

DEVELOPMENT PLAN

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

Unitary Development Plan - current status

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

STANDARD CONDITIONS

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

SITE PLANS

The site plans included in each report are illustrative only.

PUBLICITY/CONSULTATIONS

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

LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION

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

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

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

These reports are held on the relevant application file and are available for inspection during normal office hours at the Commercial Development Directorate at the Customer Service Centre or via the internet at www.sunderland.gov.uk/online-applications/

Alison Fellows

Executive Director of Commercial Development

Reference No.: 15/02375/FUL Full Application

Proposal: **Erection of 48no. two storey dwellings with associated works.**

Location: Site Of The Forge Neville Road Pallion Sunderland

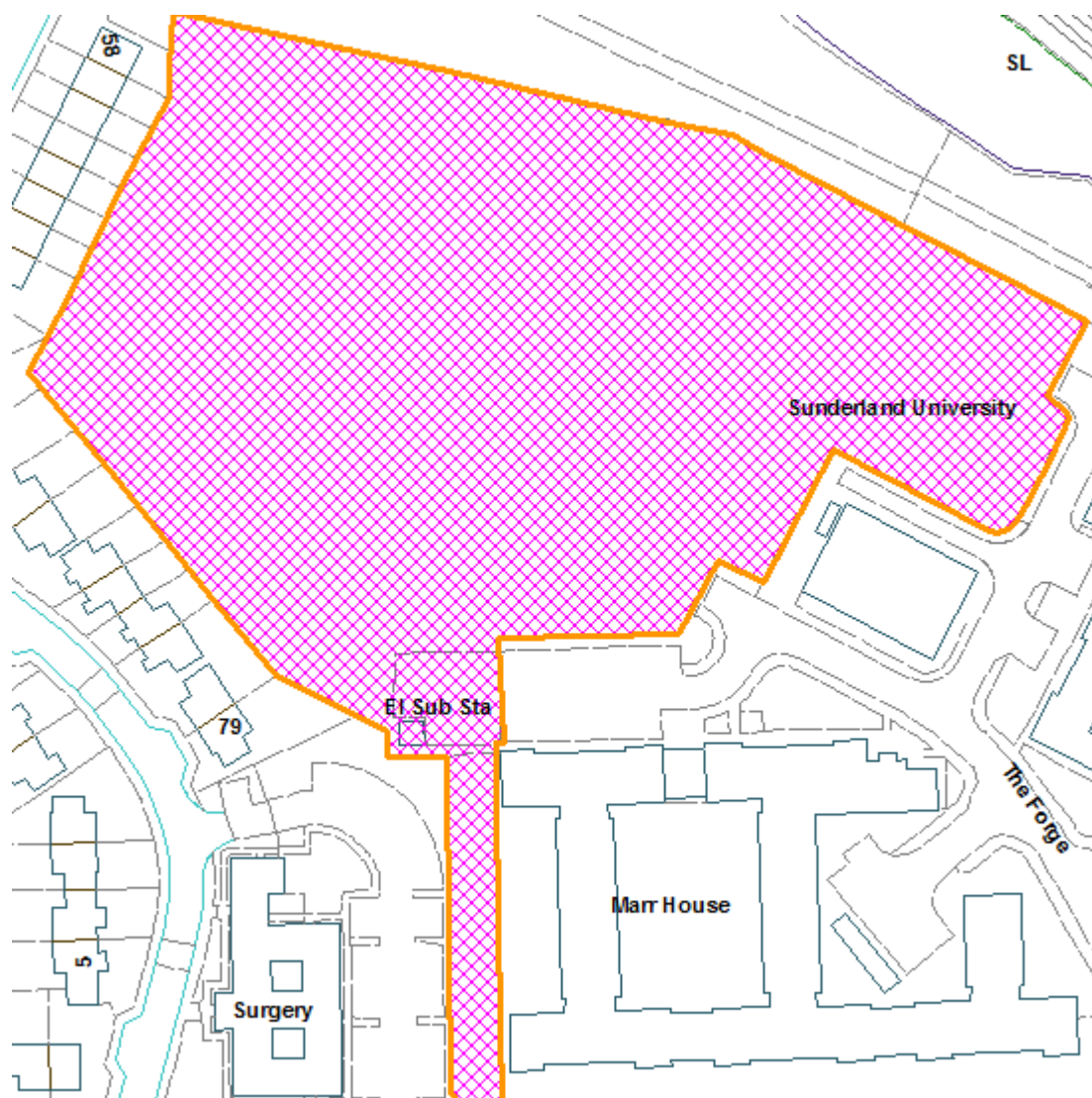
Ward: Pallion

Applicant: Gleeson Developments Ltd.

Date Valid: 6 January 2016

Target Date: 6 April 2016

Location Plan



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PROPOSAL:

At the Sub-Committee Meeting on 2 March 2010, outline planning permission was granted for the erection 66 dwellings on a presently undeveloped area of grass land at The Forge, Neville Road Pallion (Application reference 09/04379/OUT). The time limit for implementation of this consent was subsequently extended through approval of application 13/03253/EXT1 and as such, the outline consent remains extant until 27 February 2017. No application has been made for approval of the reserved matters application and the consent has not yet been implemented.

The current proposal is a full planning application for the erection of 48 dwellings with associated works. Access to the site would be taken from Neville Road to the west of Marr House, which is as per the previous outline planning permission. Of the 48 dwellings which are proposed, all are two storey, with a mix of detached, semi-detached and terraced properties. The properties comprise 13 two bedroomed dwellings, 30 three bedroomed dwellings and 5 four bedroomed dwellings. Each property would benefit from a parking space and a number have detached or integral garages.

The site lies adjacent to two blocks of student accommodation (Marr House and Jobling House) which are built over four storeys. This accommodation has recently been refurbished and the site now comprises a secure student village enclosed by gates from Neville Road with on-site facilities by way of a meeting place and shop. The wider area is predominantly residential in character, with a mix of house types evident, including two storey, semi-detached and terraced properties the west in Pallion Park and single storey terraced cottage properties to the south of the site on Neville Road and the surrounding area.

To the north of the application site is a cycleway and footpath allocated in the Council's Unitary Development Plan as a Multi User Route, beyond which is the Sunderland to South Hylton Metro line.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Fire Prevention Officer
NE Ambulance Service NHS Trust
Southern Area Command - Police
Environmental Health
Flood And Coastal Group Engineer
Environment Agency
Tyne And Wear Archaeology Officer
Network Rail
Nexus
Director Of Children's Services
Pallion - Ward Councillor Consultation
Network Management
Northumbrian Water

Final Date for Receipt of Representations: **10.02.2016**

REPRESENTATIONS:

Neighbours

No representations have been received following the neighbour consultation or wider publicity processes.

Consultees

Network Management

The development should generally be built to an adoptable standard with 5.5 metre road widths, 1.8 metre wide footways, street lighting, turning head, highway drainage connection and provision for surface water run-off. The first section of the estate road should be built to a 5.5 metre width and should incorporate a footway to the west side. Section 278 works would be required for the new access and any required improvements to Neville Road. The remainder of the on-site layout could be constructed as a shared surface arrangement subject to the provision of visitor parking bays. Where the surface is 4.8 metres wide, an additional continuous 1.5 metre wide hard paved service strip should also be provided to carriageway standard as an overrun strip to allow vehicles to safely pass.

Visitor parking bays should be provided as part of the highway layout and shared private accesses should not serve more than three properties. Turning heads should accommodate turning movements of a large refuse vehicle (up to 11.6 metres long). Traffic calming should be designed to keep vehicle speeds below 20mph.

Consideration should be given to providing links to the adjacent multi-user route and existing desire lines and footpath networks.

The provisions of Sections 38, 219, 220 and 278 of the Highways Act may require the applicant to enter into agreements under this legislation.

Network Rail

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

All surface water and foul water drainage from the site should be directed away from Network Rail's retained land/structures into suitable drainage systems, the details of which should be approved by Network Rail. Water must not be caused to pond either during or after any construction related activity. Construction of new soakaways should not take place within 20 metres of the Network Rail boundary. Any new drains should be constructed and maintained so as to not have any adverse effect upon the stability of any Network Rail equipment, structure, cutting or embankment. The construction of soakaways within any leased area would not be permitted. The construction of surface water retention ponds/tanks, SuDS or flow control systems should not take place within 20 metres of the Network Rail boundary where they are to be below the existing track level or 30 metres where they are proposed above the existing track level. Full overland flow conditions should be submitted to Network Rail for approval prior to any works commencing on site.

There are existing railway drainage assets in the vicinity of the proposed works. No connection of drainage shall be made to these assets without Network Rail's prior consent and any works within

5 metres of these assets will require prior consent. The developer should contact Network Rail to ascertain the presence of such apparatus before work starts on site.

The developer should be aware that residential development adjacent to an operational railway line may result in neighbour issues arising. Consequently, every endeavour should be made by the developer to ensure adequate soundproofing for each dwelling. In a worst case scenario, trains could be running 24 hours a day and a soundproofing scheme should take this into account.

Where lighting is to be erected adjacent to the operational railway, the potential for train drivers to be dazzled must be eliminated. In addition, the location and colour of any lighting must not give rise to the potential for confusion with the signalling arrangements on the railway.

The drainage, soundproofing and lighting matters should be conditions of any planning permission, the reasons for which can include the safety, operational needs and integrity of the railway.

Nexus

Nexus has advised that the site is in a poor location with regards to accessing bus services. No part of the site is within a reasonable walking distance to a bus service with the nearest bus stop to access the City Centre being 600 metres away from the site entrance. This is beyond the recommended 400 metre guideline indicated by the IHT and Nexus Developers Guide. The nearest Metro station at Millfield is 700 metres away, which is considered to be an acceptable walking distance, although most of this direct route is along back lanes and is not the most attractive. The alternative route represents an 800 metre walking distance and is also considered to be acceptable.

Although the area is not served by buses, it is noted that Stagecoach has previously provided services close to this site in the past - numbers 11 and 26, but the introduction of these services met with considerable and very vocal opposition from some non-bus users and they were consequently withdrawn in 2001, meaning that the area has not been served since this time.

For this reason, it would not be appropriate for Nexus to request the diversion of a bus service closer to the site, though the promotion of public transport services should be encouraged with the offer of two, four week Network One tickets for each household.

Public Protection and Regulatory Services

Contaminated land:

The information submitted by the applicant in relation to land contamination has been assessed.

Public Protection and Regulatory Services are satisfied that the site is a low risk for the intended use residential properties, with buildings, hard standing and imported landscape material and that standard conditions regarding the submission of Phase I and II investigations and validation and verification works are appropriate for inclusion.

Noise:

The Applicant has submitted a noise assessment undertaken by LA Environmental (report reference GH/SU/001) in December 2015.

Monitoring was undertaken on the 10th December 2015 between 10:25-12:07 AM, at one monitoring point located on the south east boundary of the site providing a background noise level of 48LAf 90.

A previous noise assessment has also been carried out on the site by Dragonfly acoustics dated October 2009 (report number DACC0184v1), in relation to planning application 09/04379/OUT. A 2.1 metre high close boarded fence has been erected between the neighbouring site The Forge and its student meeting place. The rest of the surrounding area is predominantly residential. The Metro line runs alongside the bottom of the site.

The report assesses the proposed development against the criteria of BS8233:2014 and suggests that indoor values of 35dB shall not be exceeded during day time hours (07:00-23:00) and 30dB for night time hours (23:00-07:00). The noise report demonstrates this can be met with the installation of insulated glass units to the specification of 4mm/ (6-16mm)/4mm.

Consequently it is recommended that the development is afforded suitable and sufficient noise mitigation measures to ensure that future residents are afforded a commensurate level of protection conducive to using outdoor garden areas and good sleeping or resting conditions. The Applicant shall have full regard to the guidance contained in World Health Organisation, Guidelines for Community Noise (1999) and British Standard 8233:2014, Guidance on sound insulation and noise reduction for buildings.'

Vibration:

The Applicant has referred to a previous report (Dragonfly Acoustics, October 20019 report reference (DACC0184v1) which demonstrates that vibration levels at 20 metres from the railway would typically be below the maximum permitted levels for ground borne vibration. The proposed properties are 40 metres away from are therefore not anticipated to experience unacceptable levels of vibration. Public Protection and Regulatory Services accept this conclusion.

Construction:

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

Environment Agency

The Environment Agency has no objection to the scheme.

Northumbrian Water

In commenting on planning proposals, Northumbrian Water assesses the impact of the proposed development on its assets and assesses the capacity of Northumbrian Water's network to accommodate and treat the anticipated flows arising from the development.

In this context, it is noted that the application does not confirm the outfall for surface water from the proposed development site and in the absence of this information, Northumbrian Water has requested the imposition of a condition requiring the submission and approval of a detailed scheme of surface water disposal from the site.

Lead Local Flood Authority

The Council's Flood and Coastal Group Engineer has advised that no surface water discharge rates were submitted with the original application, no attempt was made to install SuDS as part of the development, nor was space left to install SuDS, with the developer stating that such features

cannot be used due to stability of the adjacent railway line. This conclusion was not accepted as the top of the slope is over 25 metres away from the edge of the development. If properly designed, this would not be a problem and no information or justification is provided to back up the chosen approach. There is a culverted watercourse running through the site and new houses are proposed directly over this, full detail of the exact location and depth of this watercourse is required.

For these reasons and based on the originally submitted information, it was requested that the application be refused due to lack of investigation of all methods of surface water disposal, lack of a quoted discharge rate for surface water and lack of SuDS provision within the development.

Tyne and Wear Archaeology Officer

The Tyne and Wear Archaeology Officer has advised that Archaeological Desk Based Assessments were produced for the site in 2008 and 2009. The site is of industrial archaeological interest due to the presence of Sunderland Forge, an iron foundry and pottery. However, site levels were lowered down to subsoil when the university buildings were built, so archaeological remains are unlikely to survive. On this basis, no archaeological work is required.

Tyne and Wear Fire and Rescue Service

The Fire Authority has no objections to the proposal subject to compliance with the Building Regulations.

Police Architectural Liaison Officer

The principles of Crime Prevention Through Environmental Design (CPTED) and the specifications set out in the police approved security scheme Secured by Design (SBD) have been considered.

SBD is a scheme devised by the police in the 1980s to combat the rise in crime at the time in particular burglary to dwelling-houses. The scheme has been shown to substantially reduce crime where it has been implemented.

With the implementation of Approved Document Q (ADQ) in October 2015, security of buildings moved under Building Control regulations and applies to all new buildings and recommends that all doors and windows should meet SBD specifications i.e. PAS 24: 2012.

Another part of SBD is the National Building Approval (NBA) where companies agree to build certain house types to SBD specification which guarantees that those house types will comply with Part 2 of SBD. The applicant is one of the companies which has signed up to this and on this occasion, 34 of the 48 houses will meet part 2, Physical Security, of SBD.

By building to the SBD specification and obtaining SBD certification, it will mean that building regulations will be met and therefore an SBD certificate will satisfy building control requirements. It is unfortunate that the scheme has not been designed so that all house types meet SBD NBA. It is also unfortunate that the applicant has not consulted the Architectural Liaison Officer prior to submitting this application and therefore, the applicant should make contact to discuss general security of the layout and the house types in particular. Notwithstanding this, the layout shows several positive features in that there will be in curtilage parking and where possible there are back to back gardens, both of which are encouraged by SBD.

POLICIES:

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

B_2_Scale, massing layout and setting of new developments
B_24_Appropriate provision for utility services in building development
CN_18_Promotion of nature conservation (general)
CN_22_Developments affecting protected wildlife species and habitats
EN_1_Improvement of the environment
EN_6_Limit exposure of new noise/vibration sensitive developments to existing sources
EN_7_Proposals for residential development in the vicinity of railway tracks
EN_10_Proposals for unallocated sites to be compatible with the neighbourhood
EN_12_Conflicts between new development and flood risk / water resources
EN_14_Development on unstable or contaminated land or land at risk from landfill/mine gas
H_4_Density of housing development to at least reflect that of the locality
H_16_Negotiation for affordable housing in major developments
H_21_Open space requirements in new residential developments (over 40 bed spaces)
T_14_Accessibility of new developments, need to avoid congestion and safety problems arising

COMMENTS:

The main issues to be considered in determining this application are:-

- 1) Principle of the Development.
- 2) Design and Amenity.
- 3) Highways and Transportation.
- 4) Noise, Vibration and Disturbance.
- 5) Ecology and Habitat Issues.
- 6) Drainage and Flood Risk.
- 7) Land Contamination.
- 8) Section 106 and Viability.

- 1) Principle of the Development.

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

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

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

Plan which was adopted in 1998), due weight should be given to the relevant policies of the plan according to their degree of consistency with the NPPF.

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

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

The development plan for this part of Sunderland comprises the saved policies of the City of Sunderland Unitary Development Plan (UDP), adopted in 1998.

The site lies within an area subject to policy EN10 of the Unitary Development Plan (UDP), which states that where the plan does not indicate any proposals for change, the existing pattern of land use is intended to remain, therefore proposals for development in such areas must be compatible with the principal use of neighbourhood.

In this regard, as the prevailing land use within the area is residential, with a mix of house types in evidence, the proposed residential development of the site is considered to accord satisfactorily with the aims of the UDP. In light of the above, the proposal is considered to accord with UDP policy EN10, and is considered to be acceptable in principle.

2) Design and Amenity.

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

As an expansion of this, paragraph 56 of the NPPF identifies that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. Furthermore, paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Policy B2 of the adopted UDP seeks to ensure that large schemes relate harmoniously to their surroundings and retain acceptable levels of privacy.

Policy H4 states that housing development should normally at least reflect the density of the locality, consistent with protecting and enhancing the character of the area.

With regard to the siting of the proposed development in relation to surrounding dwellings, due regard has been given not only to the requirements of UDP policy B2 as detailed but also section 10C of the Residential Design Guide Supplementary Planning Document (SPD).

This document deals specifically with the separation distances required between buildings in new proposals for residential development. It is considered that weight should be given to the

recommended minimum distances required to ensure levels of outlook and privacy are created and retained. In this regard, a distance of 21 metres is recommended between main facing windows (habitable window to habitable window) for two storey properties this distance being reduced to 14 metres for main facing windows facing side or end elevations (with only secondary windows or no windows) for two storey properties.

In considering the inter-relationship of the proposed development with existing adjacent properties, the key relationships to assess are the separation distances between the proposed dwellings and the existing properties on Pallion Park to the west and the existing U-Student complex to the east.

In respect of Pallion Park, these adjacent properties comprise two storey semi-detached and terraced properties. The rear elevations of the dwellings on plots 34-48 look towards the properties in Pallion Park with plots 34-42 broadly aligned with the rear elevations of numbers 58-66 Pallion Park. In this area of the site, the separation distances between the rear elevations of the proposed dwellings and the original rear elevations of the dwellings in Pallion Park accord with the SPD separation recommendations. Similarly, the rear elevations of plots 43-48 look towards the original rear elevations of numbers 73-79 Pallion Park and based on the submitted plans, the SPD recommendations in terms of separation between the dwellings are respected.

Due to the shape of the site, the alignment of proposed plot 42 is unusual and the effect of this is that the side elevation of the dwelling proposed on plot 42 stands facing the rear elevations of numbers 72 and 73 Pallion Park. The alignment is indirect and at their closest point, the buildings would be approximately 13 metres apart, increasing to 15 metres at the foremost part of the proposed dwelling. The 13 metre separation is marginally below the recommendations of SPD, but given the indirect alignment between the existing and proposed dwellings and the blank gable nature of the side elevation of the dwelling proposed to plot 42, it is not considered that this arrangement is likely to be unacceptably harmful to the amenities of occupiers of numbers 72 and 73 so as to warrant a refusal of planning permission. Similarly, the garages proposed to serve plots 42 and 43 are set away from the original rear elevation of 73 Pallion Park by approximately 12.3 metres, which is less than would be recommended by SPD. The positioning of the proposed garages is such that they are not directly aligned with the dwelling and their design is such that they are at their lowest height where they are closest to the shared boundary. As such, the relationship is considered to be acceptable on this occasion.

For the reasons set out above and notwithstanding the specific area of the site where SPD separation distances are not entirely adhered to, the relationship between the proposed dwellings and the existing properties to the rear of the site on Pallion Park is considered to be acceptable without prejudice to the amenities of residents of existing or proposed dwellings.

In respect of the relationship of the proposed dwellings with the U-Student complex which stands to the east and south, the side elevation of plot 1 faces the four storey Marr House and is approximately 20 metres away. Given the design of the dwelling proposed to plot 1 and its mainly blank gable elevation, this arrangement is considered to be acceptable in order to safeguard the amenities of the proposed property and the student accommodation in Marr House. Plots 6-9 share boundaries with the U-Student Meeting Place and shop building and the rear elevation of the dwelling proposed to plot 6 stands 18 metres away from the side elevation of this building. This is the closest relationship of a main elevation in one of the dwellings to this commercial building and is considered sufficient in order to safeguard amenity. The side elevation of plot 9 is approximately 8 meters away from the rear elevation of the building and this is considered to be acceptable due to the design of the dwelling proposed on plot 9, the side elevation of which incorporates only secondary windows. The rear elevations of plots 9-12 face the four storey

Jobling House and given that the existing building is the higher of the two, the separation distance of 22 metres is considered to be appropriate on this occasion.

Within the proposed development itself, the SPD spacing recommendations are generally adhered to, although there are areas within the courtyard areas around plots 19-22 and 31-36 where the interfacing distances are reduced to 20 metres and 13 metres instead of the SPD recommended 21 metres and 14 metres. Such arrangements are commonplace within more constrained areas of new development sites and on this occasion, as the marginally reduced distances are between proposed properties, would be buyers will be aware of the slightly constrained relationship in particular areas of the site.

For the reasons set out above, the inter-relationship between properties within the development with each other and with existing surrounding properties is considered to be appropriate in order to satisfactorily safeguard the amenities of existing and future occupiers.

In terms of visual amenity, the design and appearance of the dwellings is reflective of modern housing of its type. The palette of materials indicated on the submitted plans as proposed to be used is considered to be appropriate to ensure that the development sits appropriately within its surroundings where a mix of residential property types are already evident. The visual impact of the proposal on its surroundings is therefore considered to be acceptable.

For the reasons set out above, the proposal is considered to accord appropriately with NPPF paragraph 17, UDP policy B2 and SPD spacing recommendations so as to satisfactorily address design and amenity considerations.

3) Highways and Transportation.

Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe

UDP policy T14 requires new development to be readily accessible by pedestrians and cyclists, while development proposals should not cause traffic congestion or highway safety problems and make appropriate safe provision for access and egress.

During the application process, the application has been amended in order to reflect comments made by the Network Management Team. The changes include the widening of the main access road to 5.5 metres, narrowing to 4.8 metres beyond the first junction within the site. The extent of road and footpath provision is now such that no more than three properties are served by private drive/courtyard areas, whilst traffic calming has been introduced including a speed bump on the 5.5 metre carriageway into the site and a raised table at the first junction.

Following receipt of the amended site layout plan, the Network Management Team has noted that the proposal is considered to be acceptable in highway terms so as not to conflict with the aims of NPPF paragraph 32 or UDP policy T14.

4) Noise, Vibration and Disturbance.

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

- o Avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- o Mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development;

- o Recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established and
- o Identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

UDP policy EN6 seeks to ensure that where noise sensitive development is proposed which is likely to be exposed to unacceptable levels of noise from adjacent potentially noisy uses, the Council will require the applicant to carry out an assessment of the nature and extent of likely problems and to incorporate suitable mitigation measures in the design of the development. In addition to the above, policy EN7 stipulates that proposals for residential development within 60 metres of any railway track shall include an assessment of the impact of vibration and shall incorporate any necessary preventative or precautionary measures as part of the scheme.

In respect of noise, as detailed above, it is noted that the Applicant has submitted a noise assessment undertaken by LA Environmental (report reference GH/SU/001), dated December 2015. This report sets out that monitoring was undertaken on the 10 December 2015 between 10:25-12:07 AM, at one monitoring point located on the south east boundary of the site providing a background noise level of 48LAf 90. A previous noise assessment was carried out on the site by Dragonfly acoustics dated October 2009 (report number DACC0184v1), in relation to planning application 09/04379/OUT. It is noted that in the intervening time between the 2009 noise assessment and the present day that a 2.1 metre high close boarded fence has been erected along the boundary shared by the application site and neighbouring site - The Forge. The rest of the surrounding area is predominantly residential, whilst the Tyne and Wear Metro line runs close to the site boundary.

The report of the most recent noise assessment assesses the proposed development against the criteria of BS8233:2014 and suggests that indoor values of 35dB shall not be exceeded during day time hours (07:00-23:00) and 30dB for night time hours (23:00-07:00). The noise report demonstrates this can be met with the installation of insulated glass units to the specification of 4mm/ (6-16mm)/4mm.

Such measures will serve to ensure that the development is afforded suitable and sufficient noise mitigation measures to ensure that future residents are afforded a commensurate level of protection conducive to using outdoor garden areas and good sleeping or resting conditions, both from noise arising from the Metro line and the adjacent student Meeting Place building. Subject to the imposition of a condition requiring adherence to the recommendations noise assessment in respect of glazing, the proposal is considered to adequately address the implications of noise arising from the development. Whilst it is noted that Network Rail has requested a specific condition in respect of soundproofing of the development, the Noise Assessment, including proposed mitigation measures was available throughout the application consultation process and Network Rail offered no specific comments in respect of its contents. On this basis and given that the Council's Public Protection and Regulatory Services Team has confirmed that satisfactory living conditions can be achieved through use of suitable glazing, it is not considered reasonable to impose a condition requiring further noise work to be carried out or soundproofing details to be submitted.

In respect of vibration, the applicant has referred to a previous report prepared by Dragonfly Acoustics in October 2009 (report reference DACC0184v1) which demonstrates that vibration levels at 20 metres from the railway would typically be below the maximum permitted levels for ground borne vibration. The proposed properties are 40 metres away from the railway line and are therefore not anticipated to experience unacceptable levels of vibration. On this basis, the

Public Protection and Regulatory Services accept the conclusion that vibration from the adjacent Metro line will not adversely affect residents of the proposed development.

For the reasons set out above and subject to the imposition of a condition in respect of the measures specified in the noise assessment and associated glazing specifications, the proposal is considered to accord satisfactorily with the aims of UDP policies EN6 and EN7 as detailed above.

5) Ecology and Habitat Issues.

Paragraph 109 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 118 expands upon this and states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying a number of principles. Included therein is 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. Measures identified to achieve this goal include encouraging landowners to adopt management regimes sympathetic to nature conservation, especially in wildlife corridors, making provision in development proposals for the preservation of habitats or creation of compensatory habitats and seeking opportunities in new development proposals or other schemes for new habitat creation.

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.

The application is accompanied by a Preliminary Ecological Appraisal and also a Screening Assessment pursuant to the Habitat Regulations 2010. These documents have both been revised during the application process.

The revised Ecological Appraisal concludes that the site consists mainly of poor, semi-improved grassland of low ecological value. There are few trees on site and as such, it is considered unlikely that there will be any significant adverse ecological effects from the proposed development. Notwithstanding this, a number of mitigation measures, including the timing of tree and scrub removal, inspection of trees with bat roost potential, nature and positioning of construction site lighting and provision of bat bricks and bird boxes are proposed. Subject to the inclusion of these measures in the development and construction working practices, which can be ensured by way of a suitable worded planning condition, the proposal is not considered to prejudice the interests of biodiversity.

The most recent Screening Assessment pursuant to the Habitat Regulations 2010 remains under consideration at the time of preparing this report. It is considered that the matters pertaining to these Regulations can be satisfactorily addressed prior to the Sub-Committee Meeting and it is not considered that this will render the development unacceptable.

The proposal is considered to be satisfactory in terms of biodiversity implications and as such, accords appropriately with UDP policies CN18 and CN22.

6) Drainage and Flood Risk.

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

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

UDP policy EN12 stipulates that in assessing proposals for development, the Council, in conjunction with the Environment Agency and other interested parties, will seek to ensure that the proposal would not be likely to impede materially the flow of flood water, or increase flooding elsewhere, or increase the number of people or properties at risk from flooding and not adversely affect the quality or availability of ground or surface water, including rivers and other waters.

During the application process, a revised Drainage Strategy has been received. The conclusion of this is that a gravity connection can be achieved to the existing public foul sewer at manhole 9405.

In respect of surface water, the strategy proposes a limited infiltration solution using permeable paving on driveways to allow a discharge into the made ground similar to that prior to the development. The impermeable clay strata underlying the sandy made ground prevents infiltration for the whole development as the increased surface water could result in the water flowing over this layer causing spring lines to develop in the Metro railway cutting or through the high embankment below Pallion New Road. The strategy suggests that consideration should be given to permitting higher surface water discharge due to the proximity of the site to the River Wear and evidence that suggests there is little impermeable area now connected to the below ground culvert. A restricted discharge equivalent to QBAR URBAN of 6.20l/sec has been used in the design with a slightly higher discharge of 6.80l/sec for the 1 in 30 year event. A restricted surface water discharge would be allowed into the culverted watercourse via either the existing manhole or a new chamber, with a flow attenuation structure using oversized pipes provided within the development to store flows above the agreed discharge.

The revised Drainage Strategy has been considered by the Lead Local Flood Authority and it is advised that there are some concerns with the proposed measures as follows:

In respect of infiltration systems, it is stated in the updated Drainage Strategy that permeable paving should be considered for the driveways. The Lead Local Flood Authority has advised that this needs to be included or alternatively, some other form of SUDS should be provided otherwise the proposal does not comply with the Council's Local Flood Risk Management Strategy. It is stated in the conclusions of the Drainage Strategy that permeable paving will be included in the design of the development and whilst clarification is required as to the applicant's intentions in this regard, this could be dealt with this as a planning condition should Members be minded to approve the application.

In respect of watercourses, the Drainage Strategy states that consideration should be given to permitting a higher surface water discharge as detailed above. In order to accord with the Local Flood Risk Management Strategy, only greenfield runoff rates would be permitted. The strategy should be revised to reflect this.

Furthermore, it is stated within the strategy that 'flood waters from rainfall events up to 1 in 100 years must be considered and prevented from leaving the site and causing flooding to adjacent property.' The strategy does not provide information on where this flood water will go, and this information needs to be provided. As this is a full planning application, these details are required as this could have an impact on the site layout.

On this basis, at the time of preparation of this report, the previously stated objection of the Lead Local Flood Authority still stands. Dialogue is continuing with the applicant seeking to overcome these concerns and it is anticipated that the outcome of this discussion will be reported to Members in advance of the Sub-Committee meeting in order to ensure compliance with policy EN12.

7) Land Contamination.

Paragraph 120 of the NPPF relates to measures to be taken to prevent unacceptable risks from pollution and land instability and requires planning decisions to ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

UDP policy EN14 dictates that where development is proposed on land which there is reason to believe is contaminated or potentially at risk from migrating contaminants, the Council will require the applicant to carry out adequate investigations to determine the nature of ground conditions below and, if appropriate, adjoining the site. Where the degree of contamination would allow development subject to preventative, remedial or precautionary measures within the control of the applicant, planning permission will be granted subject to conditions specifying the measures to be carried out.

As detailed above, the Public Protection and Regulatory Services Team is satisfied that the development of the site represents a low risk for the intended residential development in that it would comprise buildings, hard standing and imported landscape material. The application is accompanied by Phase I and Phase II investigations in respect of land contamination which inform this conclusion. On this basis, it is recommended that should Members be minded to approve the application that standard planning conditions requiring the submission and approval of validation and verification works are submitted should be imposed in order to ensure the safe development of the site and to accord with the aims of NPPF paragraph 120 and UDP policy EN14.

8) Section 106 and Viability.

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.
- Paragraph 173 also states that in pursuing sustainable development careful attention will be required toward viability and costs in decision-taking. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, infrastructure contributions or other requirements should, when taking into account the normal

cost of development and mitigation, provide competitive returns to a willing land owner/ developer and enable the development to be deliverable. More specifically, paragraph 205 requires the Council to take viability and market conditions into account when assessing Section 106 requirements and to be sufficiently flexible, wherever possible, in order to prevent the stalling of proposed development.

i) Affordable Housing

UDP policy H16 requires the Council to negotiate with developers, on the basis of site suitability, for elements of affordable housing to be provided on major new housing sites of 50 dwellings or more. Furthermore, the Strategic Housing Market Assessment (SHMA) and recent Economic Viability of Affordable Housing Requirement Study identify a need for 10% affordable dwellings on housing development sites at a 75% social rented/ 25% intermediate split. This therefore equates to 5 affordable properties.

ii) Open Space/ equipped children's play space

As the scheme proposes over 10 dwellings with 2 bedrooms or more policy H21 requires the provision of formal equipped children's play space. In-lieu of on-site provision a financial contribution for off-site play would need to be considered, at a current rate of £701 for each two bed (or more) unit i.e. £33,648.

- Viability Assessment

A Viability Assessment accompanies those planning applications where gaps occur between what a LPA requests in financial obligations and what the applicant considers the development is capable of supporting financially. The significance of viability has increased during the economic downturn as the delivery of new development has been stalled or threatened.

The applicant, in anticipation that affordable housing would be a material consideration, submitted an Affordable Housing Statement explaining that the inclusion of affordable homes on the site would seriously threaten the viability of developing this "difficult brownfield site in such a way that it would not be developed without significant grant support, or the land value would fall way below market value". The statement then explained that a residual valuation appraisal would be submitted in order to confirm that the provision of affordable housing would render the scheme unviable.

A viability appraisal in respect of affordable housing and play space contributions has subsequently been submitted for consideration. The conclusion of this is that the development of the site would be unviable were the Council to require contributions in respect of these matters. In order to objectively consider this part of the planning submission, the Council's Property Services section was requested to assess the submitted documentation. The viability appraisal is still being considered at the time of preparation of this report. It is considered that an appropriate assessment will be made prior to the Committee meeting and will be reported to Members accordingly to enable a recommendation to be made in respect to this aspect of the development proposal.

CONCLUSION

Notwithstanding the fact that the habitat, drainage and viability implications are still being appraised and discussions are ongoing with the applicant, it is considered that in respect of the other material considerations the development proposal is acceptable when assessed against the UDP and NPPF, when both are taken as a whole. It is anticipated that the outstanding matters will

be clarified in time for a final recommendation to be made to Members of the Sub-Committee, prior to or at the meeting.

In the event that the outstanding matters can be satisfactorily resolved, this report details the conditions that will be recommended to be imposed should Members be minded to grant consent. Should any additional conditions be required in respect of the matters which remain under consideration, these will be reported to Members at the Sub-Committee Meeting.

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: Executive Director of Commercial Development to Report

Conditions:

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

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

Location Plan - Drawing Number 1428.01.01, received 24 November 2015;
Planning Layout - Drawing Number 1428.04.10 rev B, received 12 May 2016;
201 Dwelling Type - Drawing Number 201/1F, received 24 November 2015;
202 Dwelling Type - Drawing Number 202/1F, received 24 November 2015;
301 Dwelling Type - Drawing Number 301/1G, received 24 November 2015;
302 Dwelling Type - Drawing Number 302/1G, received 24 November 2015;
303 Dwelling Type - Drawing Number 303/1E, received 24 November 2015;
304 Dwelling Type - Drawing Number 304/1E, received 24 November 2015;
307 Dwelling Type - Drawing Number 307/1B, received 24 November 2015;
309 Dwelling Type - Drawing Number 309/1E, received 24 November 2015;
401 Dwelling Type - Drawing Number 401/1G, received 24 November 2015;
405 Dwelling Type - Drawing Number 405/1E, received 24 November 2015;
1800mm High Timber Fence - Drawing Number SD-100 rev D, received 24 November 2015;
Post and Wire Fence - Drawing Number SD103 rev B, received 24 November 2015;
Detached Garage Details Single - Drawing Number SD700 rev A, received 24 November 2015;
Detached Garage Details Double - Drawing Number SD701 rev A, received 24 November 2015;
Terraced Garage Details Standard Double - Drawing Number SD703 rev B, received 24 November 2015;
Detached Garage Details Non-Standard Double - Drawing Number SD707 rev A, received 24 November 2015;
Garage Threshold/Gravel Drive Details - Drawing Number SD712 rev A, received 24 November 2015;

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

3 The external materials to be used in the carrying out of the development hereby approved shall be those specified in the schedule attached to the Planning Layout - Drawing Number 1428.04.10 rev B, received 12 May 2016, in the interests of visual amenity and to comply with policy B2 of the Unitary Development Plan.

4 The development shall not commence until a detailed scheme for the disposal of surface and foul water from the development hereby approved has been submitted to and approved by the Local Planning Authority in conjunction with Northumbrian Water and Network Rail. Thereafter, the development shall not be brought in to use until these facilities have been provided and installed in accordance with the approved details to ensure satisfactory drainage to the site and to comply with policies B24 and EN12 of the Unitary Development Plan.

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

1) A preliminary risk assessment which has identified:

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

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

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

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the Local Planning Authority. The scheme shall be implemented as approved, in order to comply with the requirements of policy EN14 of the Unitary Development Plan.

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

7 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained

written approval from the local planning authority. The remediation strategy shall be implemented as approved, in order to comply with the requirements of policy EN14 of the Unitary Development Plan.

8 The development shall be carried out in complete accordance with the mitigation measures detailed in Section 9 and Appendices 4-6 of the Preliminary Ecological Appraisal prepared by Elliott Environmental Surveyors Ltd Project No: EES15-186, dated 9th May 2016 v6, which shall be adopted and delivered in full in the carrying out of the development hereby approved, in order to ensure a satisfactory form of development and to comply with policies CN18 and CN22 of the Unitary Development Plan.

9 Prior to the occupation of any of the dwellings hereby approved, glazing comprising insulated glass units to the specification of 4mm/(6 to 16mm)/4mm, as specified in Section 7.1.8 of the Noise Assessment prepared by LA Environmental Consultants (ref GH/SU/001) dated December 2015, shall be installed to all windows. Once installed, glazing to the agreed specification shall be maintained as such at all times thereafter, in the interests of residential amenity and to accord with policy EN6 of the Unitary Development Plan.

10 No construction works required for the development hereby approved shall be carried out other than between the hours of 07.00 and 19.00 Monday to Friday and 07.30 and 14.00 on Saturdays with no works to be carried out on Sundays or Bank Holidays, unless first agreed in writing with the Local Planning Authority, in the interests of residential amenity and to comply with policy B2 of the Unitary Development Plan.

11 The development hereby approved shall not commence until a Construction Environmental Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall provide full details in respect of:

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

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

12 No development shall commence, other than that required to carry out remediation works, until detailed plans of the existing and proposed ground level sections across the site and details of the finished slab levels of each property have been submitted to and approved in writing by the

Local Planning Authority, in order to achieve a satisfactory form of development and to comply with policy B2 of the Unitary Development Plan.

13 All planting, seeding or turfing comprised in the approved details of landscaping (as shown on the Planning Layout - Drawing Number 1428.04.10 rev B, received 12 May 2016) shall be carried out in the first planting season following the occupation of the buildings or the completion of the development whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation, in the interests of visual amenity and to comply with policy B2 of the Unitary Development Plan.

14 The areas indicated on the submitted plans for the parking of vehicles (as shown on the Planning Layout - Drawing Number 1428.04.10 rev B, received 12 May 2016) shall be laid out in accordance with the approved plans before the dwellings hereby approved are occupied. The areas shall then be available for the parking of vehicles associated with the dwellings hereby approved at all times and shall be used for no other purpose, in the interests of highway safety and to comply with policy T14 of the Unitary Development Plan.