

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/

Peter McIntyre

Executive Director Economy and Place

Reference No.: 18/01347/LP3 Local Authority (Reg 3)

Proposal: **Temporary change of use of Roker Cliff Park and erection of temporary buildings and structures, to allow for Sunderland Illuminations and Festival of Light to operate for a number of days annually between 1st October-30th November for a 5 year period**

Location: Roker Cliff Park, Cliffe Park, Sunderland

Ward: St Peters
Applicant: People Services
Date Valid: 30 July 2018
Target Date: 29 October 2018

Location Plan



PROPOSAL:

Planning permission is sought for the change of use of Roker Cliff Park which stretches between Seaburn and Roker, and the siting of temporary buildings and structures in association with Sunderland Illuminations and Festival of Light, to operate for a number of days annually between 1st October - 30th November for a 5 year period. The proposed structures will include an observation wheel and various children's fairground rides and attractions, as well as a number of food outlets.

The proposed temporary development affects Roker Cliff Park which is split into two areas Cliff Park and Bede's Cross both of which are located off the coastal A183 Road, between Roker and Seaburn. The park contains 2no. Listed structures, the Grade II listed Bede's Cross and the Grade II* Listed Meiks Lighthouse, as well as several non-designated assets. Bede's Cross is also located within Roker Conservation Area.

The application seeks to use the area for purposes associated with the holding of the Sunderland Illuminations and Festival of Light. The Illuminations were first held in the 1930s and they have been displayed regularly ever since, with the most recent re-launch occurring in 2012. The illuminations are to be held for a one month period in late October/early November - site assembly and clearance/reinstatement would take place in the weeks prior to and following this period, hence the application seeking permission for the use of the area for the full two-months.

An indicative layout of the location of the proposed structures has been submitted with the planning application - whilst this is considered to provide a typical representation of the layout, it may be subject to minor variations within the 5-year period of planning permission being sought.

The Cliff Park/Bede's Cross events will open all week over the period and activities will operate until 10pm. Average attendance is expected to be 1000 per evening (Monday-Wednesday) and 9000 attending the Festival of Light within Roker Park Thursday-Sunday and all week during the holidays.

In terms of management/mitigation measures, the supporting statement provided with the application advises the following will be implemented:

- a hotline for residents with concerns will be available for the duration of the event;
- parking restrictions;
- limits to hours of operation and restrictions on audio and lighting;
- quarterly community consultation meetings;
- briefing of Ward Members with information to provide to constituents.

The application has been submitted on behalf of the Council's Executive Director of People's Services and has been accompanied by a Noise Assessment, Habitat Regulations Assessment, Lighting Assessment, Heritage Statement, Transport Statement and Flood Risk Assessment.

Members should note that a separate planning application (ref. 18/01349/LP3) for development associated with the illuminations at Roker Park has also been submitted and is an item on this agenda.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted

CONSULTEES:

Natural England
St Peters - Ward Councillors Consultation
DC North Chair And Vice Chair Consultation
Network Management
Environmental Health
Nexus
Fire Prevention Officer
NE Ambulance Service NHS Trust
Flood And Coastal Group Engineer
Environment Agency
Southern Area Command - Police
English Heritage

Final Date for Receipt of Representations: **31.08.2018**

REPRESENTATIONS:

No letters of representation have been received to date.

Historic England - does not wish to offer any comments; advises that advice should be taken from the Council's built heritage specialists.

Natural England - Initially requested further information to determine the effects of the proposal on the designated sites: Northumbria Coast Special Protection Area and Ramsar Site and Durham Coast Site of Special Scientific Interest. This information was provided via an amended Habitat Regulations Assessment (HRA), and subject to the conditioning of appropriate mitigation measures Natural England have no objection to the proposal.

Tyne and Wear Fire and Rescue Service - no objections to the proposal.

Nexus - no objections to the application; recommends the Council (as organisers of the event) liaise with Nexus in respect of any temporary alterations to bus infrastructure in the area.

Council's Highways team - no objections to the proposals; it is noted that parking management and temporary traffic management arrangements will be in place for the duration of the event.

Council's Environmental Health team - has reviewed the information submitted in respect of noise and lighting. In terms of noise, it is noted that the site is flanked by residential dwellings to the west and a bird habitat area to the east and these are considered to be the nearest noise sensitive receptors. The submitted noise assessment considers the impact of the fairground rides and generators on site and concludes that the main noise source will be from the music associated with the rides. The report concludes that the music noise from the rides will comply with World Health Organisation (WHO) guidance and BS8233 guidance on sound insulation and noise. Given this the Council's Environmental Health team has no objections to the proposal in relation to noise.

In respect of lighting, it is noted that the proposals will involve 23 event/stall/ride attractions that are expected to be illuminated for access and attraction purposes. It is also noted that the

submitted lighting assessment recommends that lighting is aimed in the downward direction to minimise spill. The report also details visual impact mitigation considerations that should be referred to when designing the scheme and concludes that the lighting is no more detrimental than the existing floodlighting installed to either side of Roker pier.

The Council's Environmental Health team conclude that provided the lighting scheme is designed and managed in the manner recommended by the assessment, the effect of the lighting on the prevailing environment will be acceptable.

Council's Flood and Coastal team (in capacity as Lead Local Flood Authority) - confirms that the Flood Risk Assessment submitted with the application is satisfactory.

Council's Built Heritage team - no objections to the proposals, recognising that all installations will be removed at the end of the event and any damaged areas made good. The submitted details are considered to adequately detail the implications of the proposals in relation to the significance of affected heritage assets (i.e. Roker Park Conservation Area and the Listed buildings on site) and it is accepted that the proposals will encourage users and visitors to engage with the assets in a meaningful way.

Council's Natural Heritage Team - It is anticipated that comments will be received ahead of the committee meeting and will be presented within a supplementary report.

POLICIES:

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

L1 - General provision of recreational and leisure facilities

L7 - Protection of recreational and amenity land

L12 - Promotion of the recreational and tourist potential of the coast and riverside

NA26 - Development / enhancement of Coastal & Seafront Zone for leisure and tourism; retention of open space.

B2 - Scale, massing layout and setting of new developments

B4 - Development within conservation areas

B10 - Development affecting the setting of listed buildings

CN19 - Development affecting designated / proposed SAC's, SPAs and RAMSAR Sites

CN20 - Developments affecting designated/proposed SSSI's

CN23 - Measures to conserve/ improve wildlife corridors

EC8 - Support for tourist and visitor attractions.

EN1 - Improvement of the environment

EN5 - Protecting sensitive areas from new noise/vibration generating developments

EN12 - Conflicts between new development and flood risk / water resources

EN13 - Requirements for development within the defined coastal zone

T14 - Accessibility of new developments, need to avoid congestion and safety problems arising

T22 - Parking standards in new developments

CN22 - Developments affecting protected wildlife species and habitats

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 are those which seek to build a strong, competitive economy (within section 6), which seek to promote healthy and safe communities (within section 8), which promote sustainable transport (within section 9), which seek to meet the challenge of climate change, flooding and coastal change (within section 14) and which seek to conserve and enhance the natural and historic environments (within section 15 and 16).

The relevant guidance of the NPPF detailed above feeds into policies L1, L7, L12, NA26, B2, B4, B10, CN19, CN20, CN22, CN23, EC8, EN1, EN5, EN12, EN13, T14 and T22 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.

As Members may be aware, the Council is also currently in the process of delivering a Core Strategy and Development Management Policies (CSDMP) document which, as part of a wider Local Development Framework, will serve to replace the current UDP. A draft of the CSDMP was published for consultation in September 2017 and following this process, it has been refined and a 'Publication' draft has recently been prepared and consulted upon. With regard to 'emerging' plans, paragraph 216 of the NPPF states that:

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

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

In terms of the above advice, clearly the Draft Plan has been prepared after the publication of the NPPF and is considered to be consistent with it. The second round of consultation on the Publication draft of the CSDMP has, however, only expired recently and in light of their currently being unresolved objections to the draft CDSMP, it is considered that the weight that can be given to the draft CSDMP is limited to the extent that in considering the merits of the application in question, priority will be given to the aforementioned relevant policies within the Council's adopted Unitary Development Plan.

Also relevant to the determination of the current application are the Council's adopted Roker Park Conservation Area Character Appraisal and Management Strategy (CAMS) and adopted Seafront Regeneration Strategy.

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:

1. Principle of the development;
2. Impact on visual amenity and built heritage;
3. Impact on residential amenity;
4. Impact on highway and pedestrian safety;
5. Impact on ecology and biodiversity;
6. Implications in respect of flooding/drainage.

1. PRINCIPLE OF THE DEVELOPMENT

Both Cliff Park and Bede's Cross are identified as areas of existing public open space by the proposals map of the UDP and consequently, policies L1 and L7 of the UDP are of relevance. Policy L1 states that the Council will, amongst other objectives, seek to provide a high quality range of recreational, sporting, cultural and community facilities and retain existing parks and recreation grounds and maintain and upgrade facilities therein. Policy L7, meanwhile, states that land allocated for open space or outdoor recreation will be protected from development unless certain criteria are met.

In a similar vein, paragraph 97 of the NPPF sets out that existing open space, sports and recreational buildings and land should not be built on unless it is surplus to requirements, or it will be replaced by equivalent or better provision or is for alternative sports and recreation facilities.

Also of relevance in this case is policy L12 of the UDP, which sets out that the Council will promote the recreational and tourist potential of coast by, amongst other measures, encouraging development which provides for the needs of visitors without adversely affecting the environment and conservation requirements. Meanwhile, policy NA26 states that the seafront zone will be developed and enhanced to accommodate a range of indoor and outdoor facilities and leisure opportunities.

The aforementioned Seafront Regeneration Strategy acts as a guide for the regeneration of Seaburn and Roker and it exists to support the objective of the Council's Sunderland Strategy (2008 - 2025) which states that 'by 2025, Roker and Seaburn will have a key role in providing cultural tourism attractions'.

More broadly, policy EC8 of the UDP states that the Council will support the expansion of activities catering for tourists and other visitors by, amongst other measures, actively encouraging opportunities for new tourist initiatives, especially where they are near areas of visitor interest.

With reference to these relevant local and national planning policies, it is considered that the proposed development will not restrict or diminish public access to the areas and will not affect the ability of the public to enjoy these areas. Rather, it is considered that the proposals will utilise and complement them and add to their recreational and cultural value and role as a visitor attraction for the duration of the event.

Moreover, it is considered that the proposed development will support the objectives of the UDP policies and Seafront Regeneration Strategy which seek to develop the seafront zone as a place of recreational and tourist potential, insofar as it will support the delivery of a popular event which is anticipated to be well-attended by City residents and visitors alike.

Given the above, it is considered that the proposed development will support the policies which seek to maximise the tourist and recreational potential of the seafront zone. The proposal is therefore considered to satisfy the objectives of UDP policies L1, L7, L12 and NA26 of the UDP

and the Council's Seafront Regeneration Strategy. The principle of the development is therefore considered to be acceptable.

2. IMPACT ON VISUAL AMENITY AND BUILT HERITAGE

Policy B2 of the Council's UDP seeks to ensure that development proposals respect visual amenity and deliver an appropriate standard of design. Policy B4, meanwhile, seeks to ensure that development proposals respect and enhance the character or appearance of Conservation Areas, whilst policy B10 states that the Council will expect development proposals in the vicinity of Listed buildings to not adversely affect their character or setting.

On a national level, paragraphs 193-196 of the NPPF require consideration of the impact of a development proposal on a built heritage asset to be informed by an understanding of the significance of the asset. Priority should be given to the conservation of heritage assets; where any harm or loss to significance will occur, it will require clear and convincing justification, with substantial harm or total loss only acceptable where this will deliver substantial public benefits which outweigh the harm or loss. Any less than substantial harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Paragraph 200, meanwhile, states that Local Planning Authorities should look for opportunities for new development within Conservation Areas and within the setting of heritage assets to enhance or better reveal their significance - proposals which preserve those elements of the setting that make a positive contribution to the asset (or better reveal its significance) should be treated favourably.

It is noted that part of Bede's Cross falls within the Roker Park Conservation Area and the Roker Park CAMS recognises the significance this area makes to the overall character and appearance of the Conservation Area, given the superb panoramic views out to sea, along the coastline and into the conservation area from the sea.

The Heritage Statement submitted with the application explains that the significance of Cliff Park and Bede's Cross lie in their prominent position and the numerous historic features on site including Bede's Cross, Meiks Lighthouse, remnants of Roker and Abbs Battery and the Edwardian Tram Shelter. The Statement goes on to suggest that the proposals will not harm any areas of historic significance and will not be fixed to the historic structures. They acknowledge that some views of the main buildings may be partially restricted however; it is argued that catching glimpses of the structures will encourage greater engagement and understanding of the historic area given the recently installed interpretation panels.

As set out in the 'Representations' section of this report, both the Council's Built Heritage team and Historic England have no objections to the proposals and it is considered that the development will not result in any harm being caused to the Roker Park Conservation Area or the setting of the Listed structures. The proposals are therefore considered to comply with the requirements of the relevant UDP and NPPF policies as outlined above and the proposals are consequently considered to be acceptable from a built heritage perspective.

3. IMPACT ON RESIDENTIAL AMENITY

Aforementioned policy B2 of the UDP requires any new development to respect and enhance the qualities of nearby properties and the locality. Policy EN1 seeks to minimise all forms of pollution. Policy EN5 meanwhile, requires consideration to be given to the potential for the amenity of

sensitive properties to be affected by noise from development proposals - where a noise issue is likely, the Council will require an assessment of the nature and extent of likely problems and the incorporation of mitigation measures into the design of the development.

On a national level Paragraph 127 of the NPPF 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.

Paragraph 180 of the NPPF also requires Local Planning Authorities to consider noise as an amenity issue and it states that planning decisions should aim to avoid noise from giving rise to a significant adverse impact on health and quality of life as a result of new development. Paragraph 180 also states that planning decisions should seek to limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

It is acknowledged that the Illuminations will encourage an influx of visitors to the above sites however, this will be for a limited period of time when the event is held each year, and the music associated with the attractions will cease at 9pm with the attractions themselves closing down at 10pm each evening. This will ensure that the occupiers of the residential dwellings to the west will not experience disturbance late into the night.

Further to this the transport statement submitted with the application sets out that parking restrictions will be enforced by Sunderland Council from Dovedale Road to Harbour View (not including Chichester Road, Sea Lane and Seaburn Terrace) to ensure that residents of these streets will not be negatively impacted by the event.

With regard to potential disturbance relating to increased noise and light levels, the noise assessment submitted with the application investigated the impact of the music and generators associated with the funfair rides, on the residential properties to the west of the site. The lighting assessment meanwhile investigated the impact of the lighting associated with the event/stall/ride attractions on site.

As stated in the 'Representations' section above the Council's Environmental Health team concluded that as the noise levels would comply with WHO guidance and BS8233 guidance, they would have no objection to the proposal with regard to noise.

They also stated that provided the lighting scheme is designed and managed in the manner recommended by the submitted assessment, the effect of the lighting on the prevailing environment would be considered to be acceptable.

With regard to the above, it is considered that the impact of the development on residential amenity is acceptable and the proposal therefore complies with policies B2 and EN1 and EN5 of the adopted UDP and the objectives of the NPPF.

4. IMPACT ON HIGHWAY AND PEDESTRIAN SAFETY

Policy T14 of the UDP 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. In addition, policy T22 seeks to ensure that the necessary levels of car parking provision will be provided.

On a national level paragraph 109 of the NPPF sets out that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

A transport statement has been provided with the application and it reviews the proposed traffic arrangements and parking provision, the impact of the event on the existing infrastructure and access to the site via sustainable methods.

The statement outlines the parking restrictions that will be enforced by Sunderland Council from Thursday-Sunday (4:30pm to 9pm) and all week during the October school holidays, to avoid excess parking near the site. Sunderland City Council will also provide stewards to control access to the restricted areas. Existing bus routes will be accommodated through the traffic management zones, allowing visitors to use more sustainable park and ride schemes.

As set out in the 'Representations' section of this report, the Council's Highways team has raised no objections to the development, being satisfied that effective parking and traffic management arrangements will be in place for the duration of the event each year. On this basis, it is considered that the proposals will not have an unacceptable impact on highway safety, in accordance with the objectives of the NPPF and policies T14 and T22 of the UDP.

5. IMPACT ON ECOLOGY AND BIODIVERSITY

As stated previously Cliff Park is immediately adjacent to Northumbria Coast Special Protection Area and Ramsar Site and Durham Coast Site of Special Scientific Interest.

The United Kingdom is bound by the terms of the Council Directive 79/409/EEC on the Conservation of Wild Birds (the Birds Directive) and the Council Directive 92/42/EEC on the conservation of natural habitats and wild flora and fauna (the Habitats Directive). These are implemented in the UK through the Conservation regulations which provide for the protection of areas of European importance for wildlife, in the form of Special Areas of Conservation (SAC's) designated under the Habitats Directive, and Special Protection Areas (SPA's) designated under the Birds Directive. Collectively, these are termed European sites, and overall network of European sites is termed Natura 2000. It is an offence under the legislation and regulations to carry out an act which may damage a qualifying species or habitat for which the site is designated. A Habitat Regulation Assessment (HRA) is the mechanism to be implemented to ensure the above legislation is complied with and determines whether a plan or project would adversely affect the integrity of any European site in terms of its conservation objectives. Where adverse effects are identified alternative solutions should be identified and the plan or project modified to avoid any adverse effects. The LPA, as the Competent Authority, can adopt the plan or approve the project only after having ascertained that it will not adversely affect the integrity of a European Site.

On a national level section 15 of the NPPF sets out a general strategy for the conservation and enhancement of the natural environment and at paragraph 175 it advises that planning permission should be refused for development which has significant harm on biodiversity. On a local level, policy CN19 of the UDP states that Special Areas of Conservation, Special Protection Areas and Ramsar Sites will be conserved and development affecting such sites will only be allowed if it would not adversely affect the nature conservation interest of the site either directly or indirectly or clear overriding public interest for the development exists. Policy CN20, meanwhile, seeks to prevent unacceptable harm being caused to Sites of Special Scientific Interest (SSSIs), whilst policy CN22 states that development that would adversely affect any animal or plant

species afforded special protection by law, or its habitat, will not be permitted. Finally CN23 seeks to conserve and enhance the wildlife corridors identified on the UDP proposals map.

The planning application has been accompanied by a Habitats Regulations Assessment (HRA) Statement, which considers whether the development proposals will have likely significant effects on the Northumbria Coast Ramsar and Special Protection Area and the Durham Coast SSSI. The HRA is designed to inform an 'Appropriate Assessment' of likely effects by the Competent Authority, which in this case is the City Council in its capacity as Local Planning Authority.

The HRA Statement, concludes that the illuminations event as a whole is likely to have significant effects on the SPA birds foraging along the coastline and the qualifying habitats of the SSSI. The attractions proposed at Cliff Park are considered as being the most likely to have an impact given its proximity to the overlapping Ramsar and SPA sites, although increased litter will have a general impact across all sites and can be blown by the wind along the coast.

In terms of considering each potential impact, it has been taken into account that the coastline already sees significant levels of disturbance in the areas around the illuminations; the temporary nature of the attractions; the timing of the illuminations outside the main wintering period; the fact that the illuminations will take place in hours of darkness; and that low tide corresponds with only 50% of the event, further reducing the risk of birds foraging on Parson's Rocks. The following conclusions were consequently reached:

- Noise pollution - Likely significant effect;
- Disturbance of foraging coastal birds by visitor pressures - No likely significant effect;
- Disturbance to birds via light pollution - No likely significant effect;
- Damage to qualifying habitats - Likely significant effect;
- Increased urban edge effect, including littering - Likely significant effect;
- Visual disturbance to foraging birds - No likely significant effect;

The HRA Statement does, however, consider that the effects of the development can be limited by incorporating appropriate mitigation measures. In order to reduce the significant effects identified above to suitable levels, the HRA Statement proposes a series of such measures, including:

- 'Soft starts' for rides and attractions to reduce the likelihood of birds being shocked;
- Construction works to halt in the event freezing temperatures occur, as birds are most vulnerable during cold and severe weather conditions;
- The adoption of pollution prevention protocols, with emergency spill kits available at each park;
- Sufficient numbers of bins to be provided in each park;
- Staff employed to undertake litter picking for the duration of the event;

The HRA Statement also recommends on-going monitoring of the impacts of the event to determine whether any impacts not anticipated by the Assessment occur. If monitored during the first year, mitigating measures can be altered where necessary in the following years to provide improved solutions for protecting the integrity of the designated sites and their features. Monitoring measures could include increased warden presence along the coastline before, during and after the event; record-keeping of all accidental spillages and other forms of pollution and monitoring of litter management to determine if the measures put in place are adequate.

An Appropriate Assessment of the likely effects of the proposals on the coastal sites is still being prepared by the Council's Natural Heritage team - the Natural Heritage team have, however, verbally indicated that the mitigation measures set out by the HRA Statement will ensure that the development proposals are unlikely to have a significant effect on the European-protected sites. It

is also noted that Natural England has no objections to the development in respect of the coastal sites. As such, it is anticipated that the proposals will be found acceptable in respect of their effect on the protected coastal habitats and species.

As stated above, an HRA 'Appropriate Assessment' from the Council's Natural Heritage team is awaited. Details of the 'Appropriate Assessment', together with concluding comments in respect of matters relating to ecology and biodiversity, will be provided to Members in a supplementary report ahead of the Committee meeting.

6. IMPLICATIONS IN RESPECT OF FLOODING/DRAINAGE

On a national level paragraph 163 of the NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Meanwhile policy EN12 of the UDP states that in assessing development proposals, the Council will seek to ensure that the proposal will not materially impede the flow of flood water, or increase the number of people or properties at risk of flooding. Policy EN13 meanwhile relates specifically to the coastal zone and states that the City Council will seek to ensure that any development proposal will not significantly increase the likelihood of flooding, coastal erosion or land instability and makes a positive contribution to the appearance of the particular section of the zone.

As Members may be aware, the City Council is now the Lead Local Flood Authority (LLFA) in respect of major development proposals, with responsibility for matters pertaining to the management of surface water.

In terms of flooding / drainage, the site is located within Flood Zone 1 (at lowest risk of flooding). Although a section of the site is noted as being in Flood Zone 3 (high risk of flooding), given the historical tidal levels and topographical levels it is considered that the inclusion of this area in Flood Zone 3 is actually anomalous. The submitted Flood Risk Assessment (FRA) concludes that the proposed development is temporary in nature and of limited size, and therefore it is not considered necessary or practical to provide a formal drainage strategy for the site. As stated within the representations section of the report the Flood and Coastal Team agree that the proposal is limited in scale and temporary in nature, and would therefore not exacerbate existing surface water flow paths. Furthermore the proposed run-off from the temporary structures will be to the existing grassed areas. Given this they conclude that no formal maintenance strategy is required in this instance.

As such, the proposal would not increase the risk of flooding and is considered to make a positive contribution to the character of the coastal zone through the provision of flexible, temporary active uses, thereby according with UDP policies EN12 and EN13 and the relevant paragraph of the NPPF.

CONCLUSION

The proposed temporary development is considered to be acceptable in principle it is not considered to be harmful to the character and setting of the conservation area or listed buildings on site. Nor would it increase flooding or be harmful to residential amenity, the ecological value of the area, protected sites and species within the coastal zone or highway and pedestrian safety. As such, the proposal is considered to comply with policies L1, L7, L12, NA26, B2, B4, B10, EC8, EN1, EN5, EN12, EN13, T14 and T22 of the adopted UDP.

Consideration is, however, still being given to the implications of the proposals in respect of the potential impacts of the development on the European-protected habitats and species of the adjacent coast. To this end, the consultation response from the Council's Natural Heritage team is awaited in relation to these matters. It is anticipated that the outstanding 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 - Minded to Grant Consent under Regulation 3 of the Town and Country Planning General Regulations 1992 (as amended), subject to receipt of favourable comments from the Council's Natural Heritage Team and subject to the following draft conditions:

Conditions:

1 The temporary use of the land and associated erection of light displays and other temporary buildings and structures is hereby approved for a limited two-month period between the dates of 1st October and 30th November each year until 30th November 2023. The illuminations event cannot operate and be open to the public for more than 31 days within this two month period each year and no setting-up and de-rigging activities can take place outside of this two month period each year. In all instances, the Park shall be reinstated to its former condition within 14 working days of the cessation of the illuminations event. The limited operating period is considered necessary in order to achieve a satisfactory form of development in respect of the amenity of the area and in relation to the ecological impacts of the development and to comply with policies B2 and CN19 of the UDP and the objectives of the NPPF.

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

The site location plan received 30.07.2018;

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

3 Notwithstanding the submitted information, all music associated with the illuminations and rides must be switched off by no later than 21:00 each day and all rides and other ancillary facilities must cease to operate by no later than 22:00 each day. These hours of operation are considered necessary in order to achieve a satisfactory form of development in respect of the amenity of the area and in relation to the ecological impacts of the development and to comply with policies B2, EN1, EN5 and CN19 of the UDP and the objectives of the NPPF.

4 The lighting displays hereby approved shall be designed, installed and managed in accordance with the recommendations set out in section 10 of the 'Lighting Impact Assessment Report' by Stainton Lighting Design Services Ltd. (July 2018), in order to minimise light intrusion from the holding of the event in respect of the amenity of the area and in relation to the ecological impacts of the development and to comply with policies B2, EN1 and CN19 of the UDP and the objectives of the NPPF.

5 The music noise from the rides and attractions lighting hereby approved shall be limited to the levels set out in Table 4 of the report undertaken by Apex Acoustics, dated 13th July 2018, in order to minimise noise intrusion from the holding of the event in respect of the amenity of the area and in relation to the ecological impacts of the development and to comply with policies B2, EN1, EN5 and CN19 of the UDP and the objectives of the NPPF.

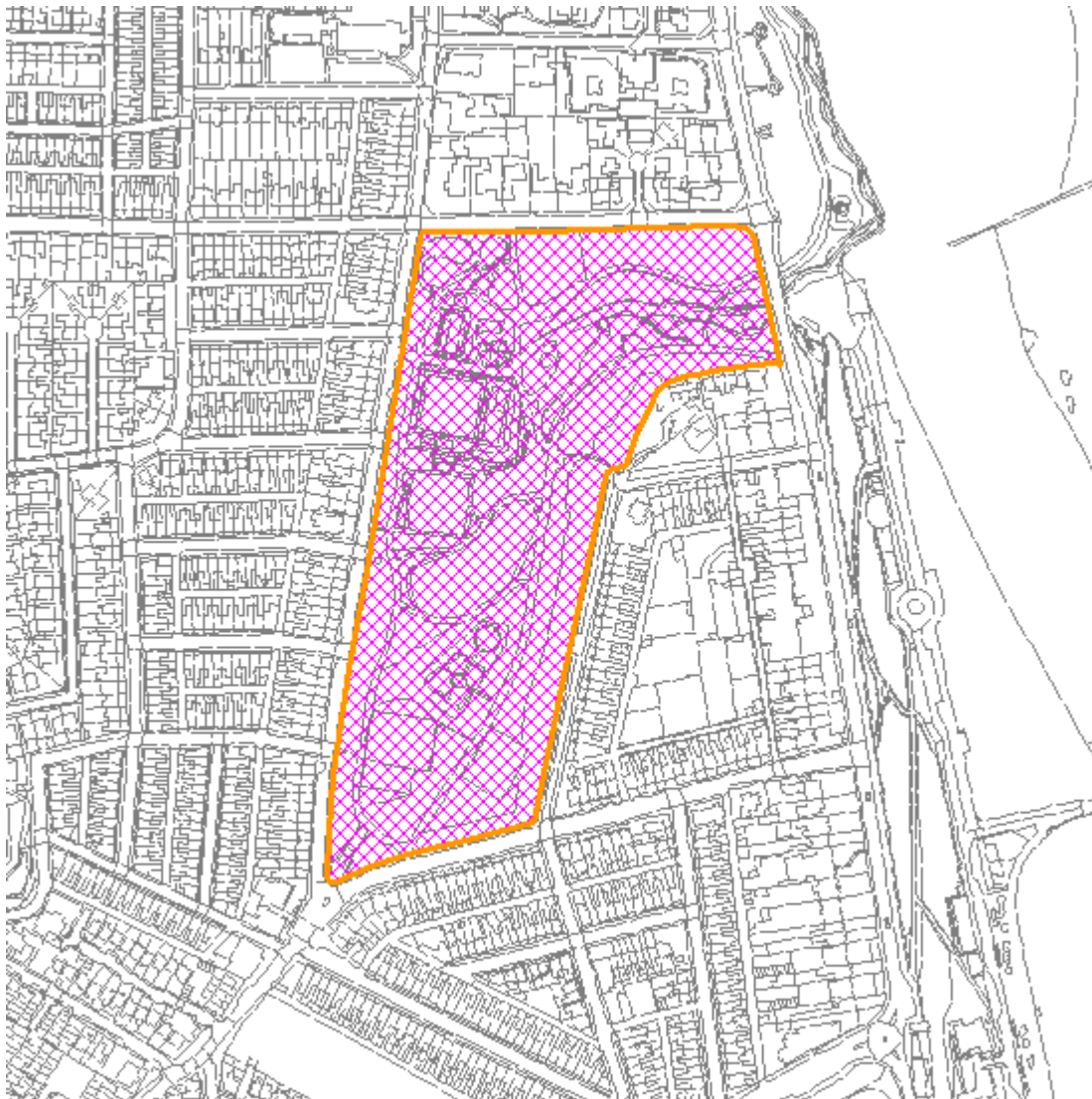
Reference No.: 18/01349/LP3 Local Authority (Reg 3)

Proposal: Temporary change of use of Roker Park and erection of temporary buildings and structures, to allow for Sunderland Illuminations & Festival of Light to operate for a number of days annually between 1st October-30th November for a 5 year period.

Location: Roker Park, Roker Park Road, Sunderland

Ward: St Peters
Applicant: Sunderland City Council
Date Valid: 30 July 2018
Target Date: 29 October 2018

Location Plan



PROPOSAL:

Planning permission is sought for the temporary change of use of Roker Park, Roker Park Road, Sunderland, and the erection of temporary buildings and structures, to allow for Sunderland Illuminations and Festival of Light to operate for a number of days annually between 1st October - 30th November for a 5-year period.

The proposed development affects Roker Park, a Grade-II Registered Historic Park and Garden located within the Victorian and Edwardian coastal suburb of Roker. The Park, the residential terraces surrounding it and areas of the nearby seafront and promenade also form the basis of the Roker Park Conservation Area. The Park, which is owned by the City Council and dates from 1880, is a popular amenity facility, offering play areas, a boating lake, a model railway and a ravine leading to the promenade and beach. The Park also features a range of historic buildings and structures, including a bandstand and drinking fountain, both of which are Grade-II Listed.

The application seeks to use the Park for purposes associated with the holding of the Sunderland Illuminations and Festival of Light. The Illuminations were first held in the 1930s and they have been displayed regularly ever since, with the most recent re-launch occurring in 2012. The illuminations are to be held for a one month period in late October/early November - site assembly and clearance/reinstatement would take place in the weeks prior to and following this period, hence the application seeking permission for the use of the Park for the full two-months.

Roker Park is intended to act as the main site for the illuminations and for the duration of the event, it is proposed to host a series of light features spread around the Park. An indicative layout of the location of the proposed light installations has been submitted with the planning application - whilst this is considered to provide a typical representation of the layout, it may be subject to minor variations within the 5-year period of planning permission being sought. In addition to the light displays and installations, the Park would also feature some complimentary facilities, including a small food court/bar and small children's rides and stalls.

The event is anticipated to attract over 200,000 visitors, with average attendance expected to be around 9,000 visitors per evening (attendance is actually capped at 10,000). Entry to the Park is to be ticketed, with visitors allocated a one-hour time slot to manage attendance throughout each evening. The illuminations are to operate on Thursday to Sunday evenings, apart from during the October half-term school holidays, when they would operate daily. First entry to the event is proposed to be at 16:00, with last entry at 20:30.

Although the Park has a number of entry points, only four of these will be ticketed, with the remainder being used as exit or emergency exit points. In terms of management/mitigation measures, the supporting statement provided with the application advises the following will be implemented:

- a hotline for residents with concerns will be available for the duration of the event;
- parking restrictions around Roker Park will be in place;
- limits to hours of operation;
- quarterly community consultation meetings;
- briefing of Ward Members with information to provide to constituents.

The application has been submitted on behalf of the Council's Executive Director of People's Services and has been accompanied by a Planning Statement, a Noise Assessment, Preliminary Ecological Survey and Habitat Regulations Assessment Statement (which has been updated during the course of the application), a Lighting Assessment, Heritage Statement, a Transport Statement, a Flood Risk Assessment. An Implementation and Mitigation Strategy, which sets out

the means by which the set-up and de-rig process will be managed to minimise disruption and damage to the Park, has also been submitted for consideration.

Members should note that a separate planning application (ref. 18/01347/LP3) for development associated with the illuminations at Cliff Park and the grassed area around Bede's Cross has also been submitted and is an item on this agenda.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted

CONSULTEES:

Natural England
St Peters - Ward Councillors Consultation
DC North Chair And Vice Chair Consultation
Environmental Health
Network Management
Flood And Coastal Group Engineer
English Heritage
The Garden Trust
Southern Area Command - Police
NE Ambulance Service NHS Trust
Fire Prevention Officer
Nexus

Final Date for Receipt of Representations: **29.08.2018**

REPRESENTATIONS:

Public consultation - a total of 3 no. representations have been submitted in response to public consultation, which in this case comprised the display of 10 no. notices around the perimeter of Roker Park and a notice published in the Sunderland Echo.

Two representations comprise objections to the application, with the following issues raised:

- Roker Park is not an appropriate size for the event and is within a residential area with existing parking problems;
- The illuminations are invasive and serve to restrict public access to the Park for weeks;
- The Park's grass takes a long while to recover after the event;
- Litter, noise and inconvenience for residents in the area are a 'nightmare';
- Parking is problematic during the event;
- Anti-social behaviour occurs during the event and it attracts teenagers hanging around and drinking;
- Noise is an issue during the event, particularly from running generators and playing of music;
- The event should be held at The Rec (the Recreation Field at Seaburn), seafront and Cliffe Park as these are more suitable;
- Objector receives abuse from the public parking in his disabled parking bay;

- The Park is in a Conservation Area but the Council uses it for whatever it likes and doesn't take notice of residents. The Council also only tends to the Park ahead of public events - it should be cared for and not abused;
- The Council should give extra thought to the following measures - annual residents' passes; extra litter pickers and security staff; earlier cut-off time for music and preventing public access along Roker Park Terrace.

One representation expresses support for the application, with the illuminations viewed as being a longstanding tradition in the City. It is recognised that some minor nuisances occur during the event, but it is considered that effective management arrangements can ensure it is properly run.

Historic England - does not wish to offer any comments; advises that advice should be taken from the Council's built heritage specialists.

Natural England - no comments to make.

Northumbria Gardens Trust/The Gardens Trust (joint response) - supports the use of historic public parks for enjoyment and recreation and so the event is considered to be laudable and is welcomed. Concern was raised, however, in respect of the potential of the event to give rise to long-lasting damage to the park, particularly to its hard and soft landscaping, lighting standards and from the laying of any new electricity supply and cabling. Further information in respect of the measures to be put in place to mitigate or repair any damage caused by the event, and thus ensure the Park is returned to its former condition, has been requested.

In response to these comments, the applicant has supplied an 'Implementation and Mitigation Strategy', which provides additional detail in respect of set-up and de-rig procedures, public access arrangements and post-event clear-up measures, all of which are designed to minimise damage to the Park and ensure any damage which does occur is effectively rectified. The Strategy has been sent to the Northumbria Gardens Trust for their information and further comment, but at the time of writing this report, a response had not been forthcoming.

Tyne and Wear Fire and Rescue Service - no objections to the proposal.

Nexus - no objections to the application; recommends the Council (as organisers of the event) liaise with Nexus in respect of any temporary alterations to bus infrastructure in the area.

Council's Highways team - no objections to the proposals; it is noted that parking management and temporary traffic management arrangements will be in place for the duration of the event.

Council's Environmental Health team - has reviewed the information submitted in respect of noise and lighting. In terms of noise, it is noted that the Park is flanked by residential dwellings on most sides and these are considered to be the nearest noise sensitive receptors. The submitted noise assessment considers that the main noise source will be from people attending the event and following an assessment of prevailing noise conditions around the Park, it is concluded that provided fewer than 2000 people attend the event at any one time, noise is unlikely to result in a significant adverse impact on the amenity of the nearest dwellings. Given these conclusions, the Council's Environmental Health team has no objections to the proposal in relation to noise.

In respect of lighting, it is noted that the proposals will involve the display of illuminations of various types and wattages, with a range from less than 1 watt to the largest unit of 1200 watts. It is also noted that the submitted lighting assessment recommends that lighting is aimed in the downward direction to minimise spill - it is accepted, however, that this is not necessarily practicable in relation to an illumination display and it is therefore advised that the visual impact

mitigation measures recommended by section 9 of the assessment are incorporated into the design of the illumination scheme. The Council's Environmental Health team conclude that provided the lighting scheme is designed and managed in the manner recommended by the assessment, the effect of the lighting on the prevailing environment will be acceptable.

Council's Flood and Coastal team (in capacity as Lead Local Flood Authority) - confirms that the Flood Risk Assessment submitted with the application is satisfactory. It is, however, recommended that an emergency flood plan be submitted and approved prior to the illuminations being opened to the public.

Council's Built Heritage team - no objections to the proposals, recognising that all installations will be removed at the end of the event and any damaged areas made good. The submitted details are considered to adequately detail the implications of the proposals in relation to the significance of affected heritage assets (i.e. Roker Park and Conservation Area and the Listed buildings within the Park) and it is accepted that the proposals will encourage users and visitors to engage with the assets in a meaningful way.

Council's Natural Heritage team - comments awaited; it is anticipated that a consultation response will be received ahead of the Committee meeting.

POLICIES:

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

L_1_General provision of recreational and leisure facilities

L_7_Protection of recreational and amenity land

L_12_Promotion of the recreational and tourist potential of the coast and riverside

NA_26_Development / enhancement of Coastal & Seafront Zone for leisure and tourism; retention of open space.

B_2_Scale, massing layout and setting of new developments

B_4_Development within conservation areas

B_10_Development affecting the setting of listed buildings

B_18_Protecting the character/ setting of historic parks and gardens

CN_19_Development affecting designated / proposed SAC's, SPAs and RAMSAR Sites

CN_20_Developments affecting designated/proposed SSSI's

CN_23_Measures to conserve/ improve wildlife corridors

EC_8_Support for tourist and visitor attractions.

EN_1_Improvement of the environment

EN_5_Protecting sensitive areas from new noise/vibration generating developments

T_14_Accessibility of new developments, need to avoid congestion and safety problems arising

T_22_Parking standards in new developments

CN_22_Developments affecting protected wildlife species and habitats

COMMENTS:

CONSIDERATION OF APPLICATION

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 are those which seek to build a strong, competitive economy (within section 6), which seek to promote healthy and safe communities (within section 8), which promote sustainable transport (within section 9), which seek to meet the challenge of climate change, flooding and coastal change (within section 14) and which seek to conserve and enhance the natural and historic environments (within section 15 and 16).

The relevant guidance of the NPPF detailed above feeds into policies L1, L7, L12, NA26, B2, B4, B10, B18, CN19, CN20, CN22, CN23, EC8, EN1, EN5, EN12, T14 and T22 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.

As Members may be aware, the Council is also currently in the process of delivering a Core Strategy and Development Management Policies (CSDMP) document which, as part of a wider Local Development Framework, will serve to replace the current UDP. A draft of the CSDMP was published for consultation in September 2017 and following this process, it has been refined and a 'Publication' draft has recently been prepared and consulted upon. With regard to 'emerging' plans, paragraph 216 of the NPPF states that:

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

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

In terms of the above advice, clearly the Draft Plan has been prepared after the publication of the NPPF and is considered to be consistent with it. The second round of consultation on the Publication draft of the CSDMP has, however, only expired recently and in light of their currently being unresolved objections to the draft CDSMP, it is considered that the weight that can be given to the draft CSDMP is limited to the extent that in considering the merits of the application in question, priority will be given to the aforementioned relevant policies within the Council's adopted Unitary Development Plan.

Also relevant to the determination of the current application are the Council's adopted Roker Park Conservation Area Character Appraisal and Management Strategy (CAMS) and adopted Seafront Regeneration Strategy.

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:

1. Principle of the development;
2. Impact on visual amenity and built heritage;
3. Impact on residential amenity;
4. Impact on highway and pedestrian safety;
5. Impact on ecology and biodiversity;

6. Implications in respect of flood risk

1. Principle of development

Roker Park is identified as an area of existing public open space by the proposals map of the UDP and consequently, policies L1 and L7 of the UDP are of relevance. Policy L1 states that the Council will, amongst other objectives, seek to provide a high quality range of recreational, sporting, cultural and community facilities and retain existing parks and recreation grounds and maintain and upgrade facilities therein. Policy L7, meanwhile, states that land allocated for open space or outdoor recreation will be protected from development unless certain criteria are met.

In a similar vein, paragraph 97 of the NPPF sets out that existing open space, sports and recreational buildings and land should not be built on unless it is surplus to requirements, or it will be replaced by equivalent or better provision or is for alternative sports and recreation facilities.

Also of relevance in this case is policy L12 of the UDP, which sets out that the Council will promote the recreational and tourist potential of coast by, amongst other measures, encouraging development which provides for the needs of visitors without adversely affecting the environment and conservation requirements. Meanwhile, policy NA26 states that the seafront zone will be developed and enhanced to accommodate a range of indoor and outdoor facilities and leisure opportunities. It also states that the existing parks in the seafront zone, including Roker Park, will be further upgraded.

The aforementioned Seafront Regeneration Strategy acts as a guide for the regeneration of Seaburn and Roker and it exists to support the objective of the Council's Sunderland Strategy (2008 - 2025) which states that 'by 2025, Roker and Seaburn will have a key role in providing cultural tourism attractions'.

More broadly, policy EC8 of the UDP states that the Council will support the expansion of activities catering for tourists and other visitors by, amongst other measures, actively encouraging opportunities for new tourist initiatives, especially where they are near areas of visitor interest.

With reference to these relevant local and national planning policies, it is considered that the proposed development will not conflict with the policies which seek to protect Roker Park, in its role as a valuable area of public open space, insofar as the proposals will not restrict or diminish public access to the Park and will not affect the ability of the public to enjoy the Park. Rather, it is considered that the proposals will utilise and complement the Park and add to its recreational and cultural value and role as a visitor attraction for the duration of the event.

Moreover, it is considered that the proposed development will support the objectives of the UDP policies and Seafront Regeneration Strategy which seek to develop the seafront zone as a place of recreational and tourist potential, insofar as it will support the delivery of a popular event which is anticipated to be well-attended by City residents and visitors alike.

Given the above, it is considered that the proposed development will not conflict with the land-use policy objectives relevant to Roker Park and will support the policies which seek to maximise the tourist and recreational potential of the seafront zone. The proposal is therefore considered to satisfy the objectives of UDP policies L1, L7, L12 and NA27 of the UDP and the Council's Seafront Regeneration Strategy. The principle of the development is therefore considered to be acceptable.

2. Impact of development on visual amenity and built heritage

Policy B2 of the Council's UDP seeks to ensure that development proposals respect visual amenity and deliver an appropriate standard of design. Policy B4, meanwhile, seeks to ensure that development proposals respect and enhance the character or appearance of Conservation Areas, whilst policy B10 states that the Council will expect development proposals in the vicinity of Listed buildings to not adversely affect their character or setting. Also relevant is policy B18, which states that the character and setting of historic parks and gardens will be protected from adverse impact by development.

On a national level, paragraphs 193-196 of the NPPF require consideration of the impact of a development proposal on a built heritage asset (including Grade-II Registered Historic Parks or Gardens) to be informed by an understanding of the significance of the asset. Priority should be given to the conservation of heritage assets; where any harm or loss to significance will occur, it will require clear and convincing justification, with substantial harm or total loss only acceptable where this will deliver substantial public benefits which outweigh the harm or loss. Any less than substantial harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Paragraph 200, meanwhile, states that Local Planning Authorities should look for opportunities for new development within Conservation Areas and within the setting of heritage assets to enhance or better reveal their significance - proposals which preserve those elements of the setting that make a positive contribution to the asset (or better reveal its significance) should be treated favourably.

The Roker Park Conservation Area CAMS also recognises the contribution the Park makes to the overall character and appearance of the Conservation Area and Management Objective 2 and Proposals 2 and 2a therein set out that the Council will seek to manage and enhance the special historic interest of the Park and explore ways in which it can be improved.

The Heritage Statement submitted with the application explains that the significance of Roker Park is underpinned by its role in developing Roker as an affluent coastal suburb and its contribution to shaping the growth and layout of Roker and catalysing the development of the wider seafront and the neighbouring resort of Seaburn. It is also a fine example of a Victorian park and is one of only two 19th century parks in Sunderland. The Statement goes on to suggest that the proposals will not harm the Park's historic layout, landscape or architectural detailing and will actively encourage more people to use the Park, to the benefit of its long-term future. In conclusion, it argues that no substantial harm will be caused to the significance of the heritage assets affected by the proposals.

As set out in the 'Representations' section of this report, both the Council's Built Heritage team and Historic England have no objections to the proposals and consider that the development will not result in any harm being caused to the heritage significance of Roker Park, the Roker Park Conservation Area and the setting of the Listed structures within the Park. The proposals are therefore considered to comply with the requirements of the relevant UDP and NPPF policies as outlined in respect of these matters.

However, as noted earlier, the Northumbria Gardens Trust are currently reviewing the Implementation and Mitigation Strategy prepared and submitted to address their concerns in respect of potential damage to the Park caused by the holding of the event. It is anticipated that further comments from the Northumbria Gardens Trust will be received ahead of the Committee meeting and details will be provided to Members ahead of the meeting via a supplementary report.

3. Impact of development on residential amenity

Aforementioned policy B2 of the Council's UDP also requires new development proposals to respect the amenity of existing residential properties, whilst policy EN1 seeks to minimise all forms of pollution. Policy EN5, meanwhile, requires consideration to be given to the potential for the amenity of sensitive properties to be affected by noise from development proposals - where a noise issue is likely, the Council will require an assessment of the nature and extent of likely problems and the incorporation of mitigation measures into the design of the development.

Paragraph 180 of the NPPF also requires Local Planning Authorities to consider noise as an amenity issue and it states that planning decisions should aim to avoid noise from giving rise to a significant adverse impact on health and quality of life as a result of new development. Paragraph 180 also states that planning decisions should seek to limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

As noted previously, Roker Park is faced by residential terraces on a number of sides and they are separated from the Park's boundaries by intervening roads. Given this arrangement, it is considered that the proposed temporary structures and light installations within the Park will not result in the development affecting the outlook from the terraces or appearing as visually intrusive.

The application has been accompanied by noise and lighting assessments, both of which have been assessed carefully by the Council's Environmental Health team. As set out in the 'Representations' section of this report, the Environmental Health team consider that the reports provide appropriate appraisals of the potential impacts of noise and lighting on the amenity of nearby residential properties.

With regard to noise, it has been concluded that providing no more than 2000 people are present in the Park at any one time, the amenity of dwellings will not be adversely affected by the holding of the event and to this end, it is observed that the Planning Statement submitted with the application confirms that the capacity of the Park will not exceed this figure at any time during the evenings on which the event will be held. The event is also proposed to cease at 21:30 each day, ensuring any noise from visitors attending the event will cease at a reasonable hour. As such, and whilst objectors to the development have raised concerns regarding noise and disturbance, the Council's Environmental Health team are satisfied that the proposals will not have a significant adverse impact on the amenity of the area as a result of noise.

With regard to lighting, the Council's Environmental Health team have recommended that the mitigation measures set out in the assessment submitted with the application are incorporated into the lighting scheme. The recommended measures include using luminaires with good optical control, no light being directly emitted above the horizontal, limiting the level of luminance to that reasonably required, careful siting and aiming of the lights and the incorporation of optical control and adaptive lighting strategy. It is considered that a requirement to adopt these measures could be secured via a condition and it is recommended that Members impose a condition to this effect in the event they are minded to grant consent for the development.

Residents in the area have, in response to consultation, also raised concerns regarding anti-social behaviour, parking issues and litter. It is considered, however, that any issues which arise in respect of these matters can be adequately addressed by the proposed event management measures, the staff tasked with on-site managing of the event and, where appropriate, agencies such as the police.

Clearly, given its temporary nature, the development will only affect the amenity of residents in the vicinity of the Park on the limited number of days on which the event will be held each year. Nevertheless, full consideration has been given to the residential amenity implications of the

development and with reference to the above comments in relation to noise and light pollution, it has been found that the development will not unacceptably affect the amenity of residents for the duration of each event. The proposals are therefore considered to comply with the objectives of the NPPF and policies B2, EN1 and EN5 of the UDP.

4. Impact of the development on highway and pedestrian safety

Paragraph 109 of the NPPF advises that development should only be refused on transport grounds where there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

On a local level, policy T14 of the UDP requires new development proposals to be accessible, to not cause traffic congestion or highway safety problems on existing roads, make appropriate access for the safe access and egress of vehicles and pedestrians and to indicate how parking requirements will be accommodated. Policy T22 seeks to ensure that development proposals are afforded an appropriate level of dedicated car parking.

A Transport Statement has been provided with the application and it reviews the proposed traffic arrangements and parking provision, the impact of the event on the existing infrastructure and access to the site via sustainable methods.

The Statement outlines that existing parking facilities, including the car park at Morrisons Supermarket and along Roker Promenade, is adequate to manage existing tourism levels to the area. It goes on to outline the parking restrictions that will be enforced by Sunderland Council from Thursday-Sunday (4:30pm to 9pm) and all week during the October school holidays, to avoid excess parking near the site. Sunderland City Council will also provide stewards to control access to the restricted areas. Existing bus routes will be accommodated through the traffic management zones, allowing visitors to use more sustainable park and ride schemes.

The Statement concludes that Sunderland seafront is well equipped to manage large scale events such as the illuminations and the Sunderland Air Show. It goes on to state that it has been demonstrated that the event will not produce an adverse effect on the surrounding road network and the parking restrictions will provide adequate relief to the local residents.

As set out in the 'Representations' section of this report, the Council's Highways team has raised no objections to the development, being satisfied that effective parking and traffic management arrangements will be in place for the duration of the event each year. On this basis, it is considered that the proposals will not have an unacceptable impact on highway safety, in accordance with the objectives of the NPPF and policies T14 and T22 of the UDP.

5. Implications of development in respect of ecology and biodiversity

Section 15 of the NPPF sets out a general strategy for the conservation and enhancement of the natural environment and at paragraph 175 it advises that planning permission should be refused for development which has significant harm on biodiversity. On a local level, policy CN19 of the UDP states that Special Areas of Conservation, Special Protection Areas and Ramsar Sites will be conserved and development affecting such sites will only be allowed if it would not adversely affect the nature conservation interest of the site either directly or indirectly or clear overriding public interest for the development exists. Policy CN20, meanwhile, seeks to prevent unacceptable harm being caused to Sites of Special Scientific Interest (SSSIs), whilst policy CN22 sets out that development proposals must not adversely affect species protected by law. Policy CN23, meanwhile, seeks to conserve and enhance the wildlife corridors identified on the UDP proposals map.

Also relevant with regard to ecology in the United Kingdom are the terms of the EU Council Directive 79/409/EEC on the Conservation of Wild Birds (the Birds Directive) and the EU Council Directive 92/42/EEC on the conservation of natural habitats and wild flora and fauna (the Habitats Directive). These are implemented in the UK through the Conservation Regulations, which provide for the protection of areas of European importance for wildlife, in the form of Special Areas of Conservation (SACs) designated under the Habitats Directive, and Special Protection Areas (SPAs) designated under the Birds Directive. Collectively, these are termed 'European' sites, and overall network of European sites is termed Natura 2000. It is an offence under the legislation and regulations to carry out an act which may damage a qualifying species or habitat for which the site is designated.

A Habitat Regulation Assessment (HRA) is the mechanism to be implemented to ensure the above legislation is complied with and determines whether a plan or project would adversely affect the integrity of any European site in terms of its conservation objectives. Where adverse effects are identified alternative solutions should be identified and the plan or project modified to avoid any adverse effects. The Local Planning Authority, as the Competent Authority, can adopt the plan or approve the project only after having ascertained that it will not adversely affect the integrity of a European Site.

The planning application has been accompanied by a Preliminary Ecological Risk Assessment, which considers the potential implications of the proposals in respect of the ecological value of Roker Park itself, and a Habitats Regulations Assessment (HRA) Statement, which considers whether the development proposals will have likely significant effects on the Northumbria Coast Ramsar and Special Protection Area and the Durham Coast SSSI. The HRA is designed to inform an 'Appropriate Assessment' of likely effects by the Competent Authority, which in this case is the City Council in its capacity as Local Planning Authority.

In terms of the Park itself, the Risk Assessment concludes that whilst the Park may afford roosting and foraging opportunities for bats, nesting opportunities for birds and foraging and shelter for hedgehogs, given the time of year in which the event will take place and the nightly closing time of 21:30, it is unlikely that the development will affect any of these species.

The HRA Statement, meanwhile, concludes that the illuminations event as a whole (i.e. not just the elements affecting Roker Park) is likely to have significant effects on the SPA birds foraging along the coastline and the qualifying habitats of the SSSI. The attractions proposed at Cliff Park are considered as being the most likely to have an impact given its proximity to the overlapping Ramsar and SPA sites, although increased litter will have a general impact across all sites and can be blown by the wind along the coast.

In terms of considering each potential impact, it has been taken into account that the coastline already sees significant levels of disturbance in the areas around the illuminations; the temporary nature of the attractions; the timing of the illuminations outside the main wintering period; the fact that the illuminations will take place in hours of darkness; and that low tide corresponds with only 50% of the event, further reducing the risk of birds foraging on Parson's Rocks. The following conclusions were consequently reached:

- Noise pollution - Likely significant effect;
- Disturbance of foraging coastal birds by visitor pressures - No likely significant effect;
- Disturbance to birds via light pollution - No likely significant effect;
- Damage to qualifying habitats - Likely significant effect;
- Increased urban edge effect, including littering - Likely significant effect;
- Visual disturbance to foraging birds - No likely significant effect;

The HRA Statement does, however, consider that the effects of the development can be limited by incorporating appropriate mitigation measures. In order to reduce the significant effects identified above to suitable levels, the HRA Statement proposes a series of such measures, including:

- 'Soft starts' for rides and attractions to reduce the likelihood of birds being shocked;
- Construction works to halt in the event freezing temperatures occur, as birds are most vulnerable during cold and severe weather conditions;
- The adoption of pollution prevention protocols, with emergency spill kits available at each park;
- Sufficient numbers of bins to be provided in each park;
- Staff employed to undertake litter picking for the duration of the event;

The HRA Statement also recommends ongoing monitoring of the impacts of the event to determine whether any impacts not anticipated by the Assessment occur. If monitored during the first year, mitigating measures can be altered where necessary in the following years to provide improved solutions for protecting the integrity of the designated sites and their features. Monitoring measures could include increased warden presence along the coastline before, during and after the event; record-keeping of all accidental spillages and other forms of pollution and monitoring of litter management to determine if the measures put in place are adequate.

An Appropriate Assessment of the likely effects of the proposals on the coastal sites is still being prepared by the Council's Natural Heritage team - the Natural Heritage team have, however, verbally indicated that the mitigation measures set out by the HRA Statement will ensure that the development proposals are unlikely to have a significant effect on the European-protected sites. It is also noted that Natural England has no objections to the development in respect of the coastal sites. As such, it is anticipated that the proposals will be found acceptable in respect of their effect on the protected coastal habitats and species.

With regard to the above comments, it can be concluded that the development will not unacceptably affect the ecological value of Roker Park. Whilst it is anticipated that the proposals will be found acceptable in relation to the European-level protected coastal sites and habitats, an HRA 'Appropriate Assessment' from the Council's Natural Heritage team is awaited. Details of the 'Appropriate Assessment', together with concluding comments in respect of matters relating to ecology and biodiversity, will be provided to Members in a supplementary report ahead of the Committee meeting.

5. Implications of development in respect of flooding/drainage

Paragraph 163 of the NPPF states that when determining planning applications, Local Planning Authorities should ensure flood risk is not increased elsewhere and should only consider development to be appropriate in flood-risk areas where certain criteria are satisfied. Meanwhile, policy EN12 of the UDP states that in assessing development proposals, the Council will seek to ensure that the proposal will not materially impede the flow of flood water, or increase the number of people or properties at risk of flooding.

As Members may be aware, the City Council is now the Lead Local Flood Authority (LLFA) in respect of major development proposals, with responsibility for matters pertaining to the management of surface water.

The application has been accompanied by a Flood Risk Assessment (FRA) which concludes that the development site is located within Flood Zone 1 (at lowest risk of flooding), with negligible risk

of fluvial and coastal/tidal flooding. Some parts of the Park are at risk from some pluvial/surface water flooding. Given the nature of the proposals (i.e. a temporary use of Roker Park), it is not considered necessary or practical to provide a formal drainage strategy for the site and run-off during the event will be allowed to drain to the ground to replicate the existing situation. The FRA recommends the on-going monitoring of ground and weather conditions and steps taken to control or limit crowd numbers should overland flow be a concern. It is also advised that mobile structures be anchored to reduce the risk of floating debris. Providing such mitigation measures are implemented, the FRA concludes that the risk of flooding to, and from, the site will be minimal.

The Council's Flood and Coastal Team has considered the application details and has confirmed that the proposals are acceptable in relation to flood risk, provided that an emergency flood plan is submitted for approval. The applicant is in the process of preparing such a plan for the approval of the Flood and Coastal team ahead of the Committee meeting; it is anticipated that a plan will have been prepared and considered ahead of the meeting and an update on the situation in respect of this matter will then be provided at the meeting.

Subject to a satisfactory emergency flood plan being submitted and approved, it is considered that the development will be acceptable in relation to flood risk, in accordance with the objectives of policy EN12 and paragraph 163 of the NPPF.

CONCLUSION

For the reasons set out above, it is considered that the proposals are acceptable in principle and that the implications of the proposals in relation to their impact on the heritage significance of the Roker Park Conservation Area and the setting of the Listed structures within the Park is also acceptable. The proposals have also been found to be acceptable in relation to residential amenity, highway safety and their impact on the ecology value of Roker Park.

The proposals are therefore considered to accord with the requirements of policies L1, L7, L12, NA26, B2, B4, B10, B18, EC8, EN1, EN5, T14 and T22 of the UDP and the relevant policies of the NPPF.

Consideration is, however, still being given to the implications of the proposals in respect of their effect on the fabric of Roker Park and the measures proposed to mitigate such impacts and the implications of flood risk at the site, in particular an emergency flood plan. The potential impacts of the development on the European-protected habitats and species of the adjacent coast are also still being assessed. To this end, further information and consultation responses are awaited in relation to these matters. It is anticipated that the outstanding information and consultation responses 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 - Minded to Grant Consent under Regulation 3 of the Town and Country Planning General Regulations 1992 (as amended), subject to receipt of comments from the Northumbria Gardens Trust and the Council's Natural Heritage and Flood and Coastal teams and subject to the following draft conditions:

Conditions:

1 The temporary use of the land and associated erection of light displays and other temporary buildings and structures is hereby approved for a limited two-month period between the dates of 1st October and 30th November each year until 30th November 2023. The illuminations event cannot operate and be open to the public for more than 31 days within this two month period each year and no setting-up and de-rigging activities can take place outside of this two month period each year. In all instances, the Park shall be reinstated to its former condition within 14 working days of the cessation of the illuminations event. The limited operating period is considered necessary in order to achieve a satisfactory form of development in respect of the

amenity of the area and in relation to the ecological impacts of the development and to comply with policies B2 and CN19 of the UDP and the objectives of the NPPF.

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

The site location plan received 30.07.2018;

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

3 No members of the public shall be allowed entry to Roker Park in order to attend the illuminations event after 20:30 each day. The Park shall then be closed to members of the public, all illuminations and rides switched off and all other ancillary facilities cease to operate by no later than 21:30 each day. These hours of opening are considered necessary in order to achieve a satisfactory form of development in respect of the amenity of the area and in relation to the ecological impacts of the development and to comply with policies EN1, EN5, B2 and CN19 of the UDP and the objectives of the NPPF.

4 The lighting displays hereby approved shall be designed, installed and managed in accordance with the recommendations set out in section 9 of the 'Lighting Impact Assessment Report' by Stainton Lighting Design Services Ltd. (July 2018), in order to minimise light intrusion from the holding of the event in respect of the amenity of the area and in relation to the ecological impacts of the development and to comply with policies EN1, B2 and CN19 of the UDP and the objectives of the NPPF.

5 The setting-up, de-rigging and post-event clearing-up activities associated with the holding of the illuminations event at Roker Park shall be carried out in strict accordance with the 'Roker Park Implementation & Mitigation Strategy', in order to ensure the holding event does not result in any unacceptable damage to a registered historic park and to comply with the objectives of policy B18 of the UDP and the built heritage objectives of the NPPF.