
Double Garage Construction Details, DRG. No. 2004/A/GAR/002 received 7 February 2013;  
Swale 2 Housetype, DRG. No. 2004/A/SWA2/001 REV C received 28 January 2013;  
Melrose Housetype, DRG. No. 242/A/MEL/001 received 28 January 2013,  
Single Garage Construction Plans, DRG. No. 2004/A/GAR/001 received 7 February 2013;  
Roof Types Plan, Plan Ref: RTP/A/GA/001 received 28 January 2013;  
Hanbury, HB-WD01, Rev L received 28 January 2013;  
Hatfield, HT-WD01, Rev J received 28 January 2013;  
Chedworth, CD-WD01 received 28 January 2013;  
The Clevedon, CV-WD01, Rev C received 28 January 2013;  
Roseberry, RS-WD01, Rev K received 28 January 2013;  
Rufford, RF-WD01, Rev K received 28 January 2013;  
Winster, WS-WD01, Rev J received 28 January 2013;

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.

In conclusion, should Members be minded to approve this variation application, the reference to the above drawing "Swale 2 Housetype, DRG. No. 2004/A/SWA2/001 REV C received 28 January 2013" will be replaced with "Souter, SU-WD01 Rev S, Plans & Elevations received 11 August 2016", whilst the "Phase 1 Architectural site layout, DRG. No. 242/A/GA/003 REV A received 11 August 2013" will be replaced by "Phase 1 Architectural site layout, DRG. No. 242/A/GA/004 Rev STP".

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

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

#### **CONSULTEES:**

Hetton - Ward Councillor Consultation  
Network Management  
Environment Agency  
Environmental Health  
Hetton Town Council  
Northumbrian Water  
Flood And Coastal Group Engineer

Final Date for Receipt of Representations: **29.09.2016**

#### **REPRESENTATIONS:**

In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015 the application has been subject to both a press and site notice whilst notification letters have also been sent out to surrounding neighbours and other interested parties.

Following this extensive consultation exercise one letter of representation was received from a neighbour who lives next to the side road to the north-east of the site. The representation highlighted a worry over whether the side road/ track that exists to the immediate north of site

would be turned into an access road into the new build estate. The letter highlighted problems in the past where builders have attempted to use the side road/ track as a construction access into the site when residents blocked the main access from Firtree Lane.

In response to the objector's concerns it is important to re-iterate that this variation is only seeking to vary the housetype on 9 Plots, although the rear boundaries of Plots 126 - 130 directly abut the side road/ track referenced in the representation. Nevertheless, barring the acceptance by Members of new Souter housetype, the layout of the development will remain as already approved. Indeed, during the course of considering the "remix" 13/00198/FUL application the Applicant confirmed that they would in due course give consideration to selling or transferring the track to the surrounding existing properties that use the track for their access (particularly Bowes and Montrose in Firtree Lane) whilst also confirming that they would not be proposing any form of adoption of this land as highway.

#### Street Scene - Network Management

In their response engineering colleagues offered no observations or recommendations to the proposed variation.

#### Street Scene - Lead Local Flood Authority

The Council's Flood and Coastal Team advised that with regard to flood risk and drainage there is no impact from the change in housetype.

#### Northumbrian Water

In making their response Northumbrian Water assessed the impact of the proposed development on their assets and the capacity of their network to accommodate and treat the anticipated flows arising from the development.

Having assessed the proposed variation Northumbrian Water responded by referring to their previous 25 July 2013 consultee response to the "remix" 13/00198/FUL application. In this earlier response Northumbrian Water requested that a detailed scheme for the disposal of surface water and foul water be submitted to the LPA and Northumbrian Water for their approval. Should Members be minded to approve it is recommended that this condition be carried forward into the variation permission.

#### **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

H\_4\_Density of housing development to at least reflect that of the locality

#### **COMMENTS:**

Turning to the consideration of the proposed variation application, the principle of residential development is firmly established by the above referenced previous approvals at the site. There have also been no changes to the local or national planning policy context which should alter this established position. Consequently the development proposal is considered to be acceptable in principle. Therefore, given the proposed alterations and the parameters of the affected condition,

and in light of the consultations responses received, it is considered that the main issues to consider are the impact of the proposed alterations on visual and residential amenity.

- Visual and Residential Amenity considerations

Unitary Development Plan (UDP) policy B2 requires the scale, massing, layout and setting of proposed development to respect and enhance the best qualities of nearby properties and the locality. Policy B2 also requires development proposals to provide for an acceptable amount of privacy amenity, whilst also protecting visual and residential amenity. Paragraph 17 of the National Planning Policy Framework (NPPF), in part, states that planning should seek to secure high quality of design and a good standard of amenity for all existing and future occupants of land and buildings.

The height of the Souter at 9.5m is 0.5m lower than the 10m high Swale. It is considered that this is a positive variation and that it will reduce the bulk of the development on the adjacent properties and existing detached gardens in Firtree Lane and Lyons Avenue. Furthermore, by removing one of the two previously approved rear rooflights, and by altering the internal layout of the second floor so that the remaining rooflight only serves an en-suite, it is also considered that the proposed variation will improve privacy amenity of the existing adjacent residents.

In terms of the visual impact as the two housetypes are essentially the same, barring the introduction of a dormer window to the front, that there will be a limited impact arising from the proposed variation. It is considered that the dormer windows; given that they are an integral part of this housetype, will read as a natural design feature. Furthermore, the front dormer windows all face into the development and all the affected plots face onto the internal road layout, thereby limiting yet further visual and residential amenity impacts.

It is therefore considered that the proposed alterations will have a limited impact on the overall scheme in terms of appearance and layout of development.

## Section 106

Paragraph 204 of the NPPF states that planning obligations should only be sought where they meet all of the following tests:-

- (a) they are necessary to make the development acceptable in planning terms;
- (b) they are directly related to the proposed development;
- (c) they are fairly and reasonably related in scale and kind to the development proposal.

Planning applications 06/02209/FUL (i.e. the initial Hybrid approval) & 13/00198/FUL (i.e. the "remix" of Phase 1) are both subject to the same Section 106 Agreement that secures financial contributions in respect of education (£354,722), sport and recreation (£226,027) and public open space (£628,744.25). It is therefore considered appropriate for this variation application to be beholden to the same Section 106 and financial obligations. This will be achieved via a Supplemental Agreement to the Section 106 Agreement, should Members be minded to approve.

## Conditions

Apart from "in accordance with the approved" plans condition no. 2 i.e. the condition that is subject to this variation application, given that none of the relevant conditions have been discharged and in light of the continued relevance of the other 'adherence' conditions it is recommended that all the previous conditions imposed on the "remix" 13/00198/FUL approval

should be carried forward onto this variation, should Members be minded to approve the application.

## Conclusion

The principle of residential development on the site has long been established via UDP policy HA4 and the previous and numerous planning approvals detailed above. The NPPF requires Local Planning Authorities to consider housing applications in the context of a presumption in favour of sustainable development (Paragraph 49). Furthermore, there are not considered to be any adverse impacts arising from the proposed variation housetype that would significantly or demonstrably outweigh the benefits of the delivery of this much needed new housing to the City.

## 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.

## CONCLUSION

For the reasons given above and subject to the conditions listed below the revised proposal is considered to be acceptable in terms of design, scale, massing and layout and impact on surrounding residents. It is therefore considered that the proposal accords with all relevant UDP policies and NPPF criteria. Consequently, Members are recommended to delegate the application to the Chief Executive who is minded to approve the application subject to the completion of the Supplemental Agreement pursuant to 06/02209/FUL's Section 106 Agreement and subject to the following conditions: -

**RECOMMENDATION: Delegate to the Chief Executive who is minded to approve subject to the completion of the Supplemental Agreement pursuant to 06/02209/FUL's Section 106 Agreement and subject to the following conditions:**

### Conditions:

- 1 The development to which this permission relates must be begun not later than three years beginning with the date on which the original permission was granted (4 June 2015) to ensure that the development is carried out within a reasonable period of time.
- 2 Unless otherwise first agreed in writing with the Local Planning Authority, the development hereby granted permission shall be carried out in full accordance with the following approved plans:

Phase 1 Architectural site layout, DRG. No. 242/A/GA/004 REV STP;  
Phase 1, Location Plan, DRG. No. 242/A/LP/001 received 23 July 2013;  
Topo Survey, DRG. No. ENG-HET-TOPO received 7 February 2013;  
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Roseberry, RS-WD01, Rev K received 28 January 2013;  
Rufford, RF-WD01, Rev K received 28 January 2013;  
Winster, WS-WD01, Rev J received 28 January 2013;

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

- 3 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) 25 June 2013 and the following mitigation measures detailed within the FRA:

Surface Water discharge is restricted to a maximum of 14.70 litres per second for this area of the development.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/ phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority. In order to prevent flooding by ensuring the satisfactory storage of/ disposal of surface water from the site and to comply with UDP policy EN12.

- 4 The development hereby permitted shall not be commenced until such time as a scheme of surface water management has been submitted to, and approved in writing by, the Local Planning Authority.

- 1) Network can operate without flooding
- 2) Confirmation that climate change has been considered in the storage
- 3) Ensure access to/ improvement/ protection and maintenance of the drainage network
- 4) Outfall design

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing/ phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason:

- 1) To prevent flooding by ensuring the satisfactory storage of/ disposal of surface water from the site
- 2) To reduce the risk of flooding to the proposed development and future users
- 3) To ensure the structural integrity of the network thereby reducing the risk of flooding
- 4) To ensure structural integrity of the outfall.

In order to prevent the increased risk of flooding from any sources in accordance with the NPPF and policy UDP policy EN12.

- 5 Development shall not commence until a detailed scheme for the disposal of surface water and foul water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water. Thereafter the development shall take place in accordance with the approved details. In order to prevent the increased risk of flooding from any sources in accordance with the NPPF and policy UDP policy EN12.

- 6 No development shall take place until a survey of the existing and proposed ground levels; and details of the finished floor levels of each property, has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in complete accordance with the agreed details, unless otherwise agreed in

writing by the Local Planning Authority, in order to achieve a satisfactory form of development and to comply with policy B2 of the UDP.

- 7 The felling of any tree, shrubs or other tree works as a consequence of the development, hereby approved, shall be undertaken outside the bird nesting season (i.e. not during the period mid-February to end of August). If this is unavoidable, a nesting bird survey must be undertaken on the day before removal is to commence in order to ensure no breeding bird will be disturbed. If nests are found, removal works shall not commence until any dependent chicks have fledged, unless otherwise first agreed in writing with the Local Planning Authority. In the interests of nature conservation and in order to comply with policy CN18 of the UDP.
- 8 Notwithstanding any specifications on the submitted plans, details of all walls, fences or other means of boundary enclosure shall be submitted to and approved by the Local Planning Authority before the development is commenced. The agreed boundary treatment shall be completed before occupation or in accordance with an agreed timetable, in the interests of visual amenity and to comply with policy B2 of the Unitary Development Plan.
- 9 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i. the parking of vehicles of site operatives and visitors
  - ii. loading and unloading of plant and materials
  - iii. storage of plant and materials used in constructing the development
  - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - v. wheel washing facilities
  - vi. measures to control the emission of dust and dirt during construction
  - vii. measures to control any surface water runoff during the construction of development.

To protect the amenities of the area and highway safety, in accordance with Unitary Development Plan policies B2 and T14.
- 10 The construction works required for the development hereby approved shall only be carried out between the hours of 07:00 and 19:00 Monday to Friday and between the hours of 07:30 and 14:00 on Saturdays and at no time on Sundays or Bank Holidays, unless otherwise agreed in writing by the Local Planning Authority, in order to protect the amenities of the area and to comply with policy B2 of the Unitary Development Plan.
- 11 Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

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

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

The information provided with the planning application 06/02209/FUL indicates that the site has been subject to a potentially contaminative land-use. The environmental setting of the site is sensitive as it lies on the Magnesian limestone, a principal aquifer. This condition will ensure that the risks posed by the site to controlled waters are assessed and addressed as part of the redevelopment and that it accords with policy EN14 of the UDP.

- 12 Prior to commencement of development, a verification report demonstrating completion of the works set in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.

The information provided with the planning application 06/02209/FUL indicates that the site has been subject to a potentially contaminative land-use. The environmental setting of the site is sensitive as it lies on the Magnesian limestone, a principal aquifer. This condition will ensure that the risks posed by the site to controlled waters are assessed and addressed as part of the redevelopment and to accord with policy EN14 of the UDP.

- 13 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Unsuspected contamination may exist at the site which may pose a risk to controlled waters and in order to accord with policy EN14 of the UDP.

- 14 No dwelling shall be occupied on site until the access roads within the development have been completed to at least base level and off street parking has been made available for the parking of vehicles within the development, in the interests of highway safety and the free passage of traffic and to comply with Unitary Development Plan policy T14.
- 15 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the buildings or the completion of the development whichever is the sooner, and any planting which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation, in the interests of visual amenity and nature conservation and to comply with policies B2 of the Unitary Development Plan.