

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.: 18/02070/LP3 Local Authority (Reg 3)

Proposal: **Change of use of tram shelter to Cafe/Restaurant (Use Class A3), together with various external alterations to building to create enclosed internal space and erection of detached bin store.**

Location: Seaburn Tram Shelter, Whitburn Road, Seaburn, SR6 9NS

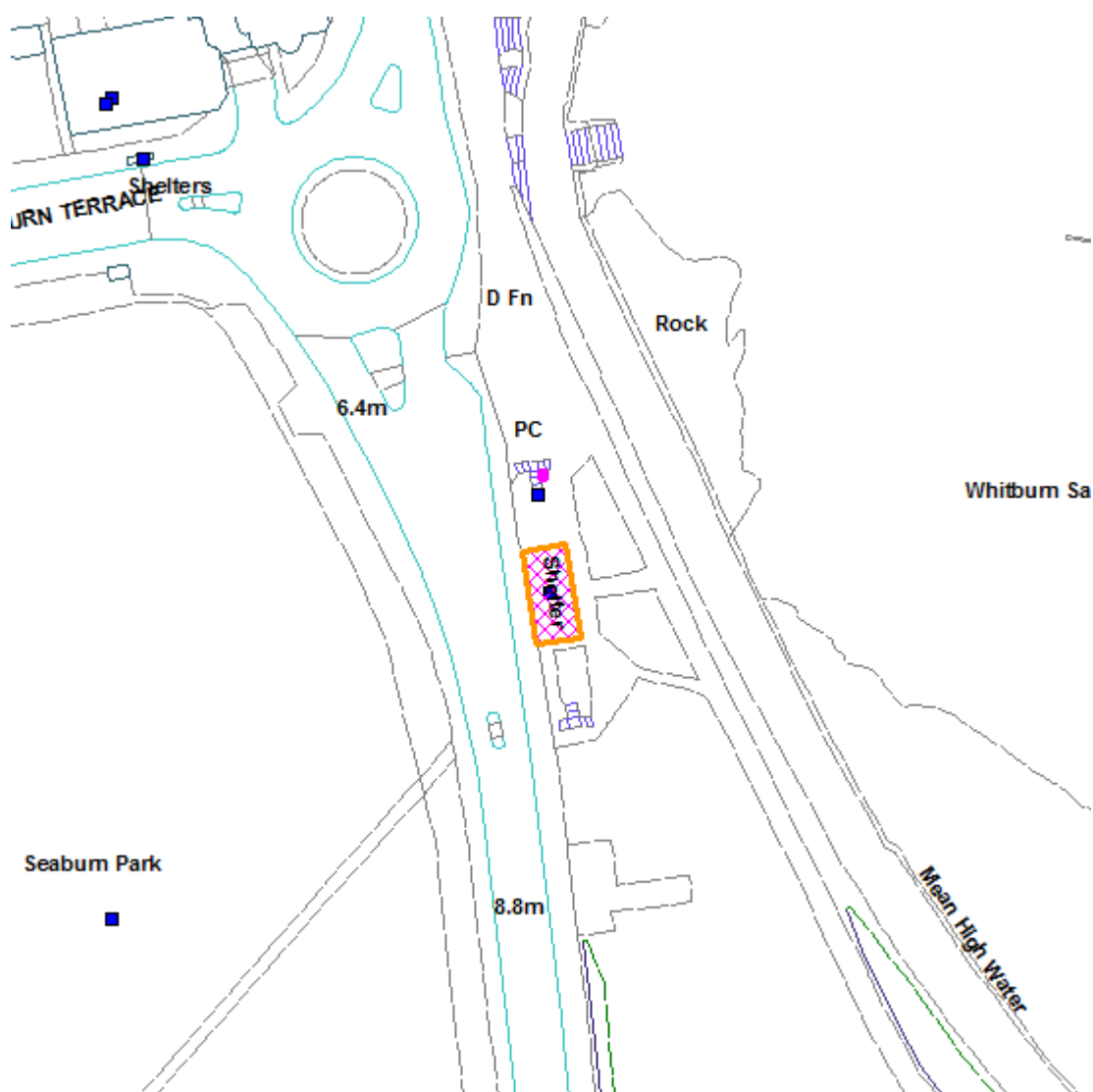
Ward: Fulwell

Applicant: Sunderland City Council

Date Valid: 26 November 2018

Target Date: 21 January 2019

Location Plan



PROPOSAL:

Planning permission is sought for the change of use of the Seaburn Tram Shelter to that of a cafe/restaurant (use class A3).

The Tram Shelter is located adjacent to the seafront on Whitburn Road opposing Seaburn recreational park. The proposal proposes to enclose the existing structure to facilitate its conversion to a small cafe. The cafe is to incorporate an indoor seating area for tables and chairs, a serving counter including space for the display of food/drink, sink preparation area and storage. The proposal will also make provision for WC and baby changing facilities.

External alterations are proposed which will include the installation of new panelling and doors which are to be designed to be sympathetic to the existing structure, whilst the submitted elevations provide a breakdown of the any associated remedial work that may be required to be undertaken. A detached bin store is proposed to be erected close by to the north of the Tram Shelter to serve the proposed use. This detached structure is to be constructed out of a combination of galvanised mild steel and horizontal timber cladding.

The application has been submitted on behalf of the Council's Executive Director of Economy and Place and has been accompanied by a Design and Access Statement, Habitat Regulations Screening, Preliminary Desk Study, a Bat and Nesting Bird Risk Assessment and a Flood Risk Assessment.

This planning application has been submitted as part of ongoing regeneration activity, and to support Sunderland City Council's stage 2 bid submission to the Coastal Communities Fund Round 5 (CCF5).

The CCF5 bid includes a request for funding to redevelop a number of vacant Council owned buildings at the seafront to enable their lease to a commercial operator. The following applications have also been submitted as part of the CCF5:

- o Pier View Toilet Block, Pier View, Roker (18/02073/LP3). Change of use from public toilets to cafe/bar/restaurant (Use Classes A3 or A4), to include various external alterations to existing building and new outdoor seating area to the rear.
- o Lower Promenade, Between Fat Buddha And Little Italy Restaurant, Whitburn Bents Road (18/02072/LP3). Erection of 12 no. beach huts within embankment, with associated landscaping.
- o Bay Shelter, Whitburn Bents Road (18/02071/LP3). Change of use from storage facility (use class B8) to cafe/restaurant (Use Class A3) together with various external alterations, provision of bin store above existing storage area along with creation of access from A183.

All of the buildings will be managed by Sunderland Seafront Trust who currently operates Roker Pier and lighthouse as a visitor attraction.

TYPE OF PUBLICITY:

Site Notice Posted

CONSULTEES:

Fulwell - Ward Councillor Consultation

DC North Chair And Vice Chair Consultation
Environmental Health
Network Management
Southern Area Command - Police
Northumbrian Water
Natural England

Flood And Coastal Group Engineer

Sunderland Civic Society

Final Date for Receipt of Representations: **28.12.2018**

REPRESENTATIONS:

No representation has been received from members of the public following the posting of site notices to the immediate north and south of the structure.

One representation has been offered by Ward Cllr Francis who has highlighted that the structure is a piece of Seaburn's history and that an outline of the tram shelter's history from a local historian or other suitably qualified person along with a full discussion at committee should be carried out. The representation also questions whether local historic and architectural societies have been consulted on the proposal.

Internal consultees

Network Management

The Council's Network Management section has offered advice on the following;

- o it will be necessary for alterations to be made to the existing bus stop and restrictions imposed to the front of the building;
- o a servicing and delivery plan will be required to be submitted which sets out arrangements for deliveries and refuse collection;
- o there are parking bays along the seafront and public car parks in various locations;
- o the proposal is at a seafront location with good links to public transport and sustainable travel for pedestrians and cyclists;
- o to promote sustainable travel it would be an advantage if cycle racks are provided where possible.

Flood and Coastal Team

With regard to flood risk and drainage it is considered that the approach to considering risk of flooding from the sea meets planning requirements including advice with regard to weather warning services and consideration of evacuation. In this respect it is considered that the application could be approved. It is however noted that no detail has been provided with regard to

drainage of the building. It is therefore recommended that a condition be applied to require surface water and foul water drainage details to be submitted for consideration.

Public Protection and Regulatory Services (Environmental Health)

The Council's Environmental Health section has offered advice on the following;

- o with regard to contamination, the site does not appear to be a constraint to the development however it is recommended that a condition for dealing with unexpected contamination be attached to any consent given;
- o prior to occupation a noise assessment should be undertaken to determine whether the level of noise from all potential noise sources is likely to give rise to complaints from the nearest noise receptor;
- o details of an appropriate extraction system in terms of odour, size, scale and location should be provided for approval prior to operation of the use.

Planning Implementation (Built and Natural Heritage)

Consultation responses have also been received from the above (discussed in main body of the report below).

External consultees

Northumbrian Water (NW)

No observations or recommendations have been offered by NW.

Natural England

No comment received

POLICIES:

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

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

NA6 – Improvements of commercial/social structures in coastal zone

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

B2 - Scale, massing layout and setting of new developments

CN18 - Promotion of nature conservation (general)

CN22 - Developments affecting protected wildlife species and habitats

CN23 - Measures to conserve/ improve wildlife corridors

EC8 - Support for tourist and visitor attractions.

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

EN14 - Development on unstable or contaminated land or land at risk from landfill/mine gas

COMMENTS:

Policy overview

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 - which 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 (section 6), which seek to promote healthy and safe communities (section 8), which promote sustainable transport (section 9), which achieve well designed places (section 12), which seek to meet the challenge of climate change, flooding and coastal change (section 14) and which seek to conserve and enhance the natural and historic environment (sections 15 and 16 respectively).

The relevant guidance of the NPPF detailed above feeds into policies, L12, NA6, NA26, B2, CN18, CN22, CN23, EC8, EN5, EN12, EN13, EN14, 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.

The Council has also produced a new Core Strategy and Development Plan (CSDP), which sets out the Council's long-term plan for development across the City until 2033. The CSDP submission documents and supporting documents were submitted to the Secretary of State for examination on 21st December 2018 and the CSDP will now be subject to an independent examination conducted by the Planning Inspectorate.

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

- a) The stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);
- c) The degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

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

Also relevant to the determination of the current application is the Council's 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 outlined below:

Considerations

1. The principle of the proposal.
2. The impact of the proposal on the amenity of the area.
3. The impact of the proposal on heritage.
4. The impact of the development on highway and pedestrian safety.
5. The Implications of the proposal in respect of the ecology and Habitat Regulations Assessment.
6. The implications of the proposal in terms of flood risk and ground conditions.

1. Principle of the development

The majority of the land subject to the development is not allocated for any specific land use within the Council's Unitary Development Plan (UDP) and, as such, is subject to policy EN10. This policy dictates that, where the UDP does not indicate any proposals for change, the existing pattern of land use is intended to remain.

With specific reference to the seafront, policy L12 of the UDP sets out that the Council will promote the recreational and tourist potential of the coast by, amongst other measures, encouraging development which provides for the needs of visitors without adversely affecting the environment and conservation requirements, policy NA6 meanwhile advises that the City Council will encourage improvements to the existing commercial and social structures in the coastal zone to help ensure their viability and maximise their potential contribution to the environment of the seafront. More broadly UDP policy NA26 states that the seafront zone between the river mouth and the city boundary with South Tyneside will be developed and enhanced to accommodate a range of facilities providing a focus for leisure activity and tourism serving the region whilst any development should, by the quality of its design, retain and if possible enhance the underlying character of the zone and existing open spaces and associated areas will be retained for passive recreation use.

In the wider sense UDP policy EC8 specifies that the Council will support the expansion of activities catering for tourists and other visitors by:

- (i) identifying, consolidating and safeguarding attractions;
- (ii) refusing proposals which would have an adverse impact on tourist attractions (as identified in the area chapters);
- (iii) actively encouraging opportunities for new tourist initiatives, especially where they are near existing areas of visitor interest;
- (iv) providing cycle and car parking for visitors, and footpaths and interpretative facilities at tourist attractions.

In order to support UDP policies L12, NA6, NA26, the City Council has produced the Seafront Regeneration Strategy and Seaburn Master plan and Design Code the content of which is material in determining planning applications. These documents outline the aims and objectives of future seafront regeneration with particular emphasis attached to the role the seafront has to play in promoting Sunderland as a liveable city and nurturing the seafront to create an attractive, accessible and desirable destination for the purposes of attracting visitors and residents to the city. In particular, the Seaburn Master plan and Design Code references that the development of additional coffee shops and restaurants will be encouraged.

With regard to the above, it is clear that there is a raft of adopted policy which seeks to support the provision of facilities which encourage increased tourism and activity along the seafront. In this respect the proposed conversion of an existing commercial/social structure as referenced by

policy NA6, to that of a cafe, is considered to accord with the wider policy aspirations of the seafront. The principle of utilising the site for the desired purposes is therefore considered to be acceptable. Nevertheless, in order to fully establish the acceptability of the proposed development, an assessment must firstly be made of all other relevant material planning considerations raised by the scheme as discussed below.

2. The impact of the proposal on the amenity of the area.

Policy B2 of the UDP requires that new development should respect amenity and therefore new proposals will generally be expected to adhere with the scale and massing of development found within the locality.

From an aesthetic perspective the proposed works are considered to be well considered and sympathetic to the considerable character and charm of the existing structure and wider locality. The design of the cafe has been informed by the existing timber facade panels of the shelter and its existing colour palette. The neutral colours of the facade and glazing are therefore designed to complement the surrounding built environment and are to be sympathetic to the palette of the surrounding marine area. In addition to the above, the accompanying Design and Access Statement has qualified that the distinctive form of the tram shelter would not be impacted or compromised as a result of the work. The detached bin store is to be located to the immediate north of the site adjacent to the steps of the historic underground toilets which are to be reinstated. The plans illustrate that the bin store is to be constructed out of good quality materials (i.e. a hot dip galvanised mild steel and a horizontal timber cladding) which would be appropriate to the seafront setting.

Overall the proposed external changes to the structure are considered to be acceptable without demonstrably impacting on the visual amenity of the area.

In terms of residential amenity it is evident that the existing structure is located a reasonable distance away from the nearest residential properties, sitting some 126m away from the nearest occupiers on Seaburn Terrace to the north and 98m away from the residential care home of 19 Cliffe Park to the south. Whilst it is anticipated that the new use would likely be open during standard daytime hours only, it is noted that the application form has not identified any proposed hours of operation. Although it is unlikely that the proposed use would give rise to noise related issues due to its location, the City Council's Environmental Health Section has advised that a noise assessment, pursuant to EN5 of the UDP, should be undertaken prior to occupation of the building to ascertain whether the level of noise from all potential noise sources is likely to give rise to complaints from the nearest noise sensitive receptor.

It is thereafter anticipated that the results of the noise assessment (which will be undertaken with regard to the specific nature of the A3 use) will inform the opening hours of the premises. This would need to be agreed through a planning condition requiring the submission of an operational management plan.

Again, as the end operator has not been identified at this time it is evident that the current proposal does not provide any detail of the future extraction/ventilation system which is likely to be required to serve the new use. In this regard the Council's Environmental Health Section has requested that full details of any future extraction/ventilation system along with a suitable odour assessment, be submitted for agreement in writing prior to installation and operation of the A3 use. Notwithstanding, the applicant's attention will be drawn to the fact that the specifications of any future extraction system may necessitate the submission of a further planning application.

In light of the above, there are considered to be no demonstrable grounds to suggest that the operation of the site for the purposes of an A3 use would be detrimental to the residential amenity of any nearby occupiers. As outlined above, conditions are however to be attached to ensure that future operational hours/extraction and associated odours, do not have an adverse impact on the amenity of the area.

3. The impact of the proposal in terms of heritage.

Although the Tram Shelter is not listed or located within a Conservation Area, it is undoubtedly of heritage interest and an important and attractive historic structure. The accompanying Design and Access Statement outlines that the shelter is understood to have been built in the early 1900's as part of the provision of terminus facilities for the electrified tram system which formerly linked the resorts of Seaburn and Roker. It is understood that the trams stopped running in the 1950's when the use of public buses became the main form of transport. The structure displays characteristic features of the Edwardian/Victorian era with a distinctive slate roof, timber panelling and serves as a reminder of the areas past as a thriving seaside town. The building continues to be used for sheltering albeit more infrequently and in association with the adjacent bus stop.

In response to consultation, the City Council's Built Heritage Officer has noted that the shelter is a rare survivor of the electrified Tram system and is of historic and architectural significance. In this respect the structure is considered to be classed as a non-designated heritage asset. On this basis representatives from the Sunderland Civic Society were briefed on the seafront proposals as part of the bid to Coastal Communities Fund, specifically including the Tram Shelter proposal. As part of the briefing they were provided with the specific planning reference numbers should they wish to comment on any of the applications. No response has been received following the briefing.

NPPF paragraphs 192 (the desirability of sustaining and enhancing the significance of heritage assets and putting them into viable uses, and for new developments making a positive contribution to local character and distinctiveness), and 197 (effect of applications on non-designated heritage assets), are considered to be particularly relevant in the consideration of this proposal.

Although of limited material weight, Core Strategy and Development Plan Policy BH7 advocates capitalising in a sensitive and appropriate manner on the regeneration and tourism potential of heritage assets, and developing innovative initiatives to conserve, sustain and return to beneficial usage designated and non-designated heritage assets.

Policy BH8 meanwhile states that development affecting non-designated heritage assets should conserve the assets and make a positive contribution to local character and distinctiveness.

The Council's Built Heritage Officer has stated that whilst the Tram Shelter is largely unused it is currently in fair condition. Nonetheless, it has also been qualified that it is only maintained reactively for urgent repairs given that the limited Council funding is prioritised to properties in active use. In this respect, the ability to fund on-going repairs to maintain it in good condition in the long term is challenging.

Consequently the proposed adaptation of the Tram Shelter for use as a cafe / restaurant has been supported by Built Heritage on the basis that it will provide it with a viable future with the income-generating commercial use helping to fund the ongoing maintenance works and ensure its conservation going forward. It will further add to the commercial and leisure offer, visitor facilities and overall vibrancy of the seafront supporting its on-going regeneration.

The design approach of effectively using simple panels to provide internal cafe / restaurant space will have minimal impact on the historic structure's fabric and features, and could be relatively easily removed in the future if needed. The new aluminium panels, windows and doors have been designed to replicate as closely as possible the surviving historic design and detailing, but sensibly using a more durable aluminium material in the harsh seafront environment to limit future maintenance needs. The positioning of the panels behind the original iron columns allows the substantial overhand of the roof to be retained, this being a key characteristic of the Tram Shelter's Victorian / Edwardian design.

Overall the Council's Built Heritage Officer is satisfied that the new interventions to create the cafe/restaurant would represent a sensitive adaptation of an historic structure that will allow its original architectural form as a Tram Shelter to still be readily appreciated, whilst utilising a distinctive and locally appreciated landmark of the Seafront to provide enhanced visitor facilities.

With regard to the above, the proposal is considered to provide the platform to allow the Tram Shelter to be conserved and revitalised in a sensitive and innovative manner whilst capitalising on its regeneration and tourism potential, in accordance with Development Plan Policies BH7 and BH8, whilst also enlivening the wider Seafront supporting the aims and objectives of the Council's adopted Seafront Regeneration Strategy. It further supports NPPF paragraph 192 by putting a heritage asset into a viable use in a manner that conserves, sustains and enhances its significance into the future, and by providing new development that makes a positive contribution to local character and distinctiveness.

4. The impact of the development on highway and pedestrian safety.

Paragraph 108 of the NPPF advises that planning decisions should take account of whether opportunities for sustainable transport modes have been taken up, that safe and suitable access to the site can be achieved and whether improvements can be undertaken within the transport network that cost-effectively limit the significant impacts of the development. Paragraph 109 is clear in stating that development should only be refused on transport grounds where the residual cumulative impacts of the development are severe.

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

In response to consultation the Council's Highways team has raised no objections to the proposal, stating that the site benefits from good links to public transport and is sustainably located for pedestrians and cyclists. With regard to parking there are dedicated parking bays along the seafront and public car parks in various locations nearby. On this basis there are considered to be adequate parking facilities within the vicinity to serve the proposal.

It has however been requested that a Servicing and Deliveries Management Plan should be submitted for future approval in writing prior to the operation of the use. This plan should set out the arrangements for deliveries and refuse collection and can be included as part of the operational management plan referred to earlier in the report.

On this basis, it is considered that the proposal subject to an appropriate condition 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. The Implications of the proposal in respect of the ecology and Habitat Regulations Assessment.

The host site lies within the extent of the impact risk zone relating to the Northumbria Coast Special Protection Area and Ramsar site and Durham Coast Special Area of Conservation which is designated under the Breeding Birds Directive. Where it is considered that a development may lead to increased recreational pressure at the coast thereby leading to direct damage of habitats (both intentional and unintentional) by trampling erosion, and disturbance to bird species, particularly from people walking with dogs, a screening exercise should be undertaken to initially evaluate the proposals in order to determine whether a more detailed Appropriate Assessment or a full HRA is required.

The application has been accompanied by a Habitat Regulations Screening report prepared by Dendra Consulting Ltd (May 2018). The purpose of the screening report is to examine whether the capacity of the proposed development is likely to have a significant effect on the above sites, either alone or in combination with other plans and projects.

Overall the screening report concludes that the conversion of the structure to create a cafe/tea room will not significantly increase visitor numbers to the locality, nor will the proposal create further access to European sites when considered in isolation.

In combination with other committed and proposed developments the report acknowledges that disturbance levels along this stretch of coastline are already moderate to high. Nonetheless, the report also qualifies that survey information relating to visitor preferences locally, indicates that cafes do not generally attract visitors in their own right, but tend to serve those existing visitors which have been attracted to the area by other facilities and developments. With this in mind, the in-combination assessment carried out has shown that those projects with the potential to draw additional visitor pressure to the area have already been the subject of their own Habitats Regulations Assessments, and appropriate mitigation measures have been implemented via a policy framework (Seaburn Masterplan), in the form of SANG and SAMM measures. It is therefore unlikely that this development would contribute significantly to the residual impacts of the neighbouring developments. The City Council's Natural Heritage Officer has considered the content of the screening report and is content that the Council, as the competent authority, can screen the proposal out and that there is no requirement to consult Natural England.

The application has also been accompanied by a Bat Risk Assessment. The results of an external inspection undertaken 11 April 2018 concluded that there was no evidence of roosting bats at the site although a number of access gaps were present within the building. The building was classified as having a low risk of supporting roosting bats therefore a single nocturnal activity survey was undertaken on 23 July 2018. The nocturnal survey did not record any roosting, commuting or foraging bats at all.

On the basis of the above the City Council's Natural Heritage Officer is satisfied that the proposal would not have any adverse impact on bats. It has however been qualified that the findings of Section 6 and 7 of the report (Mitigation and Compensation and Emergency Procedures) be conditioned.

With regard to the content and findings of the above reports and the comments of the Council's Natural Heritage team, it is considered that the proposed development will not, subject to appropriate conditions, cause harm to species protected by law or their habitats, in compliance with the requirements of policy CN19, CN22 or CN23 of the UDP or the relevant sections of the NPPF.

6. The implications of the proposal in terms of flood risk and ground conditions.

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.

Although the site sits within a high risk zone for the purposes of flooding (Flood Zone 3a), the minor nature of the scheme (i.e. a change of use with minor physical alterations) dictates that it is not necessary to formally consult the Environment Agency (EA) on the proposal. Nonetheless, as is directed by the Government's Standing Advice for minor development, it has been necessary for the applicant to provide a Flood Risk Assessment with the submission. The report has been considered by the Council, in its capacity as Lead Local Flood Authority (LLFA) and is considered to be acceptable. It is considered necessary to attach an informative to the application which draws the attention to the fact that the site lies within flood zone 3a whilst advising that any future occupier should subscribe to the EA for flood weather warnings and that a flood evacuation plan should be developed and implemented in preparation for such events.

The Lead Local Flood Authority has noted that no details have been provided with regard to drainage from the building however this can be conditioned.

In terms of land contamination it has been confirmed by Environmental Health that this would not appear to be a constraint to the development of the site. Nonetheless, it has been advised that a condition for dealing with unexpected contamination should be attached.

Based on the above, it is not considered that the proposal would increase the risk of flooding, coastal erosion nor is there considered to be any impediment to the safe development of the site in accordance with UDP policies EN12, EN13 and EN14 and the relevant paragraphs of the NPPF.

CONCLUSION

On the basis of the reasoning provided above, it is considered that the proposed development is appropriate in accordance with the relevant UDP policies outlined above. Accordingly it is recommended that Members Grant Consent in accordance with Regulation 3 of the Town and Country Planning General Regulations 1992 (as amended), subject to the draft conditions below.

EQUALITY ACT 2010 - 149 PUBLIC SECTOR EQUALITY DUTY During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act. As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:-

- o age;
- o disability;
- o gender reassignment;
- o pregnancy and maternity;
- o race;

- o religion or belief;
- o sex;
- o sexual orientation.

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

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

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

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

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

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

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

Conditions:

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

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

The site plan as existing and proposed received 24.11.2018;
 The floor plan and roof plan as existing and proposed received 24.11.2018;
 The Tram Shelter elevations as existing and proposed received 24.11.2018;
 The proposed door and screen schedules as proposed received 24.11.2018;

The bin storage elevations and sections received 24.11.2018;
The location plan received 24.11.2018.

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 development shall commence on the exterior of the building until samples of the external materials have been submitted to and approved in writing by the Local Planning Authority. The sample materials shall include all external materials including slates, rainwater goods, fascias and soffits, aluminium facade panels, doors as well as a full sample aluminium panel for screen pattern no.2 and full details of colour scheme for all panels, windows and doors, columns and metalwork. The approved materials shall thereafter be used in the development hereby approved.

Reason: To ensure, in accordance with UDP policy B2, the development hereby approved respects the best qualities of the locality and preserves the character and appearance of the structure.

4 The use hereby approved shall not commence until details of all necessary plant and machinery to serve the development have been submitted to and approved, in writing, by the Local Planning Authority and/or planning permission has been granted for such. For the avoidance of doubt such details shall include details of the design, size, siting and finish, acoustic treatment, odour abatement techniques of the flue extraction system and odour risk assessment. Thereafter all plant/machinery shall be fully installed in accordance with the agreed details before the use commences.

Reason: In order to protect the amenity of local residents, the visual amenity of the area and to comply with policies B2 of Unitary Development Plan and EN5 of the adopted Unitary Development Plan.

5 The development hereby approved shall not be brought into use until a noise assessment has been submitted to and approved in writing by the Local Planning Authority. The noise assessment shall be undertaken by a suitably qualified and experienced noise control consultant, in accordance with the current relevant guidance and standards (including reference to the World Health Organisation Guideline Values for Community Noise, BS 8223:2014 Guidance on sound insulation and noise reduction for buildings and BS 4142:2014 Methods for rating and assessing industrial and commercial sound) and shall include details of any mitigation measures necessary to achieve a satisfactory noise climate at the nearest residential premises (including details of any maintenance). Any approved mitigation shall be installed before the development hereby approved is first brought into use and shall be retained thereafter (including adherence to any maintenance recommendations).

Reason: To ensure, in accordance with UDP policy EN5, the development hereby approved does not generate noise sufficient to increase significantly the existing ambient sound levels in residential or other noise sensitive areas.

6 The development shall not be brought into use until an Operational Management Plan informed by the results of condition 5 (Noise Assessment) has been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt the Operational Management

Plan shall provide full details of the proposed opening hours and servicing and delivery arrangements. At all times thereafter the use shall be implemented in accordance with the agreed details.

Reason: In the interests of protecting the amenity of the area, highway and pedestrian safety and to accord with policies B2 and T14 of the Unitary Development Plan.

7 The development shall not commence until a detailed scheme for the disposal of surface and/or foul water from the development hereby approved has been submitted to and approved by the Local Planning Authority. There after development shall not be brought in to use until these facilities have been provided and installed in accordance with the approved details.

Reason: to ensure satisfactory drainage to the site and to comply with policy B24 of the UDP.

8 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, all works within the affected part of the site shall cease until an investigation and risk assessment and, when remediation is necessary, a remediation scheme in accordance with the details of the respective conditions set out above have been submitted to and approved, in writing, by the Local Planning Authority and any necessary remediation is carried out in accordance with the approved details.

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

9 The development hereby approved shall be carried out in full accordance within the Mitigation and Compensation and Emergency Procedures detailed within Section 6.0 and 7.0 of the Bat Survey Report compiled by DWS Ecology dated 31 July 2018.

Reason: In order to provide appropriate ecological mitigation for the development and to comply with the requirements of policy CN22 of the adopted Unitary Development Plan.

Reference No.: 18/02071/LP3 Local Authority (Reg 3)

Proposal: Change of use from storage facility (use class B8) to cafe/restaurant (Use Class A3) together with various external alterations, provision of bin store above existing storage area along with creation of access from A183.

Location: Bay Shelter, Whitburn Bents Road, Seaburn, SR6 8AD

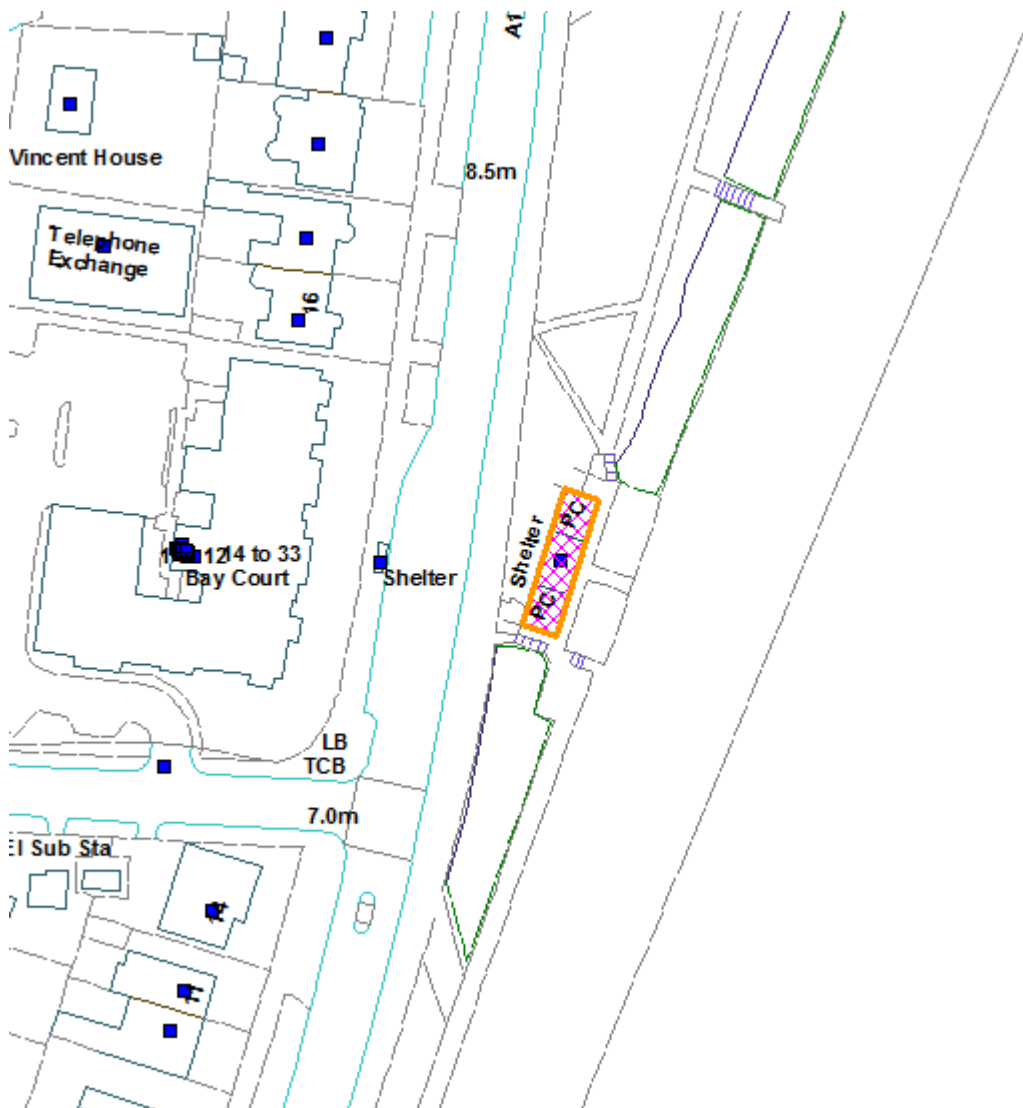
Ward: Fulwell

Applicant: Sunderland City Council

Date Valid: 26 November 2018

Target Date: 21 January 2019

Location Plan



PROPOSAL:

Planning permission is sought for the change of use of the Bay Shelter located within Whitburn from a storage facility (use class B8) to cafe/restaurant (use class A3).

The proposed development affects the Bay Shelter which is located on Whitburn Bents Road, Seaburn, adjacent to Seaburn Beach. The shelter is currently utilised for storage purposes and consists of a viewing platform with a seating area at road level, and steps to the south leading down to the main building which faces the seafront.

External alterations are proposed which will include the installation of a main entrance and glazed windows to the east elevation of the building facing the beach front, and provision of a bin storage area to the north of the building at road level. It is also proposed to provide 2no. new footpath links to provide access to the bin storage area for staff and servicing.

The application has been submitted on behalf of the Council's Executive Director of Economy and Place and has been accompanied by a Design and Access Statement, Habitat Regulations Screening, Preliminary Desk Study and a Bat and Nesting Bird Risk Assessment.

This planning application has been submitted as part of ongoing regeneration activity, and to support Sunderland City Council's stage 2 bid submission to the Coastal Communities Fund Round 5 (CCF5).

The CCF5 bid includes a request for funding to redevelop a number of vacant Council owned buildings at the seafront to enable their lease to a commercial operator. The following applications have also been submitted as part of the CCF5:

- o Pier View Toilet Block, Pier View, Roker (18/02073/LP3). Change of use from public toilets to cafe/bar/restaurant (Use Classes A3 or A4), to include various external alterations to existing building and new outdoor seating area to the rear.
- o Lower Promenade, Between Fat Buddha And Little Italy Restaurant, Whitburn Bents Road (18/02072/LP3). Erection of 12 no. beach huts within embankment, with associated landscaping.
- o Seaburn Tram Shelter, Whitburn Road (18/02070/LP3). Change of use of tram shelter to Cafe/Restaurant (Use Class A3), together with various external alterations to building to create enclosed internal space and erection of detached bin store.

The buildings will be managed by Sunderland Seafront Trust.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Fulwell - Ward Councillor Consultation

Environmental Health
Network Management
Southern Area Command - Police

Northumbrian Water
Flood And Coastal Group Engineer
Natural England

Final Date for Receipt of Representations: **02.01.2019**

REPRESENTATIONS:

3no. letters of representation have been received to date, namely 1 no. letter from Mr Will Byers of 5 Lynthrope Grove in support of the application and 3 no. letters of objection from Mrs Lynne Ford of 2 Bay Court and Mr W. Watson of 7 Bay Court and a 'Bay Court Resident'.

Although Mrs Ford, Mr Watson and the other Bay Court Resident do not object to the change of use in principle, they have raised a number of objections relating to:

- o The potential success of a further coffee shop/cafe at this location given the provision of alternative facilities further along the promenade at both Seaburn and Whitburn.
- o The location of the bin storage with regard to odour, access and servicing and impact on view
- o Generation of litter encouraging seagulls
- o Noise generated by the proposal in particular with regard to opening times
- o Traffic generation and parking of vehicles
- o Concern with regard to the sand dunes to the front of the property and the need for these to be maintained. Also concern with regard to the potential for trees to be planted on site given the visualisation of the proposed scheme within the design and access statement.

With regard to the sand dunes the current application proposes no alteration to these.

With regard to the objection relating to loss of view and the potential planting of trees the visualisation within the design and access statement is indicative only and the proposed plans do not detail any additional planting. Furthermore it should be noted that views across other peoples' land are not a landowner's right and therefore cannot be protected through planning legislation. It should also be noted that the planning system does not exist to protect private interests. The basic question is not the viability of a proposed business, for this will be dictated by market forces, but whether the proposal would unacceptably affect visual or residential amenity or the existing use of the land.

In light of the above, the matter of business viability and loss of view is not one which can be given material weight in the determination of this planning application. The other matters raised will be considered within the following report.

Natural England - No comment received

Northumbrian Water - Have confirmed that they have no comment to make.

Police Architectural Liaison Officer - No comment received

Council's Highways team - No objection to the proposal however, they have requested a Servicing and Delivery Management Plan to be submitted, and that it would be advantageous if cycle racks could be provided

Council's Environmental Health team - no objection to the proposal subject to suitable conditions relating to Land Contamination, Noise, Odour and Construction Management.

Council's Flood and Coastal team (in capacity as Lead Local Flood Authority) - No objection to the proposal given that the application is a minor development and not within an area of flood risk. However, given known historic sea levels in this area it is suggested that a condition/note should be placed on the application to confirm the exact ground level of the development in relation to these known levels. It is recommended that as with other coastal developments, the applicant register with a flood warning service as a precaution.

Council's Built Heritage team - Confirmed that they have no objection to the application and have stated that the proposal has been handled sensitively from a design perspective.

Council's Natural Heritage team - Consider that the proposal is acceptable subject to the mitigation and enhancement measures detailed in section 5.0.2 and 5.0.3 within the submitted 'Bat and Nesting Bird Risk Assessment', being secured as a condition.

POLICIES:

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

- 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
- CN18 - Promotion of nature conservation (general)
- CN22 - Developments affecting protected wildlife species and habitats
- 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
- EN14 - Development on unstable or contaminated land or land at risk from landfill/mine gas

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 environment (within section 16).

The relevant guidance of the NPPF detailed above feeds into policies L7, L12, NA26, B2, CN18, CN22, CN23, EC8, EN1, EN5, EN12, EN13, EN14, 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.

The Council has also produced a new Core Strategy and Development Plan (CSDP), which sets out the Council's long-term plan for development across the City until 2033. The CSDP submission documents and supporting documents were submitted to the Secretary of State for examination on 21st December 2018 and the CSDP will now be subject to an independent examination conducted by the Planning Inspectorate.

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

- a) The stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);
- c) The degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

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

Also relevant to the determination of the current application is the Council's 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/residential amenity;
3. Impact on highway and pedestrian safety;
4. Impact on ecology and biodiversity;
5. Implications in respect of flooding/drainage.
6. Environmental Health considerations

PRINCIPLE OF THE DEVELOPMENT

The existing viewing area to the north which is proposed for bin storage, and the new access pathways are identified as areas of existing public open space by the proposals map of the UDP and consequently, policy L7 of the UDP is of relevance. Policy L7, 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. The rest of the application site including the main building is not allocated for any specific land use by the Council's adopted Unitary Development Plan (UDP) and, as such, is subject to policy EN10. This policy dictates that, where there is no indication of 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 the neighbourhood.

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 the area of public open space it is considered that the conversion of the small area of viewing platform to a bin storage area or the creation of the 2no. footpaths would not be detrimental to the area of public open space. An existing public viewing area would be retained upon the roof of the building and the pathways would not interfere with the openness of the space or the ability of the public to enjoy the area.

Moreover, it is considered that the proposed development will provide a facility which would 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.

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 and would not be detrimental to the public open space to the north of the site. The proposal is therefore considered to satisfy the objectives of UDP policies EN10, L7, L12, NA26 and EC8 of the UDP, the Council's Seafront Regeneration Strategy and the relevant sections of the NPPF. The principle of the development is therefore considered to be acceptable.

IMPACT ON VISUAL/RESIDENTIAL AMENITY

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

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.

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.

When viewed from Whitburn Bents Road the only visible alteration will be to the north of the site with the installation of a timber bin storage area. The bin store will incorporate double gates which front on to the main road and will be no higher than 1.58 metres. The bin store would not exceed the height of the existing concrete deck and balustrade and given this it is considered that the proposal would not appear visually intrusive or incongruous within the existing streetscene.

With regard to design it has been indicated that the bin store would utilise a hard wood of the same type evident within existing features along the seafront. This material would also be used for the storage areas associated with the other applications listed above, which will provide a level of continuity to the design of the storage areas along the seafront.

With regard to concerns relating to an increase in litter and potential for vermin, it is not inevitable that the change of use to a cafe/restaurant would result in an increase in litter within the area, or give rise to subsequent issues with vermin. Further to this a secure bin storage area would be provided. It is also noted that in relation to these concerns, there are other regulatory bodies which are equipped with powers to address these issues should they arise.

The general area presents a mix of uses and the site is located on a busy classified road. The proposed use of the building for the purposes of a cafe/restaurant of this size is not considered to be particularly intensive. With regard to neighbouring residential properties, and in particular Bay Court which is directly opposite the site, given that the building is set down from the main road and faces onto the beach front it is not anticipated that the proposal would have any demonstrable adverse impact on the pre-existing living conditions of the occupants.

Furthermore a condition requiring an operations plan to be submitted prior to commencement on site will be applied. The operations plan will provide detail of servicing and delivery, refuse collection and the opening hours of the cafe/restaurant to ensure that the residential amenity of neighbouring dwellings is not adversely affected by the use.

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

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.

As set out in the 'Representations' section of this report, the Council's Highways team has raised no objections to the development, they have stated that the location has good links to public transport and sustainable travel for pedestrians and cyclists and with regard to parking there are parking bays along the seafront and public car parks in various locations. Given this it is considered that the proposal would be accessible to both vehicles and pedestrians, with adequate parking facilities within the vicinity.

The Council's Highway team have however, requested that a Servicing and Deliveries Management Plan is submitted, which would set out arrangements for deliveries and refuse collection. It is considered appropriate to condition this management plan so that details of servicing and delivery shall be submitted to and agreed with the local planning authority prior to commencement on site.

On this basis, it is considered that the proposal subject to an appropriate condition 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.

IMPACT ON ECOLOGY AND BIODIVERSITY

The application site is adjacent to Northumbria Coast Special Protection Area and Ramsar Site and Durham Coast Special Area of Conservation.

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 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 Habitat Regulations Screening report, submitted by Dendra Consulting on the 17.05.18. This screening accompanies the Habitats

Regulations Assessment (HRA) Statement submitted on the 03.01.19 and equates to Stage 1 of the HRA Process. The HRA considers whether the development proposals will have likely significant effects on the Northumbria Coast Ramsar and Special Protection Area and the Durham Coast SAC. 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.

It is noted within the HRA that the nearest part of the SPA/Ramsar is approx. 115m to the north and 940m to the south of the development site. With regard to disturbance of feeding or roosting birds during winter, the HRA Statement concludes that there will be no direct impact on the designation or its features as a result of construction/renovation of the shelter.

Results from visitor surveys conclude that a cafe would not be the prime reason to visit the coast/Seaburn. The cafe/ restaurant would provide facilities for existing visitors but is unlikely to increase visitor numbers to the Seaburn area. The development is small scale and has a low carrying capacity and due to birds being migratory in nature the cafe is unlikely to undermine the conservation objectives.

The nearest part of the SAC is 115m north from the development site and with regard to the increased risk of urban edge effects, the HRA Statement concludes that no land will be affected as a result of the conversion of the Bay Shelter and no land will be affected once the Shelter is operational.

The application was also accompanied by a 'Bat and Nesting Bird Risk Assessment' submitted by Dendra Consulting Ltd. on the 24.11.18, which provides an assessment of the likely impact of the proposals on the protected bat and bird species which may utilise the area.

The report advises that the building is located within an area of low value bat habitat and is in a state of good repair with no potential bat access points or evidence of roosting bats. It is recommended that no further survey work is required.

With regard to protected birds they advise that although two large holes were noted in the eastern elevation of the building, no evidence of bird nesting activity was noted. However, these holes provide potential features in which birds could nest in the future. It is recommended that either the works commence outside of the bird nesting season (of March - August inclusive), or the holes are checked by a suitably qualified person, and certified free from nesting activity, immediately prior to the commencement of works; or these holes are repaired/covered during the winter preceding the works, to prevent nesting activity the following spring/summer.

The report has been assessed by the Council's Natural Heritage team and no objections to the works are offered. It is recommended that the mitigation and enhancement measures detailed in section 5.0.2 and 5.0.3 within the submitted 'Bat and Nesting Bird Risk Assessment', are secured as a condition of any grant of planning permission.

With regard to the content and findings of the above reports and the comments of the Council's Natural Heritage team, it is considered that the proposed development will not, subject to appropriate conditions, cause harm to species protected by law or their habitats, in compliance with the requirements of policy CN19, CN22 or CN23 of the UDP or the relevant sections of the NPPF.

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.

The LLFA have stated that in terms of flooding / drainage, the application is a minor development and not within an area of flood risk zone. They therefore have no objection to the proposal. It is suggested that, when determining the finished floor level of the building, regard should be given to the known historic sea levels in this area. They also recommend that as with other coastal developments the applicant register with a flood warning service as a precaution.

Given the above, it is considered that the proposal would not increase the risk of flooding, coastal erosion or land instability, thereby according with UDP policies EN12 and EN13 and the relevant paragraph of the NPPF.

ENVIRONMENTAL HEALTH CONSIDERATIONS

Following consultation the Council's Environmental Health Section consider that the proposal is acceptable subject to the inclusion of appropriate conditions. The Phase I Desk Study submitted on the 02.10.18 has been assessed, and it is recommended that based on the information supplied, conditions are appropriate for a Phase II Investigation, Remediation Strategy/Verification plan, Verification Report and for dealing with 'unexpected contamination'. The Consultant should also confirm whether a UXO risk assessment is required for the site.

The Council's Environmental Health team also requested that prior to commencement a noise assessment shall be submitted to and agreed with the local planning authority. This assessment should include details of any mitigation measures necessary to achieve a satisfactory noise climate at the nearest residential premises.

It is noted that no detail of the extraction / ventilation system has been provided with the proposal. Details of the proposed extraction/ ventilation system shall be submitted to and agreed with the local planning authority for approval prior to installation and operation of the proposed restaurant/cafe/drinking establishment. In addition, the applicant should carry out a risk assessment for odour to ensure that the extraction system has sufficient odour abatement elements such as grease filters, carbon filters, and electrostatic precipitation and in-line oxidation systems.

Subject to the conditions outlined above the proposal is considered to be acceptable in relation to environmental health considerations. It would therefore accord with the requirements of the NPPF and UDP policies EN14 and EN5.

CONCLUSION

The proposed development is considered to be acceptable in principle and it is not considered to be harmful to the visual amenity of the area. Nor would it increase flooding and nor, subject to appropriate conditions, would it be harmful to residential amenity, the ecological value of the area, protected sites and species within the coastal zone, highway and pedestrian safety or environmental health considerations. As such, the proposal is considered to comply with policies L7, L12, NA26, B2, CN18, CN22, CN23, EC8, EN1, EN5, EN12, EN13, EN14, T14 and T22 of the adopted UDP.

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 the following draft conditions:

Conditions:

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

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

Location plan, received 24.11.18

Site plan, received 24.11.18

Existing elevations, received 24.11.18

Proposed elevation, received 24.11.18

Existing roof plan, received 24.11.18

Proposed one unit and accessible toilet, received 24.11.18

Existing floor plan, received 24.11.18

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

3 Notwithstanding any indication of materials which may have been given in the application; the materials to be used, shall be in accordance with those stated within Q7 of the application form received on the 26.11.18 and following further discussion with the agent on the 04.01.19 and 08.01.19:

Bin store- Hard timber

Windows- Aluminium Glazing

Doors - Aluminium Doors

Footpaths - Tarmac

Unless the Local Planning Authority first agrees any variation in writing; in the interests of visual amenity and to comply with policy B2 of the Unitary Development Plan.

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

i) a survey of the extent, scale and nature of contamination and any risks from unexploded ordnance

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

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

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

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

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

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

7 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, all works within the affected part of the site shall cease until an investigation and risk assessment and, when remediation is necessary, a remediation scheme in accordance with the details of the respective conditions set out above have been submitted to and approved, in writing, by the Local Planning Authority and any necessary remediation is carried out in accordance with the approved details.

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

8 The development hereby approved shall not be brought into use until a noise assessment has been submitted to and approved in writing by the Local Planning Authority. The noise assessment shall be undertaken by a suitably qualified and experienced noise control consultant, in accordance with the current relevant guidance and standards (including reference to the World Health Organisation Guideline Values for Community Noise, BS 8223:2014 Guidance on sound insulation and noise reduction for buildings and BS 4142:2014 Methods for rating and assessing industrial and commercial sound) and shall include details of any mitigation measures necessary to achieve a satisfactory noise climate at the nearest residential premises (including details of any maintenance). Any approved mitigation shall be installed before the development hereby approved is first brought into use and shall be retained thereafter (including adherence to any maintenance recommendations).

Reason: To ensure, in accordance with UDP policy EN5, the development hereby approved does not generate noise sufficient to increase significantly the existing ambient sound levels in residential or other noise sensitive areas.

9 The development hereby approved shall not be brought into use until details of a suitable and effective extraction / ventilation system which efficiently captures odours and incorporates a grease filtration system has been submitted to and approved in writing by the Local Planning Authority. The details should include a risk assessment for odour to ensure that the extraction system has sufficient odour abatement elements; such as grease filters, carbon filters and electrostatic precipitation and in-line oxidation systems. The stack should not be fitted with any restriction at the final opening, such as a plate, cap or cowl. The approved extraction / ventilation system shall therefore be installed before the development hereby approved is first brought into use and shall be retained thereafter (including adherence to any maintenance recommendations).

Reason: To ensure, in accordance with UDP policy EN1, the development hereby approved does not have a detrimental effect on residential amenity.

10 The development hereby approved shall not be brought into use until plans and elevations drawn to a recognised metric scale showing the extraction / ventilation system has been submitted to and approved in writing by the Local Planning Authority. The approved extraction / ventilation system shall therefore be installed before the development hereby approved is first brought into use and shall be retained thereafter

Reason: To ensure that in accordance with UDP policy B2, the development hereby approved respects the best qualities of the locality.

11 The development hereby approved shall be carried out in full accordance with the methodology detailed within Section 6.0 'Recommendations and mitigations' of the Bat Survey Report compiled by DWS Ecology dated October 2017.

Reason: In order to provide appropriate ecological mitigation for the development and to comply with the requirements of policy CN22 of the adopted Unitary Development Plan.

12 The development hereby approved shall not be brought into use until an operations plan is submitted has been submitted to and approved in writing by the Local Planning Authority. The operations plan will provide detail of servicing and delivery, refuse collection and the opening hours of the cafe/restaurant.

Reason: To ensure, in accordance with UDP policies B2, EN5 and T14, that the development hereby approved does not impact negatively on residential amenity or highway and pedestrian safety.

Reference No.: 18/02072/LP3 Local Authority (Reg 3)

Proposal: **Erection of 12 no. beach huts within embankment, with associated landscaping.**

Location: Lower Promenade Between Fat Buddha And Little Italy Restaurant, Whitburn Bents Road, Seaburn, Sunderland

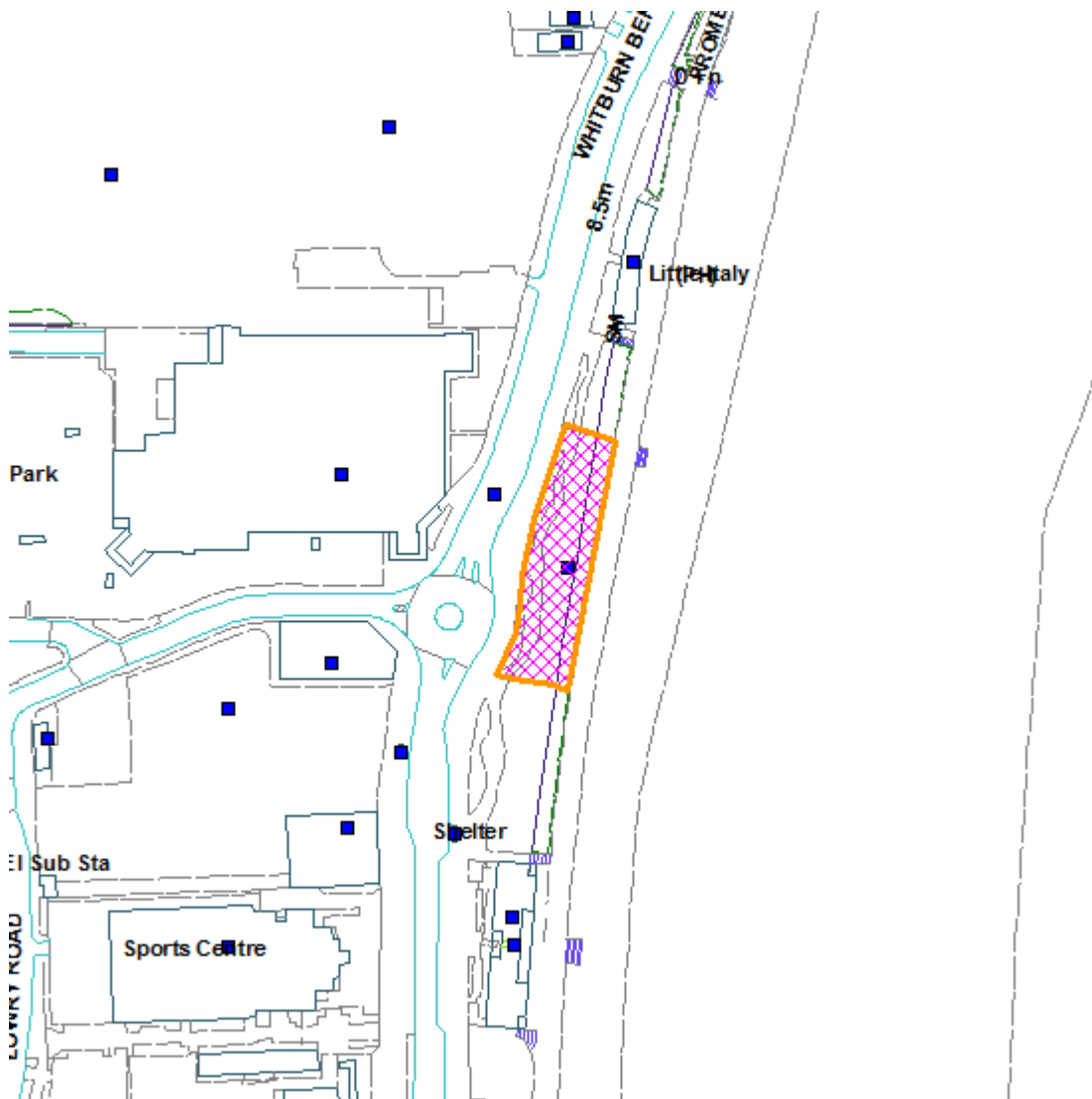
Ward: Fulwell

Applicant: Sunderland City Council

Date Valid: 26 November 2018

Target Date: 21 January 2019

Location Plan



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PROPOSAL:

INTRODUCTION

Planning permission is sought for the erection of 12no. beach huts within the embankment with associated landscaping at Lower Promenade between the Fat Buddha and Little Italy restaurant, Whitburn Bents Road, Seaburn, Sunderland.

SITE DESCRIPTION

The application site is located on land adjacent to Seaburn Promenade and forms part of an embankment of open amenity greenspace between Whitburn Road and Seaburn Lower Promenade. The Fat Buddha and additional amenity greenspace are located to the south and further amenity greenspace and the Little Italy restaurant are located to the north. Immediately to the west of the site is the A183 Whitburn Road and Morrisons Supermarket. To the east is the lower promenade and coastline.

PROPOSAL

Sunderland's twin resorts of Roker and Seaburn, which together form Sunderland Seafront, date back to the early 20th Century. Seaburn, where the beach huts are proposed established its reputation from the 1930's.

Common to many historic resorts in the UK, both Roker and Seaburn suffered decline since their heyday. However, since 2010 the Seafront Regeneration Project has secured over £8m funding for regeneration programmes to upgrade the visitor environment, breathe new life into heritage assets, improve the area's capacity for events and to provide local business support.

As part of ongoing regeneration activity, this planning application has been submitted to support Sunderland City Council's stage 2 bid submission to the Coastal Communities Fund Round 5 (CCF5).

The CCF5 bid includes a request for funding to redevelop a number of vacant Council owned sites at the seafront which includes the proposed beach hut site to enable their lease to a commercial operator. The buildings would be managed by Sunderland Seafront Trust, whose current remit is to operate the Roker Pier and Lighthouse as a visitor attraction. The Trust would expand its role to take on a broader destination management remit for the seafront.

The proposal comprises:

- o The installation of 12 terraced beach huts measuring 2.5m x 3.1m x 3.4m.
- o Construction of an exposed concrete hardstand base.
- o Re-grading of the grass embankment to accommodate the beach huts, compensatory storage area and associated landscaping, incorporating a timber crib wall.
- o Installation of concrete access ramps and steps and associated handrailings.
- o Each beach hut would have an electrical socket, providing power for small appliances.

TYPE OF PUBLICITY:

Press Notice Advertised

Site Notice Posted

CONSULTEES:

Environment Agency
Fulwell - Ward Councillor Consultation
DC North Chair And Vice Chair Consultation
Environmental Health
Network Management
Southern Area Command - Police
Northumbrian Water
Flood And Coastal Group Engineer
Natural England

Final Date for Receipt of Representations: **02.01.2019**

REPRESENTATIONS:

Neighbour Consultations

Site Notices have been posted at the site and one letter of representation has been received following the publicity exercise.

The Occupier, 5 Lynthorpe Grove

Comments made in support of the application.

Internal Consultees

Local Highway Authority

The Local Highway Authority has advised that there are no observations or recommendations offered and with regard to the proposal.

Ecology

The Council's Ecologist has confirmed that there are no objections to the proposal.

Heritage

The Council's Conservation Officer has confirmed that the proposal has no heritage impacts so there would be no comments with regard to the application other than from a design perspective it is considered that the beach huts look attractive and will make a positive contribution to the character of the Seafront.

Public Protection and Regulatory Services

The development is acceptable subject to the inclusion of the conditions in relation to the following on any consent granted.

- o Land contamination including a Phase II intrusive ground investigation, Remediation Strategy/Verification, Verification Report and a condition for dealing with any unexpected contamination.

- o Construction Environmental Management Plan which should include details of how noise, lighting, dust and other airborne pollutants, vibration, smoke and odour from construction work will be controlled and mitigated.

Flood and Coastal Team

The proposed development of beach huts is acknowledged to be in Flood zone 3a and a sequential and exception test have been provided. It is suggested the application could be approved, however, it is recommended that a condition is applied to any approval to ensure level for level compensatory flood plain is provided to ensure no increase in flood risk to the surrounding area.

External Consultees

Natural England

No comments to make on this application.

Northumbrian Water

No comments.

Environment Agency

Comments from the Environment Agency are awaited. It is anticipated that these will be received in advance of the Committee meeting and will be reported to Members via a late sheet accordingly.

POLICIES:

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

B2 - Scale, massing layout and setting of new developments

CN15 - Creation of the Great North Forest

CN18 - Promotion of nature conservation (general)

CN22 - Developments affecting protected wildlife species and habitats

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

EN14 - Development on unstable or contaminated land or land at risk from landfill/mine gas

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

NA5 - Provision / improvement of visitor facilities at tourist attractions

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

NA30 - Protection and enhancement of important views

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

COMMENTS:

PLANNING POLICY

The National Planning Policy Framework (NPPF) was revised in July 2018 and is a material consideration in the determination of planning applications. Paragraph 2 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 11 expands upon this and advises that proposed development that accords with an up-to-date Local Plan should be approved.

One of the 'core principles' of the NPPF is that planning should 'always seek to ensure high quality design and a good standard of amenity for all existing and future occupants of land and buildings, whilst paragraph 124 requires that great importance is attached to the design of the built environment - good design is a key aspect of sustainable development.

The Council's saved Unitary Development Plan (UDP) adopted in 1998 is the statutory development plan for Sunderland. The relevant guidance of the NPPF as detailed above feeds into policies B2, CN15, CN18, CN22, CN23, EC8, EN1, ENV5, EN12, EN13, ENV14, L1, L7, L12 NA5, NA26, NA30 and T14. The UDP remains the Council's adopted development plan and the policies referred to within this report are considered to remain consistent with the NPPF's objectives.

The Council has also produced a new Core Strategy and Development Plan (CSDP), which sets out the Council's long-term plan for development across the City until 2033. The CSDP submission documents and supporting documents were submitted to the Secretary of State for examination on 21st December 2018 and the CSDP will now be subject to an independent examination conducted by the Planning Inspectorate.

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

- a) The stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);
- c) The degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

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

Also, the Council's Seafront Regeneration Strategy is relevant to the assessment of the proposal. The Seafront Regeneration Strategy was adopted in 2010. Based on the outcomes of a city-wide consultation, the Seafront Regeneration Strategy provides overall strategic direction for the regeneration of Sunderland Seafront.

Furthermore, the site falls within the Seaburn Masterplan study area. The Masterplan was adopted in 2011. The Masterplan and design code outlines that new leisure and tourism related uses should be located on sites closest to the seafront along Whitburn Road to take full advantage of the seafront setting and to help focus and encourage activity along the seafront and promenade.

ASSESSMENT OF THE PROPOSAL

The main issues relevant to the assessment of the proposal include:

- o The principle of the proposed development.
- o Open space.
- o Character and appearance.
- o Impact on residential amenity.
- o Protected species and ecology.
- o Flood Risk.
- o Contaminated Land.
- o Construction Management.
- o Highway safety.

Principle of the Proposed Development

In terms of the principle of the proposed development, policy L12 of the UDP sets out that the Council will promote the recreational and tourist potential of the 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 and policy NA30 seeks to preserve sea views along the Roker, Seaburn and Whitburn Bents frontage.

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.

Furthermore, the 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'.

It is considered that the beach huts are a compatible use for the seafront location. The huts will be available for rent during the day and will not be for overnight use. The beach huts are aimed at providing a sheltered base for users to enjoy the beach for longer periods during the day, providing shelter from inclement weather, privacy for changing or somewhere to be able to enjoy the beach in comfort. As such, the proposal offers an additional attraction for visitors to the seafront, which will encourage increased activity at the beachfront and promenade area in line with the aspirations of the Seaburn Masterplan.

Moreover, it is considered that the proposed development will provide a facility which would 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.

Given the above, it is considered that the proposed development would 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 L12, NA26, NA30 and EC8 of the UDP, the Council's Seafront Regeneration Strategy and the relevant sections of the NPPF. The principle of the development is considered to be acceptable as a consequence.

Open space

The site is allocated within the Council's Unitary Development Plan (UDP) as open space and is identified within the Council's Greenspace Audit as above-average quality amenity greenspace. The function of such space is to provide visual enhancement to an area and is typically grassed or mown areas, often with trees or highway and highway verges to soften the urban fabric, to allow for informal leisure and provide a setting for buildings. It is open space whose primary purpose is to improve and enhance the appearance of the local environment.

Policy L7 of the UDP 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.

With reference to the loss of an area of public open space, it would not be considered that the construction of 12no. beach huts would be detrimental to the area as a whole when balanced against the positive use of the area which would result from the construction of the beach huts.

Although the proposal would result in some loss of open amenity greenspace, the amount lost is considered small scale in the context of the wider areas available adjacent the promenade. The proposal also incorporates significant landscape enhancements, to offset the areas of open space lost. It is also considered that the use of the site for beach huts offers a variation to the recreational opportunities in this area, the regeneration benefits of which outweigh the impact of the partial loss of open space.

It is therefore considered that, on balance, the proposal would not be contrary to policy L7 of the UDP based upon the positive value that the beach huts would bring to the coast.

Character and Appearance

Policy B2 of the Council's adopted UDP requires new development to respect visual amenity and 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.

It is considered that the proposal would enhance the public realm of the Seaburn Promenade in terms of its functionality and appearance, to the benefit of the local environment and the visual amenity of the seafront.

The beach huts will take a traditional form featuring pitch roofs, referencing the historic changing huts found at the seafront previously. However, the design of the doors and features such as the front fins and angled rear walls are intended to add a modern interpretation of the classic beach hut design. The single terrace offers a frontage overlooking the seafront.

Due to the topography of the site, the height of the huts will not interrupt key views of the coast from Whitburn Road and are considered to be appropriate to the scale to the surrounding area.

External planting for the areas of regarded embankment has been designed to complement existing planting and landscaping at Seaburn Promenade.

It is considered that the design of the proposal would be in keeping with the character and appearance of the site itself and the area as a whole and the proposal therefore complies with policy B2 of the adopted UDP and the objectives of the NPPF with regard to its visual impact.

Impact on Residential Amenity

The application site is situated on land adjacent to Seaburn Promenade and forms part of an embankment of open amenity greenspace between Whitburn Road and Seaburn Lower Promenade. The Fat Buddha and additional amenity greenspace are located to the south and further amenity greenspace and the Little Italy restaurant are located to the north. Immediately to the west of the site is the A183 Whitburn Road and Morrisons Supermarket. To the east is the lower promenade and coastline.

As a consequence, there are no residential properties in close proximity to the site and it is considered that the proposal would not have a detrimental impact on residential amenity as a result. It is considered that the proposal would satisfy the objectives of UDP policy B2 in respect of the impact in relation to residential amenity.

Protected Species and Ecology

The application site forms part of a wildlife corridor and it is also part of the Great North Forest.

Also, the application site is adjacent to Northumbria Coast Special Protection Area and Ramsar Site and Durham Coast Special Area of Conservation.

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 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 policy CN23 seeks to conserve and enhance the wildlife corridors identified on the UDP proposals map.

The planning application has been accompanied by a Habitat Regulations Screening report, submitted by Dendra Consulting and dated 30.05.18. The Screening report advises that the scope of the works is small and would involve only limited disruption on a very localised scale. The proposed site lies approximately 700 metres from the nearest section of the Durham Coast SAC, and the proposal will not involve any changes to hydraulic conditions, abiotic natural processes or nitrification of the surrounding land. Given the geographical separation of the project from this European site, no impacts on the vegetated sea cliff habitats are envisaged and it is considered that there will be no impacts of any kind on the Durham Coast SAC.

The site also falls outside of the Northumbria Coast SPA and Ramsar site, and therefore there will be no loss of extent of European or Ramsar site.

With regard to the impact on birds, as the colony is located 25km from the proposed development site, it is highly unlikely that little tern breeding success will be affected by the proposals. Also, turnstone and purple sandpiper records are scarce within the area of the beach likely to be disturbed by noise during construction, and therefore the effects of the proposals are unlikely to be significant in terms of noise disturbance, particularly in an area of high use, where birds are likely to have become habituated to some degree to the ambient noise levels.

The Screening report concludes that there would be no impacts on European sites and the conservation objectives of Natura 2000 would not be undermined. In the context of European case law it is considered the proposal would have no likely significant effect on these sites.

The application is also accompanied by a Preliminary Ecological Appraisal. This Appraisal advises that there are 7 designated nature conservation Local Wildlife Sites within 2km of the site. Given the size, scale and nature of the proposed redevelopment works on previously developed ground and the habitats being common and widespread, it is considered highly unlikely that the proposals would impact upon any of these designated nature conservation sites.

The Appraisal further advises that overall there are only very limited opportunities for priority and protected species offered by the site, due to the current high levels of human disturbance and the common nature of the habitats present. Therefore, the impact of the development on priority and protected species is likely to be negligible. The proposed development is considered to offer similar ecological opportunities to that of the previous site usage and therefore no net loss of biodiversity is predicted. No avoidance, mitigation or compensation measures are considered necessary.

The report has been assessed by the Council's Ecologist and no objections to the proposal are offered.

With regard to the content and findings of the above reports and the comments of the Council's Ecologist, it is considered that the proposed development will not cause harm to species protected by law or their habitats, in compliance with the requirements of policy CN19, CN22 or CN23 of the UDP or the relevant sections of the NPPF.

Flood Risk

The site is located within Flood Zone 3a and therefore a Flood Risk Assessment and Sequential Test have been carried out. The Flood Risk Assessment considered the proposal as water based recreation (excluding sleeping accommodation), which is therefore water compatible. For this reason, an Exception Test was not carried out. The Flood Risk Assessment concluded that the site is at negligible risk of flooding from fluvial and pluvial sources, however, is at risk of coastal flooding and coastal erosion.

The sequential test concluded that there was no sequentially preferable site for the proposed beach huts at the seafront.

Comments are still awaited from the Environment Agency and with regard to flooding issues. These comments will be reported when received to the Planning Committee.

Contaminated Land

A Phase I Desk Study completed by Solmek has been submitted as part of the application and the Council's Public Protection and Regulatory Services consider that following the recommendations of the report and subject to the inclusion of appropriate conditions including the submission of a Phase II Investigation, Remediation Strategy/Verification plan, Verification Report and the reporting of any unexpected contamination the proposal would be acceptable in relation to any potential contamination.

Subject to the conditions outlined above the proposal is considered to be acceptable. It would accord with the requirements of the NPPF and UDP policy EN14.

Construction Management

The Council's Public Protection and Regulatory Services consider that a condition should be attached to any grant of planning permission to require the submission of a Construction Environmental Management Plan which should include details of how noise, lighting, dust and other airborne pollutants, vibration, smoke and odour from construction work will be controlled and mitigated.

Subject to the submission of a Construction Environmental Management Plan it is considered that the proposal would comply with policy EN5 of the UDP.

Highway Safety

Policy T14 of the UDP requires proposals for new development to be readily accessible by pedestrians, cyclists and users of public transport; not cause traffic congestion or highway safety problems on existing roads; make appropriate safe provision for access and egress by vehicles,

pedestrians, cyclists and other road users; make provision for the loading and unloading of commercial vehicles and indicate how parking requirements will be accommodated.

As the site is located within the public promenade, the proposed development would not impact on the Highway network. The proposal will complement the existing leisure offer of the seafront and it is anticipated that users of the beach huts would use existing sea front car parking facilities.

Pedestrian access to the Beach Huts will be from Seaburn Promenade and the DDA compliant access ramps will enable the beach huts to be fully accessible to all.

The Local Highway Authority has advised that the proposal is acceptable with regard to highway safety. The proposal is therefore considered to satisfy policy T14 of the adopted UDP in this regard.

CONCLUSION

The proposed development comprising the construction of 12 no. beach huts with associated landscaping is considered to be acceptable in principle and in relation to the loss of an area of designated space given the overall value of the proposal. It is not considered that the proposal would be harmful to the visual amenity of the area and it would not impact on the residential amenities of any nearby residential properties. The proposal would also not be harmful to the ecological value of the area, protected sites and species within the coastal zone or to highway and pedestrian safety and it would be acceptable in relation to potential contaminated land and construction management.

Issues regarding potential flooding are still being considered and a response is awaited from the Environment Agency.

Subject to the comments being received in relation to flooding it is considered that the proposal would comply with the relevant policies contained within the adopted UDP and the NPPF.

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 Environment Agency and subject to the following draft conditions:

Conditions:

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

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

Drg No. LS000075/001 proposed landscaping and section plan received
Drg No. 03 proposed site plan received

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

3 Notwithstanding any indication of materials which may have been given in the application, no development shall take place until a schedule and/or samples of the materials and finishes to be used for the external surfaces of the hereby approved development have been submitted to

and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details.

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

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

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

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

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

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

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

remediation works and accords with the terms of the approved Verification Plan has been submitted to and approved, in writing, by the Local Planning Authority.

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

7 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, all works within the affected part of the site shall cease until an investigation and risk assessment and, when remediation is necessary, a remediation scheme in accordance with the details of the respective conditions set out above have been submitted to and approved, in writing, by the Local Planning Authority and any necessary remediation is carried out in accordance with the approved details.

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

8 Before construction works are commenced in relation to the hereby approved development a Construction Environmental Management Plan which should include details of how noise, lighting, dust and other airborne pollutants, vibration, smoke and odour from construction work will be controlled and mitigated shall be submitted to and approved in writing by the Local Planning Authority. The approved proposal shall then be completed in accordance with the approved Construction Environmental Management Plan.

Reason: To ensure a satisfactory standard of development and to ensure that the development does not have a detrimental effect on the amenity of the area during construction works in accordance with policy EN1 of the Unitary Development Plan.

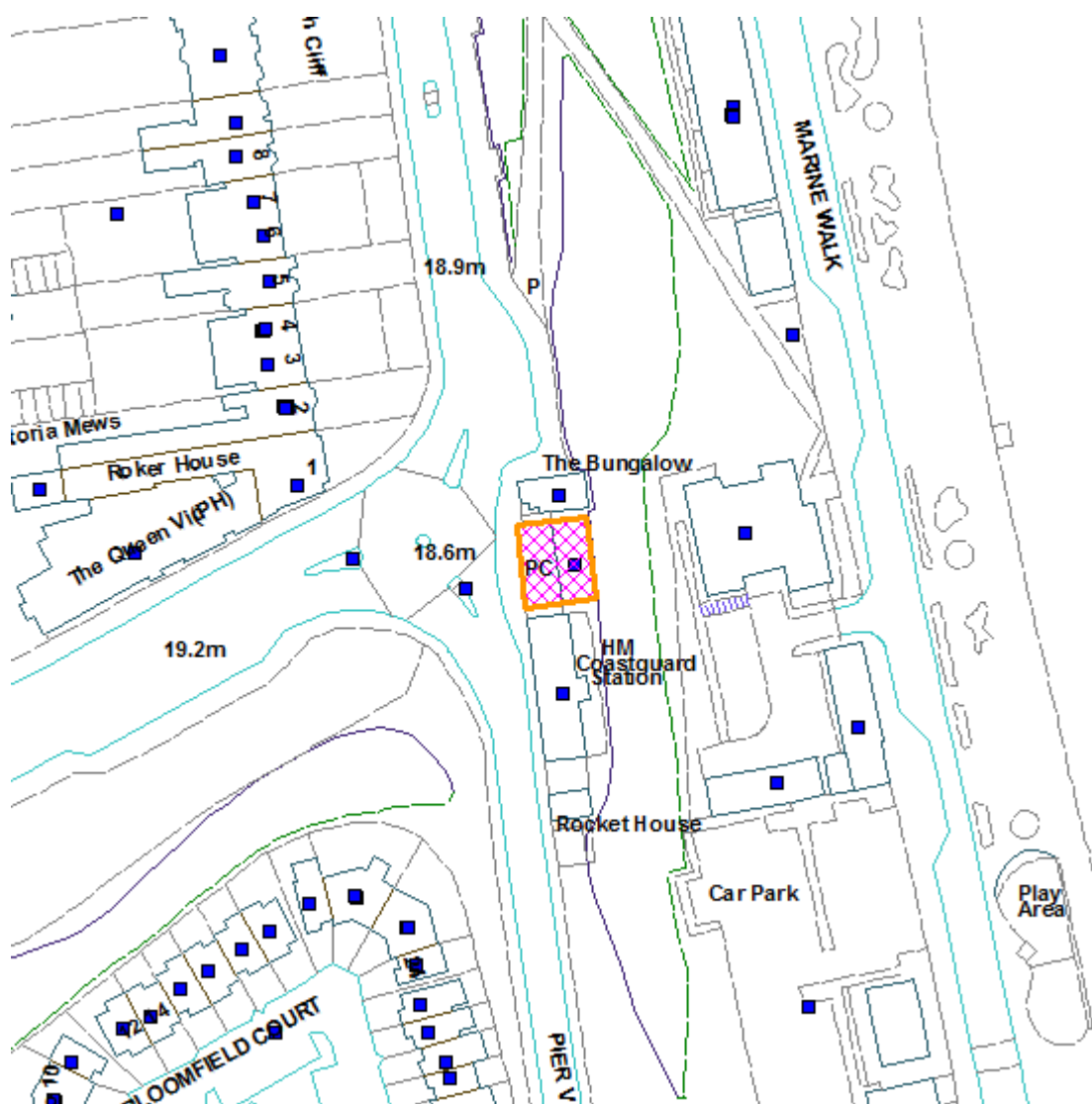
Reference No.: 18/02073/LP3 Local Authority (Reg 3)

Proposal: Change of use from public toilets to cafe/bar/restaurant (Use Classes A3 or A4), to include various external alterations to existing building and new outdoor seating area to the rear.

Location: Pier View Toilet Block Pier View Roker SR6 0RH

Ward: St Peters
Applicant: Sunderland City Council
Date Valid: 26 November 2018
Target Date: 21 January 2019

Location Plan



PROPOSAL:

The application seeks full planning permission to change the use of vacant single storey building previously used as a public toilet to a cafe / bar / restaurant (Use Classes A3 / A4) at Pier View Toilet Block, Pier View, Roker. The proposed works also include the provision of an external seating area surrounded by a glass balustrade and the insertion of doors / windows.

The site lies towards the east of the Roker area and occupies a rectangular site covering around 182 square metres. The surrounding land uses include a cafe to the north and coastguard station to the south. The site lies within a Conservation Area and a wildlife corridor.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

St Peters - Ward Councillors Consultation
DC North Chair And Vice Chair Consultation
Environmental Health
Network Management
Southern Area Command - Police
Northumbrian Water
Flood And Coastal Group Engineer
Natural England

Final Date for Receipt of Representations: **02.01.2019**

REPRESENTATIONS:

Conservation Officer: no objections

Ecology: no objections.

Environmental Health: development is acceptable; subject to conditions

Highway Authority: Provide comments; request a condition.

Lead Local Flood Authority: no comments received.

Natural England: No comments.

Northumbrian Water: No comments.

Police Architectural: No comments received.

Ward Councillors: No comments received.

There have not been any comments from the public.

POLICIES:

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

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.
EN13 - Requirements for development within the defined coastal zone
S12 - Criteria for hot food take-aways, restaurants, other A3 uses and amusement centres
EN5 - Protecting sensitive areas from new noise/vibration generating developments
B2 - Scale, massing layout and setting of new developments
EN12 - Conflicts between new development and flood risk / water resources
CN19 - Development affecting designated / proposed SAC's, SPAs and RAMSAR Sites
CN23 - Measures to conserve/ improve wildlife corridors
EN14 - Development on unstable or contaminated land or land at risk from landfill/mine gas
B4 - Development within conservation areas
T14 - Accessibility of new developments, need to avoid congestion and safety problems arising
T22 - Parking standards in new developments

Officers consider that the above development plan policies, within the context of the current application, are consistent with the National Planning Policy Framework (2018).

Supplementary Planning Document: Seafront Regeneration Strategy (2010)

Supplementary Planning Document: Marine Walk Masterplan (2010)

COMMENTS:

Principle of the Development

The submitted design and access statement identifies that

"The building has been closed and surplus to requirements since the opening of new Roker toilet facilities at Marine Walk".

The UDP has a further policy, L12, for the "Coast and Riverside". The policy states that the "Council will promote the recreational and tourist potential of the coast' by encouraging development which provides for the needs of visitors".

The UDP also has a policy, NA26, for the "Coastal and Seafront Zone". The policy states that "New development will make a positive contribution to the tourism / recreational development of the seafront."

The UDP also a policy, EN13, for "The Coast". The policy states that "a coastal zone is defined' which the City Council will seek to ensure any development proposal' makes a positive contribution to the appearance of the zone".

The UDP also has a policy for "The Coast". The policy states that "a coastal zone is defined' which the City Council will seek to ensure any development proposal' makes a positive contribution to the appearance of the zone".

Officers consider that the conversion of a currently vacant building to provide a cafe / bar would accord with the general aims of the above policies.

The UDP also has a more specific policy, at S12, which states that

"planning permission for' restaurants' will normally be granted in existing town and local centres and other appropriately located and accessible sites unless they have a detrimental effect on the environment, residential amenity and public or highway safety.

The supporting text clarifies that the policy includes "public houses and wine bars".

Officers consider that the site, given the location within the Roker area, falls within the scope of being an appropriately located and accessible site and would accord with the above policy.

In terms of material considerations, the Council has adopted a "Seafront Regeneration Strategy and a "Marine Walk Masterplan" (both 2010). They both have a vision of

"Building on its unique natural environment and rich heritage, the seafront will be an attractive, safe, clean and accessible destination for all residents and visitors that the people of Sunderland can be proud of... it will be a welcoming place to enjoy all year round, which offers activities and events for everyone, supporting Sunderland's aspiration to be the UK's most liveable city."

Officers consider that the conversion of a currently vacant building to a cafe / bar would be in accordance with the above vision.

In the absence of any other material considerations to the contrary, officers consider that the proposal would accord with the above policies. The principle of the development can therefore be supported; subject to consideration of any detailed matters which can be seen below.

Amenity

The submitted design and access statement identifies that the "nearest residential properties are located 60 metres from the proposed scheme". The statement also identifies that "there is a larger A4 use equidistant from this residential area" and that the "scheme is further screened from the residential area by a main road and mature planting"

The Environmental Health Officer has advised they the "development is acceptable"; subject to conditions covering noise and odour.

In the absence of any material considerations to the contrary, officers consider the proposal would accord with UDP policies S12 and EN5.

Design

The submitted design and access statement advises that "the scheme has been developed to create a simple, yet interesting design" and that the "overall colour scheme will be sympathetic to the natural palate of the surrounding area".

Officers would draw to attention that the scheme would bring a vacant building back to use through alterations to the existing fabric (such as the insertion of doors and windows) and through the provision of relatively modest area of decking to the rear surrounded by a glass balustrade.

In the absence of any material considerations to the contrary, officers consider that the proposal accords with UDP policy B2.

Drainage

The submitted application form indicates that both foul sewage and surface water would be disposed of via the main sewer. Northumbrian Water has stated that "at this stage we would have no comments to make". In the absence of any material considerations to the contrary, officers consider the proposal would accord with UDP policy EN12.

Ecology

The submitted bat survey identifies that an external inspection "did not reveal any evidence of roosting bats" and that the building has a "low risk of supporting roosting bats" and the bat survey further states that a single nocturnal activity survey "did not record any roosting, commuting or foraging bats at all". The survey concludes that "no significant impact on roosting bats or wider bat populations are predicted as a result of these proposals".

The submitted Habitats Regulations Assessment (HRA) concludes that "the competent authority could safely conclude that there is no likely significant effect of the project on the qualifying features of European site, either alone or in combination with reasonably anticipated neighbouring developments".

The Council's Ecologist has advised that they have "no objections to the proposal". The Ecologist has also undertaken an assessment of likely significant effect on European sites and has advised that there would not be a likely significant effect either from the proposed scheme alone or in combination with other projects.

Natural England has also stated that they have "no comments".

In the absence of any material considerations to the contrary, officers consider the proposal would accord with UDP policies CN19 and CN23.

Ground conditions

The submitted Phase 1 Desktop Study states that "potential geotechnical issues and hazards have been identified for this site and the proposed development works". The Study continues by advising that "it is recommended intrusive geotechnical investigation works are undertaken".

The Environmental Health Officer has advised they the "development is acceptable"; subject to conditions covering contamination.

In the absence of any material considerations to the contrary, officers consider the proposal would accord with UDP policy EN14.

Heritage

The Listed Buildings and Conservation Areas Act 1990 states, at paragraph 72, that

"Special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area".

The adopted Roker Park Character Appraisal identifies the site as lying within "Coastal Zone: Seafront". The key characteristics are identified as including "range of commercial, leisure and residential uses" and a "variety of building forms and types and architectural styles"

The Council's Conservation Officer has advised that "the building is of historic and architectural significance as part of a collection of buildings' and makes a positive contribution to this part of the Conservation Area". The Conservation Officer has further advised that "a sympathetic design approach has been used to facilitate its new cafe / restaurant use" and that "overall the intervention represent a sensitive adaption of an historic structure that will conserve its essential Edwardian architectural style and character". The Conservation Officer has also recommended a condition covering samples of external materials.

In the absence of any material considerations to the contrary, officers consider the proposal would accord with the above section of the Act and UDP policy B4.

Highway

The submitted design and access statement identifies that proposed "loading and deliveries will be taken from Pier View, or from public parking situated next to the Bungalow Cafe". The design and access statement also states that "there are eight parking bays within very close proximity".

The Council's Highway Authority has commented that "the proposal is at the seafront location with good links to public transport and sustainable travel for pedestrians and cyclists" and that "there are parking bays along the seafront and public car parks at various locations". The Highway Authority have stated that "a servicing and delivery management plan is required, setting out arrangements for deliveries and refuse collection" and "to promote sustainable travel it would be an advantage if cycle racks are provided where possible".

In the absence of any material considerations to the contrary, officers consider the proposal would accord with UDP policies T14 and T22.

CONCLUSION

The principle of the development is considered to accord with Unitary Development Plan Policies (UDP) NA26, L12 and S12.

The detailed considerations comprising amenity, design, drainage, ecology, heritage and highway safety accords with the relevant policies within the UDP (EN5, EN13, EN14, B2, B4, CN19 and CN23)

In the absence of any material considerations to the contrary, officers recommend that Members Grant Consent under Regulation 3 of the Town and Country Planning (General Regulations) 1992 (as amended); subject to the draft conditions noted below.

EQUALITY ACT 2010 - 149 PUBLIC SECTOR EQUALITY DUTY During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act. As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:-

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

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

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

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

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

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

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

RECOMMENDATION: GRANT CONSENT under Regulation 3 of the Town and Country Planning (General Regulations) 1992 (as amended); subject to the draft conditions noted below.

Conditions:

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

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

Location Plan

Proposed Coffee Layout with External Decking, Revisions B

Proposed North and South Elevations

Proposed East and West Elevations

Section 6.11 and 7.0 of submitted Bat Survey (SCC_PierView_Bat2.1)

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 development shall commence until a Phase II: Site Investigation report which ascertains whether the land is contaminated has been submitted to and approved, in writing, by the Local Planning Authority. The Phase II report shall be based upon the findings of the approved Phase I report and any additional comments provided by the Local Planning Authority, shall be completed in accordance with a recognised code of practice for site investigations, such as BS 10175:2001 and shall include:

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

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

4 If any hazards are identified from any form of contaminant by any site investigation which require remediation, as determined by the Local Planning Authority, no development shall commence until a detailed Remediation Strategy and Verification Plan to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved, in writing, by the Local Planning Authority. The strategy shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site

management procedures and must ensure that the site will not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the residential use of the land.

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

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

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

6 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, all works within the affected part of the site shall cease until an investigation and risk assessment and, when remediation is necessary, a remediation scheme in accordance with the details of the respective conditions set out above have been submitted to and approved, in writing, by the Local Planning Authority and any necessary remediation is carried out in accordance with the approved details.

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

7 The development hereby approved shall not be brought into use until a noise assessment has been submitted to and approved in writing by the Local Planning Authority. The noise assessment shall be undertaken by a suitably qualified and experienced noise control consultant, in accordance with the current relevant guidance and standards (including reference to the World Health Organisation Guideline Values for Community Noise, BS 8223:2014 Guidance on sound insulation and noise reduction for buildings and BS 4142:2014 Methods for rating and assessing industrial and commercial sound) and shall include details of any mitigation measures necessary to achieve a satisfactory noise climate at the nearest residential premises (including details of any maintenance). Any approved mitigation shall be installed before the development hereby approved is first brought into use and shall be retained thereafter (including adherence to any maintenance recommendations).

Reason: To ensure, in accordance with UDP policy EN5, the development hereby approved does not generate noise sufficient to increase significantly the existing ambient sound levels in residential or other noise sensitive areas.

8 The development hereby approved shall not be brought into use until details of a suitable and effective extraction / ventilation system which efficiently captures odours and incorporates a grease filtration system has been submitted to and approved in writing by the Local Planning Authority. The details should include a risk assessment for odour to ensure that the extraction system has sufficient odour abatement elements; such as grease filters, carbon filters and electrostatic precipitation and in-line oxidation systems. The stack should not be fitted with any restriction at the final opening, such as a plate, cap or cowl. The approved extraction / ventilation system shall therefore be installed before the development hereby approved is first brought into use and shall be retained thereafter (including adherence to any maintenance recommendations).

Reason: To ensure, in accordance with UDP policy S12, the development hereby approved does not have a detrimental effect on residential amenity.

9 The development hereby approved shall not be brought into use until a servicing and delivery management plan has been submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall thereafter be operated in accordance with those details.

Reason: To ensure, in accordance with UDP policy T14, the development hereby approved does not cause highway safety problems.

10 The development hereby approved shall not be brought into use until plans and elevations drawn to a recognised metric scale showing the extraction / ventilation system has been submitted to and approved in writing by the Local Planning Authority. The approved extraction / ventilation system shall therefore be installed before the development hereby approved is first brought into use and shall be retained thereafter

Reason: To ensure, in accordance with UDP policies B2 and B4, the development hereby approved respects the best qualities of the locality and preserves the character and appearance of the Conservation Area.

11 No development shall commence on the exterior of the building until samples of the external materials have been submitted to and approved in writing by the Local Planning Authority. The sample materials shall include all external materials including slates, rainwater goods, windows, timber decking, steel and glass balconies. The approved materials shall thereafter be used in the development hereby approved.

Reason: To ensure, in accordance with UDP policies B2 and B4, the development hereby approved respects the best qualities of the locality and preserves the character and appearance of the Conservation Area.