

## **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

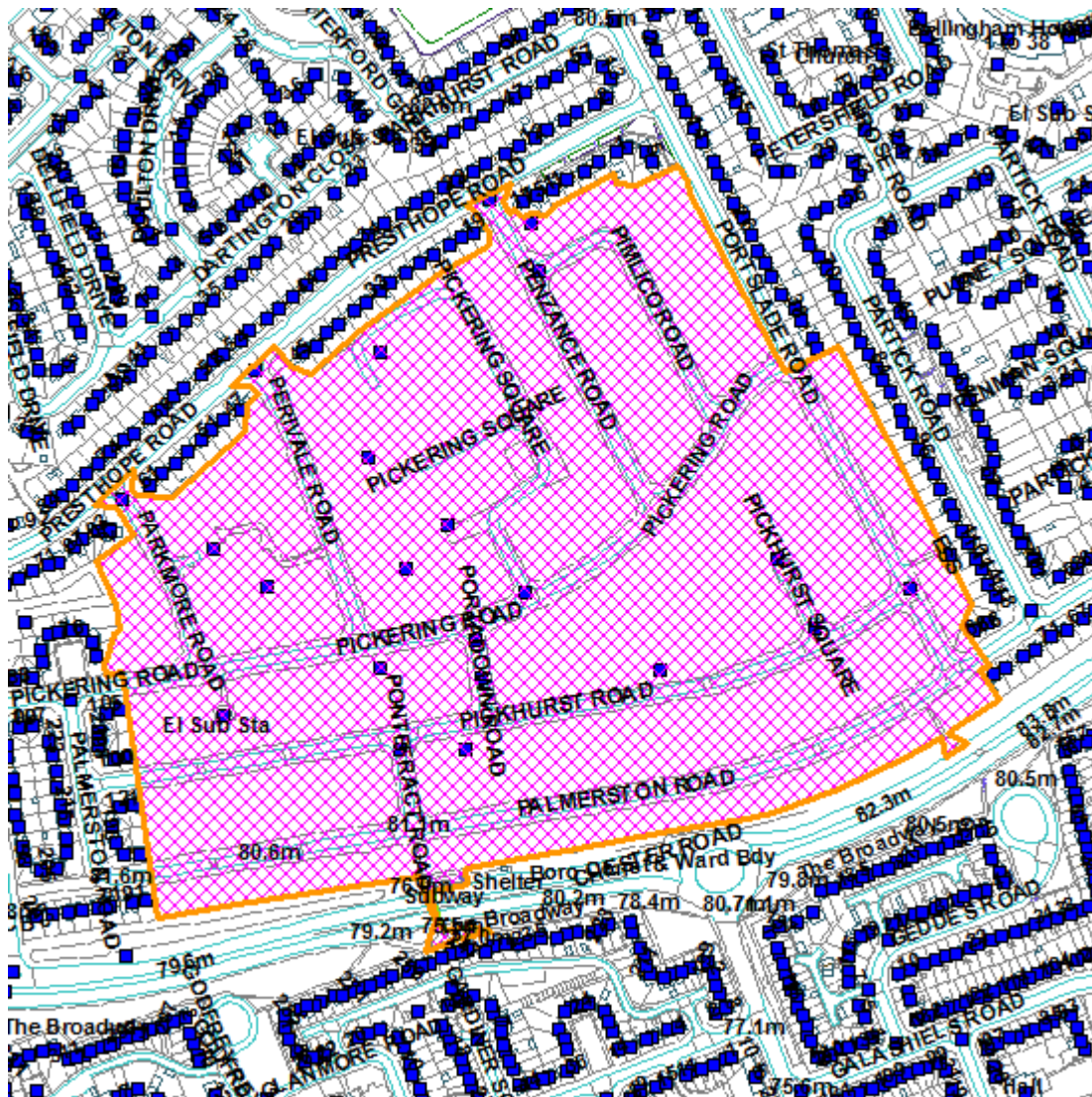
Reference No.: 18/00255/FU4 Full Application (Reg 4)

**Proposal:** Construction of 118 dwelling houses, including drainage infrastructure, landscaping, public open space and stopping up of public highway.

**Location:** Land Adjacent To Chester Road/Former Pennywell Estate, Pennywell, Sunderland

**Ward:** St Annes  
**Applicant:** Gentoo Homes  
**Date Valid:** 22 February 2018  
**Target Date:** 24 May 2018

### Location Plan



## **PROPOSAL:**

The application seeks full planning permission for the construction of 118 dwelling houses (including drainage, landscaping, public open space and stopping up of the public highway) on land adjacent to Chester Road, Pennywell.

The site lies towards the south west of the City; approximately 1km east of the A19. The site has a broadly square shaped plan form and the surrounding land uses are residential to the north and east, Chester Road immediately to the south and residential further to the south and residential immediately to the west; with commercial / industrial development further to the west.

The area where the dwelling houses are proposed lies towards the south east of the site and covers around 5.1 hectares. The proposed development would be two-storey dwelling houses comprising 23 two bed, 41 three bed, 16 four bed and 38 bespoke. The access would be off a newly construction junction onto Chester Road. There would be an area of open space to the north-west and both a drainage valley and 2 metre high acoustic fence to the south facing Chester Road.

The proposed development also includes stopping off a series of highway accesses to the north and west of the site.

The Council has issued a screening opinion, in May 2018, confirming that the proposed development would not be EIA development.

## **TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

## **CONSULTEES:**

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

Final Date for Receipt of Representations: **03.05.2018**

## **REPRESENTATIONS:**

There has been one representation submitted on the grounds that the applicant should repair their existing properties before building new ones.

Officers would advise that the application in question needs to be determined on its own merits.

## **POLICIES:**

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

Supplementary Planning Document: Residential Design Guide (2008)

Core Strategy and Development Plan (2015-2033). The Core Strategy has recently been submitted to the Secretary of State. The document can therefore only be given limited weight.

- R1 - Working towards environmentally sustainable development
- R2 - Taking account of spare infrastructure / reduced travel / vacant & derelict land
- R3 - Infrastructure provision, etc. in association with developments
- R4 - Incorporation of energy saving measures
- H1 - Provision for new housing
- H4 - Density of housing development to at least reflect that of the locality
- H8 - Windfall sites to accord with other policies unless specific benefits are provided
- H14 - Negotiation for special needs housing in major developments
- H15 - Encourage / negotiate for accessibility standards in housing developments
- H16 - Negotiation for affordable housing in major developments
- H21 - Open space requirements in new residential developments (over 40 bed spaces)
- EN6 - Limit exposure of new noise/vibration sensitive developments to existing sources
- EN10 - Proposals for unallocated sites to be compatible with the neighbourhood
- EN12 - Conflicts between new development and flood risk / water resources
- EN14 - Development on unstable or contaminated land or land at risk from landfill/mine gas
- B2 - Scale, massing layout and setting of new developments
- B20 - Undertake and encourage provision of works of art in major new developments
- CN13 - Protection and enhancement of important views
- CN14 - Landscaping schemes and developments prominent from main transport routes
- CN19 - Development affecting designated / proposed SAC's, SPAs and RAMSAR Sites
- CN21 - Developments affecting designated / proposed LNR's, SNCI's or RIGS
- CN22 - Developments affecting protected wildlife species and habitats
- T14 - Accessibility of new developments, need to avoid congestion and safety problems arising
- T22 - Parking standards in new developments

## **COMMENTS:**

### **Principle of the Development**

The provisions of UDP policy R1 states that

"The City Council will work towards environmentally sustainable development which meets the economic and social needs of the City. All proposals for development will be considered in

relation to achieving a satisfactory balance between accommodating change and protecting valued and important aspects of the natural and built environment.

The impact of development will be considered against the need to respect the long term welfare of the environment by:

- (i) making the most efficient use of land, energy and other resources;
- (ii) reducing reliance on the use of the private motor car
- (iii) avoiding the risk of serious environmental damage which may be irreversible or very difficult to undo."

Officers consider that the proposed development would make a contribution towards (i) through making use of a vacant piece of land within the City.

Officers also consider there would be a contribution towards (ii) given the findings of the Transport Assessment which identifies, at 3.6, that "walking access to the site is available via footways in the surrounding area which link the site to the surrounding residential, employment, leisure and retail areas" and that "the proposed site is well placed to take advantage of the existing bus services which operate from the surrounding highway".

Officers will assess (iii) in the relevant sections below (such as ecology).

The UDP has a general resource utilisation policy, R2, which states that

"In considering proposals for new development, the Council will take into account the extent to which they

- (i) make use of existing and proposed service and social infrastructure, taking advantage of known spare capacity (of roads, public utilities, schools, etc.);
- (ii) Minimise the need for travel (by employees, visitors and residents alike); and
- (iii) make use of vacant and derelict land."

Officers consider there would be a contribution towards (i) and (iii) through making use of a vacant piece of land within the City. Officers also consider there would be a contribution towards (ii) for the reasons noted above in the consideration of UDP policy R1(ii).

The UDP has a general energy conservation policy, R4, which states that

"In assessing proposals for development (including changes of use), the Council will have regard to evolving government policy on the efficient use of energy and use of non-fossil fuel sources. Development proposals will be encouraged which incorporate energy saving measures by virtue of the grouping and orientation of buildings, the provision of shelter and energy saving technology. Combined heat and power schemes will be encouraged in major new development and restructuring schemes."

The sustainability statement section of the submitted planning statement states that the proposed development intends to adopt "a fabric first specification which achieves a high level of carbon and energy efficiency". The statement also states that "technologies will be incorporated within the development to obtain the appropriate level of water efficiency". Officers consider these details would accord with the above policy.

The UDP has a general housing policy, H1, which states

"New housing will be provided which:

- (i) Maximises locational choice (subject to environmental and infrastructure constraints) whilst allowing for a variety of needs in appropriate environments.
- (ii) Caters for reduced out-migration and increasing household formation.
- (iii) Assists in the regeneration of existing residential areas.
- (iv) Secures the re-use of vacant and derelict land wherever possible.

Officers consider that there would be a contribution towards (i) and (ii) through providing a residential scheme within a built up area of the City. Officers also consider there would be a contribution towards (iii) and (iv) through re-using a currently vacant piece of land.

The UDP has a windfall sites policy, H8, which states

"Proposals for housing development, additional to those referred to in policy H3, must normally be in accord with other policies and proposals of this plan. Where a proposed development would conflict with another policy or proposals, or would result in housing provision over the plan period significantly exceeding the requirements in H3 and H5, the Council will also take into account any special need or benefit for which the development provides."

Officers would advise that the application has been given consideration throughout using the contents of the above policy.

The UDP has a policy, EN12, which states

"All proposals for new development will be judged in accordance with the policies and proposals of this plan. Where the plan does not indicate any proposals for change, the existing pattern of land use is intended to remain; proposals for development in such areas will need to be compatible with the principal use of the neighbourhood."

Officers would advise that the application has been given consideration throughout using the contents of the above policy.

The proposed development would further contribute towards the spatial strategy of the Publication Draft Core Strategy and Development Plan (2015-2033) through the provision of a residential development within the existing urban area (policy SP1).

Officers would also draw to attention that, as a material consideration, the site has been identified as being deliverable within the next 1-5 year in the most recent Strategic Housing Land Availability Assessment (2018).

Officers would advise that the principle of the development also needs to include consideration of any planning obligations. These can be seen below.

The UDP, at policy R3, states

"Where the effects of a development would require additional off-site infrastructure or community facilities (including open space and formal recreation) or where certain important features of the site are affected which cannot be controlled by planning conditions, the developer will normally be expected to enter into a planning obligation with the City Council to enable suitable provision, protection or investigation to be made".

The UDP, at policy H16 states

"The City Council will negotiate with developers, on the basis of an assessment of local needs and site suitability, for elements of affordable housing (suitable for those unable to buy or rent in the open market) to be provided on major new housing sites and restructuring schemes (developments of 50 dwellings or more). Suitable arrangements to ensure that the housing remains affordable will be required".

The UDP, at policy H21, states

"Within new residential developments of more than 40 bedspaces:

(a) Amenity open space / casual playspace should be provided as follows

(i) A minimum of 0.4ha per 1000 bedspaces where the site is within 0.5km of a neighbourhood (or larger) open space.

(ii) A minimum of 0.9ha per 1000 bedspaces where the site is not within 0.5km of a neighbourhood (or larger) open space.

(b) Additionally, in the case of family dwellings, formal (equipped) children's playspace should be provided at a minimum of 0.2ha per 1000 bedspaces.

In applying this policy, the Council will take into consideration existing provision in the locality."

The potential contributions are noted below.

Affordable housing: Officers would advise that the Council usually seeks for 10% of the dwelling houses on site are affordable.

Ecology: The HRA suggests a contribution towards Strategic Access Management and Monitoring of £67,091.26.

Nexus: "requires that the developer pay for two four-weekly All Zone Network One travel passes per dwelling. The travel plan should be amended to include this as well as details of how residents can apply for these".

NHS Sunderland Clinical Commissioning Group: £75,300 towards the expansion of local healthcare infrastructure.

Play space: Officers would advise that the Council usually seeks £701 per dwelling house; in accordance with UDP policy H21.

Officers would draw to attention that Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 state that planning obligations must only be sought where they meet all of the following tests:

- a) Necessary to make the development acceptable in planning terms.
- b) Directly related to the development.
- c) Fairly and reasonably related in scale and kind to the development.

In terms of the request from the NHS, officers would advise that at present there does not exist sufficient evidence meet test (c) above, i.e. fairly and reasonably related in scale and kind to the development.

In terms of the request from Nexus, officers consider that the provision of an travel pass would not be necessary to make the development acceptable in planning terms.

In terms of the other requests, the applicant has submitted a confidential viability report. The applicant has explained that the viability report should be kept confidential as "the viability report

contains commercially sensitive information relating to the proposed development and an exemption from publication is sought".

The summary explains that the scheme "cannot be developed viably due to the high abnormal costs. The affordable housing and other planning obligations would worsen this position however, to a point where it could not be justified or supported".

Officers would advise that the District Valuer has been commissioned to assess the viability report and an update will be provided to Members in due course.

## **Art**

The UDP, at policy B20, states that

"The City Council will undertake and encourage the provision of works of art, craft or decoration in major new developments and as part of the enhancement of the built environment and the open landscapes of the City"

The submitted landscape strategy shows, in the south western corner of the site, a "Gentoo entrance feature / signage".

In the absence of any material considerations to the contrary, officers consider the proposed development accords with the above policy; subject to a condition ensuring the submission of final details.

## **Design**

The UDP, at policy H4, states

"Housing development will normally be expected to at least reflect the density of the locality, consistent with protecting and enhancing the character of the area. Where appropriate, increased densities will be sought, particularly where they relate to a public transport corridor."

The UDP, at policy B2, states

"The scale, massing, layout or setting of new developments and extensions to existing buildings should respect and enhance the best qualities of nearby properties and the locality. Large scale schemes, creating their own individual character, should relate harmoniously to adjoining areas."

The Council's Residential Design Guide seeks to "ensure the delivery of sensitive and appropriately designed sustainable development".

The design & access statement states that the "the layout of the site has been informed by the existing topography of the land" and that "2 & 3 storey dwellings create a strong image for the site whilst maximising views to the south and opportunities for south facing gardens". The statement continues by stating that "house types have been designed to aid in generating a new image for the site. Elevations are contemporary and well balanced to create a modern, vibrant and active frontage making a positive contribution to the high quality development".

The Council's Urban Design Officer has been consulted and an update will be provided in due course.

## **Drainage**

The UDP, at policy EN10, states that

"In assessing proposals for development, the Council will seek to ensure that the proposal would not be likely to increase the risk of flooding elsewhere."

The submitted Flood Risk Assessment states that the "development is acceptable from a flood risk perspective" and "is assessed as having a low flood risk from all sources" and that "in order to deliver a sustainable drainage solution an equivalent greenfield runoff discharge to the adopted sewer system"

The submitted Drainage Strategy states that "due to the clay nature of the soils infiltration will not be a feasible method of surface water disposal and there are no nearby watercourses to which a discharge is feasible. It is therefore proposed that surface water will discharge to the public sewers". The Strategy continues by stating that "surface water flows will generally be collected through a combination of permeable private drives and traditional piped networks which will discharge into two interconnected SuDS basins. They will then discharge to the public sewer at Greenfield Runoff Rate." The Strategy also provides a recommendation for maintenance including monthly grass cutting and debris removal and annual removal of sediments.

The Lead Local Flood Authority have stated that they "suggest that the documents submitted should be approved without condition".

In the absence of any material considerations to the contrary, officers consider the proposed development accords with the above policy.

## **Ecology**

The UDP, at policy CN19, states that

Special Areas of Conservation, Special Protection Areas and RAMSAR sites, either designated or proposed for designation, will be conserved. Development will not be permitted unless;

- (i) It is directly connected with or necessary to the management of the nature conservation interest of the site;
- (ii) It would not adversely affect the nature conservation interest of the site either directly or indirectly; or
- (iii) The developer can demonstrate that there are imperative reasons of overriding public interest for the development and no alternative site is available.

Where such development does proceed, it may be subject to planning conditions and obligations to secure mitigation or compensatory measures, including those necessary to ensure that the overall coherence of NATURA 2000 is protected.

The UDP, at policy CN20, states

Development which will adversely affect a designated or proposed Site of Special Scientific Interest either directly or indirectly will not be permitted unless no alternative site is reasonably available and the benefits of the proposed development would clearly outweigh:-

- (i) The intrinsic national importance of the designation; and
- (ii) The national value of the network of such site; and in all cases;
- (iii) Any appropriate mitigation or compensatory measures are secured through the use of planning conditions or where appropriate, planning obligations.

The UDP, at policy CN21, states

Development which will adversely affect a designated or proposed Local Nature Reserve, Site of Nature Conservation Importance or regionally important geological / geomorphological site either directly or indirectly will not be permitted unless:-

- (i) No alternative site is reasonably available and the benefits of the proposed development would outweigh the regional or local value of the site.
- (ii) Any loss of nature conservation or earth science interest can be fully compensated elsewhere within the site or in its immediate environs through the use of planning conditions and, where appropriate, planning obligations.

Also, in the case of an LNR, the effects of a proposal will be considered against the need to protect the following:-

- (i) The ecological integrity of the LNR;
- (ii) The contribution the LNR makes to education about or enjoyment of wildlife and nature conservation; and
- (iii) The proper management of the LNR.

The UDP, at policy CN22, states that

"Development 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 and the overall effect will not be detrimental to the species and the overall biodiversity of the city."

Officers consider that also of relevance are the provisions of Regulation 61 of the Conservation of Habitats and Species Regulations 2017. The submitted Habitats Regulations Assessment (HRA) explains that the "Regulation restricts the granting of planning permission for development which is likely to significantly affect a European site, and which not directly connected with or necessary to the management of the site, by requiring that an 'appropriate assessment is first carried out of the implications of the development for the site's conservation objections"

The submitted HRA identifies that within 5.4km of site lies the Northumbria Coast Special Protection Area and Ramsar site and the Durham Coast Special Area of Conservation. The HRA identifies that the proposed development could lead to a potential impact, "being an increase in visitor pressures" that "can lead to displacement of foraging birds, degradation of qualifying habitats via increased footfall". The HRA identifies the most likely receptor "for this impact is a 2km stretch of coastline from the docks to Salterfen Rocks. This impact as found to be significant, alone and cumulatively in combination with other projects".

The HRA has proposes mitigation to "encourage the use of alternative green space; including "creation of greenspace within the proposed housing estate, improvement of pathways and links to nearby walking opportunities". The HRA also proposes management of the woodland to the north west of the site including "thinning of woodland alongside pathways" which would "continue for at least 10 years post-development".

The HRA also proposes mitigation via a financial contribution towards the Strategic Access management and Monitoring (SAMM). The HRA identifies that the SAMM "funds wardens along the coastline; they are appointed to monitor European Site".

The submitted Extended Phase 1 Survey identifies that within 2km of the site there are four Sites of Special Scientific Interests and seven Local Wildlife Sites. The Survey identifies that the "proposed development is not likely to have any direct impact on any of these sites".

The Survey identifies that the site "is mostly made up of amenity grassland and hard standing" and that "these habitats are widespread and common, and of low ecological value". The Survey further identifies that "no evidence of any protected was found" and that "enhancement recommendations include planting of native species of trees, creation of wildflower meadows around the basins and installing bat tiles or bricks in 1 in 5 houses that border greenspace".

The Council's Ecologist and Natural England are currently preparing a consultation response and an update will be circulated accordingly.

## **Ground Conditions**

The UDP, at policy EN14, states

"Where development is proposed on land which there is reason to believe is either

- (i) Unstable or potentially unstable;
- (ii) contaminated or potentially at risk from migrating contaminants
- (iii) Potentially at risk from migrating landfill gas or mine gas

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 instability, contamination, or gas migration would allow development subject to preventive, 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."

The submitted Phase I Geotechnical and Geoenvironmental Assessment summarises that potential contaminative sources affecting the site on site include made ground, an electricity substation, magnesian limestone bedrock and fly-tipped materials and off site includes electrical substantiation and an active petrol filling station approximately 225m to the east. The Assessment includes a Preliminary Conceptual model which identifies potential contamination pathways and receptors. The Assessment concludes with recommendations for further work including geoenvironmental testing and ground gas monitoring.

The Environmental Health Officer has advised that the "development is acceptable subject to appropriate conditions". These conditions include a Phase II investigation.

In the absence of any material considerations to the contrary, officers consider the proposed development accords with the above policy.

## **Highway**

The UDP, at policy T14, states

Proposals for new development should:-

- (i) be readily accessible by pedestrians and cyclists as well as users of public and private transport from the localities which they are intended to serve.
- (ii) Not cause traffic congestion or highways safety problems on existing roads. Where this criterion cannot be met modification to the highways concerned must be proposed to the satisfaction of the relevant highway authority and the cost of these must be met by the developer.
- (iii) Make appropriate safe provision for access and egress by vehicles (including buses), pedestrians, cyclists and other road users, paying particular attention to the needs of people with mobility impairment
- (iv) make provision for the loading and unloading of commercial vehicles.

(v) indicate how parking requirements will be accommodated."

There would be a contribution towards (i) given that the Transport Assessment identifies, at 3.6, that "walking access to the site is available via footways in the surrounding area which link the site to the surrounding residential, employment, leisure and retail areas" and that "the proposed site is well placed to take advantage of the existing bus services which operate from the surrounding highway".

In terms of (ii and iii), the Highway Authority have advised that the Transport Assessment has assessed a number of key junctions and that to assist with the layout of the new site access, there are proposals to reduce the speed limit on a section of the A183 from 40 to 30mph. The Highway Authority has further advised that the proposed stopping up of the highway can be supported; subject to the subway being "replaced with an at-grade controlled crossing provided within the traffic signal junction scheme being delivered at an early stage to provide a safe alternative route for pedestrians". The Highway Authority have advised that "the proposed development of 118 dwellings is supported".

The Highways Agency who operate the A19, have advised that the A19 / A183 junction can "accommodate the proposed development of 118 units".

Nexus, the Tyne & Wear Passenger Transport Executive, have advised that "in order to incentivise travel by public transport by all residents? Nexus requires that the developer pay for two four-weekly All Zone Network One travel passes per dwelling. The travel plan should also be amended to include this as well as details of how residents can apply for these". The Highway Authority has also advised that they support such a provision.

In terms of (iv) these provisions would not be relevant given the residential nature of the proposed development.

In terms of (v), the Highway Authority have provided advice upon parking provision which could be included as a condition if the application were recommended for approval.

The UDP, at policy T22, states

"In deciding the appropriate level of car and cycle parking to be provided in connection with a development proposal, the Council will have regard to

- (i) Development type.
- (ii) Locational characteristics."

The Highway Authority have provided advice upon parking provision which could be included as a condition if the application were recommended for approval.

In the absence of any material considerations to the contrary, officers consider the proposed development accords with the above policy.

## **Landscape**

The UDP, at policies CN13 and CN14, states

"The City Council will protect and enhance important public views of townscape, landscape and other features of value in particular as perceived from transport corridors and well used outdoor venues. New development should be located and designed so as not to unduly interrupt or

prejudice views of recognised value; opportunities to enhance such views will also be taken into account when considering proposals.

Landscaping schemes and new developments prominent from the main transport routes must be located and designed to take account of their important position in enhancing the image of the City and will be resisted where they would seriously detract from it. Existing uses which detract from views from these routes will be encouraged to undertake improvements or to relocate."

The Sunderland South Proposals Map shows just to the south of the site an "Important Panoramic View".

The submitted design and access statement identifies that "to the southern edge a linear park landscape will be created providing recreational open space and a pleasant outlook for residents? Landscaping areas, designed to maximise their benefits to biodiversity, will incorporate areas of species rich grassland and use native tree and shrub species? Tree planting will provide amenity value to the streetscape enhancing route ways through the site. Boulevard tree planting will use a palette of species chosen for seasonal foliage interest".

The Council's Landscape Architect and Urban Designer are currently preparing a consultation response and an update will be circulated accordingly.

## **Living Conditions**

The UDP, at policy EN6, states

"Where noise sensitive development is proposed which is likely to be exposed to unacceptable levels of noise or vibration from roads, railways, existing industrial areas or other potentially noise uses, the Council will require the applicant to carry out an assessment of the nature and extent of likely problems and to incorporate suitable mitigation measures in the design of the development. Where such measures are not practical, permission will normally be refused.

The submitted noise assessment states that "at all main measurement positions was dominated by noise from the busy A183 (Chester Road)". The assessment identifies that at the "closest proposed housing units to the A183 (-35 metres) would be LAeq(16 hour Daytime, Facade) first floors up to 70dB(A), LAeq (8 hour Night Time) less than 63 dB(A) and maxima worst case 75-80 dB(A). The assessment subsequently identifies a working design criteria for residential parts of the proposed development which include noise amelioration measures to both the building envelope (such as insulated glazing and sound insulation in the roof) and a 3 metre barrier along the southern boundary.

The assessment does, however, note that even with these measures the noise levels in some amenity gardens would be 2-3dB(A) above the recommended guideline value - namely plots 8-11, 25-33 and 43-49. The assessment also states that "it is considered that a change of 3 dB(A) is the minimum perceptible under normal conditions and therefore unlikely to have a significant adverse impact on future residents.

The applicant subsequently amended the above noise survey through the submission of a document entitled "Response to Environmental Health Comments (in relation to Noise attenuation)". The response shows three further options for the acoustic barrier - namely 1.5m, 1.8m and 2m. Officers understand, from a recent discussion with the applicant, that they now seek a 2 metre acoustic barrier to the front of the site.

The Council's Environmental Health Officers are currently preparing a consultation response and an update will be circulated accordingly.

The Council's Residential Design Guide, at Appendix 1, states specified standards for spacing between dwellings - for 1 or 2 storey there should be a minimum of 21 metres from any point of facing windows. The proposed dwelling houses would be at least 21 metres from the existing properties on Patrick Road. The exception would be plots 115-118 which only achieve a separation distance of 20.5 metres.

The internal layout of the proposed development would generally meet the specified standards for spacing between dwellings; albeit there are some instances where the distances are slightly lower than should be the case - for example, the distance between the dwelling houses on plots 55 and 63 falls to 18.5 metres (rather than the suggested 21 metres) and the distance between the dwelling houses on plots 69-70 and 68 falls to 12 metres (rather than the suggested 14 metres for main windows facing a side elevation). Officers would, however, draw to attention that the proposed dwelling houses would generally have quite generous gardens which would provide an area of outdoor space for each occupier. The distances in question are also generally only a few metres short of the recommended minimum; rather than being a more substantial shortfall.

### **Conclusion:**

Officers would advise that, subject to the receipt of a positive response from the District Valuer, the principle of the development can be supported.

Officers would also advise that - subject to the receipt of positive responses from the Council's Environmental Health Officer, Landscape Architect, Urban Designer - the detailed considerations arising from the proposed development would accord with the relevant policies within the Unitary Development Plan.

Officers will circulate a supplementary report covering the outstanding items which include the opinion of the District Valuer upon the submitted viability report and detailed matters (such as design, landscape, living conditions (noise)).

### **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:** Mindful to Grant Consent under Regulation 3 of the Town and Country Planning General Regulations 1992 (as amended), subject to positive responses from the District Valuer, Council's Ecologist, Council's Environmental Health Officer, Council's Landscape Architect, Natural England and Council's Urban Designer), the draft conditions below and any amended / additional conditions.

### **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:

Phase 1 Detailed Site Layout (DRAWING No. 3671 PL 10 H)  
Bespoke House Type 3 Bed (DRAWING No. 3671 PL 110 B)  
Bespoke House Type 4 Bed (DRAWING No. 3671 PL 111 B)  
Elder Det. - Proposed Plans / Elevations (DRAWING No. 3671 PL 103 A)  
Elder Semi. - Proposed Plans / Elevations (DRAWING No. 3671 PL 102 A)  
Elm - Proposed Plans / Elevations (DRAWING No. 3671 PL 104 A)  
Holly - Proposed Plans / Elevations (DRAWING No. 3671 PL 100 B)

Lime - Proposed Plans / Elevations (DRAWING No. 3671 PL 105 A)  
 Mitford - Proposed Plans / Elevations (DRAWING No. 3671 PL 108 B)  
 Poplar - Proposed Plans / Elevations (DRAWING No. 3671 PL 109 B)  
 Spruce - Proposed Plans / Elevations (DRAWING No. 3671 PL 107)  
 Yew - Proposed Plans / Elevations (DRAWING No. 3671 PL 101 A)  
 Detached Garage Details Typical Section (DRAWING No. 260-DG-04 T1)  
 Detached Garage Details Double Garage Elevations (DRAWING No. 260-DG-03 T1)  
 Detached Garage Details Single Garage Elevations (DRAWING No. 260-DG-02 T1)  
 Detached Garage Details Single & Double Garage Plans (DRAWING No. 280-DG-01 T1)  
 Drainage Layout (Drawing No. TRS-14-0000470-D-05-10-STAGE 1A - DRAINAGE LAYOUT A)  
 Proposed Surface Water Strategy (Drawing No. CLXX(52)4001 A)  
 SUDS Details (Drawing No. CLXX(95)5001 A)  
 Proposed 2m high performance acoustic green barrier with living willow  
 Landscape Strategy (Drawing No. 1012/01 C)  
 Phase 1 Site Sections (DRAWING No. 3671 PL 20)

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

3 No dwelling house shall be occupied until a management plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include details of how the drainage and open space will be maintained. The drainage maintenance shall be in accordance with section 5.3 Operation and Maintenance Plan (Phase 1 only) of the Drainage Strategy (Doc Ref: 1013275-CI-RPT-002 A). The development hereby approved shall thereafter be maintained in accordance with the management plan.

Reason: To ensure, in accordance with UDP policies EN12 and B2, the development hereby approved does not impede the flow of water and respects the best qualities of the locality.

4 No development shall commence until a Phase II: Site Investigation report which ascertains whether the land is contaminated has been submitted to and approved, in writing, by the Local Planning Authority. The Phase II report shall be based upon the findings of the approved Phase I report and any additional comments provided by the Local Planning Authority, shall be completed in accordance with a recognised code of practice for site investigations, such as BS 10175:2001 and shall include:

- i) a survey of the extent, scale and nature of contamination
- ii) an assessment of the potential risks to:
  - a. human health
  - b. property (existing or proposed) including building, crops, livestock, pets, woodland and service line pipes
  - c. adjoining land
  - d. groundwaters and surface waters
  - e. ecological systems
  - f. archaeological sites and ancient monuments
- iii) a site specific risk assessment and an appraisal of remedial options and proposal of the preferred options if a hazard or hazards are identified on the site from any form of contaminant.

Reason: To ensure that risks from land contamination to future users of the land, neighbouring land, controlled waters and ecological systems are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite

receptors, in accordance with policy EN14 of the Unitary Development Plan and paragraph 109 and 120 of the National Planning Policy Framework.

5 If any hazards are identified from any form of contaminant by any site investigation which require remediation, as determined by the Local Planning Authority, no development shall commence until a detailed Remediation Strategy and Verification Plan to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved, in writing, by the Local Planning Authority. The strategy shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures and must ensure that the site will not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the residential use of the land.

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

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

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

7 No dwelling house shall be occupied until a swept path analysis has been submitted to and approved in writing by the Local Planning Authority. The swept path analysis shall confirm that the proposed road layout can safely accommodate turning and access movements by refuse vehicles and similar sized delivery vehicles. No dwelling house shall be occupied until the approved parking provision has been provided.

Reason: To ensure, in accordance with Unitary Development Plan policy T14, does not cause highway safety problems.

8 No dwelling house shall be occupied until parking plans have been submitted to and approved in writing by the Local Planning Authority. The parking plans shall show a minimum of one in curtilage space per dwelling (two bed), increasing to two spaces per dwelling (three and four bed) and visitor parking provision at one space per three dwellings evenly distributed throughout the development sited so as not to restrict through traffic. No dwelling house shall be occupied until the approved parking provision has been provided.

Reason: To ensure, in accordance with Unitary Development Plan policy T14, does not cause highway safety problems.

9 No dwelling house shall be occupied until details of an alternative at-grade controlled crossing has been submitted to and approved in writing by the Local Planning Authority. No dwelling house shall be occupied until the approved crossing has been provided.

Reason: To ensure, in accordance with Unitary Development Plan policy T14, does not cause highway safety problems.

10 No dwelling house shall be occupied until a final travel plan has been submitted to and approved in writing by the Local Planning Authority. The travel plan shall include welcome packs to promote non-car options and an undertaking of a baseline survey within six months of occupation of the first dwelling house to monitor the level of vehicle trips and measure travel plan targets.

Reason: To ensure, in accordance with Unitary Development Plan policy T14, does not cause highway safety problems.

11 No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include a Scheme of Work which details the routing and control of construction traffic. The Plan shall also include details of site compounds, contractor parking, wheel washing and / or road cleaning operations.

Reason: To ensure, in accordance with Unitary Development Plan policy T14, does not cause highway safety problems.

**Reference No.:** 18/01902/LAP Development by City(Regulation 3)

**Proposal:** **Replacement of existing flue with 2No new flues. (Amended plans received 22.12.18)**

**Location:** Bishopwearmouth Cemetery Chester Road Sunderland

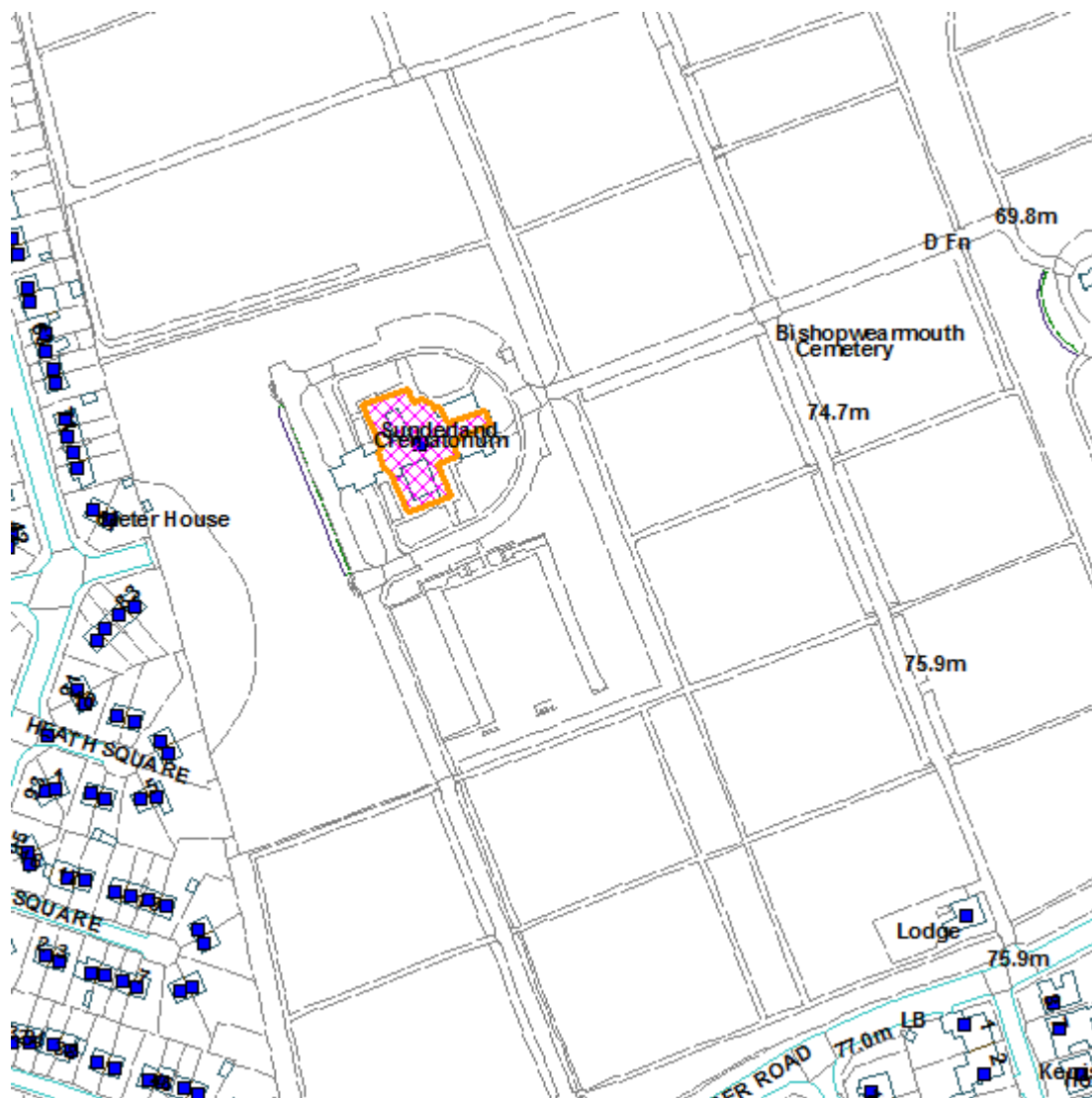
**Ward:** Pallion

**Applicant:** Mr Andrew Atkinson

**Date Valid:** 26 October 2018

**Target Date:** 21 December 2018

### Location Plan



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**PROPOSAL:**

Proposal relates to the removal of one flue and replacement with two flues on the to the southern side elevation of the Sunderland Crematorium building in the Bishopwearmouth Cemetery, Chester Road, Sunderland.

The additional flues are necessary as a contingency to the main extraction system in place and to facilitate an efficient crematorium function.

**TYPE OF PUBLICITY:**

Site Notice Posted

**CONSULTEES:**

Network Management  
Pallion - Ward Councillor Consultation  
Environmental Health

Final Date for Receipt of Representations: **04.02.2019**

**REPRESENTATIONS:****PUBLIC CONSULTATION**

No representations received.

**PUBLIC PROTECTION AND REGULATORY SERVICES**

Public Protection and Regulatory Services has considered the submitted documentation and has no objection to the proposal.

**ECOLOGY**

The Council's Natural Heritage Team reviewed the proposal and have considered that the insertion of the flues through the surface of the existing flat roof to the rear of the main building would not be considered to lead to any adverse impact upon animal or plant species afforded special protection and is therefore acceptable.

**POLICIES:**

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

B2 - Scale, massing layout and setting of new developments  
B3 - Protection of public/ private open space (urban green space)  
L7 - Protection of recreational and amenity land  
CN22 - Developments affecting protected wildlife species and habitats

## **COMMENTS:**

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

1. Principle of development
2. Design and amenity considerations
3. Public Protection and Regulatory Services
4. Ecology

### **1. PRINCIPLE OF DEVELOPMENT**

The main Unitary Development Plan (UDP) land use policies associated with this site are L7 and B3. Policies L7 and B3 are both similar in the sense that where land is allocated as open space they will be retained in its existing use and planning permission should only be granted if there are no significant effect on the amenity, recreational and wildlife habitat value of the site. The issues of amenity and habitat will be addressed under the headings below.

In this regard, given the siting of the flues to the rear of the crematorium building, it is considered that the form of development is acceptable and would not lead to the loss of amenity and would accord the requirements of UDP policies B3 and L7 representing small scale development, ancillary to the existing building to allow a continued safe and sustained facility necessary the function of the crematorium service.

### **2. DESIGN AND VISUAL AMENITY CONSIDERATIONS**

Paragraph 127 of the NPPF and Policy B2 of the Unitary Development Plan (UDP) dictate that development should be designed to a high standard and the scale, massing, setting and layout of new developments should respect and enhance the best qualities of nearby properties and the locality and retain acceptable levels of privacy and improve and enhance places in which people live.

The flues would be positioned to the rear of the building adjacent the existing flues. It is necessary for the flues to be at the height as proposed in the amended plan, for adequate dispersal and to comply with air quality regulations.

The flues would be powder coated RAL No 8004 Copper Brown in order to mitigate their visual appearance against the surroundings and the host property and as such would be considered to comply with Policy B2 of the UDP in this respect.

### **3. PUBLIC PROTECTION AND REGULATORY SERVICES**

Policy EN1 aims to generally improvement the environment by seeking to minimise all forms of pollution.

The erection of the Public Protection and Regulatory Services has considered the submitted documentation and has no objection to the proposal. The proposed stack height has been considered in relation to published statutory guidance and complies with its requirements. The proposal therefore complies with the requirements of policy EN1 of the UDP.

#### 4. ECOLOGY

Policy CN22 of the UDP states that development which may affect any animal or plant species afforded special protection by law or its habitat, directly or indirectly will not be permitted unless mitigating action is achievable and the overall effect will not be detrimental to the species and the overall biodiversity of the city.

The Council's Natural Heritage Team reviewed the proposal and have considered that the insertion of the flues through the surface of the existing flat roof to the rear of the main building would not be considered to lead to any adverse impact upon animal or plant species afforded special protection and is therefore acceptable in respect of ecology, in accordance with policy CN22.

#### CONCLUSION

The development is considered to be of an acceptable design, subject to powder coating to match the existing flues and minimise the visual impact against the host premises whilst operating as a contingency to the main extraction unit of the Crematorium. The proposal would be acceptable in respect of design, amenity and ecology and therefore complies with policies L7, B3, B2 and CN22 of the UDP and paragraph 127 of the NPPF and it is recommended that Members grant consent under Regulation 3 of the Town and Country Planning General Regulations 1992.

#### 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:** GRANT CONSENT under Regulation 3 of the Town and Country Planning General Regulations 1992 (as amended), subject to conditions below.

**Conditions:**

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

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

- Amended Location plan drawing No. SC/1018/F02 received on 22.12.18
- Amended elevations drawing No. SC/2028/F01B received on 22.12.18

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

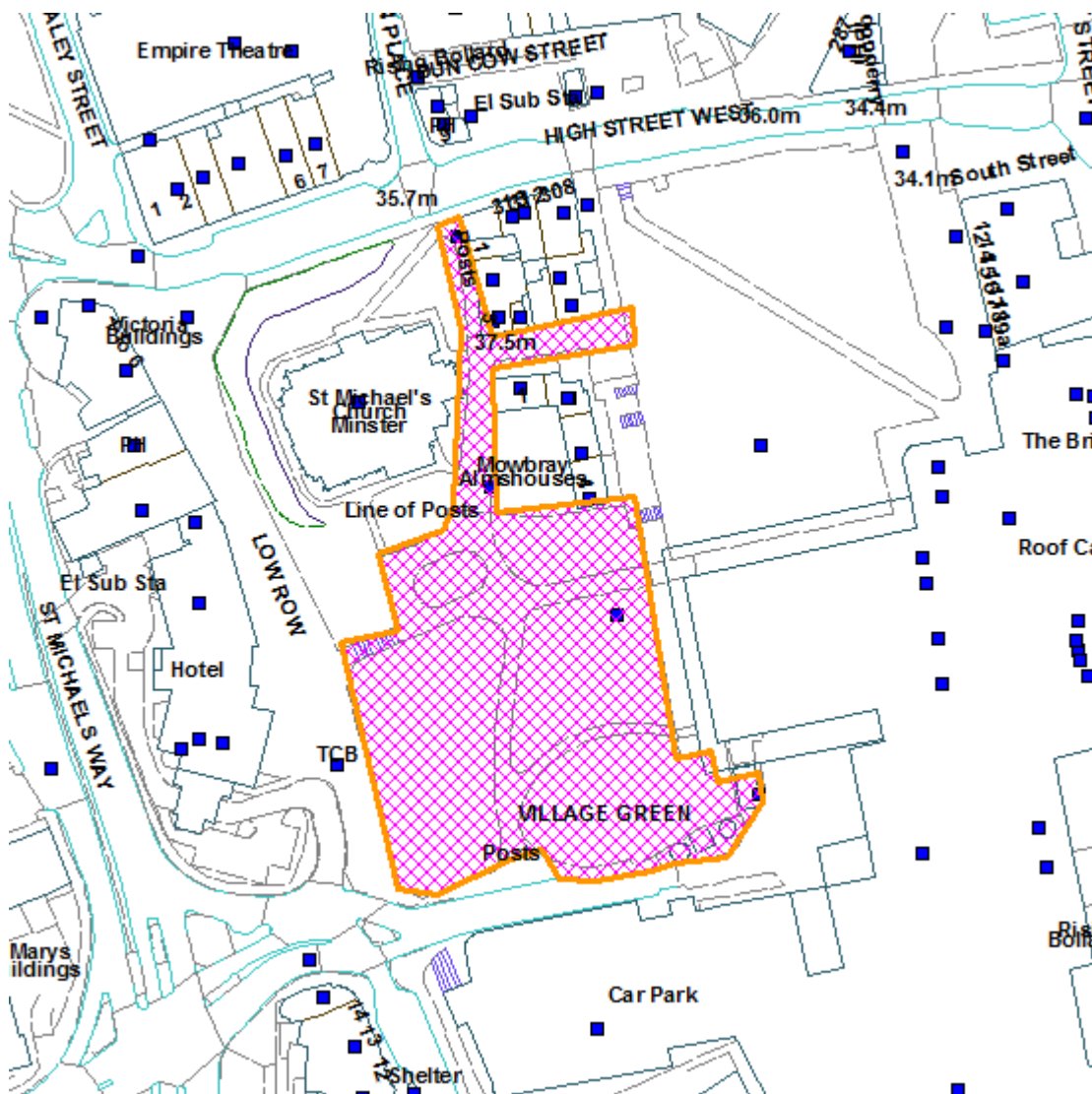
**Reference No.:** 18/02139/LP3 Local Authority (Reg 3 )

**Proposal:** Resurfacing and realignment of the existing adopted footpaths; creation of a new central seating area enclosed by limestone wall; improvements to the steps from Town Park to Low Row; and the repair and enhancement of the churchyard walls including reinstatement of railings.

**Location:** Town Park Church Lane Sunderland

**Ward:** Millfield  
**Applicant:** Sunderland City Council  
**Date Valid:** 18 December 2018  
**Target Date:** 12 February 2019

### Location Plan



## **PROPOSAL:**

The application relates to various improvement works at Town Park which is situated on Church Lane in Sunderland City Centre. Town Park includes a designated village green and is a significant historical park within Bishopwearmouth Conservation Area. The park itself is surrounded by a number of listed buildings, including Sunderland Minster (Grade II\*) and Mowbray Almshouses (Grade II).

The proposed works include the resurfacing and realignment of the existing adopted footpaths; creation of a new central seating area enclosed by a limestone wall; improvements to the steps from Town Park to Low Row; and the repair and enhancement of the churchyard walls including the reinstatement of railings.

The Heritage Statement submitted with the application sets out that the intention of the improvement works is to enhance the current appearance of the Conservation area and highlight the historical importance of the park, as well as attracting local residents and visitors to enjoy the space, engage with the historic environment and learn more about the history of the area through site interpretation.

The application has been submitted on behalf of the Council's Executive Director of Economy and Place and has been accompanied by a Heritage Statement, Archaeological Desk Based Assessment, YALPAG Screening Assessment and Biodiversity Survey and Report.

The proposed works will be funded through the Bishopwearmouth Townscape Heritage Scheme.

## **POLICIES:**

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

B2 - Scale, massing layout and setting of new developments  
B3 - Protection of public/ private open space (urban green space)  
B4 - Development within conservation areas  
B6 - Measures to preserve and enhance conservation areas  
B10 - Development affecting the setting of listed buildings  
B11 - Measures to protect the archaeological heritage of Sunderland (general)  
B13 - Sites and monuments of local importance affected by development  
B14 - Development in areas of potential archaeological importance  
CN17 - Tree Preservation Orders and replacement of trees  
CN18 - Promotion of nature conservation (general)  
CN22 - Developments affecting protected wildlife species and habitats  
EN14 - Development on unstable or contaminated land or land at risk from landfill/mine gas  
SA75 - Retention/enhancement of existing public open space  
T14 - Accessibility of new developments, need to avoid congestion and safety problems arising

## **REPRESENTATIONS:**

Neighbour Representations -None received.

County Archaeologist- Have provided no objection to the works, subject to conditions relating to an archaeological watching brief being attached to the decision.

Historic England- Advise that they have no comments to make and state that the views of our specialist conservation and archaeological advisors should be sought.

Engineers- No objection to the proposal however, they advise that alterations to existing highway/footpaths and additional adopted highway/footpaths should be agreed with the Highway Adoption Engineer.

Ecology- No objection however, they advise that the developer and their agents should be mindful of protection afforded breeding birds under the Wildlife and Countryside Act 1981 (as amended).

Heritage Team - State that the scheme will significantly enhance the character and appearance of Bishopwearmouth Conservation Area and the settings of surrounding listed buildings, most notably the Minster and Mowbray Almshouses, and will enliven the Park by attracting greater public usage of the space. They strongly support the proposed scheme subject to conditions relating to the materials to be used.

Public Health- No Comment received as yet.

## **COMMENTS**

The National Planning Policy Framework (NPPF) provides the current Government's planning policy guidance and development plans must be produced, and planning applications determined, with regard to it. The NPPF sets out that the purpose of the planning system is to contribute positively to the achievement of 'sustainable development' which is defined as 'meeting the needs of the present without compromising the ability of future generations to meet their own needs'. The planning system has three overarching objectives - an economic objective, a social objective and an environmental objective - and these are to be delivered through the preparation and implementation of plans and the applications of the policies within the NPPF.

In terms of the more detailed policies of the NPPF, of importance in considering the current application is paragraph 192 which sets out the desirability of new development making a positive contribution to local character and distinctiveness.

The relevant guidance of the NPPF detailed above feeds into policies, B2, B3, B4, B6, B10, B11, B13, B14, B16, CN17, CN18, CN22, EN14, SA75 and T14 of the City Council's adopted Unitary Development Plan (1998). Despite its age, the UDP remains the Council's adopted development plan and the policies referred to within this report are considered to remain consistent with the NPPF's objectives.

The Bishopwearmouth Conservation Area Character Appraisal and Management Plan (CAMP) is a further key guidance document that is a material consideration in the appraisal of the proposals. Management Proposal 4c of the CAMP is specific to Town Park, it states:-

The Council will seek to improve the quality, attractiveness and accessibility of the Park to users through a range of environmental improvements, including the introduction of high quality surface materials, landscaping and street furniture. The Council will ensure the enhancement of Town Park is informed by its historic significance and seeks to improve the setting of key listed buildings and create a higher quality, more attractive, secure and usable public space.

The Council has also produced a new Core Strategy and Development Plan (CSDP), which sets out the Council's long-term plan for development across the City until 2033. The CSDP submission documents and supporting documents were submitted to the Secretary of State for

examination on 21st December 2018 and the CSDP will now be subject to an independent examination conducted by the Planning Inspectorate.

Paragraph 48 of the NPPF states that Local Planning Authorities may give weight to relevant policies in emerging plans according to:

The stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);

The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);

The degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

With regard to paragraph 48's advice, given that the CSDP has been submitted for examination, it is considered that the policies within which are not subject to unresolved objections can now be given moderate weight. Where unresolved objections to a policy remain, it is considered appropriate to lessen the weight given to the policy. Where a CSDP policy is referenced in this report, a view will, where necessary, be provided as to the level of weight it is considered appropriate to give to the policy in question.

With regard to the policy framework set out above, it is considered that the main issues to address in the determination of the application are as follows:

Principle of development;  
Impact on visual amenity/conservation area and archaeology;  
Impact on residential amenity;  
Impact on highway and pedestrian safety;  
Impact on ecology and biodiversity;  
Tree works  
Environmental Health considerations;

#### 1. Principle of development

With regard to the principle of the proposed development, Town Park is allocated as existing open space on the proposals map of the City Council's adopted Unitary Development Plan (UDP). As such regard must be given to policy B3 of the UDP, which seeks to protect public and private open space from development which would have a serious adverse effect on its amenity, recreational or nature conservation value. The policy goes on to state that proposals will be considered in light of their contribution to urban regeneration and to the importance of such space to the established character of the area.

Also of relevance is policy SA75 which states that existing City Centre parks and other public open spaces, such as Town Park, will be retained and enhanced. Furthermore, policies L1 and L7 seek to ensure that new development does not detrimentally impact upon open space provision in the City.

It is considered that the proposed refurbishment works will provide a positive contribution to the park. The Council's Heritage Team supports the works and state that the park will be revitalised

and the historic space will be re-emphasised. They also state that the works will encourage greater public use of the space.

As such it is considered that the principle of the works is acceptable and the proposal will accord with the relevant paragraphs of the NPPF and UDP policies B3, SA75, L1 and L7.

## 2. Impact on visual amenity/conservation area and archaeology;

As stated above Town Park is a significant historical park within Bishopwearmouth Conservation Area and is surrounded by a number of listed buildings, including Sunderland Minster (Grade II\*) and Mowbray Almshouses (Grade II).

Paragraph 200 of the NPPF sets out that new development in conservation areas and within the settings of listed buildings should enhance or better reveal their significance.

Meanwhile policies B4 and B6 of the UDP reflect the above and set out that all development within, and adjacent to, conservation areas must preserve or enhance their character or appearance by, amongst other means, encouraging the retention of existing buildings and the improvement of features, open spaces, historic street patterns and plot boundaries. UDP policy B10 seeks to ensure that development does not adversely affect the character or setting of listed buildings.

It is important given the historical nature of the site, being situated close to the Minster (Grade II\* Listed), Mowbray Almshouses (Grade II Listed) and within Bishopwearmouth Conservation Area, that the development respects the character of the locality and will not cause undue harm.

The Council's Heritage Team have confirmed that the proposed improvement scheme will better reveal and reinvigorate the historic significance of Town Park, transforming it into a high quality attractive space that will significantly enhance the character and appearance of Bishopwearmouth Conservation area and the settings of surrounding listed buildings.

However, to ensure that the external materials to be used will be appropriate they have requested that a condition is attached to the decision requiring full details and samples of all external materials, including paving, setts cobbles, edging, steps, stone, stone coping and seating, as well as a condition requiring a sample panel of the new random stone wall to the sensory garden.

The site is also noted as an area of archaeological interest and therefore it is essential that the proposed works will not disrupt any archaeological remains, although much of these were removed when the park was revitalised during the 1980's.

Paragraph 189 of the NPPF sets out that an appropriate desk-based assessment should be provided where a site includes, or has the potential to include heritage assets with archaeological impacts.

Reflective of NPPF paragraph 189, policies B11, B13, B14, and B16 of the UDP are concerned with safeguarding sites of known or potential archaeological significance. Where such sites are to be developed, applications should be accompanied by a desk based archaeological assessment.

The County Archaeologist has confirmed that she has been liaising with the applicant prior to submission of the application and had advised that an archaeological desk-based assessment would be required. The assessment submitted on the 18.12.18 demonstrates that there is moderate to high potential for a range of different buried archaeological features to be present on

site. The assessment also advises that ground disturbing works within the former churchyard may disturb human remains

The County Archaeologist has no objection to the proposal however, she did advise that an archaeological watching brief be provided to ensure the safeguarding of any archaeological or human remains on the site, and conditions to this effect will be applied to the decision. Given the above and subject to appropriate conditions it is considered that the proposal would comply with paragraph 189 of the NPPF and UDP policies B11, B13, B14 and B16 of the UDP.

### 3. Impact on residential amenity

NPPF paragraph 127 requires that development should function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development, and should offer a high standard of amenity for existing and future users.

On a local level, policy B2 of the Council's adopted UDP requires new development to respect visual amenity and maintain an acceptable standard of amenity to existing dwellings.

It is not considered that the development will have a significant effect on the amenity of the nearest residential properties (Mowbray Almhouses), given that the work will consist of minor alterations to and refurbishment of existing sections of the historic wall surrounding the Minster, and the seating area will be a minimum distance of 27 metres from the properties.

Given this the development is acceptable in terms of residential amenity and complies with paragraph 127 of the NPPF and policy B2 of the UDP.

### 4. Impact on highway and pedestrian safety;

Paragraph 109 of the NPPF sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

UDP Policy T14 aims to ensure that new developments are easily accessible to both vehicles and pedestrians, should not cause traffic problems, should make appropriate provision for safe access by vehicles and pedestrians and indicate how parking requirements will be met.

It is considered that the resurfacing and realignment of the existing adopted footpaths through Town Park, and improvements to the steps from Town Park to Low Row, will provide improved and safe pedestrian access to the area in question.

Further to this the Council's Highway Engineers have no objection to the proposed scheme, although they do note that the alterations to the existing highway / footpaths and additional adopted highway / footpaths are to be agreed with the Highway Adoption Engineer. The applicant has confirmed within the heritage statement submitted on the 18.12.18 that the associated applications for Highways orders to change the adopted highway and footpaths will be submitted in due course.

Given the above it is considered that the proposal does not impact upon car parking provision or the highway network and raises no pedestrian safety concerns, and as such is considered to be in accordance with paragraph 109 of the NPPF and UDP policy T14.

## 5. Impact on ecology and biodiversity;

Paragraph 170 of the NPPF states that the planning system should contribute to and enhance the natural and local environment in a number of ways included within which is the aim to minimise impacts on biodiversity and providing net gains in biodiversity where possible. Paragraph 175 expands upon this and sets out that where significant harm would result from a development and cannot be avoided, adequately mitigated or compensated for, planning permission should be refused.

UDP policy CN18 seeks to ensure the promotion of the interests of nature conservation throughout the City with areas of nature conservation interest being protected and enhanced. Policy CN22 states that development which would adversely affect any animal or plant species afforded special protection by law, or its habitat either directly or indirectly, will not be permitted unless mitigating action is achievable through the use of planning conditions and, the overall effect will not be detrimental to the species and the overall biodiversity of the City.

In considering the implications of the proposed development for protected species, the application is accompanied by a Bat Survey Report dated August 2018.

The results of an external inspection undertaken 23rd July 2018 concluded that no bat activity was recorded and no roosts were identified within the surveyed structure.

On the basis of the above the City Council's Natural Heritage Officer is satisfied that the proposed works will not result in the disturbance, modification or loss of any bat roosts and therefore will not impact upon bat populations.

They do however go on to advise that all wild birds in the UK are protected under Section 1 of the Wildlife and Countryside Act 1981 (as amended) which makes it an offence to intentionally kill, injure or take any wild bird or to take, damage or destroy the nest (whilst being built or in use) or its eggs.

Given this it is essential that care should be taken not to carry out works likely to disturb breeding, therefore any work to the property should be carried out outside the bird breeding season March to August. If this is not possible then the property should be checked for active nests by a suitably qualified ecologist prior to work commencing. A note to this effect can be added to the decision.

Given the above it is considered that the proposal does not impact upon any animal or plant species afforded special protection by law, or its habitat either directly or indirectly, and as such is considered to be in accordance with paragraphs 170 and 175 of the NPPF and UDP policies CN18 and CN22.

## 6. Tree Works

Paragraph 170 of the NPPF sets out that planning decisions should contribute to and enhance the natural and local environment by recognising the wider benefits of from natural capital including trees and woodland.

Policy CN17 of the UDP is applicable in this instance and states that the City Council will encourage the retention of trees which make a valuable contribution to the character of an area by the making of Tree Preservation Orders and replacing trees in highways and other public areas, with species that help maintain the character of the locality. The retention of trees, hedges and landscape features in all new development will be required where possible.

Section 6.2 within the Heritage Statement sets out the tree works that will be required to be carried out within the Park. The proposed Town Park Improvement Project includes the removal of two trees within the churchyard which are causing damage to the curtilage listed walls; the removal of nine trees across Town Park some of which are in poor condition and/or required for development of the new central seating area; relocation of two mature trees to new locations within the park; and minor tree works to a number of other trees within the space. The existing trees around the oval will be retained and reshaped into a topiary feature strengthening the oval shape.

It is stated that the number of new semi-mature trees planted within the project will be significantly higher than the number removed. Given this it is considered that the proposed works are acceptable and the amenity provided by trees within the area will be maintained.

It should also be noted that works to trees within a conservation area can be carried out by the Council without requiring the submission of an application for tree works.

As such it is considered that the works are acceptable and the proposal will accord with paragraph 170 of the NPPF and UDP policy CN17.

## 7. Environmental Health considerations;

Paragraph 178 of the NPPF requires planning decisions to ensure that the site is suitable for its new use taking account of ground conditions and any risks arising from land instability and contamination.

Policy EN14 of the UDP relates to the ground conditions and states in part that:

"Where development is proposed on land which there is reason to believe is either :

(ii) contaminated or potentially at risk from migrating contaminants;

(iii) potentially at risk from migrating landfill gas or mine gas

The Council will require the applicant to carry out adequate investigations"

Land contamination information in the form of a Yorkshire and Lincolnshire Pollution Advisory Group (YALPAG) assessment has been submitted with the application and is being considered by the Council's Environmental Health section. It is anticipated that comments from the Environmental Health team will be received prior to the Committee date and details provided on a report for circulation ahead of the Committee meeting.

## CONCLUSION

For the reasons given above, it is considered that the proposals will not have adverse impact on the amenity of the area and will serve to enhance the heritage significance of the Town Park and the Bishopwearmouth Conservation Area. Furthermore, the proposals raise no concerns in respect of the setting of the nearby Listed buildings whilst, subject to the recommended conditions, the archaeological implications of the proposals are also acceptable. Nor do the proposals give rise to any significant concerns in relation to ecology, highway and pedestrian safety or the trees at the site.

The proposal is therefore in accordance with paragraphs 48, 109, 127, 170, 175, 189, 192 and 200 of the NPPF and policies B2, B3, B4, B6, B10, B11, B13, B14, B16, CN17, CN18, CN22, EN14, SA75 and T14 of the adopted UDP.

Consideration is, however, still being given to the implications of the proposals in respect ground conditions and land contamination and to this end, consultation comments from the Council's Environmental Health officers are awaited. It is anticipated that the consultation response will be received ahead of the Committee meeting and an update on the situation will be provided via a Supplementary Report in advance of the meeting. The Supplementary Report will also provide details of a recommended decision and a final list of recommended conditions.

#### EQUALITY ACT 2010 - 149 PUBLIC SECTOR EQUALITY DUTY

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

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

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

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

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

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

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

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

**RECOMMENDATION:** Mind to Grant Consent under Regulation 3 of the Town and Country Planning General Regulations 1992 (as amended), subject to receipt of comments from Council's Environmental Health officers and subject to the following draft conditions:

**Conditions:**

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

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

Location plan, drawing number LS000124/001, received 05.12.18

Existing layout, drawing number LS000124/002, received 05.12.18

Proposed layout, drawing number LS000124/003, received 18.12.18

Proposed elevations, drawing number LS000124/004, received 05.12.18

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 full details and samples of all external materials, including paving, setts cobbles, edging, steps, stone, stone coping, seating, have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details; in the interests of visual amenity and to comply with the NPPF and policies B2, B4, and B6 of the Unitary Development Plan.

4 Notwithstanding any indication of materials which may have been given in the application, no development shall take place until a sample panel of the sensory gardens new random stone wall, fully bedded and pointed in lime mortar 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 the NPPF and policies B2, B4, and B6 of the Unitary Development Plan.

5 No groundworks or development shall commence until the developer has appointed an archaeologist to photograph the gravestones and inscribed stones and to undertake a programme of observations of groundworks to record items of interest and finds in accordance with a specification provided by the Local Planning Authority. The appointed archaeologist shall be present at relevant times during the undertaking of groundworks with a programme of visits to be agreed in writing by the Local Planning Authority prior to groundworks commencing.

Reason: The site is located within an area identified as being of potential archaeological interest. The observation is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded and, if necessary, emergency salvage undertaken in accordance with paragraph 199 of the NPPF, Unitary Development Plan Policies B11, B13 and B14.

6 Within three months of the completion of the archaeological fieldwork, a report of the results of observations of the groundworks pursuant to condition 5 must be submitted to and approved in writing by the Local Planning Authority.

Reason: The site is located within an area identified as being of potential archaeological interest. The investigation is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded, to accord with paragraph 199 of the NPPF and Unitary Development Plan Policies B11, B13 and B14.