

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.

Development Plan - current status

The Core Strategy and Development Plan was adopted on the 30 January 2020, whilst the saved policies from the Unitary Development Plan were adopted on 7 September 1998. In the report on each application specific reference will be made to policies and proposals that are particularly relevant to the application site and proposal. The CSDP and UDP also include several 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 City Development Directorate at the Customer Service Centre or via the internet at www.sunderland.gov.uk/online-applications/

Peter McIntyre
Executive Director City Development

Reference No.: 22/00091/FUL Full Application

Proposal: **Demolition of existing petrol filling station and convenience store. Erection of a new convenience store with associated works and access.**

Location: Grindon Broadway Service StationThe Broadway GrindonSunderland SR4 8LP

Ward: Barnes

Applicant: Matthew Gray

Date Valid: 31 January 2022

Target Date: 28 March 2022

PROPOSAL:

Under Sunderland City's current scheme of delegation where an application has been call-in by a member, the application is referred to the Head of Service for consideration as to the method of determination. The decision has been taken that this application falls to be determined by Planning Committee.

Introduction

Planning permission is sought for the demolition of the existing petrol filling station and convenience store and the erection of a new convenience store with associated works and access on the site of Grindon Broadway Service Station, The Broadway, Grindon, Sunderland SR4 8LP.

The application site is located on The Broadway, Sunderland approximately 2.5 miles southwest of Sunderland City Centre which is approximately 0.34 acres in size. Outside the confines of the host site the surrounding land use is predominantly residential in character with dwellings located to the north and east. To the immediate north is one of the main arterial roads into the city the classified (A183), whilst the western curtilage of the site is bound by Springwell Road (B1405) beyond which lies a Sainsbury's local store, a veterinary surgery, and a Greggs bakery. To the south of the site is a high-level wall beyond which is Broadway Junior School.

The application proposes the demolition and decommissioning of the existing petrol filling station and linked convenience store and erection of replacement convenience store and associated works. The gross internal area of the unit would comprise of 370 sqm; running north to south the building would have a width of 20.5m extending to 21.3m with the canopy in width and would measure 19.45m extending to 21.85m in depth running east to west and would have an overall roof height of 4.25m extending to 5.4m at its highest point.

The building would be constructed from composite panel cementitious boarding in Honesty (BS10C31), wooden cladding with glazed panels and the fascia capping and glazing in Merlin Grey (BS18B21). Parking provision would be provided for 15 vehicles which would include disabled parking and 4 EV charging points for use by customers. Secure cycle storage would also be provided for 2 bicycles.

The public entrance to the building would be sited to the east of the building facing the car park.

In terms of access, vehicles would arrive from the north-eastern boundary of the site from the A183 (The Broadway) with delivery and refuse vehicles following a one-way route and exiting to the southwestern boundary of the site B1405 (Springwell Road). There would be no right turn for traffic exiting the site onto the A183 (The Broadway). In terms of pedestrian access the proposed development would be fully accessible with level thresholds designed in.

The following information has been submitted in support of the application;

Drainage Strategy
Ecological Statement
Planning Statement
Sequential Assessment
Technical Report
Tree Survey
Phase 1 Land Contamination Report

TYPE OF PUBLICITY:

Site Notice Posted
Neighbour Notifications

CONSULTEES:

Network Management
Natural Heritage
Planning Policy
Natural Heritage
Network Management
Natural Heritage
Watermans - Land Contamination
Network Management
Watermans - Land Contamination
Cllr Richard Dunn
Cllr Anthony Mullen
Cllr Helen Greener
Network Management
Environmental Health
Network Management

41 The Broadway Grindon Sunderland SR4 8LP
Co-op Food 27 Broadstairs Court Sunderland SR4 8NP
Broadway Junior School House Springwell Road Sunderland SR4 8NW
61 Nookside Sunderland SR4 8PJ
66 The Broadway Grindon Sunderland SR4 8NS
62 The Broadway Grindon Sunderland SR4 8NN
60 The Broadway Grindon Sunderland SR4 8NN
43 The Broadway Grindon Sunderland SR4 8LP
64 The Broadway Grindon Sunderland SR4 8NS
Headteacher Broadway Junior School Springwell Road Sunderland SR4 8NW
63 Nookside Sunderland SR4 8PJ

Final Date for Receipt of Representations: **02.08.2022**

REPRESENTATIONS:

The Local Authority has carried out public consultation for the application in the form of letters to neighbouring properties and public notices around the site. As a result of the consultation a total of 15 neighbour representations have been received objecting to the proposed development.

The objections have raised the following concerns;

Amenity - noise pollution, crime and anti-social behaviour, litter, loss of privacy

Highway and pedestrian safety - increased traffic, poor access, right turn

Contamination - construction noise

Over development - other stores in close proximity

Contributions - S106 community facilities

Summary of Consultation responses

Planning Policy

No objection - It is considered that the principle of development would be acceptable where it is demonstrated there are no sequentially preferable sites.

Ecology

No objection - Based on the information available and the nature of the site. It is my view that pursuing measurable BNG in this instance is disproportional to the potential for negative ecological effects. In this instance I would recommend a standard condition requiring consideration of nesting birds in any vegetation.

Public Protection and Regulatory Services

No objection subject to the imposition of recommended planning conditions and Informatives.

Contaminated Land

No objection subject to recommended planning conditions.

Transportation Development

No objection subject to recommended planning conditions and Informatives.

Following a meeting with the applicant it was recommended that the applicant consider introducing a left turn out only exit system. This would reduce risk of side impact collision resulting in personal injury accidents. Motorists would need to make the same U-turn manoeuvre at the roundabout as happens currently. Amended drawings have been provided

which propose the installation of no right turn signs to address this issue. This is considered acceptable.

It is accepted that trip generation characteristics for a retail unit are different to a petrol filling station with a small convenience store already included. However, the proposed change of use to a food store with a greater retail choice for customers would be expected to generate greater pedestrian footfall as a local amenity. As such, given the location some offsite improvements for pedestrians should be provided in support of this development. This could be secured through a s278 highways agreement. Amended drawings have been provided which propose improvements to the footway crossing point on Springwell Road along with the improved pedestrian access to the retail unit within the curtilage of the development. This is considered acceptable.

POLICIES:

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

Core Strategy and Development Plan (CSDP)

SP1 Development strategy
SP5 South Sunderland
BH1 Design quality
BH2 Sustainable design and construction
VC1 Main town centre uses and retail hierarchy
VC2 Retail impact assessments
EG3 Other employment sites
HS2 Noise-sensitive development
HS3 Contaminated land
SP7 Healthy and safe communities
NE1 Green and blue infrastructure
NE2 Biodiversity and geodiversity
NE3 Woodlands/hedgerows and trees
NE4 Greenspace
ST2 Local Road network
ST3 Development and transport
M3 Land instability and minerals legacy

Saved UDP Policies

CN20 SSSI
CN21 Sites of nature conservation importance and local nature reserves
CN23 Wildlife corridors

National Planning Policy Framework (NPPF)
National Planning Policy Guidance (NPPG)
National Design Guide (NDG)

COMMENTS:

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

- Principle of the development.

- Design and impact on the street scene
- Amenity impact
- Contamination
- Highway and pedestrian safety
- Ecological and landscape impact

Principle of development

The NPPF advocates a presumption in favour of sustainable development and at Paragraph 11 states that planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 expands upon this and advises that the NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved.

Sunderland Core Strategy and Development Plan 2015-2023 (CSDP) was formally adopted on the 30th of January 2020. The CSDP is the starting point for the determination of planning applications. It sets a clear strategy for bringing land forward to address objectively assessed needs in line with the presumption in favour of sustainable development.

The NPPF Paragraph 38 requires that local planning authorities approach decisions on proposed development in a positive and creative way and that decision-makers at every level should seek to approve applications for sustainable development where possible. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

The NPPF at Chapter 11 relates to making effective use of land stating that "planning policies and decision should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land".

CSDP VC1 sets out the hierarchy for town centre and retail and identifies the main focus for development within the City Centre, Town Centres, Local Centres as detailed on the Policies Map. However, whilst not identified within the retail hierarchy, neighbourhood shops, services and community facilities located outside of the designated centres provide a valuable service to local communities in helping to meet their day-to-day needs. It is therefore necessary for these to be protected in order to promote sustainable patterns of development.

CSDP Policy SP9 details the amount of retail floorspace required over the plan period. The Sunderland Retail Needs Assessment (2016) considers the need for new retail floorspace over the period to 2035 and does not identify any need for additional convenience retail floorspace over the period to 2035.

CSDP Policy VC2 sets out the criteria for assessing edge or out-of-centre retail development and advocates that an impact assessment is required to be submitted where the development would exceed the identified local thresholds: the policy also states that planning permission will be refused "where there is evidence that development is likely to have a significant adverse impact upon the vitality and viability of a designated centre."

The site is not allocated under any site-specific policy in the CSDP; however, the site is currently operating as a service filling station and convenience store.

In line with the requirements of the above, the applicant has prepared a sequential assessment which considers the availability, suitability, and viability of other sites within the main catchment area of the store. The geographic coverage of the sequential test covered the Pennywell Local Centre with the search undertaken on sites of 0.1073 hectares / 1,073 sqm and above.

The following sites have been examined;

- Pennywell Local Centre
- Land to the South of Pennywell Local Centre

The results of the survey concluded there are no existing, suitable, and available alternatives to the application site within, or on the edge of the centre surveyed in respect of existing opportunities. The sequential report states that the applicant reviewed known development sites within and surrounding the centre and although there are a small number of potential opportunities, for the reasons discussed within the report, they are not suitable, viable nor available.

In considering the conclusions made within the assessment the Council are largely satisfied that none of the alternative options within the locality could reasonably meet the requirements of the development.

As such, it is considered appropriate to conclude that there are no more sequentially preferable sites which are, within reason, available, suitable, and viable for the proposed use. The proposal is therefore considered acceptable and in accordance with local and national planning policy in this respect.

The gross internal area would be 370m with the back of house 47m. This floorspace is less than the thresholds to require a Retail Impact Assessment as set out in CSDP Policy VC2.

The application seeks planning permission for the demolition and decommissioning of and existing petrol filling station and the construction of a convenience store. There have been a number of objections received stating that the proposal would result in over development and inappropriate use of the site as there are other such stores within close proximity. The current service station operates with a retail unit attached and whilst it is acknowledged that there is other such type of convenient stores within the locality, it is not the remit of the LPA to restrict business development opportunities.

Whilst the land to the immediate north and east is residential in character, the host site has most recently been utilised for commercial purposes and nearby uses also include a Vets4Pets, Greggs and a Co-op and small-scale commercial development as found on the Broadway.

Taking the above into deliberation, the principle of the proposed development is considered acceptable and in accordance with local and national planning policies in this respect subject to other matters discussed within this report.

Design and impact on the Street Scene

National planning guidance is provided by the National Planning Policy Framework (NPPF) (as amended), which requires the planning system to contribute to the achievement of sustainable development with Chapter 12 relating to achieving well designed places. To this end Paragraph 126 of the NPPF sets out that good design is a key aspect of sustainable development, creating better places in which to live and work. Paragraph 130 meanwhile 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 and create places that are safe, inclusive and accessible. Paragraph 134 states that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions

CSDP Policies BH1 and BH2 seek to ensure that development embrace the principles of sustainable design, and that new development positively responds to the function and vitality of the area in which they are located.

Section 3.9 of the Planning, Design, Access, and Retail Statement submitted in support of this application states that the applicant operates a Sustainable Material Procurement policy which looks at the whole product lifecycle and the incorporation of sustainability measures which extends to the construction phase, establishing supply chain and local resource and training opportunities alongside material product certification and ISO accreditation.

The building would introduce a contemporary appearance to the site through the design features and the use of cementitious boarding, wooden cladding and glazing, the proposed impact would also be softened by soft landscaping along the perimeters of the site.

The proposed design and associated landscaping of the commercial development is considered to be good quality, the size, scale, and massing is considered acceptable and would not have a detrimental impact on the character of the site or the locality. The proposal is considered in accordance with CSDP Policies BH1 and BH2 and the aims of the NPPF.

Impact on neighbouring amenity

The closest neighbouring residential properties to the proposed development are those of No. 43 The Broadway which is located to the east and shared a common boundary and that of No.'s 60 and 62 The Broadway which are located to the north and opposite the site. It is considered that there are adequate separation distances between the application site and the properties of No.'s 60 and 62 The Broadway and that there would be no impact on the amenity of those residents over and above that which already exists.

The proposed development would replace an existing commercial/retail unit, whilst it is accepted that the proposed retail unit would be greater in size than the building it would replace and as such would be closer to the neighbouring property of No. 43 The Broadway which shares a common boundary, there would be a separation distance of over 25m from the common boundary to the built form.

It is acknowledged that the immediate area is highly trafficked. The existing petrol filling station introduces vehicles to an area close to the existing dwelling, and clearly the existing close boarded fence is intended to offer some protection from site activity. It is noted that the proposal would remove the existing filling station pumps and as such could potentially reduce the frequency and number of vehicles entering and leaving the site, however, the introduction of a convenience store may require refrigeration and air conditioning units to be installed externally. The Environmental Health Team has been consulted as part of this application process and as raised no objection subject to the imposition of recommended planning conditions in respect of noise management and the management of the development through the construction phase of the project to mitigate any potential impacts on residential amenity. It is considered that with the imposition and adherence to the recommended conditions the proposal would accord with CSDP Policies BH1 and HS2 and the aims of the NPPF in this respect.

Highway and pedestrian safety

The NPPF promotes sustainable transport and advocates those opportunities to promote walking, cycling and public transport use are identified and pursued with paragraph 105 advocating the development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. The NPPF paragraph 110 seeks to ensure that opportunities to promote sustainable transport has been considered and that safe and suitable access to the site can be achieved for all users.

In regard to highways and pedestrian safety CSDP Policies ST2 and ST3 are relevant.

During the course of this application the plans have been amended following highway and pedestrian safety concerns by the LPA. Initially, the proposal included the closing up of the existing exit only and to widen the north-eastern access which would introduce two-way traffic movements replacing an existing entrance only arrangement giving rise to safety concerns for traffic turning right from the site and head to the city centre along A183 Chester Road. The proposal has now been amended to include the introduction of a left turn out only exit system which is considered acceptable.

The proposed change of use to a food store with a greater retail choice for customers would be expected to generate greater pedestrian footfall as a local amenity, amended drawings have been provided which propose improvements to the footway crossing point on Springwell Road along with the improved pedestrian access to the retail unit within the curtilage of the development which is considered acceptable. It is considered that this can be secured through a s278 agreement.

Based on the floor area of the proposed development, the overall number of car parking spaces to be provided appears satisfactory.

A number of representations were received raising concerns over highway and pedestrian safety and it is considered that the amendments to the application have addressed these concerns.

The Transportation development Team has been consulted and have raised no objection subject to the imposition of a suitably worded planning to manage servicing and deliveries and the use of the gated egress onto Springwell Road. It is considered that with the imposition and adherence to the recommended planning condition the proposal accords with local and national planning policies in this respect.

Contamination

The NPPF paragraph 183 states that planning policies and decisions should ensure that

- (a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);
- (b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and
- (c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.

The NPPF paragraph 185 advocates that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development and that appropriate mitigation measures are implemented to reduce impacts on health and the quality of life.

The link between planning and health outcomes is long established. CSDP Policies M3, SP7 and HS1, HS2 and HS3 relate to contamination and the principles to promote health and safe communities and seek to ensure that careful consideration is given to potential risks associated with development.

The application proposes the demolition and decommissioning of the existing petrol filling station and linked convenience store and erection of replacement convenience store and associated works. The application site lies within a Coal Mining legacy area identified as low risk.

A Phase 1 Land Contamination Report which includes a Preliminary Coal Mining Risk Assessment has been submitted in support of this application.

The Land Contamination Team have been consulted as part of this application process and have raised no objection subject to the imposition of recommended planning conditions in regard to noise and the construction phase of the project. It is considered that subject to the imposition and adherence to the recommended conditions, the proposal would accord with the relevant local and national planning policies.

Ecological and landscape impact

The NPPF at Chapter 15 states that planning policies and decisions should contribute to and enhance the natural and local environment and seeks to protect and enhance biodiversity and geodiversity.

In regard to the ecological and landscape impact CSDP Policies NE1, NE2, NE3, NE4 and the UDP saved policies CN20, CN21, CN23 are relevant policies.

An Ecological Statement, Tree Survey and Landscape Plan have been submitted in support of this application.

The application site does not lie within close proximity to any of the statutory or non-statutory habitats with Barnes Burn being located 250m to the south of the site boundary and there are a number of trees located to the southeast corner of the site.

The application proposes the demolition and decommissioning of the existing petrol filling station and the construction of a convenience store and associated works. The site is considered to be of low ecological value, and includes hard standing, introduced shrubs, scattered trees and a hedgerow.

The County Ecologist has been consulted on the application and has raised no objection subject to the imposition of a recommended planning condition pertaining to the removal of hedgerows, trees or shrubs and the protection of nesting birds. It is considered that with the imposition and adherence to the recommended planning condition, the proposal would accord with the relevant policies.

EQUALITY ACT 2010 - 149 PUBLIC SECTOR EQUALITY DUTY

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

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

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

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

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

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

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

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

Conclusion

The principle of utilising the site for the development is considered to be acceptable

The proposed design and associated landscaping of the commercial development is considered to be good quality, the size, scale, and massing is considered acceptable and would

not have a detrimental impact on the character of the site or the locality. The relationship between the application building and the nearest residential properties is considered to be appropriate without demonstrably impacting on existing levels of sun/daylight, privacy, or outlook. It is considered that with the imposition and adherence to planning conditions the proposal would not have a negative impact on residential amenity through noise generation.

Improved highway and pedestrian safety measures ensures that the proposed development would not have a detrimental impact on highway or pedestrian safety.

The proposed development would not have a detrimental ecological impact on the locality.

In light of the above the proposal is considered to be acceptable with due regard to relevant national and local planning policy.

RECOMMENDATION: APPROVE subject to the following conditions:

Conditions:

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

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

Location Plan: Drawing No. EGXHURI.06PLN1
Site Access Plan: Drawing No DTP/3710621/SK001 Revision A
Site Block Plan A: Drawing No. EGXHURI.06PLN4 Revision A
Site Layout Plan: Drawing No. DTP/3710621/ATR001 Revision D
Impermeable Area Plan: Drawing No. 501
Elevation Plan: Drawing No. EGXHURI.06PLN5
Layout Plan: Drawing No. EGXHURI.06PLN5
Drainage Plan: Drawing No. 500
Landscape Plan: Drawing No. 01

Reason: In order to ensure that the completed development accords with the scheme approved and to comply with policy BH1 of the Core Strategy and 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, including walls, roofs, doors and windows has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details; in the interests of visual amenity and to comply with policy BH1 of the Core Strategy and Development Plan.

4 No right turn shall be permitted by vehicles from the site onto the highway. Signage to this effect shall be displayed close to vehicle exit points and shall be maintained for the life of the development.

Reason: In the interests of highway and pedestrian safety and to accord with policies ST2 and ST3 of the Core Strategy and Development Plan.

5 The development shall not be brought into use until full details of the management of servicing and deliveries shall be submitted to and approved in writing by the LPA. The approved details shall be implemented before the development is brought into use and maintained as such thereafter.

Reason: In order to protect the amenities of the area and to comply with policies BH1, SP7, ST2 and ST3 of the Core Strategy and Development Plan.

6 Unless otherwise agreed in writing with the Local Planning Authority, the construction works required for the development and any deliveries made to the site shall only be carried out between the hours of 08.00 and 18.00 Monday to Friday and between the hours of 08.00 and 13.00 on Saturdays and at no time on Sundays or Bank Holidays in order to protect the amenities of the area and to comply with policies BH1, SP7 and HS2 of the Core Strategy and Development Plan.

7 The existing boundary noise barrier between the development site and 43 The Broadway shall be retained or a suitable alternative of an equivalent or improved specification provided. This shall be maintained for the life of the development.

Reason: To protect the amenity of nearby residents and to comply with policies BH1, SP7 and HS2 of the Core Strategy and Development Plan.

8 Prior to the installation of any external fixed building services plant a noise assessment shall be provided for the approval of the LPA that complies with guidance within BS4142:2014. Rated noise levels associated with such plant, when assessed at the nearest noise sensitive receptors shall not exceed the measured night-time and daytime background levels. Where necessary to meet this requirement, suitable noise mitigation measures shall be incorporated into the specification and implemented before operation.

Reason: To protect the amenity of nearby residents and to comply with policies BH1, SP7 and HS2 of the Core Strategy and Development Plan.

9 Prior to commencement of works on site a CEMP shall be submitted for the agreement of the LPA. The Plan shall identify all potential impacts upon the local environment and nearby occupiers arising from site clearance and construction and shall set out the mitigation measures proposed to prevent or minimise those impacts.

Reason: To protect the amenity of nearby residents and to comply with policies BH1, SP7, HS2 and HS3 of the Core Strategy and Development Plan.

10 Prior to the commencement of works on site the applicant shall provide a detailed method statement that sets out the proposals for removing the petrol transfer equipment and measures to deal with the diesel and petrol fuel tanks. The statement should include proposals

to determine if there is any contamination of the surrounding sub-surface ground with petroleum product.

Reason: To protect the amenity of nearby residents and to comply with policies BH1, SP7 and HS3 of the Core Strategy and Development Plan.

11 11. Development shall not commence until a suitable and sufficient ground investigation and Risk Assessment to assess the nature and extent of any contamination on the site (whether or not it originates on the site) has been submitted to and approved in writing by the Local Planning Authority.

The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings must be produced and submitted for the approval of the LPA. The report of the findings must include:

- i a survey of the extent, scale and nature of contamination;
- ii an assessment of the potential risks to:
 - o human health;
 - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - o adjoining land;
 - o ground waters and surface waters;
 - o ecological systems;
 - o archaeological sites and ancient monuments; and
 - o where unacceptable risks are identified, an appraisal of remedial options, and proposal of the preferred option(s).

The Investigation and Risk Assessment shall be implemented as approved and must be conducted in accordance with the Environment Agency's "Land contamination: risk management".

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with the National Planning Policy Framework Paragraphs 170, 178, 179, and 183.

The details are required to be submitted and approved in advance of works commencing on site to ensure the development is undertaken in a manner to protect future users of the site and the environment

12 Development shall not commence until a detailed Remediation Scheme 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 Remediation Scheme should be prepared in accordance with the Environment Agency document Land contamination: risk management and must include a suitable options appraisal, all works to be undertaken, proposed remediation objectives, remediation criteria, a timetable of works, site management procedures and a plan for validating the remediation works. The Remediation Scheme must ensure that as a minimum, the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of

the land after remediation. Once the Remediation Scheme has been approved in writing by the Local Planning Authority it shall be known as the Approved Remediation Scheme.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with the National Planning Policy Framework Paragraphs 170, 178, 179, and 183d.

The details are required to be submitted and approved in advance of works commencing on site to ensure the development is undertaken in a manner to protect future users of the site.

13 The Approved Remediation Scheme for any given phase shall be implemented in accordance with the approved timetable of works for that phase.

Within six months of the completion of measures identified in the Approved Remediation Scheme and prior to the occupation of any dwelling in that phase, a Verification Report (that demonstrates the effectiveness of the remediation carried out) must be produced and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with the National Planning Policy Framework Paragraphs 170, 178, 179, and 183d

14 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. A Risk Assessment must be undertaken in accordance with the requirements of DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination CLR11" and where remediation is necessary a Remediation Scheme must be prepared and submitted to the Local Planning Authority in accordance with the requirements that the Remediation Scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. Once the Remediation Scheme has been approved in writing by the Local Planning Authority it shall be known as the Approved Remediation Scheme. Following completion of measures identified in the Approved Remediation Scheme a verification report must be prepared and submitted in accordance with the approved timetable of works. Within six months of the completion of measures identified in the Approved Remediation Scheme, a validation report (that demonstrates the effectiveness of the remediation carried out) must be submitted to the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with the National Planning Policy Framework Paragraphs 170, 178, 179, and 183d

15 No removal of hedgerows, trees or shrubs (including brambles, ivy and other climbing plants) or works to or demolition of buildings or structures that may be used by breeding birds

shall take place between 1st March and the 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to and agreed in writing by the LPA.

Reason: To protect and safeguard nesting birds which have legal protection under the Wildlife and Countryside Act 1981.

Reference No.: 22/00399/FUL Full Application

Proposal: **Demolition of existing petrol station and construction of a drive through restaurant and associated works.**

Location: Barnes Service Station Durham Road Sunderland SR2 7RB

Ward: St Michaels

Applicant: Euro Garages Limited

Date Valid: 16 February 2022

Target Date: 13 April 2022

PROPOSAL:

Introduction

The proposal relates to the demolition of existing petrol station and construction of a drive through restaurant and associated works at Barnes Service Station, Durham Road, Sunderland, SR2 7RB .

The application site is located between Queen Alexandra Road and Durham Road known as the Barnes Gyratory which is one of the main arterial routes (Durham Road / A690) into the city centre.

The site is considered to be an out of centre location and is within a predominantly residential area. It is bounded to the immediate east by an existing restaurant/bar and a small parade of shops, which are predominantly hot food takeaways, however, there are other commercial uses within the immediate surrounding area.

The site has an area of approximately 0.25 hectares and currently accommodates 8 no. fuel pumping machines, covered by a canopy, a flat roofed associated retail store and an automatic car wash. The existing landscaping that surrounds the site is unkempt with a number of mature trees sited to the west of the site. There are currently two points of access / egress within the site, one along the northern boundary directly off Durham Road and one to the south, off Queen Alexandra Road.

The application proposes the demolition of the existing petrol filling station and to replace it with a new, drive through restaurant which would measure approximately 22.9m in width by 13.3m in depth; it would contain a cantilever roof which would have a height of approximately 5.185m falling to 4.5m to the rear/western elevation. The building would be single storey and contemporary in appearance. Parking is located to the east of the building, which includes a total of 32 spaces, 3 of which have electric charging points. The application also proposes the construction of No.3 EV canopies which would measure 3.8m in width by 3.8m in depth and have an overall height of approximately 3.87m reducing to 3.23m to the rear; it would be of constructed from a structural steel black powder coated frame with treated larch timber batons to underside of the canopy and Photo Voltaic panels mounted on roof of canopy with LED downlighting to achieve 300 lux per bay. Cycle storage is also proposed, adjacent to the restaurant's main entrance. The existing access and egress arrangements are to be retained but will undergo relevant improvement works. The site will also operate on a one-way system, with access from the north and egress to the south. The development would include the loss of

No.3 trees to the site's western corner fronting Durham Road, however further landscaping is proposed to mitigate this.

The DAS states that the proposed development would result in the creation of 50 jobs split between part- and full-time roles.

The site is situated within the ward of St. Michaels, within a legacy coal mining area identified as low-risk and a strategic network area, and within the smoke control area of Sunderland.

The following information has been submitted in support of the application:

Planning, Design and Access Statement
Arboricultural Impact Assessment
Drainage Strategy Report
Environmental Monitoring Report Letter from GEO2
Phase 1 Land Contamination Assessment
Phase 2 Site Investigation
Sequential Test
Noise Assessment
Odour Risk Assessment
Statement Addressing Policy VC4
Transport Statement
Response to LHA Consultation Comments
Car Park Management Plan
Service and Delivery Management Plan
Geo2 Remediation Limited. Email correspondence in response to CLO comments

TYPE OF PUBLICITY:

Site Notice Posted
Neighbour Notifications

CONSULTEES:

Environmental Health
Environment Agency
Watermans - Land Contamination
Network Management
Natural Heritage
Cllr Lyall Reed
Cllr Michael Dixon
Cllr Peter Wood
Network Management
Environmental Health
Watermans - Land Contamination
Environmental Health
Public Health Health Impact Assessment
Watermans - Land Contamination
Network Management
Northumbrian Water
City Arboricultural Officer
Planning Policy

Northumbria Police
Public Health Health Impact Assessment

11 Frinton Park Sunderland SR3 1DN
10 Frinton Park Sunderland SR3 1DN
14 Frinton Park Sunderland SR3 1DN
12 Frinton Park Sunderland SR3 1DN
Pronto Pizza And Grill 10 Silksworth Lane Sunderland SR3 1LL
Wantabet Rear The Barnes Hotel Queen Alexandra Road Sunderland SR2 7RB
Karen Lewis 8 Silksworth Lane Sunderland SR3 1LL
Saints Hairdressing 2 Silksworth Lane Sunderland SR3 1LL
Hong Kong Wok Silksworth Lane Shopping Centre 12 Silksworth Lane Sunderland SR3 1LL
25 Dunelm Sunderland SR2 7QT
Indian Style 4 Silksworth Lane Sunderland SR3 1LL
Arnold Forster Jun 28 Dunelm Sunderland SR2 7QT
237 Queen Alexandra Road Sunderland SR3 1XD
26 Dunelm Sunderland SR2 7QT
Flat Barnes Hotel Durham Road Sunderland SR2 7RB
241 Queen Alexandra Road Sunderland SR3 1XD
Oxhiu Motors Ltd Barnes Service Station Durham Road Sunderland SR2 7RB
TRG Car Sales Limited Barnes Roundabout Queen Alexandra Road Sunderland SR3 1XD
The Occupier 2 Humbledon Park Sunderland SR3 4AA
Studio Fiore 3 Humbledon Park Sunderland SR3 4AA
Downeys 6 Silksworth Lane Sunderland SR3 1LL
27 Dunelm Sunderland SR2 7QT
235 Queen Alexandra Road Sunderland SR3 1XD
239 Queen Alexandra Road Sunderland SR3 1XD
The Licensee Barnes Hotel Durham Road Sunderland SR2 7RB
Martin Telfer Carpets 1 Humbledon Park Sunderland SR3 1XD

Final Date for Receipt of Representations: **16.08.2022**

REPRESENTATIONS:

45 representations and 1 petition have been received raising an objection to the proposed development raising concerns on the following

Concern/Issue
Amenity Visual
Loss of privacy
Noise
Odour
House value depreciation
Litter
Air Quality
Design Over development
Highways Safety Access
Increase in traffic
Health and Wellbeing Obesity
Health impact
Air Quality

Heritage Loss of heritage

The above issues other than that of house value is discussed and addressed further within this report. House value is not a material consideration in planning and is therefore not discussed within the report.

Consultation Responses

Northumbria Police No objection

Planning Policy Objection - would operate as a fast-food outlet according to the supporting Planning Statement. The proposal would not be in accordance with CSDP Policy VC4 due to the proximity of schools within 400 metres. In this case, Richard Avenue Primary School, Barbara Priestman Academy and St Marys Primary School are all within 400 metres.

Environmental Health No objection subject to recommended planning conditions relating to the following;

- Extract ventilation and odour abatement
- Noise from fixed external plant
- Construction Environmental Management Plan
- Deliveries and waste management

And an informative regarding an Environmental Permit.

Transportation Development No objection subject to recommended planning condition relating to the management of the car park.

The additional transport response from the applicant has been reviewed. Following a meeting with the applicant it was recommended that a Car Park Management Plan be provided to assist with management and use of the car park.

The highway authority objections to the proposal have now been satisfactorily resolved.

Ecology No objection subject to recommended planning condition pertaining to nesting birds.

With regards to BNG, I am of the opinion this it is disproportional to requires this for a scheme of this scale affecting habitats of this nature.

Land Contamination No objection subject to recommended planning conditions - updated 16.08.2022

It is recommended that consultation is held with the SCC petroleum officer and ground gas monitoring is undertaken to facilitate an assessment of ground gas risk. As recommended by Geo2, the gas monitoring should be undertaken in conjunction with additional groundwater monitoring to assess the presence or absence of LNAPL. The outcomes of these assessments should be reported, along with any implications for the assessments and recommendations made to date in the Phase II Environmental Assessment.

Further investigations are considered to be necessary to delineate previously recorded contamination in SB5, although it is recognised that this may not be possible whilst the site

remains operational. Proposals for further investigation at the redevelopment stage should therefore form part of a site Remediation Strategy document.

It is recommended that Planning Conditions CL01, CL02, CL03 and CL04 are included in the Decision Notice.

Public Health Objection

Barnes had a year 6 had a child obesity level of 26.8% (3 years to 19/20) and for reception 9.7% (3 years to 19/20).

St Michaels: 17.6% (yr. 6) and 6% (reception)

It will be autumn before fresh figures are released as sufficient collections were unable to happen during covid.

According to National Child Measurement Programme, England 2020/21 School Year - NHS Digital 20.3% of Reception children living in the most deprived areas were obese compared to 7.8% of those living in the least deprived areas. 33.8% of Year 6 children living in the most deprived areas were obese compared to 14.3% of those living in the least deprived areas.'

Obesity rates in both reception-aged and year 6 schoolchildren increased by around 4.5 percentage points between 2019-20 and 2020-21 - the highest annual rise since the National Child Measurement Programme began.

In regard to adults living with overweight and obesity we know this is 69.1% in Sunderland compared to the England average of 63.5%. Sunderland City Council signed the Local Authority Declaration on Healthy Weight in February 2022. The 'Healthy Weight Declaration' (HWD) is a strategic commitment made across all council departments to reduce unhealthy weight in local communities, protect the health & wellbeing of staff and residents and to make an economic impact on health and social and the local economy. A commitment with the HWD is as follows;

- Consider supplementary guidance for hot food takeaways, specifically in areas around schools, parks and where access to healthier alternatives are limited.

Environment Agency No objection subject to recommended informatives.

POLICIES:

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

Core Strategy and Development Plan (CSDP)

SP1 Development strategy

SP5 South Sunderland

SP7 Healthy and safe communities

HS1 Quality of life and amenity

HS2 Noise-sensitive development

HS3 Contaminated land

EG1 Primary employment areas

EG2 Key employment areas

EG3 Other employment sites

VC1 Main town centre uses and retail hierarchy

VC4 Hot food takeaways
BH2 Sustainable design and construction
NE2 Biodiversity and geodiversity
NE3 Woodlands/hedgerows and trees
NE9 Landscape character
ST2 Local Road network
ST3 Development and transport

Allocations and Designations Plan (ADP)
Allocations and Designations Policies Map

National Planning Policy Framework (NPPF)
National Planning Policy Guidance (NPPG)

COMMENTS:

The NPPF advocates a presumption in favour of sustainable development. For decision-taking this means NPPF 11(c) approving development proposals that accord with an up-to-date development plan without delay. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise; meaning amongst other things any other supplementary/ supporting planning documents and the government's guidance as set out in the NPPF.

Sunderland Core Strategy and Development Plan 2015-2023 (CSDP) was formally adopted on the 30th of January 2020. The CSDP is the starting point for the determination of planning applications. It sets a clear strategy for bringing land forward to address objectively assessed needs in line with the presumption in favour of sustainable development.

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

- Principle of the development.
- Design and impact on the street scene
- Impact on neighbouring amenity
- Contamination
- Highway and pedestrian safety
- Ecological and landscape impact
- Other matters

Principle of development

The NPPF at paragraph 7 states that the purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs. NPPF paragraph 8 sets out the principles for achieving sustainable development and has three overarching objectives (a) economic - to help build a strong, responsive, and competitive economy, (b) social - to support strong, vibrant, and healthy communities and (c) environmental - to protect and enhance our natural, built, and historic environment.

CSDP VC1 sets out the hierarchy for town centre and retail and identifies the main focus for development within the City Centre, Town Centres, Local Centres as detailed on the Policies Map. However, whilst not identified within the retail hierarchy, neighbourhood shops, services and community facilities located outside of the designated centres provide a valuable service to local communities in helping to meet their day-to-day needs. It is therefore necessary for these to be protected in order to promote sustainable patterns of development.

The application site is not identified as a designated centre under CSDP Policy VC1 and a main focus for development. CSDP Policy VC1(6) states that "development outside of existing centres will be expected to follow the sequential assessment approach". A sequential Test has been submitted in support of this application.

The NPPF paragraph 87 requires Local Planning Authorities apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

The NPPF at paragraph 88 states that when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored. Paragraph 91 states that where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 90, it should be refused.

CSDP Policy SP1 sets out the spatial strategy for growth and sustainable patterns of development, growth, and investment in Sunderland whilst CSDP Policy SP4 focuses on the regeneration and renewal of North Sunderland with economic development focussing on identified Employment Areas (Policies EG1 and EG2). CSDP Policy EG3 promotes (1) new employment uses or extensions to existing employment uses and (2) the change of use or redevelopment of land or premises that are presently in employment uses if there are regeneration benefits or there is no reasonable prospect of the land being used for employment uses, and the development is considered to be acceptable.

The proposed development would provide additional employment opportunities within the community. Whilst it is acknowledged that the development would provide further employment opportunities within the site, the proposed site is already operating as a garage and is considered a viable business option, this is evident from the submission of planning application reference number 18/00794/FUL, which sought consent for a replacement petrol station with a larger retail element. The DAS refers to the lapsed application stating that "this application has however not been implemented and due to the passage of time, has now expired" but it does not put forward an argument that this use of the site is no longer viable.

The site is not allocated for any specific land use by the CSDP or the ADP or the Allocations and Designations Policy Map and is not detailed as a key employment area under Policies EG1 and EG2.

Whilst it is acknowledged that planning permission was granted under application reference number 18/00794/FUL for the demolition of petrol filling station and redevelopment of the site for a new petrol filling station with associated convenience store, which was larger than that which is currently in situ, this consent retained the existing land use. The permission was granted prior to the adoption of the CSDP and has now expired.

Whilst it is acknowledged that the development would result in an increase in employment opportunities the site is not detailed as a key employment area, The site currently operates as a viable business option which currently employs 13 staff within various full-time and part-time roles. Whilst it is acknowledged that the proposal would increase the number of employment opportunities within the locality the site as mentioned previously is not detailed as a key employment area under Policies EG1 and EG2 and as such the assessment of the proposal must engage CSDP Policy EG3 which sets out the principles for development in respect of other employment sites.

CSDP Policy EG3 states that for non-designated employment sites, development will be supported for:

1. new employment uses or extensions to existing employment uses; and
2. the change of use or redevelopment of land or premises that are presently in employment uses if there are regeneration benefits or there is no reasonable prospect of the land being used for employment uses, and the development is considered to be acceptable.

From September 2020 the Town and Country Planning (Use Classes) Order 1987 (as amended) underwent significant reforms with the amalgamation of many use classes with Use Class A3 (Restaurants and cafés) becoming Class E (Commercial, business and service) and A5 Hot food takeaways becoming Sui Generis. The details that the site would be a drive through restaurant with the emphasis being on that of purchasing food for consumption off the premises and as such is considered to be Sui Generis.

Public Health England 2020 advocates the use of planning system to promote healthy weight environments and have produced guidance which focuses on the healthier food and active environments. The Town and Country Planning Association (TCPA) and PHE have set out 6 elements to help achieve healthy weight environments through planning in the 2014 publication 'Planning Healthy Weight Environments' (7). These are:

- movement and access - promoting active travel and physical activity
- open spaces, recreation, and play - providing informal and formal spaces and spaces necessary for leisure, recreation, and play
- food - improving the food environment for both consumption and production of healthier food options
- neighbourhood spaces - improving public realm and provision of community facilities
- to run local programmes such as for weight reduction
- building design - improving the internal design and quality of homes and building to promote living healthier lifestyles
- local economy - supporting people into local employment in accessible and healthy
- town centres or high streets

Obesity and overweight affects 75% of men and 69% of women in the over 75 age group, this has implications for the levels of help and care a person may require as they age, particularly in relation to maintaining independence. There is increasing concern regarding the potential impacts of hot food takeaways on the health of the city's residents. There are already high concentrations of hot food takeaways in certain parts of the city, with 17 of the 25 wards within the city having a higher proportion of outlets per head of population than the national average. In addition, childhood obesity rates within many of the city's wards are significantly higher than both the national and regional averages.

CSDP Policy SP7 relates to safe and healthy communities and at Criterion 5 seeks to manage the location/number of and access to unhealthy eating outlets (Policy VC4). CSDP Policy VC4

sets out the criteria to limit and control the number of hot food takeaways, and at Criterion 2 states that;

"To promote healthier communities, the council will:

- i. prevent the development of hot food takeaways (Use Class A5) within a 400m radius of entry points to all primary and secondary schools; and
- ii. prevent the development of hot food takeaways in wards where the prevalence of obesity is more than 21% for year 6 pupils or 10% for reception pupils."

The DAS details that the proposal is for a drive through restaurant with the supporting Planning Statement at paragraph 6.1.13 indicating that the proposal would operate as a Fast Food Outlet and as such CSDP Policy VC4 is pertinent. The DAS also states at 6.1.16 that the proposal will sit adjacent to a parade of existing shops which already offer hot food takeaways and therefore, it is not considered the proposal would make the situation materially worse, that the takeaway element is primarily targeted at passing traffic and that whilst the building will house a fast-food chain, most fast-food companies have adapted in recent years to now offer healthier choices.

Additional information has been provided by the applicant in respect of CSDP Policy VC4 stating that " the business will be a restaurant with takeaway provision included which is Sui Generis, not A5". The applicant further states that "whilst the site is currently planned to be a KFC, there is no guarantee that this will be the end user" and that "the reality is that the site could be home to KFC or Leon, both of which sell different types of food, though the former is increasingly selling more healthier and vegetarian options, in line with market demands". No Health Assessment Impact has been submitted in support of the application. The applicant also detailed successful Appeals these dated the current NPPF; whilst these are acknowledged the circumstances of the cited appeals differ from the application to hand. Furthermore, every application is assessed on its own merit and this assessment is based on the information to hand in conjunction with local and national planning policies.

It is acknowledged that the proposed development would be considered Sui Generis as defined by The Town and Country Planning (Use Classes) Order 1987 (as amended) and as such CSDP Policy VC4 remains an important consideration in the assessment of this proposal. Whilst it is also acknowledged that in recent years many fast-food chains have sought to provide healthier food options.

CSDP Policy VC4 criterion 2 seeks to resist development where (i) the site is within a 400m radius of entry points to all primary and secondary schools and (ii) prevent the development of hot food takeaways in wards where the prevalence of obesity is more than 21% for year 6 pupils or 10% for reception pupils. Richard Avenue Primary School is the nearest school and is within 400m. In addition, Barbara Priestman Academy and St Marys Primary School are also within 400m.

According to the latest data on obesity rates within St Michaels ward (as set out within the National Child Measuring Programme), the Year 6 childhood obesity figure stood at 17.6 percent and the Reception Year figure stood at 6 percent. The site borders on to Barnes ward where year 6 had a child obesity level of 26.8% (3 years to 19/20) and for reception 9.7% (3 years to 19/20).

The Public Health Team has been consulted as part of this application process and have identified that the latest statistics on NHS Digital show obesity rates in both reception-aged and year 6 schoolchildren have increased by around 4.5 percentage points between 2019-20 and

2020-21 - the highest annual rise since the National Child Measurement Programme began and as such it is predicted that there will be an increase in levels of children living with obesity when the latest ward data is published in Autumn 2022.

The PH team provided some general advice on obesity levels stating that according to the National Child Measurement Programme, England 2020/2021 School Year identified that 20.3% of Reception children living in the most deprived areas were obese compared to 7.8% of those living in the least deprived areas and 33.8% of Year 6 children living in the most deprived areas were obese compared to 14.3% of those living in the least deprived areas. The PH team further added that adults living with overweight, and obesity is 69.1% in Sunderland compared to the England average of 63.5%. This has led to Sunderland City Council signing the Local Authority Declaration on Healthy Weight in February 2022. The 'Healthy Weight Declaration' (HWD) is a strategic commitment made across all council departments to reduce unhealthy weight in local communities, protect the health & wellbeing of staff and residents and to make an economic impact on health and social and the local economy and to commit to consider the introduction of supplementary guidance for hot food takeaways, specifically in areas around schools, parks and where access to healthier alternatives are limited.

The applicant states in the DAS that, that the takeaway element is primarily targeted at passing traffic and therefore consideration should be given to the health and wellbeing of residents outside the locality. Whilst localised data is not provided for adults, the obesity rates within Sunderland as a whole is much higher than the national average hence the Council's commitment to the HWD. Taking into consideration, the information provided by the PH team, it is considered that on the balance of probability the obesity levels for both Reception and Year 6 pupils is likely to exceed the 2019/20 figures. It is considered that the introduction of a fast-food outlet within this location, where there is already a large concentration of fast-food takeaways, would only compound the issue and potentially lead to higher rates of obesity. Whilst it is possible the intended operator's menu might well be healthier as put forward by the applicant, the application before me relates to KFC, no information has been presented to indicate that the food sold by KFC is entirely healthy and as such it is officer opinion that the proposal would increase the access of the residents of St. Michaels and Barnes wards and the wider locality to unhealthy food.

As stated earlier the site is not identified as a key employment area under Policies EG1 and EG2 and as such the assessment of the proposal must engage CSDP Policy EG3. The proposed development when assessed against the policy criteria would offer a new employment use however the redevelopment of the land would not offer a regeneration benefit as the site is currently a functioning business. The site currently offers an employment use and there is no information before me to suggest that, should planning permission not be granted for the current scheme, the site usage in its current format would not remain. In addition, the site is within 400m of both primary and secondary schools and as such does not accord with CSDP Policy VC4 and as such the proposal does not accord with CSDP EG3.

The application seeks planning permission for the demolition and decommissioning of and existing petrol filling station and the construction of a drive through restaurant and associated works. Whilst it is acknowledged that the proposal would have some benefits in respect of increase employment opportunities, proposal would not meet CSDP EG3(2), CSDP Policy SP7(5) and CSDP Policy VC4(2i) and would conflict with Paragraphs, 7, 8 and 91 of the NPPF as such is not considered to be an acceptable form of development.

Design and impact on the street scene

The NPPF at Chapter 12 places an emphasis on achieving well designed places stating at paragraph 126 that "the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

NPPF paragraph 130 advocates that planning policies and decisions should ensure that developments;

- (a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- (b) are visually attractive as a result of good architecture, layout, and appropriate and effective landscaping;
- (c) c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming, and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users⁴⁹; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Whilst at paragraph 134 states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

CSDP Policy BH1 seeks to protect and enhance the built and historic environment and sets out the design criteria for new development with an emphasis on achieving high quality design and positive improvement with CSDP Policy BH2 seeking to ensure that developments where possible incorporate sustainable design and construction methods.

The proposed development would be single storey and modern in design with its use of insulated wall panels, vertical planks, glazing panels and powder-coated aluminium. The proposed building would be located to the south-western corner of the site with vehicle parking located to the eastern and south-eastern boundary of the site with additional landscaping proposed to the perimeter of the site. The application also proposes the construction of three EV canopies which would be situated to the northwest of the site.

In this instance, the local area is characterised by predominantly brick-built dwellings, and commercial units. The current proposal does not accord with the predominant built form of the area, nor does it use materials which are characteristic of locality. It is accepted that the site is an existing commercial operation and clearly appears as such, particularly in respect of its most

prominent feature, the canopy over the fuel pumps which would be removed as part of this development, with this in mind, the proposed contemporary design is considered to be acceptable within the commercial context of the site.

Impact on neighbouring amenity

The closest neighbouring residential properties to the proposed development are the residential properties of No.'s 235-241 Queen Alexandra Road and the commercial premises of Martin Telfer Carpets and Hi Performance Auto-centres which are located to the east of the application site; the residential properties of No.'s 25-28 Durham Road which are located to the north and the commercial premises of Toby Carvery which is located to the east and Hong Kong Wok, Pizza Coop, Downey's Fish and Chip Shop, Delhi Emperor and Saints Hairdressing which are located to the south-east of the application site.

Given the existing site use, the separation distance to housing and the character of the immediate area around the Barnes gyratory it is not anticipated that noise from vehicles on site will have a significant adverse impact. However, the proposed development would replace an existing commercial/retail unit, the proposed development would involve the installation of external air conditioning or refrigeration plant/equipment and would require extract ventilation systems to be installed which would increase noise and odour levels within the site. There is also the potential for increased noise and vibration, dust, and other air pollutants arising from site works, site lighting and working times.

A Noise Assessment and Odour Assessment has been submitted in support of the application.

The Environmental Health Team (EH) has been consulted and have has raised no objection subject to the imposition of recommended pre-commencement planning conditions pertaining to noise, odour, and the site management during the construction phase of the development and an informative is regard to the need for an Environmental Permit. The EH team also advised that deliveries and waste collections should not take place outside the hours of 07:00 to 22:00, it is considered this can be achieved though the imposition of a planning condition. It is considered that with the imposition and adherence of the recommended planning conditions and informative, the proposal would not have a detrimental impact on the amenity of local residents and businesses within the locality and as such accords with local and national planning policy in this respect.

Contamination

NPPF paragraph 183 advocates that planning policies and decisions should ensure that;

- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);
- b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and
- c) adequate site investigation information, prepared by a competent person, is available to inform these assessments

CSDP Policies HS1 and HS3 relate to contamination and are relevant in the assessment of this application.

The application proposes the demolition of existing petrol station and construction of a drive through restaurant and associated works. Works would involve the decommissioning and demolition of the existing petrol station and as such there is the potential for contamination within the site. An Environmental Monitoring Report Letter from GEO2, Phase 1 Land Contamination Assessment and Phase 2 Site Investigation Report have been submitted in support of the application

The Environment Agency (EA) and the Land Contamination Officer (LCO) have been consulted in regard to this application. The LCO has previously objected to the proposed development and further information was requested. An email response to the LCO concerns was provided by Geo2 Remediation Limited and upon review the LCO removed their objection and considered that any contamination issues could be met through the imposition of recommended planning conditions and informatives. The EA raised no objection to the proposed development subject to the imposition of recommended informatives.

Taking the above into deliberation, subject to the imposition and adherence to recommended planning conditions and informatives, the proposal is considered in accordance with local and national planning policy

Highway and pedestrian safety

The NPPF promotes sustainable transport and advocates those opportunities to promote walking, cycling and public transport use are identified and pursued with paragraph 105 advocating the development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. The NPPF paragraph 110 seeks to ensure that opportunities to promote sustainable transport has been considered and that safe and suitable access to the site can be achieved for all users.

In regard to highways and pedestrian safety CSDP Policies ST2 and ST3 are relevant.

The existing access and egress arrangements are to be retained but will undergo relevant improvement works. The site will also operate on a one-way system, with access from the north and egress to the south. The existing vehicular access arrangements which currently serve the site will therefore be generally retained with formal one-way operation introduced to serve the proposed drive-thru unit. In respect of parking provision internal layout of the site has been designed to provide No.27 demarcated standard car parking bays as well as three Electrical Vehicle (EV) charging bays and two mobility impaired parking bays adjacent to the store entrance.

A number of representations have been received objecting to the proposed development citing concerns in regard to highway safety through increased traffic and access to the site.

Following concerns raised by the Transportation Development Team in regard to queuing traffic during periods of high demand potentially queuing onto Barnes Gyratory, further information was provided by way of a Car Park and Management Plan (CPMP) and a Service and Delivery Management Plan (SDMP) to demonstrate how traffic would be managed within the site to mitigate this.

The CPMP states that "given the sensitive nature of the highway network in the vicinity of the site it has been considered that on-site parking should be provided to ensure that no users of the site park on the adjacent gyratory". The CPMP also proposes the following actions in order to provide efficient access and parking operations for the drive-thru unit:

- Internal demarcated parking space to be provided for 30 vehicles (including EV charging provision);
- Allocation of five of the proposed car parking spaces for use by customer delivery vehicles (e.g., Just Eat, Deliveroo etc.) in proximity to the site egress to Queen Alexandra Road, along with appropriate signage implemented; and
- Staff trained with one duty member of staff for each shift responsible to monitor drive-thru activity and to cone off the drive-thru lane entry in the unlikely instance that maximum acceptable queue length is reached or exceeded (ten cars), at which point, drivers will be required to park enter the building to order.

A SDMP sets out how the site is to manage servicing/delivery and refuse collection operations within the site.

The Transportation Development Team have considered the additional information submitted and this was considered sufficient to overcome their concerns subject to a recommended planning condition to ensure the car park is managed during hours of use. With the imposition and adherence to recommended planning conditions, the proposal is considered acceptable in regard to highway and pedestrian safety and in accordance with local and national planning policy in this respect.

Ecological and landscape impact

The NPPF at Chapter 15 states that planning policies and decisions should contribute to and enhance the natural and local environment and seeks to protect and enhance biodiversity and geodiversity.

In regard to the ecological and landscape impact CSDP Policies NE1, NE2, NE3, NE4 and the UDP saved policies CN20, CN21, CN23 are relevant.

The application proposes the removal of a number of trees to the site's western corner fronting Durham Road. An Arboricultural Impact Assessment has been submitted in support of this application. The application proposes additional landscaping which includes new hedging and tree planting and shrubbery along the perimeter of the site.

The County Ecologist has been consulted and has raised no objection stating that "given the nature and location of the site and the structures and habitats it supports; the only potential significant ecological harm arises due to potential impacts to nesting birds where works vegetation clearance works are to be undertaken during the breeding season. This can be controlled through the use of an appropriate planning condition" and "in regard to BNG, I am of the opinion this it is disproportional to requires this for a scheme of this scale affecting habitats of this nature".

Subject to the imposition and adherence of the recommended planning condition pertaining to nesting birds, the proposal is considered to accord with local and national planning policy in this respect.

EQUALITY ACT 2010 - 149 PUBLIC SECTOR EQUALITY DUTY

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

application/proposal due regard has been given to the following relevant protected characteristics:

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

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

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

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

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

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

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

Conclusion

Whilst the proposal would increase potential employment opportunities within the locality it is not within an identified as a key employment area. The proposed development would represent inappropriate development given that it would lead to increased access to an unhealthy eating outlet. The site is within a 400m radius of entry points to local schools and would not meet CSDP EG3(2), CSDP Policy SP7(5) and CSDP Policy VC4(2i) and would conflict with Paragraphs, 7, 8 and 91 of the NPPF as such is not considered to be an acceptable form of development.

RECOMMENDATION: REFUSE subject to the reason below:

Reason:

1 The proposed development would represent inappropriate development given that it would lead to increased access to an unhealthy eating outlet. The site is within a 400m radius of entry points to local schools and would not meet CSDP EG3(2), CSDP Policy SP7(5) and CSDP Policy VC4(2i) and would conflict with Paragraphs, 7, 8 and 91 of the NPPF as such is not considered to be an acceptable form of development. The mitigating factors put forward by the applicant are not sufficient to outweigh the harm identified above.

Reference No.: 22/00796/LP3 Local Authority (Reg 3)

Proposal: **Extension of existing rock armour along front of Stonehill Wall coastal defence.**

Location: New South Pier Hudson Dock North Side Barrack Street Sunderland SR1 2BU

Ward: Hendon

Applicant: Sunderland City Council

Date Valid: 8 June 2022

Target Date: 3 August 2022

PROPOSAL:

Full planning permission is sought for the extension of the existing rock armour along the front of the Stonehill Wall coastal defence at the New South Pier, Port of Sunderland.

The Stonehill Wall is a coastal defence structure that protects businesses and infrastructure within the Port of Sunderland. It stands above the foreshore to the south of the South Pier and to the east of Hudson Dock and forms an integral part of the sea defence frontage that protects the Port.

The Wall was constructed in c. 1900 as part of the development of the new South Pier and it extends for approximately 240 metres and has an average height of approximately 4.6 metres. It is a reinforced concrete, granite-faced gravity retaining structure founded off bedrock. To the seaward side of the Wall's southern end, additional defence is provided by a granite rock revetment.

Members may recall that at the Planning and Highways (East) Committee meeting held on 3rd July 2020, planning permission was granted for major maintenance and repairs to the Stonehill Wall (planning application ref. 20/00676/LP3).

The current proposal seeks to further improve the coastal defences by extending the rock revetment northwards along the front of the Stonehill Wall and South Pier. The revetment extends approximately 16-17 metres out from the front of the Wall, into the tidal foreshore, and comprises two ramped layers of large granite blocks weighing 1-3 tons at the base and 6-15 tons in the top layer. The top layer will sit 5m below the top of the Wall. The rocks are to be placed on the foreshore/seabed and no excavation is required.

The revetment extension ends at the end of the curve at the southern end of the Pier and covers an area of approximately 3305 square metres.

The application has been accompanied by a Desktop Study Report, a Habitats Regulations Assessment (HRA) report and a Flood Risk Statement.

The Stonehill Wall and wider Port are owned by the City Council and the application has been submitted by the Council's Flood and Coastal team.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted

CONSULTEES:

Natural England
Marine Management Organisation
Environment Agency
Planning Implementation
Cllr Michael Mordey
Cllr Ciaran Morrissey
Natural Heritage
Port Manager
Planning And Highways East
Network Management
Tyne And Wear Archaeology Officer
Environmental Health
Watermans - Land Contamination
Flood And Coastal Group Engineer
Cllr Lynda Scanlan

Final Date for Receipt of Representations: **05.08.2022**

REPRESENTATIONS:

Public consultation - no representations received.

Natural England - no objection, subject to appropriate mitigation being secured. Natural England consider that without appropriate mitigation, the proposals would have an adverse effect on the integrity of the Northumbria Coast Special Protection Area (SPA) and Ramsar site - in order to mitigate these adverse effects, the mitigation measures set out in the submitted HRA report should be secured by planning conditions or obligations.

Environment Agency - no objections to the development. Advice is provided to the Local Planning Authority/applicant in relation to pollution prevention, increasing biodiversity, biosecurity, and the potential need for a flood risk activity permit and/or a Marine Management Organisation license.

Marine Management Organisation (MMO) - no comments received; however, the MMO have separately consulted the Council as Local Planning Authority on the applicant's application to the MMO for a license under Part 4 of the Marine and Coastal Access Act 2009. Considerations relevant to the MMO's responsibilities in respect of effects on the marine and coastal environment will be addressed through this licensing process.

Tyne and Wear County Archaeology officer - comments provide an overview of the Historic Environment Records relevant to the site, noting the history of the South Pier (begun in 1893), the presence of Second World War tank traps at the southern end of the development area, shipwrecks close to the foreshore and historic mapping showing rail tracks within and close to

the application boundary. An archaeological watching brief has also recently been undertaken on land to the west of the site.

The County Archaeology officer advises that providing no intrusive groundworks and no major alterations to the existing pier wall are required, archaeological intervention would not be required.

Lead Local Flood Authority - initial comments noted that the site lies within Flood Zone 3 and so a flood risk statement/assessment is required. This has been produced and it confirms that as the works comprise coastal defence improvements, the works are water compatible works in planning terms. The need for a full flood risk assessment is therefore not required and the development will not cause additional flooding elsewhere.

The LLFA has confirmed that the submitted document is acceptable and there are no objections in relation to flood risk and drainage.

Council's Highways team - no objections.

Council's Built Heritage officer - the South Pier is a non-designated heritage asset, but it is apparent that the works will have no physical impact on the pier and minimal visual impact.

Council's Environmental Health officer - notes that the site is 390m from the nearest noise-sensitive properties and so considers the proposal to be acceptable, subject to the imposition of a condition requiring the approval of a Construction Environmental Management Plan (CEMP). This should address matters relating to working hours, storage of materials and measures designed to suppress noise, dust and other potential forms of pollution and disturbance during construction works.

Council's Land Contamination consultant - suggested that further information be submitted to clarify the extent of the development area and provide better characterisation of the ground affected by the proposed works. The applicant has confirmed, however, that the proposals will not involve any intrusive groundworks as the blocks comprising the new section of revetment are simply to be placed on the foreshore/seabed.

Council's Ecology officer - confirms that the Council adopts the submitted Habitats Regulations Assessment report as its own Assessment. Notes that Natural England are satisfied with the proposed mitigation measures set out within the report and it is concurred that the adoption of these measures will ensure the development will not result in an adverse effect on the integrity of the Northumbria Coast SPA (and Ramsar). A condition ensuring compliance with the proposed mitigation measures is required in the event the application is approved.

COMMENTS:

CONSIDERATION

By virtue of section 38(6) of the Planning and Compulsory Purchase Act, 2004, the starting point for consideration of any planning application is the saved policies of the development plan. A planning application must be determined in accordance with the development plan unless material considerations indicate otherwise.

In establishing the weight to be given to a development plan in the decision-making process, regard must also be given to the National Planning Policy Framework (NPPF), which, as

paragraph 2 therein makes clear, is a material consideration for the purposes of Section 38(6) of the Act.

The NPPF provides the Government's planning policy guidance and development plans must be produced, and planning applications determined, with regard to it. At paragraph 7, 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'. Meanwhile, paragraph 8 states that in order to achieve sustainable development, 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.

Paragraph 11 of the NPPF sets out a presumption in favour of sustainable development and states that in respect of decision-making, this means authorities should:

- c) Approve applications that accord with an up to date development plan without delay; or
- d) Where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting permission unless:
 - i) The application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

With regard to paragraph 11 d) i) of the NPPF, footnote 6 states that the areas and assets of particular importance referred to relate to habitats sites, Sites of Special Scientific Interest, Green Belts, Local Green Space, Areas of Outstanding Natural Beauty, National Parks, Heritage Coasts, irreplaceable habitats, designated heritage assets and areas at risk of flooding or coastal change.

Paragraph 12 of the NPPF goes on to advise that the presumption in favour of sustainable development set out by paragraph 11 does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not normally be granted.

The Council's Core Strategy and Development Plan (CSDP) was adopted in January 2020 and is considered to represent an up-to-date development plan for the purposes of the NPPF. Members should note that the CSDP is therefore the 'starting point' for the consideration of the current planning application.

The CSDP sets out the Council's long-term plan for development across the City until 2033 and the policies therein serve to replace the majority of policies within the Council's Unitary Development Plan (1998) and the UDP Alteration No. 2 (Central Sunderland), although some UDP policies have been saved ahead of the future adoption of the Allocations and Designations (A&D) Plan.

Policies SS5, HS1, HS2, HS3, BH1, BH8, BH9, NE2, WWE2, WWE3, WWE4, WWE5, ST2 and ST3 of the CSDP are considered to be pertinent to the determination of this application.

With reference to the above national and local planning policy background and taking into account the characteristics of the proposed development and the application site, it is

considered that the main issues to examine in the determination of this application are as follows:

1. Land use considerations;
2. The impact of the development in respect of ecology and biodiversity;
3. The impact of the development in respect of built heritage and archaeology;
4. The impact of the development in respect of flooding and drainage;
5. The impact of the development in respect of ground conditions;
6. Other considerations

1. Land use considerations

Policy SS5 of the Council's Core Strategy and Development Plan (CSDP) states that the Port will be reinvigorated through:

1. The provision of road and rail links suitable for heavy freight to link the Port to national networks;
2. Preventing waterside developments that would negatively impact on operations;
3. Supporting the use of the River Wear as a freight corridor and serving waterfront businesses;
4. Enabling development of Port-related uses within use classes B1, B2 and B8, including offshore renewables and automotive supply chains; and
5. Requiring development which is located within Flood Zones 2 and 3 to meet the sequential test and exceptions test, where necessary.

Policy SS5 of the CSDP builds on the broader objectives of policy SP5, which states that South Sunderland will continue to grow and become a spatial priority for housing and economic development by, amongst other measures, focusing economic growth in identified employment areas and at the Port of Sunderland.

In itself, the development proposed by the application does not give rise to any land use considerations given that the works essentially comprise the improvement of the established sea defences. Nevertheless, it is considered that the proposals will support the objectives of the Plan policies which promote the Port given that the defences are designed to afford improved protection of the Port from coastal flooding events, thus assisting in maintaining its safe and effective operation as a facility of significant economic and employment value to the City.

Regard is also given to paragraphs 170-173 of the NPPF, which require Local Planning Authorities to be mindful of the impacts of coastal change and to carefully consider the appropriateness of new development in areas at risk of physical changes to the coastline - clearly, the proposal is designed to better protect the Port from coastal flooding events, which may become more severe and frequent in the future, and so is not considered to conflict with the objectives of this policy.

The proposed works are therefore considered to be entirely consistent with the objectives of policy SS5's objectives and those of policy EC5A of UDP Alteration No. 2 and the NPPF.

2. Implications of development in respect of ecology and biodiversity

Section 15 of the NPPF sets out a general strategy for the conservation and enhancement of the natural environment and at paragraph 180 it advises that planning permission should be refused for development which has significant harm on biodiversity or will have an adverse effect on a Site of Special Scientific Interest (SSSI). Paragraph 182 makes it clear that the NPPF's presumption in favour of sustainable development does not apply where the plan or

project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

Locally, policy NE2 of the Council's adopted CSDP sets out measures for the protection, creation, enhancement and management of biodiversity and geodiversity, whilst proposals which would adversely affect European designated sites will only be permitted where the Council is satisfied that any necessary mitigation is included such that there will be no significant effects on the integrity of the sites and, with regard to SSSIs, will have to demonstrate that the reasons for the development clearly outweigh the nature conservation value of the site.

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

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

The planning application has been accompanied by a Habitats Regulations Assessment (HRA) Report, which is designed to inform an HRA Screening Assessment to be undertaken by the Council. The initial Report was revised to address the consultation comments made by Natural England (as set out in the 'Representations' section of this report). The HRA Report assesses the direct effects of the proposed development on the Northumbria Coast Special Protection Area (SPA) and Northumbria Coast Ramsar Site, both approximately 2km to the north and 2.8km to the south of the application site, and the Durham Coast Special Area of Conservation (SAC), located 3.4km to the north and 2.8km to the south of the application site. The Northumbria Coast SPA and Ramsar site support important numbers of purple sandpiper, turnstone and little tern, whilst the Durham Coast SPA is unique in the UK for its vegetated sea cliffs on magnesian limestone exposures.

The submitted Report notes that the application site is entirely outside the European sites and that no direct impacts in terms of habitat loss are anticipated. The site does, however, have a potential functional link to the European sites given that turnstone and purple sandpiper have been observed in the area. The Report identifies the following potential impacts arising from the development, both during the construction and operational phases:

- o Air pollution
- o Water pollution
- o Noise disturbance during construction phase
- o Visual disturbance during construction phase (e.g. presence of workmen and equipment)

The Report concludes that there will be no direct Adverse Effect on Integrity (AEIOI) on the SPA, SAC and Ramsar sites given their distance from the proposed work area. Therefore, the impacts from the proposed works will relate to qualifying/notable species which utilise functionally-linked lands at the Port.

To this end, the Report concludes that providing existing features, such as buildings, bunds and spoil heaps acting as noise and visual buffers to the coastal side of the Port, are retained during the development, the works will not significantly impact birds either at the designated sites or utilising the coast near to the site. There is, however, considered to be a likely minor impact at the nearest primary roost location (New South Pier) without appropriate mitigation measures in place. The Report provides a full suite of recommended mitigation measures, including the following:

- o Works timed to fall outside main bird wintering period (November to March), with noisiest works avoiding October and March;
- o Works carried out during daylight hours only;
- o Noisy vehicles and tools fitted with silencers and not to stand idle;
- o Measures put in place to minimise risk from fuel spillages, hazardous substances and other pollutants, such as only handling such materials in designated areas;
- o Measures to suppress dust and air pollution, e.g. using wheel washers, electric equipment and vehicles, no burning on site;

As set out in the 'Representations' section of this report, Natural England have no objections to the proposed development, subject to the Council as Local Planning Authority securing the mitigation measures recommended by the applicant's HRA report.

The Council's own Ecology officer notes Natural England's view and has confirmed that the Council adopts the applicant's HRA as its own. The mitigation measures set out in the HRA report are considered appropriate and as a consequence, there are no objections to the development proceeding, subject to a condition which secures the mitigation measures as contained within Table 8 of the adopted HRA report.

There is consequently no objection to the undertaking of the proposed works from an ecology perspective, subject to the conditions recommended by the Council's Ecologist in respect of the timing of the works and the adherence to the mitigation measures recommended by the submitted revised HRA Report. The proposals will therefore satisfactorily address the relevant CSDP, UDP and NPPF policies as set out above.

3. Implications of development relative to archaeology and built heritage

Paragraphs 194 and 195 of the NPPF require Local Planning Authorities to consider the significance of any heritage asset affected by a development proposal, with paragraph 206 then stating that Local Planning Authorities should look for new development within the setting of heritage assets to enhance or better reveal their significance; proposals that preserve those elements of the setting which make a positive contribution to the asset should be treated favourably.

With regard to archaeology, paragraph 205 of the NPPF states that Local Planning Authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible.

In the CSDP, policy BH8 states that development affecting heritage assets should recognise and respond to their significance and demonstrate how they conserve and enhance their significance and character of the asset(s), including any contribution made by its setting where appropriate. Policy BH9 states that the Council will support the preservation, protection and, where possible, the enhancement of the City's archaeological heritage by requiring applications affecting archaeological remains to properly assess and evaluate impacts and, where appropriate, secure the excavation, recording and analysis of remains and the production of a publicly-accessible archive report.

As set out in the 'Representations' section of this report, the Council's Built Heritage officer has raised no concerns relative to the impact of the proposed development on the setting of the nearest designated built heritage assets at the Port. Furthermore, whilst the South Pier and Stonehill Wall are considered non-designated heritage assets given their age and role in the development of the Port, the works will not be harmful to their significance.

In terms of archaeology, the County Archaeologist advises that no archaeological work is required in this instance, on the basis that the proposed works are not intrusive and do not require major alteration to the pier wall.

It is therefore considered that the proposed development does not conflict with the objectives of the UDP, CSDP and NPPF policies identified above relevant to built heritage and archaeology and the proposals are therefore considered to be acceptable in this regard.

4. Implications of development in respect of flooding/drainage

In relation to flooding, paragraph 159 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

Policy WWE2 of the CSDP sets out measures to reduce flood risk and ensure appropriate coastal management, whilst policy WWE3 states that development must consider the effect on flood risk, on-site and off-site, commensurate with its scale and impact.

The application site lies within Flood Zone 3a, being at high risk of tidal flooding and from 'white water' overtopping sea defences. The Government's National Planning Policy Guidance (NPPG) online resource advises that 'flood control infrastructure', which would include the Stonehill Wall and rock revetment, is 'water compatible development' and is therefore appropriate within all flood risk zones. Consequently, there is no requirement to undertake a sequential assessment or exception test to direct the development to a site which is less prone to flooding. It is also observed that there are no objections to the development from the Environment Agency or the Lead Local Flood Authority (LLFA).

Given the above, it is clear that the proposed development is appropriate at this site and it does not give rise to any conflict with national or local planning policies relating to flood risk and the proposals are therefore acceptable in relation to this matter.

5. Implications of development in respect of land and groundwater contamination

Paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by, amongst other measures, preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.

Paragraph 183 of the NPPF then states that planning decisions must ensure that development sites are suitable for the new use, taking account of ground conditions and land instability, including from former activities such as mining and pollution.

Meanwhile, policy HS3 of the CSDP states that where development is proposed on land where there is reason to believe is contaminated or potentially at risk from migrating contaminants, the Council will require the applicant to carry out adequate investigations to determine the nature of ground conditions below and, if appropriate, adjoining the site. Where the degree of contamination would allow development subject to preventative, remedial or precautionary measures within the control of the applicant, planning permission will be granted subject to conditions specifying the measures to be carried out.

Furthermore, policy WWE4 of the CSDP also require development to not adversely affect the quality or availability of ground or surface water, including rivers and other water.

The application has been accompanied by a 'Contamination Assessment Report', which has been reviewed by the Council's Land Contamination consultant. Whilst the consultant has highlighted areas of the report that can be improved, particularly clarification on the areas examined and better characterisation of the ground affected by the proposed works, it has been pointed out by the applicant that the proposed development does not include any intrusive groundworks - there are no site excavations, and the new section of rock revetment will simply be placed on the foreshore with the ground remaining undisturbed.

Given the particular nature of the proposed development and the lack of intrusive groundworks, it is considered reasonable to allow the development to proceed subject to a condition which requires the developer to take into account risks from ground conditions and potential contamination during works. The condition also sets out a procedure for dealing with any unexpected contamination encountered at the site.

Subject to such a condition, it is considered that the risks associated with ground conditions and contamination form are satisfactorily addressed, in accordance with the requirements of the NPPF and policies HS3 and WWE4 of the CSDP.

6. Other considerations

Policy BH1 of the Council's CSDP seeks to achieve high quality design and positive improvement by, amongst other measures, ensuring development is of a scale, massing, layout, appearance and setting which respects and enhances the qualities of nearby properties. Paragraph 130 of the NPPF, meanwhile, states that planning decisions should ensure that developments create places which, amongst other objectives, have a high standard of amenity for existing and future users.

The scheme does not give rise to any amenity concerns given the nature and location of the proposed development (i.e. repair, maintenance and improvement of established coastal defences) and its remoteness from any residential properties (approximately 390m to the nearest residential property).

Similarly, the proposals do not give rise to any highways considerations, as confirmed by the Council's Highways team and so there is no conflict with the objectives of policies ST2 and ST3 of the CSDP and section 9 of 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.

CONCLUSION

For the reasons set out above, it is considered that the proposed development is acceptable in land use terms given that the development is concerned with the improvement of the coastal flooding infrastructure designed to protect the Port of Sunderland. In addition, and subject to the imposition of the condition recommended by the Council's Ecologist and Natural England, it is

considered that the proposals will not have a significant effect on the European-protected sites and species which are proximate to the application site or the adjacent land which is functionally linked to these sites. Furthermore, the proposals raise no concerns relative to the amenity of the area, built heritage, archaeology, highway and pedestrian safety and ground conditions/land contamination. The development is also compatible with a location which is at high risk of flooding given that the works affect flood defences.

The proposed development is therefore considered to comply with the relevant Core Strategy and NPPF policies as outlined in the report and it is consequently recommended that Members Grant Consent for the development under Regulation 3 of the Town and Country Planning (General Regulations) 1992 (as amended).

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

location plan (drawing no. 20/NC054/XXX, revision T1)

proposed site plan (drawing no. NC054/RV/002, revision T1)

proposed revetment cross section (drawing no. NC054/RV/003, revision T1)

In order to ensure that the completed development accords with the scheme approved and to comply with policy BH1 of the adopted CSDP.

3 The development hereby approved must be undertaken in full accordance with the mitigation recommendations and guidance set out by section 6.4 and Table 8 of the 'Report to Inform Habitats Regulations Assessment, Stonehill Wall Repairs, Port of Sunderland, Sunderland, June 2020, Final V2' (Durham Wildlife Services), in order to minimise disturbance to wintering bird species and ensure the ecological implications of the development are acceptable, in accordance with the objectives of the NPPF and policy NE2 of the Council's CSDP.

4 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason(s): to ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site, in line with paragraph 170 of the National Planning Policy Framework and policy HS3 of the CSDP, and to prevent deterioration of a water quality element to a lower status class.

Reference No.: 22/01169/FUL Full Application

Proposal: **Creation of a soil storage mound. (Retrospective)**

Location: Land At ChapelgarthWeymouth Road Sunderland

Ward: Doxford

Applicant: Siglion Developments LLP

Date Valid: 29 June 2022

Target Date: 28 September 2022

PROPOSAL:

The retrospective proposal is for the development of a soil storage mound, resulting from the recently implemented construction of the landscaping and drainage infrastructure works associated with the Sustainable Urban Drainage System (SuDS) and Joe's Paddock facilities at the centre of the Chapelgarth residential development site approved under planning reference 20/01517/LR4.

The site lies to the south and west of Blakeney Woods and is a temporary holding area for spoil removed after the above works were implemented.

Subject to pre-application discussions, it was considered that the storage of the material across the site, would provide a more sustainable solution than removing the tonnage via HGV's across the City. This approach however, would need planning consent as the original wider planning approval for the site was supported by an Environmental Impact Assessment and the phase 2 infrastructure works site is outside where the stockpiles have been positioned. As an engineering process that alters the profile of the land due consideration was given to both the scale of the proposal and the temporary nature of the development.

The application has come to Planning and Highways Committee as the redline area of the site is 1.54ha.

The site currently comprises a construction site ahead of development of footpaths, drainage basin, swale and landscaping including neutral grassland meadow areas, native woodland planting, edge planting, amenity grass areas and native shrub planting.

The maximum soil storage mound height is a total of 3metres with a maximum stockpile volume of 18,000 cubic metres.

The application has been supported by a planning statement and a series of plans.

Planning History.

05/03569/FUL - Erection of a freestanding single pouch box for holding mail.

16/00388/HY4 - Hybrid planning application - Outline planning application for up to 750no residential units, public open space and internal road network along with up to 1000sqm of ancillary commercial uses including Retail (A1), Financial and Professional Services (A2), Restaurant and Cafes (A3), Offices (B1) Non Residential (D1) and Assembly and Leisure (D2),

together with associated landscaping and car parking. All Matters apart from access to be reserved in relation to the outline elements of the proposals. The development also seeks detailed consent for a first phase of infrastructure which shall include the creation of a new protected right turn junction into the site off, Weymouth Road, landscaping and creation of attenuation ponds.

16/00862/SCR - Formal Request for a Screening Opinion under Regulation 5 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 for a site compound for Site Investigation work.

16/02356/LR4 - Reserved Matters for up to 160no residential units, public open space, landscaping and internal road networks along with up to 720sqm of Local Equipped Area for Play (LEAP) and 2.88ha of Suitable Alternative Natural Greenspace (SANG).

16/02360/SCR - Formal request for a Screening Opinion under Regulation 5 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 for the development of 160 dwellings.

17/00309/ADV - Erection of 2no. V-board signs and 8no.flag poles.

17/00640/DDI - Discharge of condition 18 (Highway Improvements) attached to planning application 16/00388/HY4.

17/00653/EDI - Discharge of condition 9 (Land contamination) attached to planning application 16/ 00388/HY4.

17/01226/EDI - Discharge of conditions 9, 10 and 11 (site investigation), 21 and 23 (archaeological framework), 30 and 32 (contaminated land) attached to planning approval 16/00388/HY4.

17/01227/DDI - Discharge of conditions 6 (tree protection), 9-11 (Site Investigation), 15 (construction management plan), 21 and 23 (Archeological Framework), 25 (construction traffic), 30-32 (site investigation), 35 (construction management plan), 36 (noise and vibration), 41 (materials) and 42 (boundary treatment) attached to planning approval 16/00388/HY4.

17/01242/DDI - Discharge of condition 14 (Implementation of Infrastructure Works) attached to planning application 16/00388/HY4.

17/01443/SCR - Formal request for a Screening Opinion under Regulation 6 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 for the construction of an Acoustic Bund.

17/02385/DIS - Discharge of condition 17 Stage 1 (Road Safety Audit) and condition 18 (Highway Improvements) attached to planning application 16/00388/HY4.

18/00113/DIS - Discharge of condition 5 (Framework Travel Plan) attached to planning application 16/00388/HY4.

18/00142/DIS - Discharge of condition 16 (hard and soft landscaping) attached to planning application 16/00388/HY4.

18/01068/FUL - Erection of acoustic bund and associated landscaping.

18/01412/DIS - Discharge of Condition 10 (Remediation Scheme) and Condition 14 (Implementation of Infrastructure Works) attached to planning application 16/00388/HY4.

18/01870/DIS - Discharge of Condition 27 (Disposal of Foul Water) attached to planning application 16/00388/HY4.

18/01871/DIS - Discharge of Condition 8 (Drainage Design and Layout) attached to planning application 16/02356/LR4.

18/02028/DIS - Discharge of Condition 15 (Construction Environment Management Plan) attached to planning application 16/00388/HY4.

18/02029/DIS - Discharge of condition 9 (CEMP and TMP) attached to planning application 18/01068/FUL.

18/02218/DIS - Discharge of Condition 16 (hard and soft landscaping) attached to planning application 16/00388/HY4.

18/02229/DIS - Discharge of condition 15 (Construction Environmental Management Plan) attached to planning application 16/00388/HY4.

19/00770/AM1 - Non-material amendment to approved application 18/01068/FUL for change to the circular footpaths and cycleways, removing Tarmac Ulticolor to standard black 6mm dense bitumen macadam.

19/00785/AM1 - Non-material amendment to approved application 16/00388/HY4 to refresh and update approved Design Code document.

19/01727/DIS - Discharge of schedule 4 of section 106 agreement (Landscape, Maintenance and Management Plan) attached to 16/00388/HY4.

19/02042/DIS - Discharge of condition 11 (Land Contamination 4) attached to planning application 16/00388/HY4.

20/00665/AM1 - Non-material amendment to approved planning application 16/00388/HY4 to update the approved design code document with details relating to, landscaping, street type parameters, access and movement, drainage and open space.

20/00788/ZVHR - Extending hours of construction 07:00 to 21:00 Mon to Sat excluding bank holidays and Sundays for application 16/00388/HY4.

20/01323/LR4 Reserved Matters consent for up to 115no residential units, landscaping and internal road networks along with up to 505sqm of Local Equipped Area for Play (LEAP) and 2.07Ha of Suitable Alternative Natural Greenspace (SANG) (Hybrid approval ref : 16/00388/HY4).

20/01479/DIS - Discharge of Condition 28 (Disposal of foul and surface water) attached to planning application 16/00388/HY4.

20/01517/LR4 - Reserved Matters application for infrastructure, landscaping, drainage works and temporary construction access. (Hybrid approval ref : 16/00388/HY4).

20/01837/ZVHRRequest to extend timesale until end of December 2020 - extending hours of construction 07:00 to 21:00 Mon to Sat excluding bank holidays and Sundays for application 16/00388/HY4.

20/02279/AM1 - Non-material amendment to previously approved application 16/00388/HY4 for minor adjustment to attenuation ponds to raise edges by up to 375mm

21/00142/LR4 - Reserved Matters consent for Erection of 179no residential dwellings and associated engineering works (Hybrid approval ref : 16/00388/HY4).

22/00151/FUL - Substitution of house types to plot no's 65,66,93 and 94 from 4no 3-bed dwellings to 2no 5-bed dwellings.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Flood And Coastal Group Engineer
Cllr Heather Fagan
Cllr Allen Curtis
Cllr Paul Gibson
Network Management
Environmental Health
Headteacher Portland Academy Weymouth Road Sunderland SR3 2NQ

Final Date for Receipt of Representations: **26.09.2022**

REPRESENTATIONS:

Transport Development - No Observations.

Environmental Health - No objections to this application; its retrospective nature is noted.

No third party representations were received.

COMMENTS:

The main issues to consider in the determination of the application are:

- The principle of development.
- Air quality.
- Impact on Arboriculture.
- Construction Management.

The principle of development.

Reserved Matters application for infrastructure, landscaping, drainage works and temporary construction access. (Hybrid approval ref : 16/00388/HY4) approved the engineering works necessary to install the phase 2 works for Chapelgarth residential development. The temporary retention of the spoil on site is considered to provide a logistical solution to the long term delivery of the remaining residential properties and removes the need to transport the considerable volume of material off the site and then re-import material at a later phase. The Chapelgarth residential development has 3 phases of housebuilding currently underway, phase 4 would require the removal of the mounds to allow the delivery of the housing and associated Suitable Alternative Natural Greenspace. With this in mind, the temporary erection of a 3 metres high bunded area is considered to be acceptable in principle, as a temporary holding area.

Air quality.

Policy HS1 Quality of life and amenity of the Core Strategy and Development Plan (CSDP) requires proposals to demonstrate they will not result in unacceptable adverse impacts which cannot be addressed through appropriate mitigation.

The planning statement submitted by Cundall supports the application partly on the basis of a reduction in air quality impacts associated with a reduction in heavy vehicle movements due to retaining a large volume of topsoil on site for re-use.

A contrary point to make however, is that this introduces additional potential for dust emissions due to on-site handling and creation of a 3m high mound, specifically if the stockpile is not adequately managed during warm and dry, or windy spells of weather. Whilst it is recognised that at present the stockpiles are located in an isolated location and will not have an immediate impact upon residential properties at this particular phase of the wider development, it is considered that a condition be imposed requiring details of how the stockpiling will be consolidated and profiled to control the risk of dust being raised, together with seeding or shielding if necessary to adequately limit the raising of fine particles during periods of high winds. It is also considered that details shall be provided for the removal of the mounds and methods of dust prevention to be introduced at such point in time that the material is transported to other parts of the site.

Via the imposition of an appropriate condition relating to dust management, should Members be minded to approve the proposal is considered to be acceptable.

Trees and Hedgerows.

The applicant has confirmed that all relevant Tree Protection Measures have been erected. As the application is a stand alone application, not tied to the original hybrid approval, a condition shall be imposed requiring these works to be of the appropriate standard for the duration of the mounds on site.

It is also noted that the mounds have been erected in an area of flat, previously undeveloped agricultural land.

Construction Management.

Policy HS2 of the CSDP relates to Noise-sensitive development. The applicants have confirmed that the approved Construction Environment Management Plan for the phase 2 infrastructure works has been adhered to during the formation of the mounds. It is noted however that a

condition shall be imposed requiring adherence to the same document, as the site forms a separate planning application and the removal of the material will need to be governed by such document in the interest of amenity and highway safety.

With the imposition of such a condition the proposal is considered to be acceptable.

EQUALITY ACT 2010 - 149 PUBLIC SECTOR EQUALITY DUTY

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

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

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

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

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

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

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

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

Conclusion.

The proposed development is considered to provide a satisfactory short term solution to the storage of materials removed during the phase 2 infrastructure works. Via the imposition of adherence conditions requiring the mounds to be adequately protected from both wind and dry weather, along with a construction environmental management plan to ensure their removal is appropriately monitored, it is considered that the proposal is compliant with relevant CSDP policies and therefore is acceptable.

RECOMMENDATION: APPROVE subject to conditions listed

Conditions:

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

Drawing No. CL-XX-XX-DR-C-9406 - Plan and Drawing.

Drawing No. CL-XX-XX-DR-C-9407 - Location Plan

Drawing No. CL-XX-XX-DR-C-9408 - Elevations

In order to ensure that the completed development accords with the scheme approved and to comply with policy BH1 of the Core Strategy and Development Plan.

2 Prior to the redistribution of the mound material across the wider site a site specific Construction Environment Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The plan should include, but not be limited to:

- 1) 1.Procedures for maintaining good public relations including complaint management, public consultation and liaison;
- 2) 2.Arrangements for liaison with the Council's Pollution Prevention and Regulatory Services;
- 3) 3. Mitigation measures as defined in BS 5528: parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works;
- 4) 4. Hours of construction,
- 5) 5. Control measures for dust and other air-borne pollutants;
- 6) 6. Siting and set up/establishment of site compound area;
- 7) 7. Measures for controlling the use of site lighting whether required for safe working or for security purposes;
- 8) 8. Erection and maintenance of site security fencing;
- 9) 9. Operation, loading and unloading of plant and materials;
- 10) 10.Storage of plant and materials used in constructing the development;
- 11) 11)Wheel washing facilities;
- 12) 12)Parking of vehicles of site operatives, delivery vehicles and visitors.
- 13) 13)Location and containment of redistributed earth mounds.

Reasons: In order to protect the amenities of the area and ensure a satisfactory form of development and to comply with CSDP policies HS1 and HS2.

3 The development hereby approved shall be carried out in complete accordance with all recommendations set out by the submitted Arboricultural Tree Constraints Assessment issued 08.01.2016 for the wider Chapelgarth development and British Standard 5837 (2012): Trees in relation to design, demolition and construction, no development shall commence within the development hereby approved until all tree protection measures required for that phase of development as set out by this assessment have been fully installed and all tree protection measures shall remain in place until the development is complete.

Reason : In order to ensure that no damage is caused to trees during construction work and to comply with policy NE3 of the CSDP

Reference No.: 22/01319/LP3 Local Authority (Reg 3)

Proposal: **Use of land as car park for temporary period of up to 5 years, to include resurfacing of site and provision of bay markings.**

Location: Land To The North Of Easington StreetSunderland SR5 1AX

Ward: Southwick

Applicant: Sunderland City Council

Date Valid: 15 July 2022

Target Date: 9 September 2022

PROPOSAL:

The application seeks full planning permission for a temporary (5 year) change of use of previously vacant land to a car park at Land to The North Of Easington Street.

SITE

The application site is a triangular plot of land located within the Sheepfolds Industrial Estate; it is bound by highway on three sides with entrances on Easington Street. The land has been cleared of previous buildings and is currently surfaced by a mix of grass/gravel and hardstanding.

PROPOSAL

The site is currently being used as an informal parking area and it is proposed to formalise this situation by resurfacing the site and providing bay markings for 64 parking spaces and 4 disability spaces. It will operate as a pay by phone service, with associated tariff signs on site and the rate will match the existing car parks within the Sheepfolds, currently 50p per hour and £3 all day.

The existing 14-metre-wide junction on Easington Street will provide access, the smaller existing junction on Easington Street will not be used.

TYPE OF PUBLICITY:

Press Notice Advertised

Site Notice Posted

Neighbour Notifications

CONSULTEES:

Watermans - Land Contamination

Cllr Kelly Chequers

Cllr Michael Butler

Cllr Alex Samuels

Planning And Highways West

Network Management

Tyne And Wear Archaeology Officer

Environmental Health

Palmer Powder Coatings Ltd Unit 12 Hay Street Sunderland SR5 1BG

Falcon Computers Unit 11 Hay Street Sunderland SR5 1BG

Darvin Motors 22 - 25 Wilson Street North Sunderland SR5 1BB

Alan Howarth Mechanical Repairs 26 Wilson Street North Sunderland SR5 1BB

Fred Stoddart Limited 28 Wilson Street North Sunderland SR5 1BB

E. Thompson Group Wilson Street North Sunderland SR5 1BP

D And S Motors (Wearside) Limited Wilson Street North Sunderland SR5 1BB

Final Date for Receipt of Representations: **12.09.2022**

REPRESENTATIONS:

Highway Development - No objections subject to the installation of a tactile crossing point.

Environmental Health- No objection.

County Archaeologist- No objection, subject to notification of any deep excavation works.

Land Contamination Consultant- No objections following submission of coal mining report and confirmation that no invasive plants are present at the site.

External Consultee responses

1no. objection was received from the owner of a nearby business, Darvin Motors:

The proposed application to use the land to the north of Easington Street, Sunderland, SR5 1AX will have a negative affect on my business located at 14 Hay Street, Sunderland, SR5 1BG (Darvin Motors). We are a reasonably busy DVSA approved MoT testing site. As such we see on average between ten and twelve customers each day. Most cars are left with us prior to pre arranged MoT slot booking times and some are collected within an hour of completion. For these customers, the 1 hour parking bays available are ideal, but quite often the cars may require repairs and have to remain with us for several hours until the repair can be carried out and correct parts delivered. A permit system for customers cars would be the best solution for cars left with us on these occasions. What options are available?

The objector's concerns relate to the operational and charging policies for the car park, which are set by the car park operator and are not a planning consideration. Nevertheless, the objector's concerns have been forwarded to the Council's Highway Section (as prospective operator of the car park) for their information and action as appropriate.

COMMENTS:

ISSUES TO CONSIDER

The National Planning Policy Framework (NPPF) provides the current Government planning policy guidance and development plans must be produced, and planning applications determined, with regard to it. The NPPF requires the planning system to contribute to the achievement of sustainable development. More specific guidance of the NPPF is referred to, where relevant, throughout this report.

As of the 30th January 2020 the Council adopted a new Core Strategy and Development Plan, which replaces the 1998 Unitary Development Plan (UDP). It should be noted that some of the policies within the UDP were saved by way of direction and if any UDP policies are referred to in this report they will be saved policies.

The policies which are considered to be pertinent to the determination of this application are CSDP policies SP2, BH1, BH9, HS1, HS3, NE2, ST2 and ST3.

With regard to the above policy framework, it is evident that the main issues to consider in determining the application are:

1. Principle of development;
2. Impact on visual and residential amenity;
3. Archaeological impact;
4. Ecological impact;
5. Impact with regard to land contamination;
6. Impact on highway and pedestrian safety;

1. Principle of development

Policy SP2 of the adopted Core Strategy Development Plan (CSDP) states that The Urban Core will be regenerated and transformed into a vibrant and distinctive area and that development in the Urban Core should:

- i. make improvements to connectivity and pedestrian movement in the Urban Core;
- ii. provide a high quality of public realm to create attractive and usable spaces;
- iii. protect and enhance heritage assets; and
- iv. ensure high standard of design that integrates well with the existing urban fabric.

The site is also subject to saved Policy NA3A.2 ('Sheepfolds') of the Unitary Development Plan Alteration No. 2. It identifies leisure led mixed uses as being acceptable. In addition, a range of criteria relating to design, infrastructure and public realm improvements are also included within the policy.

The application site is also located within the boundaries of the Riverside Sunderland regeneration area and as such, the proposed development should also align to the guidance contained within the adopted Riverside Sunderland Supplementary Planning Document (SPD). The principle use for the Sheepfolds sub-area is envisaged as being residential led, with other acceptable uses being (including but not limited to) restaurants, cafes, drinking establishments (where small scale and ancillary). The SPD also sets out relevant criteria in relation to built form, indicative height parameters, access, movement and parking.

The proposal would formalise an existing parking area and provide a facility to serve the immediate locality and the wider central area of the City. Given the temporary nature of the permission being sought, the operation of the car park will not undermine or conflict with the long-term redevelopment and regeneration aspirations for Sheepfolds as set out in the UDP Alteration No. 2 and the Riverside Sunderland SPD and will make temporary beneficial use of a vacant development plot.

Given this, it is considered that the proposed development would be acceptable in principle, would broadly align with the objectives of CSDP policy SP2 and not undermine the aspirations of UDP Alteration No. 2 policy NA3A.2 and the Riverside Sunderland SPD.

2. Impact on visual and residential amenity

Policy BH1 within the CSDP requires that development must achieve high quality design and positive improvement. It should be of a scale massing, layout, appearance and setting which respects and enhances the positive qualities of nearby properties and the locality, whilst retaining acceptable levels of privacy and ensuring a good standard of amenity for all existing and future occupiers of land and buildings.

Policy HS1 meanwhile, sets out that development must not result in unacceptable adverse impacts arising from air quality; noise; dust; vibration; odour; emissions; land contamination and instability; illumination, run off to protected waters; or traffic.

The site lies within an industrial estate and there are a variety of commercial uses surrounding the development. Given the above context, the improvement works to the car parking area and continued use of the site as a car park, would be unlikely to materially affect the amenity of surrounding land and buildings.

In the absence of any material considerations to the contrary, the proposal would accord with policies HS1 and BH1 of the CSDP.

3. Archaeological impacts

Policy BH9 of the CSDP sets out that the council will support the preservation, protection and where possible the enhancement of the city's archaeological heritage by requiring that applications that may affect buried archaeological remains must be supported by an archaeological desk-based assessment and evaluation reports where appropriate.

The County Archaeologist has considered the detail supplied with the application and has confirmed that they do not consider that archaeological investigation would be required. The comments received go on to state that should deep excavations be undertaken, then detail should be provided to determine if archaeological intervention is required.

A condition to this affect will be added to the decision.

Given the above, it is considered that the works would cause no harm to the archaeological significance of the area and would comply with policy BH9 of the CSDP.

4. Ecological impact

On a local level policy NE2 sets out measures for the protection, creation, enhancement and management of biodiversity.

The land is located within a Wildlife Corridor and as such the Council's Ecologist was consulted.

The Ecologist noted that the whole area within the application boundary is included within a wildlife corridor as designated within the UDP saved policies. However, the site is not identified as a wildlife corridor under the equivalent policies within the draft allocations and designations plan.

The Ecologist went on to confirm that although not adopted policy, the wildlife corridors within the draft plan are identified using a more rigorous and scientific method and are therefore more representative of the actual function of the identified corridors for the movement of wildlife.

It was concluded that, given the nature of the habitats on site and their current use, the area within the application boundary does not provide a significant contribution to the function of the wider ecological network.

Given the above it is considered that the works would not detrimentally impact the local animal species protected by law or their habitats and would comply with the relevant paragraph of the NPPF and CSDP policy NE2.

5. Impact with regard to land contamination

Policy HS3 of the CSDP sets out that where development is proposed on land which may be contaminated, the Council will require the applicant to carry out adequate investigations to determine the nature of ground conditions below and, if appropriate, adjoining the site. Where the degree of contamination would allow development subject to preventative, remedial or precautionary measures within the control of the applicant, planning permission will be granted subject to conditions specifying the measures to be carried out.

With regard to land policy HS3 and land contamination the applicant submitted a Phase 1 Desk Top Study dated June 2022. This report was assessed by the Council's Land Contamination Consultant, and they stated that they were broadly in agreement with the findings. However, they requested that the following additional information be submitted for assessment:

- o A copy of the Coal Authority Mining Report for the site;
- o Confirmation that invasive weeds are not present at the site.

The Coal report was provided on the 06.09.22 and confirmed that there are no mine related issues.

The Invasive Weeds report was submitted on the 07.09.22 and confirmed that no invasive species are present on site.

The Land Contamination Officer considered both reports to be correct and the proposal to be acceptable subject to a condition relating to the procedure for finding unexpected contamination.

Subject to the application of the condition set out above, it is considered that the proposal would have no unacceptable impact with regard to Environmental Health, in accordance with the NPPF and policy HS3 of the CSDP.

6. Impact on highway and pedestrian safety

Policy ST2 of the CSDP states that to ensure development has no unacceptable adverse impact on the local road network, proposals must ensure that new vehicular access points are kept to a minimum and designed in accordance with adopted standards; they deliver safe and adequate means of access, egress and internal circulation; they are assessed and determined against current standards for the category of road; they have safe and convenient access for sustainable transport modes; and they will not create a severe impact on the safe operation of the highway network.

Policy ST3 of the CSDP states that development should provide safe and convenient access for all road users, in a way which would not compromise the free flow of traffic on the public highway, pedestrians or any other transport mode; exacerbate traffic congestion on the existing highway network or increase the risk of accidents / endanger the safety of road users. It states

that development should provide a level of vehicle parking and cycle provision in accordance with the Council's Parking Standards.

Following consultation, the Highway and Development Team stated that, given that the proposed site is currently used as an informal car park without issue, it is considered that the traffic expected to be generated from the proposed formal car park will not be greater than the site's existing use and will not have an adverse impact on the surrounding highway network.

They noted that it is proposed to utilise the existing access into the site, which will be resurfaced as part of the proposals, and this will require the applicant to enter into a S278 agreement prior to the commencement of work.

The applicant is also required to install tactile crossing at the access point as part of the proposed development.

Notes to this effect will be provided on the decision.

Given the above, it is considered that the proposed development would cause no harm to traffic or pedestrian safety and would accord with Policy ST2 and Policy ST3 of the adopted CSDP.

EQUALITY ACT 2010 - 149 PUBLIC SECTOR EQUALITY DUTY

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

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

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

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

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

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

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

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

Conclusion

For the reasons set out above, it is considered that the proposed temporary development is acceptable in land use terms and would cause no harm with regard to amenity, highway safety, archaeological impacts, ecological impacts, land contamination or highway and pedestrian safety

The proposed development is therefore considered to be acceptable and compliant with the requirements of the relevant policies of the NPPF and the Council's Core Strategy and Development Plan. It is consequently recommended that Members Grant Consent for the development under Regulation 3 of the Town and Country Planning (General Regulations) 1992 (as amended), subject to the conditions below.

RECOMMENDATION: GRANT CONSENT under Regulation 3 of the Town and Country Planning (General Regulations) 1992 (as amended), subject to the 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 This permission shall be granted for a limited period of 5 years from the date hereof and the use authorised shall be discontinued and the land reinstated to its former condition at or before the expiry of the period specified in this permission unless the permission is renewed, in order to review the situation in the light of experience and to comply with policy BH1 of the Core Strategy and Development Plan.

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

Existing Layout, drawing number IC-22-SF-CARPARK-EXISTING, received 24.06.22

Proposed Car Park Design, drawing number IC-21-SF-CARPARK, received 24.06.22
Location Plan, drawing number IC-22-SF-CARPARK-LOCATION, received 24.06.22

In order to ensure that the completed development accords with the scheme approved and to comply with policy BH1 of the Core Strategy and Development Plan.

4 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 the approved plans, received 24.06.22 and application form, received 16.06.22. Unless the Local Planning Authority first agrees any variation in writing; in the interests of visual amenity and to comply with policy BH1 of the CSDP.

5 No excavations of a depth which exceeds those detailed in the documents submitted with the planning application shall take place at the application site without firstly notifying the Council as Local Planning Authority of such works and receiving written confirmation that the proposed deeper excavations can take place, either with or without the need for archaeological investigations. On receipt of notification of proposed deeper excavations, the LPA will consult the Tyne and Wear County Archaeologist to ascertain whether the excavations are sufficiently intrusive to warrant undertaking a programme of archaeological investigation. Where archaeological investigations are considered necessary, works at the site must take place in accordance with a programme of investigations and recording to be agreed with the LPA in consultation with the Tyne and Wear County Archaeologist.

Reason: in order to ensure that any archaeological remains on the site can be preserved wherever possible and recorded, in accordance with paragraph 199 of the NPPF and Core Strategy Policies BH8 and BH9.

6 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. A Risk Assessment must be undertaken in accordance with the requirements of DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination CLR11" and where remediation is necessary a Remediation Scheme must be prepared and submitted to the Local Planning Authority in accordance with the requirements that the Remediation Scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. Once the Remediation Scheme has been approved in writing by the Local Planning Authority it shall be known as the Approved Remediation Scheme. Following completion of measures identified in the Approved Remediation Scheme a verification report must be prepared and submitted in accordance with the approved timetable of works. Within six months of the completion of measures identified in the Approved Remediation Scheme, a validation report (that demonstrates the effectiveness of the remediation carried out) must be submitted to the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with the National Planning Policy Framework Paragraphs 170, 178, 179, and 183d

Reference No.: 22/01338/LB3 Listed Building Consent (Reg3)

Proposal: **Repair works to the exterior/interior including re-pointing, re-painting, replacement of bricks, repairs to slate roof, repair to existing windows, replacement on inappropriate newer windows, updating of older electrics and mechanical systems, and secondary glazing to windows.**

Location: Barnes Junior School Mount Road Sunderland SR4 7QF

Ward: Barnes

Applicant: Sunderland City Council

Date Valid: 21 June 2022

Target Date: 16 August 2022

PROPOSAL:

APPLICATION SITE

The application site is Barnes Junior School, a late Victorian/Edwardian red brick building. It sits to the west of Barnes Infant school, which occupies a similar building. Both are grade II listed and occupy a site within the residential suburb of Barnes which is comprised mainly of terraced housing. A new dining block is under construction between the two buildings.

PROPOSAL

The proposal relates to listed building consent for repair works to the building which at present is in a reasonable state of repair overall, but with clear evidence of water ingress, damage to original sash windows, inappropriate replacement windows, and has mechanical and electrical systems at the end of their useful life.

The proposal is to remove the aged (though non-original) mechanical and electrical equipment internally and replace with new, efficient systems using the same pipework routes as exists, rationalise the wiring runs through the building, remove the non-original replacement timber windows and replace them with new sashes to match the originals, repair the damaged timber windows, refurbish the non-original wcs and repoint poor areas of pointing, replacing masonry units where damaged with new-to-match units. All extraneous vegetation will be removed and timber and ironwork, including cast iron rainwater goods, will be repaired and repainted.

TYPE OF PUBLICITY:

Press Notice Advertised

Site Notice Posted

CONSULTEES:

Cllr Richard Dunn

Cllr Anthony Mullen

Final Date for Receipt of Representations: **03.08.2022**

REPRESENTATIONS:

Public Consultation

No representations have been received.

Internal Consultees

Conservation Team - No objections subject to conditions relating to the submission of finer details.

COMMENTS:

CONSIDERATION

In assessing the proposal, the main issue to consider is the impact of the development upon the listed building in terms of its significance as a designated heritage asset.

Barnes Junior School and the adjacent Infant School are grade II listed buildings and fine examples of late Victorian/ Edwardian School Buildings. The finely crafted and imposing architecture of the buildings featuring terracotta detailing is impressive and collectively they are key landmarks of the local area. The significance of the buildings comes from their historic interest as one of the most complete surviving examples of Victorian/ Edwardian School Buildings in Sunderland and their architectural interest as one of the most impressive and well-preserved buildings of their type and period in the city and region.

Paragraph 197 of the NPPF sets out that, 'in determining planning applications, local planning authorities should take account of:

- o the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- o the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- o the desirability of new development making a positive contribution to local character and distinctiveness'.

In addition, paragraph 199 of the NPPF states that '...when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm'.

Policy BH7 states that the council will ensure that the historic environment is valued, recognised, conserved and enhanced, sensitively managed and enjoyed for its contribution to character, local distinctiveness and sustainable communities by measures including giving great weight to the conservation of heritage assets (designated and non-designated) based on their significance in accordance with national policy.

Policy BH8 (2) states that development affecting a listed building, including alterations and additions should:

- i. conserve and enhance its significance in regards to the protection, repair and restoration of its historic fabric, its features and plan form, its boundary enclosures, its setting and views of it, its group value and contribution to local character and distinctiveness; and
- ii. be sympathetic and complimentary to its height, massing, alignment, proportions, form, architectural style, building materials, and its setting.

The application is supported by a Heritage Statement which has, in accordance with the requirements of CSDP Policy BH8 and NPPF Paragraph 194, described the significance of all heritage assets directly affected by the proposals (in this case the grade II listed Barnes Junior School) and has assessed the impact of the proposals on its significance.

The annotated drawings and supporting heritage statement demonstrate a well-informed yet practical conservation approach to the repair, restoration, and upgrading of the listed building that will ensure that its architectural and historic integrity and overall significance will be conserved whilst allowing the school to make the desired improvements to sustain its operational use into the future. The conclusion of the Heritage Statement that the proposals will have an overall positive impact on the significance of the listed building is therefore agreed. It is considered there will be no harm caused.

The proposed external works are largely like-for-like repairs and demonstrate good conservation practice. The reinstatement of traditional materials/ features such as sash windows and cast-iron rainwater goods will enhance the character and significance of the listed building. Full details and/ or samples of all new external materials including the terracotta units, bricks, sash windows and cast-iron gutters and downcomers will be required, which could be secured by a suitable condition attached to any forthcoming approval.

Similarly, specifications and method statements will be required for the specialist conservation works, more specifically the terracotta repairs, re-pointing and cleaning. Sample panels of masonry repairs, re-pointing and cleaning should be provided on site by a reputable stone mason once they have been appointed for the project. The specifications, method statements and samples could be required to be submitted by condition.

The proposed new interventions to the interior such as the secondary glazing and window actuators have been sensitively designed to minimise their visual impact and are reversible additions that on balance will have negligible impact on the overall significance of the listed building. Full details of the secondary glazing including the precise product to be used could also be conditioned.

The description of the mechanical and electrical improvements in the Heritage Statement, particularly the re-use of existing pipework routes and the retention of historic radiators and hatch doors, give the necessary assurance that these works will also have negligible impact on the listed building.

The works will repair, restore, improve, and secure the longterm conservation of an important landmark listed building in a sensitive manner and ensure its continued operational use as a school, and are considered to be acceptable. The proposals will have a positive impact on the conservation and significance of the listed building and satisfy the requirements of NPPF paragraphs 197 and 199 and CSDP policies BH7 and BH8.

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:

It is recommended that, in accordance with Regulation 3 of the Town and Country Planning General Regulations 1992, Members **GRANT LISTED BUILDING CONSENT** for the proposal subject to the conditions listed 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 received 21/6/22;
roof plan as existing received 21/6/22;
roof plan as proposed received 21/6/22;
basement floor plan as existing received 21/6/22;
ground floor plan as existing received 21/6/22;
first floor plan as existing received 21/6/22;
mezzanine as existing received 21/6/22;
elevations as existing received 21/6/22;
west elevation as proposed received 21/6/22;
south elevation as proposed received 21/6/22;
north elevation as proposed received 21/6/22;
east elevation as proposed received 21/6/22;
window details received 21/6/22;

In order to ensure that the completed development accords with the scheme approved and to comply with policy BH1 of the Core Strategy and Development Plan.

3 Notwithstanding any indication of materials which may have been given in the application, no development to the exterior of the building shall take place until full details and/or samples of all external materials, including slates, terracotta units, bricks, sash windows and cast-iron rainwater goods have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details; in the interests of visual amenity and to comply with policies BH1 and BH8 of the Core Strategy and Development Plan.

4 Notwithstanding any indication of materials which may have been given in the application, no repairs to the external brickwork shall take place until samples of terracotta and brick repairs, re-pointing and cleaning have been provided on site by a reputable stone mason and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details; in the interests of visual amenity and to comply with policies BH1 and BH8 of the Core Strategy and Development Plan.

5 Notwithstanding any indication of materials which may have been given in the application, no alterations to the windows will take place until full details including product type of the secondary glazing to the windows have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details; in the interests of visual amenity and to comply with policies BH1 and BH8 of the Core Strategy and Development Plan.

Reference No.: 22/01422/LP3 Local Authority (Reg 3)

Proposal: **Application for temporary uses at Keel Square for a period of no more than seven years. The uses will include retail (Class E(a)), restaurants/ cafes (Class E(b)), local community uses (Class F2) and sui generis uses. The range of temporary uses will likely relate to Expo events, food/ music/ dance festivals, markets, outdoor cinemas, sporting events, games courts, play spaces and ice rinks. The temporary installations could include stages, shipping containers, marquees, kiosks, stalls, toilets, new boundary/ screen fencing, floodlighting and associated infrastructure.**

Location: Keel Square A183 SunderlandSR1 3AP

Ward: Millfield

Applicant: Sunderland City Council

Date Valid: 7 July 2022

Target Date: 1 September 2022

PROPOSAL:

As described in the planning description the application seeks permission to erect temporary installations across the site for a wide range of uses with the location and type of installations varying depending on the particular event.

The Application Site, which is located within the Bishopwearmouth Conservation Area is bounded as follows:

- To the west by the Magistrates Court (Grade II listed) and the adjacent, more modern, Gilbridge House;
- To the south by the proposed site of Culture House with the Grade II listed Peacock beyond; the High Street West with its mix of shops and food and drink offer;
- To the east by High Street West with its mix of shops and food and drink offer, as well as the newly built Keel Square Hotel;
- To the north by St Marys Boulevard, including Riverside Sunderland and the ongoing redevelopment of Vaux.

The Planning Statement confirms that a premises licence has been granted for the following activities:

- Sale of Retail by Alcohol;
- Provision of regulated entertainment - performance of dance;
- Provision of regulated entertainment - film;
- Provision of regulated entertainment - indoor sporting events;
- Provision of regulated entertainment - live music;
- Provision of regulated entertainment - recorded music;
- Provision of regulated entertainment - other entertainment falling within the Act;
- Provision of regulated entertainment - plays;

- Provision of late-night refreshment.

The Planning Statement explains that the premises licence restricts the hours of operation of various uses and for the sale of alcohol. The Premises Licence holder is Sunderland City Council.

The planning application has also been supported by:

- Application Form;
- Plans and collection of precedent images;
- Heritage Statement;
- Habitat Regulations Assessment;
- Foul Drainage Assessment Form.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Cllr Andrew Wood
Cllr Niall Hodson
Cllr Julia Potts
Planning And Highways West
Historic England
Network Management
Environmental Health
Flood And Coastal Group Engineer
Tyne And Wear Archaeology Officer
Planning Implementation
Northumbria Police
Chief Fire Officer
NE Ambulance Service NHS Trust
Natural England
Natural Heritage

Unit 2 Holiday Inn Keel Square Sunderland SR1 3DS
Unit 1 Holiday Inn Keel Square Sunderland SR1 3DS
Holiday Inn Keel Square Sunderland SR1 3DS
Hays Travel Gilbridge House 29 High Street West Sunderland SR1 3HL
Lucianos First Floor 278 High Street West Sunderland SR1 3EA
Magistrates Court Gill Bridge Avenue Sunderland SR1 3AP

Final Date for Receipt of Representations: **09.08.2022**

REPRESENTATIONS:

Representation and consultation

The application was subject to neighbour notifications, site and press notice.

Following this extensive consultation exercise one letter of representation was received from the Sunderland Civic Society, registered charity. In their response the Society echoed the initial observations of the Council's Built Heritage Officer over the permanency of the proposed fencing. The Society hope this aspect of the proposal is given detailed attention and steps taken to ensure the fencing will not be a permanent for the duration of the approval, with a condition imposed requiring the removal of the fencing after each event.

Please see the 'Design and Built Heritage' section of this report for further detail.

Historic England

Historic England responded by stating that they provide advice when their engagement can add most value. In this case they confirmed they are not offering advice but suggested that the views of the Authority's specialist conservation and archaeological advisors be sought.

Built Heritage (Conservation)

In the initial comments to the application the Council's Built Heritage Officer confirmed that although the proposals are acceptable in principle with further information requested in respect of the permanency of the installations/ structures likely to be used.

Please see the 'Design and Built Heritage' section of this report for further detail.

County Archaeologist

The application site is associated with archaeological events, including a series of desk-based assessments, and watching briefs. With this understanding of the existing archaeology at the site the County Archaeologist has confirmed that subject to their being no intrusive ground works, no further archaeological work will be required. As will be discussed in response to built heritage considerations it can be confirmed that there is no ground disturbance involved in the application proposal.

Lead Local Flood Authority (LLFA)

The LLFA confirmed they have no comments.

Engineers

The Council's highway engineers responded by stating that subject to a satisfactory Event Management Plan there are no objections to the proposal.

Environmental Health

Environmental Health have confirmed no objections to the application proposal provided that an Event Management Plan condition is attached to the permission to minimise impact on sensitive receptors.

Police

In the consultation responses to the application proposal the Police Designing Out Crime Officer has confirmed no objections, although reference is made to concerns on the "...impact of adjacent proposals", presumably the ongoing development at Vaux. In respect of the latter, it is considered that the proposed Event Management Plan condition affords a reasonable degree of control and should ensure a compatible form of development on this City Centre site with its surrounding mix of uses and development.

Tyne and Wear Fire and Rescue Service

The Fire Authority have no objections to this proposal, subject to the provision of their enclosed report with further comments made on receipt of a Building Regulations submission. The report refers to Building Regulations B5: Access and Facilities for the Fire Service and the Agent has been provided with a copy, whilst an informative shall be placed on the decision notice, should Members be so minded.

COMMENTS:

Legislation

The Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004 are considered relevant to the consideration of this application.

Planning Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the statutory development plan unless material considerations indicate otherwise.

National Planning Policy Framework

The Government's planning policies for England are set out in the National Planning Policy Framework (NPPF), which states that the purpose of the planning system is to contribute to the achievement of sustainable development. Planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

Development Plan

The Core Strategy and Development Plan 2015-2033 (CSDP) adopted in January 2020 supersedes the previous Unitary Development Plan (UDP) and sets an overarching strategy, strategic policies and strategic allocations and designations for the future change and growth of Sunderland. This Plan also includes local policies for development management purposes.

Until the Allocations and Designations Plan is prepared, which will set out local policies including site-specific policy designations and allocations for the development, as well as the protection and conservation of land in the City, a number of policies from the adopted Unitary Development Plan have been 'saved'.

Turning to the detailed consideration of the proposal the following section consider the following:

1. Principle of development
2. Highway engineering considerations
3. Design and Built Heritage
4. Amenity
5. Ecology
6. Flood Risk and Drainage

1. Principle of development

The Application Site is entirely located within the City Centre, as defined by the Policies Map of the CSDP. Policy VC1 focuses development proposals for main town centre uses within designated centres, including the City Centre. It confirms the City Centre as being the principal location for major retail, leisure, entertainment, cultural facilities and services. It is therefore considered that the application proposal complies with a key strategic policy associated with the site.

Moreover, it is noted that the site is within the Urban Core: Policy SP2: a strategic policy which seeks to transform the Urban Core into a more attractive and vibrant place, a place where people gather to socialise, work, live and play. It states, as per VC1, that the area of the Urban Core the site is situated within will be promoted for culture led mixed development as well as being a focus for main town centre uses. It is therefore also considered, as with VC1, the application proposal is seeking to deliver on the requirement of this key strategic policy.

It is also noteworthy that Keel Square, along with St Marys Boulevard, was developed following the approval of application ref. 12/02578/LAP. As part of the reasoning for that development the project scheme was, in part, designed to provide Keel Square as a major new public space, capable of accommodating a wide range of events and activities. The applicable Unitary Development Plan (UDP) Alteration No. 2 Policy SA55B.2 that existed at the time of the consideration of the application, and which is still of relevance until such time as the Council adopts the Allocation and Designation Plan, also supports the diversification of food and drink and cultural opportunities in the area, including the application site. Clearly, the provision of the opportunities being presented by the application proposal aligns and delivers on one of the key founding principles behind Keel Square, as a public meeting and event space.

In terms of more recent policy guidance, the adopted Riverside Sunderland Supplementary Planning Document and Masterplan identifies the site as forming the 'Heart of the City' zone, appropriate for a range of uses including shops, restaurants, cafes, drinking establishments. The Masterplan sets out to revitalise and reinvent the area via a new urban quarter seeking to combine a rich mix of people, enterprises and activities into vibrant streets and spaces.

Moreover, as noted in the submitted Planning Statement, the aim of increasing the number of visitors to Sunderland will support other hospitality, catering and leisure businesses through linked trips, thereby supporting the economic growth of Sunderland. The proposal will therefore also promote the City as a tourism and leisure destination, thereby supporting the aims of the Sunderland Business Improvement District (BID) and the North East Economic Plan; whilst helping to realise the Council's 'Our City Plan' aim for Sunderland to be a more dynamic and vibrant City.

In conclusion, given the continued evolution of Keel Square as a public open space it is considered that the proposal is acceptable in principle. It will enhance the vitality and viability of

the City Centre and help to further transform the Urban Core into a more attractive and vibrant place, a place where people gather to socialise, work and play.

2. Highway engineering considerations

Policies ST2 and ST3 seek to ensure that development has no severe adverse impact on the local road network and provide safe and convenient access for all road users, in a way which would not compromise the free flow of traffic on the public highway, pedestrians or any other transport mode.

The site lies in a highly accessible location within the City Centre and is situated on main streets which run through the City Centre. The site has excellent access to public transport with bus stops, in each direction, located on St Mary's Boulevard to the north, whilst Sunderland Station and Park Lane Metro Station are in relative proximity. The location of the site therefore promotes opportunities to travel to events via sustainable modes, whilst any cars would be able to access the area via the existing road network and park in the various multi storeys in the City Centre.

The Council's Highway Engineers have highlighted that the Applicant will need to arrange for a temporary traffic regulation order, any necessary traffic management, and dilapidation surveys to inspect the condition of the highway both before and after the event. This will need to be conducted in liaison with the Local Highway Authority. The above arrangements can be set out within an Event Management Plan.

Given the sustainable transportation location and subject to the imposition of an Event Management Plan the application proposal is acceptable and in accordance with Policies ST2 and ST3 of the CSDP.

3. Design and Built Heritage

CSDP Policy BH1 encourages high quality of design and positive improvement, whilst Policy BH3 seeks to ensure existing and proposed areas of public realm are well designed and accessible. Policies BH7 and BH8 require development to respect and respond positively to the historic environment and any heritage assets within it.

Keel Square is located within Bishopwearmouth Conservation Area and is framed by the Grade II listed Magistrates Courts and Peacock Public House. As the City Centre's newest civic space, it has been a focus for activities and events since it was landscaped. This application is considered to be a way of formalising the established function and role of the Square.

The application is supported by a Heritage Statement that in accordance with the requirements of NPPF paragraph 194 and CSDP Policy BH8, has described the significance of the above heritage assets and assessed the likely impact of the proposed temporary events space on their significance.

The Heritage Statement concludes there will be no adverse impact on heritage significance taking into account the temporary nature of the proposed uses and the established designed purpose of Keel Square as a focus for activities and events. This is agreed in principle, the enhanced setting that Keel Square has provided the Conservation Area, Magistrates Courts and Peacock PH and the manner in which they now are experienced includes the temporary installations and structures associated with the programme of activities that animate the square and gives this part of the Conservation Area and City Centre a vibrant character. This is consistent with the cultural offer of most public squares in other historic City and Town centres.

Following a request for clarification in terms of the proposed installations and structures, it has been since confirmed that they will be lightweight and reversible, whilst, as per previous events in Keel Square, such as this summer's roller rink, any cabins or heavier structures will have pads in place to protect the existing public realm. It has also been confirmed by the Agent, acting on behalf of the Applicant, that the previously proposed fence be disregarded from the submitted plans. It has been confirmed that the location and type of fencing will temporary and vary depending on the nature of the event with the exact detail to be agreed via the Event Management Plan condition.

In conclusion, in view of the temporary physical nature of the proposed events on the public realm and in view of the overall neutral impact on the setting of the Conservation Area and adjacent listed buildings, the proposal is considered acceptable in respect of CSDP Policies BH1, BH3, BH7 and BH8 and NPPF Paragraphs 197, 199.

4. Amenity

CSDP Policy HS1 requires that new development should demonstrate that it will not result in unacceptable adverse impacts on quality of life and amenity, whilst Policy HS2 considers noise sensitive development and directs it to the most appropriate locations. Policy HS3 requires appropriate remediation is undertaken when developing contaminated land.

The Council's Environmental Health have confirmed no objections to the application subject to an Event Management Plan condition being imposed. As the proposed events are likely to be of a varied nature it is important that the Applicant works closely with the Council's Environmental Health service to risk assess the specifics of the event taking into consideration of sensitive receptors, the nature of such events, and associated noise levels. The Event Management Plan should incorporate operating times, types of equipment and their location, and any other measures to mitigate the impacts of noise off-site.

As has been discussed in the 'Principle of development' section of this report, weight is given to the fact that Keel Square was designed as a major new public space, capable of accommodating a wide range of events and activities. It is considered that with the imposition of an Event Management Plan condition there will be suitable measures in place to ensure no unacceptable adverse impacts on quality of life and amenity; and given its City Centre location the application proposal is considered to be in an appropriate location in terms of its noise considerations.

In terms of ground conditions, it is noted, as with the built heritage considerations, that the proposed Events will be temporary in nature in terms of its physical impacts i.e., there will be no breaking into the ground. Consequently, there are not considered to be ground condition considerations to consider in terms of assessing the suitability of the proposed development.

It is therefore considered that the proposal accords with the objectives of these policies and is acceptable in respect of its amenity impacts.

5. Ecology

CSDP Policy NE2 requires development proposals, where necessary, to demonstrate how they will protect biodiversity and geodiversity.

Given the location of the site within the City Centre and relative proximity to the coast the application proposal was supported by a Habitat Regulations Assessment (HRA). The HRA assessed the potential impact of the proposed development on nearby statutory designated

sites, particularly the Ramsar, Special Areas of Conservation (SAC) and Special Protection Areas (SPA), referred to as 'European Sites'.

The HRA considers the application site to be significantly distant from the European Sites so that no direct impacts will occur from the temporary events and as such, as part of the detailed assessment, only non-direct impacts have been considered i.e., visitor pressures, introduction of invasive plants and functionally linked land.

In reviewing the three criteria it was concluded that the lack of a functional connection between the site and the coast; distance in terms of recreational pressures; and, negligible risk over the introduction of invasive plants from the development, has enabled the HRA to conclude no Likely Significant Effect with no mitigation being required.

Given the brownfield, hardstanded nature of the site and in view of the conclusions of the submitted HRA, it is considered that the proposal is acceptable and in accordance with CSDP Policy NE2.

6. Flood Risk and Drainage

CSDP Policy WWE2 requires that to understand flood risk and coastal management considerations certain planning applications will be required to demonstrate via a Flood Risk Assessment (FRA) that development will not increase flood risk on site or elsewhere, and if possible, reduce the risk of flooding.

The Planning Statement has considered and correctly identified the site as being located within Flood Zone 1 and is therefore not at risk of flooding from rivers, sea, reservoirs or from surface water run-off. It confirms that in terms of drainage, no connections will be made into the existing sewer system, instead portable toilets will be provided and emptied off site. As the site is under 1 hectare a FRA is not required, while the LLFA have offered no comment or observations in their consultation response.

It is considered that the submission has appropriately considered flood risk and drainage relative to the proposed development and is acceptable, in accordance with WWE2.

EQUALITY ACT 2010 - 149 PUBLIC SECTOR EQUALITY DUTY

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

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

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity

between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

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

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

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

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

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

Conclusion

On the basis of the above, there is considered to be no conflict with the aforementioned policies and consequently it is recommended that Members Grant Consent for the development under Regulation 3 of the Town and Country Planning (General Regulations) 1992 (as amended), subject to the conditions below:

RECOMMENDATION: GRANT CONSENT under Regulation 3 of the Town and Country Planning (General Regulations) 1992 (as amended), subject to the 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 This permission shall be for a limited period of seven years only from the date of this consent when (unless a further application has been submitted to and approved in writing by the Local Planning Authority) the use hereby approved shall be discontinued.

Reasons:

To define the consent and maintain the attractiveness and vibrancy of the Urban Core, in accordance with CSDP policy SP2.

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

- Location Plan, LFS INA-00-00-DR A 001-01 Revision P2;
- Existing Site Plan - Keel Square, LFS INA-00-00-DR A 011-01 Revision P1;
- Supporting Image Document for Potential Use, In Architecture.

Reason:

To ensure that the completed development accords with the scheme approved and to comply with CSDP policy BH1.

4 No Temporary Use Event shall occur until a Management Strategy and Plan for that Event has been submitted to and approved in writing by the Local Planning Authority.

For the avoidance of doubt the details to be contained within the Strategy and Plan shall where applicable, include but not limited to;

- Event Set-Up, including details of duration, layout and buildings/ containers/ stalls, boundary enclosures and take-down procedures;
- Measures to control noise and cooking smells;
- Details of delivery, servicing and refuse collection arrangements;
- Proposed temporary pedestrian and vehicular access works;
- Details of any external lighting.

Thereafter, each temporary use(s) shall be operated in accordance with its approved details, unless otherwise agreed in writing.

Reasons:

In the interests of amenity and highway safety, in accordance with CSDP HS1, HS2, BH1, BH3, BH8, ST2 and ST3.

Reference No.: 22/01423/LP3 Local Authority (Reg 3)

Proposal: **Application for temporary uses at Plot 12, Riverside Sunderland for a period of no more than seven years. The uses will include retail (Class E(a)), restaurants / cafes (Class E(b)), local community uses (Class F2) and sui generis uses. The range of temporary uses will likely relate to Expo events, food /music / dance festivals, markets, outdoor cinemas, sporting events, games courts, play spaces and ice rinks. The temporary installations could include stages, shipping containers, marquees, kiosks, stalls, toilets, new boundary / screen fencing, floodlighting and associated infrastructure.**

Location: Plot 12, Riverside Sunderland Plater Way SunderlandSR1 3AA

Ward: Millfield

Applicant: Sunderland City Council

Date Valid: 5 July 2022

Target Date: 30 August 2022

PROPOSAL:

Application for temporary uses at Plot 12, Riverside Sunderland for a period of no more than seven years. The uses will include retail (Class E(a)), restaurants / cafes (Class E(b)), local community uses (Class F2) and sui generis uses. The range of temporary uses will likely relate to Expo events, food/ music/ dance festivals, markets, outdoor cinemas, sporting events, games courts, play spaces and ice rinks. The temporary installations could include stages, shipping containers, marquees, kiosks, stalls, toilets, new boundary/ screen fencing, floodlighting and associated infrastructure.

Proposal

The application proposes a range of temporary uses on Plot 12, Vaux, Riverside Sunderland. The proposed interim use has been designed to support the ambitions of the Riverside Sunderland Masterplan by revitalising and complementing this area of Vaux in advance of permanent development coming forward on the Plot.

The site comprises approximately 0.5ha of brownfield land bounded by City Hall to the east, The Beam to the north, Livingston Road surface car park to the west and St Marys Boulevard (A183) to the south.

The submitted Planning Statement explains that temporary installations could be erected anywhere across the whole of the site and as such, a flexible permission is being sought with the location and type of installations depending on the event. The Proposed Site Plan details the maximum extent of fencing by way of the event space complete with an access ramp for access and surrounding this an area of landscaping. The Planning Statement also details that the site will host the Sunderland Future Expo 2023 and will feature events and experiences to

engage visitors, providing the stand-out destinations for exhibitions, performances, talks, screenings and meetings.

It is also noteworthy that the application site, when comprising part of larger area i.e., Plots 7, 9 and 12, has already had the benefit of a similar 7-year temporary use permission via approval ref. 17/01848/FU4. This development proposal, although never implemented, was also designed to hold events, pop-up festivals and exhibitions and other community focussed uses.

A premises licence has been granted for the following activities:

- Sale of Retail of Alcohol;
- Provision of regulated entertainment - boxing or wrestling;
- Provision of regulated entertainment - performances of dance;
- Provision of regulated entertainment - film;
- Provision of regulated entertainment - indoor sporting events;
- Provision of regulated entertainment - live music;
- Provision of regulated entertainment - recorded music;
- Provision of regulated entertainment - other entertainment falling within Act;
- Provision of regulated entertainment - plays'
- Provision of late-night refreshment.

The Planning Statement explains that the premises licence restricts the hours of operation of various uses and for the sale of alcohol. The Premises Licence holder is Sunderland City Council.

The planning application has been supported by:

- Application Form;
- Plans and collection of precedent images;
- Planning Statement;
- Heritage Statement;
- Habitat Regulations Assessment;
- Foul Drainage Assessment Form.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted

CONSULTEES:

Cllr Andrew Wood
Cllr Niall Hodson
Cllr Julia Potts
Planning And Highways West
Historic England
Network Management
Environmental Health
Flood And Coastal Group Engineer
Tyne And Wear Archaeology Officer

Planning Implementation
Northumbria Police
NE Ambulance Service NHS Trust
Chief Fire Officer
Natural England
Natural Heritage
Watermans - Land Contamination

Final Date for Receipt of Representations: **02.08.2022**

REPRESENTATIONS:

Representation and consultation

The application was subject to neighbour notifications and site and press notices. Following this extensive consultation exercise one letter of representation was received from the Sunderland Civic Society, a registered charity. In their response however, the Sunderland Civic Society were focused on the proposals for Keel Square, ref. 22/01422/LP3.

Historic England

Historic England responded stating that they provide advice when their engagement can add most value. In this case they confirmed they are not offering advice but suggested that the views of the Authority's specialist conservation and archaeological advisors be sought.

Tyne and Wear County Archaeologist

Plot 12 has previously been identified through archaeological investigations as an area of archaeological interest. In 2004, evidence of prehistoric occupation was identified during the excavation of a trial trench within the boundary of this Plot (Event 2447). Across the wider Riverside site, flints dating from the Mesolithic and Neolithic periods have been found, along with Bronze Age pottery and archaeological features.

An archaeological letter from Archaeological Service Durham University submitted in support of the application concludes that modern overburden protects the areas where archaeological remains have been identified and that the temporary use of Plot 12 will not impact upon the archaeological resource.

The County Archaeologist sought confirmation over whether there was to be any ground disturbance arising from the application proposal. Following discussions and having looked further into the relevant records, the County Archaeologist notes that the demolition rubble varies across the site and thus, the below ground levels for potential archaeological deposits. In view of the flexible nature of the permission being sought and rather than impose minimum depth of excavations, it is thought more appropriate to include Watching Brief and Watching Brief Report conditions:

Watching Brief:

No groundworks or development shall commence until the developer has appointed an archaeologist to undertake a programme of observations of groundworks to record items of interest and finds in accordance with a specification provided by the Local Planning Authority. The appointed archaeologist shall be present at relevant times during the

undertaking of groundworks with a programme of visits to be agreed in writing by the Local Planning Authority prior to groundworks commencing.

Reason:

The site is located within an area identified as being of potential archaeological interest. The observation is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded, and, if necessary, emergency salvage undertaken in accordance with paragraph 205 of the NPPF, Core Strategy Policies BH8 and BH9 and saved Unitary Development Plan Policies B11, B13 and B14.

Watching Brief Report:

The building(s) shall not be occupied/ brought into use until the report of the results of observations of the groundworks pursuant to condition () has been submitted to and approved in writing by the Local Planning Authority.

Reason:

The site is located within an area identified as being of potential archaeological interest. The investigation is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded, to accord with paragraph 205 of the NPPF, Core Strategy Policies BH8 and BH9 and saved Unitary Development Plan Policies B11, B13 and B14.

Council's Built Heritage (Conservation)

The Council's Built Heritage Officer confirmed having no objections to the proposal.

Environmental Health

Environmental Health have confirmed no objections to the application proposal provided an Event Management Plan condition is attached to the permission to minimise impact on sensitive receptors.

Lead Local Flood Authority (LLFA)

The LLFA confirmed they have no comments.

Council's Highway Engineers

The Council's highway engineers responded by stating that subject to a satisfactory Event Management Plan there are no objections to the application proposal.

Council's Geo-Environmental Advisor

The Council's Advisor confirmed that in large part they were in agreement with the conclusions and recommendations of the submitted 'Land Quality Site Inspection Report for Plot 12 of Riverside Sunderland' report. The application site is located entirely within the boundaries of previous assessments as part of the earlier approvals on Vaux. However, from a land quality perspective and as stated in the report, the suitability of the existing temporary stone surfacing for the proposed use is unknown and as such, it is recommended that the standard verification and unidentified contamination conditions are imposed.

Tyne and Wear Fire and Rescue Service

The Fire Authority have no objections to this proposal, subject to the provision of their enclosed report with further comments made on receipt of a Building Regulations submission. The report refers to 'Building Regulations B5: Access and Facilities for the Fire Service'. The Agent, acting on behalf of the Applicant, has been provided with a copy, whilst an informative shall be placed on the decision notice, should Members be so minded.

Police

In the consultation responses to the application proposal the Police Designing Out Crime Officer has confirmed no objections, although reference is made to concerns on the "...impact of adjacent proposals", presumably the ongoing development at Vaux. In respect of the latter, it is considered that the proposed Event Management Plan condition affords a reasonable degree of control and should ensure a compatible form of development on this City Centre site with its surrounding mix of uses and development.

COMMENTS:

Legislation

The Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004 are considered relevant to the consideration of this application.

Planning Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the statutory development plan unless material considerations indicate otherwise.

National Planning Policy Framework

The Government's planning policies for England are set out in the National Planning Policy Framework (NPPF), which states that the purpose of the planning system is to contribute to the achievement of sustainable development. Planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

Development Plan

The Core Strategy and Development Plan 2015-2033 (CSDP) adopted in January 2020 supersedes the previous Unitary Development Plan (UDP) and sets an overarching strategy, strategic policies and strategic allocations and designations for the future change and growth of Sunderland. This Plan also includes local policies for development management purposes.

However, until the Allocations and Designations Plan is prepared and adopted, which will set out local policies including site-specific policy designations and allocations for the development, a number of UDP policies have been 'saved' for Development Management purposes.

With the above policy context in mind and turning to the detailed consideration of the proposal, the following sections consider the following:

1. Principle of development
2. Highway engineering considerations
3. Design and Built Heritage
4. Amenity
5. Ecology
6. Land Contamination
7. Flood Risk and Drainage

1. Principle of development

The Application Site is located within the City Centre, as defined by the Policies Map of the CSDP. Policy VC1 focuses development proposals for main town centre uses within designated centres, including the City Centre. It confirms the City Centre as being the principal location for major retail, leisure, entertainment, cultural facilities and services. It is also noted that the site is within the Urban Core: Policy SP2; a strategic policy which seeks to transform the Urban Core into a more attractive and vibrant place, a place where people gather to socialise, work, live and play. It states, as per VC1, that it will be a focus for main town centre uses, especially retail and office use. Consequently, and as with VC1, it is considered that the application proposal is seeking to deliver on the requirement of this key strategic policy.

In addition, Policy SS1 identifies Vaux as a gateway site to the Urban Core and, in part, allocates it for small scale ancillary leisure and retail development. It is considered that the application proposal is aligned with this policy, particularly as Plot 12 is part of a large-scale, multi-phase, multi-plot development site.

In terms of the more recent policy guidance, the adopted Riverside Sunderland Supplementary Planning Document and Masterplan identifies the area for a range of uses including shops, restaurants, cafes, drinking establishments. One of the key aims of Riverside Sunderland is to revitalise and reinvent the central area of the City via a new urban quarter, one that seeks to combine a rich mix of people, enterprises and activities into vibrant streets and spaces.

Moreover, as noted in the submitted Planning Statement, the aim of increasing the number of visitors to Sunderland will support other hospitality, catering and leisure businesses through linked trips, thereby supporting the economic growth of Sunderland. The proposal will therefore promote the City as a tourism and leisure destination, thereby supporting the aims of the Sunderland Business Improvement District (BID) and the North East Economic Plan; whilst helping to realise the Council's 'Our City Plan' aim for Sunderland to be a more dynamic and vibrant City.

In conclusion, the principle of the proposed development is considered to accord with relevant policies of the Development Plan and is acceptable in principle. It will enhance the vitality and viability of the City Centre and help to further transform the Urban Core into a more attractive and vibrant place, a place where people gather to socialise, work and play.

2. Highway engineering considerations

CSDP Policy ST2 requires that development should have no unacceptable adverse impact on the Local Road Network, whilst Policy ST3 states that development should (amongst other requirements) provide safe and convenient access for all road users, in a way which would not

compromise the free flow of traffic on the public highway, pedestrians or any other transport mode.

The site lies in a highly accessible location within the City Centre. The site has excellent access to public transport with bus stops, in each direction, located on St Mary's Boulevard to the south. Sunderland Station and Park Lane Metro Station are also in relative proximity.

The location of the site is considered to lend itself for opportunities to travel to events via sustainable modes and that any cars would be able to access the area via the existing road network with parking available in the City Centre's car parks. Consequently, in view of its City Centre location, it is not considered necessary for the development to make provision for its own parking.

The Council's Highway Engineers have highlighted that the Applicant will need to arrange for a temporary traffic regulation order, with any necessary traffic management and dilapidation surveys to inspect the condition of the highway both before and after the event. This will need to be conducted in liaison with the Local Highway Authority. The proposed Event Management Plan condition will also be the means within which to consider the extent of any boundary enclosure, details of delivery and servicing, as well as any temporary pedestrian and vehicular access works.

Given the sustainable transportation location and subject to the imposition of an Event Management Plan the application proposal is acceptable and in accordance with Policies ST2 and ST3 of the CSDP.

3. Design and Built Heritage

CSDP Policy BH1 encourages high quality of design and positive improvement, whilst Policy BH3 seeks to ensure existing and proposed areas of public realm are well designed and accessible. Policies BH7 and BH8 require development to respect and respond positively to the historic environment and any heritage assets within it.

Plot 12 of Riverside Sunderland is located directly opposite Bishopwearmouth Conservation Area and Keel Square, with the Magistrates Courts in proximity and the listed Peacock Public House further to the south. The Council's Built Heritage Officer has noted the submitted Heritage Statement, which has described the significance of the adjacent designated heritage assets and assessed the impact of the proposed temporary events space on their significance.

The Heritage Statement concludes that there will be no adverse impact on heritage significance; particularly when taking into account the current unsightly and vacant condition of the site and the temporary nature of the proposed uses and associated installations/ structures along with their context within the wider surrounding large-scale developments of Riverside Sunderland.

The Council's Built Heritage Officer agrees with the conclusions of the Heritage Statement in that the proposal will have a neutral impact on the setting of the Conservation Area and the listed buildings within it, thus the significance of these assets will be conserved satisfying the requirements of CSDP Policies BH7 and BH8 and NPPF Paragraphs 197 and 199.

4. Amenity

CSDP Policy HS1 requires that new development should demonstrate that it will not result in unacceptable adverse impacts on quality of life and amenity, whilst Policy HS2 considers noise sensitive development and directs it to the most appropriate locations.

The Council's Environmental Health service have confirmed no objections to the application subject to an Event Management Plan condition being imposed. As the proposed events are likely to be of a varied nature it is important that the Applicant works closely with the Council's Environmental Health service to risk assess the specifics of the event taking into consideration of sensitive receptors, the nature of such events, and associated noise levels. The Event Management Plan should incorporate operating times, types of equipment and their location, and any other measures to mitigate the impacts of noise off-site.

It is considered that with the imposition of an Event Management Plan condition there will be suitable measures in place to ensure no unacceptable adverse impacts on quality of life and amenity; and given its City Centre location the application proposal is considered to be in an appropriate location in terms of its noise considerations.

It is therefore considered that the proposal accords with the objectives of these policies and is acceptable in respect of its amenity impacts.

5. Ecology

CSDP Policy NE2 requires development proposals, where necessary, to demonstrate how they will protect biodiversity and geodiversity.

Given the location of the site within the City Centre and relative proximity to the coast the application proposal was supported by a Habitat Regulations Assessment (HRA). The HRA assessed the potential impact of the proposed development on nearby statutory designated sites, particularly the Ramsar, Special Areas of Conservation (SAC) and Special Protection Areas (SPA), referred to as 'European Sites'.

The HRA considers the application site to be significantly distant from the European Sites so that no direct impacts will occur from the temporary events and as such, as part of the detailed assessment, only non-direct impacts have been considered i.e., visitor pressures, introduction of invasive plants and functionally linked land.

In reviewing the three criteria it was concluded that the lack of a functional connection between the site and the coast; distance in terms of recreational pressures; and, negligible risk over the introduction of invasive plants from the development, has enabled the HRA to conclude no Likely Significant Effect with no mitigation being required.

Given the brownfield, hardstanded nature of the site and in view of the conclusions of the submitted HRA, it is considered that the proposal is acceptable and in accordance with CSDP Policy NE2.

6. Land Contamination

CSDP Policy HS3 requires that appropriate remediation is undertaken when developing contaminated land.

As stated in the consultee section of this report the submitted Land Quality Site Inspection Report the application site is located entirely within the boundaries of previous assessment work undertaken as part of the recent approvals on Vaux. The Council's Geo-Environmental Advisor notes, as detailed in the report, that the suitability of the existing temporary stone surfacing for the proposed use is unknown. Following the submission of the approved Remediation Strategy for the wider Vaux re-development, which included Plot 12, it is considered that the suitability of the existing temporary stone surfacing can be appropriately considered via a verification report.

Thus, it is recommended that Verification and Unidentified contamination conditions be imposed, should Members be so minded.

Subject to these conditions being imposed the application proposal is considered acceptable and in accordance with CSDP Policy HS3.

7. Flood Risk and Drainage

CSDP Policy WWE2 requires that to understand flood risk and coastal management considerations certain planning applications will be required to demonstrate via a Flood Risk Assessment (FRA) and that development shall not increase flood risk on site or elsewhere, and if possible, reduce the risk of flooding.

The Planning Statement has considered and correctly identified the site as being located within Flood Zone 1 and is therefore not at risk of flooding from rivers, sea, reservoirs or from surface water run-off. Moreover, it confirms that in terms of drainage, no connections will be made into the existing sewer system, instead portable toilets will be provided and emptied off site. As the site is under 1 hectare an FRA is not required, whilst it is noted that the LLFA have offered no comment or observations in their consultation response.

It is considered that the submission has appropriately considered flood risk and drainage relative to the proposed development and is acceptable, in accordance with WWE2.

EQUALITY ACT 2010 - 149 PUBLIC SECTOR EQUALITY DUTY

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

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

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

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

it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

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

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

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

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

Conclusion

On the basis of the above, there is considered to be no conflict with the aforementioned policies and consequently it is recommended that Members Grant Consent for the development under Regulation 3 of the Town and Country Planning (General Regulations) 1992 (as amended), subject to the conditions below:

RECOMMENDATION: GRANT CONSENT under Regulation 3 of the Town and Country Planning (General Regulations) 1992 (as amended), subject to the 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 This permission shall be for a limited period of seven years only from the date of this consent when (unless a further application has been submitted to and approved in writing by the Local Planning Authority) the use hereby approved shall be discontinued and any buildings or structures arising from this permission shall be removed and the site left in a safe and satisfactory condition in accordance with a scheme of work to be submitted to and approved in writing by the Local Planning Authority.

Reason:

To define the consent and maintain the attractiveness and vibrancy of the Urban Core, in accordance with CSDP policy SP2.

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

- Location Plan, LFS INA-00-00-DR A 000-01 Revision P1;

- Existing Site Plan - Plot 12, LFS INA-00-00-DR-A-010-01 Revision P1;
- Proposed Site Plan - Plot 12, LFS INA-00-00-DR-A-110-01 Revision P2;
- Land Quality Site Inspection Report - Plot 12 of Riverside Sunderland Site, VPT-XX-XX-RPT-GE-60201 Revision P01, dated 30 June 2022;
- Site Wide Detailed Remediation and Verification Strategy, 10073447.RPT.GL.008 Revision B, dated 18 November 2020.

Reason:

To ensure that the completed development accords with the scheme approved and to comply with CSDP policy BH1.

4 No Temporary Use Event shall occur until a Management Strategy and Plan for that Event has been submitted to and approved in writing by the Local Planning Authority.

For the avoidance of doubt the details to be contained within the Strategy and Plan shall where applicable, include but not limited to;

- Event Set-Up, including details of duration, layout and buildings/ containers/ stalls, boundary enclosures and take-down procedures;
- Measures to control noise and cooking smells;
- Details of delivery, servicing and refuse collection arrangements;
- Proposed temporary pedestrian and vehicular access works;
- Details of any external lighting.

Thereafter, each temporary use(s) shall be operated in accordance with its approved details, unless otherwise agreed in writing.

Reasons:

In the interests of amenity and highway safety, in accordance with CSDP HS1, HS2, BH1, BH3, BH8, ST2 and ST3.

5 The areas of landscaping hereby approved shall not commence until details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. The details shall include proposed finished levels or contours; planting plans including written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of trees, plants, noting species, sizes and proposed numbers/ densities, and details of the management and maintenance of the landscaping.

Reason:

In the interests of visual amenity and nature conservation and to comply with policies NE1, NE2 and NE3 of the CSDP.

6 The development hereby approved shall not be occupied 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 the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with the National Planning Policy Framework Paragraphs 170, 178, 179, and 183.

7 If, during development, contamination not previously identified is found to be present at the site, the Local Planning Authority shall be notified and appropriate actions submitted to and agreed in writing by the Local Planning Authority prior to development recommencing on that part of the site. The appropriate actions shall include an amendment to the approved remediation strategy detailing how the unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with the National Planning Policy Framework Paragraphs 170, 178, 179, and 183.

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

Reason:

The site is located within an area identified as being of potential archaeological interest. The observation is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded, and, if necessary, emergency salvage undertaken in accordance with paragraph 205 of the NPPF, Core Strategy Policies BH8 and BH9 and saved Unitary Development Plan Policies B11, B13 and B14.

9 The building(s) shall not be occupied/ brought into use until the report of the results of observations of the groundworks pursuant to condition 8 has been submitted to and approved in writing by the Local Planning Authority.

Reason:

The site is located within an area identified as being of potential archaeological interest. The investigation is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded, to accord with paragraph 205 of the NPPF, Core Strategy Policies BH8 and BH9 and saved Unitary Development Plan Policies B11, B13 and B14.

Reference No.: 22/01466/SUB Resubmission

Proposal: **Change of use to coffee/sandwich shop including associated car parking.**

Location: School House Offerton Village Sunderland SR4 9JP

Ward: Shiney Row

Applicant: Scott Richards

Date Valid: 14 July 2022

Target Date: 8 September 2022

PROPOSAL:

APPLICATION SITE

The application site is the former Offerton and Coxgreen School building, built in 1878 along with the adjacent school master's house. The red line location plan identifies the site as being the original school building within its small grounds, along with a gated field/ paddock to the rear (southeast), whilst the former school master's house and its gardens plus a small triangular shaped paddock to the southwest is outlined in blue.

It is understood that as Offerton and Coxgreen School it closed in 1937 but may have been used as a private school until around the 1960s/ 70s. It appears to have spent a short time as an artist's studio, presumably akin to someone working solo within a shed/ workshop within their garden, before it changed hands in 1996. Since then, planning records evidence it being used as a storage/ workshop outbuilding as part of the dwelling house, backed up by the photos attached to the most recent house sale. It is therefore considered that the evidence points very strongly to the school building having been used as a building incidental to the enjoyment of the adjacent dwellinghouse for many years.

Aerial photography records indicate that the field to the rear of the former school building (possibly formerly the school playing grounds) has been maintained as a grassed field or paddock separate from the main garden for many years. The site lies within the open countryside on the corner of the T-junction of Coxgreen Road, a narrow country road with no footways or markings, save for the approach to the junction. To the north, the road leads to a livery and a golf course and footpaths to the River Wear. To the south, the land rises up to Penshaw Monument. The site lies within the defined green belt.

PROPOSAL

The application relates to the change of use of the former school building to a café and coffee/ sandwich shop. The proposed layout shows a kitchen and preparation area, a large indoor seated area, and a smaller quiet area/ private function room. The drawings also show a separate coffee shop with a small sales counter and a small amount of seating.

No external alterations to the building are proposed and the internal layout is to be retained, although it is understood that renovation works within the building have already taken place. Parking for 10 cars will be provided within the field to the rear via the existing access onto Coxgreen Road and cycle storage will be provided within the cloister facing the courtyard.

The application is a resubmission of an identical proposal (21/01718/FUL) that was refused permission in April 2022 for reasons relating to harm to the green belt by inappropriateness, the detrimental impact of the development upon the openness, character and appearance of the countryside, and the visual amenities of the green belt.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted

CONSULTEES:

Cllr Katherine Mason-Gage
Cllr David Snowdon
Cllr Melville Speding
Network Management
Environmental Health
Natural Heritage
Planning Implementation
Planning Policy

Final Date for Receipt of Representations: **30.08.2022**

REPRESENTATIONS:

Public Consultation
No objections have been received.

Consultees-

Councils Environmental Health Team - Environmental Health has considered the application and have no objections to the proposed development, subject to consideration of the inclusion of a condition requiring, prior to the use of the development, a scheme of odour control to be submitted for the approval of the LPA together with an odour risk assessment.

Council's Conservation team - The Conservation Team have no objections as the proposal will have no detrimental impact on the building as a non-designated heritage asset.

Council's Transportation Development team - The Transportation Team have no objections to the proposal.

Council's Planning Policy team - The Planning Policy team have flagged that if the development impacts upon the openness of the green belt it would constitute inappropriate development that should be refused. Although the NPPF states that the sequential approach is not required for small scale rural offices or other small scale rural development, the application was accompanied by a sequential assessment for a main town centre use outside of an existing centre. The Policy team considers that, as the facilities is aimed at rural walkers/ cyclists, alternative sites would not be appropriate, and it is considered that this may provide an appropriate justification for the location of the proposals in this respect.

Council's Ecology team - The Council's Ecology team have no objections to the proposal provided that any approval that may be forthcoming is subject to a number of conditions requiring mitigation measures to maintain and enhance biodiversity, and measures to be taken to ensure the protection of protected and notable species during and after the carrying out of the works.

COMMENTS:

The main issues to consider are;

- The principle of the development and whether the proposal represents appropriate development,
- The impact of the development upon the openness of the green belt,
- The impact of the development upon the vitality of town centres,
- The impact of the development upon the visual amenities of the area,
- Environmental health impacts
- The highway safety implications of the proposal,
- The ecological and arboricultural impacts of the development,
- Very Special Circumstances

Principle and appropriateness of the development

The first issue to address is the whether the proposed development within the green belt is acceptable in principle.

Paragraph 11 of the NPPF states that plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The policies in the framework that protect areas or assets of particular importance referred to includes green belt therefore the presumption in favour of sustainable development does not apply to development proposals within the green belt boundary.

As the site is located in the green belt CSDP Policy NE6: Green Belt is relevant. It indicates that development in the green belt will be permitted where the proposals are consistent with the exception list in national planning policy subject to all other criteria being acceptable.

Chapter 13 of the revised NPPF issued 2021 seeks to protect the green belt from inappropriate and harmful development and reiterates the established five purposes that the green belt serves. Paragraph 137 states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of green belts are their openness and permanence. At para 145 local planning authorities are instructed to plan positively to retain and enhance landscapes and visual amenity.

Para 147 declares that inappropriate development is by definition harmful to the green belt and should not be approved except in very special circumstances. Para 149 of the NPPF instructs

LPAs to regard the construction of new buildings as inappropriate in the green belt. Exceptions to this are;

- a) buildings for agriculture and forestry;
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) limited infilling in villages,
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the green belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

Para 150 of the NPPF indicates that certain other forms of development are not inappropriate provided they preserve the openness of the green belt and do not conflict with the purposes of including land within it. These are;

- a) mineral extraction;
- b) engineering operations;
- c) local transport infrastructure which can demonstrate a requirement for a Green Belt location;
- d) the re-use of buildings provided that the buildings are of permanent and
- e) substantial construction;
- f) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and
- g) development brought forward under a Community Right to Build Order or Neighbourhood Development Order.

Case law has found that these lists are comprehensive and exclusive; development which does not fall within these categories constitutes inappropriate development. In accordance with para 147 of the NPPF, inappropriate development is by definition harmful to the green belt and, in the absence of very special circumstances should not be approved.

The proposed change of use of the building is considered to fall within paragraph 150 d) as the building is of a permanent and substantial construction. The associated works to provide the car park involves the laying out of a hard surface on a root friendly sub-base then a grass filled permeable top layer. Consequently, the development is considered to comprise engineering operations, as detailed in para 150 b). The change of use of the paddock to provide a car park is also considered to fall within paragraph 150 e).

In accordance with para 150, the reuse of the building, the change of use of the associated paddock and the engineering operations required to provide the car park and access, are not inappropriate PROVIDED they preserve the openness of the green belt and do not conflict with the purposes of including land within it.

Para 148 of the NPPF requires local planning authorities to give substantial weight to any harm to the green belt. 'Very special circumstances' will not exist unless the potential harm to the green belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Openness of the green belt

The essential characteristics of green belts are their openness and permanence. As the term 'openness' is not defined within the NPPF, the concept has long been the subject of interpretation and discussion. The recent Supreme Court decision in *Samuel Smith Old Brewery (Tadcaster) v North Yorkshire County Council and Dorrington Quarries* [2020] concluded that "matters relevant to openness in any particular case are a matter of planning judgement, not law".

The extent to which the visual impact of a development should be taken into account when assessing openness has been particularly problematic and assessments often depended on the spatial presence of development, with visual impacts being assessed separately. This ruling confirmed that whilst it was not necessary to consider visual impact in the preservation of Green Belt openness, the consideration of visual openness can be a relevant issue to consider when making judgements on Green Belt openness. The judgement also stated that the concept of openness naturally refers back to the underlying aim of green belt policy 'to prevent urban sprawl by keeping land permanently open'. Openness is thus the counterpart of urban sprawl.

There is a difference between visual aspects of openness and impacts on visual amenity. An assessment of the visual impact upon openness could include, for example, impacts on long distance views, visual links to the wider Green Belt and whether restoration after a temporary development can restore the current visual aspects of openness. An assessment of the impact of the development upon visual amenity would likely include impacts upon views, outlook, character, appearance, and scenic quality. A development that has a visual impact on openness may not necessarily have a detrimental impact upon the visual amenities of its locality.

In this case, the development comprises two main elements, the change of use of the building itself and the change of use of the paddock plus the engineering works involved to create a car parking area.

The school building is of a permanent and substantial construction. No external alterations are proposed, although it is noted that during the consideration of the previous application the roof has been replaced and velux windows have been installed. Renovation works have also already been carried out internally without the layout having been changed substantially. The building already has a spatial presence within the green belt and the visual impact of the building in itself and consequently its essential character will not alter as a result of the development. It is therefore considered that this element of the development will preserve the openness of the green belt and is not deemed to be inappropriate development.

Within the submitted Planning Statement it is argued that the car park will have a limited visual impact and therefore does not impact upon the openness of the green belt. However, this conflates visual impact upon openness and impact upon visual amenities to some extent, and it is considered that the Planning Statement underestimates the visibility of the site.

The creation of the car park will involve the change of use of the paddock and the laying of approximately 245sqm of hard surfacing within a grassed paddock, taking up about a fifth of this open space. The proposal includes the reduction in height to 1m of a section of stone wall and the removal of a section of hedgerow and a mature tree at the entrance to the parking area, and

the small grass verge to the front of the entrance will be replaced with tarmac in lieu of a footpath crossing. This, and the necessity for the gates to be open during use will result in a clearly visible form of development from the immediately adjacent highway where there is presently none.

This will be exacerbated by the presence of multiple parked cars during opening hours, and associated comings and goings of people and vehicles, rendering the parking area even more conspicuous, particular as the site can be viewed from a number of vantage points along nearby public footpaths crossing the countryside. The car park would therefore have an urbanising and encroaching effect, particularly when viewed against the backdrop of, and in the context of, neighbouring undeveloped land, and would consequently result in a loss of openness.

The use of an Ecogrid system, that allows grass to grow through a permeable plastic paving slab, may help to soften the impact of the hardstanding in terms of impact upon the visual amenities of the area, but it would still have a visual impact upon openness. The example shown on the submitted drawing shows that even a well-maintained surface would appear as an artificial surface compared with the existing grassed land use and would not sufficiently mitigate the urbanising effect of the hard surfacing.

The car park will therefore have visual impact and a spatial presence, as well as an urbanising and encroaching effect, particularly during opening hours no matter how limited they may be. It is therefore considered that the openness of this area of green belt will be harmed to a significant degree as a result of the development. As the development will not preserve the openness of the green belt and is in conflict with the purposes of including land within it, namely, to assist in safeguarding the countryside from encroachment, the proposal amounts to inappropriate development and is by definition harmful to the green belt.

As para 138 of the NPPF states that the fundamental aim of green belt policy is to prevent urban sprawl, with the essential characteristics of Green Belts being their openness and their permanence, the substantial harm that the development is likely to cause to the openness of the green belt must therefore be given significant weight.

Notwithstanding inappropriateness and harm to openness, any other harm to the green belt must be considered.

Impact on Town Centres

Paragraph 86 to 87 of the NPPF states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

Although para 88 states that the sequential approach is not required for small scale rural offices or other small scale rural development, the application was accompanied by a sequential assessment which concluded that there were no suitable sites within the city centre to satisfy the business requirements, which included an outdoor, rural setting. The Policy team have commented that, as the facility is aimed at rural walkers/cyclists, alternative sites would not be appropriate, and it is considered that this may provide an appropriate justification for the location of the proposals in this respect.

Visual Amenity

Policy BH1 of the CSDP states that, to achieve high quality design and positive improvement, development should (amongst other requirements); be of a scale, massing, layout, appearance and setting which respects and enhances the positive qualities of nearby properties and the locality.

The application site occupies a highly visible position within this area of the green belt and open countryside. The locality is popular with walkers and cyclists as the area offers quality countryside scenery over good distances. The proposal will introduce an urbanised form of development that will out of keeping with the rural nature of this part of the landscape. The opening up of the car park entrance will expose the site to view from close proximity and the new development will also be visible from long distance views to the detriment of the scenic quality and visual amenities of the green belt. The proposed development is therefore considered to be contrary to the requirement of para 145 of the NPPF to retain and enhance landscapes and visual amenity, and policy BH1 of the CSDP.

Environmental Health impacts

Policy HS1 of the CSDP states that development must demonstrate that it does not result in unacceptable adverse impacts which cannot be addressed through appropriate mitigation, arising from the following sources: air quality, noise, dust, vibration, odour, and emissions.

The site lies within an isolated location where there is only one nearby residential property, the adjacent school master's house currently within the same ownership as the application site, although it is noted that it is currently advertised as a holiday let, so occupiers other than the applicant may potentially be affected.

The proposal states that the food offering will be limited to 'hot and cold drinks, cakes and pastry, cold and toasted sandwiches, there is no provision to provide cafeteria type hot and cold meals'. However, the Environmental Health team have rightly commented that a permission for the sale of food and drink for consumption on the premises would allow a variation in that to allow the preparation of hot food. The proposed extraction location is at an existing point low down on the external wall facing out to the highway. The two images showed only a hole in the wall with external integral covering grate on the front elevation of the premises. There is a concern that the height of any fan inside the kitchen would be insufficient to collect hot air and any odours prior to discharge outside.

The Environmental Health team have therefore commented that any approval should be subject to a condition requiring the submission of a scheme of extraction and odour control for the kitchen, including an odour risk assessment. The extent of any odour control measures is dictated by the nature of the cooking to be undertaken, the number of covers within the cafe and the proximity of neighbouring residential properties.

This is considered to be sufficient to minimise the impact upon the adjacent residential property and the immediately surrounding public space to comply with policy HS1 of the CSDP. It must be noted that the visual impact of any external ventilation or extraction ducting that may subsequently be required will need to be assessed as part of the assessment of the details for the discharge of such a condition.

Highway Safety

Policy ST2 of the CSDP sets out the requirement for proposals to ensure that development has no unacceptable adverse impact on the Local Road Network.

Policy ST3 of the CSDP states that development should (amongst other requirements) provide safe and convenient access for all road users, in a way which would not compromise the free flow of traffic on the public highway, pedestrians or any other transport mode, including public transport and cycling; and include a level of vehicle parking and cycle storage for residential and non-residential development, in accordance with the council's parking standards.

Parking for 10 cars is proposed to be provided within the field to the rear. During the consideration of the original application there were concerns about the arrangements for delivery vehicles, that the number of parking spaces proposed was inadequate for the demand likely to be created by the proposal, and that the access was unsafe with regards to the visibility splay when exiting onto Coxgreen Road, particularly as there is no footway around the site. Following discussions between the applicant, agent and the Transportation Development team, the application was amended to improve the visibility splay by reducing the height of the wall and gate to the north-west of the entrance. The current application is proposed in line with these amendments.

The Transportation Development team confirmed that 10 car parking spaces would be the absolute minimum that would need to be provided for the proposed café and coffee shop use as previously amended and currently proposed. The visibility splay will be improved slightly by the reduction in height of the boundary enclosure to the northwest, but it will still not allow a view of the whole of the carriageway for the splay's full length in this direction. However, it is recognised that the volume of vehicular traffic from this direction is likely to be low as the road serves only the Woodhouse Livery complex and the Wearside Golf Club. Whilst the proposed access arrangements are not ideal, these measures are probably sufficient to render the proposal unlikely to result in conditions that would be a serious detriment to highway and pedestrian safety, in compliance with policies ST2 and ST3 of the CSDP.

Impact upon Trees and Ecology

Policy NE2 of the CSDP relates to Biodiversity and Geodiversity. NE2.1 states that where appropriate, development must demonstrate how it will provide net gains in biodiversity and avoid (through locating on an alternative site with less harmful impacts) or minimise adverse impacts on biodiversity in accordance with the mitigation hierarchy.

Policy NE3 of the CSDP states that to conserve significant trees, woodlands and hedgerows, development should (amongst other requirements) give consideration to trees and hedgerows both on individual merit as well as their contribution to amenity and interaction as part of a group within the broader landscape setting, and ensure that where trees, woodlands and hedgerows are impacted negatively by proposed development, justification, mitigation, compensation and maintenance measures are provided in a detailed management plan.

The proposed car parking field is bound by a line of mature trees and hedgerow along almost all four sides. As such, the application has been accompanied by an Arboricultural Impact Assessment Report. This identifies that a Plum and a Cherry growing adjacent to the northern boundary, and a Weeping Willow and 6m of hedgerow adjacent to the proposed car park entrance will need to be removed to facilitate the development. An additional Weeping Willow will need to be removed as it is suffering from decay. No replacement planting or mitigation is proposed.

Given the countryside setting and the presence of the mature trees a Preliminary Ecological Appraisal was also submitted with the application. This identified that an area of amenity grassland within the field will need to be removed and replaced with a permeable surface seeded with grass. Six trees are proposed to be planted to mitigate for the loss of those to be removed to facilitate the development.

In response to consultation, the Council's Ecologist commented that the PEA report does not cover the entire red line boundary area to be affected by the proposals, omitting the building which is to be subject to an internal change of use, and instead focusing on the field to the east. The assessment relating to the field / vegetated area, impacts, and proposed tree planting works are considered to be appropriate. Hedgerows and trees to be lost to the proposals should be replaced on a minimum 2:1 basis, in order to ensure that the proposals result in a net gain for biodiversity.

The PEA report states that no bat roosts or potential bat roosts will be affected by the development. No arboricultural works (including trimming / maintenance works) beyond those detailed in the arboricultural report will be undertaken, and no lighting is proposed for any area of the field.

As the report does not cover the entire red line boundary, no assessment is provided relating to potential impacts of the proposed change of use works on the building or protected species which may utilise this structure, such as bats or breeding birds. However, the information provided in support of the application show that no works will be undertaken within the loft void(s), or which would affect the roof structure, and no works beyond the replacement of the existing vent to the kitchen area would be undertaken which would affect the walls. No new lighting is shown on any of the plans. As such, no impacts would be predicted upon bats or breeding birds within the building as a result of the proposed works.

The Council's Ecologist recommends that, in the event of any works affecting the walls (beyond the replacement of the existing vent), roof structure (including any works within any loft void) or the installation of any lighting is proposed as part of the submission, then planning permission should be resisted until further assessments relating to potential impacts upon bats are provided. All British bats are protected by both UK and European legislation. This legal protection extends to any place that a bat uses for shelter or protection whether bats are present or not. Failure to comply with the legislation may result in an offense being committed. Under UK legislation it is also an offence to intentionally or recklessly disturb, damage or destroy an active bird nest.

It is understood that at some point after the submission of the first application the roof of the building was completely replaced and Velux windows fitted within the roof. No details of the works have been provided nor have any further studies relating to potential impacts upon bats been submitted. The opportunity to consider such potential impacts has now been lost.

Notwithstanding the above, based on the submitted details, which do not include any further works to the building itself, the Council's Ecologist recommends that, should the application be found to be acceptable, an approval should be subject to a number of conditions requiring mitigation measures to maintain and enhance biodiversity, and measures to be taken to ensure the protection of protected and notable species during and after the carrying out of the works, in order to comply with policies NE2 and NE3.

Very Special Circumstances

Para 148 of the NPPF requires local planning authorities to give substantial weight to any harm to the green belt. 'Very special circumstances' will not exist unless the potential harm to the green belt by reason of inappropriateness, and any other harm, including factors unrelated to the green belt, is clearly outweighed by other considerations.

Case law has established that it is not enough for very special circumstances to merely balance out the harm caused to the openness of the Green Belt by permitting inappropriate development (and any other harm); what is required is that the very special circumstances must clearly outweigh the harm in order to justify planning permission being granted.

The submitted Planning Statement cites that 4 FTE jobs (2 full time, 4 part time) will be created by the development. Given the isolated location of the application site these staff are likely to be sourced from the nearby urban population. The development is therefore not going to make a significant contribution to the rural economy as claimed.

The Planning Statement claims that the development will provide a much needed service to visitors to the area to the benefit of the wider economy, and will boost tourism in the wider area. No evidence has been provided to demonstrate that such a facility is necessary in the area, how the local economy will benefit from the development, or how it will increase visits to nearby tourist attractions. In fact, if visitors are to be attracted in significant numbers, the level of car parking proposed is likely to be insufficient and there may be pressure to expand the business, which will in turn exacerbate the detrimental impacts upon the green belt and the visual amenities of the area.

The Planning Statement also claims that the development will secure the long-term use and maintenance of a non-designated heritage asset. There is no evidence that it is in poor condition, indeed it has recently been refurbished. The building is therefore not in any immediate danger or condition that would require this specific form of development to save it.

The claims put forward within the Planning Statement therefore do not constitute 'very special circumstances' required to justify inappropriate development in the green belt.

EQUALITY ACT 2010 - 149 PUBLIC SECTOR EQUALITY DUTY

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

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

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

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

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

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

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

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

Conclusion

Given the above, it is therefore considered that the proposal results in substantial harm to the green belt by reason of inappropriateness and other harm, specifically, the detrimental impact of the development upon the openness of the green belt, and the adverse visual impact of the development. Significant weight must be given to these matters and therefore, in accordance with the provisions of the NPPF, it is considered that the very limited, mainly private benefits that may result from the development do not constitute very special circumstances that clearly outweigh the harm by reason of inappropriateness and any other harm to the green belt, and the proposal should not be approved.

The proposal is considered to be unacceptable and Members are therefore recommended to refuse planning permission for the reasons set out below.

RECOMMENDATION: REFUSE subject to the reasons stated below:

Reasons:

1 The proposal represents an inappropriate form of development within the Green Belt and in the absence of very special circumstances that would outweigh harm, would by its inappropriateness have a detrimental impact on the openness, character and appearance of the

countryside. As such the proposed development is contrary to the advice provided in Chapter 13 of the National Planning Policy Framework and policy NE6 of the CSDP.

2 The proposal would introduce an obtrusive and an urbanised form of development that will out of keeping with the rural nature of this part of the landscape to the detriment of the visual amenities of the green belt and as such would be contrary to Chapter 13 of the National Planning Policy Framework and policies BH1 and NE6 of the CSDP.

Reference No.: 22/01575/FUL Full Application

Proposal: **Erection of two storey rear extension with extraction flue to provide kitchen extension and creation of staff facilities.**

Location: Mamas Kitchen Houghton Road Newbottle Houghton-Le-Spring DH4 4EF

Ward: Houghton

Applicant: Mrs Helen Cooper

Date Valid: 1 August 2022

Target Date: 26 September 2022

PROPOSAL:

APPLICATION SITE

The application site is Mama's bar/grill/pizzeria restaurant situated on the light-controlled junction of Coaley Lane and the A182 Houghton Road in the village of Newbottle. The restaurant is a two-storey building plus a cellar, with a single storey extension to the side, and a car park to the front and side. A compound sits to the rear of the building that provides staff parking and outdoor storage. There are two accesses to the car park, one from Coaley Lane and one from Houghton Road. The land rises up steeply to the east and north so that the car park sits on sloping ground and the host property sits at a much higher ground level than the residential properties to its rear.

The application site is partially included within the Newbottle Conservation Area (car park and extension), the original building itself is outside the boundary.

PROPOSAL

The proposal relates to the erection of a two-storey extension to the rear of the property to provide a staff room with a kitchen extension above. Due to the ground levels, the staffroom will be at basement level whilst the kitchen will adjoin the existing property at ground floor level. The extension will span across slightly less than half of the rear elevation of the original building and will occupy approximately half of the outdoor storage compound.

The proposal represents a resubmission of two similar applications (ref 21/02840/FUL and 22/00529/SUB) that Members may recall were refused on 9 February 2022 and 11 July 2022. The first under delegated powers with the subsequent application refused by Planning Committee. The reasons for refusal related to the impact of the development upon the nearby residential properties in terms of visual intrusion, overlooking and consequent loss of privacy, and the adverse visual impact of the development by reason of its size, design and elevated position. The main difference between the previous submissions and the current proposal is that the previously refused schemes involved a wider extension to provide a store at basement level with a smokers' terrace above. The first application proposed a lean-to roof whereas the second scheme proposed a flat roof with two roof lantern lights. The current scheme proposes a lean-to roof with velux windows.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Cllr John Price
Cllr Mark Burrell
Cllr John Price
Planning Implementation
Environmental Health
Network Management
Northern Powergrid

2 Hillview Road Houghton-le-Spring DH4 4SH
1 Hillview Road Houghton-le-Spring DH4 4SH
Derham Houghton Road Newbottle Houghton-le-Spring DH4 4EF
4 Hillview Road Houghton-le-Spring DH4 4SH
3 Hillview Road Houghton-le-Spring DH4 4SH

Final Date for Receipt of Representations: **14.09.2022**

REPRESENTATIONS:

Public Consultation

Five letters of objection have been received to date. The period for the receipt of representations expires on 14 September after the preparation of this report but before the date of the meeting. Any representations subsequently received will be reported at the meeting.

The objectors' main concerns are;

- The development will result in increased on street parking and traffic to and from the site which causes disruptions to nearby residents and can be hazardous due to the proximity of the site to the light controlled junction;
- The new doorways will allow access to the yard which is likely to be used as a staff smoking area causing a nuisance to nearby residents;
- If this proposal is allowed, the smoking terrace will be proposed as a later addition;
- The site is gradually becoming over developed;
- The development will dominate the outlook from the adjacent residential properties and will be overbearing;
- The development will lead to increased litter which will attract vermin;
- The development will remove the bin storage area, the storage of bins elsewhere on the site unsightly;

Consultees -

Council's Environmental Health team - Environmental Health has considered the application and have no objections to the proposed development, subject to consideration of the inclusion of a condition requiring, prior to the use of the development, a scheme of odour control to be submitted for the approval of the LPA together with an odour risk assessment.

Council's Conservation team - The Conservation Team have no objections as the proposal will have no impact on the character and significance of Newbottle Conservation Area.

Council's Transportation Development team - The Transportation Team have no objections to the proposal.

COMMENTS:

ISSUES TO CONSIDER

In assessing the proposal, the main issues to consider are;

- visual amenity
- residential amenity
- highway safety

Visual Amenity

Policy BH1 of the CSDP states that, to achieve high quality design and positive improvement, development should (amongst other requirements); be of a scale, massing, layout, appearance and setting which respects and enhances the positive qualities of nearby properties and the locality.

Policy BH8 of the CSDP states that development affecting heritage assets (both designated and non-designated) or their settings should recognise and respond to their significance and demonstrate how they conserve and enhance the significance and character of the asset(s), including any contribution made by its setting where appropriate. To preserve or enhance the significance of conservation areas, including their diverse and distinctive character, appearance and their setting, development within and adjacent to conservation areas should be of high design quality, to respect and enhance the established historic townscape and built form, street plan and settings of conservation areas and important views and vistas into, within and out of the areas.

The application site is partially included within the Newbottle Conservation area. The positioning of the site is identified as being a key gateway into the Conservation Area. The Council's Conservation Team have commented that the extension will not interfere with views into or out of the Conservation Area and it will not harm the significance or setting of Newbottle. Providing all materials match the existing, the Conservation Team has no objections to the proposal in terms of its impact upon the conservation area.

The application site occupies a prominent position on a busy junction. The elevated position of the building as the land climbs steeply up Coaley Lane means that its rear elevation is highly visible. The proposed extension will span across nearly half of the width of the rear elevation below the level of the first-floor windows. The development will be visible from the approach from the west up Coaley Lane, however, its design and scale are not considered likely to result in the introduction of an obtrusive element within the streetscene from the public point of view.

Residential Amenity

Policy BH1 of the CSDP also states that acceptable levels of privacy should be retained and a good standard of amenity for all existing and future occupants of land and buildings should be ensured.

In order to achieve and retain acceptable levels of space, light and privacy, the Development Management Supplementary Planning Document (SPD) sets out recommended standards for spacing between dwellings (which can also be used to assess the impact of non-residential development upon residential properties) as follows:

- main facing windows, 1 or 2 storeys - minimum of 21m from any point of facing window;
- 3 storeys or more - as for 1 or 2 storeys but add 5m for each additional storey;
- main facing windows facing side or end elevation (with only secondary window or no window) for 1 or 2 storey properties - minimum of 14m from any point of main window;
- 3 storeys or more - as for 1 or 2 storeys but add 5m for each additional storey, e.g. 3 storeys 19m.

For every 1m in difference of ground levels add 2m to the horizontal difference. e.g. if the difference in plot level is 1m then the minimum distance between the main facing window and the side or end elevation should be 16m.

Notwithstanding the visual impact of the development upon the wider street scene, from the viewpoint of the residential properties to the rear of the application site the proposed extension will be highly visible due to its closer proximity and elevated position. The development also includes a ventilation duct which will impact upon the outlook from these properties.

No sectional drawings have been submitted with the application, but it is estimated that the host property sits approximately one and a half storeys above the properties to the rear. The separation distance of approximately 15.5m is way below the estimated minimum of 21.5m to the blank wall required by the standards within the SPD given above. The design, height and positioning of the development is therefore considered likely to render it highly obtrusive dominating the outlook from the neighbouring properties to the detriment of their visual amenities.

Policy HS1 states that development must demonstrate that it does not result in unacceptable adverse impacts which cannot be addressed through appropriate mitigation, arising from sources including odour and emissions.

The Council's Environmental Health team have commented that an extraction duct is indicated on the drawings that extends to above eaves level. This is acceptable and is a normal requirement for commercial kitchen extraction. If the proposal were to be considered favourably, a condition is recommended to ensure that the design of the full extraction system is suited to the premises, to cooking styles and the immediate external environment. The design of the system can be informed by the outcome of an odour risk assessment, and may include grease pre-filtration, mechanical extraction and odour abatement such as carbon filters or odour neutralisation by ozone dosing. The approved scheme should be implemented and maintained for the life of the proposed development.

Given the above, it is considered that the development will result in a serious detriment to the residential amenities of neighbouring properties particularly by reason of over dominance and loss of outlook. The proposal is contrary to policy BH1 of the CSDP and is unacceptable in this respect.

Highway safety

Policy ST2 of the CSDP sets out the requirement for proposals to ensure that development has no unacceptable adverse impact on the Local Road Network.

Policy ST3 of the CSDP states that development should (amongst other requirements) provide safe and convenient access for all road users, in a way which would not compromise the free

flow of traffic on the public highway, pedestrians or any other transport mode, including public transport and cycling; and include a level of vehicle parking and cycle storage for residential and non-residential development, in accordance with the council's parking standards.

The Transportation Development team have commented that the proposed two storey extension has reduced in scale / size from the two previously submitted planning applications, (removing the smoker's area and store). The extension therefore appears to remove only a small area incutillage which could be utilised for parking, as storage, or for a service yard. Taking into consideration that the proposal does not increase the seating / table capacity in the restaurant and that the extension has reduced in size, the Transportation Development team offer no objections to the proposal. Clarification is however required on servicing and delivery to the premises, and this should be within the curtilage of the premises. This could be dealt with by attaching an appropriate condition to any approval that may be forthcoming. The proposal would then be in compliance with policies ST2 and ST3 of the CSDP.

EQUALITY ACT 2010 - 149 PUBLIC SECTOR EQUALITY DUTY

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

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

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

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

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

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

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

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

Conclusion

The development has been found to be likely to result in harm to the living conditions of the occupiers of the neighbouring residential properties by reason of loss of outlook. For the reasons given above the development is contrary to policy BH1, of the CSDP.

The proposal is considered to be unacceptable and Members are therefore recommended to refuse planning permission for the reasons set out below.

RECOMMENDATION: REFUSE for the reason stated below:

1 The proposal would be detrimental to the amenities of adjacent residential properties by reason of visual intrusion, over dominance and loss of outlook and as such would be contrary to policy BH1 of the CSDP.

Reference No.: 22/01636/VA3 Variation of Condition (Reg 3)

Proposal: **Variation to condition 2 (approved plans) attached to grant of planning permission 22/00244/VA3 - provide feature facade lighting to previously approved multi-storey car park**

Location: Land Bounded By Farrington Row To The West And The A1231 To The SouthSunderland

Ward: Millfield

Applicant: Sunderland City Council

Date Valid: 26 July 2022

Target Date: 25 October 2022

PROPOSAL:

The Application seeks to vary a condition attached to any earlier grant of planning permission for a multi-storey car park at Farrington Row, Sunderland (ref: 22/00244/VA3). The Application seeks to vary the condition relating to the approved plans (no. 2), so that lighting can be provided onto the facades of the building. The submitted covering letter describes the proposed development as the "installation of 39 no. light fittings for the purposes of illuminating the eastern façade". The covering letter continues by saying that the "proposed façade luminaires comprise red, green, blue and white spotlights with elliptical beam spreads that maximise distribution onto the façade".

Planning Officers consider that the relevant matters for consideration are any detailed impacts arising from the proposed lighting; when compared to the extant grant of planning permission (ref: 22/00244/VA3). These impacts will be given consideration below.

TYPE OF PUBLICITY:

Press Notice Advertised

Site Notice Posted

Neighbour Notifications

CONSULTEES:

Cllr Andrew Wood

Cllr Niall Hodson

Cllr Julia Potts

Planning Implementation

Natural Heritage

Environmental Health

Network Management

NE Ambulance Service NHS Trust

Chief Fire Officer

Northumbria Police

Historic England
Planning And Highways West
Helen McArdle House Silksworth Row Sunderland SR1 3QJ
Vacant Property Private Open Vehicle Storage Ayres Quay Road Sunderland SR1 3QR
Fel Fel 27 Silksworth Row Sunderland SR1 3QJ
32A Silksworth Row Sunderland SR1 3QJ
Former Bespoke Curtains And Furniture 32 Silksworth Row Sunderland SR1 3QJ
Prism Medical 34 - 37 Silksworth Row Sunderland SR1 3QJ
J D Gyms Unit 2 Trimdon Street Sunderland SR4 6DW
Flat Museum Vaults 33 Silksworth Row Sunderland SR1 3QJ
Back Silksworth Row Ayres Quay Road Sunderland SR1 3QR
The Isis 26 Silksworth Row Sunderland SR1 3QJ
Currys PC World Unit 1 Trimdon Street Sunderland SR4 6DW
Halfords Unit 3 Trimdon Street Sunderland SR4 6DW
The Licensee Museum Vaults 33 Silksworth Row Sunderland SR1 3QJ
Upper Floors 27 Silksworth Row Sunderland SR1 3QJ
La Familia 26 Silksworth Row Sunderland SR1 3QJ
34 Silksworth Row Sunderland SR1 3QJ
Hylton Road Carpet Centre 1 - 5 Hylton Road Sunderland SR4 7AF
Advert 1 - 5 Hylton Road Sunderland SR4 7AF
Car Repairs Rear Of 8 Hylton Road Sunderland SR4 7AA
36 Silksworth Row Sunderland SR1 3QJ
3 Hylton Road Sunderland SR4 7AF
Letts Let Limited 8 Hylton Road Sunderland SR4 7AA
4 May Street Sunderland SR4 6AF
2 May Street Sunderland SR4 6AF
4 Violet Street Millfield Sunderland SR4 6AE
5 May Street Sunderland SR4 6AF
1 Rose Street Millfield Sunderland SR4 6AB
12A Hylton Road Sunderland SR4 7AA
2 Violet Street Millfield Sunderland SR4 6AE
Computer And Console Repairs 12 Hylton Road Sunderland SR4 7AA
1 Trimdon Street Sunderland SR4 6AA
4 Rose Street Millfield Sunderland SR4 6AB
D S Shopfitting 37 Silksworth Row Sunderland SR1 3QJ
3 Lily Street Sunderland SR4 6AQ
Goodfellas 10 Hylton Road Sunderland SR4 7AA
5 Lily Street Sunderland SR4 6AQ
2 Rose Street Millfield Sunderland SR4 6AB
3 May Street Sunderland SR4 6AF
1 May Street Sunderland SR4 6AF
5 Violet Street Millfield Sunderland SR4 6AE
3 Violet Street Millfield Sunderland SR4 6AE
1 Violet Street Millfield Sunderland SR4 6AE
Flat 10 Hylton Road Sunderland SR4 7AA
6 Violet Street Millfield Sunderland SR4 6AE
The Place Cafe Bar And Bistro 38 - 40 Silksworth Row Sunderland SR1 3JQ
6 Rose Street Millfield Sunderland SR4 6AB
5 Rose Street Millfield Sunderland SR4 6AB
3 Rose Street Millfield Sunderland SR4 6AB
1 Lily Street Sunderland SR4 6AQ

Final Date for Receipt of Representations: **24.08.2022**

REPRESENTATIONS:

None received.

POLICIES:

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

Core Strategy and Development Plan (2015-2033)

COMMENTS:

Amenity

The submitted Lighting Egress Analysis seeks to "test the proposed lighting strategy to understand what the level of egress lighting will be and if adverse effects will result when the building is in operation". The Analysis presents a simulation of the proposed lighting strategy and says that the "results of the calculations show that the feature facade lighting contributes minimal egress light to the surrounding area".

The Environmental Health Officer has advised that:

"This application specifically addresses potential for glare from lighting noting that technical measures are in place to minimise this, to control illumination levels with time of day and to incorporate design measures to minimise distraction of drivers and pedestrians.

These are technical matters outside our overall remit, but it is considered that the potential for light nuisance appears to be minimal."

The proposal would therefore accord with the relevant policy within the Core Strategy, HS1 (Quality of life and amenity) and there are not any material considerations that indicate otherwise.

Design

The submitted covering letter says that the "feature façade lighting scheme comprises of 39 no. light fittings floor mounted in the landscape around the perimeter of the MSCP building with anti-vandal security cage wrap protection". The Applicant has submitted detailed drawings of these lights and security cages and they would, in the opinion of Planning Officers, be a relatively small addition to the scheme; being sited to the front and sides of the previously approved car park.

The proposed lighting would enable the illumination of the previously approved car park. The submitted covering letter says that the proposed illumination has been "identified as a possible solution to enhance the wider setting and appearance of the MSCP building". The submitted Design & Access Statement also says that the proposal "allows for dynamic lighting scenes to be created whereby changes in colour and intensity over the course of the evening will add to the artistic installation's visual impact". Planning Officers consider that the proposed lighting would sit comfortably within the immediate context of other recently constructed modern buildings at Riverside Sunderland (such as City Hall).

The proposal would therefore accord with the relevant policy within the Core Strategy, BH1 (Design quality); and there are not any material considerations that indicate otherwise.

Ecology

Planning Officers would initially draw to attention that the Natural Environment and Rural Communities Act 2006, at Section 40, says that:

"The public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity".

The submitted Review of Ecological Impacts says that "it is deemed that the impact on bats will be non-significant" and the proposal "should not impact on any other protected or notable species, such as birds, given its location in a highly urban environment far enough away from the river (300 metres) and other higher quality habitats."

The Council's ecologist consultant has advised that "no adverse impacts upon the ecological interests of the site or adjacent area are predicted".

The proposal would therefore accord with policy NE2 (Biodiversity and geodiversity) of the Core Strategy and Development Plan (2015-2033); and there are not any material considerations that indicate otherwise.

Planning Officers would also advise that the three paragraphs immediately above means that the Council, as public authority, can demonstrate regard to Section 40 of the Natural Environment and Rural Communities Act 2006.

Heritage

Planning Officers would initially draw to attention that the Planning (Listed Buildings and Conservation Areas) Act 1990, at Section 66, states that the local planning authority has a "general duty as respects listed buildings in exercise of planning functions" in that the "local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

Planning Officers would also draw to attention that the Planning (Listed Buildings and Conservation Areas) Act 1990 also states, at Section 72, that "with respect to any buildings or other land in a conservation area special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area".

The submitted Heritage Impact Assessment identifies the heritage assets whose setting could be affected by the proposed development. These include Bishopwearmouth Conservation Area, Monkwearmouth Bridge (Grade II), Wearmouth Bridge (Grade II), the Ship Isis (Grade II) to the south east of the site and the Church of St Michael (Grade II*). The submitted covering letter says that the proposed lighting would have a neutral effect on the setting and no effect / impacts upon their setting.

The Council's Conservation Officer has advised that they have "no objections to the above application, the proposed feature lighting scheme has no additional heritage impacts"

Historic England have said that:

"Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application."

The proposal would therefore accord with policies BH7 (Historic environment) and BH8 (Heritage asset) of the Core Strategy and Development Plan (2015-2033); and there are not any material considerations that indicate otherwise.

Planning Officers would also advise that the four paragraphs immediately above means that the Council, as public authority, can demonstrate regard to Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Highway

The submitted covering letter says that the "feature façade lighting scheme has been designed to minimise any impact of glare and light spill on highway users". The letter further says that the "fittings are also targeted at the MSCP building itself, with no luminaires aimed towards the highway to reduce the potential for glare to vehicle operators".

The Local Highway Authority have advised that they have "no observations".

The proposal would therefore accord with policy ST3 (Development and transport) of the Core Strategy and Development Plan (2015-2033); and there are not any material considerations that indicate otherwise.

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.

Summary

The relevant matters for consideration are any detailed impacts arising from the proposed lighting; when compared to the extant grant of planning permission (ref: 22/00244/VA3).

The detailed impacts of the proposal accord with the relevant policies within the development plan; and there are not any material considerations that indicate a decision should be made otherwise.

RECOMMENDATION: GRANT CONSENT in accordance with Regulation 3 of the Town and Country Planning General Regulations 1992 (as amended) for the reasons set out in the report and subject to the draft conditions below.

Conditions:

1 The development to which this permission relates must be begun not later than three years from 14 May 2021, 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.

Reason: 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:

- Existing Site Plan (FRMSC RYD 00 ZZ DR A 0002 P8) (as approved via 21/02075/AM1);
- Proposed Drainage Layout (FRMSCP-CDL-ZZ-XX-DR-C-1401 S2) (as found within Appendix 4 of the Drainage Strategy FRMSCP-CDL-ZZ-XX-RP-C-05-0002 E) (as approved via 21/00112/LP3);
- Proposed SUDS Details FRMSCP-CDL-XX-XX-DR-C1450 S2 (as found within Appendix 5 of the Drainage Strategy FRMSCP-CDL-ZZ-XX-RP-C-05-0002 E) (as approved via 21/00112/LP3);
- Proposed Site Plan (FRMSC RYD 00 ZZ DR A 1001 P12) (as approved via 21/02075/AM1) (as approved via 21/00112/LP3);
- Landscape Site Plan FRMSC-ONE-ZZ-XX-DR-L-0001 P03 (received 19 March 2021) (as approved via 21/00112/LP3);

- Planting Strategy FRMSC-ONE-ZZ-XX-DR-L-0201 P02 (received 19 March 2021) (as approved via 21/00112/LP3);
- Indicative Levels DWG No FRMSC-ONE-ZZ-XX-DR-L-0401 P03 (received 19 March 2021) (as approved via 21/00112/LP3);
- GA Plans Levels 00 - 05 (FRMSC RYD 00 ZZ DR A 3012 P11) (as approved via 21/02075/AM1);
- GA Plans Levels 06 - 13 (FRMSC RYD 00 ZZ DR A 3013 P10) (as approved via 21/02075/AM1);
- East & North Elevation (Drawing Number: 009408-GBC-10-ZZ-DR-Y-0300 C01);
- West & South Elevation (Drawing Number: 009408-GBC-10-ZZ-DR-Y-0301 C01);
- Feature Facade Lighting Plan (Drawing Number 009408-SEAM-10-ZZ-DR-Y-0101 P01);
- Feature Façade Lighting Elevations (Drawing Number: 009408-SEAM-10-ZZ-DR-Y-0301 P01);
- Feature Facade Lighting Sections (Drawing Number 009408-SEAM-10-ZZ-DR-Y-0201 P01);
- Security Housing Sketch (21143-SE-1001);
- GA Sections Sheet 1 (FRMSC RYD 00 ZZ DR A 3800 P6) (as approved via 21/02075/AM1);
- Strip Section AA Lift & Stair Core FRMSC RYD 00 ZZ DR A 3900 P4 (as approved via 21/00112/LP3);
- Strip Section BB FRMSC RYD 00 ZZ DR A 3901 P5 (as approved via 21/00112/LP3);
- Item 5 and 7 within the letter dated 11 March 2021 (as approved via 21/00112/LP3);
- Cladding materials (as approved via 22/00505/DIS)
- External Materials Sample Board (DWG No. 009408-ONE-ZZ-ZZ-DR-Z-0802, REV P01) (as approved via 22/00330/DIS)

Reason: In order to ensure that the completed development accords with the scheme approved and to comply with policy BH1 of the Core Strategy and Development Plan.

3 The construction phase of the development hereby approved shall be undertaken in accordance with the documents and plans below

- o Construction Phase Surface Water Management Plan FRMSCP-CDL-XX-XX-DR-C-1403 Stage 3 (as found within Appendix 6 of the submitted Drainage Strategy FRMSCP-CDL-ZZ-XX-RP-C-05-0002 E) (as approved via 21/00112/LP3);
- o Tree Protection Plan MWA MSCP TPP 002(as approved via 21/00112/LP3);
- o Construction Environment Management Plan (as approved via 21/02334/DIS)

Reason: To ensure that the completed development accords with the scheme approved.

4 No development shall take place above damp proof course until details and / or samples of the hard and soft landscaping materials have been submitted to and approved in writing. The approved materials shall thereafter be used in the construction of the development hereby approved.

Reason: To ensure, in accordance with policies BH1 and BH7 of the Core Strategy and Development Plan (2015-2033), the development hereby approved achieves a high quality design and conserves the historic environment.

5 No development shall take place above damp proof course until details and / or samples of the construction materials have been submitted to and approved in writing. The approved materials shall thereafter be used in the construction of the development hereby approved.

Reason: To ensure, in accordance with policies BH1 and BH7 of the Core Strategy and Development Plan (2015-2033), the development hereby approved achieves a high quality design and conserves the historic environment.

6 The development hereby approved shall not be brought into use until details of the internal and external lighting have been submitted to and approved in writing. The approved lighting shall thereafter be provided before the development hereby approved is first brought into use.

Reason: To ensure, in accordance with policies BH1 and BH7 of the Core Strategy and Development Plan (2015-2033), the development hereby approved achieves a high quality design, designs out crime and conserves the historic environment.

7 The development hereby approved shall not be brought into use until details of any CCTV has been submitted to and approved in writing. The approved CCTV shall thereafter be provided before the development hereby approved is first brought into use.

Reason: To ensure, in accordance with policies BH1 and BH7 of the Core Strategy and Development Plan (2015-2033), the development hereby approved achieves a high quality design, designs out crime and conserves the historic environment.

8 The development hereby approved shall not be brought into use until a verification report has been submitted to and approved in writing by the Local Planning Authority. The report shall cover the entire site and be prepared in accordance with YALPAG by a suitably qualified and competent consultant/engineer. The report shall include all recommendations as detailed in the Cundall Ltd Remediation Strategy and validation of clean cover layer. The report shall further include chemical testing; photo evidence of cover layer installation; details of all soils disposed of or brought into site, including appropriate testing; and details of any watching brief.

Reason: To ensure, in accordance with policy HS3 of the Core Strategy and Development Plan (2015-2033), the development hereby approved demonstrates the site would be suitable for the proposed use.

9 The development hereby approved shall not be brought into use until a verification report carried out by a suitably qualified person has been submitted to and approved in writing by the Local Planning Authority, to demonstrate that all sustainable drainage systems have been constructed as per the agreed scheme. This verification report shall include:

- As built drawings (in dwg / shapefile format) for all SuDS components; including dimensions (base levels, inlet / outlet elevations, depths, lengths, diameters, gradients etc) and supported by photos of installation and completion;
- Construction details (component drawings, materials, vegetation);
- Health and Safety file;
- Details of ownership and adoption.

The specific details of the timing of the submission of the report and the extent of the SuDS features covered in the report is to be agreed with the Lead Local Flood Authority / Local Planning Authority.

Reason: To ensure that all sustainable drainage systems are designed to the DEFRA non-technical standards for SuDS and comply with policies WWE3 and WWE4 of the Core Strategy and Development Plan (2015-2033).

10 The development hereby approved shall not be brought into use until a Parking Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall show that some of the standard parking spaces would be allocated as car share spaces to encourage car sharing. The development hereby approved shall thereafter be operated in accordance with the approved Plan.

Reason: To ensure, in accordance with policy ST1 of the Core Strategy and Development Plan (2015-2033), the development hereby approved improves the car parks around the ring road.

11 The development hereby approved shall not be brought into use until the Ecological Mitigation and Enhancement, as found within Section 3 (Ecological Mitigation and Enhancement) and Figure 3 (Proposed Habitat Enhancements) of the submitted Ecological Mitigation and Enhancement Plan (February 2021) (as approved via 21/00112/LP3), has been fully undertaken. The mitigation and enhancement measures shall thereafter be maintained for either the lifetime of the development or a minimum of 20 years (whichever is sooner).

Reason: To ensure, in accordance with policy NE2 of the Core Strategy and Development Plan (2015-2033), the development hereby approved provides a net gain to biodiversity.

12 The planting shown within the approved Planting Strategy (FRMSC-ONE-ZZ-XX-DR-L-0201 P01) (as approved via 21/00112/LP3) shall be undertaken in the first planting season following completion of the development hereby approved. The planting shall be maintained for a period of at least five years; including watering during dry periods.

Reason: To ensure, in accordance with policy of the Core Strategy and Development Plan (2015-2033), the development hereby approved.

13 Monitoring updates for the Ecological Mitigation and Enhancement, as found within Section 5 (Monitoring and Review) (as approved via 21/00112/LP3), shall be submitted on a two year basis for the first five years and then five years thereafter for either the lifetime or the development or a minimum of 20 years (whichever is sooner).

Reason: To ensure, in accordance with policy NE2 of the Core Strategy and Development Plan (2015-2033), the development hereby approved provides a net gain to biodiversity.

Reference No.: 22/01704/LP3 Local Authority (Reg 3)

Proposal: **Internal alterations and formation of new access doors and ramps**

Location: Farmborough Court Brentford Avenue Sunderland SR5 4EU

Ward: Castle

Applicant: Sunderland City Council

Date Valid: 26 July 2022

Target Date: 20 September 2022

PROPOSAL:

APPLICATION SITE

Farmborough Court is a large modern, 2-storey purpose built care home, which provides a range of intermediate care services for older people who need convalescence or a rehabilitative stay. The provider is registered to provide accommodation for persons who require nursing or personal care at Farmborough Court Intermediate Care Centre. The intermediate service is provided in partnership with Sunderland Teaching Primary Care Trust, the Mental Health NHS Trust and the City Hospitals NHS Trust.

The site is located off Brentford Avenue in Town End Farm, Sunderland

PROPOSAL

Internal alterations and formation of new access doors and ramps in the Balmoral Wing and the Windsor Wing.

From the Balmoral wing the access ramp will egress from bedroom No. 14 at a gradient of 1:12, with concrete paved footpath to match existing. A class A engineering brick retaining wall with brick on edge soldier course will provide 100mm brick kerb and 900mm high galvanised handrail to each side. The ramp would be a maximum width of 1.9 metres and it would have a drop kerb where it meets the car park surface.

From the Windsor wing the ramp would egress from bedroom No 5 with double French doors and level threshold on to a ramp at gradient 1:12. It would have concrete paving to match and be a maximum width of 1.6 metres with class A engineering brick retaining wall with brick on edge soldier course will provide 100mm brick kerb and 900mm high galvanised handrail to each side.

There is a tree in close proximity to the ramp with its canopy overhanging the location of the ramp. It is considered that on account of the minimal foundation that would be required for the ramp slab, it is considered that the tree roots would not be impacted and as such a tree survey would not be required in this instance.

TYPE OF PUBLICITY:

Site Notice Posted
Neighbour Notifications

CONSULTEES:

Cllr Stephen Foster
Cllr Allison Chisnall
Cllr Denny Wilson
Network Management

55 Baker Street Sunderland SR5 4HB
98 Brentford Avenue Sunderland SR5 4EU
91 Bayswater Avenue Sunderland SR5 4HE
89 Bayswater Avenue Sunderland SR5 4HE
85 Bayswater Avenue Sunderland SR5 4HE
81 Bayswater Avenue Sunderland SR5 4HE
81A Bayswater Avenue Sunderland SR5 4HE
65 Baker Street Sunderland SR5 4HB
63 Baker Street Sunderland SR5 4HB
59 Baker Street Sunderland SR5 4HB
57 Baker Street Sunderland SR5 4HB
53 Baker Street Sunderland SR5 4HB
51 Baker Street Sunderland SR5 4HB
79A Bayswater Avenue Sunderland SR5 4HE
83 Bayswater Avenue Sunderland SR5 4HE
The Farmhouse Bootle Street Sunderland SR5 4EY
96 Brentford Avenue Sunderland SR5 4EU
The Manager Brentford House Brentford Avenue Sunderland SR5 4EU
87 Bayswater Avenue Sunderland SR5 4HE

Final Date for Receipt of Representations: **02.09.2022**

REPRESENTATIONS:

Transportation Development

Policy ST2 of the Core Strategy states that proposed development should retain off street parking in the interests of highway safety.

The Council's Transportation Engineers have no objections and as such the proposal would therefore be considered to comply with Policy ST2 in this respect.

COMMENTS:

PRINCIPLE OF DEVELOPMENT

The site is subject to policy EN10 which was retained from the Unitary Development Plan (UDP), which dictates that, where the UDP does not indicate any proposals for change, the existing pattern of land use is intended to remain. In this regard, the surrounding land use is predominantly residential and the land use is not going to be altered by the development and as such reflects the existing pattern of land use.

DESIGN AND AMENITY ISSUES

National planning guidance is provided by the National Planning Policy Framework (NPPF) (as amended), which requires the planning system to contribute to the achievement of sustainable development. To this end Paragraphs 130 and 134 set out that good design is a key aspect of sustainable development and require 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. Finally, that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

The Core Strategy Development Plan recently replaced some policies of the Unitary Development Plan. Policy BH1 of the Core Strategy Development Plan (CSDP) states that high quality design and positive improvement, development should create places which have a clear function, character and identity based upon a robust understanding of local context, constraints and distinctiveness.

It also states that development should be of a scale, massing, layout, appearance and setting which respects and enhances the positive qualities of nearby properties and the locality.

The proposal has been designed to be constructed of materials to match the original property and as such would be considered to be acceptable within its setting and would not lead to any harm to the character of the property or the street scene in compliance with Policy BH1 and relevant paragraphs of the NPPF above. It is therefore recommended that members are minded to grant consent.

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 in accordance with Regulation 3 of the Town and Country Planning General Regulations 1992 (as amended) for the reasons set out in the report and subject to the 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:

- Existing floor plan Balmoral received on 26.7.22
- Existing floor plan Windsor received on 26.7.22
- Existing site plan received on 26.7.22
- Proposed elevations Balmoral received on 26.7.22
- Proposed elevations Windsor received on 26.7.22
- Proposed floor plan Balmoral received on 26.7.22
- Proposed floor plan received on 26.7.22
- Proposed site plan received on 26.7.22

In order to ensure that the completed development accords with the scheme approved and to comply with policy BH1 of the Core Strategy and Development Plan.

3 Notwithstanding any indication of materials which may have been given in the application; the external materials to be used, including walls, roofs, doors and windows shall be of the same colour, type and texture as those used in the existing building, unless the Local Planning Authority first agrees any variation in writing; in the interests of visual amenity and to comply with policy BH1 of the Core Strategy and Development Plan.