

## **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/](http://www.sunderland.gov.uk/online-applications/)

Ms. Irene Lucas CBE  
Chief Executive

Reference No.: 15/00691/OUT Outline Application

**Proposal:** Outline planning application for residential development comprising of 45no Dwellings - approval sought for appearance, layout, scale & access.

**Location:** Former Chilton Moor Cricket Club Chilton Moor Houghton-le-Spring

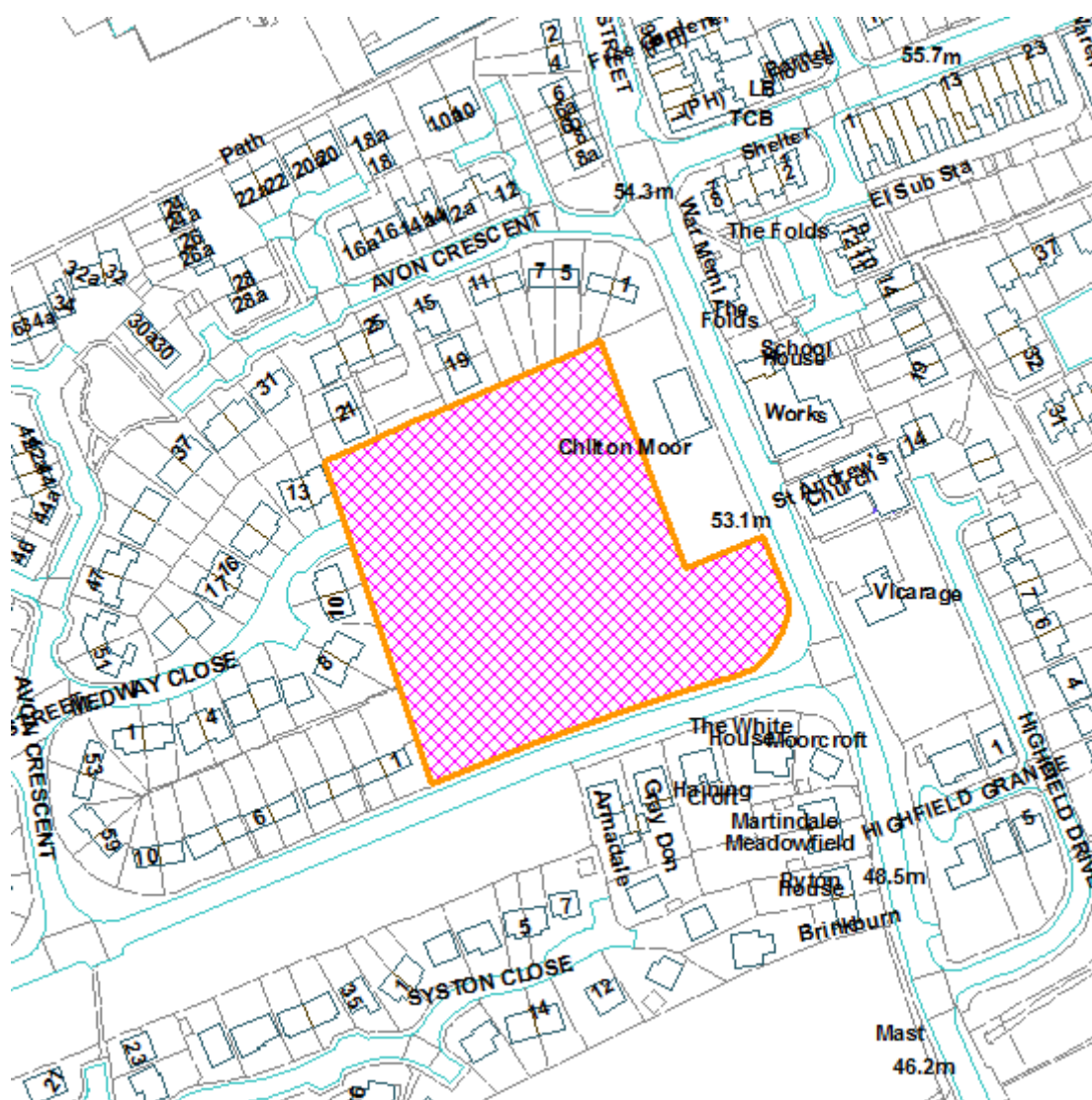
**Ward:** Houghton

**Applicant:** Mr Neil Findlay

**Date Valid:** 5 June 2015

**Target Date:** 4 September 2015

## Location Plan



## PROPOSAL:

Outline planning permission is sought for a residential development of 45 no. dwellings (approval sought for appearance, layout, scale and access) at former Chilton Moor Cricket Club, Chilton Moor, Houghton-le-Spring.

The proposed development affects the site of the former Chilton Moor Cricket Club in Chilton Moor, Houghton-le-Spring. The application site is roughly rectangular in shape and covers an area of approximately 1.1 hectares. The site is fairly flat, although there is a rise of just over 3 metres across the site from west to east.

The site was last used for cricket over 15 years ago and is now in a rather rough, overgrown state and is being used informally for the grazing of horses. There are some young and semi-mature trees around the edge of the site, primarily in one group alongside the northern boundary and one adjacent to the site's south-west corner. The former pavilion building, which stands to the north-east of the application site, is now used as a children's nursery (planning application ref. 01/00440/FUL) and is not affected by the proposed development.

The site is bordered by Black Boy Road to the south, the B1284 Chilton Moor High Street to the east and the residential dwellings of Avon Crescent and Medway Close to the north and west respectively. The area around the site is primarily residential in nature - as well as the dwellings to the north and west, there are further dwellings facing the site from the south side of Black Boy Road. To the east, however, the site is faced by St. Andrew's Church, whilst to the north-east are commercial buildings around the junction of Front Street and Dairy Lane in the centre of Chilton Moor.

The application seeks outline planning permission for 45 no. dwellinghouses on the site. Approval is sought for matters relating to appearance, layout, scale and access, with only landscaping reserved for future consideration.

The application proposes a mix of detached and semi-detached dwellings, together with one block of three dwellings and one block of four dwellings. The following schedule of housing types is proposed:

- 7 no. two-storey, two-bedroom terraced dwellings;
- 10 no. two-storey, three-bedroom semi-detached dwellings;
- 4 no. three-storey, four-bedroom semi-detached dwellings;
- 2 no. two-storey, four-bedroom detached dwellings;
- 14 no. two-storey, four-bedroom semi-detached dwellings;
- 8 no. two-bedroom maisonette apartments, within two pairs of two-storey semi-detached buildings;

The dwellings within the proposed development are to be arranged so that a row of 10 no. properties will front the north side of Black Boy Road.

A total of 6 no. units within the development (i.e. 13.3% of the total) are proposed to be affordable and to this end, the dwellings to plots 29-32 and plots 40 and 41 have been identified as representing the site's affordable housing provision.

Access into the site is to be taken from Black Boy Road and the new road serving the development will run northwards before splitting into two branches, with the eastern branch turning again to run southwards prior to terminating in a turning head.

The new dwellings within the development will all be afforded front and/or rear gardens, together with dedicated parking spaces, with those properties fronting Black Boy Road served by driveways accessed directly from the road. Parking for the terraced units, meanwhile, will be provided in bays arranged around the adjacent turning head of the eastern branch road. Visitor parking bays will also be provided throughout the development.

The development incorporates a Sustainable Drainage System (SuDS), to include an attenuation pond adjacent to the site's western boundary. The pond is also intended to act as a landscaping/recreational feature within the development.

The planning application has been submitted by the Punch Pub Company, which owns the site, rather than a house builder.

The application has been accompanied by the following supporting information:

- Planning Statement;
- Design and Access Statement;
- Flood Risk and Outline Surface Water Drainage Assessment (produced by Urban Green);
- Phase I Desk Top Study Report (produced by Demeter Environmental Ltd.);
- Noise Assessment (produced by Noise & Vibration Associates);
- Transport Statement (produced by Croft Transport Solutions);
- Preliminary Ecological Appraisal (produced by Urban Green);
- Arboricultural Report (produced by Urban Green);
- Sports Pitch and Green Space Assessment (produced by Graham Hitchen Associates);
- Viability Assessment;
- Local Sport Needs Assessment;

#### **TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

#### **CONSULTEES:**

Network Management  
Houghton - Ward Councillor Consultation  
Environmental Health  
Director Of Childrens Services  
The Coal Authority  
Southern Area Command - Police  
Environment Agency  
Flood And Coastal Group Engineer  
Sport England

Final Date for Receipt of Representations: **11.11.2015**

#### **REPRESENTATIONS:**

Public consultation - letters of representation have been received from the Parochial Church Council of St. Andrew's Church, the owner/managing director of the Chilton Meadows Day Nursery (which occupies the former cricket pavilion) and the occupiers of 7 Highfield Drive and 18 Atherton Drive.

The following matters have been raised by the letter from St. Andrew's Church:

- Whilst the housing proposals will improve the area, there are some concerns;
- The infrastructure of the area is struggling to cope with new housing;
- The development will increase traffic along the main road through Chilton Moor, which is already busy due to other new developments in the area;
- There are few opportunities to cross Chilton Moor Front Street in the vicinity of the site and as such, there is a need for traffic lights/pedestrian crossings in the locality;
- The junction between Black Boy Road and Chilton Moor Front Street is unsafe for motorists;
- This application, as well as others in the area, must take traffic problems into account;

The following matters have been raised by the letter from the Day Nursery:

- Generally no objections to the development as it would enhance the community and environment and the land is currently being misused;
- There are, however, concerns over traffic at the junction between Black Boy Road and Chilton Moor Front Street and its effect on parents dropping off/picking up children attending the nursery;
- Some traffic calming should be adopted, such as traffic lights or a roundabout;

The following matters have been raised by the letter from 7 Highfield Drive:

- Questions whether any traffic improvements are linked with this development;
- Congestion is already an issue in the area;
- Local schools are struggling to manage;

The following matters have been raised by the letter from 18 Atherton Drive:

- The application must be looked at in conjunction with others in the vicinity (e.g. application for dwellings on land at rear of Atherton Drive and on land off Redburn Road) as there are already concerns over traffic volume in the area;

The Coal Authority

The site does not fall within a defined Development High Risk Area and as such, the Coal Authority's Standing Advice note should be included on any approval of planning permission.

Environment Agency

No comments to offer.

Northumbrian Water

No objections to the application, but it is requested that a condition be imposed on any approval which requires the submission of a scheme for the disposal of foul and surface water. The scheme should be informed by the Hierarchy of Preference contained within Part H of the Building Regulations, i.e. soakaway; watercourse and, finally; sewer. The development shall then proceed in accordance with the agreed details.

## Sport England

A statutory consultee in this case, given that the development affects a site allocated as a playing field. Sport England initially lodged an objection to the development on the basis that it would not comply with its policy to protect playing fields, 'A Sporting Future for the Playing Fields of England'. The objection is, however, non-statutory in terms of determining the application given that the site has not been used as a playing field for more than 5 years. Despite the objection, Sport England's initial comments do recognise that it is unrealistic to expect the ground to be brought back into use for cricket. On this basis, Sport England advised that they would be prepared not to object to the application subject to a planning contribution being secured which funds capacity improvements at other cricket clubs in the 'Coalfields' area.

The objection from Sport England was brought to the attention of the applicant's agent who agreed to commission a report which considers sport needs, with particular reference to cricket, in the locality of the application site. The report has been informed by information and contributions from the Council's Sport and Leisure officers and the Director of Cricket Development at Durham County Cricket Club and it considers how any financial contributions delivered by the proposed development could be allocated to improve and enhance local facilities, and therefore player retention and participation, at existing cricket pitches in the locality.

The report concludes by suggesting that given the advice of the Council and Durham CC, a financial contribution would be best invested at East Rainton Cricket Club. This has been identified as a Club which has the potential to accommodate increased participation across all age ranges, whereas other Clubs in the area (e.g. Philadelphia, Eppleton, Hetton Lyons and Houghton) would likely only see improvements in facilities rather than participation. Facilities at East Rainton are very poor, to an extent which limits the amount and types of cricket able to be played there, and any investment could therefore be a significant catalyst for the Club's future.

The report suggests a financial contribution of £42,000, of which £17,000 could be spent on a new security fence around the ground and £25,000 on the supply of electricity to the changing room/clubhouse building (potential spending areas identified by Durham CC).

Sport England have considered the applicant's report and suggested financial contribution and have advised that whilst the magnitude of the contribution is lower than would normally be desired (contributions are usually based on Sport England's costings for sporting facilities), the work carried out by the applicant and Durham CC has shown how the money available could be best utilised to increase capacity at local cricket clubs. As such, Sport England are content to withdraw their objection on the basis that the new fencing and electricity supply works at East Rainton CC are stipulated in any legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) which serves to secure the financial contribution proposed by the applicant.

## Council's Flood and Coastal team (in capacity as Lead Local Flood Authority)

Initially objected to the development on the basis that whilst the proposed maximum greenfield discharge rate (of 4.4 l/s) set out by the applicant's Flood Risk Assessment is welcomed, the proposals do not provide enough information in relation to the proposed Sustainable Drainage System (SuDS). Furthermore, the submitted proposals do not adequately address the risk of surface water flooding and do not appear to properly recognise the route of a culverted watercourse beneath the land.

Further discussions have taken place between the applicant's drainage consultant and the Council's Flood and Coastal team and it is now proposed to include a SuDS attenuation feature, which is intended to act as a diversion to the culvert and provide a wildlife habitat. The Council's

Flood and Coastal team have advised that whilst the proposed drainage strategy is broadly acceptable, some concerns are retained regarding the level of detail provided by the applicant, the route of the culvert and the potential for the proposed layout of the development to be affected by the final drainage strategy for the site. It is ultimately accepted, however, that given the application has been submitted in outline form, conditions could be used to require the submission of final details of the proposed drainage scheme for the Council's approval.

#### Council's Ecology team

The Council's Ecology team have advised that the Ecological Appraisal submitted with the application acknowledges that the development would see the loss of breeding bird foraging and nesting habitat and recommends a wildlife-friendly landscaping scheme. This should be addressed as part of any final proposals (landscaping being a matter reserved for future approval). Details regarding the number, type and location of bird boxes should be addressed as part of a full submission. The retention and inclusion of linear features into the landscaping scheme would also be preferred and if this is not possible, mitigation and compensation measures should be evidenced.

#### Council's Urban Design team

The Council's Urban Design team initially raised some concerns regarding the relationship between the dwellings to plots 1, 2, 5, 6, 7, 8, 9 and 10 and how they relate to the existing streetscene. In particular, the height of dwellings should be reduced to take into account the presence of the adjacent bungalows fronting Black Boy Road. Furthermore, the dwellings to plots 11 and 38 should introduce additional glazing to avoid presenting blank gable walls to Black Boy Road, whilst plots 10, 14, 33, 39 and 45 should turn their respective corners and be afforded improved fenestration to their gables.

These design issues were brought to the attention of the applicant's agent and, following a series of amendments, the proposals have been revised so that the highlighted areas of concern are now satisfactorily addressed.

#### Council's Highways team

The Council's Highways team has advised that the location of the new access from Black Boy Road is satisfactory, although visibility splays should be provided to ensure visibility is not compromised by landscaping in adjacent front gardens. In addition, the parking layout should be reconsidered as some spaces are remote from parent dwellings; visitor parking arrangements may also have to be reviewed. The Highways team have also advised that the applicant will be required to enter into an agreement under Section 38 of the Highways Act in order to ensure that new highways are constructed to an adoptable standard.

Subsequent to the visibility and parking concerns being raised, the applicant has carried out some revisions to the proposed parking arrangements to ensure they better relate to the dwellings within the scheme. In addition, it has been clarified that the visibility at the junction into the new development will not be compromised by adjacent gardens.

The Council's Highways officers have also noted that the Transport Statement submitted with the application relies heavily on pedestrian connectivity and accessibility to public transport in order to underpin the predicted low numbers of vehicular journeys associated with the development. As such, it would be expected that the developer provides a financial contribution towards pedestrian crossing facilities to improve pedestrian movement across the adjacent junction of Black Boy

Road and Front Street in order to access local amenities and bus services. Such a contribution could be secured via an agreement under Section 106 of the Town and Country Planning Act.

Council's Education team

The Council's Education team has advised that the proposed development should be subject to a financial contribution towards primary and secondary school places in the area. It is suggested that a total contribution of £140,000 be sought in relation to the application, to be secured via an agreement under Section 106 of the Town and Country Planning Act.

## **POLICIES:**

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

L\_4\_Standards for outdoor sport and recreation  
L\_5\_Ensuring the availability of Public Parks and amenity open space  
L\_7\_Protection of recreational and amenity land  
EN\_6\_Limit exposure of new noise/vibration sensitive developments to existing sources  
EN\_11\_Restrictions upon new development or intensified use of land liable to flooding  
EN\_12\_Conflicts between new development and flood risk / water resources  
EN\_14\_Development on unstable or contaminated land or land at risk from landfill/mine gas  
H\_1\_Provision for new housing  
H\_4\_Density of housing development to at least reflect that of the locality  
H\_16\_Negotiation for affordable housing in major developments  
H\_21\_Open space requirements in new residential developments (over 40 bed spaces)  
R\_3\_Infrastructure provision, etc. in association with developments  
B\_2\_Scale, massing layout and setting of new developments  
B\_3\_Protection of public/ private open space (urban green space)  
CN\_17\_Tree Preservation Orders and replacement of trees  
CN\_22\_Developments affecting protected wildlife species and habitats  
T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising  
T\_22\_Parking standards in new developments

## **COMMENTS:**

### **ISSUES TO CONSIDER**

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) of the Act), 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 are 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 and paragraphs 7 and 8 therein explain that there are three dimensions to sustainable development - economic, social and environmental - and that these are mutually dependent, so that gains in each should be sought jointly and simultaneously.



Paragraph 14 goes on to explain that the presumption in favour of sustainable development should be viewed as a 'golden thread' running through both plan-making and decision-taking and means that when determining planning applications, authorities 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 footnote to paragraph 14 advises that those policies relating to, for example, protected wildlife sites, Green Belt, Local Green Space (a formal designation led by local communities through new local plans and neighbourhood plans), Areas of Outstanding Natural Beauty, Heritage Coasts, National Parks, designated heritage assets and locations at risk of flooding or coastal erosion are relevant in respect of paragraph 14 (b).

Paragraph 17 of the NPPF also sets out a series of 12 'core planning principles' which should underpin plan-making and decision-taking and are considered to contribute to the over-arching aim of delivering sustainable development. Particularly relevant in this case are the principles that development should:

- proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;
- encourage the effective use of land by re-using land that has been previously developed (i.e. brownfield land);
- always seek to secure a high quality of design and a good standard of amenity;
- take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside;
- take full account flood risk and coastal change;
- actively manage patterns of growth to make fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable; and
- contribute to conserving and enhancing the natural environment.

These core principles of the NPPF feed into policies L4, L5, L7, EN6, EN11, EN12, EN14, H1, H4, H16, H21, R3, B2, B3, CN17, CN22, T14 and T22 of the Council's adopted Unitary Development Plan (1998), which are relevant to the consideration of this application.

With reference to the above national and local planning policy background, it is considered that the main issues to examine in the determination of this application are as follows:

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

- The principle of the proposed development;
- The impact of the development on visual and residential amenity and urban design considerations;
- The impact of the development in respect of highway and pedestrian safety;
- The impact of the development in respect of ecology and biodiversity;
- The impact of the development in respect of flooding and drainage;

- The impact of the development in respect of ground conditions;
- Contributions required under Section 106 of the Town and Country Planning Act 1990 (as amended);

## 1. PRINCIPLE OF DEVELOPMENT

### (a) Playing field/open space considerations

In order to establish the principle of the proposed development, it is firstly necessary to consider the land use allocation of the application site. To this end, the development site is identified as an area of existing open space on the proposals map of the Council's adopted UDP and as such, policies B3, L4, L5 and L7 therein are applicable.

Policy B3 seeks to protect valuable areas of public and private open space from development which would have a serious adverse effect on its amenity, recreational or nature conservation value. Proposals will be considered in the light of their contribution to urban regeneration and to the importance of such space to the established character of the area.

Policy L7, meanwhile, sets out that land allocated for open space or outdoor recreation will be retained in its existing use; permission for other uses will only be granted if:

- (i) Alternative provision, of an equivalent scale, quality and accessibility is made which assists the achievement of the standards indicated in policies L4, L5 and L6 of the UDP; or
- (ii) The development is for educational purposes; and
- (iii) There would be no significant effect on the amenity, recreational and wildlife habitat value of the site;

Access to such areas of open space will also be protected from alternative development.

Policy L4, which is referred to within the text of policy L7, sets out the Council's aspirations in respect of outdoor sport and recreation provision during the Plan period (anticipated as being until 2006), with priority given to achieving a long-term standard of 1.6-1.8ha of such space per 1000 population. Policy L5 seeks to ensure that public parks and open spaces are available and located so as to be of greatest benefit to the public and that in areas of deficiency, the Council will seek to bring vacant and derelict sites into use. Policy L6, meanwhile, sets out that the Council will seek to develop a hierarchy of play space provision for children.

In terms of national planning policy, paragraph 73 of the NPPF states that local planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision and that such assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required.

Paragraph 74 continues by advising that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- o an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- o the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or

- o the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

It should be noted that there are some differences between the exception 'tests' set out by policy L7 of the Council's UDP and paragraph 74 of the NPPF. In particular, the NPPF policy advises that the development of open space/playing fields can be acceptable if the site is surplus to requirements. In this situation, and in line with the advice of paragraph 14 of the NPPF, the policy guidance provided by the NPPF should be given precedence.

In line with the requirements of paragraphs 73 and 74 of the NPPF, the City Council has undertaken a Greenspace Audit. This identifies the site as providing natural and semi-natural greenspace (low value site), with aerial photography confirming that the site has not been used as a cricket field for over 10 years. The Report accompanying the Audit does, however, identify the Fence Houses and Chilton Moor area as having low access to quality natural greenspace, as well as having low access to amenity greenspace. This deficiency has also been identified in the UDP (neighbourhood open space deficiency area, as detailed by the supporting information to aforementioned policy L5).

The 2012 Greenspace Report recommends that 'low value' sites are prioritised for site review, to consider whether the site use needs to be changed, whether the site needs to be enhanced, or whether a non-greenspace use would be more appropriate. The first step should be to consider whether there are deficiencies in other types of open space. In all cases a robust approach should be applied before releasing a site for development, and it is recommended that all the following criteria are considered:

- o All functions that open space can perform have been considered and the loss of the open space would not have an adverse impact on the ability of the wider area to achieve these functions;
- o The open space is not protected by a planning or statutory designation, nor is it of historic, ecological or landscape significance;
- o The open space does not form part of, nor has it the potential, to create a link between spaces;
- o The open space does not contribute to or have the potential to contribute to the character or the amenity of the area;
- o There is no identified open space deficiency in the area and its loss does not create one;
- o The community has been consulted and the proposal for an alternative use is widely supported;
- o There is no net loss of biodiversity or increase in an area of deficiency in access to nature;
- o Other statutory authorities, such as the Environment Agency, do not identify the open space as providing a significant ecosystem service.

Also of relevance in this case is the Council's Playing Pitch Plan (PPP) of January 2015, which is designed to provide a clear, strategic framework for the maintenance and improvement of existing outdoor sports pitches and ancillary facilities between 2014 and 2019. The PPP provides an analysis cricket provision across Sunderland and concludes that there are issues relating to pitch quality, overplay and spare capacity across the City, with overplay being a particular issue in the 'Coalfields' area. Pitch quality is, however, relatively high and some level of overplay can currently be sustained.

The Plan recommends that overplay should be addressed through a combination of measures, such as ensuring high maintenance levels, increasing the number of wickets and maintaining pitch quality, whilst other objectives include improving the quality of ancillary facilities and supporting clubs in accessing funding and increasing club membership are also recommended.

The PPP (at page 12) identifies Chilton Moor Cricket Club as a 'lapsed' site given that the club withdrew from the North East Durham Cricket League in c. 1998. It recommends that the site should be retained until there is evidence of 'no demand' or 'no overplay issues' locally and that it can be released once actions are implemented. A note at page 9 of the PPP states that if a site is proven to be surplus to requirements and other development uses are applicable, then a sport/recreation contribution should be sought from the developer, to be used to create or upgrade facilities within the local area.

To summarise the planning policy position, as is clear, the relevant local and national policies detailed above seek to ensure that land which is used as open space or playing fields is retained in such a use, unless certain circumstances are applicable. To help inform the consideration of development proposals of this nature, the Council has produced assessments of both green space and playing pitches within the City and the two assessments identify issues in relation to the amount and quality of green space in the area around the development site and overplay of cricket pitches in the Coalfields.

The planning application has been accompanied by a Sports Pitch and Greenspace Assessment (produced by Graham Hitchen Associates), which serves to give additional background to the development site and the proposals and provides sports pitch and greenspace assessments, informed by the relevant planning policies and assessments carried out by the Council.

The Assessment contends that the application site is now unrecognisable as a cricket pitch and that such a use has clearly been abandoned, with no play for at least 10 years. It is suggested that the site currently has no beneficial use or value for this purpose, a situation which is recognised by the Council's Greenspace Audit given its classification as natural/semi natural greenspace therein. The Assessment continues by suggesting that the prospect of the site being used again for cricket is negligible - significant investment would be required to bring the site back into a suitable condition (effectively, an entire new ground is required), for which there is no specific funding available. Furthermore, the usable area has been diminished by the development of the children's nursery and its car park on the site of the old cricket pavilion, an arrangement which would result in smaller, less attractive playing pitch area and severely restrict the space available for ancillary facilities.

The Assessment recognises that there is a shortfall of cricket pitches in the 'Coalfields' area, but it is suggested that retaining the site, without any viable prospect of it being put to cricket use, will not serve a meaningful purpose and will not contribute towards the improvement of cricket facilities in the area. The Assessment goes on to advise that the applicant is willing to make a financial contribution to assist in the provision of improved sports pitch provision in the 'Coalfields' area.

In terms of greenspace, the Assessment concludes by suggesting that given the location of the site and its poor condition, the land's greenspace contribution to the community is limited to some passive amenity value. The site is argued to have little potential for enhancement as natural/semi-natural or more formal greenspace due to its limited size, private ownership, location and characteristics and it is asserted that there are much better, more valuable areas of greenspace within the locality (e.g. the land adjacent to Dubmire Working Men's Club).

As set out in the 'Representations' section of this report, Sport England initially objected to the proposed development on the basis that the proposals conflict with Exception E1 of its playing field policy, 'A Sporting Future for the Playing Fields of England' (which requires that an assessment demonstrates that there is an excess of playing fields in the catchment and the site

has no special significance for sport), particularly as the site is intended to be developed without being replaced.

Sport England's consultation response concedes, however, that it is impractical to try and bring the site back into a cricket-related use to address the shortfall in cricket pitches in the City and 'Coalfield' area. As such, the comments conclude by advising that Sport England would be prepared to withdraw its objection if an appropriate financial contribution could be secured which enabled some of the improvements to cricket provision in the PPP to be carried out.

To this end, and as set out in the 'Representations' section of this report, the applicant has worked with the Council's Sport and Leisure team and Durham County Cricket Club in order to determine an appropriate financial contribution which would assist in delivering improvements to cricket facilities in the area. As detailed, the applicant has produced a report which, informed by recommendations from Durham CC, suggests that a financial contribution of £42,000 be made in order to improve facilities at East Rainton Cricket Club, with £17,000 towards a new security fence and £25,000 towards providing an electricity supply to the changing rooms/clubhouse.

The new fencing would, it is considered, serve to allow any further investment at the Club to be better protected from vandalism and mean the clubhouse becomes a more practical space for storage of equipment, machinery and tools. The provision of electricity to the clubhouse, meanwhile, would allow for extended occupancy of the facility to enable maintenance and volunteer work and more generally enhance the appeal of the cricket ground and encourage its use.

Sport England has considered the report produced by the applicant and accepts that the proposed financial contribution towards improving facilities at East Rainton Cricket Club has been well-evidenced and will be of value in terms of its contribution to enabling an increase in capacity. Their objection has consequently been withdrawn on this basis.

Given the above, it is ultimately considered that the applicant has satisfactorily demonstrated that the prospect of the application site being used again for cricket is negligible. Its value as amenity greenspace is also very limited in its current condition and there is little likelihood of it being improved in order to provide a more valuable or usable area of public open space. As such, and whilst it is acknowledged that there are issues relating to the amount and quality of greenspace in the locality and pressures on existing cricket pitches in the 'Coalfield' area, it is considered that the proposals satisfy the test at paragraph 74 of the NPPF in that the applicant has provided an assessment which shows the site is surplus to requirements as a cricket pitch and as open space.

In addition, the applicant will, through the proposed financial contribution towards improving facilities at East Rainton Cricket Club, go some way to satisfying the objectives of the second test at paragraph 74 of the NPPF, in that the loss of the cricket pitch will be offset by improved provision at a suitable location.

Whilst there remains some conflict with the objectives of aforementioned policy L7 of the UDP, insofar as the proposed development would not deliver an alternative, equivalent provision of cricket facilities/open space, it is considered that the relevant policy guidance provided by the NPPF has been largely addressed.

As the NPPF represents the most up-to-date policy guidance in relation to this matter and as at least one of the tests set by paragraph 74 of the NPPF has been addressed by the applicant, it is considered reasonable to conclude that in this particular case, it is appropriate to give consideration to an alternative development of the application site.

(b) Proposed residential development considerations

To this end, the applicant is proposing a residential development of the site and particularly relevant to the consideration of such development proposals is section 6 of the NPPF, which is concerned with achieving the delivery of a wide choice of high quality homes. Paragraphs 47 and 49 of the NPPF are especially pertinent, with paragraph 47 stating that in order to significantly boost the supply of housing, Local Planning Authorities should:

- o 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;
- o 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;
- o Identify a supply of specific, developable site or broad locations for growth, for years 6-10 and where possible, for years 11-15;
- o 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;
- o Set out their own approach to housing density to reflect local circumstances.

Meanwhile, paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development and that 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), the NPPF demands that a 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 on-going 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. To this end, the Council has produced a Strategic Housing Land Availability Assessment (SHLAA), dated May 2016, which provides a speculative assessment of potential available housing land and serves to inform the assessment of five-year deliverable housing supply within the City for the purposes of producing a new Local Plan. It must be noted that the SHLAA is not a planning policy document, although as it informs the assessment of housing land supply, it can be a material consideration in determining planning applications for residential development.

To summarise, at this juncture the Council as Local Planning Authority cannot robustly demonstrate a five-year supply of housing land that has been subject to independent examination via a public enquiry. As such, and in line with the guidance of aforementioned paragraph 49 of the NPPF, the more up to date development management and housing policies in the NPPF must be given greater weight when considering this application than the housing policies in the Council's saved Unitary Development Plan.

With regard to local policy, as discussed above, the site is currently identified as open space/a playing field by the UDP proposals map. For the reasons detailed above, it has been concluded

as appropriate to give consideration to an alternative development of the site and in relation to this matter, a residential use of the site is considered to be acceptable given its location within a primarily residential area of Chilton Moor. Moreover, the proposal would serve to focus residential development within an existing built-up area and see the development of a site which is in close proximity to a range of shops and other commercial services and is well-served by good public transport links (i.e. bus routes along Front Street and Dairy Lane run to Houghton, Sunderland and Heworth).

The proposal would also accord with policy H1 of the UDP, which generally supports the provision of new housing in the City in order to maximise locational choice, reduce out-migration and increasing household formation, assist in regeneration objectives and, wherever possible, secure the re-use of vacant and derelict land.

In this regard, although the application site is not allocated for housing development by the UDP, it has been identified in the Council's 2016 SHLAA as being capable of accommodating up to 30 no. dwellings within a delivery period of 1-5 years. As such, the approval of planning permission for residential development of the site would serve to contribute positively to the supply of deliverable housing land in the City. Indeed, as the application proposes 45 no. dwellings, the development would in fact represent a greater contribution to housing supply than is otherwise identified by the SHLAA.

The implications of the proposed development in relation to land use issues have been given careful consideration in respect of the relevant national and local planning policies. In summary, and with reference to the comments provided above, it is considered that although the application site is allocated as open space/playing field, the applicant has demonstrated that the site is redundant as a playing field and has very limited value as open space. The loss of the cricket pitch will also be satisfactorily mitigated by means of the financial contribution towards improving facilities at East Rainton Cricket Club, an arrangement which Sport England considers to be acceptable. The proposal is therefore considered to address the relevant objectives of the NPPF and UDP in this regard. In these circumstances, it is appropriate to give consideration to alternative uses of the site and the proposed residential development is considered to be acceptable given the site's primarily residential context.

## 2. IMPACT OF DEVELOPMENT ON VISUAL AND RESIDENTIAL AMENITY

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. Also relevant in terms of residential amenity is policy EN6, which states that where noise sensitive development is proposed which is likely to be exposed to significant levels of noise, the applicant will be required 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. Such an approach is echoed by the guidance provided by paragraph 123 of the NPPF.

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, with the levels recommended dependent on the type of housing proposed (in terms of total numbers of bedrooms) and proximity to existing areas of open space. Also relevant is policy CN17, which seeks to protect valuable trees and hedgerows.

In terms of the visual amenity of the locality, as detailed above, the application site currently takes the form of open space in a rather unsightly condition. The site comprises poor semi-improved grassland with areas of scrub and light tree coverage and is used for informal horse grazing, which has denuded much of the grass cover. The boundary to Black Boy Road is bordered by large concrete blocks, designed to prevent trespass and misuse of the land. Given the site's condition, and in the absence of any likelihood of its current value as open space being materially improved, it is considered that the loss of this open space for residential development would not have an unacceptable negative impact on the visual amenity of the locality. Moreover, the proposed residential development would, broadly speaking, relate well to the predominantly residential surroundings of the site.

In terms of the site layout and built form of the development, broadly speaking the proposed development will be of a similar density to the recently-built housing to the north and west of the site (Avon Crescent and Medway Close) and is predominantly two-storeys in scale and as such, it will relate satisfactorily to its immediate context, in line with UDP policy H4's objectives. On a more detailed level, as noted in the 'Representations' section of this report, the amendments to the proposals have served to improve the treatment of the frontage to Black Boy Road (i.e. the originally-proposed three-storey properties have been replaced by two-storey dwellings) and improve activation to dwellings occupying corner plots within the development. Following these amendments, it is considered that the development is acceptable from a design quality perspective, subject to the imposition of conditions requiring the submission of the materials to be used in the development.

Whilst landscaping is a matter reserved for future approval, the submitted plans show that the entirety of the site will be developed and the existing trees around its edge will be removed. These trees are, however, all young or semi-mature and the Arboricultural Survey submitted with the application categorises all but two of the 13 no. surveyed trees as being of very low or low quality and amenity value (i.e. unlikely to make a contribution to amenity for more than 10 years and suitable for felling in order to allow development to proceed). The other two trees (a silver birch and a poplar) are of moderate value, but it is considered that their loss is acceptable in order to accommodate the residential development at the site.

Given the above, it is considered that the development will not result in the loss of any trees which make a significant contribution to the character and amenity of the area, in accordance with UDP policy CN17's objectives. In any case, the loss of these trees can be offset by new planting undertaken in association with the final landscaping proposals for the site.

In terms of open space provision within the development, it is recognised that this is limited in amount and nature as it primarily comprises small areas of incidental landscaping and the area containing the SuDS pond. Additionally, and as noted previously, there is a general shortfall of natural and semi-natural greenspace in the Chilton Moor, Dubmire and Fencehouses area. This is, however, largely offset by the proximity of these settlements, and the development site, to open countryside and the large country parks at Rainton Meadows and Elba Park. There are also areas of public open space adjacent to Dubmire Working Men's Club and a public playspace at Keir Hardie Park, just to the north of the junction between Chilton Moor Front Street and Dairy Lane. Given these arrangements, it is considered that the implications of the development in relation to open space provision are acceptable.

Allied to the above, it is considered that the proposed layout will afford prospective occupiers with a good standard of amenity, with all new dwellings afforded substantial areas of private external amenity space. In addition, spacing between the new dwellings largely accords with the recommendations set out in the Council's Residential Design Guide Supplementary Planning Document (SPD) (i.e. 21 metres between elevations containing main living room windows and 14



metres between elevations containing living rooms windows and blank elevations), an arrangement which ensures dwellings are afforded acceptable levels of privacy and main living room windows with a middle- to long-distance outlook.

Dwellings to the southern and eastern parts of the site are in close proximity to Black Boy Road and/or Chilton Moor Front Street which, given their busy nature, are considered to represent a potential source of noise which could affect the amenity of adjacent properties. In line with the requirements of policy EN6 of the UDP and paragraph 123 of the NPPF, the application has been accompanied by a Noise Assessment, which considers the level of noise generated by traffic along Black Boy Road and Front Street and assesses whether this will be likely to affect the amenity of the dwellings facing the road. As a guide, the Assessment cites the World Health Organisation's (WHO's) 'Guidelines for Community Noise', which recommends seeking to achieve daytime noise levels of 50-55dB(A) in residential areas. These levels should be reduced by 5-10dB for evening and night-time periods and lower noise levels are applicable for indoor environments.

The Assessment has undertaken a survey of noise levels and has concluded that on the basis of the proposed development layout, noise amelioration measures for appropriate enhancement of the sound insulation of noise affected properties is required. To this end, the Assessment has measured noise from road traffic noise at up to 62dB(A) during the daytime in respect of dwellings fronting Black Boy Road and 57dB(A) in respect of dwellings closest to the Front Street. Recommendations for amelioration measures are provided by the Assessment and could involve enhancements to glazing, ventilation and roofs/ceilings. Subject to final definitions and provision of appropriate measures, the Assessment concludes that the residents of the proposed dwellings will be provided with acceptable internal and external noise environments.

Given the conclusions of the Assessment, it is considered that the noise amelioration measures it recommends in respect of the dwellings fronting Black Boy Road and closest to Chilton Moor Front Street should be implemented, in order to ensure that the proposed development will afford prospective residents with acceptable levels of amenity and to accord with the requirements of policies B2 and EN6 of the UDP and the core principles and paragraph 123 of the NPPF. It is suggested that in the event Members are minded to approve the application, a condition requiring the submission and agreement of final noise amelioration measures is imposed.

In terms of the impact of the development on the amenity of existing nearby dwellings, it is considered that the separation distances between the new dwellings and existing properties is such that their living conditions will not be unduly harmed. Spacing of at least 14 or 21 metres is provided between the proposed dwellings and those to the west (at the end of Medway Close and fronting Black Boy Road), those to the south (on the south side of Black Boy Road) and to the north (off Avon Crescent). As such, it is considered that the new development will not result in any nearby dwellings experiencing any significant loss of outlook, privacy or being subjected to overshadowing/loss of light.

With reference to the above comments, it is considered that the impact of the proposed development on visual and residential amenity is acceptable and its implications in relation to urban design and open space considerations are also acceptable, in accordance with the requirements of policies CN17, B2, EN6, H4 and H21 of the UDP, the Council's Residential Design Guide SPD and the core principles of the NPPF.

### 3. IMPACT OF DEVELOPMENT ON HIGHWAY AND PEDESTRIAN SAFETY

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.

Also relevant is paragraph 69 of the NPPF, which sets out that the planning system should play an important role in facilitating social interaction and creating healthy, inclusive communities. It should, for example, promote safe and accessible environments and developments which contain clear and legible pedestrian routes. Paragraph 75, meanwhile, states that planning policies should protect and enhance public rights of way and access and that Local Authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks.

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.

It is acknowledged that objectors to the development have raised concerns in relation to the highways impacts of the proposed development. As set out in the 'Representations' section of this report, however, the Council's Highways team has raised no significant objections to the development in relation to highway and pedestrian safety and traffic generation and the proposals have been amended where necessary in order to address the minor areas of concern identified in the Highways team's consultation comments.

The Council's Highways team have requested that the developer makes a financial contribution towards improving the pedestrian crossing facilities at the junction between Black Boy Road and Chilton Moor Front Street, particularly as the Transport Statement submitted with the application relies heavily on pedestrian connectivity and accessibility to public transport in order to underpin the predicted low numbers of vehicular journeys associated with the development. To this end, the applicant has agreed to contribute £5,000 towards improving pedestrian crossing facilities at Front Street, to be delivered via a Section 106 agreement. This would add to the £70,000 towards junction improvements already secured via the S106 agreement associated with the recent approval for the residential development on land to the north of Redburn Row (Persimmon Homes development, app. ref. 14/01647/FUL).

The Council's Highways team would, ideally, have sought a greater financial contribution towards the pedestrian crossing improvements. The applicant has, however, demonstrated that the financial returns available from the proposed development are limited and on this basis, the amount offered is considered to be reasonable within the scope of the contributions the development is able to deliver and the contributions to be paid in relation to other areas (i.e. improvements at East Rainton Cricket Club and towards education provision). Further

assessment of the financial contributions to be delivered by the development is provided later in this report.

With regard to the comments provided by the Council's Highways team and for the reasons set out above, it is considered that the proposed development will not give rise to severe residual cumulative highways impacts. As such, the development does not conflict with the requirements of paragraph 32 of the NPPF, whilst the proposals also comply with the aims and objectives of policies T14 and T22 of the UDP and the recommended parking standards set out in the Council's 'Residential Design Guide' SPD.

#### 4. IMPLICATIONS OF DEVELOPMENT IN RESPECT OF ECOLOGY AND BIODIVERSITY

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.

As set out in the 'Representations' section of this report, the Council's Ecology team has not objected to the application. It is requested, however, that the final landscaping proposals for the site are designed to deliver nesting habitat and be wildlife-friendly. This should be addressed as part of any final proposals (landscaping being a matter reserved for future approval). Details regarding the number, type and location of bird boxes should be addressed as part of a full submission. The retention and inclusion of linear features into the landscaping scheme would also be preferred and if this is not possible, mitigation and compensation measures should be evidenced. It is considered that in the event Members are minded to approve the application, these matters can be satisfactorily addressed via the imposition of appropriately-worded conditions requiring the submission and approval of the relevant additional information.

Subject to such conditions, it is considered that the implications of the development in relation to biodiversity and ecology will be acceptable, in compliance with the requirements of section 11 of the NPPF and policies CN20, CN21 and CN22 of the UDP.

#### 5. IMPLICATIONS OF DEVELOPMENT IN RESPECT OF FLOOD RISK AND DRAINAGE

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, following initial consultation with the Council's Flood and Coastal team, was revised and improved. The FRA 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. Surface Water Flood mapping does identify that the existing site is subject to low flood-risk in its north-western corner, although this risk will likely be resolved through improved drainage at the site.

The Drainage Strategy, meanwhile, outlines what are considered to represent sustainable drainage schemes for the development and it has identified (due to site constraints such as poor site permeability and distance to an available watercourse) that discharge to a public sewer is the most appropriate form of surface water management for the development. Surface water would firstly be subject to on-site attenuation in order to ensure that greenfield discharge rates (4.41 l/s) are achieved. Attenuation would take the form of a SuDS pond, positioned adjacent to the western boundary of the site, together with measures such as constructing hard surfaces from free-draining interlocking blocks or SuDS free-draining concrete/tarmac and additional tree planting. The Strategy has calculated that the attenuation measures should be capable of accounting for up to 325m<sup>3</sup> of run-off water.

The Council's Flood and Coastal Team has considered the application details and, following the aforementioned revisions and improvements to the submitted FRA and Drainage Strategy, have advised that although there are still some areas where additional detail is required before development can commence, this could be dealt with via appropriately-worded conditions. In the event Members are minded to approve the application, it is recommended that conditions to this effect are imposed.

Subject to the imposition of such conditions, it is considered that the proposed drainage scheme will be acceptable and will result in the development being compliant with the aims and objectives of the aforementioned UDP policies, the NPPF and the DEFRA guidance in this regard.

## 6. IMPLICATIONS OF DEVELOPMENT IN RELATION TO GROUND CONTAMINATION

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.

The Phase I Desk Top Study submitted with the application has concluded that overall, the site represents a low environmental risk and that no 'credible' sources of contamination have been identified. It is, however, accepted that contamination could be identified during the development

and the report provides guidance for such an incidence. In any case, it is recommended that a full remediation strategy be prepared and submitted to the Local Authority for its approval prior to any development commencing. It is considered that this recommendation can, if Members are so minded, be addressed via the imposition of the suite of conditions which require the additional investigations to be carried out, followed by the submission of details of remediation and mitigation where necessary.

With regard to the above comments, it is considered that subject to the imposition of the recommended conditions, the implications of the development in respect of land contamination is acceptable, in accordance with the requirements of paragraph 121 of the NPPF and policy EN14 of the UDP.

## 7. SECTION 106 CONTRIBUTIONS

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 - planning obligations, which are usually secured via legal agreements under Section 106 of the Town and Country Planning Act 1990 (as amended), should only be used where it is not possible to use 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;

Paragraph 205, meanwhile, states that where obligations are being sought, Local Planning Authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled.

More detail in relation to viability considerations is provided by the Government's online resource, the National Planning Practice Guidance (NPPG). Paragraph 019 (reference ID: 10-019-2010306) of the NPPG sets out that when making decisions, Local Planning Authorities will need to understand the impact of planning obligations on the proposal and that where an applicant is able to demonstrate to the Authority's satisfaction that the planning obligation would cause the development to be unviable, the Authority should be flexible in seeking planning obligations. Applications should, however, still be refused if it is not possible to secure the safeguards required to make a development proposal acceptable.

Members should note at this stage that the applicant has undertaken a Viability Assessment (produced by Graham Hitchen Associates) in respect of the development proposals, which seeks to establish the financial return available from the development and thus inform the level of financial contribution it is able to deliver. The Assessment has revealed that the site is subject to a restrictive covenant in favour of the previous landowner, which serves to trigger a 50% 'clawback' provision in relation to the sale value of the land. The Council's Property Services team have considered the Assessment and accept its findings that the Section 106 contributions detailed below are the maximum able to be delivered by the scheme and are fair and reasonable in relation to the viability of the development.

With the abovementioned policy framework in mind, and having had regard to the consultation responses received from consultees within and outside the Council, it is considered that the proposed development gives rise to implications in respect of securing a mitigating payment in respect of the loss of the cricket pitch, education provision, highways improvements and

affordable housing, which are most appropriately resolved via securing contributions through a section 106 agreement.

As detailed earlier in this report, Sport England have withdrawn their initial objection to the planning application on the basis that the financial contribution of £42,000 towards improving facilities at East Rainton Cricket Club will satisfactorily mitigate the loss of the pitch. A greater contribution, informed by Sport England's costings for replacement cricket facilities, had initially been sought, but Sport England has accepted the contribution suggested by the applicant given the viability position and as the contribution has been supported by advice from Durham County Cricket Club and the Council's Sports and Leisure team.

Members should note at this stage that whilst the Council would normally expect a residential development of this nature to deliver on-site play space or make a financial contribution towards the upkeep of off-site play, such a contribution is not considered to be reasonable or necessary in this case given that the applicant is already making a contribution towards the improvement of a nearby sports and recreational facility.

In addition to the above, paragraph 72 of the NPPF states that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local Planning Authorities should take a proactive, positive and collaborative approach to meeting this requirement and should give great weight to the need to create, expand or alter schools and work with schools promoters to identify and resolve key planning issues before applications are submitted.

Furthermore, policy R3 of the UDP states that where the effects of a development would require additional off-site infrastructure or community facilities or where certain important features of the site are affected which cannot be controlled by planning conditions, the developer will normally be expected to enter into a planning obligation with the Council to enable suitable provision to be made.

To this end, the Council's Education and Lifelong Learning team has advised that a financial contribution towards school places in the locality should be requested and secured as part of a S106 agreement. A contribution of £140,000 has been calculated, based on the number of bedrooms being provided within the development. The applicant has confirmed their willingness and ability to make this contribution.

In line with the objectives of paragraph 50 of the NPPF and policy H16 of the UDP, the City Council will normally seek to secure the provision of affordable housing as part of new residential development involving 15 or more units. The usual requirement, as recommended by the Council's most recent Strategic Housing Market Assessment, is for 10% of units within a new development to be affordable, at a split of 80% social/affordable rent - 20% intermediate tenure. The applicant has agreed for 6 no. units within the development to be affordable, which represents 13.3% of the dwellings proposed, and these will be delivered at the desired 80/20 split (i.e. 5 no. affordable rent, 1 no. intermediate tenure).

The Council's Highways officers have also requested that the applicant provides a financial contribution towards pedestrian crossing improvements at the adjacent junction between Black Boy Road and Chilton Moor Front Street. Whilst no final figure for a contribution had been calculated, the applicant contended that it was not possible to make any contribution towards highway improvements given the limited margins available from the development and the commitments already made towards education, the cricket club and affordable housing contributions.

The applicant has, ultimately, confirmed a willingness to contribute £5,000 towards highway improvements, with a particular focus on improving pedestrian crossing facilities across Front Street. A greater sum would have been desirable; however, it has been considered essential that the developer makes a satisfactory contribution towards mitigating the loss of the cricket pitch, given that appropriate mitigation effectively underpins the principle of developing the site, and makes a full contribution towards school places, particularly given the ongoing pressure on school places arising from the amount of new housing being built in the wider Houghton area. It is also considered essential that the developer makes an appropriate contribution towards affordable housing provision in the area. In these circumstances, and given the limited margins available through the development, it is considered that the proposed contribution towards highway improvements is acceptable.

To summarise, a draft Section 106 agreement will be drawn up by the Council's Solicitor which is designed to secure:

- Contribution of £42,000 towards improving facilities at East Rainton Cricket Club, specifically the provision of security fencing and electricity to the clubhouse/changing rooms;
- Contribution of £140,000 towards education, to be invested in primary schools and academies within a 2-mile radius of the development site;
- Contribution of £5,000 towards highway improvements, particularly pedestrian crossing works;
- Provision of 6 no. affordable housing units on-site;

The terms of the agreement have been agreed by the applicant and it is consequently anticipated that the Section 106 agreement will be completed and sealed in the near future, although this will occur after the meeting of the Sub-Committee.

## CONCLUSION

In summary, the principle of housing development is considered to be acceptable in this location given the condition of the site and as the applicant is to make a satisfactory financial contribution to assist in mitigating the loss of the cricket pitch. The proposed residential development will also make a modest, but valuable, contribution to housing land supply in the City and to this end, the site is identified in the Council's most up-to-date SHLAA.

Furthermore, for the reasons set out above, the proposed development is considered to be acceptable in terms of urban design, visual and residential amenity, highway access and car parking, flood risk and drainage, ground conditions, ecology/biodiversity, education provision and affordable housing. Given that the proposed development has been found to be acceptable with regard to all relevant material planning issues, with regard to the overarching aims, objectives and detailed policies of the NPPF and with regard to the up-to-date relevant policies of the Council's UDP and 'Residential Design Guide' SPD, it is considered that the scheme will achieve the sustainable development sought by paragraph 14 of the NPPF and should therefore be approved.

To conclude, following examination of all relevant material planning considerations, it is considered that the proposal has clearly demonstrated that it is sustainable development and in light of the guidance provided by paragraphs 14 and 49 of the NPPF, which state that housing should be considered in the context of the presumption of sustainable development, it is recommended that subject to the signing of the proposed section 106 agreement (as detailed earlier in this report), planning permission should be approved in accordance with the conditions listed below.

## EQUALITY ACT 2010 - 149 Public Sector Equality Duty

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

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

- 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 the application, subject to the conditions set out below and the signing of an agreement under Section 106 of the Town and Country Planning Act 1990 (as amended).**



## Conditions:

- 1 An application for the approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall then be begun before the expiration of two years from the date of approval of the last reserved matters to be agreed, pursuant to the provision of Section 92 of the Town and Country Planning Act 1990, as amended by section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 Approval of the following details (hereinafter referred to as the reserved matters) shall be obtained from the Local Planning Authority, in writing before the development is commenced:

### Landscaping

Plans and particulars of the reserved matters shall be submitted utilising an appropriate planning application form and shall be carried out as approved. As the application is in outline only and no details have been submitted of the reserved matters set out above, they are reserved for subsequent approval by the Local Planning Authority.

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

site location plan (drawing no. 308-00);  
site topographic survey (drawing no. 180614CP-01);  
amended proposed site plan (drawing no. 308-04 f);  
amended proposed drainage plan (drawing no. 308-05 a);  
proposed house type A (drawing no. 308-12);  
proposed house type B (drawing no. 308-13);  
proposed house type C (drawing no. 308-14);  
amended proposed house type D (drawing no. 308-15 b);  
proposed house type E (drawing no. 308-16);  
proposed house type F (drawing no. 308-17);  
proposed sections (drawing no. 308-19);  
amended proposed streetscene elevations, sheet 1 (drawing no. 308-20 c);  
amended proposed streetscene elevations, sheet 2 (drawing no. 308-21 a);

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.

- 4 Notwithstanding any indication of materials which may have been given in the application, no development shall take place until a schedule and/or samples of the materials and finishes to be used for the external surfaces, including walls, roofs, doors and windows has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details; in the interests of visual amenity and to comply with policy B2 of the Unitary Development Plan.

- 5 No development shall take place until a scheme of working has been submitted to the satisfaction of the Local Planning Authority; such scheme to include days and hours of working, siting and organisation of the construction compound and site cabins, contractor parking, routes to and from the site for construction traffic, and measures to ameliorate noise, dust, vibration and other effects, and so implemented, in the interests of the proper planning of the development and to protect the amenity of adjacent occupiers and in order to comply with policy B2 of the UDP.
- 6 The construction works required for the development hereby approved shall only be carried out between the hours of 07.00 and 19.00 Monday to Friday and between the hours of 07.30 and 14.00 on Saturdays and at no time on Sundays or Bank Holidays, in order to protect the amenities of the area and to comply with policy B2 of the UDP.
- 7 No deliveries shall be taken at or despatched from the site outside the hours of 07:00 - 19:00 Monday to Friday, 07:30 - 14:00 on Saturdays, nor at any time on Sundays, Bank or Public Holidays to ensure that nearby properties are not adversely affected by the development and to comply with policy B2 of the UDP.
- 8 No dwelling hereby approved shall be occupied until its off-street parking provision has been constructed, surfaced, sealed and made available in accordance with the approved plans. Each respective parking area shall then be retained and permanently reserved for the parking of vehicles to ensure that adequate and satisfactory provision is made for the off street parking of vehicles and to comply with policy T22 of the UDP.
- 9 Notwithstanding the submitted plans, the development hereby approved shall not commence until a detailed scheme of ecological mitigation and enhancement has been submitted to and agreed in writing with the Council as Local Planning Authority. For the avoidance of doubt, the scheme shall be informed by the 'Recommendations' provided at pages 13 and 14 of the Preliminary Ecological Appraisal (produced by Urban Green, dated 23/03/2015) submitted with the planning application and it should include detailed proposals for the number, type and location of new bird boxes and proposals for ecological mitigation and compensation measures within the scheme. The submitted details shall also include a proposed programme for the implementation of the scheme, together with proposed measures to secure the ongoing maintenance and management of the proposed key biodiversity features within the scheme. The agreed scheme shall be used to inform the final landscaping proposals for the site (i.e. to be approved pursuant to condition 2 of this decision notice) and shall then be implemented and maintained in accordance with an agreed programme, in the interests of achieving appropriate biodiversity enhancements at the site and to accord with the objectives of section 11 of the NPPF and policy CN22 of the UDP.
- 10 Development shall not commence until a detailed scheme for the sustainable disposal of surface and foul water from the development hereby approved has been submitted to and approved in writing by the City Council as Local Planning Authority, in consultation with the Lead Local Flood Authority and Northumbrian Water. For the avoidance of doubt, the submitted scheme shall be informed by the 'Flood Risk and Outline Surface Water Drainage Assessment' (produced by Urban Green) and the Site Drainage Flood and SUDS overview plan (drawing no. 308-05 a) submitted with the planning application and shall include full drainage details, drawings and calculations and a programme for the ongoing management of the agreed scheme. The development shall then be carried out in complete accordance with the agreed details and the disposal system monitored for a period of two years from the completion of development. Any unforeseen problems caused

by the increase of surface water into the drainage system shall be rectified by the applicant to the written approval of the City Council. The scheme is required in order to minimise the risk of flooding from any sources and prevent flooding of adjacent railway infrastructure, in accordance with the requirements of paragraph 103 of the NPPF and policy EN12 of the UDP.

- 11 Unless otherwise agreed by the Local Planning Authority, no development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions number 12 to number 14 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition number 13 has been complied with in relation to that contamination. To ensure that risks from land contamination to future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy EN14 of the Unitary Development Plan.
- 12 Unless otherwise agreed in writing by the Local Planning Authority development must not commence until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site (site characterisation), whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
- (i) a survey of the extent, scale and nature of contamination;
  - (ii) an assessment of the potential risks to: human health property (existing or proposed) including building, crops, livestock, pets, woodland and service line pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments;
  - (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR11.' To ensure that risks from land contamination to future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy EN14 of the Unitary Development Plan.

- 13 Unless otherwise agreed by the Local Planning Authority, development must not commence until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation. To ensure that the risks from land

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

- 14 The remediation scheme approved under Condition number 13 (Submission of Remediation Scheme) must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimise, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy EN14 of the Unitary Development Plan.
- 15 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition number 12 (Site Characterisation), and when remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition number 13 (Submission of Remediation Scheme), which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared which is subject to the approval in writing of the Local Planning Authority in accordance with condition number 14 (Implementation of Approved Remediation Scheme). If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until this condition has been complied with in relation to that contamination. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks and in accordance with policy EN14 of the Unitary Development Plan
- 16 The development hereby approved shall not commence until a proposed noise amelioration programme in respect of the dwellings closest to Black Boy Road and Front Street (i.e. plot nos. 1-10, plots 29-32 and plots 39-45) has been submitted to and approved in writing with the Council as Local Planning Authority. For the avoidance of doubt, the programme shall be informed by section 6.0 of the 'Measurement and Assessment of Noise Levels', produced by Noise and Vibration Associates, June 2015, and the agreed measures shall be installed at each respective dwelling prior to their initial occupation and maintained as such thereafter for the lifetime of the development, in the interests of affording residents with an appropriate standard of amenity and to comply with the objectives of policy EN6 of the UDP and paragraph 123 of the NPPF.

**Reference No.:** 16/02103/FUL Full Application

**Proposal:** **Siting of storage container to rear of premises.  
(Retrospective).**

**Location:** 1 Model Terrace Penshaw Houghton-le-Spring DH4 7JH

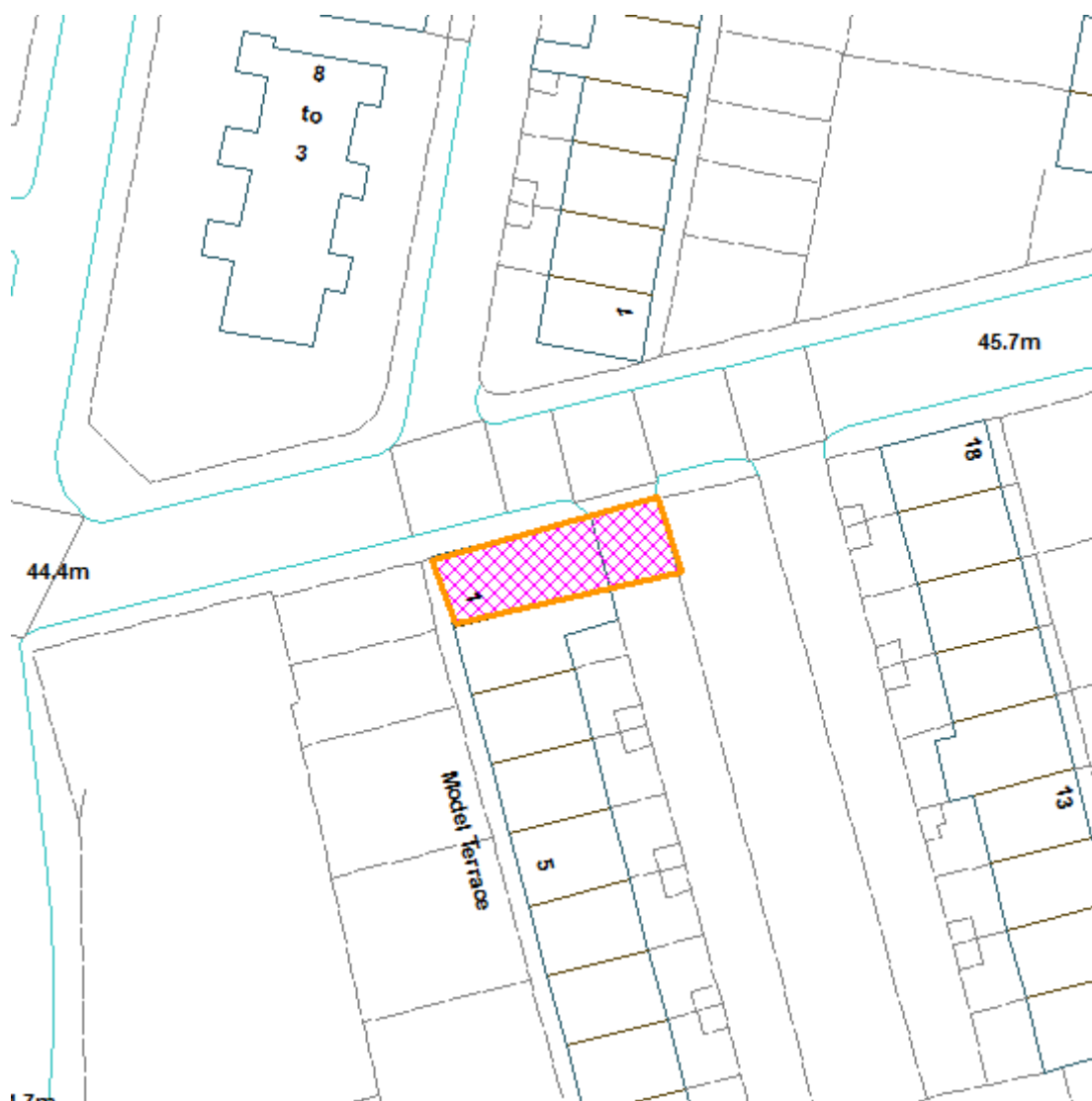
**Ward:** Shiney Row

**Applicant:** Mr Jayaratnam Arumugam

**Date Valid:** 5 April 2017

**Target Date:** 31 May 2017

### Location Plan



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### PROPOSAL:

The application site is a two storey end-terraced property with a retail shop on the ground floor and living accommodation above, situated on the corner of Model Terrace and Langdale Road. There are three similar short terraces whereby the gable end of the last property in the terrace abuts the footpath of Langdale Road, which runs at right angles to the terraces.

The fronts of the properties open onto a footpath which runs between the houses and their enclosed front gardens. The garden of the application site is unenclosed to allow an open frontage to the shopfront. To the rear, the properties have a small enclosed yard area, beyond which are open landscaped parking bays for each property. The rears are accessed via a short cul de sac formed by Model Terrace to the west and Woodland Terrace to the east. Some of the properties have small single storey extensions within the yard. The application site has a two storey flat roofed extension that occupies the whole rear yard area.

The proposal relates to the siting of a refrigerated storage container to the rear within the car parking area. The development has taken place therefore the application is retrospective. The use of the container is associated with the operation of the retail unit. This type of proposal would normally be determined under the powers delegated to the Chief Executive, however, given the objections received, the application has been referred for determination by the Development Control Sub-Committee at the request of a Councillor.

#### **TYPE OF PUBLICITY:**

Neighbour Notifications

#### **CONSULTEES:**

Shiney Row - Ward Councillors Consultation  
Network Management

Final Date for Receipt of Representations: **04.05.2017**

#### **REPRESENTATIONS:**

Network Management - no objections

Neighbours -

Five letters of objection have been received. The objectors' main concerns relate to;

- the container is detrimental to the visual amenities of the area,
- the applicant appears to be trading from the container,
- vehicles loading and unloading at the container is causing disturbance to nearby residents,
- the container is attracting vermin and resulting in an increased litter problem,
- the container is impeding access to the car parking space resulting in encroachment on neighbouring resident's land,
- the container is attracting youths to the site,
- the development is affecting property values in the area

The issues of property values, vermin and litter are not matters that can be addressed within the context of the planning application. Considerations relating to the other matters raised will be discussed in the main body of the report.

## **POLICIES:**

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

B\_2\_Scale, massing layout and setting of new developments

T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising

T\_22\_Parking standards in new developments

## **COMMENTS:**

In assessing the proposal the main issues to consider are the impact of the development upon the appearance of the host property and the street scene in general, the effect upon the residential amenities of the neighbouring properties, and the highway safety implications of the proposal.

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

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

Policy B2 of the Unitary Development Plan (UDP) requires the scale, massing, layout or setting of new developments and extensions to existing buildings to respect and enhance the best qualities of nearby properties and the locality and retain acceptable levels of privacy, whilst policies T14 and T22 seek to maintain acceptable levels of highway and pedestrian safety and provide new developments with appropriate levels of dedicated car parking respectively.

### **1. Impact of development on visual amenity**

The rear lane formed by Model Terrace and 10-18 Woodland Terrace takes the form of a short cul de sac with allocated parking bays separated by small landscaped edges and fencing. A number of trees and shrubs help to create a pleasant open feel to this otherwise residential area.

The container is a large white structure, commercial in nature and design, displaying corporate signage. It permanently occupies an area intended for the parking of vehicles in a very prominent position at the entrance to the street. The property already has a two storey extension that occupies the whole of the rear yard and the additional structure adds to the quantum of development at the site.

Its size, positioning, design and permanence are considered to be at odds with the residential nature of the street. Consequently, it is considered that the development has an unacceptable impact upon the visual amenities of the area through the introduction of an over dominant and obtrusive element in the street scene, and is unacceptable in this regard. The proposal fails to accord with UDP policy B2 in this respect.

## 2. Impact of development on residential amenity

The NPPF is clear in requiring new development to maintain an acceptable standard of amenity to existing surrounding properties, an aim which is echoed by UDP policy B2.

The properties opposite the site on Woodland Terrace have windows that offer a direct view of the development and it will be visible from properties adjacent to the site from a more oblique angle. Following any development, neighbouring properties should still have a reasonable outlook. It is considered that properties will now have a view of a large obtrusive structure of a commercial nature that is inappropriate in a residential setting. The consequent loss of outlook will have a detrimental impact upon the living conditions of the occupiers of these properties, contrary to UDP policy B2 in this respect.

The container is likely to result in an increased number of comings and goings to the rear of the site. Access to the container will be restricted when a vehicle is parked in the remainder of the parking area, so that activity associated with loading and unloading will shift from the rear of the premises spilling into the rear lane or Langdale Road. This is likely to lead to an increased level of disturbance to the nearby residents in an otherwise quiet cul de sac setting, to the detriment of their residential amenities and contrary to policy B2.

## 3. Impact of development on highway and pedestrian safety

In response to consultation, the Council's Network Management team has offered no objections to the development. It is noted that there is still sufficient room beside the structure for the parking of a vehicle on the allocated parking area.

Given the above, it is considered that the proposed development raises no significant highway and pedestrian safety or parking concerns, in accordance with the requirements of the NPPF and policies T14 and T22 of the UDP.

## CONCLUSION

With regard to the above comments, it is considered that the development introduces an over dominant and obtrusive element into the street scene to the detriment of the visual amenities of the area. The development results in a loss of outlook from neighbouring properties and an increased level of disturbance in the vicinity of the site resulting in an adverse impact upon the residential amenities of those properties.

However, the proposal raises no concerns in respect of highway and pedestrian safety and parking.

The proposal is therefore considered to be contrary to policy B2 of the UDP and is unacceptable. It is consequently recommended that the application is refused planning permission.

## 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.

## **RECOMMENDATION: Refuse**

### **Reasons:**

- 1 The proposed development, by reason of scale, design, and position, would introduce an uncharacteristic and obtrusive feature to the street, to the detriment of the character and appearance of the host property and the street scene and the visual amenities of the locality, in conflict with the requirements of the core principles of the NPP and policy B2 of the Council's adopted UDP.
- 2 The proposed development, by virtue of its size, design and positioning, will appear as a dominating feature in the streetscene and is likely to result in a significant deterioration in outlook from the neighbouring properties in the vicinity of the application site. The development will therefore have an unacceptable impact on the living conditions of the occupiers, in conflict with the requirements of the core principles of the NPP and policy B2 of the Council's adopted UDP.
- 3 The proposed development is likely to lead to an increased level of commercial activity within the vicinity of the site resulting in an unacceptable level of disturbance to nearby

residential properties to the detriment of their amenities, in conflict with the requirements of the core principles of the NPP and policy B2 of the Council's adopted UDP.

Reference No.: 16/02123/OU4 Outline Application Regulation 4

**Proposal:** Outline planning application for residential development of up to 141 dwellings with all matters reserved except access, which will be taken directly from Black Boy Road.

**Location:** Land At Black Boy Road Fence Houses Houghton-le-Spring

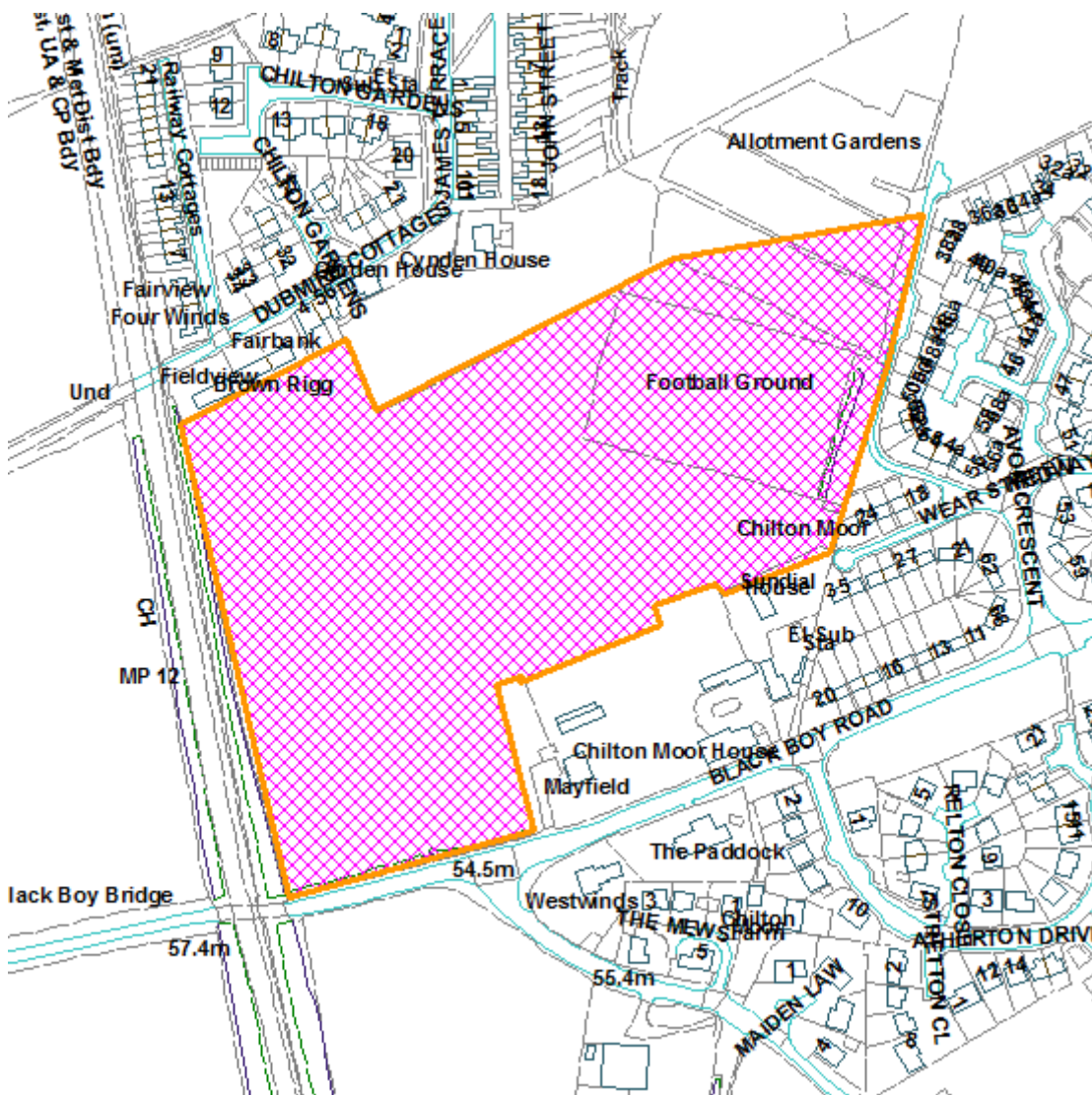
**Ward:** Houghton

**Applicant:** NEBDL And Story Homes Ltd

**Date Valid:** 2 December 2016

**Target Date:** 3 March 2017

## Location Plan



## PROPOSAL:

Outline planning permission is sought for residential development of up to 141 no. dwellings, with all matters reserved except access, on land at Black Boy Road, Chilton Moor, Houghton-le-Spring.

The proposed development affects an area of fields and grassed land to the north of Black Boy Road, immediately adjacent to the western edge of the existing built-up area of Chilton Moor. The application site is generally flat, of an irregular shape and covers a total area of approximately 4.77 hectares.

The northern boundary of the site is primarily bordered by allotment gardens, although the western end of the boundary is abutted by the rear gardens of dwellings known as Dubmire Cottages. The site's eastern and southern boundaries are bordered by the curtilages of dwellings to Wear Street, Avon Crescent and those fronting Black Boy Road, whilst the western boundary is bordered by the 'mothballed' Leamside railway line, which represents the boundary between the City of Sunderland and County Durham. Beyond the Leamside line is open agricultural land.

The bulk of the site currently comprises managed and unmanaged grassland used for informal grazing, although the north-eastern part (area of approximately 0.45 hectares) comprises a disused playing field (a senior football pitch). A small body of standing water intermittently appears in a lower-lying area at the northern, central part of the site. Vegetation within the site is fairly sparse, save for a few scattered hawthorn bushes, although there are belts of mature and semi-mature trees adjacent to the western and southern boundaries.

The application proposes the erection of up to 141 no. residential dwellings and has been submitted on behalf of Story Homes and North-East Building and Development Ltd. (NEBDL). The application has been submitted in outline form, with full approval sought only for the proposed access arrangements at this juncture. Matters relating to scale, appearance, layout and landscaping have been reserved for future consideration. The details submitted with the application indicate that the developer is willing to provide some affordable housing as part of the scheme.

Access into the development is proposed to be taken directly from Black Boy Road, immediately to the west of the boundary with the dwelling of 'Mayfield' and diagonally opposite Black Boy Road's junction with Redburn Row. The access into Mayfield from Black Boy Road is intended to be closed and the property's southern boundary re-aligned, in order to allow for modifications to the kerbline and footpath on the north side of Black Boy Road and permit improved eastward visibility from the new junction. A replacement access into Mayfield's curtilage will then be provided off the east side of the new access road into the development.

The abovementioned alterations to the northern side of Black Boy Road would combine with modifications to the junction with Redburn Row on its south side in order to achieve an appropriate relationship and spacing between the new access and the existing junction.

The supporting information submitted with the application also advises that it is intended to deliver a series of additional off-site highway improvements, involving the following measures:

- A traffic management scheme to Black Boy Bridge (which crosses the Leamside line at the south-west corner of the development site), to comprise traffic signals to control traffic movement and the narrowing of the carriageway so that traffic can only cross the bridge one-way at a time. The revisions to the carriageway will also allow for the provision of a footway on its northern side. Approaches to the bridge will be provided with anti-skid

surfacing, lighting and advanced warning signage, whilst the 30mph speed limit to Black Boy Road will be extended to the western side of the bridge;

- Provision of a traffic signal controls at the junction between Black Boy Road and Chilton Moor Front Street, to incorporate pedestrian crossing facilities, which will involve some widening of Front Street in order to create separate 'ahead' and 'right turn' lanes.

Although the layout of the proposed development is a reserved matter, the application has been accompanied by an indicative site layout plan. This shows a loop road around the development, with a westward branch terminating in two turning heads. The layout shows that it is proposed to create a frontage to Black Boy Road and that dwellings within the development would each have their own private rear gardens and in-curtilage parking spaces. The submitted details also indicate that the development is anticipated to provide a mix of 2, 3 and 4 bedroom homes comprising detached, semi-detached and terraced dwellings.

The indicative layout shows that an area of land adjacent to the site's western boundary, which measures approximately 0.4 hectares and acts as an easement for a water main, will be left as open space and planted with meadow grass. In addition, the site layout shows the provision of a Sustainable Drainage System (SuDS) pond within the north-eastern area of the site, which would be faced by surrounding dwellings. The information submitted with the application also sets out an intention to retain trees and hedges within and around the application site wherever possible, although it will be necessary to remove some trees (not protected by a Tree Preservation Order) in association with the provision of the new access arrangements. Retained trees and hedges would be supplemented by new planting throughout the site.

The layout plan also shows an intention for a strip of land along the northern boundary of the site to be withheld from development with a view to transferring the land to allow for garden extensions to the adjacent existing properties ('Fieldview', Brown Rigg', 'Fairbank' and 4 and 5 Dubmire Cottages).

The application was accompanied by the following supporting information:

- Application Summary Statement;
- Planning Statement;
- Design and Access Statement;
- Statement of Community Involvement;
- Transport Assessment (produced by Milestone Transport Planning);
- Framework Travel Plan (produced by Milestone Transport Planning);
- Preliminary Site Investigation (produced by Dunelm Geotechnical and Environmental)
- Ecology report (produced by BSG Ecology);
- Archaeological Desk-Based Assessment (produced by Durham University);
- Flood Risk Assessment and Drainage Strategy (produced by Portland Consulting);
- Pre-development Tree Survey and Arboricultural Impact Assessment (produced by Elliott Consultancy Ltd.);
- Landscape and Visual Strategy (produced by PDP Associates);
- Noise Assessment (produced by Apex Acoustics);
- Utilities Assessment;

Since the validation of the application, the applicant has also provided a range of additional supporting information, primarily in response to the consultation comments detailed in the next section of this report. The additional information provided includes an Open Space Assessment (produced by WYG), an updated Flood Risk Assessment and Drainage Strategy and further information to supplement the Ecology report and Transport Assessment.

Members should note that on receipt of the application, the Council undertook a 'screening' exercise in order to determine whether the proposed development falls within the remit of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended) and is likely to have such a significant impact on the environment so as to warrant the preparation of an Environmental Impact Assessment (EIA). Following the completion of the screening exercise and having taken into account the relevant selection criteria in Schedule 3 of the Regulations, it was concluded that the development is not 'EIA development' within the meaning of the Regulations and so the preparation of an EIA is not required.

Members may recall that the majority of the site (excluding the playing field) was subject to a planning application in 2007, which sought outline planning permission for the erection of 97 no. dwellings. The application, which was submitted by Yuill Homes Ltd, was refused planning permission on 28th November 2007 for reasons relating to:

1. The Council being able to demonstrate a 5-year supply of housing land, which includes more sustainable and sequentially-preferable sites for development;
2. Poor visibility provided by the new access into the site from Black Boy Road;
3. Concerns regarding the impact of additional traffic on the junction between Black Boy Road and Chilton Moor Front Street;
4. Concerns regarding the creation of additional traffic onto Redburn Road;
5. Poor pedestrian links to existing facilities in the area and lack of public transport to the site;
6. Potential negative impact on biodiversity without adequate mitigation being provided;

The applicant elected to lodge an appeal against the Council's refusal of planning permission which, following an inquiry, was dismissed by the Planning Inspectorate (appeal ref. APP/J4525/A/08/2062926). On dismissing the appeal, the Inspector considered that there was no justification for permitting residential development of the site given that the Council could, at that time, demonstrate more sequentially-preferable housing sites being available. The Inspector did conclude, however, that the site could be developed without having an unacceptable impact on highway and pedestrian safety, that the site was satisfactorily located in terms of access to local services and amenity and that the site could be developed without having an unacceptable impact on ecology and biodiversity.

Members may also be aware that the wider Chilton Moor area has been subject to a series of recent planning applications for residential development, including the following:

- 70 no. dwellings approved on land to the north of Redburn Row, site accessed via Black Boy Road and Atherton Drive (currently being developed by Persimmon Homes, app. ref. 14/01647/FUL);
- 27 no. dwellings approved on land to the south of Redburn Road (app. ref. 14/01804/OUT, reserved matters application not yet submitted);
- 45 no. dwellings on site of former Chilton Moor Cricket Club (app. ref. 15/00691/OUT, application is currently pending consideration).

#### **TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

#### **CONSULTEES:**

Network Management  
Houghton - Ward Councillor Consultation  
Environmental Health  
Northumbrian Water  
Flood And Coastal Group Engineer  
Network Management  
Southern Area Command - Police  
Environment Agency  
Tyne And Wear Archaeology Officer  
Sport England  
Durham County Council  
Natural England  
Nexus  
Network Rail  
Head Of Community Services  
Durham Wildlife Trust  
Parks \_ Open Space

Final Date for Receipt of Representations: **04.05.2017**

## **REPRESENTATIONS:**

Public consultation

A total of 7 no. letters of representation have been submitted in respect of the application, from the occupiers of 'Brown Rigg' (two letters), 'Garden House', 'Fairbank', 'Fieldview' (all Dubmire Cottages) and 4 and 5 Dubmire Cottages.

The objections from 'Fairbank', 'Fieldview', 'Garden House', 4 and 5 Dubmire Cottages and the first representation from 'Brown Rigg' take the form of duplicate template letters, each individually signed. The letter raises the following concerns:

- The proposals would result in the development of another greenfield site in the 'Coalfield' area;
- The proposals would negatively affect ecology and biodiversity without adequate mitigation and enhancement being provided;
- The proposals would result in the generation of additional traffic on the road network and the new access offers poor visibility. The proposals would therefore cause harm to highway and pedestrian safety;
- The proposals would exacerbate existing traffic problems at the junction between Black Boy Road and Chilton Moor Front Street;
- The proposals would result in additional traffic along Redburn Row, which is of sub-standard width and alignment and does not benefit from footways;
- The site is poorly linked to existing local facilities and public transport services;
- The site is in a critical drainage area and sees the collection of ground surface water. The proposals must therefore deliver assurances that existing surrounding properties would not be affected by flooding as a result of development;
- If the developer can overcome and mitigate the identified traffic and drainage issues, then the Local Planning Authority must consider the cumulative impact of the 'colossal' amount of new development in the local area;
- The offer of land to residents of Dubmire Cottages is considerate of the developer but does not compensate for the loss of privacy or views of the surrounding countryside;

- The need for housing is appreciated but this should be planned over many years, spread more equally around the City and prioritised on brownfield sites;

The second representation from 'Brown Rigg' states that:

- the development is too close to Dubmire Cottages;
- there is excessive traffic at present on Black Boy Road;
- schools are currently accommodating at full level;
- wildlife will be greatly affected;
- Black Boy Bridge is not suitable for excessive traffic;

#### Northumbrian Water

No objections to the proposed development, but it is requested that in the event planning permission is granted, a condition be imposed which requires the developer to submit a detailed scheme for the disposal of foul and surface water from the development. The submitted details must be accepted by the Council and Northumbrian Water prior to any development commencing.

#### Network Rail

The comments received acknowledge that the Council has long-term aspirations to reopen the currently-mothballed Leamside railway line. Network Rail considers the line to be operational and safeguarded for future re-use.

There is no objection to the principle of the proposed development, but Network Rail's comments set out a series of requirements which must be met by the development, both during and post-construction. It is requested that these matters be addressed via, as appropriate, conditions or informative notes attached to any planning approval.

#### Natural England

Natural England has no objections to the development in relation to statutory nature conservation sites. It is considered that provided the development is carried out in accordance with the submitted plans and details, it will not damage or destroy the interest features for which Joe's Pond Site of Special Scientific Interest (SSSI) has been notified. Therefore, the SSSI does not represent a constraint in determining the application.

The comments do not offer an assessment of impact on protected species and nor do they consider impact on local sites - these are matters for the Local Authority to consider with reference to Natural England's standing advice. The comments also highlight the national planning policies which set out that Local Authorities should look for opportunities to incorporate biodiversity enhancement measures into new development.

#### Sport England

Sport England initially lodged an objection to the application on the basis that the proposed development would lead to the complete loss of a playing field (i.e. the football pitch to the north-eastern part of the site) without any replacement provision being proposed. The consultation comments acknowledge, however, that as the playing field in question has not been used for at least five years, the consultation with Sport England is non-statutory.

Sport England's comments highlight that although the field affected by the development has not been used for a significant period of time, it cannot be presumed as being surplus to requirements



(as concluded by the applicant's Planning Statement) and there being an absence of need for the field. Whether a surplus exists can only be determined by an account of wider community needs and demonstrated through a robust assessment of supply and demand. Until this has been shown to be the case, Sport England would consider that the development fails to comply with exception E1 of its playing field policy ('A Sporting Future for the Playing Fields of England') and the objectives of paragraph 74 of the National Planning Policy Framework.

Subsequent to the receipt of Sport England's objection, the applicant undertook an Open Space Assessment, which seeks to determine the value of the playing field affected by the development and is informed by up-to-date local data and documentation, including the Council's Playing Pitch Plan (PPP) of January 2015 and Greenspace Audit and Report (published in July 2013). The Assessment concludes that the proposal will not result in the loss of a senior football pitch in active use, for it has already gone (the last use is concluded as being at some time between 2001 and 2005), and that there will not be a negative impact upon access to playing pitches in the Coalfields given that the PPP identifies a surplus of playing field provision for senior football within this area.

The Assessment does, however, set out that as the proposals do not involve the provision of any replacement playing field facilities, the applicant is willing to offer a financial contribution towards the improvement of existing senior football facilities in the Coalfields.

Sport England has considered the Assessment provided by the applicant and, at first, maintained the view that the applicant has not demonstrated a surplus of playing pitch provision as the Assessment has focussed too narrowly on adult football pitches and not pitch provision for junior football and other sports. The Council's Sport and Leisure team has, however, provided some additional information regarding the Council's plans to rationalise playing field facilities across the City, a programme which is likely to see artificial and grass pitch provision focused on a number of 'hub' sites catering for all forms of adult and junior football. It has also been suggested that were the applicant to provide a financial contribution to assist in mitigating the loss of the playing pitch, the contribution would be best put towards the Council's new programme.

Sport England has given further consideration to the information supplied by the Council and whilst it is recognised that the new programme is anticipated to deliver considerable capacity for football, it has yet to be realised. Furthermore, the programme relates directly to football and it has not yet been determined whether other sports will benefit from the programme. It is therefore maintained that exception E1 has not been satisfactorily addressed as a surplus has not yet been realised.

It is, however, considered that if the applicant is able to make a financial contribution to cover the delivery of a replacement adult football pitch (should it be resolved as required), then Sport England will be able to withdraw their objection on the basis that the proposals would meet exception E4 of its policy document (which allows for a playing field to be lost if it is to be satisfactorily replaced). Any such contribution should be secured via an agreement under section 106 of the Town and Country Planning Act 1990 (as amended).

Nexus (Tyne and Wear Passenger Transport Executive)

Nexus initially objected to the development on the basis that none of the site is within 400m of a bus service or 800m of a Metro station. Furthermore, it is not obvious how the development could be brought within 400m of bus stops to provide connections within Sunderland and beyond. The proposal therefore conflicts with the objectives of Nexus' Planning Liaison Policy.

Following receipt of Nexus' objection, the applicant's transport consultant has produced additional information and a supporting indicative plan to demonstrate that subject to the provision of a pedestrian link between the development and an existing lane and footpath running to the rear of Avon Crescent, the bus stops in the centre of Chilton Moor will be within 340m walking distance. Furthermore, by using alternative routes, including via the main site access, other bus stops are within 600m walking distance of the site. The additional information also notes that the Transport Statement submitted with the application stresses that the layout of the proposals will be developed to maximise permeability for walking and cycling and that all streets, footpaths and footways will be interconnected and direct and accessible to all users.

Nexus has considered the additional information provided by the applicant and whilst it is maintained that the majority of the site is not within 400m walking distance of bus stops, it is considered that the developer has done everything reasonably practical to improve walking links to bus stops for prospective residents. In reaching this conclusion, Nexus has considered the size and geographic location of the site and considers that any changes to the local bus network to accommodate the development would be of detriment to other bus users.

It is advised, however, that in order to incentivise the use of buses and overcome the potential barrier caused by walking distances, Nexus requires that two four-weekly Network One All Zone travel passes be provided to each new dwelling being delivered at the site (a measure set out in the Nexus Planning Liaison Policy document in respect of developments of over 50 dwellings).

#### Tyne and Wear County Archaeologist

The County Archaeologist has noted that the Desk-Based Assessment submitted with the application concludes that prehistoric or Roman features could potentially exist at the site because it has never been developed. The site lies between the medieval settlements of Houghton and Morton and was probably in agricultural use during this period. Buried archaeological remains could therefore survive at the site.

It is consequently advised that in the event planning permission is granted by the Council, conditions be imposed which require the undertaking of fieldwork, followed by the publication of a report into the results of the fieldwork, ahead of the submission of an application for reserved matters.

#### Council's Flood and Coastal team (in capacity as Lead Local Flood Authority)

The consultation response received from the Council's Flood and Coastal team initially recommended that the planning application be refused on the basis that the Flood Risk Assessment and Drainage Strategy (FRA) submitted with the application calculates the site's greenfield run-off rate on the whole site area, rather than impermeable site area, and as such may underestimate its storage capacity. Furthermore, there is no confirmation of a point of discharge and no provision of source control SuDS.

Following further discussions between the Council's Flood and Coastal team and the applicant's drainage consultant, the FRA has been updated and additional supporting information has been provided. The Council's Flood and Coastal team has advised that the proposals are now acceptable from a flood-risk and drainage perspective and that their initial objection to the application can be withdrawn. It is requested, however, that a condition be imposed which requires detailed design of the drainage strategy, together with confirmation of management responsibilities, to be submitted and agreed with the Council ahead of the development being commenced.

## Council's Urban Design team

As noted at the outset, the application has been submitted in outline form, with all matters apart from access reserved for future approval, and the Council's Urban Design team have provided comments relative to the information available at this time. The comments received offer no significant objections to the proposals, with the indicative proposals considered to show a development which would relate satisfactorily to its context and surroundings. The proposed access and parking arrangements within the development are also considered to be appropriate. It is recommended, however, that the developer deliver the footpath link through to Avon Crescent, in order to provide the most direct pedestrian route to the services and amenities of Chilton Moor Front Street.

A more detailed appraisal of the scheme's design quality can be provided at such a time that an application for reserved matters is submitted for the Council's consideration.

## Council's Highways team

The Council's Highways officers have given the proposals careful consideration and provided detailed comments in respect of the scheme. These are summarised below:

- Visibility in respect of the new access is acceptable, as is relationship between site access and existing junction between Black Boy Road and Redburn Row, subject to provision of proposed modifications to existing junction, appropriate new road signage and reinstatement of the footway over closed driveway to Mayfield;
- Additional traffic calming should be provided to assist in enforcement of new speed limit for Black Boy Road;
- Principle of proposed signalisation of junction between Front Street and Black Boy Road is acceptable subject to detailed design being agreed. The design should take into account the access into the housing development proposed on the site of the adjacent Chilton Moor Cricket Club site. The works should be secured either via an agreement under section 278 of the Highways Act or section 106 of the Town and Country Planning Act;
- Proposals to signalise Black Boy Bridge and introduce speed limit reduction are acceptable subject to final designs being agreed in conjunction with Durham County Council;
- Recognised that Redburn Row may be subject to additional traffic and that this route may need to be subject to traffic management measures, such as a speed limit reduction, and improvements to pedestrian and cycle facilities;
- The Transport Assessment should consider other committed development in the vicinity of the site;
- Although the development is not likely to warrant the provision of a new bus service, consideration should be given to improving bus infrastructure or the provision of new bus stops in the vicinity;
- Pedestrian and cycle access to local centres and amenities is considered to be poor;

The comments provided above were relayed to the applicant and a meeting held to enable further discussion. Additional discussions have also been held between the applicant's transport consultant and the Council's Highways officers. Subsequent to this meeting, the Council's Highways officers have provided the following, updated assessment of the situation in respect of the highway and pedestrian safety implications of the development:

## Black Boy Road/Front Street Junction

The developer is to fund the installation of a traffic signal controlled junction along with S106 funding contributions provided by the Persimmons development at Redburn Row. Further S106 funding contributions are to be sought from the Chilton Moor Cricket Club proposal.

A preliminary design has been submitted as part of the application. This design includes for pedestrian crossing facilities on all three arms off the junctions with pedestrian refuges provided on Front Street and Black Boy Road. An access has been retained to allow for the nursery; however this will need to accommodate the proposed residential scheme on the former Chilton Moor Cricket Club site.

A detailed scheme will need to be submitted for approval prior to commencement of the development. The junction improvements will be subject to a Section 278 Agreement and will require a Stage 1 /2 Road Safety Audit to be undertaken as part of the detailed design.

#### Black Boy Road/Redburn Row Junction

To achieve junction spacing and visibility splay requirements the developer will be required to fund alterations to the kerb radii at the junction of Black Boy Road and Redburn Row. The alterations also include the construction of new footways and dropped kerb pedestrian crossing points with tactile paving provided.

A detailed scheme will need to be submitted for approval prior to commencement of the development. The junction improvements will be subject to a Section 278 Agreement and will require a Stage 1 /2 Road Safety Audit to be undertaken as part of the detailed design.

#### Black Boy Road Bridge

A detailed scheme will need to be submitted for approval prior to commencement of the development. The improvements will be subject to a Section 278 Agreement between the developer with both Sunderland and Durham County Council, and will require a Stage 1 /2 Road Safety Audit to be undertaken as part of the detailed design. Durham County Council and Durham Constabulary have agreed to the proposal.

A build-out and dropped kerb crossing will also be provided on the north side of Black Boy Road to the east of the bridge to provide a connection to a new footpath link to Houghton bridleway.

#### Site Access

As previously noted, the reduced visibility splay provision meets with changes in guidance on design requirements for residential developments. However, to address road safety concerns, the proposed access arrangements are considered to be acceptable on the basis of a number of mitigation measures being introduced. These are the alteration to the kerb radii at the junction of Black Boy Road and Redburn Row, the introduction of traffic signal control on the Black Boy Road Bridge, and a reduction in the speed limit from national 60mph to 30mph. The new access and internal road layout, footways, visitor parking, and street lighting will be subject to a Section 38 Agreement.

#### Footpath Link

A new footpath is proposed to be provided by the development through the area of open space to the immediate west of the site. This will connect Black Boy Road and Houghton Bridleway which follows a route to the eastern side of the railway line.

The works to Black Boy Road Bridge and the speed limit reduction will need to be implemented no later than the occupation of the 50th dwelling.

#### Redburn Row

A road safety scheme is to be introduced on Redburn Row, which is proposed to include a speed limit reduction and traffic management measures. This scheme is to be designed and implemented by the Council with S106 funding and will require consultation with residents, Ward Councillors and statutory bodies.

#### Sustainable Development

Concerns were previously raised concerning the poor connectivity between the development site and local amenities and public transport (bus services). It should be noted that no bus services operate along Black Boy Road, with the nearest stops located on Front Street and Dairy Lane. To address these concerns raised both by the Council and Nexus, the developer has amended the site layout to include a footpath connection to Avon Crescent to the east. A dropped kerb crossing will be required at the eastern connection of the footpath on both sides of the road.

The provision of this footpath link while not overcoming all of the connectivity issues will at least enable a route for pedestrian movement through the development to assist with access to bus services and the local centre on Front Street.

#### Section 106 Highway Contributions

The developer is to fund the proposed off-site highways improvements to signalise the Black Boy Road/Front Street junction, signalise the approaches to the Black Boy Road Bridge, alterations to the junction of Black Boy Road/Redburn Row junction, two pedestrian refuge build-outs, a new bus stop and the associated changes to traffic management.

The funding is intended to be secured through a section 106 Agreement, but will need to be delivered through a section 278 Agreement in order to secure approval of the detailed layouts and designs and arrange the construction of the highway improvements.

With regard to the above comments, as can be seen, the Council's Highways officers have no significant concerns in respect of the proposals. With reference to the funding for the various highways improvements, the applicant has agreed to make a financial contribution of £246,000 to cover the cost of the works in question. This would be secured via an agreement under section 106 of the Town and Country Planning Act and delivered by an agreement under section 278 of the Highways Act.

#### Council's Natural Heritage team

The comments provided by the Council's Natural Heritage team advise that the application site forms part of an area of open countryside which provides a buffer for, and connectivity with, Rainton Meadows, Morton Wood and Redburn Marsh Local Wildlife Sites and Rainton Meadows Nature Reserve and that the potential impact on these sites has not been satisfactorily considered by the applicant's Ecology Report. The application site also has some features of actual and incidental biodiversity interest, namely bats, birds and trees/hedgerows (the ephemeral pond is not considered to be of significant value). Habitats and species in the wider area are also under pressure from other recently-approved and recently-built housing developments.

It is considered that the indicative layout provided with the proposals is poor from an ecology and biodiversity perspective and may lead to a net loss of biodiversity. Moreover, it is considered that both the proposed SuDS pond and area of open space to the western side of the development (which would be abutted by new dwellings and may be under pressure from residents seeking to enlarge their rear gardens) are unlikely to offer any meaningful mitigation or enhancements in respect of biodiversity.

It is consequently advised that a more detailed landscaping and ecological mitigation strategy is required, to include further details of habitats to be retained, together with measures to secure their long-term management. Further detail of the design of the proposed SuDS pond is also required, to ensure that its ecological and biodiversity benefits can be maximised. It will also be necessary for the developer to enter into an agreement under section 106 of the Town and Country Planning Act to secure a financial contribution towards mitigating impacts on off-site habitats (i.e. the nearby Local Wildlife Sites).

The comments provided by the Council's Natural Heritage team were relayed to the applicant's agent, who in response disputes the view that there will be a net loss of biodiversity given that the Ecology Report submitted with the application concludes that the application site is of poor quality and that all features of ecological value will be retained. The agent also suggests that the corridor of the Leamside rail line provides the most valuable commuting route and that a buffer will be provided to this area. It is also pointed out that as the area of open space to the west of the site acts as a utilities easement, it would not be possible for property owners to extend their rear gardens.

The applicant's ecology consultant also provided some additional information regarding the potential impacts of the proposals on nearby LWSs (i.e. Morton Wood (in County Durham), Rainton Meadows and Redburn Marsh). The report recognises that the development will result in an increase in population, a proportion of whom will choose to walk in the local area, but it is concluded that as public access to the LWSs is limited, significant adverse effects on these sites are unlikely to occur.

The applicant's consultant has also produced an overview of principles to inform the landscaping scheme in respect of the development (to be submitted as part of any subsequent reserved matters application), designed to maximise the delivery of biodiversity benefits within the site. The recommended measures include: the retention of all boundary trees and shrubs where feasible; the provision of compensatory and additional planting; maximising the biodiversity benefits of the SuDS pond through informed design and the planting of appropriate species in respect of the 'wildflower meadow'.

The Council's Natural Heritage team has considered the views of the agent and the additional information provided by their ecology consultant and continues to express concern in relation to the biodiversity impacts of the development.

The Natural Heritage team has also provided details of a suggested S106 contribution in respect of the proposals - a figure of £83,000 has been suggested, which would assist in mitigating potential impacts on Rainton Meadows Nature Reserve and LWS and cover the installation of additional fencing to control access to grazing areas, the provision of new signage and waymarkers at external access points and the funding of additional staff presence at the sites. The applicant has agreed to making this contribution and in the event planning permission is granted, the contribution would be secured via an agreement under section 106 of the Town and Country Planning Act.

## Council's Education Team

The Council's Education Team has requested that the developer provides a financial contribution to support the delivery of additional school places and facilities anticipated to be required as a result of the development. As the number of dwellings to be delivered and mix of house types within the development has not yet been agreed, the contribution would be calculated using the following formula (which is used by the Council in respect of such agreements for development throughout the City):

- £750.17 per two-bedroomed dwelling;
- £3,147.60 per three-bedroomed dwelling;
- £3803.35 per four-bedroomed dwelling;

The financial contribution would be secured via an agreement under s106 of the Town and Country Planning Act.

## **POLICIES:**

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

EN\_10\_Proposals for unallocated sites to be compatible with the neighbourhood  
EN\_11\_Restrictions upon new development or intensified use of land liable to flooding  
EN\_12\_Conflicts between new development and flood risk / water resources  
EN\_14\_Development on unstable or contaminated land or land at risk from landfill/mine gas  
L\_4\_Standards for outdoor sport and recreation  
L\_5\_Ensuring the availability of Public Parks and amenity open space  
L\_7\_Protection of recreational and amenity land  
EN\_6\_Limit exposure of new noise/vibration sensitive developments to existing sources  
H\_1\_Provision for new housing  
H\_4\_Density of housing development to at least reflect that of the locality  
H\_16\_Negotiation for affordable housing in major developments  
H\_21\_Open space requirements in new residential developments (over 40 bed spaces)  
R\_3\_Infrastructure provision, etc. in association with developments  
B\_2\_Scale, massing layout and setting of new developments  
B\_3\_Protection of public/ private open space (urban green space)  
B\_14\_Development in areas of potential archaeological importance  
CN\_17\_Tree Preservation Orders and replacement of trees  
CN\_20\_Developments affecting designated/proposed SSSI's  
CN\_21\_Developments affecting designated / proposed LNR's, SNCI's or RIGS  
CN\_22\_Developments affecting protected wildlife species and habitats  
T\_10\_Protect footpaths; identify new ones & adapt some as multi-user routes  
T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising  
T\_16\_Protect routes of existing & former railways with potential use as communication corridors  
T\_22\_Parking standards in new developments

## **COMMENTS:**

## ISSUES TO CONSIDER

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) of the Act), 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 are 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 and paragraphs 7 and 8 therein explain that there are three dimensions to sustainable development - economic, social and environmental - and that these are mutually dependent, so that gains in each should be sought jointly and simultaneously. Paragraph 9, meanwhile, states that pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life, including (but not limited to):

- Making it easier for jobs to be created in cities, towns and villages;
- Moving from a net loss of biodiversity to achieving net gains for the future;
- Replacing poor design with better design;
- Improving the conditions in which people live, work, travel and take leisure; and
- Widening the choice of high quality homes.

Paragraph 14 goes on to explain that the presumption in favour of sustainable development should be viewed as a 'golden thread' running through both plan-making and decision-taking and means that when determining planning applications, authorities 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 footnote to paragraph 14 advises that those policies relating to, for example, protected wildlife sites, Green Belt, Local Green Space (a formal designation led by local communities through new local plans and neighbourhood plans), Areas of Outstanding Natural Beauty, Heritage Coasts, National Parks, designated heritage assets and locations at risk of flooding or coastal erosion are relevant in respect of paragraph 14 (b).

Paragraph 17 of the NPPF also sets out a series of 12 'core planning principles' which should underpin plan-making and decision-taking and are considered to contribute to the over-arching aim of delivering sustainable development. Particularly relevant in this case are the principles that development should:

- proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;
- encourage the effective use of land by re-using land that has been previously developed (i.e. brownfield land);
- always seek to secure a high quality of design and a good standard of amenity;
- take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside;



- take full account flood risk and coastal change;
- actively manage patterns of growth to make fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable; and
- contribute to conserving and enhancing the natural environment.

These core principles of the NPPF feed into policies EN10, EN11, EN12, EN14, L4, L5, L7, EN6, H1, H4, H16, H21, R3, B2, B3, B14, CN17, CN20, CN21, CN22, T10, T14, T16 and T22 of the Council's adopted Unitary Development Plan (1998), which are relevant to the consideration of this application.

With reference to the above national and local planning policy background, it is considered that the main issues to examine in the determination of this application are as follows:

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

1. The principle of the proposed development;
2. The principle of developing agricultural land;
3. The impact of the development on visual and residential amenity and urban design considerations;
4. The impact of the development in respect of highway and pedestrian safety;
5. The impact of the development in respect of ecology and biodiversity;
6. The implications of the development in respect of trees;
7. The impact of the development in respect of flooding and drainage;
8. The impact of the development in respect of ground conditions;
9. The implications of the development in respect of archaeology;
10. Contributions required under Section 106 of the Town and Country Planning Act 1990 (as amended);

## 1. PRINCIPLE OF DEVELOPMENT

### (a) Playing field/open space considerations

In order to establish the principle of the proposed development, it is firstly necessary to consider the land use allocation of the application site. To this end, as highlighted previously, part of the development site is a disused playing field and this is identified as an area of existing open space on the proposals map of the Council's adopted UDP. As such, policies B3, L4, L5 and L7 therein are applicable.

Policy B3 seeks to protect valuable areas of public and private open space from development which would have a serious adverse effect on its amenity, recreational or nature conservation value. Proposals will be considered in the light of their contribution to urban regeneration and to the importance of such space to the established character of the area.

Policy L7, meanwhile, sets out that land allocated for open space or outdoor recreation will be retained in its existing use; permission for other uses will only be granted if:

- (i) Alternative provision, of an equivalent scale, quality and accessibility is made which assists the achievement of the standards indicated in policies L4, L5 and L6 of the UDP; or
- (ii) The development is for educational purposes; and
- (iii) There would be no significant effect on the amenity, recreational and wildlife habitat value of the site;

Access to such areas of open space will also be protected from alternative development.

Policy L4, which is referred to within the text of policy L7, sets out the Council's aspirations in respect of outdoor sport and recreation provision during the Plan period (anticipated as being until 2006), with priority given to achieving a long-term standard of 1.6-1.8ha of such space per 1000 population. Policy L5 seeks to ensure that public parks and open spaces are available and located so as to be of greatest benefit to the public and that in areas of deficiency, the Council will seek to bring vacant and derelict sites into use. Policy L6, meanwhile, sets out that the Council will seek to develop a hierarchy of playspace provision for children.

In terms of national planning policy, paragraph 73 of the NPPF states that local planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision and that such assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required.

Paragraph 74 continues by advising that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- o an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- o the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- o the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

It should be noted that there are some differences between the exception 'tests' set out by policy L7 of the Council's UDP and paragraph 74 of the NPPF. In particular, the NPPF policy advises that the development of open space/playing fields can be acceptable if the site is surplus to requirements. In this situation, and in line with the advice of paragraph 14 of the NPPF, the policy guidance provided by the NPPF should be given precedence.

In line with the requirements of paragraphs 73 and 74 of the NPPF, the City Council has undertaken a Greenspace Audit. The Audit has not identified any part of the application site as forming part of the Chilton Moor/Fencehouses area's greenspace provision, although it does highlight wider issues relating to the quality and quantity of the greenspace available in the locality. The Audit also considers the situation in respect of playing fields across the City; it does not, however, prioritise the delivery of new pitches in the wider 'Coalfields' area or the narrower Chilton Moor/Fencehouses area.

Also of relevance in this case is the Council's Playing Pitch Plan (PPP) of January 2015, which is designed to provide a clear, strategic framework for the maintenance and improvement of existing outdoor sports pitches and ancillary facilities between 2014 and 2019. The PPP provides an analysis football pitch provision across Sunderland and concludes that there are issues relating to pitch quality, overplay and spare capacity across the City, with overplay/shortfall being a particular issue in the 'Coalfields' area.

The Plan considers addressing overplay/shortfall issues by developing '3G' artificial grass pitches (AGPs), which are much easier to maintain once installed. To this end, and as noted earlier in this report, the Council's Sport and Leisure team are intending to progress a programme of rationalising the Council's football pitch offer by delivering 'hub' sites, which will accommodate 3G pitches to operate alongside retained grass pitches.

It should be noted, however, that the playing pitch at the application site is not identified by the PPP as forming part of the 'Coalfields' area's playing pitch offer and nor has it been identified as a 'lapsed' pitch.

To summarise the planning policy position, as is clear, the relevant local and national policies detailed above seek to ensure that land which is used or allocated as open space or playing fields is retained in such a use, unless certain circumstances are applicable. To help inform the consideration of development proposals of this nature, the Council has produced assessments of both green space and playing pitches within the City and the two assessments identify issues in relation to the amount and quality of green space in the area around the development site and overplay/shortfall of football pitches in the Coalfields area.

The Planning Statement submitted with the application recognises the open space designation of the north-east part of the application site, but simply considers that as the playing field within the allocated area of open space has not been used for an extended period of time, it should be viewed as being surplus to requirements. As such, the proposals are concluded as complying with the objectives of paragraph 74 of the NPPF, in that the development affects a playing field which is surplus to requirements, and policy L7 of the UDP, in that the development will not result in a significant effect on the amenity, recreational and wildlife habitat value of the site.

As set out in the 'Representations' section of this report, Sport England initially objected to the proposed development on the basis that the proposals do not satisfy Exception E1 of its playing field policy, 'A Sporting Future for the Playing Fields of England' (which requires that an assessment demonstrates that there is an excess of playing fields in the catchment and the site has no special significance for sport), particularly as the site is intended to be developed without being replaced.

In response to this objection, the applicant produced a more comprehensive overview and assessment of playing pitch provision in the locality and wider 'Coalfields' area, which concludes that the redevelopment of the application site for residential purposes will not materially harm the supply of playing pitch provision in the locality, particularly as the pitch at the site has long since ceased to be operational. The applicant has, however, expressed a willingness to make a financial contribution towards mitigating the loss of the pitch. Furthermore, whilst the Council's Sport and Leisure team have also provided Sport England with some further information in relation to its intended programme for rationalising the playing field offer in the City by developing 3G pitches at hub sites.

Sport England's consultation response maintains the view that the additional information provided by the applicant and the Council has focussed too narrowly on football and has not satisfactorily identified that there is a realised surplus of playing fields in the 'Coalfields' area. As such, the requirements of exception test E1 of its playing fields policy have not been fully addressed. Sport England has, however, confirmed that if the applicant makes an appropriate financial contribution to fund the provision of a replacement pitch (Sport England's guidance suggests a cost of £85,000), then the requirements of exception E4 can be considered as addressed.

The applicant has confirmed that they are willing to make a contribution of £85,000 towards mitigating the loss of the pitch and on this basis, Sport England have advised that their objection to the development can be treated as withdrawn.

With regard to the above, it is ultimately considered that although clearly not used for football or other sports for a considerable period of time, the pitch cannot conclusively be said to be surplus to requirements. Nevertheless, the applicant's financial contribution will mean that the pitch can

be adequately replaced. Moreover, it is considered that the allocated part of the site is of limited value in terms of its contribution to greenspace in the 'Coalfields' area and to this end, it is observed that the land has not been classified as greenspace by the Council's most up-to-date audit of greenspace in the City.

As such, it is considered that the proposals satisfy the objectives of paragraph 74 of the NPPF, policy L7 of the Council's UDP and Sport England's playing field policy. It is therefore considered reasonable to conclude that in this particular case, it is appropriate to give consideration to an alternative development of this part of the application site.

(b) Proposed residential development considerations

To this end, the applicant is proposing a residential development of the site and particularly relevant to the consideration of such development proposals is section 6 of the NPPF, which is concerned with achieving the delivery of a wide choice of high quality homes. Paragraphs 47 and 49 of the NPPF are especially pertinent, with paragraph 47 stating that in order to significantly boost the supply of housing, Local Planning Authorities should:

- o 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;
- o 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;
- o Identify a supply of specific, developable site or broad locations for growth, for years 6-10 and where possible, for years 11-15;
- o 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;
- o Set out their own approach to housing density to reflect local circumstances.

Meanwhile, paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development and that 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), the NPPF demands that a 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. To this end, the Council has produced a Strategic Housing Land Availability Assessment (SHLAA), dated May 2016, which provides a speculative assessment of potential available housing land and serves to inform the assessment of five-year deliverable housing supply within the City for the purposes of producing a new Local Plan. It must be noted that the SHLAA is not a planning policy document, although as it informs the assessment of housing land supply, it can be a material consideration in determining planning applications for residential development.

To summarise, at this juncture the Council as Local Planning Authority cannot robustly demonstrate a five-year supply of housing land that has been subject to independent examination via a public enquiry. As such, and in line with the guidance of aforementioned paragraph 49 of the NPPF, the more up to date development management and housing policies in the NPPF must be given greater weight when considering this application than the housing policies in the Council's saved Unitary Development Plan.

With regard to local policy, other than the former playing field to the north-eastern part, the development site is not allocated for a specific land use on the proposals map of the Council's adopted UDP (it does not, for example, form part of the Green Belt and nor does the site extend beyond a settlement break). As such, policy EN10 of the UDP is applicable and this advises that where there is no specific land use allocation, the existing pattern of land use is intended to remain; new development proposals must respect the prevailing land uses in the neighbourhood.

Given that the application site is flanked by residential development to the north, east and south-east, it is considered that the proposed development is, in terms of broad land use principles, an acceptable use of the application site and not to be in conflict with the aims and objectives of aforementioned policy EN10 of the UDP.

The proposal would also accord with policy H1 of the UDP, which generally supports the provision of new housing in the City in order to maximise locational choice, reduce out-migration and increasing household formation, assist in regeneration objectives and, wherever possible, secure the re-use of vacant and derelict land.

In this regard, although the application site is not allocated for housing development by the UDP, it has been identified in the Council's 2016 SHLAA as being capable of accommodating up to 108 no. dwellings within a delivery period of 1-10 years. As such, the approval of planning permission for residential development of the site would serve to contribute positively to the supply of deliverable housing land in the City. Indeed, as the application proposes up to 141 no. new dwellings, the development could in fact represent a greater contribution to housing supply than is otherwise identified by the SHLAA.

In summary, and with reference to the comments provided above, there is not considered to be any unacceptable conflict with the aforementioned land use-related policies in the UDP. As has been raised by a number of objectors to the application, it is recognised that the application involves the development of a greenfield site, rather than securing the more desirable redevelopment of previously-developed 'brownfield' land and objectors have also raised concern regarding the amount of new housing being built, or with planning permission, in the wider Chilton Moor/Fencehouses area.

Nevertheless, and especially as the Council cannot currently demonstrate the availability of a deliverable 5-year supply of housing land, the application needs to be considered on its own merits and in light of the presumption in favour of sustainable development and the relevant impact tests set out at paragraph 14 of the NPPF, together with the Government's objective of boosting the supply and choice of housing availability. In this regard, the proposed development will make a modest, but valuable, contribution to housing supply in the City and in the absence of any clear conflict with relevant local and national land-use policies and a robustly-tested supply of housing land, the proposed development of this greenfield site for residential purposes is considered to be acceptable in principle, subject to the proper assessment of other impacts of the scheme and relevant material planning considerations, which are addressed in more detail below.

Objectors to the application have also suggested that other areas of the City should share the burden of new housing, rather than so much being focused on the locality of the application site.

In this regard, each development proposal must be considered on its own merits and with reference to relevant local and national planning policy considerations and individual applications for new housing in the Houghton-le-Spring and 'Coalfields' area cannot be resisted solely on the basis that a significant amount of housing has already been built or approved. Nevertheless, it is considered reasonable to suggest that other areas of the City are taking their share of new housing development; for example, the South Sunderland Growth Area would represent an urban extension to the south of Ryhope, Tunstall and Doxford Park capable of delivering 2800-3300 new dwellings over the next 15-20 years.

To conclude, whilst the proposed residential development affects a greenfield site, it must be recognised that the Council cannot demonstrate the availability of a 5-year supply of housing land. As such, and having given consideration to the most relevant national and local planning policies, it is considered that the principle of developing the site for residential purposes is acceptable. Moreover, whilst part of the site is currently identified as open space/a playing field by the UDP proposals map, for the reasons detailed above it has been concluded as appropriate to give consideration to an alternative development of the site. In relation to this matter, a residential use of the site is considered to be acceptable given its context and the proximity to existing residential development.

As such, and having given consideration to the most relevant national and local planning policies, it is considered that the principle of developing the site for residential purposes is acceptable.

## 2. PRINCIPLE OF DEVELOPING AGRICULTURAL LAND

Although much of the development site is currently used for horse grazing, regard must be given to policy CN8 of the UDP, which seeks to protect the most valuable agricultural land in the City (i.e. Grades 2 and 3A) from development resulting in its irreversible loss. This approach broadly reflects the advice of paragraph 112 of the NPPF, which requires Local Authorities to give preference to the development of poorer quality agricultural land ahead of higher grade land.

The MAGIC website (the Government's authoritative geographic information database) identifies the the land as falling within Subgrade Grade 3b and Grade 4. As such, it is concluded that the proposal will not lead to the loss of prime, valuable agricultural land, in accordance with the aims and objectives of policy CN8 of the UDP and paragraph 112 of the NPPF.

## 3. IMPACT OF DEVELOPMENT ON LANDSCAPE AND VISUAL AND RESIDENTIAL AMENITY

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. Also relevant in terms of residential amenity is policy EN6, which states that where noise sensitive development is proposed which is likely to be exposed to significant levels of noise, the applicant will be required 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. Such an approach is echoed by the guidance provided by paragraph 123 of the NPPF.

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, with the levels recommended dependent on the type of housing proposed (in terms of total numbers of bedrooms) and proximity to existing areas of open space. Also relevant is policy CN17, which seeks to protect valuable trees and hedgerows.

With regard to the implications of the development in respect of the prevailing landscape character it is observed that the Council's Landscape Character Assessment identifies the site as being located within the 'Coalfield Villages' landscape character type, which in turn sits within the Tyne and Wear Lowlands National Character Area. The key landscape character aspects of the area relate to its strong industrial connections, the distinctive types of buildings, the pattern of settlements developed during the 19th century and the long, relatively open views towards County Durham and the North Pennines. The Assessment also sets out that development in the area offers opportunities to remove vacant and underused land, to provide new open spaces and to improve green links with the surrounding area.

The applicant's Landscape and Visual Appraisal has considered the impact of the development on the wider landscape in some more detail. It does not identify the site itself as offering any particular landscape quality given its location and current condition and it concludes that the development will have a neutral or minor impact on national/regional/county landscape character areas. There will be more significant visual effects at a very local level, such as in respect of views from existing nearby properties and the roads flanking the site, but these are considered to be acceptable and within the range to be expected from development of this nature. The visual effects on the wider surrounding urban/rural landscape are not considered to be significant due to the site's limited visibility and as the development will be viewed as an 'infill' of the existing urban pattern.

As previously detailed in this report, the application site affects open but inaccessible grassed land located at the western edge of an established settlement. The development would act as a significant westward extension of Chilton Moor and effectively fill a gap between the existing built-up areas to the east and the natural boundary provided by the Leamside rail line. There is, however, an existing residential estate to the north of the application site which abuts the Leamside line, whilst the residential development approved to the south side of Black Boy Road (application ref. 14/01804/OUT) also flanks the line. As such, the proposed development would not extend any further westward than existing and approved development immediately to its north and south. In this context, it is considered that the development would appear as a 'natural' 'rounding off' of the existing settlement and would not unacceptably jar with the established pattern of built development in the area.

Given the above, it is therefore considered that broadly speaking, the proposed development will be acceptable in terms of its relationship with the prevailing pattern of built development and its impact on the visual amenity of the locality and wider landscape.

In addition to the above, and as detailed in the 'Representations' section of this report, the Council's Urban Design team has also advised that based on the indicative proposals supplied with the application, the development will have a broadly acceptable relationship with its surroundings and is generally acceptable in terms of its density. Clearly, the design quality afforded by the scheme, in terms of the layout of the development, built form and landscaping, will have to be considered in more detail upon the receipt of an application for the matters reserved by the current outline proposal, but it is ultimately considered that a residential development of the scope proposed by the application can be accommodated by the site and can relate satisfactorily to its context, in accordance with the objectives of policies B2 and H4 of the UDP.

Whilst landscaping is a reserved matter, the applicant's intention to retain existing hedges and trees within and around the site where possible is noted and this will at least serve to provide the site with 'soft', green boundaries and ensure existing important landscape features are retained where possible, in line with UDP policy CN17's objectives. The indicative plans also show the planting of additional trees and hedges around the site to supplement those being retained.

In terms of open space provision, the indicative layout shows just over 5000 sq. metres of the site area taking the form of open space, in the form of the wildflower meadow adjacent to the site's western boundary and the area around the SuDS pond. Policy H21 of the UDP seeks to deliver open space within a residential development at a level determined by the number of bedrooms being created - at this juncture, it is not possible to make an informed assessment as to whether the level and quality of open space being provided is appropriate given that the number of dwellings is not fixed and the overall number of bedrooms to be provided is unknown. Nevertheless, it is considered that subject to the submission of detailed reserved matters, the site could be developed in a manner which provides an appropriate level of open space.

In any case, it should be noted that the site's urban fringe location means that it is well-connected to neighbouring areas of open countryside and is within walking distance of other, more formal areas of public open space, including Rainton Meadows Nature Reserve, adjacent to Dubmire Working Men's Club and a public playspace at Keir Hardie Park.

Allied to the above, it is considered that the proposed indicative layout demonstrates that prospective occupiers of the development will be afforded a good standard of amenity and that all new dwellings can be provided with substantial areas of private external amenity space. In addition, spacing between the new dwellings is shown to accord with the recommendations set out in the Council's Residential Design Guide Supplementary Planning Document (SPD) (i.e. 21 metres between elevations containing main living room windows and 14 metres between elevations containing living rooms windows and blank elevations), an arrangement which ensures dwellings are afforded acceptable levels of privacy and main living room windows with a middle-to long-distance outlook.

Dwellings to the southern part of the site are proposed to face Black Boy Road which, given its busy nature, is considered to represent a potential source of noise which could affect the amenity of properties fronting it. In line with the requirements of policy EN6 of the UDP and paragraph 123 of the NPPF, the application has been accompanied by a Noise Assessment, which considers the level of noise generated by traffic along Black Boy Road and assesses whether this will be likely to affect the amenity of the dwellings closest to the road. As a guide, the Assessment cites British Standard 8233, which recommends seeking to achieve daytime noise levels of 50-55dB(A) for areas of external amenity space (i.e. gardens, patios etc.).

The Assessment has undertaken a survey of noise levels and has concluded that on the basis of the proposed development layout, the external gardens of the dwellings adjacent to Black Boy Road may experience noise levels above those recommended by BS 8233. It is suggested that noise levels in gardens could be reduced by providing 1.8 metre high close-boarded fencing to boundaries and although the Assessment does not identify any significant concerns in respect of internal conditions, it is recommended that dwellings closest to the road be afforded appropriate glazing and ventilation. Given that the layout of the development has not yet been finalised, it cannot yet be determined whether such measures are required to be incorporated into the development; rather, the final proposals should be informed by the findings of the Assessment and such measures incorporated into the scheme where necessary.

In terms of the impact of the development on the amenity of existing nearby dwellings, it is considered that the indicative site plan shows that separation distances between the new dwellings and existing properties can be such that their living conditions will not be unduly harmed. Spacing of at least 14 or 21 metres can be provided between the proposed dwellings and those to the north, south and east of the site, with the relationship to the dwellings of Dubmire Cottages improved further by the proposed extensions to the gardens of the properties backing on to the site. It is therefore considered that the new development will not result in any nearby



dwellings experiencing any significant loss of outlook, privacy or being subjected to overshadowing/loss of light.

Objectors to the development have expressed concerns in respect of the loss of views from their respective properties, but it must be recognised that the planning system cannot protect individual views enjoyed across private land; rather, the system is tasked with ensuring that existing dwellings are afforded acceptable levels of outlook in the interests of maintaining appropriate living conditions.

With reference to the above comments, it is considered that subject to the details provided by subsequent reserved matters applications being acceptable, the site can be developed in a manner which has an appropriate impact on the visual amenity of the locality and the wider landscape. Furthermore, the development can have an acceptable impact on the amenity of existing dwellings around the site, whilst its implications in relation to urban design and open space considerations can also be acceptable. As such, it is considered that the proposals accord with the requirements of policies CN17, B2, EN6, H4 and H21 of the UDP, the Council's Residential Design Guide SPD and the core principles of the NPPF in respect of these matters.

#### 4. IMPACT OF DEVELOPMENT ON HIGHWAY AND PEDESTRIAN SAFETY

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.

Also relevant is paragraph 69 of the NPPF, which sets out that the planning system should play an important role in facilitating social interaction and creating healthy, inclusive communities. It should, for example, promote safe and accessible environments and developments which contain clear and legible pedestrian routes. Paragraph 75, meanwhile, states that planning policies should protect and enhance public rights of way and access and that Local Authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks.

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.

It is acknowledged that objectors to the development have raised concerns in relation to the highways impacts of the proposed development, in particular the access onto Black Boy Road and the effect of the additional traffic generated by the development on the existing highway network in the area. However, as set out in detail in the 'Representations' section of this report, the Council's Highways team has raised no significant objections to the development in relation to highway and pedestrian safety and traffic generation.

Crucially, the applicant has committed to a financial contribution of £246,000 (to be secured via an agreement under section 106 of the Town and Country Planning Act and delivered via an agreement under section 278 of the Highways Act) which will secure the delivery of some significant improvements to the existing road network: namely the signalisation of the junction between Black Boy Road and Chilton Moor Front Street; the signalisation and improvements to Black Boy Road Bridge and the modifications to the junction between Black Boy Road and Redburn Row. These would combine with road safety improvements to Redburn Row to be delivered by financial contributions secured in respect of other residential developments in the area.

It is considered that these improvements will mean that the highway network in the locality is able to accommodate the additional traffic generated by the development of up to 141 no. dwellings without there being an unacceptable impact on highway and pedestrian safety. In addition, it is considered that the proposed access into the site is at an appropriate location and that the visibility it offers to motorists and pedestrians will be acceptable (subject to the aforementioned highways improvements being delivered). The road layout and parking arrangements shown by the indicative site plan are also considered to be satisfactory.

In respect of the pedestrian connections between the site and local services, it is noted that both Nexus and the Council's Highways team initially raised concerns in this regard and questioned the sustainability of the site. The applicant has, however, committed to deliver a footpath link which will enable relatively direct pedestrian access to the shops and services afforded by the local centre at Chilton Moor. This route will also provide an appropriate route to the bus stops to Chilton Moor Front Street and Dairy Lane, from where frequent buses serve Houghton-le-Spring, Sunderland City Centre and a range of other destinations. On this basis, both Nexus and the Council's Highways team have advised that the development site will afford acceptable pedestrian connections to local services and public transport options.

It is also recognised that Nexus requested that the developer supply each dwelling within the development with two four-week All-Zone passes in order to encourage the use of public transport. This would, however, represent a major significant financial outlay for the developer (calculated as being approximately £28,000), which would be allied to the significant contribution the developer is already making to highway improvements in the locality. It is also observed that the Travel Plan submitted with the application sets out a series of measures designed to encourage public transport use, such as furnishing new residents with 'travel information packs' containing timetables, details of routes to public transport and material highlighting the benefits of walking, the promotion of cycling and car sharing.

In these circumstances, it is considered that the imposition of the requirement to fund public transport passes is not reasonable and it is considered more appropriate to require the developer, or an appointed Travel Plan Co-ordinator, to deliver the measures set out in the submitted Travel Plan.

The Highways team's comments also advise that consideration should be given to establishing a footpath link between Black Boy Road and the existing public right of way running alongside the Leamside line, which could cut through the area of open space proposed along the western side of the application site. The applicant has offered to make a financial contribution of £5,000 to cover the costs of any works the Council will incur in terms of delivering such a route (i.e. where the route would connect to existing highways and rights of way outside of the development site).

The desire for such a route must, however, be balanced against the role the area of open space is intended to have in terms of ecological and biodiversity mitigation and enhancement and there is a concern that the area's value could be undermined were it to be used for a formal public route.

Moreover, given that the application has been submitted in outline form, with matters relating to layout and landscaping subject to future approval, it is not yet appropriate to fix a route for such a footpath.

On this basis, it is considered that it would be appropriate for this matter to be addressed through an appropriately-worded condition, which would effectively require the provision of details of a pedestrian route between Black Boy Road and the existing footpath flanking the Leamside line for the Council's consideration. The financial contribution offered by the applicant can then be used to cover the costs of any works associated with delivering the link borne by the Council as Local Highway Authority.

With regard to the comments provided by the Council's Highways team and for the reasons set out above, it is considered that subject to the delivery of the aforementioned highway improvements and the conditions requested by the Council's Highways team, the proposed development will not give rise to severe residual cumulative highways impacts. As such, the proposals do not conflict with the requirements of paragraph 32 of the NPPF, whilst the proposals also comply with the aims and objectives of policies T14 and T22 of the UDP and the recommended parking standards set out in the Council's 'Residential Design Guide' SPD.

## 5. IMPLICATIONS OF DEVELOPMENT IN RESPECT OF ECOLOGY AND BIODIVERSITY

As highlighted earlier in this report, paragraph 9 of the NPPF sets out that pursuing sustainable development involves, amongst other initiatives, moving from a net loss of biodiversity to achieving net gains for the future. Section 11 of the NPPF sets out a more detailed 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.

Paragraph 118 of the NPPF states that when determining applications, Local Planning Authorities should aim to conserve and enhance biodiversity by applying the following principles:

- If significant harm resulting from development cannot be avoided (through locating on an alternative site), adequately mitigated or, as a last resort, compensated for, then planning permission should be refused;
- Opportunities to incorporate biodiversity in and around developments should be encouraged;
- Planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees, unless the need for, and benefits of, the development in that location clearly outweigh the loss.

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.

As set out in the 'Representations' section of this report, the Council's Natural Heritage team has raised concerns in relation to both the on-site impacts of the development, insofar as it is considered that the proposals do not provide satisfactory on-site biodiversity mitigation and enhancements, and its off-site impacts, in terms of the pressures the additional population brought into the locality will have on nearby Local Wildlife Sites and nature reserves.

With regard to the off-site impacts, as detailed in the 'Representations' section of this report, the applicant has agreed to make a financial contribution of £83,000 towards mitigating the effects of the development on Rainton Meadows Nature Reserve and Local Wildlife Site. The contribution would cover the installation of additional fencing to control access to grazing areas, the provision of new signage and waymarkers at external access points and the funding of additional staff presence at the sites. It is considered that this contribution will serve to adequately mitigate the potential impacts of the development proposals on nearby wildlife sites.

With regard to the on-site impacts, the Council's Natural Heritage team consider that the proposals could be improved to provide better biodiversity mitigation and enhancements and that the indicative measures set out by the application in its current form will offer little in this regard. The applicant has, however, maintained that the ecological survey submitted with the application demonstrates that the site is of little ecological and biodiversity value, does not fall within a designated wildlife corridor and that the proposals will retain all features of ecological importance, such as trees and hedges.

In addition, the applicant has contended that it is not possible to commit to further measures at this juncture given that the proposals are currently in outline form and that there is no firm commitment to the number of dwellings to be built, the layout of the development and the landscaping for the scheme. As such, the applicant has confirmed that they do not intend to alter the indicative layout at this stage.

The concerns of the Council's Natural Heritage team are acknowledged but it is ultimately considered that the Council cannot reasonably demonstrate that the development will result in significant harm being caused to ecology and biodiversity, as is required by paragraph 118 of the NPPF. It is also acknowledged that seeking to establish detailed mitigation and enhancement measures at this stage is difficult given the outline nature of the planning application. It is considered, however, that it would be reasonable to require the applicant to submit a detailed scheme of the proposed mitigation and enhancement measures to be delivered by the final scheme ahead of any development commencing; this could be achieved via the imposition of an appropriately-worded condition.

Subject to such a condition, it is considered that the implications of the development in relation to biodiversity and ecology will be acceptable, in compliance with the requirements of section 11 of the NPPF and policies CN20, CN21 and CN22 of the UDP.

## 6. IMPLICATIONS OF DEVELOPMENT IN RESPECT OF TREES

With regard to trees, paragraph 118 of the NPPF sets out that planning permission should be refused for development resulting in the loss or deterioration of ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and the benefits of, the development in that location clearly outweigh the loss. Policy CN17 of the UDP, meanwhile, seeks to retain trees which make a valuable contribution to amenity.

The Arboricultural Impact Assessment (AIA) submitted with the application assesses the quality of the trees and hedges at the site. The AIA identifies a total of 6 no. individual trees across the site, none of which are considered to be of any significant value. The hedges to the boundary of the site, meanwhile, are considered to be of limited aesthetic or landscape value. The applicant has, however, committed to retaining trees and hedges as part of the development proposals in the interests of maintaining their ecological value. The trees and hedges to be retained would also be supplemented by new planting to be provided by the formal landscaping proposals for the development.

It is therefore considered that the implications of the development in relation to trees is acceptable, in accordance with the objectives of policy CN17 of the Council's UDP and paragraph 118 of the NPPF.

## 7. IMPLICATIONS OF DEVELOPMENT IN RESPECT OF FLOOD RISK AND DRAINAGE

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, following initial consultation with the Council's Flood and Coastal team, was revised and improved. The FRA 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. There are areas of surface flooding associated with depressions in the topography of the site (such as the aforementioned ephemeral pond), but these would be levelled when the site is re-profiled as part of the development proposals.

The Drainage Strategy, meanwhile, outlines what are considered to represent sustainable drainage schemes for the development and it has identified (due to site constraints such as poor site permeability and the need to direct surface water away from Network Rail's assets) that discharge to a public sewer is the most appropriate form of surface water management for the development. The discharge of surface water flows from the site will not, however, exceed the calculated greenfield run-off rates, as sought by the aforementioned DEFRA guidance. The rate of flow from the site will be limited via the provision of source control measures, such as permeable driveways to each dwelling, large diameter pipes and the provision of a SuDS attenuation pond to the north-eastern part of the site. The Strategy has calculated that a pond with a depth of 1.25 metres should be capable of accommodating the necessary volume of surface water to ensure its effectiveness.

The Council's Flood and Coastal Team has considered the application details and, following the revisions and improvements to the submitted FRA and Drainage Strategy, has confirmed that the proposed drainage strategy for the site is acceptable. This is subject to a condition which requires

detailed design of the drainage strategy, together with confirmation of management responsibilities, to be submitted and agreed with the Council ahead of the development being commenced.

Subject to the imposition of such a condition, it is considered that the proposed drainage scheme will be acceptable and will result in the development being compliant with the aims and objectives of the aforementioned UDP policies, the NPPF and the DEFRA guidance in this regard.

## 8. IMPLICATIONS OF DEVELOPMENT IN RELATION TO GROUND CONTAMINATION

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.

The Phase I Desk Top Study submitted with the application has considered ground conditions and geoenvironmental issues at the site, with specific regard to mining and quarrying remains, geotechnical issues, sources of contamination and sources of gas. The report does not identify any significant concerns, but recommends that further investigations are carried out in relation to possible unrecorded mining remains, sources of ground contamination and sources of gas (e.g. radon). These investigations should involve intrusive groundworks and comprise the digging of boreholes and trial pits, sampling and the installation of monitoring wells.

It is considered that this recommendation can, if Members are so minded, be addressed via the imposition of the suite of conditions which require the additional investigations to be carried out, followed by the submission of details of remediation and mitigation where necessary.

With regard to the above comments, it is considered that subject to the imposition of the recommended conditions, the implications of the development in respect of land contamination is acceptable, in accordance with the requirements of paragraph 121 of the NPPF and policy EN14 of the UDP.

## 9. IMPLICATIONS OF DEVELOPMENT IN RESPECT OF ARCHAEOLOGY

In line with the requirements of aforementioned paragraph 141 of the NPPF, policy B13 of the UDP states that the Council will seek to safeguard sites of local archaeological significance, whilst policy B14 states that where development proposal affect sites of known archaeological importance, an archaeological assessment or evaluation may be required.

As noted in the 'Representations' section of this report, the County Archaeologist has asked that as the development site is of potential archaeological interest due to its greenfield nature, conditions be imposed to require the undertaking of a programme of archaeological fieldwork. It is recommended that in the event Members are minded to approve the application, the conditions requested by the County Archaeologist are imposed in order to ensure any remains at the site are properly investigated and recorded prior to it being developed, in accordance with the requirements of the aforementioned relevant local and national planning policies.

## 10. SECTION 106 CONTRIBUTIONS

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 - planning obligations, which are usually secured via legal agreements under Section 106 of the Town and Country Planning Act 1990 (as amended), should only be used where it is not possible to use 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;

Paragraph 205, meanwhile, states that where obligations are being sought, Local Planning Authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled.

With the abovementioned policy framework in mind, and having had regard to the consultation responses received from consultees within and outside the Council, it is considered that the proposed development gives rise to implications in respect of securing a mitigating payment in respect of the loss of the football pitch, education provision, highways improvements, off-site ecological mitigation and affordable housing, which are most appropriately resolved via securing contributions through a section 106 agreement.

As detailed earlier in this report, Sport England has agreed to withdraw their initial objection to the planning application on the basis that the financial contribution of £85,000, which would be sufficient to cover the cost of a replacement pitch.

Members should note at this stage that whilst the Council would normally expect a residential development of this nature to deliver on-site play space or make a financial contribution towards the upkeep of off-site play, such a contribution is not considered to be reasonable or necessary in this case given that the applicant is already making a contribution towards sports and recreational facility.

In addition to the above, paragraph 72 of the NPPF states that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local Planning Authorities should take a proactive, positive and collaborative approach to meeting this requirement and should give great weight to the need to create, expand or alter schools and work with schools promoters to identify and resolve key planning issues before applications are submitted.

Furthermore, policy R3 of the UDP states that where the effects of a development would require additional off-site infrastructure or community facilities or where certain important features of the site are affected which cannot be controlled by planning conditions, the developer will normally be expected to enter into a planning obligation with the Council to enable suitable provision to be made.

To this end, the Council's Education and Lifelong Learning team has advised that a financial contribution towards school places in the locality should be requested and secured as part of a S106 agreement. The level of contribution will be determined by the final scope of the proposed development and calculated using a formula (which is used by the Council's Education team to

calculate contributions in respect of residential development throughout the City) entered into the agreement. The applicant has confirmed their willingness to make this contribution.

The applicant has also confirmed their willingness to make a financial contribution of £246,000 towards the off-site highways improvements detailed earlier in this report and £5,000 towards the provision of a new footpath link between Black Boy Road and the footpath alongside the Leamside line. Furthermore, the development will contribute £83,000 towards off-site ecological mitigation.

In line with the objectives of paragraph 50 of the NPPF and policy H16 of the UDP, the City Council will normally seek to secure the provision of affordable housing as part of new residential development involving 15 or more units. The usual requirement, as recommended by the Council's most recent Strategic Housing Market Assessment, is for 10% of units within a new development to be affordable, at a split of 80% social/affordable rent - 20% intermediate tenure. The applicant has agreed that 10% of the final number of units within the development will be affordable.

To summarise, a draft Section 106 agreement will be drawn up by the Council's Solicitor which is designed to secure:

- Contribution of £85,000 to cover the cost of a replacement sports pitch;
- Contribution towards education, to be set by formula inserted into agreement and invested in primary schools and academies within a 2-mile radius of the development site;
- Contribution of £246,000 towards off-site highway improvements;
- Contribution of £83,000 towards off-site ecology mitigation;
- Provision of 10% affordable housing units on-site;

The terms of the agreement as detailed above have been agreed by the applicant and it is consequently anticipated that the Section 106 agreement will be completed and sealed in the near future, although this will occur after the meeting of the Sub-Committee.

## CONCLUSION

In summary, the principle of housing development is considered to be acceptable in this location when assessed against the impact tests set out in the NPPF and on the basis that the applicant is to make an appropriate financial contribution to mitigate the loss of a sports pitch. Whilst the development relates to a greenfield site, the proposed housing scheme must be considered in the context of the Council being currently unable to demonstrate a five-year supply of housing land and the contribution the approval of residential development on this site would make to housing land supply (particularly as the site is identified in the Council's most up-to-date SHLAA). To this end, paragraph 49 of the NPPF makes it clear that in such circumstances, applications for housing development should be considered in the context of the NPPF's presumption in favour of sustainable development and unless clear conflict with other policies of the NPPF and up-to-date, relevant policies of a Local Authority's Development Plan can be identified, such applications should be approved.

In this regard, for the reasons set out above and subject to the associated financial contributions to be secured via an agreement under section 106 of the Town and Country Planning Act, the proposed development is considered to be broadly acceptable in terms of urban design, visual and residential amenity, highway access and car parking, flood risk and drainage, ground conditions, archaeology, ecology/biodiversity, education provision and affordable housing.



Given that the proposed development has been found to be acceptable with regard to all relevant material planning issues, with regard to the overarching aims, objectives and detailed policies of the NPPF and with regard to the up-to-date relevant policies of the Council's UDP and 'Residential Design Guide' SPD, it is considered that the scheme will achieve the sustainable development sought by paragraph 14 of the NPPF and should therefore be approved.

To conclude, following examination of all relevant material planning considerations, it is considered that the proposal has clearly demonstrated that it is sustainable development and in light of the guidance provided by paragraphs 14 and 49 of the NPPF, which state that housing should be considered in the context of the presumption of sustainable development, it is recommended that subject to the signing of the proposed section 106 agreement (as detailed earlier in this report), planning permission should be approved in accordance with the conditions listed below.

#### EQUALITY ACT 2010 - 149 Public Sector Equality Duty

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

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

- 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: Mindful to Approve the application, subject to the conditions set out below and the signing of an agreement under Section 106 of the Town and Country Planning Act 1990 (as amended).**

**Conditions:**

- 1 An application for the approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall then be begun before the expiration of two years from the date of approval of the last reserved matters to be agreed, pursuant to the provision of Section 92 of the Town and Country Planning Act 1990, as amended by section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 Approval of the following details (hereinafter referred to as the reserved matters) shall be obtained from the Local Planning Authority, in writing before the development is commenced:

Layout  
Scale  
Appearance  
Landscaping

Plans and particulars of the reserved matters shall be submitted utilising an appropriate planning application form and shall be carried out as approved. As the application is in outline only and no details have been submitted of the reserved matters set out above, they are reserved for subsequent approval by the Local Planning Authority.

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

the location plan (drawing no. 334 001);  
the proposed site layout plan, insofar as it relates to site access arrangements (drawing no. 334 002 E);  
the site access plan (produced by Milestone, drawing no. 16085/001 C);

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.

- 4 Notwithstanding any indication of materials which may have been given in the application, no development shall take place until a schedule and/or samples of the materials and finishes to be used for the external surfaces, including walls, roofs, doors and windows has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details; in the interests of visual amenity and to comply with policy B2 of the Unitary Development Plan.
- 5 No development shall take place until a scheme of working has been submitted to the satisfaction of the Local Planning Authority; such scheme to include days and hours of working, siting and organisation of the construction compound and site cabins, contractor parking, routes to and from the site for construction traffic (to include details as to whether any Network Rail assets will be affected), proposed methods of construction, measures to ameliorate noise, dust, vibration and other effects and a risk assessment prepared in relation to the adjacent Leamside rail line. The agreed scheme shall be so implemented, in the interests of the proper planning of the development and to protect the amenity of adjacent occupiers and the corridor of the Leamside line and in order to comply with policies B2 and T16 of the UDP.
- 6 The construction works required for the development hereby approved shall only be carried out between the hours of 07.00 and 19.00 Monday to Friday and between the hours of 07.30 and 14.00 on Saturdays and at no time on Sundays or Bank Holidays, in order to protect the amenities of the area and to comply with policy B2 of the UDP.
- 7 No deliveries shall be taken at or despatched from the site outside the hours of 07:00 - 19:00 Monday to Friday, 07:30 - 14:00 on Saturdays, nor at any time on Sundays, Bank or Public Holidays to ensure that nearby properties are not adversely affected by the development and to comply with policy B2 of the UDP.
- 8 No dwelling hereby approved shall be occupied until its off-street parking provision has been constructed, surfaced, sealed and made available in accordance with the approved plans. Each respective parking area shall then be retained and permanently reserved for the parking of vehicles to ensure that adequate and satisfactory provision is made for the off street parking of vehicles and to comply with policy T22 of the UDP.
- 9 Notwithstanding the submitted plans and supporting information, the development hereby approved shall not commence until a detailed scheme of ecological mitigation and enhancement has been submitted to and agreed in writing with the Council as Local Planning Authority. The submitted scheme shall be informed by the advice of an ecology specialist and the Chilton Moor Ecology Report and Overview of Principles (to inform landscaping), both prepared by BSG Ecology, and shall provide proposals for ecological mitigation, enhancement and compensation measures within the final development. The submitted details shall also include a proposed programme for the implementation of the agreed scheme, together with proposed measures to secure the ongoing maintenance and management of the existing and proposed key biodiversity features within the scheme. The agreed scheme shall then be implemented and maintained in accordance with an agreed programme, in the interests of achieving appropriate biodiversity enhancements at the site and to accord with the objectives of section 11 of the NPPF and policy CN22 of the UDP.

- 10 No development, other than that required to enable the satisfactory discharge of this condition, shall commence until a detailed design of the sustainable drainage strategy for the disposal of foul and surface water at the site has been submitted to and approved in writing by the Council as Local Planning Authority in consultation with Northumbrian Water and Network Rail. For the avoidance of doubt, the submitted details must be informed by and adhere to the principles set out by the 'Flood Risk and Drainage Strategy' (revision B), produced by Portland Consulting, submitted with the planning application, and demonstrate that the strategy will not increase the risk of flooding to adjacent Network Rail property. The submitted information must also provide details of the parties to be responsible for the ongoing maintenance of the agreed drainage strategy. The development must then proceed in accordance with the agreed strategy, in the interests of delivering an appropriate drainage strategy for the site and to comply with the objectives of paragraph 103 of the NPPF and policy EN12 of the UDP.
- 11 Unless otherwise agreed by the Local Planning Authority, no development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions number 12 to number 14 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition number 13 has been complied with in relation to that contamination. To ensure that risks from land contamination to future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy EN14 of the Unitary Development Plan.
- 12 Unless otherwise agreed in writing by the Local Planning Authority development must not commence until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site (site characterisation), whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
- (i) a survey of the extent, scale and nature of contamination;
  - (ii) an assessment of the potential risks to: human health property (existing or proposed) including building, crops, livestock, pets, woodland and service line pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments;
  - (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR11.' To ensure that risks from land contamination to future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy EN14 of the Unitary Development Plan.

- 13 Unless otherwise agreed by the Local Planning Authority, development must not commence until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation. To ensure that the risks from land contaminated to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy EN14 of the Unitary Development Plan.
- 14 The remediation scheme approved under Condition number 13 (Submission of Remediation Scheme) must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimise, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy EN14 of the Unitary Development Plan.
- 15 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition number 12 (Site Characterisation), and when remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition number 13 (Submission of Remediation Scheme), which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared which is subject to the approval in writing of the Local Planning Authority in accordance with condition number 14 (Implementation of Approved Remediation Scheme). If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until this condition has been complied with in relation to that contamination. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks and in accordance with policy EN14 of the Unitary Development Plan.
- 16 The development hereby approved shall not commence until a proposed noise amelioration programme in respect of any dwellings to directly face Black Boy Road has been submitted to and approved in writing with the Council as Local Planning Authority. For the avoidance of doubt, the programme shall be informed by sections 8 and 9 of the 'Noise Survey and Facade Acoustic Design Strategy', produced by Apex Acoustics,

December 2016, submitted with the planning application and the agreed measures shall be installed at each respective dwelling prior to their initial occupation and maintained as such thereafter for the lifetime of the development, in the interests of affording residents with an appropriate standard of amenity and to comply with the objectives of policy EN6 of the UDP and paragraph 123 of the NPPF.

- 17 Notwithstanding the submitted plans, the development hereby approved shall not commence until details of fencing adjacent to the site's boundary with the Leamside line has been submitted to and agreed in writing with the Council as Local Planning Authority in consultation with Network Rail. The fencing should be designed so as to offer a suitable deterrent to potential trespassers and the submitted details shall include provision for the future maintenance and renewal of the fence and confirmation that any existing fence or wall belonging to Network Rail will not be removed or damaged. The details are required in order to protect the route of the railway and comply with the requirements of policy T16 of the UDP.
- 18 At least six weeks prior to the approved works commencing on site, the developer must submit a method statement/drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the adjacent Leamside line, to the City Council for its approval in consultation with Network Rail's Asset Protection Project Manager (OPE). The development must then not commence until the City Council has confirmed in writing that Network Rail's OPE has agreed to the submitted method statement. The development shall then be carried out in accordance with the agreed method statement, in the interests of maintaining the integrity of the Leamside line and to comply with the objectives of policy T16 of the UDP.
- 19 No groundworks or development shall commence until a programme of archaeological fieldwork (to include evaluation and, where appropriate, mitigation excavation) has been completed. This shall be carried out in accordance with a specification provided by the Local Planning Authority. The fieldworks are required on the basis that the site is located in an area of potential archaeological interest and to ensure that any remains at the site can be preserved and recorded wherever possible, in accordance with paragraph 141 of the NPPF and policy B14 of the Council's UDP.
- 20 The dwellings hereby approved shall not be occupied until the final report of the results of the fieldwork undertaken in pursuance of condition 19 has been submitted to and approved in writing by the Council as Local Planning Authority. The report is required on the basis that the site is located in an area of potential archaeological interest and to ensure that any remains at the site can be preserved and recorded wherever possible, in accordance with paragraph 141 of the NPPF and policy B14 of the Council's UDP.
- 21 The dwellings hereby approved shall not be occupied until a report detailing the results of the fieldwork undertaken in pursuance of condition 19 has been produced in a form suitable for publication in a suitable and agreed journal and has been submitted to and approved in writing by the Council as Local Planning Authority. The report is required on the basis that the site is located in an area of potential archaeological interest and to ensure that any remains at the site can be preserved and recorded wherever possible, in accordance with paragraph 141 of the NPPF and policy B14 of the Council's UDP.
- 22 None of the dwellings hereby approved shall be occupied until a detailed scheme for the signalisation of the junction between Black Boy Road and Chilton Moor Front Street and the provision of pedestrian crossing facilities at the junction, together with a programme for

its implementation via an agreement under Section 278 of the Highways Act, have been agreed in writing with the Council as Local Planning Authority. For the avoidance of doubt, the design of the junction works shall be informed by Figure 12 of the Transport Assessment (produced by Milestone Transport Planning) submitted with the planning application. The junction works shall then be undertaken in accordance with the agreed details and the timings set out in the implementation programme, in order to provide an appropriate alternative crossing of Parkway and comply with the requirements of policy T10 of the UDP and paragraphs 69 and 75 of the NPPF.

- 23 None of the dwellings hereby approved shall be occupied until a detailed scheme for the signalisation of Black Boy Road bridge, together with a programme for its implementation via an agreement under Section 278 of the Highways Act, have been agreed in writing with the Council as Local Planning Authority. For the avoidance of doubt, the design of the junction works shall be informed by Figure 11 of the Transport Assessment (produced by Milestone Transport Planning) submitted with the planning application. The works shall then be undertaken in accordance with the agreed details and the timings set out in the implementation programme, in order to provide an appropriate alternative crossing of Parkway and comply with the requirements of policy T10 of the UDP and paragraphs 69 and 75 of the NPPF.
- 24 None of the dwellings hereby approved shall be occupied until a detailed scheme for the improvements to the junction between Black Boy Road and Redburn Row, together with a programme for its implementation via an agreement under Section 278 of the Highways Act, have been agreed in writing with the Council as Local Planning Authority. For the avoidance of doubt, the design of the junction works shall be informed by the proposed site access plan (produced by Milestone, drawing no. 16085/001 C) submitted with the planning application. The junction works shall then be undertaken in accordance with the agreed details and the timings set out in the implementation programme, in order to provide an appropriate alternative crossing of Parkway and comply with the requirements of policy T10 of the UDP and paragraphs 69 and 75 of the NPPF.
- 25 The development hereby approved shall not commence until a programme for the implementation of the works associated with the new access into the site and the closure and relocation of the access to 'Mayfield' has been submitted to and agreed in writing by the Council as Local Planning Authority. The access works shall then be undertaken in strict accordance with the timings set out in the agreed programme, in the interests of highway safety and to comply with the objectives of policy T14 of the Council's UDP.
- 26 The development hereby approved shall not commence until details of a pedestrian route between Black Boy Road and the public bridleway running between the western boundary of the site and the Leamside line has been submitted to and approved in writing by the Council as Local Planning Authority in consultation with Network Rail. The details of the route shall be accompanied by a proposed programme for its implementation. The agreed pedestrian route must then be installed in accordance with the agreed details and programme and maintained thereafter for the lifetime of the development, in order to provide satisfactory pedestrian links to/from the site and to comply with the objectives of policy T10 of the UDP.
- 27 The development hereby approved shall not commence until details of a pedestrian route between the north-eastern boundary of the site and the lane to the rear of Avon Crescent has been submitted to and approved in writing by the Council as Local Planning Authority. The details of the route shall be accompanied by a proposed programme for its implementation. The agreed pedestrian route must then be installed in accordance with the

agreed details and programme and maintained thereafter for the lifetime of the development, in order to provide satisfactory pedestrian links to/from the site and to comply with the objectives of policy T10 of the UDP.

- 28 The initiatives set out in the Travel Plan submitted with the planning application (Framework Travel Plan, prepared by Milestone Transport Planning) shall be implemented in full in respect of the development hereby approved, in order to reduce and limit the number and length of car trips generated by the development and support, promote and encourage sustainable mobility, in accordance with the objectives of the NPPF and policy T2 of the Council's UDP.
- 29 No tree shown to be retained on the approved plans shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 "Tree Work", in the interests of visual amenity and to comply with policy CN17 of the UDP.



Reference No.: 17/00415/VAR Variation of Condition

**Proposal:** Retrospective: Variation of condition 2 and 9 of planning application 15/01670/FUL (Demolition of existing foodstore and erection of replacement food store with associated parking and landscaping) to allow minor external alterations and alterations to previously approved landscaping

**Location:** Lidl Market Town Store Mautland Square Houghton-le-Spring DH4 4BJ

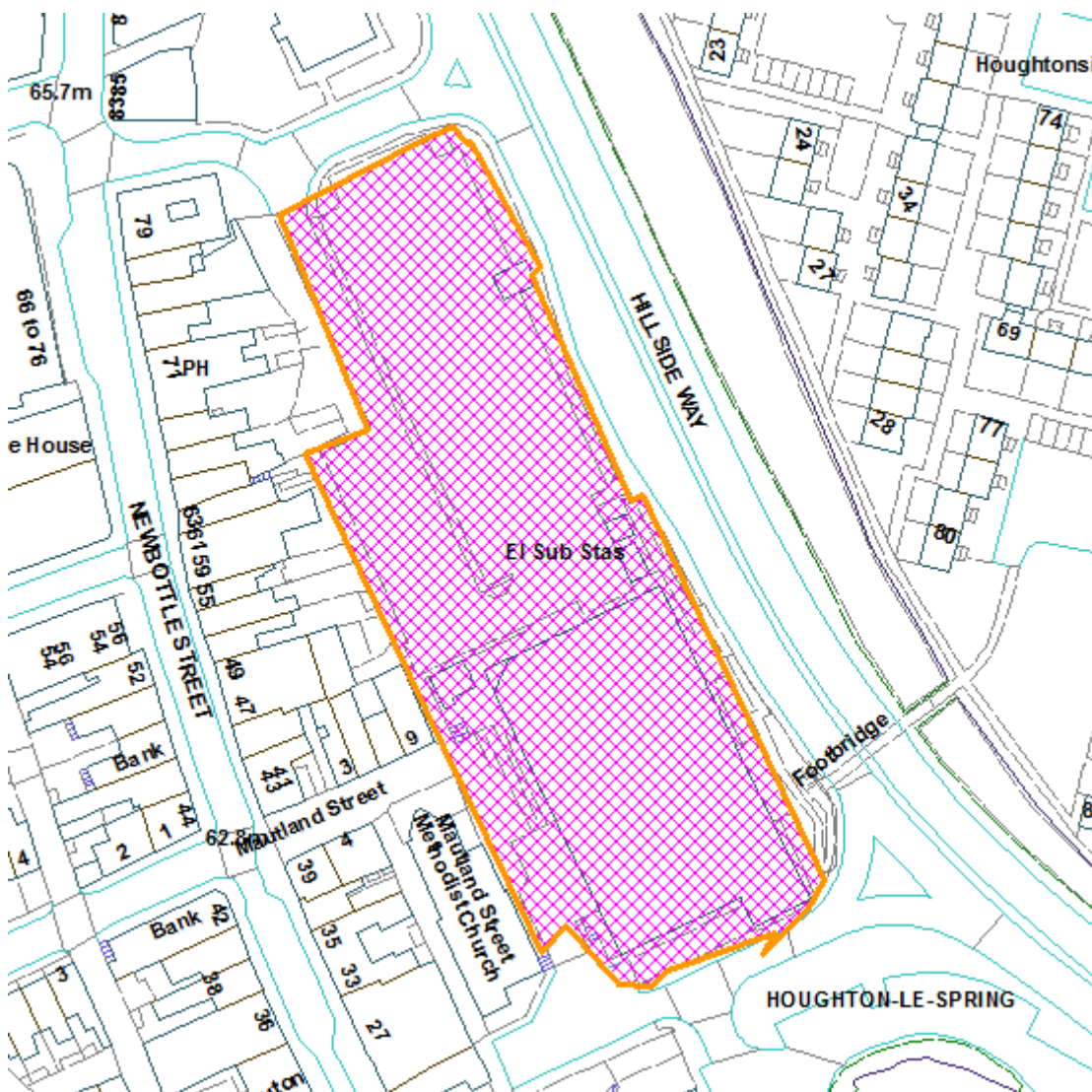
**Ward:** Houghton

**Applicant:** Lidl UK GmbH

**Date Valid:** 3 March 2017

**Target Date:** 2 June 2017

### Location Plan



## **PROPOSAL:**

The application seeks retrospective planning permission for the variation of two conditions attached to an earlier grant of planning permission for the construction of a replacement food store at Lidl, Mautland Square, Houghton-le-Spring (ref: 15/01670/FUL).

The site lies towards the west of the A690 and covers approximately 0.7 hectares. The surrounding land uses include residential to the east, offices to the south and a commercial uses to the west. The site itself comprises a recently constructed food store with a footprint of circa 2350 square metres with the balance of the site given over to parking and turning.

The application seeks to vary conditions no. 2 (approved plans) and 9 (landscaping) from an earlier grant of planning permission for a food store. The application has been submitted on the basis that the development currently on site does not fully accord with the previously approved plans. The main differences include the provision of additional plant to the eastern elevation, a double fire escape door rather than a single door to the eastern elevation and the roof above the loading bay being changed to a sloping parapet. There are also changes to the access including the landscape to the west of the site being changed from tarmac to turf. The changes to the access are, however, outwith the red line boundary and are therefore excluded from consideration.

The site, in terms of relevant planning constraints, lies within an archaeological site and a Coal Authority Standing Advice Area.

## **TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

## **CONSULTEES:**

Tyne And Wear Archaeology Officer  
Environmental Health  
Network Management  
Houghton - Ward Councillor Consultation  
Northumbrian Water  
Flood And Coastal Group Engineer  
Environment Agency  
Natural England  
Network Management  
Environmental Health

Final Date for Receipt of Representations: **28.04.2017**

## **REPRESENTATIONS:**

Archaeologist: Advise there are no archaeological implications.

Ecologist: Confirm they have no comments.

Environmental Health: No objection.

Flood and Coastal Erosion Team: Confirm they have no comments.

Network Management: No objection. Advise they will deal with the highway works outside the red line boundary separately.

Environment Agency: No response received.

Natural England: Confirm they have no comment.

Northumbrian Water: Confirm they have no comments.

## **POLICIES:**

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

B\_11\_Measures to protect the archaeological heritage of Sunderland (general)

S\_7\_Design and requirements for new retail development

B\_2\_Scale, massing layout and setting of new developments

EN\_10\_Proposals for unallocated sites to be compatible with the neighbourhood

CN\_22\_Developments affecting protected wildlife species and habitats

T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising

EN\_5\_Protecting sensitive areas from new noise/vibration generating developments

## **COMMENTS:**

The proposed development would not increase the footprint of the previously approved building, nor the size of the site. The impacts arising from the amendments relate to the detailed impacts upon the local area. The main planning considerations are therefore noted below, having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the relevant development plan policies, relevant guidance and all other material planning considerations (including representations received):

- \* Archaeology
- \* Design
- \* Drainage
- \* Ecology
- \* Highways
- \* Living conditions

These planning considerations are expanded upon below.

### **Archaeology**

The site lies within an archaeological area. The UDP, at policy B11, states

The City Council will promote measures to protect the archaeological heritage of Sunderland.

These provisions align quite closely with the Framework which states that

In determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets.

The amendments would not increase the footprint of the building or any associated hard standing. The archaeologist has accordingly advised that there are no archaeological implications.

The proposal would therefore have an acceptable impact in terms of archaeology; in accordance with the above policies.

## Design

The UDP, at policies S7 and B2, states

New retail development should be of a high standard of design and well related to its surroundings

The scale, massing, layout or setting of new developments, should respect and enhance the best qualities of nearby properties and the locality

These provisions align quite closely with the Framework which states, at para 56, that

Government attaches great importance to the design of the built environment.

The proposed amendments are quite small scale in nature relative to the overall development; including additional plant, a double fire escape door rather than a single one and a sloping parapet roof above the loading bay. These amendments would not have a significant impact upon the character and appearance of the building, site or local area.

The proposal would therefore have an acceptable impact in terms of design; in accordance with the above policies.

## Drainage

The UDP, at policy EN10, state that

In assessing proposals for development the Council will seek to ensure that the proposal would not increase the risk of flooding elsewhere.

These provisions align quite closely with the Framework which states, at para 103

When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere.

The proposed amendments are quite small scale in nature and do not materially increase the footprint of the building or the amount of hard standing. The Flood Risk and Coastal Erosion Team have accordingly advised that they have no comments. The proposal would therefore have an acceptable impact in terms of drainage; in accordance with the above policies.

## Ecology

The UDP, at policy CN22, states that

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

These provisions align quite closely with the Framework which states, at para 109, that

The planning system should contribute to and enhance the natural and local environment.

The proposed amendments are quite small scale in nature and would not affect any features of ecological value. The Ecologist has accordingly that he has no comments.

The proposal would therefore have an acceptable impact in terms of ecology; in accordance with the above policies.

## Highways

The UDP, at policy T14, states

Proposals for new development should not cause highway safety problems.

These provisions align quite closely with the Framework which states, at para 32, that

Plans and decisions should take account of whether safe and suitable access to the site can be achieved for all people.

The proposed amendments, other than potentially the alterations to the roof of the loading bay, do not affect the parking / turning within the site. The Network Management Team have accordingly raised no objections.

The proposal would therefore have an acceptable impact in terms of highway safety; in accordance with the above policies.

## Living conditions

The UDP, at policy EN5, states that

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.

These provisions align quite closely with the Framework which states, at para 17, that

Planning should always seek a good standard of amenity for all existing and future occupants of land and buildings.

The proposed amendments do increase the area of plant on the elevation of the building facing eastwards towards the Hillside Way. The Environmental Health Officer has advised that they have no objection to the application.

The proposal would therefore have an acceptable impact in terms of living conditions; in accordance with the above policies.

## **RECOMMENDATION: Approve**

## **Conditions:**

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

Carpark Lighting Rev A

Landscape Plan A(90)GAP001 A

Proposed Site Layout Dwg. No. A(90)GAP002, Rev. 15

Proposed Floor Plan Dwg. No. A(00)GAP001, Rev. 4

Proposed Elevations Dwg. No. A(00)GAE001, Rev. 3

Proposed Roof Plan Dwg. No. A(00)GAP002, Rev. 1

Extended Phase 1 Habitat Survey and Bat Roost Assessment July 2015 prepared by WYG (submitted with 15/01670/FUL)

Details submitted to discharge conditions 11, 12, 19 and 23 (ref: 15/02381/EDI)

Details submitted to discharge conditions 3, 15, 16, 17 (ref: 15/02433/DDI)

Details submitted to discharge conditions 4 and 21 (ref: 15/02590/DDI)

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.

- 2 The premises shall only be operated for the purposes hereby approved between the hours of 08:00 and 20:00 Monday to Saturday and 10:00 and 16:00 Sundays and Bank Holidays, in order to protect the amenity of the area and to comply with policy EN5 of the UDP.
- 3 No deliveries shall be taken at, or despatched from, the site outside the hours of :- Monday to Saturday 07:00 to 21:00; Sunday 09:00 to 17:00, in order to protect the amenities of the area in accordance with policy EN5 of the UDP.
- 4 All planting, seeding or turfing comprises in the approved details of landscaping (Landscape Plan A(90)GAP001 A) shall be retained and any trees or plants within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, in the interests of visual amenity and to comply with policy B2 of the UDP.
- 5 Notwithstanding any details which have been provided, no products or waste items shall be stored outside the building, in the compound area to the south west of the store, in the interests of visual amenity and highway safety and to comply with policies B2 and T14 of the adopted UDP.

**Reference No.:** 17/00626/MAV Minerals Waste VAR (County Matters)

**Proposal:** **Variation of condition 2 (plans) attached to planning application 10/02548/FUL to install 3x fixed concrete bays.**

**Location:** Niramax 1 Monument Park Washington NE38 8QU

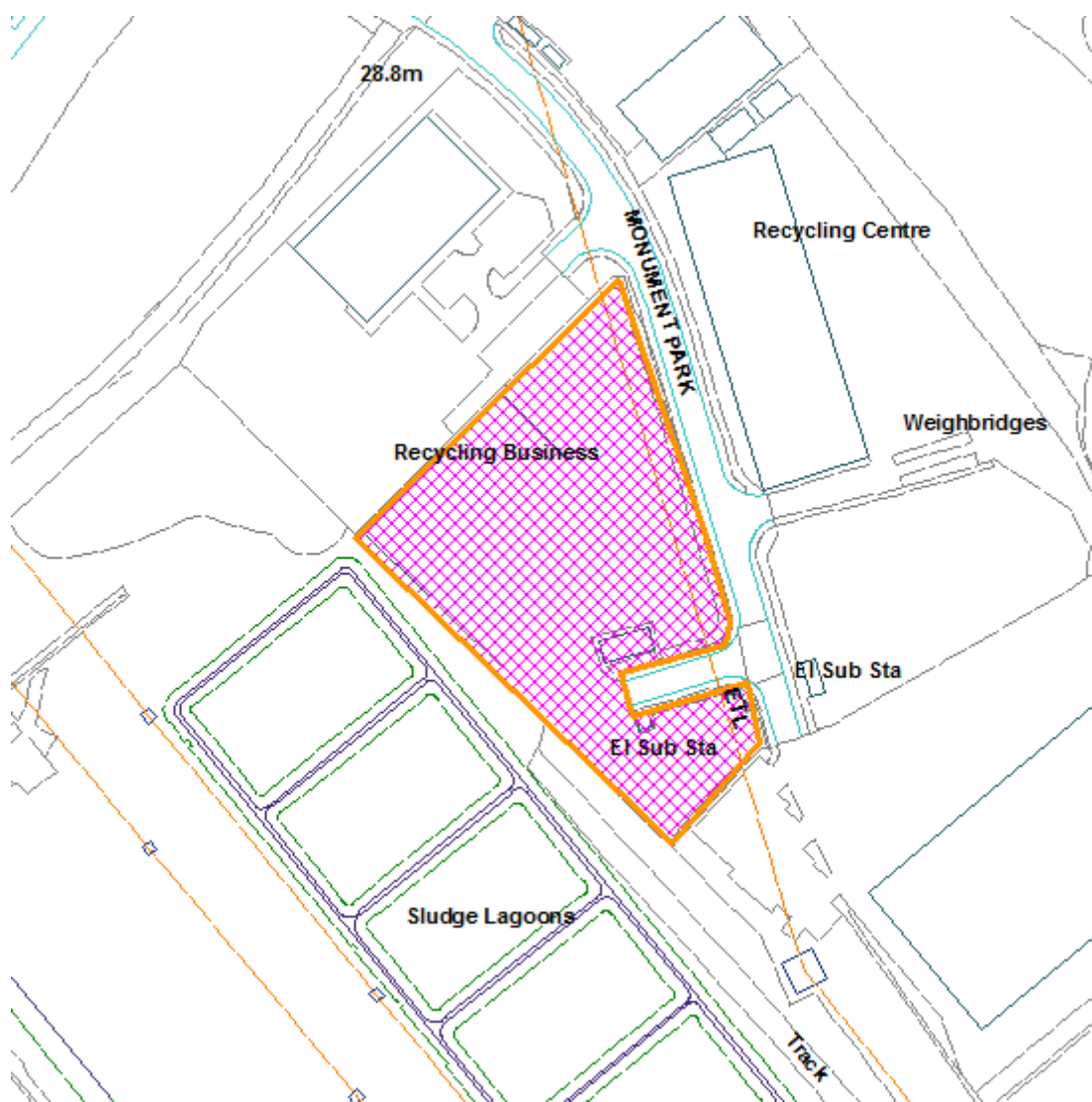
**Ward:** Washington East

**Applicant:** Niramax Group Limited

**Date Valid:** 12 April 2017

**Target Date:** 7 June 2017

## Location Plan



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## **PROPOSAL:**

The proposal seeks to vary condition 2 (approved plans) attached to approved planning application 10/02548/FUL, which gave consent for the erection of a waste transfer facility, weighbridge and storage bays.

The proposal is retrospective in nature and has been submitted as a result of an enforcement enquiry regarding the layout of the external yard area of the site, with particular regard to the installation of external concrete storage bays. Investigations established that 3 no. fixed concrete bays have been erected on site to store wood and to provide a safe area to move material in the unlikely event of a fire. Such facilities are not shown on the original approved site layout plan 10064-04. Accordingly, a revised plan (NT12792-002) has been submitted to reflect the changes that have occurred.

The site is located on the south western side of Monument Park, a small industrial area on the south eastern edge of the Pattinson Industrial Estate. There are four other buildings on Monument Park which are home to other industrial type uses. Electricity pylons and overhead wires are evident on the wider park, which run parallel to the parks access / spine road. To the south east of the site lies the Northumbrian Water Sewage Treatment Works and a short distance to the north east is Washington Waterfowl and Wetlands Centre. The River Wear runs to the south east directly behind the nature reserve lakes and the wider Monument Park site slopes down gently towards this.

The application site has been occupied by the original applicant for the building, Niramex Ltd, since the grant of the aforementioned 2010 consent. As this was classed as a major planning application, this request to vary Condition 2 also has to go before the relevant DC Sub-Committee. The Application has been advertised accordingly, including the posting of press and site notices and neighbour notifications.

## **TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

## **CONSULTEES:**

Network Management  
Washington East - Ward Councillor Consultation  
Environmental Health  
The Coal Authority  
Environment Agency

Final Date for Receipt of Representations: **03.06.2017**

## **REPRESENTATIONS:**

Public Consultation

No letters of representation have been received as a result of the consultation exercise.

Consultations



The following observations have been received as a result of the consultation exercise.

#### Environment Agency

The Environment Agency have been consulted due to the application arising from the requirements of the permits that they issue. At the time of writing the report, no comments have been received. An update relating to this aspect will be provided at the Committee Meeting.

#### The Coal Authority

Advise that the application site falls within the defined Development High Risk Area. Their records indicate that within the application site and surrounding area there are coal mining features and hazards which should be considered as part of development proposals. Part of the application site is likely to have been subject to past coal mining activities, specifically a thick coal seam (USWORTH) outcrop through the north western part of the site that may have been worked in the past. However, in accordance with Drawing No. NT12792-002 (Site Plan, dated 14/09/16) the thick coal seam outcrop is not located within the specific part of the site where new development is proposed.

The Coal Authority's general approach in cases where development is proposed within the Development High Risk Area is to recommend that coal mining information for the site is obtained and a Risk Assessment is submitted to support the planning application. However, in this instance the specific part of the site where new development is proposed actually falls outside the defined Development High Risk Area. They therefore conclude that a Risk Assessment is not necessary and they do not object to the application.

#### **POLICIES:**

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

B\_2\_Scale, massing layout and setting of new developments

EC\_2\_Supply of land and premises for economic development purposes

EC\_3\_Support for new and existing economic activity

T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising

B\_1\_Priority areas for environmental improvements

#### **COMMENTS:**

The main issues to consider in determining the proposal are:

- o The principle of having additional external storage bays
- o the impact of the additional external storage bays

The principle of having additional external storage bays

As explained earlier in the report, the site is situated within a wider area which is home to industrial type uses such as what is already consented on the site. The site is allocated for employment / industrial purposes in the Unitary Development Plan under Policies EC2 and EC3, which identifies such sites. In the application submission, the applicant explains that the requirement for the external bays has arisen from a request from the Environment Agency in particular with regard to the sites Fire Prevention Plan, which requires there to be a holding bay for any fire damaged material. As such, the requirement is considered as being necessary in

order for the business to function. It is not apparent that the facility will be performing any activities over and above what they currently undertake and as such, is therefore considered as being acceptable in principle.

### The impact of the additional external storage bays

Policy B2 of the UDP dictates that the scale, massing, setting and layout of developments should respect and enhance the qualities of the locality and retain acceptable levels of privacy. Upon inspection of the plans and a site visit, it is evident that the proposed bays are not out of keeping with the overall appearance of the site and do not give rise to any adverse impacts upon the existing visual amenities of the area. In addition, from a highways impact perspective, Policy T14 of the UDP requires that development should not cause traffic congestion or highway safety problems on existing roads; make appropriate safe provision for access and egress by vehicles; make provision for the loading and unloading of commercial vehicles and indicate how parking requirements will be accommodated. As the current proposal does not alter the previously approved access arrangements and as such given the Network Management Team have no observations to report, the proposal is not considered to give rise to any additional impacts upon the network and as such is considered as being acceptable.

From an environmental impact perspective, the Council's Environmental Health (Pollution Control) section advise that as the site is an existing and operational waste material recycling facility, it holds an Environmental Permit issued by the Environment Agency, who are the Regulator in this regard. Whilst planning permission determines whether the proposed development is an acceptable use of land, the Environmental Permit seeks to manage operations on an on-going basis to prevent or minimise pollution by the inclusion of permit conditions and requisition of an appropriate Environmental Management System, which has resulted in the operational modifications to the site and consequently, the submission of this planning application. Such measures being put in place are considered to accord with Unitary Development Plan Policy EN1, which seeks to improve the environment by minimising forms of pollution. Notwithstanding this potential improvement, it has been recommended that in order to minimise the potential for nuisance arising beyond the site boundary, a condition should be imposed to ensure that the materials stored externally are not dusty or odorous or stored at a height that does not exceed the height of the bay walls.

### CONCLUSION

For the reasons set out above, it is considered that the proposed variation of condition no. 2 is acceptable and the changes on site will not give rise to any significant concerns in relation to the amenity of the area, provided that a further condition is imposed with regards the external storage of materials at the site. As such, provided no objections are received during the remainder of the consultation period, which expires on the 01 June 2017, the proposal is considered to be in accordance with the requirements of policies B1, B2 and EN1 of the UDP. As such, it is recommended that Members be minded to approve the variation of the approved plans in order to permit the 3 no. additional external storage bays, subject to no negative consultation responses being received. Should any such comments be received, these shall be reported at the meeting.

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

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

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

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

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

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

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

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

**RECOMMENDATION:** Mind to Approve variation of condition no. 2 of planning permission ref. 10/00626/MAV.

### **Conditions:**

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

NT12792-002 Rev A

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.

- 2 Notwithstanding the submitted plans, all materials stored externally on the site shall not be dusty or odourous and that the height of material stored material in the external bays shall not exceed the height of the bay walls, in order to minimise the potential for nuisance arising beyond the site in the interests of the amenity of the area and in order to accord with Policy EN1 of the UDP