

DEVELOPMENT PLAN

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

Unitary Development Plan - current status

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

STANDARD CONDITIONS

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

SITE PLANS

The site plans included in each report are illustrative only.

PUBLICITY/CONSULTATIONS

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

LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION

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

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

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

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

Peter McIntyre

Executive Director Economy and Place

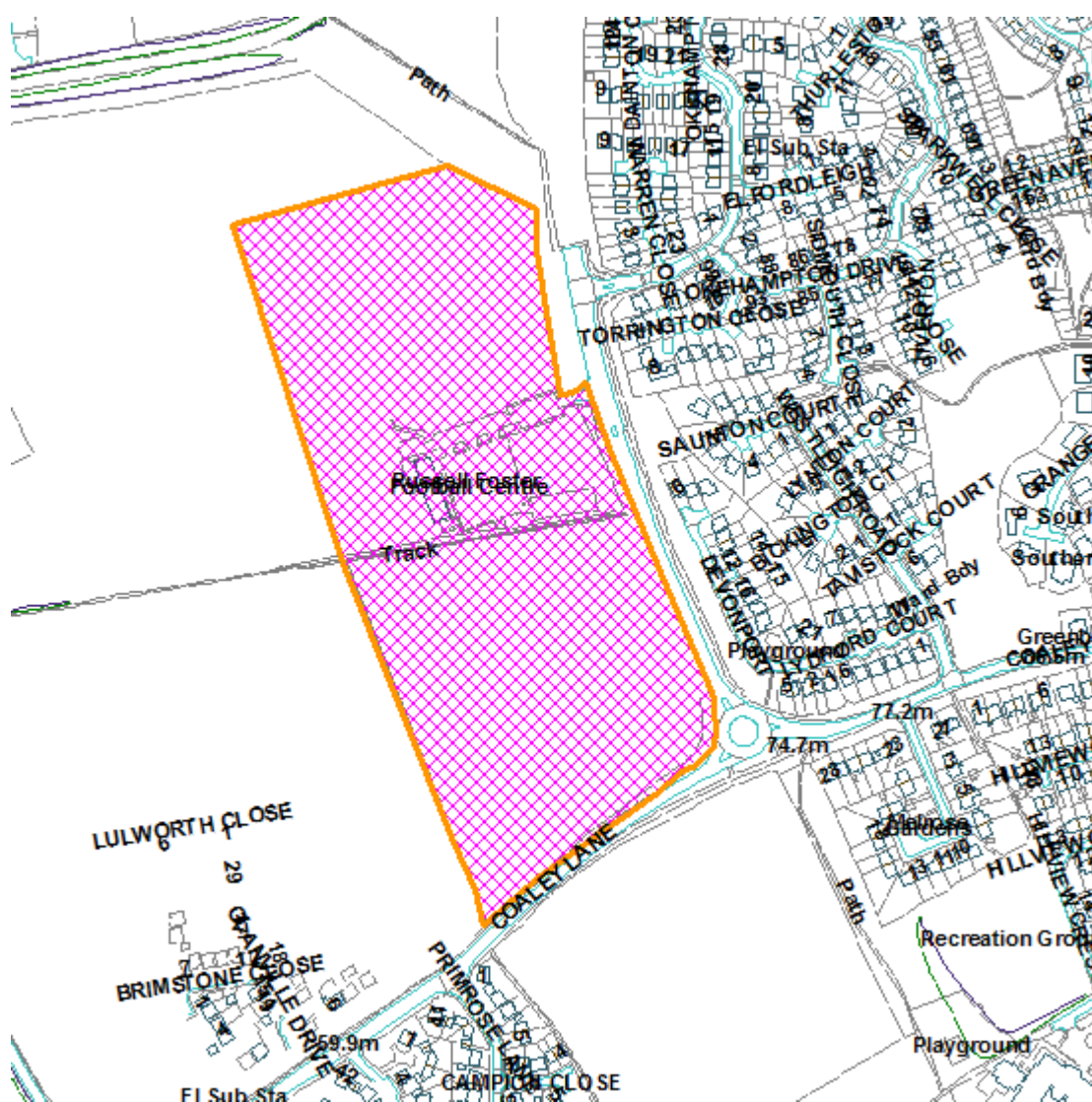
Reference No.: 17/01095/VAR Variation of Condition

Proposal: Variation of conditions 2 (no of pitches) and 3 (Hours of Operations) attached to planning application 13/02636/VAR. Condition 2 seeks to vary the condition from 6 pitches to 12 pitches. Condition 3 seeks to vary hours of operation.

Location: The Russell Foster Football Centre Staddon Way Houghton-le-Spring DH4 4WL

Ward: Houghton
Applicant: Mr David Armstrong
Date Valid: 2 June 2017
Target Date: 1 September 2017

Location Plan



PROPOSAL:

The proposal is for the variation of conditions 2 (no of pitches) and 3 (Hours of Operations) attached to planning application 13/02636/VAR. Condition 2 seeks to vary the condition from 6 pitches to 12 pitches. Condition 3 seeks to vary hours of operation.

Existing and proposed operational hours

Facility	Day of the Week	Existing operational hours	Proposed operational Hours
Administration office	Monday to Friday (excluding bank holidays)	09:00 to 17:00	08:00 to 21:00
	Saturday	09:00 to 14:00	08:00 to 21:00
	Sunday	10:00 to 13:00	08:00 to 21:00
Classroom	Monday to Sunday (excluding bank holidays)	08:30 to 21:00	08:00 to 21:00
Pitches	Monday to Friday (except bank holidays)	1:30 to 3:30 (three times a week only) – not restricted to use by schools.	08:00 to 21:00

Planning Application 13/02636/VAR

Variation of condition 17 (opening hours) for previously approved application 04/02864/FUL (Construction of 20 no. pitches with associated changing pavilion, outdoor store and car parking. Also stopping up and change of use of footpath no. 60 to landscaped area.) for use 3 afternoons per week from 1:30pm until 3:30pm and during the week but not restricted to use by schools. On light nights the facility is offered for training purposes from 4:00pm until 8:00pm on Monday to Friday, pitches being cleared by 9:00pm. Weekends the facility is to be used for mini-soccer by the Russell Foster Youth League teams from 8:30am to 2:00pm Saturday and 9:00am to 2:00pm Sunday. During school holidays use is permitted from 9:00am until 9:00pm on all days. In addition, no more than 6 pitches will be used at any one time during the above operating hours.

The application was approved by Members of the Development Control Hetton, Houghton and Washington Sub Committee on the 26th February 2014 and the decision was issued on the 6th March 2014. The decision notice contained 3 conditions a copy is appended to the report. Condition 1 related to time restriction, condition 2 number of pitches and condition 3 regarding the operation hours.

The Implemented consent 04/02864/FUL

The original consent 04/02864/FUL was for the construction of 20 no. pitches with associated changing pavilion, outdoor store and car parking. Also stopping up and change of use of footpath no. 60 to landscaped area. This was approved by the Development Control Hetton, Houghton and Washington Sub Committee on the 10th March 2005 and the permission was issued on the 7th

April 2005.

Members are reminded that this application is a variation to an approved application and as such the principle of development cannot be considered. The only issues under consideration are the hours of operation and number of pitches to be used at any one time.

Members should also be aware that the applicant could revert back to the original approval for the site and operate 20 pitches under the 04/02864/FUL planning approval. This planning approval has been fully implemented and relevant conditions discharged.

This type of application would normally be determined under delegated powers; however the application has been called in by local ward members for determination by the Development Control Sub-Committee.

Planning History of Site

Application reference 98/00232/OUT - Foundation headquarters including pitches and associated ancillary facilities to include stopping up and change of use of Footpath no. 60 to car and coach park.

Approved 30.07.1998 Committee Decision

Application reference 02/00320/VAR - Extension to time conditions for application 98/00232/OUT - Foundation headquarters including pitches and associated ancillary facilities to include stopping up and change of use of footpath no.60 to car and coach park.

Approved 29.04.2002 Committee Decision

Application reference 04/02864/FUL: Construction of 20 no. pitches with associated changing pavilion, outdoor store and car parking. Also stopping up and change of use of footpath no. 60 to landscaped area.

Approved 07.04.2005 Committee Decision

Application reference 08/01617/VAR - Variation of condition 27 of permission 04/02864/FUL, Development of 20no junior sports pitches and associated changing facilities, car parking and landscaping.

Application Withdrawn

Application reference 12/01995/FUL - Erection of four containers (Retrospective).
Approved 6th March 2013 – Delegated Decision

Application reference 13/02636/VAR - Variation of condition 17 (opening hours) for previously approved application 04/02864/FUL (Construction of 20 no. pitches with associated changing pavilion, outdoor store and car parking. Also stopping up and change of use of footpath no. 60 to landscaped area.) for use 3 afternoons per week from 1:30pm until 3:30pm and during the week but not restricted to use by schools. On light nights the facility is offered for training purposes from 4:00pm until 8:00pm on Monday to Friday, pitches being cleared by 9:00pm. Weekends the facility is to be used for mini-soccer by the Russell Foster Youth League teams from 8:30am to

2:00pm Saturday and 9:00am to 2:00pm Sunday. During school holidays use is permitted from 9:00am until 9:00pm on all days. In addition, no more than 6 pitches will be used at any one time during the above operating hours.

Approved 6th March .2014 – Committee Decision

Application reference 16/02168/FUL - Upgrading of surfacing of the existing car park to hard standing, including the creation of additional car parking.

Approved 6th January 2017 – Committee Decision

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Environmental Health
Network Management
Houghton - Ward Councillor Consultation

Final Date for Receipt of Representations: **29.08.2017**

REPRESENTATIONS:

Environmental Health Response:

It is noted a number of objections have been submitted in respect of the potential for noise generation.

Public Protection and Regulatory Services has reviewed the submitted documentation and considers the application is **acceptable subject to appropriate** conditions. Specifically,

Noise

Given that the noise impact assessment report is based to an extent on assumptions and noise modelling, and in order to safeguard residents from higher levels of noise, it is recommended that a validating noise monitoring assessment exercise is carried out within 3 months of the commencement of on-site operations to demonstrate that the assumptions and predictions made are indeed correct. Any approved physical or managerial measures proposed in the noise assessment shall be fully implemented / provided within a time period agreed by the LPA. The approved physical or managerial measures shall thereafter be retained and managed in accordance with the approved details.

It is also recommended that within 30 days of any granted consent, a Noise Management Plan shall be submitted to the local planning authority for their written approval. The Noise Management Plan, to prevent disturbance to local residents resulting from the hereby permitted use of the property, shall include undertakings and procedures for:

- i. The name(s) of an on-site supervisor responsible for the behaviour of users and for liaison with local residents;
- ii. The control of noise generated from outside areas;
- iii. Recording of complaints and response to those complaints;
- iv. The annual review of the approved Noise Management Plan and, if necessary, the submission and approval of a revised Noise Management Plan;
- vi. Any other matters that are reasonably required by the local planning authority.

The approved Noise Management Plan shall be followed and/or implemented at all times the site is in use.

The following information has been submitted by the Applicant;

The following appraisal of the submitted documentation may be useful in the determination and preparation of additional works and information;

Noise:-

A noise assessment has been undertaken by Wardle Armstrong, the application is to extend the use of the playing fields from Monday-Friday 13.30-15.30 (three times a week) to 08.00-21.00. Monday to Friday on light nights (excluding bank holidays) 16.00-20.00 for training purposes, pitches are to be cleared by 21.00. It is proposed that the times of use are changed to 08.00-21.00. Existing opening hours on a Saturday are 08.30-14.00 proposed to be 09.00-16.00. Sunday operating times are at present 09.00-14.00 proposed to be changed to 09.00-16.00. Additionally, this application seeks to restore the 12-pitch limit as approved in the original planning permission.

On the 8th and 18th 2017, Wardell Armstrong LLP carried out noise surveys to assess the noise levels at the site and at locations deemed to be representative of existing sensitive receptors. Attended monitoring was undertaken during fixtures held on the 8th July 2017, at a number of monitoring locations around each of the six pitches in use (2 pitches of 9-a-side and 4 pitches of 7-a-side).

Road traffic noise is described as being an audible noise source. Table three shows the daytime ambient noise levels at existing sensitive receptors. The increased number of traffic movements that will be generated due to the increase in pitches has been calculated and from this it is predicted that a 1.9dB(A) increase above the existing background noise level and this is deemed as having an insignificant impact.

Noise emissions associated with the maximum use of 12 pitches at one time has been assessed. A site visit was undertaken on the 8th July 2017 measurements were undertaken when the all six pitches were in use. The measurement were then used to construct a noise model using CadnaA. The highest predicted noise levels from the models are provided in Tables 4 and 5 alongside the ambient measured noise levels for both the weekday and weekend and the associated change at each receptor as a result of a maximum of 12 pitches in use. It is anticipated that there will be an increase of approximately 3dB(A) at ESR 1 during the weekend operational hours of 1400-1600 hours if all of the closest twelve pitches were in use as provided at Drawing Number NT12329/003. An increase in the baseline of dB(A) is considered to be 'just perceptible' and this change does not take account of existing attenuation provided by garden fencing for those receptors adjacent to the pitches located on Staddon Way.

The report states that the use of 12 pitches may give rise to a slight impact on existing residential receptors. The report states in section 6 that consideration should be given to providing information to users of the facility to be considerate to residents

Network Management response:-

The proposal seeks to increase the number of playing pitches from 6 to 12, although this number remains within the overall outline approval for 20 pitches on this site. The applicant is also seeking to extend the hours of operation for the facility.

There are no waiting restrictions currently in place along Staddon Way to allow enforcement of on-street parking during events and activities at the Football Centre. In 2012, there was a proposal to introduce a temporary order for a Rural Clearway and No Waiting at any time restrictions (double yellow lines) along Staddon Way and part of Coaley Lane. This was subject to a preliminary public consultation, and encountered a significant number of objections from residents living within The Crofters estate. The main objections related to the fear of displacing parking from Staddon Way into the residential streets, and as such the proposed restrictions were not introduced. However, since 2012 Gentoo Homes have now redeveloped the previously cleared Holmelands estate, and this location may experience overspill parking as part of the proposed increase in use of the Football Centre.

The provision of No Waiting Cones on match days has previously been used as a temporary measure by the Football Centre to try and prevent parking in the immediate vicinity of junctions. This has had limited success.

Northumbria Police are aware of complaints from residents over recent years and have previously visited the location on match days to assess the situation, and have the powers to take enforcement if vehicles are parked in a manner that causes obstruction. Examples of incidents have included parking across dropped kerbs and minor obstructions where the Police have taken action. There have been no reported road traffic collisions or incidents over the last five years to suggest there are any significant road safety issues.

It is recommended that the applicant removes the parking fee they have introduced as a donation to encourage full use of the existing on-site parking provision which recently received permission to upgrade and create additional on-site parking space. This recommendation would help address the issue of visitors parking outside of the boundary of the Centre, which based on previous parking surveys mainly occurs along both sides of Staddon way. Until the remaining section of the Coaley Lane / Philadelphia Link Road is completed, Staddon Way effectively acts as a cul-de-sac serving only The Crofters residential estate and the Football Centre. Staddon Way is wide enough to accommodate parking on both sides of the road and still allow two-way traffic flow, subject to no vehicles being parked in a way that would cause an obstruction.

The applicant has submitted a report to consider the additional traffic impact of the proposed variation to increase the number of pitches and vary hours of use.

The report has been submitted in response to the concerns raised by objections received from the neighbouring residential area and aims to provide supplementary evidence to support the application. Information includes a parking survey undertaken on Saturday 8th July covering the on-site car parking provision, on-street parking along Staddon way, Coaley Lane and Okehampton Drive. A survey and review of the capacity of the junction of Staddon Way with Coaley Lane has been undertaken.

In the report, it confirms that on-street parking does take place along Staddon Way but the available road width is currently able to accommodate this parking without restricting traffic flows.

The hours of operation proposed include AM peak hour traffic flows and PM peak hour traffic flows during weekdays. Given the proposed use of the site for youth football it considers that there is unlikely to be an impact during AM peak hours and the main benefit will be for office staff. The PM peak hour is already in operation but during light nights only.

Based on the parking survey information to establish current occupation and use of the existing car parking, the report has considered a worst case scenario of simply doubling the parking demand to cover full use of all twelve pitches at the same time and change over times.

As referred to above, it is recommended that the applicant removes the parking fee to encourage full use of the existing on-site parking provision. If this cannot be achieved, to help address the situation, it is recommended that waiting restrictions are introduced as junction protection measures to assist control of parking in and around a number of junctions within the residential streets that are closest to the Centre. Junctions include that of Staddon Way / Okenhampton Drive, and Okenhampton Drive / Warren Close / Elfordleigh / Dainton Close / Torrington Close / Sidmouth Close / Tiverton Close. This would require a Traffic Regulation Order (TRO) and need to follow statutory consultation process to introduce the restrictions. The introduction of parking restrictions could also be reconsidered for Staddon Way as part of this consultation, if requested by residents. The cost of the TRO would be in the region of £8000 to advertise along with additional costs for the signing and markings, which would need to be met by the applicant.

In conclusion, the applicant considers that the existing 350 spaces car park is able accommodate the worst case scenario of all the pitches being in use at once. However, there are concerns of how this will be managed and the outcome could result in increased parking within the adjacent residential area.

Northumbria Police Response:-

Police are aware of a number of parking complaints at Staddon Way and surrounding areas over recent years as a result of the football that takes place at Russell Foster.

The road in question is a very wide road and I am not aware of any incidents where parking has obstructed the main carriageway of free passage of vehicles with due care and attention. I am aware of some incidents where a minority of attendees have parked across drop kerbs and caused minor obstructions and where this has been notified to us and observed then action has and will continue to be taken. A search of our records shows that there has been no reported RTC's on the road over the last 5 years.

Police cannot attend the location every Saturday. It would not be proportionate nor a good use of public funds.

Police are required to be impartial in any dispute and assist parties to resolve matters. It seems that a sensible option could be for the owners of the ground to look to remove the charge for their car park (which they say is a voluntary donation) as a good will gesture to their neighbours which would encourage a number of users to park away from the carriageway moving forward thus alleviating some of the parking concerns and hopefully foster a more neighbourly atmosphere between all parties.

Neighbour Representation

1 Petition in support of the application has been received which contains 622 signatures.

A total of 101 representations objecting to the proposal have been received, the reasons are listed below:-

- Issues with the parking charge
- Parking issues impact on the residents of the Crofters who state they sometimes cannot get out of the estate.
- Inappropriate /dangerous parking on the pavement
- User of the centre not using car park
- Increase in the opening hours impacting negatively on children and dog walkers
- Would like double yellow lines on Staddon Way
- Noise from site – causing stress to residents and people sleeping
- Impact on new residents of the building site to the rear being constructed (planning application 15/00815/HYB)
- Potential of accident waiting to happen with serious or fatal outcome
- Litter
- Day of survey was not typical use of pitches
- Anti-social behaviour
- National Forest Trees
- Review original consent
- Issues with amount of car parking available
- Impact on wildlife
- Council should measure noise on a Saturday and Sunday morning.
- Lack of consultation with residents
- Lack of management of the facility
- No objection to Administration and Classroom changes
- Increase on the number of pitches
- Forestry Commission needs to be involved.
- Road network inadequate
- If this gets voted through then the local residents will react accordingly. Many people on the estate feel the council has been bought off and we are council tax payers are not worth bothering about. It is about time you took note of our objections and bin this ridiculous planning application.
- Impacts the whole of Newbottle
- Facility contributes little to the local community and as a whole is detrimental to the health and well being of the local residents and the Newbottle community
- Impact from other new residential developments on close proximity
- Green belt land – The land is not Green Belt, it is allocated on the Unitary Development Plan as Settlement Break.

The issues of highways and operation time are covered in the main report. Supporting information in terms of a noise and transport statement has been submitted.

Other Issues raised:-

- Site Regularly breaches its permission – all breaches have been investigated and action accordingly by the Council Planning Compliance Team
- 5 year time has elapsed from original permission – Once the 2004 permission had been implemented the permission is live for ever unless revoked.
- EIA development (This is linked to the Forestry Commission decision) and not Sunderland City Council. The Development was not considered EIA development by Sunderland City Council back in 2004.
- Sunderland City Council cannot determine this application. – The Local Planning Authority is the competent authority to consider this section 73 application.
- Section 106 agreement. – There are no section 106 agreements linked to the site.
- Forestry Commission decision – is a separate issue to the application before members
- Tree Felling – No consent was required from the Local Planning Authority to carry out felling or works to trees on the applicant land. There are no Tree Preservation Orders on the site.
- Fuel development is a done deal – all application are considered on their individual merit
- Officer don't live in the area
- Food van – This is not a material consideration in the determination of this application.
- Anti-social behaviour is a matter for other authorities to deal with
- Devaluation of properties - This is not a material consideration in the determination of planning application.
- Supporters of the application are out of the area
- Factual Information is incorrect provided by the officer (TWAG representation) submitted 28.09.2017
- The development is deemed a forestry project
- No Unilateral Undertaking exists – This is correct there are no legal agreements on the site

POLICIES:

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

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

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

T21 - Factors to be taken into account in the provision of parking

COMMENTS:

The key issues to consider as part of this application are the:

1. Points of clarification
2. Increase in operation hours and Increase in number of pitches from 6 to 12.

1. Points of clarification

Members are reminded that the principle of development is not under consideration as this has been established under the 2004 consent. The planning history above details the different

consents the land has and able to implement. It should be noted that planning permission goes with the land and not the owners or tenants.

Issues have been raised as to whether Sunderland City Council can legal determine this application. Sunderland City Council is the Local Planning Authority and has a duty to determine applications submitted. The current application has been applied for under Section 73 of the Town and Country Planning Act 1990 (as amended). Consultations have been carried out in line with the Development Management Procedure Order 2015 and as such neighbour notification letters, site and press notice has been undertaken. A summary of all representation received is in the section of the report head representations.

There are also no legal agreements attached to this land.

The felling of the trees on the site does not require a formal decision from the Local Planning Authority.

The site is currently operating under the 2013 variation planning permission which restricts hours of operation and number of pitches.

The 2004 application was not subject to an Environmental Impact Assessment. The EIA which is referred to in the representation is the Forestry Commission EIA.

With reference to some aspects of the representations received in respect of where officer live and the application is a done deal, it should be noted that all applications are judge on their individual planning merit an all application determined in an open and transparent manner.

2. Increase in operation hours and increase in the number of pitches.

The table below illustrates the in the existing and proposed hours of operation.

Existing and proposed operational hours

Facility	Day of the Week	Existing operational hours	Proposed operational Hours
Administration office	Monday to Friday (excluding bank holidays)	09:00 to 17:00	08:00 to 21:00
	Saturday	09:00 to 14:00	08:00 to 21:00
	Sunday	10:00 to 13:00	08:00 to 21.00
Classroom	Monday to Sunday (excluding bank holidays)	08:30 to 21:00	08:00 to 21:00
Pitches	Monday to Friday (except bank holidays)	1:30 to 3:30 (three times a week only) – not restricted to use by schools.	08:00 to 21:00

The previous consents have had difficult and confusing conditions regarding various aspect of the operation of this site. The proposed operational hours offers a consolidation of a condition to provide a clear condition for all aspect of the academy and how it will operate.

The presumption in favour of sustainable development

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

This National Planning Policy Framework 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 and proposed development that conflicts should be refused unless other material considerations indicate otherwise. It is highly desirable that local planning authorities should have an up-to-date plan in place.

The National Planning Policy Framework constitutes guidance for local planning authorities and decision-takers both in drawing up plans and as a material consideration in determining applications.

As previously stated the principle of the development cannot be considered only the operational hours and increase in pitches can be considered as this is a variation of an existing permission.

A noise assessment has been submitted to consider the extension of operating time and increase number of pitches.

A noise assessment has been submitted and has been careful considered by the Council Environmental Section. Policy EN5 of the adopted Unitary Development Plan states: -

“ EN5 WHERE DEVELOPMENT IS LIKELY TO GENERATE NOISE SUFFICIENT TO INCREASE SIGNIFICANTLY THE EXISTING AMBIENT SOUND OR VIBRATION LEVELS IN RESIDENTIAL OR OTHER NOISE SENSITIVE AREAS, THE COUNCIL WILL REQUIRE THE APPLICANT TO CARRY OUT AN ASSESSMENT OF THE NATURE AND EXTENT OF LIKELY PROBLEMS AND TO INCORPORATE SUITABLE MITIGATION MEASURES IN THE DESIGN OF THE DEVELOPMENT. WHERE SUCH MEASURES ARE NOT PRACTICAL, PERMISSION WILL NORMALLY BE REFUSED”

The noise impact assessment report is based to an extent on assumptions and noise modelling, and in order to safeguard residents from higher levels of noise, it is recommended that a validating noise monitoring assessment exercise is carried out within 3 months of the commencement of on-site operations to demonstrate that the assumptions and predictions made are indeed correct. Any approved physical or managerial measures proposed in the noise assessment shall be fully implemented / provided within a time period agreed by the LPA. The approved physical or managerial measures shall thereafter be retained and managed in accordance with the approved details.

The proposed variation in hours of operation is therefore considered to comply with policy EN5 of the adopted Unitary Development Plan and as such can suitable controlled by imposing new planning conditions should members be minded to approve the variation to the consent. It is also recommended that within 30 days of any granted consent, a Noise Management Plan shall be submitted to the local planning authority for their written approval. The Noise Management Plan, to prevent disturbance to local residents resulting from the hereby permitted use of the property, shall include undertakings and procedures for:

- i. The name(s) of an on-site supervisor responsible for the behaviour of users and for liaison with local residents;
- ii. The control of noise generated from outside areas;
- iii. Recording of complaints and response to those complaints;
- iv. The annual review of the approved Noise Management Plan and, if necessary, the submission and approval of a revised Noise Management Plan;
- vi. Any other matters that are reasonably required by the local planning authority.

The approved Noise Management Plan shall be followed and/or implemented at all times the site is in use.

Number of pitches increase

The following appraisal of the submitted documentation may be useful in the determination and preparation of addition works and information;

Noise:-

A noise assessment was undertaken by Wardle Armstrong, the application is to extend the use of the playing fields from Monday-Friday 13.30-15.30 (three times a week) to 08.00-21.00. Monday to Friday on light nights (excluding bank holidays) 16.00-20.00 for training purposes, pitches are to be cleared by 21.00. It is proposed that the times of use are changed to 08.00-21.00. Existing opening hours on a Saturday are 08.30-14.00 proposed to be 09.00-16.00. Sunday operating times are at present 09.00-14.00 proposed to be changed to 09.00-16.00. Additionally, this application seeks to restore the 12-pitch limit which would be covered under the original planning permission which permit the use of 20 pitches.

On the 8th and 18th 2017, Wardell Armstrong LLP carried out noise surveys to assess the noise levels at the site and at locations deemed to be representative of existing sensitive receptors . Attended monitoring was undertaken during fixtures held on the 8th July 2017, at a number of monitoring locations around each of the six pitches in use (2 pitches of 9-a-side and 4 pitches of 7-a-side).

Road traffic noise is described as being an audible noise source. Table three in the submitted document states the daytime ambient noise levels at existing sensitive receptors. The increased number of traffic movements that will be generated due to the increase in pitches has been calculated and from this it is predicted that a 1.9dB(A) increase above the existing background noise level and this is deemed as having an insignificant impact.

Noise emissions associated with the maximum use of 12 pitches at one time has been assessed. A site visit was undertaken on the 8th July 2017 measurements were undertaken when the all six pitches were in use. The measurement were then used to construct a noise modal using CadnA. The highest predicted noise levels from the models are provided in Tables 4 and 5 alongside the ambient measured noise levels for both the weekday and weekend and the associated change at each receptor as a result of a maximum of 12 pitches in use. It is anticipated that there will be an increase of approximately 3dB(A) at ESR 1 during the weekend operational hours of 1400-1600 hours if all of the closest twelve pitches were in use as provided at Drawing Number NT12329/003. An increase in the baseline of dB(A) is considered to be 'just perceptible' and this change does not take account of existing attenuation provided by garden fencing for those receptors adjacent to the pitches located on Staddon Way.

The report states that the use of 12 pitches may give rise to a slight impact on existing residential receptors. The report states in section 6 that consideration should be given to providing information to users of the facility to be considerate to residents.

Summary conclusion

Therefore on balance the proposed increase from 6 pitches to 12 pitches is considered acceptable in terms of noise levels and is considered to comply with policy EN5 of the adopted Unitary Development Plan and paragraph 109 of the National Planning Policy Framework subject to the conditions being imposed should members be minded to grant the variation.

In respect of highway consideration

Policy T14 of the adopted Unitary Development Plan states:

T14 PROPOSALS FOR NEW DEVELOPMENT SHOULD:-

- (i) BE READILY ACCESSIBLE BY PEDESTRIANS AND CYCLISTS AS WELL AS USERS OF PUBLIC AND PRIVATE TRANSPORT FROM THE LOCALITIES WHICH THEY ARE INTENDED TO SERVE;**
- (ii) NOT CAUSE TRAFFIC CONGESTION OR HIGHWAYS SAFETY PROBLEMS ON EXISTING ROADS. WHERE THIS CRITERION CANNOT BE MET MODIFICATIONS TO THE HIGHWAYS CONCERNED MUST BE PROPOSED TO THE SATISFACTION OF THE RELEVANT HIGHWAY AUTHORITY AND THE COST OF THESE MUST BE MET BY THE DEVELOPER;**
- (iii) MAKE APPROPRIATE SAFE PROVISION FOR ACCESS AND EGRESS BY VEHICLES (INCLUDING BUSES), PEDESTRIANS, CYCLISTS AND OTHER ROAD USERS, PAYING PARTICULAR ATTENTION TO THE NEEDS OF PEOPLE WITH MOBILITY IMPAIRMENT;**
- (iv) MAKE PROVISION FOR THE LOADING AND UNLOADING OF COMMERCIAL VEHICLES;**
- (v) INDICATE HOW PARKING REQUIREMENTS WILL BE ACCOMMODATED.**

There are no waiting restrictions currently in place along Staddon Way to allow enforcement of on-street parking during events and activities at the Football Centre. In 2012, there was a proposal to introduce a temporary order for a Rural Clearway and No Waiting at any time restrictions (double yellow lines) along Staddon Way and part of Coaley Lane. This was subject to a preliminary public consultation, and encountered a significant number of objections from residents living within The Crofters estate. The main objections related to the fear of displacing parking from Staddon Way into the residential streets, and as such the proposed restrictions were not introduced. However, since 2012 Gentoo Homes have now redeveloped the previously cleared Holmelands estate, and this location may experience overspill parking as part of the proposed increase in use of the Football Centre.

The provision of No Waiting Cones on match days has previously been used as a temporary measure by the Football Centre to try and prevent parking in the immediate vicinity of junctions. This has had limited success.

Northumbria Police are aware of complaints from residents over recent years and have previously visited the location on match days to assess the situation, and have the powers to take enforcement if vehicles are parked in a manner that causes obstruction. Examples of incidents have included parking across dropped kerbs and minor obstructions where the Police have taken action. There have been no reported road traffic collisions or incidents over the last five years to suggest there are any significant road safety issues.

As referred to above, it is recommended that the applicant removes the parking fee to encourage full use of the existing on-site parking provision. If this cannot be achieved, to help address the situation, it is recommended that waiting restrictions are introduced as junction protection measures to assist control of parking in and around a number of junctions within the residential

streets that are closest to the Centre. Junctions include that of Staddon Way / Okenhampton Drive, and Okenhampton Drive / Warren Close / Elfordleigh / Dainton Close / Torrington Close / Sidmouth Close / Tiverton Close. The introduction of parking restrictions could also be reconsidered for Staddon Way if requested by residents. This would require a Traffic Regulation Order (TRO) and need to follow statutory consultation process to introduce the restrictions. The cost of the TRO would be in the region of £8000 to advertise along with additional costs for the signing and markings, which would need to be met by the applicant.

Staddon Way is wide enough to accommodate parking on both sides of the road and still allow two-way traffic flow, subject to no vehicles being parked in a way that would cause an obstruction.

Members are reminded that the default position is the applicant could revert back to 20 pitches and different hours of operation under the 2004. This variation allows the Local Planning Authority to retain some element of control on restricting the pitches numbers and hours of operations.

No adverse comments have been received from the Local Highway Authority and as such it is considered that there are no significant adverse impact by increasing the number of pitches or hours of operation in terms on the highway as stated above there have been no reported road traffic collisions or incidents over the last five years to suggest there are any significant road safety issues.

It is therefore considered on balance the proposed increase in hours and numbers of pitches is considered acceptable and complies with the relevant National and Local Planning Policies. Policy T14 of the Unitary Development Plan is directly related to new developments, reference has been made to this policy to highlight to members that the 2004 approved planning permission was for 20 pitches. Therefore the applicant could use 20 pitches; the reduction 12 has to be seen as compliant.

The increase from the current restricted 2013 consent has been carefully considered in terms of noise and highway impacts. The increase from 6 pitches to 12 and increase in operational hours is considered satisfactory and can be controlled by suitable worded conditions, should members be minded to approve the variation of condition application.

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:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- 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: Approve, subject to the draft conditions listed below:

- 1 The development to which this permission relates must be begun not later than three years beginning with the date on which the original permission was granted 7th April 2005 to ensure that the development is carried out within a reasonable period of time.
- 2 No more than 12 pitches can be in use at any one time in order to comply with policies EN5 and T14 of the adopted Unitary Development in the interest of proper planning.
- 3 The proposed facilitates shall only operate between the hours stipulated below:

Administration Office

- 8.00am until 21.00pm Monday to Sunday (excluding public holidays).

Classroom

- 8.30am to 9pm Monday to Sunday (excluding public holidays).

Pitches

- 8.00am until 21.00pm Monday to Friday (excluding public holidays).
- 9.00am until 16.00pm Saturday and Sunday

In order to comply with policy EN5 of the adopted Unitary Development Plan.

- 4 The car parking associated with Russell Foster academy shall be available for use at all time during the permitted operational hours in order to comply with policies T14 and EN5 of the adopted Unitary Development Plan.
- 5 A validating noise monitoring assessment exercise shall be carried out within 3 months of the commencement of on-site operations to demonstrate that the assumptions and predictions made are indeed correct. Any approved physical or managerial measures proposed in the noise assessment shall be fully implemented / provided within a time period agreed by the LPA. The approved physical or managerial measures shall thereafter be retained and managed in accordance with the approved details. In order to comply with policy EN5 of the adopted Unitary Development Plan.
- 6 Within one month of the 12 pitches being brought into use a Noise Management Plan shall be submitted to the local planning authority for written approval, The Noise Management Plan, to prevent disturbance to local residents resulting from the hereby permitted use of the property, shall include undertakings and procedures for:
 - i. The name(s) of an on-site supervisor responsible for the behaviour of users and for liaison with local residents;
 - ii. The control of noise generated from outside areas;
 - iii. Recording of complaints and response to those complaints;
 - iv The annual review of the approved Noise Management Plan and, if necessary, the submission and approval of a revised Noise Management Plan;
 - vi Any other matters that are reasonably required by the local planning authority.

In order to comply with policy EN5 of the adopted Unitary Development Plan.

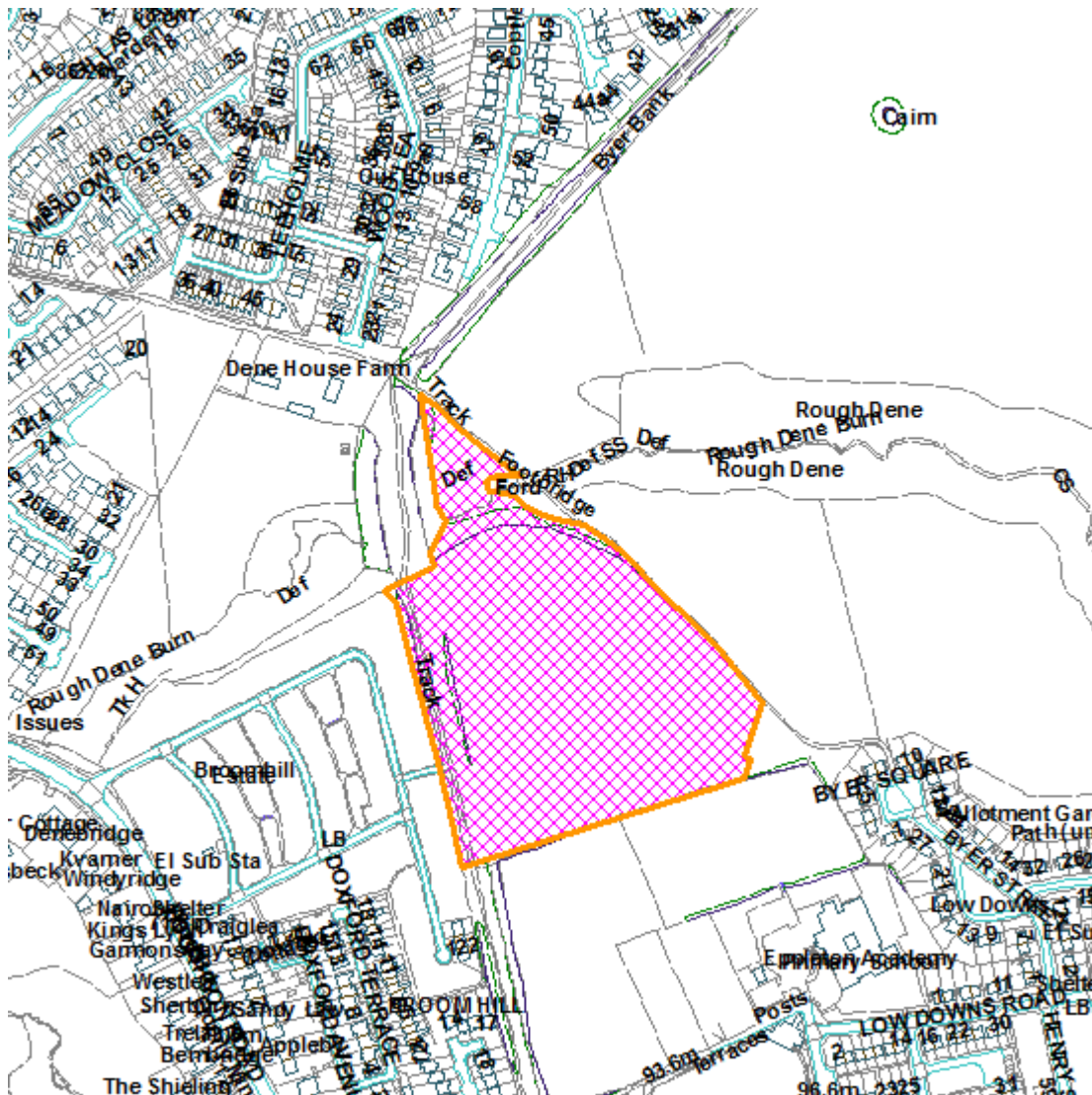
Reference No.: 18/00075/FUL Full Application

Proposal: Erection of 99 dwellings with associated roads, infrastructure and public open space.

Location: Land East Of Former Broomhill Estate Houghton Road Hetton-le-Hole
Houghton-le-Spring

Ward: Copt Hill
Applicant: Gentoo Homes Ltd.
Date Valid: 16 January 2018
Target Date: 17 April 2018

Location Plan



*This map is based upon the Ordnance Survey material with the permission of the Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence No. 100018385. Date 2016.

PROPOSAL:

The planning application under consideration seeks permission for 99 dwellings with associated roads, infrastructure and public open space.

Planning History

Members may recall that this site has been subject to previous planning approvals for residential development. Planning permission 12/03142/FUL for 80 dwellings was considered by members at their meeting on 2 October 2013 and the permission subsequently issued on 28 November 2013. A second application for residential development, planning reference: 14/00090/FUL was considered by Members at their meeting on 14 January 2015 and permission issued on 22 April 2015.

This application seeks approval for a lesser number of dwellings than has previously been approved. The most recent approval provided permission for 102 number of dwellings. (Reference: 14/00090/FUL).

Planning approval 12/03142/FUL was implemented and therefore remains extant. The principle of residential development on this site is therefore firmly established.

Site

The proposed development site comprises an area of approximately 4.17 hectares of land which is located to the east of the Stephenson Trail adjacent to the former Broomhill housing estate.

To the north of the site is Rough Dene Burn and to the west of the site is the Stephenson Trail.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Network Management
Director Of Childrens Services
Environmental Health
Hetton Town Council
Southern Area Command - Police
NE Ambulance Service NHS Trust
Fire Prevention Officer
Flood And Coastal Group Engineer

Final Date for Receipt of Representations: **14.02.2018**

REPRESENTATIONS:

Publicity

The proposed development is a departure from the adopted Unitary Development Plan and has been advertised accordingly via a site and press notice and via neighbour notification letters.

No representations have been received.

POLICIES:

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

CN6 - Retain / enhance important open breaks & wedges between / within settlements

B2 - Scale, massing layout and setting of new developments

H4 - Density of housing development to at least reflect that of the locality

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

T22 - Parking standards in new developments

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

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

CN20 - Developments affecting designated/proposed SSSI's

CN21 - Developments affecting designated / proposed LNR's, SNCI's or RIGS

CN22 - Developments affecting protected wildlife species and habitats

COMMENTS:

Consideration

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

- Principle of residential development;
- Urban Design;
- Highway Access and Car Parking;
- Ecology;
- Flood Risk;
- Ground Conditions;
- Archaeology;
- Heritage Assets;
- Section 106 contributions; and
- Affordable Housing.

Principle of Development

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.

However, since the publication of the National Planning Policy Framework (NPPF) in March 2012, (which is a material consideration for the purposes of Section 38(6)), the weight that can be given to the development plan depends upon the extent to which the relevant policies in the plan are consistent with the more up to date policies set out in the NPPF. The closer the relevant policies in the development plan to the policies in the NPPF, the greater the weight that can be given to the development plan.

The NPPF sets out a presumption in favour of sustainable development. This means that authorities when determining planning applications should:

- Approve applications that accord with an up to date development plan without delay; and
- Where the development plan is absent, silent or its relevant policies are out of date, granting permission unless:-

- (a) there are any adverse impacts that would significantly and demonstrably outweigh the benefits when assessed against the provisions of the NPPF taken as a whole, or specific policies in the NPPF indicate development should be restricted; or
- (b) any specific policies in the NPPF indicate that development should be restricted.

The impacts of the proposed development are considered under the various headings in this Considerations section of the report.

Further, part 6 of the NPPF is concerned with "Delivering a Wide Choice of High Quality Homes" which is relevant to the consideration of this application. Paragraphs 47 and 49 of the NPPF are particularly relevant to the consideration of this application.

Paragraph 47 states that:

To boost significantly the supply of housing, local planning authorities should:

- Use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the NPPF, including identifying key sites which are critical to the delivery of the housing strategy over the plan period;
- Identify and update annually a supply of specific deliverable sites (i.e. sites which are available, suitable and viable for housing) sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land;
- Identify a supply of specific, developable site or broad locations for growth, for years 6-10 and where possible, for years 11-15;
- For market and affordable housing, illustrate the expected rate of housing delivery through a housing trajectory for the plan period and set out a housing implementation strategy for the full range of housing describing how they will maintain delivery of a five-year supply of housing land to meet their housing target; and;
- Set out their own approach to housing density to reflect local circumstances.

Paragraph 49 of the NPPF states that:

Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant local policies in a development plan for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

As indicated by paragraphs 47 and 49 of the NPPF (set out above), under the NPPF the planning authority should identify an available and deliverable five-year supply of housing land. If such a supply of housing land cannot be robustly demonstrated, relevant local policies for the supply of housing are regarded as out of date, and therefore should be afforded little weight.

Following the revocation of the Regional Spatial Strategy in April 2013 (and the 5 year housing targets provided in the RSS), work is currently ongoing by the City Council towards establishing a five year supply of housing land based upon robust and up to date evidence of the city's housing needs.

Although it is considered likely that a five year supply of deliverable housing sites in the city can be demonstrated, the work to support this view is still developing and has not been subject to independent examination through a public inquiry and is currently, in draft.

Therefore, on balance, at this stage the Local Planning Authority cannot say with certainty that a five year supply of deliverable housing sites is available and the therefore the more up to date

development management and housing policies in the NPPF should be given greater weight when considering this application to the housing policies in the saved development plan.

Local Planning Policy

The proposed development site is allocated as Settlement Break in the Council's adopted Unitary Development Plan (UDP) and is therefore subject to Policy CN6 which states that:

"Important open breaks and wedges between settlements will be retained and enhanced".

The application is therefore contrary to Policy CN6. However, for the reasons stated above, the application needs to be considered against the more up to date development management tests set out in the NPPF.

Furthermore, the application site is considered suitable for housing development and has been included in the Council's most recent Strategic Housing Land Availability Assessment 2017(SHLAA) (site 197) as a 'deliverable' housing development site which is available, suitable and viable for residential development and which has the benefit of an extant planning permission for 102 dwellings.

The site is also shown in the City Council's draft Settlement Break Review (2013) document as potentially developable and likely to result in a moderate overall adverse impact, some of which could be feasibly mitigated.

Furthermore, the application site benefits from an extant planning permission (planning reference: 12/03142/FUL).

Principle of Development - Summary

Although the application is contrary to site specific policy CN6 in the development plan, the application needs to be considered in light of the presumption of sustainable development and the impact tests set out in paragraph 14 of the NPPF and also in view of the extant planning permission on the site.

The application site has been identified as being suitable for release for housing in the SHLAA and to assist in the delivery of quality housing to meet the city's housing requirements.

The principle of residential development on the application site is therefore established as acceptable. The assessment of other impacts on the development are considered below.

Urban Design

Policy B2 of the UDP requires new development proposals to respect visual and residential amenity, whilst the core principles of the NPPF set out an objective for schemes to deliver high standards of design and amenity.

Policy H4, meanwhile, states that new housing development should be of a density which reflects the existing density found in the locality, whilst policy H21 seeks to ensure that new residential development is afforded appropriate levels of amenity open space and/or casual playspace.

The proposed quantum of development (99 dwellings) is considered to be acceptable with the footprint sizes and plot sizes broadly consistent with those approved on the neighbouring site (to

the west of the Stephenson Trail). The proposed dwellings are all two storeys in height and provide a mixture of 2, 3 and 4 bedroomed properties.

The general layout of the scheme with dwellings fronting the Stephenson Trail and looking outwards towards the east is considered to be an appropriate response to this site providing an acceptable standard of urban design.

It is considered that the proposed layout will afford prospective occupiers with a good standard of external amenity space, with all new dwellings afforded private gardens and private car parking spaces.

In general the scheme complies with the requirement for a separation distance of 21 metres between main facing elevations, as set out in the Council's Supplementary Planning Guidance. There are some areas of the site where this distance is slightly shortened, however it is considered acceptable in this instance as the arrangement is between proposed dwellings and does not affect any existing residential occupiers.

Highway Access and Car Parking

Paragraph 32 of the NPPF advises that all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Planning decisions should take account of whether opportunities for sustainable transport modes have been taken up, that safe and suitable access to the site can be achieved and whether improvements can be undertaken within the transport network that cost-effectively limit the significant impacts of the development. Paragraph 32 is clear in stating that development should only be refused on transport grounds where the residual cumulative impacts of the development are severe.

On a local level, policy T14 of the UDP requires new development proposals to be accessible, to not cause traffic congestion or highway safety problems on existing roads, make appropriate access for the safe access and egress of vehicles and pedestrians and to indicate how parking requirements will be accommodated. Policy T22 of the UDP, meanwhile, requires new development proposals to be afforded appropriate levels of dedicated parking; in this regard, the Council's 'Residential Design Guide' SPD setting out recommended levels of one in-curtilage parking space per new dwelling and visitor parking afforded at a rate of one space for every third dwelling.

Access to the site is taken from Broomhill Phase 1 (to the west of the site). The development then comprises six culs-de-sac. Each dwelling proposed benefits from private parking and visitor parking spaces are distributed across the site. The City Council's network management Team has been consulted regarding the proposed development and has confirmed no objection to the proposed development. The development is therefore considered to be acceptable from a highway access and car parking perspective.

Ecology

Section 11 of the NPPF sets out a general strategy for the conservation and enhancement of the natural environment, and it advises that the planning system should recognise the wider benefits of ecosystem services and minimise impacts on biodiversity and provide net gains in biodiversity where possible. On a local level, policies CN20 and CN21 of the UDP seek to protect Sites of Special Scientific Interest (SSSIs) and Local Nature Reserves respectively from development proposals with harmful direct or indirect impacts, whilst policy CN22 states that development

proposals which would adversely affect any animal or plant species afforded special protection by law, or its habitat, will not be permitted unless mitigating action is achievable.

The application under consideration is accompanied by biodiversity design proposals; a biodiversity management plan and a preliminary ecological appraisal. The Council's Natural Heritage Team has been consulted regarding the proposed development and has confirmed that the proposals are broadly acceptable from an ecological perspective, subject to contributions made via a section 106 agreement and subject to clarification regarding some anomalies between plans. The issues relating to anomalies are currently being addressed and it is anticipated that these issues will be resolved prior to the meeting of the Development Control Sub-Committee on the 5 June and an update in this regard will be provided via a late sheet.

Flood Risk

Paragraph 103 of the NPPF states that when determining planning applications, Local Planning Authorities should ensure flood risk is not increased elsewhere and should only consider development to be appropriate in flood-risk areas where certain criteria are satisfied. Meanwhile, policy EN12 of the UDP states that in assessing development proposals, the Council will seek to ensure that the proposal will not materially impede the flow of flood water, or increase the number of people or properties at risk of flooding.

As Members may be aware, the City Council is now the Lead Local Flood Authority (LLFA) in respect of major development proposals, with responsibility for matters pertaining to the management of surface water. A Ministerial Statement from the Department for Communities and Local Government (dated 18th December 2014), to be read in conjunction with the policies of the NPPF, sets out that the Government expects decisions on planning applications relating to major development to ensure that sustainable drainage systems (SuDS) for the management of run-off are put in place, unless this is demonstrated to be inappropriate.

In considering planning applications, the LLFA should be satisfied that the proposed minimum standards of operation are appropriate and ensure through the use of planning conditions or obligations that there are clear arrangements in place for ongoing maintenance over the lifetime of the development. Technical Guidance produced by DEFRA (March 2015) sets out non-statutory technical standards for SuDS and this should be used to inform the preparation of a SuDS scheme in association with a development proposal. In this regard, it is recommended that the surface water run-off rate for new development should not exceed the existing greenfield run-off rate for the site.

The application has been accompanied by a Flood Risk Assessment (FRA) and Drainage Strategy which concludes that the development site is located within Flood Zone 1 (at lowest risk of flooding) and that flood risk from other sources is low.

The LLFA has been consulted regarding the proposed drainage regime for the site and has confirmed that the proposals are acceptable subject to planning conditions. Members are therefore advised that if they are minded to approve the application the following conditions should be attached to any approval granted:

- o Before development commences, except for works required for site remediation, precise written details of the outfall and baffle required to reduce velocities into Rough Dene Burn shall be submitted to the Local Planning Authority and agreed in writing. The approved details shall then be fully implemented and maintained as such for the lifetime of the development.
- o Before the occupation of any dwelling, precise written details showing the construction of the permeable paving on site, including a minimum sub base, shall be submitted to the Local Planning Authority and approved in writing. The approved details shall then be fully implemented.

Ground Conditions

Paragraph 121 of the NPPF 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 EN14 of the UDP 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.

In this regard Members should note that conditions relating to ground conditions have been successfully discharged in connection with previous approvals on this particular site (12/03142/FUL). Should members be minded to approve this application conditions will be attached to the approval granted to ensure that remediation issues are dealt with appropriately.

Archaeology

Archaeological investigation works have been undertaken previously on this site as part of the requirements under planning conditions attached to planning permission 12/03142/FUL. The results of these investigations showed that the site is not archaeologically sensitive and the Tyne and Wear Archaeology Officer has confirmed that no further archaeological work is required.

Heritage Assets

The proposed development site is located close to the heritage asset known as the Seven Sisters round barrow located on Copt Hill. The proposed development will have no direct impact upon any designated historic environment asset, nor will it impact adversely on the setting of the Seven Sisters.

Planning Obligations

Paragraph 203 of the NPPF states that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations - such obligations are usually secured via legal agreements under Section 106 of the Town and Country Planning Act 1990 (as amended) and should only be used where it is not possible to use planning conditions. Paragraph 204 goes on to advise that planning obligations should only be sought where the following tests can be met (also set out at Regulation 122(2) of the Community Infrastructure Levy (CIL) Regulations 2010):

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development; Section 106 contributions.

In this instance, a sum of £80 000 will be forthcoming via a section 106 agreement. This sum is identical to that agreed for the previous approval on this site and will be split in the same way between education provision in Copt Hill and Hetton wards (£40 000); Play (£25 000) and Ecology (£25 000).

The Section 106 agreement in connection with the above is currently being progressed. It is anticipated that the agreement will be finalised prior to the meeting of the Development Control Sub-Committee on the 5 June and members will be updated on progress accordingly at the meeting via a late sheet.

Affordable Housing

It is proposed to provide affordable housing off site at a rate of 10%, which is in accordance with policy requirements. 10no. units will be provided off site, most likely on the adjacent Gentoo development on the former Broomhill housing estate. If Members are minded to approve this application, this requirement will be controlled by a planning condition.

Summary

For the reasons set out above, the proposed development of 99 dwellings is considered to be broadly acceptable. There are outstanding issues relating to ecology that are currently being addressed and it is anticipated that these will be resolved prior to the meeting of the Development Control Sub-Committee. Similarly, the section 106 agreement in connection with this development is still being progressed. Members will be updated on the outstanding ecology issues and progress of the s106 agreement via a late sheet ahead of the Committee meeting. The late sheet will also provide a recommended decision, together with a full list of recommended conditions.

EQUALITY ACT 2010 - 149 Public Sector Equality Duty

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

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:

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

The LPA is committed to:

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

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

This approach involves:

- (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

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

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

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

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

RECOMMENDATION: MINDED TO APPROVE, subject to satisfactory resolution of outstanding ecology issues and progress of s106 agreement.

Reference No.: 18/00370/FUL Full Application

Proposal: **Sub-division and change of use of existing unit to A1 (retail) and A5 (hot food takeaway)**

Location: Biddick Community Centre 33 Biddick Village Centre Washington NE38 7NP

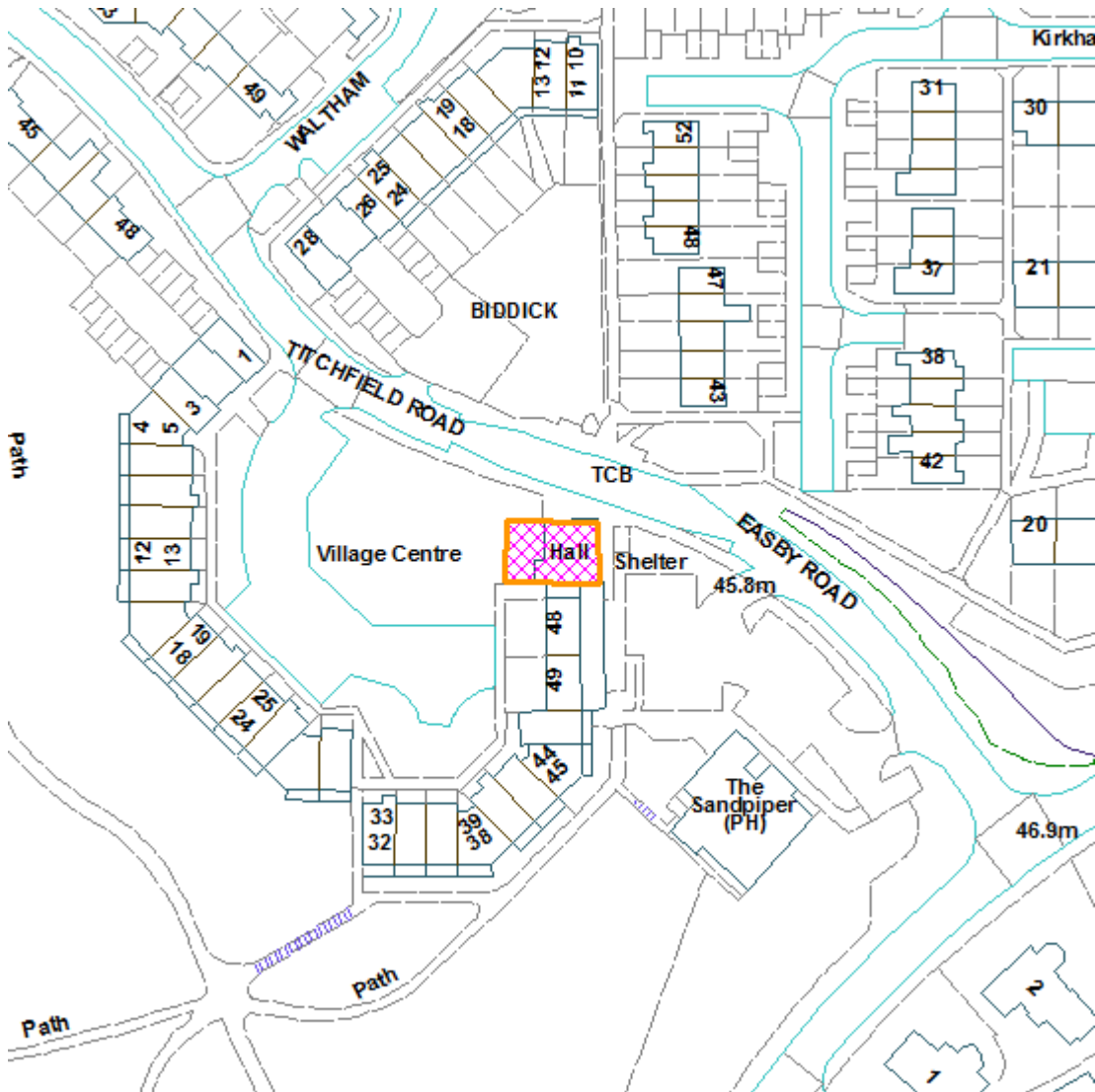
Ward: Washington Central

Applicant: Mr Bob Singh

Date Valid: 14 March 2018

Target Date: 9 May 2018

Location Plan



This map is based upon the Ordnance Survey material with the permission of the Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence No. 100018385. Date 2016.

PROPOSAL:

APPLICATION SITE

The application site is the former community centre and meeting hall at Biddick Village which is currently vacant. It is of a characteristic 1960s/70s New Town design, brick built, with a split roof and large canopy over the side entrance doorway, and sits at the end of a crescent of buildings forming Biddick Village centre, facing Biddick Village Green. The single storey property is linked to the adjacent property by a canopy roof over a walkway under which is positioned another entrance to the building.

Whilst the area is predominantly residential, the neighbouring property no. 48-49 is in retail use, and a public house, The Sandpiper, sits to the south east of the site. A bus link runs along the section of road adjacent to the application site through which no cars are allowed. Public car parking is located either side of this link, in the vicinity of the hall, shop and pub to the east and around the village green to the west. The site is within walking distance of three schools.

PROPOSAL

The proposal relates to the subdivision of the premises to form two units and the use of these as retail (use class A1) and hot food take away (use class A5). The development will involve the insertion of 2 new windows, one in the northern and one in the eastern elevations. The proposal is speculative with no end-user in mind.

The application would normally be considered under delegated powers however a request has been received from a Member for it to be presented to the Development Control sub-committee.

TYPE OF PUBLICITY:

Site Notice Posted
Neighbour Notifications

CONSULTEES:

Washington Central - Ward Councillor Consultation
Network Management
Environmental Health

Final Date for Receipt of Representations: **01.05.2018**

REPRESENTATIONS:

Publicity

One letter of representation was received in response to the original publicity of the application. The writer does not object as such but is concerned that the development should not lead to a deterioration of the character of the area.

Late submissions of one petition containing 17 names, and 2 letters of objection, including one from a Member, have also been received. The objector's main concerns relate to;

1. The potential for the hot food takeaway use to generate litter in the area,
2. The potential for the takeaway use to generate odour pollution,
3. The potential for the use to generate rubbish that will attract vermin,
4. The potential for the use to lead to antisocial behaviour and disturbance, especially at night, to nearby residential properties,
5. The proximity of the takeaway to local schools and the link between health/obesity and takeaways,
6. The highway safety implications of the proposal,
7. The security implications of the proposed use attracting people into the area,
8. There are existing similar facilities nearby and these new facilities are not required,
9. The development will adversely affect property values in the area.

With regards to point 9, a demonstrable need for the proposed uses does not need to be proven in this instance and competition is not an issue that can be addressed within the context of the planning application. Similarly, whilst the impact of the proposed development upon residential amenity and the character of the area are material considerations, the perceived impact of the proposal upon property values referred to in point 9 is not a planning issue that can be dealt with as part of the consideration of the planning application. The other points will be addressed within the main body of the report.

Network Management

The Network Management team has no objections in principle to the proposal.

Public Protections and Regulatory Services

The Public Protections and Regulatory Services team has requested further information in respect of noise and odour.

POLICIES:

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

EN10 - Proposals for unallocated sites to be compatible with the neighbourhood

S12 - Criteria for hot food take-aways, restaurants, other A3 uses and amusement centres

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

T22 - Parking standards in new developments

EN6 - Limit exposure of new noise/vibration sensitive developments to existing sources

COMMENTS:

ISSUES TO CONSIDER

In assessing the proposal the main issues to consider are;

- the principle of the use,
- the highway safety implications of the development,
- the impact of the development upon the amenities of the nearby residential properties,
- the impact of the development upon the amenities of the area,
- the health implications of the proposed A5 use.

In determining the application the LPA had regard to policies within the adopted UDP that are on the list of 'saved' policies submitted to the Secretary of State via Government Office for the North East. Confirmation of the saved policies and the direction provided by the SoS was received on the 4th September 2007. All the policies referred to in the following assessment have been saved.

1. Principle of the Use

Policy EN10 of the UDP requires new development proposals to respect the existing pattern of land use in areas where there is no specific land use allocation.

The site lies within the village centre close to other local facilities serving the neighbourhood. The proposed uses are A1 retail, which reflects the use of the adjacent property, and A5 hot food takeaway. The property was previously in a non-residential use and its change of use to another non-residential use serving the locality would be in keeping with the existing pattern of land use in the area, in broad compliance with policy EN10 of the UDP.

Policy S12 of the UDP states that;

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

The Supplementary Planning Guidance, 'Development Control Guidelines' (SPG) adopted in June 2000 has been subject to public consultation and is a material consideration when determining planning applications. Section 9 expands on policy S12 by stating that hot food takeaways;

'will normally be permitted in shopping parades of greater than 10 units subject to the need to protect the amenities of residential properties from noise and general disturbance associated with food preparation and vehicle and pedestrian movement.

Applications... in smaller shopping parades situated in a predominantly residential area will not normally be permitted where the principal elevation of the nearest dwelling house or block of flats is less than 50m away.

Applications ... likely to lead to car parking on nearby residential roads in evening periods and which would be likely to cause nuisance to nearby residents will not normally be permitted.'

The application site does not sit within a shopping parade, rather it is one of a trio of non-residential premises within an otherwise residential area, with a number of properties within 50m of the application site.

Given the above, the proposal would appear to be contrary to policy S12 of the UDP and section 9 of the SPG, unless it can be demonstrated that there will be no detriment to the environment, residential amenity or highway safety.

2. Highway Safety Implications.

Policy T14 of the UDP relates to the accessibility of developments and their impact upon highway safety and states that new development should not cause traffic problems on existing roads. Policy T22 relates to the level of parking required depending upon the type and location of the proposed development.

The proposal does not impact upon the existing parking and access arrangements. The premises are situated almost directly adjacent to a public car park intended to serve the non-residential units, and the existing external yard area is proposed to be retained and shared between each unit. Additional parking is also available from the rear at the Village Centre. No cars are permitted to drive through the bus link and the available parking is considered to be adequate for the proposed use. Given the above, it is unlikely that the proposal would lead to indiscriminate on-street parking within the vicinity of the site.

Whilst there are no objections in principle from a highway safety point of view, the Network Management team has requested that details of delivery vehicles and refuse collection arrangements are clarified. The proposal is speculative with no end-user in mind, therefore these details are not currently available. It is likely that servicing and refuse collection will be based on existing arrangements, and it is thus considered that a suitable condition attached to any forthcoming approval requiring the submission and approval of these details would be adequate.

Therefore, there are no objections from a highway safety point of view and the proposal is considered to comply with policies T14 and T22 of the UDP.

3. Impact of the Development upon the Amenities of nearby Residential Properties.

Policy B2 of the Council's UDP states: "the scale, massing, layout or setting of new developments and extensions to existing buildings should respect and enhance the best qualities of nearby properties and the locality and retain acceptable levels of privacy."

There are no residential properties immediately adjacent to the premises, the nearest being approximately 30m distance from the property on Kirkham, separated from the application site by the road and a small area of open space. At a similar distance, the residential properties of Biddick Village Centre are separated from the site by the existing retail store. Concerns have been expressed relating to the A5 use in particular attracting an increased level of custom to the area that is likely to create noise and disturbance to the nearby residential properties.

In allowing an appeal for a hot food takeaway in similar circumstances in a residential area (ref 11/00862/FUL), an Inspector reported the 50m separation distance as being considered to be 'arbitrary' and 'unsubstantiated'. He regarded the 50 metre distance to principal elevations as indicating where issues of noise and disturbance are most likely to be experienced. In that case the residential properties were as close as 20m from the application site. Concluding that the principal elevations of neighbouring properties did not directly face the application site and that they were separated by a road, the effect on these residents would not warrant refusal of planning permission.

Given that the current application site is not situated within a shopping parade, but is located within a large residential area, it is likely that customers will be from the local area. As cars are not permitted along the bus lane, it is considered that activity would be focused around the existing car park and businesses. The existing shop is understood to be open until 9pm at night, whilst the public house is open until 11pm most nights, and midnight on Fridays and Saturdays.

The scale of the units, compared to the existing retail store, is not excessive and as there will be activity within the area generated by the existing shop and public house, it is not considered that the amount of additional comings and goings around the site would be excessive. The retail unit is proposed to close at 6.30pm weekdays and 2pm on Saturdays, closed on Sundays and Bank Holidays, which is considered to be acceptable. The hot food takeaway, however, is proposed to close at 11.30pm daily, which is for the most part, later than the existing businesses.

In order to minimise the impact upon nearby residential properties therefore, it is considered reasonable and necessary to attach a condition to any forthcoming approval to restrict the opening hours of the takeaway to no later than 10pm at night. As such, the proposal would not be considered likely to result in significantly increased levels of noise and disturbance to nearby residents, particularly late of an evening.

In the cited case, the Inspector concluded that 'the proposed use would not give rise to adverse outcomes that would materially worsen the living conditions of nearby residents. Planning conditions, including on opening times, could mitigate or overcome a number of concerns... I conclude that the proposal would not cause significant harm to the living conditions of nearby residents. It would not be contrary to the purposes of saved policies S12 and B2 in the UDP or the Council's SPG.'

4. Impact of the Development upon the Amenities of the Area.

The proposed external alterations are limited to the insertion of new window openings within the north and east elevations with security roller shutters. Section 11 of the Development Control Guidelines SPG requires roller shutter boxes on such commercial premises to be installed internally and to be treated with a suitable coloured coating, which could be achieved by attaching a suitable condition to any approval that may be forthcoming. Provided that the roller shutters are installed accordingly, the external alterations are considered to be in keeping with the character of the host property and are not considered likely to be detrimental to the visual amenities of the area.

In response to consultation, the Public Protections and Regulatory Services team has identified that the A5 use has the potential to create noise and odour which if not suitably controlled may negatively impact upon the surrounding area. Ideally, details of the cooking extraction/exhaust system and an assessment of the noise generated in particular by associated plant and machinery such as the extraction system should be provided prior to determination of the application. In this case, the application is speculative and the particular cooking facilities to be used are not yet known. It is therefore considered appropriate to attach a condition to any approval which may be forthcoming to require submission and agreement of such facilities prior to the use being implemented. The installation of any external flues, ducting or other equipment associated with the provision of the extraction/ventilation system required pursuant to this condition may constitute development requiring planning permission in its own right and be subject to a further planning application.

Concern has been expressed regarding the proposed uses generating litter and attracting vermin. The premises will be required to comply with the relevant environmental health and food hygiene regulations and, as there are three litter bins within a few metres of the site, it is not considered that this would be a reason for refusal of the application. Similarly, it is not considered that the proposed uses in themselves would directly lead to a decline in security in the area or antisocial behaviour and if there is an issue of unacceptable behaviour, it should be addressed by the responsible authorities.

5. Health Implications of the Proposed A5 Use

The NPPF identifies that the planning system can play an important role in creating healthy, inclusive communities and states that planning policies and decisions should take account of and support local strategies to improve health and wellbeing for all. When preparing local plans, local planning authorities should work with public health officers and health organisations to understand and take account of the health status and needs of the local population and the barriers to improving health and well-being.

The submission version of the Council's emerging Core Strategy and Development Plan 2015-2033 is likely to be published around late 2018 after a further round of consultations. As such, the policies contained within can be given little weight in the determination of a planning application, but they do provide an indication of how the Council's approach to considering this type of planning application is likely to take shape within the coming years.

Draft policy EP12 seeks to restrict hot food takeaways within designated centres in terms of the detrimental impact that an over-provision of A5 uses may have upon the vitality and viability the centre. However, Biddick Village is not identified as a designated centre. In addition to draft policy EP12, the council intends to prepare a Hot Food Takeaway Supplementary Planning Document which will provide additional guidance to assess and determine planning applications for hot food takeaway use.

The planning system clearly has a role to play in promoting healthy eating and controlling fast food outlets, for instance, proximity of a proposed hot food takeaway to schools has been found to be capable of being a material planning consideration. However, in allowing a planning appeal in the London Borough of Tower Hamlets the inspector found that the Council lacked specific local policies to restrict hot food takeaways and evidence to demonstrate an overconcentration of takeaways and the link between proximity to a school and childhood obesity.

In this case, the proposed A5 use will not be close to any existing outlets and will therefore not lead to a proliferation of takeaways in the area. Given the above, until the SPD has been drafted based on clear evidence relating to local circumstances and has been formally adopted, it is unlikely that a refusal for reasons relating to health factors would be supported at appeal in this instance.

CONCLUSION

Given the above, subject to the imposition of the suggested conditions, the proposal is unlikely to result in conditions prejudicial to highway safety, and is unlikely to result in any serious detriment to the character of the area in general, or the residential amenities of the neighbouring properties. Without a relevant policy or clear evidence to directly link the proposed use to a decline in local public health, it would not be reasonable to refuse the application for this reason.

The proposal would bring a vacant property back into use and, for the reasons detailed above, is considered to be acceptable. The proposed change of use therefore complies with the requirements of the NPPF, policies EN10, S12, T14, and T22 of the UDP and the provisions of the Development Control SPG. The application is accordingly recommended for approval.

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: APPROVE, subject to conditions below:

Conditions:

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

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

- location plan received 2/3/18,
- floor plans and elevations as existing, drawing number 995-01 received 2/3/18,
- floor plans and elevations as proposed drawing number 995-02 received 19/3/18,

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

3 Notwithstanding the submitted plans, the proposed roller shutter boxes shall be installed internally and shall be treated with a suitable colour coating, in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority prior to the development hereby approved being brought in to use, and shall be retained as such thereafter, in the interests of the visual amenities of the area and to comply with policy B2 of the UDP.

4 Before the use hereby approved is commenced, full details of a suitable ventilation/extraction/filtration system shall be submitted to and approved in writing by the Council as Local Planning Authority. All works shall then be completed in accordance with the agreed details before the use commences and maintained as such thereafter for the lifetime of the approved use, in order to protect the amenities of the area and to comply with policy B2 of the UDP.

5 Prior to the buildings being brought into use for the purposes hereby approved, a Noise Impact Assessment survey and report shall be carried out to ascertain the likely impact from nearby commercial properties upon the future occupiers of the development, by a competent noise specialist. The results will inform the implementation, prior to the use commencing, of mitigation measures to be submitted to and agreed in writing with the Local Planning Authority. Once the described measures have been implemented, they shall remain in place at all times thereafter, unless the Local Planning Authority first agrees to any variation in writing, in order to protect the amenities of nearby residential properties and future occupiers of the proposed development and to accord with policy EN6 of the Unitary Development Plan.

6 The premises shall not be operated for the purposes hereby approved outside the following hours:

A1 use;

Monday to Friday (except Bank Holidays) 09:00 to 18.30;

Saturdays (except Bank Holidays) 09:00 to 14.00;

Sundays and Bank Holidays closed

A5 use;

Monday to Saturdays (except Bank Holidays) 08:00 to 22.00;

Sundays and Bank Holidays 08:00 to 22:00;

in order to protect the amenities of the area in accordance with policy B2 of the UDP.

7 Before the development, hereby permitted, is commenced a plan showing the provision of adequate facilities for the storage of refuse within the site shall be submitted to and approved by the Local Planning Authority, and shall be so installed and maintained thereafter in order to ensure a satisfactory form of development and to comply with policy EN1 of the UDP.

8 Before the development hereby approved commences, details of the facilities to enable servicing of the premises, including arrangements for any delivery service, shall be submitted to and approved by the Local Planning Authority. Such facilities shall be provided in accordance with the agreed details and such facilities shall be retained and kept unobstructed at all times, in the interests of highway safety and to comply with policy T14 of the UDP.