



North Tyneside Council

Planning Committee

Monday, 16 October 2023

To be held on **Tuesday, 24 October 2023** in room Room 0.02, Quadrant, The Silverlink North, Cobalt Business Park, NE27 0BY commencing at 6.00 pm.

Agenda Item	Page
<p>1. Apologies for absence</p> <p>To receive apologies for absence from the meeting.</p>	
<p>2. Appointment of substitutes</p> <p>To be informed of the appointment of any substitute members for the meeting.</p>	
<p>3. Declarations of Interest</p> <p>You are invited to declare any registerable and/or non-registerable interests in matters appearing on the agenda, and the nature of that interest.</p> <p>You are also requested to complete the Declarations of Interests card available at the meeting and return it to the Democratic Services Officer before leaving the meeting.</p> <p>You are also invited to disclose any dispensation from the requirement to declare any registerable and/or non-</p>	

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registerable interests that have been granted to you in respect of any matters appearing on the agenda.

4. Minutes

To confirm the minutes of the previous meeting held on 17 October 2023.

(Minutes to follow)

5. Planning Officer Reports

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To receive the attached guidance to members in determining planning applications and to give consideration to the planning applications listed in the following agenda items.

6. 23/01141/FUL The Sandpiper, Farringdon Road, Cullercoats, Tyne And Wear, NE30 3ER

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To determine a full planning application from ID Partnership Northern for the demolition of existing public house and redevelopment of site to provide 1no.retail unit (Class E), 1no.drinking establishment with expanded food provision (Sui Generis) and 14no. apartments, associated car parking, infrastructure and landscaping works.

7. 111 Marine Avenue, Whitley Bay - Tree Preservation Order 2023

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To consider the above Tree Preservation Order for two trees taking into account any representations received in respect of the Order.

Circulation overleaf ...

Members of the Planning Committee:

Councillor Willie Samuel (Chair)

Councillor Steve Cox

Councillor Tracy Hallway

Councillor Jim Montague

Councillor John O'Shea

Councillor Cath Davis

Councillor Julie Cruddas (Deputy Chair)

Councillor Ian Grayson

Councillor Chris Johnston

Councillor Pat Oliver

Councillor Matthew Thirlaway

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PLANNING COMMITTEE

Date: 24 October 2023

PLANNING APPLICATION REPORTS

Background Papers - Access to Information

The background papers used in preparing this schedule are the relevant application files the numbers of which appear at the head of each report. These files are available for inspection at the Council offices at Quadrant East, The Silverlink North, Cobalt Business Park, North Tyneside.

Principles to guide members and officers in determining planning applications and making decisions

Interests of the whole community

Members of Planning Committee should determine planning matters in the interests of the whole community of North Tyneside.

All applications should be determined on their respective planning merits.

Members of Planning Committee should not predetermine planning applications nor do anything that may reasonably be taken as giving an indication of having a closed mind towards planning applications before reading the Officers Report and attending the meeting of the Planning Committee and listening to the presentation and debate at the meeting. However, councillors act as representatives of public opinion in their communities and lobbying of members has an important role in the democratic process. Where members of the Planning Committee consider it appropriate to publicly support or oppose a planning application they can do so. This does not necessarily prevent any such member from speaking or voting on the application provided they approach the decision making process with an open mind and ensure that they take account of all the relevant matters before reaching a decision. Any Member (including any substitute Member) who finds themselves in this position at the Planning Committee are advised to state, prior to consideration of the application, that they have taken a public view on the application.

Where members publicly support or oppose an application they should ensure that the planning officers are informed, preferably in writing, so that their views can be properly recorded and included in the report to the Planning Committee.

All other members should have regard to these principles when dealing with planning matters and must avoid giving an impression that the Council may have prejudged the matter.

Planning Considerations

Planning decisions should be made on planning considerations and should not be based on immaterial considerations.

The Town and Country Planning Act 1990 as expanded by Government Guidance and decided cases define what matters are material to the determination of planning applications.

It is the responsibility of officers in preparing reports and recommendations to members to identify the material planning considerations and warn members about those matters which are not material planning matters.

Briefly, material planning considerations include:-

- North Tyneside Local Plan (adopted July 2017);
- National policies and advice contained in guidance issued by the Secretary of State, including the National Planning Policy Framework, Planning Practice Guidance, extant Circulars and Ministerial announcements;
- non-statutory planning policies determined by the Council;
- the statutory duty to pay special attention the desirability of preserving or enhancing the character or appearance of conservation areas;
- the statutory duty to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses;
- representations made by statutory consultees and other persons making representations in response to the publicity given to applications, to the extent that they relate to planning matters.

There is much case law on what are material planning considerations. The consideration must relate to the use and development of land.

Personal considerations and purely financial considerations are not on their own material; they can only be material in exceptional situations and only in so far as they relate to the use and development of land such as, the need to raise income to preserve a listed building which cannot otherwise be achieved.

The planning system does not exist to protect private interests of one person against the activities of another or the commercial interests of one business against the activities of another. The basic question is not whether owners and occupiers or neighbouring properties or trade competitors would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings, which ought to be protected in the public interest.

Local opposition or support for the proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is founded upon valid planning reasons which can be substantiated by clear evidence.

It will be inevitable that all the considerations will not point either to grant or refusal. Having identified all the material planning considerations and put to one side all the immaterial considerations, members must come to a carefully balanced decision which can be substantiated if challenged on appeal.

Officers' Advice

All members should pay particular attention to the professional advice and recommendations from officers.

They should only resist such advice, if they have good reasons, based on land use planning grounds which can be substantiated by clear evidence.

Where the Planning Committee resolves to make a decision contrary to a recommendation from officers, members must be aware of their legislative responsibilities under Article 35 of the Town & Country Planning (Development Management Procedure) (England) Order 2015 (as amended) to:

When refusing permission:

- state clearly and precisely the full reasons for any refusal including specifying all the policies and proposals in the development plan relevant to the decision; or

When granting permission:

- give a summary of the reasons for granting permission and of the policies and proposals in the development plan relevant to the decision; and
- state clearly and precisely full reasons for each condition imposed, specifying all policies and proposals in the development plan which are relevant to the decision; and
- in the case of each pre-commencement condition, state the reason for the condition being a pre-commencement condition.

And in both cases to give a statement explaining how, in dealing with the application, the LPA has worked with the applicant in a proactive and positive manner based on seeking solutions to problems arising in relation to dealing with the application, having regard to advice in para.s 186-187 of the National Planning Policy Framework.

Lobbying of Planning Committee Members

While recognising that lobbying of members has an important role in the local democratic process, members of Planning Committee should ensure that their response is not such as to give reasonable grounds for their impartiality to be questioned or to indicate that the decision has already been made. If however, members of Committee express an opinion prior to the Planning Committee this

does not necessarily prevent any such member from speaking or voting on the application provided they approach the decision making process with an open mind and ensure that they take account of all the relevant matters before reaching a decision. Any Member (including any substitute Member) who finds themselves in this position at the Planning Committee are advised to state, prior to consideration of the application, that they have taken a public view on the application.

Lobbying of Other Members

While recognising that lobbying of members has an important role in the local democratic process, all other members should ensure that their response is not such as to give reasonable grounds for suggesting that the decision has already been made by the Council.

Lobbying

Members of the Planning Committee should ensure that their response to any lobbying is not such as to give reasonable grounds for their impartiality to be questioned. However all members of the Council should ensure that any responses do not give reasonable grounds for suggesting that a decision has already been made by the Council.

Members of the Planning Committee should not act as agents (represent or undertake any work) for people pursuing planning applications nor should they put pressure on officers for a particular recommendation.

**PLANNING APPLICATION REPORTS
CONTENTS**

1 23/01141/FUL

Cullercoats

The Sandpiper Farrington Road Cullercoats Tyne And Wear NE30 3ER

Speaking rights requested -Mr James Doherty, 27 Cranbourne Grove Cullercoats

Speaking rights requested -Ms Kathryn Lane, 8 Shaftesbury Crescent Cullercoats

Speaking rights requested -Mr Paul Hillhouse, 153 Ponteland Road Cowgate

Speaking rights requested -Fraser Doherty, 27 Cranbourne Grove Cullercoats

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Item No: 1
Application No: 23/01141/FUL
Date valid: 21 August 2023
Target decision date: 20 November 2023
Author: Claire Dobinson Booth
☎: 0191 643 6341
Ward: Cullercoats

Application type: full planning application

Location: The Sandpiper, Farringdon Road, Cullercoats, Tyne And Wear, NE30 3ER

Proposal: Demolition of existing public house and redevelopment of site to provide 1no.retail unit (Class E), 1no.drinking establishment with expanded food provision (Sui Generis) and 14no. apartments, associated car parking, infrastructure and landscaping works

Applicant: Ian Tubman

Agent: ID Partnership Northern

RECOMMENDATION: Minded to grant legal agreement req.

INFORMATION

1.0 Summary Of Key Issues & Conclusions

1.0 Main Issues

1.1 The main issues for Members to consider are:

- Planning History
- Principle;
- Impact on the living conditions of surrounding occupiers, and whether the proposal would provide a sufficient residential living environment for future occupiers;
- Design and impact of the proposal on the character of the area;
- Impact on trees and biodiversity; and
- Whether there is sufficient car parking and access provided.

2.0 Description of the Site

2.1 The application site has an area of approximately 0.27 hectares and is located at the junction of Farringdon Road and Shaftesbury Crescent, Cullercoats. It contains a public house with car parks to the front and side, and a beer garden at the rear. There are 3no. existing access points into the site, 2no. on Shaftesbury Crescent and 1no. on Farringdon Road.

2.2 The site is surrounded by residential properties and a parade of small commercial units to the east.

3.0 Description of the Proposed Development

3.1 Planning permission is sought to demolish the existing public house and redevelop the site to provide a 4-storey building containing 1no.retail unit (Class E), 1no.drinking establishment with expanded food provision (Sui Generis) and 14no. apartments.

3.2 The proposed building is located approximately centrally within the site with car parking on all sides. The proposed car park contains 36no. car parking spaces, 14no. cycle spaces and utilises the 3no. existing access points. A service and plant area are proposed on the north side of the building.

4.0 Relevant Planning History

12/01291/FUL - Erection of an external dining area and children's play area. The external terrace (located on the south elevation, adjacent to Farrington Road) and the children's play area (located at the north-west corner of the building). (Retrospective) – Permitted 04.10.2012

21/02539/FUL - Demolition of existing public house and redevelopment of site to provide 1no.retail unit (Class E), 1no.drinking establishment with expanded food provision (Sui Generis) and 14no. apartments, associated car parking, infrastructure and landscaping works – Appeal Dismissed 21.06.2023

5.0 Development Plan

5.1 North Tyneside Local Plan (2017)

6.0 Government Policy

6.1 National Planning Policy Framework (September 2023)

6.2 National Planning Practice Guidance (As Amended)

6.3 Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in the determination of all applications. It requires LPAs to apply a presumption in favour of sustainable development in determining development proposals. Due weight should still be attached to Development Plan policies according to the degree to which any policy is consistent with the NPPF.

PLANNING OFFICERS REPORT

7.0 Main Issues

7.1 The main issues for Members to consider are:

- Planning History
- Principle;
- Impact on the living conditions of surrounding occupiers, and whether the proposal would provide a sufficient residential living environment for future occupiers;

- Design and impact of the proposal on the character of the area;
- Impact on trees and biodiversity; and
- Whether there is sufficient car parking and access provided.

7.2 Consultation responses and representations received as a result of the publicity given to this application are set out in the appendix to this report.

8.0 Planning History

8.1 This application is a resubmission of application 21/02539/FUL.

8.2 The previous scheme was refused by Planning Committee due to its height and mass having an adverse impact on the character of the area, loss of privacy for neighbouring residents, and insufficient parking which would have an unacceptable impact upon highway safety.

8.3 An appeal was submitted and dismissed in June 2023 on the sole grounds of a lack of signed S106 agreement for the scheme. Alongside the appeal the applicant submitted a claim for costs from the Council. The Planning Inspectorate considered that the Council had behaved unreasonably in refusing the application and despite the dismissed appeal, a full award of costs was granted against the Council.

8.4 With respect of the three reasons for refusal the Inspector found that the Council had behaved unreasonably on all three counts;

- The Council did not expand on reasons for disregarding advice with its Design Guidance SPD in respect of the height of the building.
- The Council failed to substantiate on its position that the development would cause significant adverse impact to the living conditions of adjacent residents.
- Despite no objection from the Highway Authority, the decision to refuse relied upon objections and local knowledge without explaining how this demonstrates that there would be a highway safety issue arising from the proposed parking provision.

8.5 Members are advised that due consideration should be given to this previous decision, in particular the award of costs against the Council.

9.0 Principle

9.1 Paragraph 7 of NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development.

9.2 Paragraph 11 of NPPF introduces a presumption in favour of sustainable development, which amongst other matters states that decision takers should approve development proposals that accord with an up-to-date development plan without delay.

9.3 Paragraph 60 of NPPF states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

9.4 Paragraph 87 of NPPF, states that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and not in accordance with an up-to-date Local Plan.

9.5 Paragraph 93 of NPPF states that to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;
- c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;

9.6 Policy DM1.3 states that the Council will work pro-actively with applicants to jointly find solutions that mean proposals can be approved wherever possible that improve the economic, social and environmental conditions in the area.

9.7 Policy S1.4 states that proposals for development will be considered favourably where it can be demonstrated that they would accord with the strategic, development or areas specific policies of the Local Plan.

9.8 Policy DM3.4 of the Local Plan states that proposals for main town centre uses on sites not within the town centres will be permitted where they meet the following criteria:

- a. In order of priority, there are no sequentially preferable sites in-centre, then edge of centre, and then existing out-of-centre development sites previously occupied by appropriate main town centre uses that are readily accessible to Metro stations or other transport connections to the town centres and then finally existing out-of-centre locations;
- b. The suitability, availability and viability of sites should be considered in the sequential assessment, with particular regard to the nature of the need that is to be addressed, edge-of-centre sites should be of a scale that is appropriate to the existing centre;
- c. There is flexibility in the business model and operational requirements in terms of format; and
- d. The potential sites are easily accessible and well connected to town centres. Proposals for retail development outside a town centre will require an impact assessment where they would provide either:
 - e. 500m² gross of comparison retail floorspace, or more; or
 - f. 1,000m² gross of retail floorspace for supermarkets/superstores, or more.

The proposal would be supported when the necessary Impact Assessment has shown that:

- g. The proposal would have no significant adverse impacts, either individually or cumulatively, on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- h. The proposal would have no significant adverse impact on the vitality and viability of a town centre, including consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For

schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

9.9 Policy DM3.6 states that small-scale out of centre facilities serving local retail and leisure needs of less than 500m² gross floorspace, or extensions to existing facilities, will be permitted if it can be shown that all of the following requirements are met:

- a. The proposal is of an appropriate size and function to meet specific day-to-day needs of a neighbourhood population within convenient, safe walking distance (300m);
- b. It will not have an adverse effect on the amenity of neighbouring uses;
- c. Contribute to social inclusion and sustainable development;
- d. Safeguard the retail character and function of existing centres and not detract from their vitality and viability.

9.10 Policy S7.10 states The Council and its partners will ensure that local provision and resources for cultural and community activities are accessible to the neighbourhoods that they serve. Planning permission for the re-use or redevelopment of any land or buildings used for community infrastructure will be permitted where the community's ability to meet its day-to-day needs for services are not reduced.

9.11 Policy S4.1 states that the full objectively assessed housing needs of North Tyneside will be met through the provision of sufficient specific deliverable housing sites, including the positive identification of brownfield land and sustainable Greenfield sites that do not fall within the Borough's Green Belt, whilst also making best use of the existing housing stock.

9.12 Policy S4.3 specifically allocates sites to meet the overall housing needs. The application site is not allocated for housing in the Local Plan.

9.13 Policy DM4.5 states that proposals for residential development on sites not identified on the Policies Map will be considered positively where they can:

- a. Make a positive contribution to the identified housing needs of the Borough; and,
- b. Create a, or contribute to an existing, sustainable residential community; and
- c. Be accessible to a range of sustainable transport modes; and
- d. Make the best and most efficient use of available land, whilst incorporating appropriate green infrastructure provision within development; and
- e. Be accommodated by, and make best use of, existing infrastructure, and where further infrastructure requirements arise, make appropriate contribution to its provision; and
- f. Make a positive contribution towards creating healthy, safe, attractive and diverse communities; and, g. Demonstrate that they accord with the policies within this Local Plan.

9.14 The development would provide 14no. new homes, which would contribute to meeting the housing needs of the borough in accordance with the NPPF and part (a) of Policy DM4.5. It is located in a sustainable location close to bus stops on Farringdon Road and local shops/services. The principle of residential development on this site is therefore considered to be acceptable.

9.15 The development also includes 2no. commercial units, a convenience retail store (349sqm) and a drinking establishment with expanded food provision (288 sqm). These are town centre uses as defined by NPPF. As the site is in an out of centre location it must be considered whether the development could be located on any sequentially preferable sites.

9.16 The application is supported by a sequential assessment which considers a variety of sites within the surrounding town centres. No sites were identified as being suitable, available and viable. The applicant has stated that the viability of each individual use within the application is dependent upon one another, and it is not appropriate to disaggregate the uses. While there were units identified in the site search that could accommodate some of the uses proposed, there was no site that could deliver the entire scheme.

9.17 Both the commercial units have floor areas under 500 sqm. Out of centre local facilities of this size are supported by Local Plan Policy DM3.6.

9.18 The Sandpiper public house has recently been nominated to be an asset of community value. The nomination was rejected on 20.10.2022 due to insufficient information being submitted. Nonetheless, the proposal would result in the loss of an existing community facility and there has been a significant level of public objection to the demolition of the existing public house.

9.19 The applicant has stated that the public house is no longer viable and has experienced a decline in trading revenue and barrellage for the past five years, exacerbated by Covid-19. The proposal includes a replacement drinking facility with expanded food provision and would therefore maintain a meeting place for members of the community. Therefore, it is officer opinion that the proposal to demolish the public house is acceptable.

9.20 The additional residential properties would help to support existing business on Farringdon Road and the applicant has advised that the proposed commercial units would create an additional 12 full time jobs over and above the 5 full time jobs in the existing Sandpiper.

9.21 Having regard to the above, the principle of the proposed development is considered acceptable and in accordance with the NPPF and Local Plan Policies S1.4, DM3.4, DM3.6, DM4.5 and S7.10 subject to consideration of the following matters.

10.0 North Tyneside Council Housing Land Supply

10.1 Paragraph 74 of National Planning Policy Framework (NPPF) requires local planning authorities to identify and maintain a rolling five-year supply of deliverable housing land. This includes an additional buffer of at least 5%, in order to ensure choice and competition in the market for housing land.

10.2 The most up to date assessment of housing land supply informed by the five year housing land summary included within the Housing Land Availability Assessment, November 2022. It identifies the total potential 5-year housing land supply in the borough at 3,483 additional dwellings, a total which includes

delivery from sites yet to gain planning permission. This represents a shortfall against the Local Plan requirement or approximately a 3.4 year supply of housing land. It is important to note that this assessment of five-year land supply includes over 1,000 homes at proposed housing allocations within the Local Plan (2017). The potential housing land supply from this proposal is not included in this assessment. The proposed dwelling will make a small contribution towards the borough achieving a five-year housing land supply.

11.0 Impact on the amenity of existing and future occupiers

11.1 Paragraph 185 of NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution. In doing so they should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development, and avoid noise giving rise to significant adverse impacts on health and quality of life.

11.2 The NPPF states that planning should always seek to ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

11.3 Policy S1.2 of the Local Plan states that the wellbeing and health of communities will be maintained and improved by amongst other matters requiring development to create an age friendly, healthy and equitable living environment.

11.4 Policy S1.4 of the Local Plan states that development proposals should be acceptable in terms of their impact upon local amenity for new or existing residents and businesses, adjoining premises and land uses.

11.5 DM5.19 states that development proposals that may cause pollution either individually or cumulatively of water, air or soil through noise, smell, smoke, fumes, gases, steam, dust, vibration, light, and other pollutants will be required to incorporate measures to prevent or reduce their pollution so as not to cause nuisance or unacceptable impacts on the environment, to people and to biodiversity. Development that may be sensitive (such as housing, schools and hospitals) to existing or potentially polluting sources will not be sited in proximity to such sources. Potentially polluting development will not be sited near to sensitive areas unless satisfactory mitigation measures can be demonstrated.

11.6 Policy DM6.1 of the Local Plan states that proposals are expected to demonstrate a positive relationship to neighbouring buildings and spaces; a safe environment that reduces opportunities for crime and antisocial behaviour; and a good standard of amenity for existing and future residents and users of buildings and spaces.

11.7 Policy DM4.9 states that to ensure that new homes provide quality living environments for residents both now and in the future and to help deliver sustainable communities, from the 1 October 2018 the following standards will apply, subject to site viability:

Accessibility of homes:

Market Housing

a. For new housing developments, excluding low-rise non-lift serviced flats, 50% of homes are to meet building regulation M4(2) – ‘Category 2 -accessible and adaptable dwellings’.

Affordable Housing

b. For all new housing developments, excluding low-rise non-lift serviced flats, 90% of homes should meet building regulation M4(2) – ‘accessible and adaptable dwellings’.

c. 10% of new homes where the local authority is responsible for allocating or nominating a person to live in that dwelling should meet building regulation M4 (3) (2) (b). When providing for wheelchair user housing, early discussion with the Council is required to obtain the most up-to-date information on specific need in the local area. Where there is no specific need identified, then M4 (3) (2) (a) will apply, to allow simple adaptation of the dwelling to meet the future needs of wheelchair users.

Internal Space in a Home:

d. All new homes, both market and affordable, will meet the Government’s Nationally Described Space Standard (NDSS).

11.8 The Design Quality SPD states: “The quality of accommodation provided in residential development contributes significantly to the quality of life of residents and reduces energy use. Residential schemes should provide accommodation of a good size, a good outlook, acceptable shape and layout of rooms and with main habitable rooms receiving daylight and adequate privacy.”

11.9 *Impact on the light, outlook and privacy of existing residents -*

11.10 The application site is located to the south and southwest of residential properties on Shaftesbury Crescent and Cranbourne Grove, and there are further residential dwellings to the west and south of the site. A significant number of objections have been received from neighbouring occupiers. The concerns raised include loss of light, outlook and privacy.

11.11 The proposed development is 4-storey with a maximum height of 13.5m (9.5m to eaves). The surrounding residential properties are 2-storey and typically around 8.2m high.

11.12 The rear elevation of the development would be located 11.5m (approx.) from the southern boundaries of No.4 Shaftesbury Crescent and No.12 Cranbourne Grove, while the eastern elevation would be 12.8m (approx.) from the western boundary of No.27 Cranbourne Grove. There would be a separation distance of approx. 13.4m from the gable elevation of No.4 Shaftesbury Crescent.

11.13 Habitable windows are proposed in the rear of the building at 1st, 2nd and 3rd floor level. The side elevation of No.4 Shaftesbury Crescent contains a ground floor door and ground and first floor windows.

11.14 A Daylight and Sunlight Assessment has been carried out and submitted as part of the application. This assesses the impact the development would have on the light received by the surrounding properties. The assessment looks at the impact on the Vertical Sky Component (VSC), which is a measure of available skylight at a given point on a vertical plane.

11.15 The assessment shows that the majority of the surrounding residential properties will not experience any significant reduction in natural light and all, except the gable wall of 4 Shaftesbury Crescent, will fully comply with BRE guidance. The ground floor of the gable wall would see a reduction in daylight, but the values retained would exceed 20% VSC, which is typical of more developed areas. The assessment also notes that the doors and windows in this elevation serve spaces with main windows in the rear or front elevations.

11.16 Sunlight testing has also been carried out and shows that all facades would see little or no reduction to their current sunlight.

11.17 An overshadowing study has been submitted to assess the impact of the development at four times of year. The development would cast a shadow to the north of the site which varies in length through the year. The greatest impact would be in December. During March, June and September the shadowing is mainly to the car park area within the site. There would be some shadowing of the gardens serving 4 Shaftesbury Crescent, 12 Cranbourne Grove and 27 Cranbourne Grove in March and September but none during June. The assessment shows that the spaces would comply with the BRE criteria of 50% of the space seeing 2 hours or more sunlight access on the 21 March. The report concludes that overall, whilst there would be some shadowing of the closest neighbouring properties this would be limited to the southern and western fringes of the neighbouring spaces with the majority of the areas seeing no impacts.

11.18 The impact on surrounding residents in terms of loss of light is considered to be acceptable given that the vast majority of windows pass the BRE standards and windows which are affected are limited to secondary apertures. The impact of overshadowing on the adjacent gardens is also considered to be acceptable given that the greatest impact would be in the winter months when the gardens are less likely to be used, and that any overshadowing in the spring and autumn is limited to the fringes of the gardens.

11.19 Objectors have raised concerns over the accuracy of the Sunlight Report. The applicant has reaffirmed the report was produced using the most up-to-date software by a professionally competent person, as such officers have no reason to believe that the submitted report is not factually accurate.

11.20 Turning to the impact on outlook and privacy. The proposed development would have some impact on outlook from the adjacent gardens to the north and northeast due to its additional height and footprint when compared to the existing building. However, it would not be within the direct line of site of any main windows within these properties. When taking into account the separation distances of 11.5m and 12.8m from the sites northern and eastern boundaries the impact on the outlook of residents on Shaftesbury Crescent and Cranbourne Grove is considered to be acceptable.

11.21 The rear and east facing windows would overlook the adjacent gardens but due to the orientation of the building the only direct overlooking of windows would be those within the gable of No.4 Shaftesbury Crescent. It is not considered that there would be any significant impact on the ground floor window of No.4 given that this faces the boundary fence. It is not clear which room is served by the first-floor window, but it appears to be a secondary window to a room which has the main window in the front elevation. Taking these factors into account, on balance the impact on this window is considered to be acceptable. It is officer opinion that the impact on the neighbouring gardens is also acceptable given that they are already overlooked by surrounding houses.

11.22 The development would be located approximately 41.6m from existing residential properties to the south and 31.5m from those to the west. These distances are considered to be sufficient to protect residents from any loss of outlook or privacy.

11.23 The Inspector's decision notice for the previous application noted that the proposal relative to existing dwellings would ensure that it would not cause undue harm to the living conditions of their occupiers with respect to light or outlook. The inspector also noted that the relationship of what is proposed (in terms of separation) would be consistent with the relationship of the windows of existing dwellings. It is officer opinion that the impact on the outlook and privacy of surrounding properties is acceptable.

11.24 *Noise* -

11.25 Objectors have raised concern regarding the impact of noise both during construction and once the development is complete.

11.26 In terms of the construction impacts these would be limited to the duration of the build and could be mitigated by imposing conditions in respect of traffic management, dust control measures and to control the site set up and construction hours.

11.27 There would be increased activity in the area from use of the proposed commercial units and car park, and from vehicular movements associated with the development. This has the potential to impact on both existing residents and future occupiers of the development. A noise assessment has been submitted and this has been reviewed by the Manager of Environmental Health.

11.28 Noise monitoring was carried out at two locations to assess noise to the front facade adjacent to Farringdon Road and at rear of the site adjacent to Shaftesbury Crescent.

11.29 The report sets out a glazing and ventilation scheme to protect future occupiers from external noise, and the Manager of Environmental states that this is acceptable. They note that the noise report has not considered internal noise transmission between the retail units and the first-floor apartments and recommends a condition to ensure a suitable sound mitigation scheme is provided.

11.30 The noise assessment has considered delivery noise and suggests that while the number of deliveries per week will be double that of the existing use, they would all be during daytime hours. The delivery bay for the proposed retail unit would be located to the rear of the site. The Manager of Environmental Health notes that the northern boundary would be enclosed by 1.8m boundary fencing which would provide some attenuation of delivery noise and also from noise associated with the car park. The noise assessment has modelled the noise levels from the car park and shown that internal BS8233 daytime habitable noise levels can be achieved with open windows.

11.31 The Manager of Environmental Health raises no objection to the development subject to the imposition of conditions including in respect of: delivery, opening and construction hours, sound insulation, external plant, boundary enclosures, external lighting and to control and external extraction/odour suppression that may be required.

11.32 Subject to these conditions and when taking into account the existing use of the site, it is officer opinion that the impact on noise on existing and future residents is acceptable.

11.33 *Internal layout/space standards –*

11.34 The development includes 4no. 1-bedroom flats and 10no. 2-bedroom flats. 8no. of the flats are duplex apartments with rooms on the 2nd and 3rd floors. The floor areas of all the properties meet the Government's Nationally Described Space Standard (NDSS) and the applicant has advised that 50% will comply with M4(2):Category 2 – Accessible and adaptable dwellings.

11.35 The submitted Daylight and Sunlight Assessment demonstrates that rooms and with the proposed development would receive acceptable levels of daylight and sunlight.

11.36 While the development does not include any outdoor amenity space in the form of gardens, three of the first-floor apartments have generous roof terraces and the site is within walking distance of public open space at Marden Quarry.

11.37 Members need to determine whether the proposed development is acceptable in terms of its impact on existing residents and whether acceptable living conditions would be provided for future occupiers. It is officer advice that the impact on existing and future residents, in terms of noise, light, outlook and privacy is acceptable, and that the proposed development accords with the NPPF and LP Policies DM5.19 and DM6.1.

12.0 Impact on Character and Appearance

12.1 NPPF states that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Development should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping; be sympathetic to the local character and history, including the surrounding built environment and landscape setting; and establish or maintain a strong sense of place.

12.2 Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes (NPPF para. 134).

12.3 Policy DM6.1 of the Local Plan states that applications will only be permitted where they demonstrate high and consistent design standards. Designs should be specific to the place, based on a clear analysis the characteristics of the site, its wider context and the surrounding area.

12.4 Relevant sections of the Design Quality SPD include:

4.1 “The successful integration of new development within the surrounding area will depend largely on the quality of its design and layout.”

4.2 “The appearance and materials chosen for a scheme should create a place with a locally inspired or otherwise distinctive character. Identifying whether there are any architectural features or specific materials that give a place a distinctive sense of character should be a starting point for design.”

4.3 “The scale, mass and form of new buildings are some of the most important factors in producing good design and ensuring development integrates into its setting.”

4.4 “Roof form is an important visual element of a building. The roof design can help to convey the overall design approach of a development or contribute to the continuity of a series of buildings..... . New development should recognise the scale, massing and roof form of surrounding buildings and reflect these where they are a positive attribute of the area's character.”

4.7 “It is important that buildings present active frontages to the public spaces particularly at ground floor level.”

4.9 “Where a building is on a corner, it must ‘turn’ the corner by providing an active frontage to both streets. Corner plots are ideal opportunities for raising the height of a building to provide a prominent landmark that can also provide additional floor space.”

12.5 The application site is located on a prominent corner plot within an area characterised by 2-storey pitched roof properties.

12.6 The proposed development is 4-storey (max. height of 13.5m) with the upper floor located within the roofspace. The roof design includes a series of gabled roof features, intersected by flat roofed elements which accommodate the stairwells to the uppermost floor. The ground floor retail units project beyond the front of the apartments and the resulting flat roof allows roof terraces to be provided for the first-floor apartments. The main windows are in the front and rear elevations with the flank walls containing secondary bedroom and landing windows. The construction materials include a variety of brick types and wall tiles to reflect the materials found in the surrounding area. Feature banding,

sections of brick soldier course and a green living wall add interest to the design. The glazed retail units and side facing windows create active frontages onto Farringdon Road and Shaftesbury Crescent. It is proposed to create car parks around the building which would be interspersed with landscaping and trees.

12.7 The design was amended during the course of the previous application in response to officer concerns and it is considered that the building form and materials relate well to the surrounding area.

12.8 At 4-storeys the development is significantly taller than the surrounding 2-storey dwellings and commercial units. However, it sits apart from the adjacent buildings on a generous corner plot and the roof design helps to reduce the massing and perceived height of the building. A streetscene elevation has been submitted to demonstrate this. The Design Quality SPD advises that corner plots offer ideal opportunities for providing taller buildings and it is officer opinion that the height of the development would not detract from the streetscene.

12.9 The Planning Policy Officer (Design) has provided comments and raises no objections to the application. The Inspector in considering the previous application noted that the building would appear higher in the Farringdon Road and Shaftesbury Crescent street scenes, but stated that it would not be so close to existing buildings so to visually dominate them and stated that a building of the height, bulk and massing proposed could be accommodated within the street scenes without causing harm to the character and appearance of the area.

12.10 It is considered that the overall design of the proposed residential/commercial development is acceptable and relates well to the character of the surrounding area. It is officer opinion that the development complies with the NPPF, Local Plan Policy DM6.1 and the Design Quality SPD.

13.0 Landscaping and ecology

13.1 An environmental role is one of the three dimensions of sustainable development according to NPPF, which seeks to protect and enhance our natural, built and historic environment by amongst other matters improving biodiversity.

13.2 Paragraph 174 of NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

13.3 Paragraph 180 of NPPF states that when determining planning application that if significant harm to biodiversity cannot be avoided, or as a last resort compensated for, then planning permission should be refused.

13.4 Policy S5.4 states that the Borough's biodiversity and geodiversity resources will be protected, created, enhanced and managed having regard to their relative significance.

13.5 Policy DM5.5 of the Local Plan states that all development proposals should:

- a. Protect the biodiversity and geodiversity value of land, protected and priority species and buildings and minimise fragmentation of habitats and wildlife links; and,
- b. Maximise opportunities for creation, restoration, enhancement, management and connection of natural habitats; and,
- c. Incorporate beneficial biodiversity and geodiversity conservation features providing net gains to biodiversity, unless otherwise shown to be inappropriate.

Proposals which are likely to significantly affect nationally or locally designated sites, protected species, or priority species and habitats (as identified in the BAP), identified within the most up to date Green Infrastructure Strategy, would only be permitted where:

- d. The benefits of the development in that location clearly demonstrably outweigh any direct or indirect adverse impacts on the features of the site and the wider wildlife links; and,
- e. Applications are accompanied by the appropriate ecological surveys that are carried out to industry guidelines, where there is evidence to support the presence of protected and priority species or habitats planning to assess their presence and, if present, the proposal must be sensitive to, and make provision for, their needs, in accordance with the relevant protecting legislation; and,
- f. For all adverse impacts of the development appropriate on site mitigation measures, reinstatement of features, or, as a last resort, off site compensation to enhance or create habitats must form part of the proposals. This must be accompanied by a management plan and monitoring schedule, as agreed by the Council.

13.6 Local Plan Policy DM5.6 states that proposals that are likely to have significant effects on features of internationally designated sites, either alone or in-combination with other plans or projects, will require an appropriate assessment. Proposals that adversely affect a site's integrity can only proceed where there are no alternatives, imperative reasons of overriding interest are proven and the effects are compensated.

13.7 Policy DM5.9 supports the protection and management of existing woodland trees, hedgerow and landscape features. It seeks to secure new tree planting and landscaping scheme for new development, and where appropriate, promote and encourage new woodland, tree and hedgerow planting schemes and encouraging native species of local provenance.

13.8 The Coastal Mitigation SPD contains additional guidance and information on the mitigation expected from development within North Tyneside to prevent adverse impacts on the internationally protected coastline. Development can adversely affect the Northumbria Coast SPA /Ramsar through additional pressure from local residents and visitors. It is proposed to introduce a coastal wardening service as part of a wider Coastal Mitigation Service that will implement a range of targeted and coordinated physical projects to mitigate the impacts at the coast. The SPD sets out a recommended developer contribution

towards this service that would contribute to the avoidance or mitigation of adverse impacts on internationally protected species and habitats.

13.9 The site currently contains the public house, car parking areas, ornamental planting and some trees/hedgerow planting along the northern and eastern boundaries. An Ecological Impact Assessment (EclA), Arboricultural Impact Assessment (AIA) and Landscaping Proposals Plan have been submitted in support of the application.

13.10 It is proposed to fell 2no. trees which are located adjacent to the northern boundary and are assessed as Category B trees. To mitigate for their loss replacement planting is proposed. This comprises native hedgerow, shrub and tree planting along the site boundaries to enhance the biodiversity value of the site and screen the car park. The proposed planting would achieve a Biodiversity Net Gain of 39%.

13.11 The EclA found habitats of limited ecological value, including modified grassland, shrub and hardstanding. It identifies the potential impacts as disturbance to protected species during demolition, vegetation removal and the loss of foraging habitat. A dusk activity bat survey has been carried out and this found no evidence of roosting bats.

13.12 The Landscape Architect and Biodiversity Officer have provided comments. They raise no objections to the development and recommend conditions to mitigate the impacts on protected species and trees and requiring that a detailed landscape scheme is submitted.

13.13 The development lies within 6km of the coast and therefore has the potential to impact on the Northumbria Coast SPA/Ramsar site through additional visitor disturbance. To mitigate this impact, in accordance with the Coastal Mitigation SPD, the developer has agreed to make a contribution of £337 per unit towards coastal mitigation.

13.14 Members need to consider whether the impact on trees and ecology would be acceptable and weight this in their decision. It is officer advice that the impact is acceptable subject to the conditions recommended by the Landscape Architect and Biodiversity Officer and a contribution towards the Coastal Mitigation scheme. It is considered that the proposal accords with the NPPF and LP policies S5.4, DM5.5, DM5.6 and DM5.9 and the Coastal Mitigation SPD.

14.0 Whether there is sufficient car parking and access provided

14.1 NPPF recognises that transport policies have an important role to play in facilitating sustainable development, but also contributing to wider sustainability and health objectives.

14.2 All development that will generate significant amounts of movement should be required to provide a Travel Plan (TP), and the application should be supported by a Transport Statement (TS) or Transport Assessment (TA) so the likely impacts of the proposal can be fully assessed.

14.3 Paragraph 111 of NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

14.4 Policy DM7.4 seeks to ensure that the transport requirements of new development, commensurate to the scale and type of development, are taken into account and seek to promote sustainable travel to minimise environmental impacts and support residents and health and well-being.

14.5 The Transport and Highways SPD 2022 sets out the Council's adopted parking standards.

14.6 The application is supported by a Transport Statement, Framework Travel Plan and Supplementary Traffic Note.

14.7 A car park containing 36no. parking spaces is proposed, with 14no. spaces for the apartment residents and 22no. for the commercial units and visitors to the apartments. The car parks would be accessed via 2no. existing access points on Shaftesbury Crescent and 1no. existing access on Farringdon Road. Cycle parking would be provided for staff and customers of the commercial units. A service area for the convenience store is proposed to the north of the building which would be accessed from Shaftesbury Crescent. The other commercial unit would be serviced from the east side of the car park

14.8 Traffic surveys have been carried out at existing Co-op stores with a similar floor area to the proposed convenience store. These have been combined with TRICS rates to predict vehicle movements for the proposed retail unit. The overall vehicle movements associated with the commercial uses is predicted to range from 74 per hour to 90 per hour at peak times. The TS estimates that 20% of the vehicles to and from the retail offer would be new to the local road network with the remaining 80% made up of pass-by, diverted or linked trips.

14.9 The number of vehicle movements associated with the proposed apartments is predicted to be 1-3 per hour at peak times.

14.10 The overall development is predicted to result in between 17 and 20 new vehicle movements per hour at peak times. This equates to an increase of between 5 and 18 additional vehicles per hour on the local road network when compared to vehicle movements generated by the existing public house.

14.11 The number of vehicles turning into and out of the site has also been compared between the existing and proposed uses. The development is predicted to result in between 74no. and 83no. extra vehicles per hour in each direction at peak times.

14.12 The applicant has agreed to provide a financial contribution of £30,000 towards a new pedestrian crossing point on Farringdon Road to improve highway safety and mitigate for the additional vehicle movements.

14.13 The Highway Network Manager states that the traffic associated with the site would not cause capacity issues and the site access or wider network. He goes on to state that an appropriate level of parking will be provided.

14.14 The Highway Network Manager has recommended various conditions. These include the provision of EV charging points, a parking management strategy and taxi and private hire provision. The Inspector's decision notice for the previous application noted that there is no substantiated technical evidence to suggest that the parking level put forward would not meet the needs of the proposed development or would result in harm to the surrounding highway network.

14.15 NPPF is clear that that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

14.16 In this case it is officer opinion that the development would not have an unacceptable impact on highway safety or a residual cumulative impact on the road network that would be severe.

14.17 Having regard to the above, and subject to the conditions requested by the Highway Network Manager, it is officer advice that the proposal complies with the advice in NPPF, policy DM7.4 and the Transport and Highways SPD.

15.0 Other issues

15.1 Contaminated Land

15.1.2 Paragraph 184 of NPPF states that where a site is affected by contamination of land stability issues, responsibility for securing safe development rests with the developer and/or landowner.

15.1.3 Policy DM5.18 'Contaminated and Unstable Land'; states that where the future users or occupiers of a development would be affected by contamination or stability issues, or where contamination may present a risk to the water environment, proposals must be accompanied by a report.

15.1.4 The application is supported by a Phase 1 Desktop and Coal Mining Risk Assessment. The Contaminated Land Officer has reviewed the assessment and provided comments. It recommends that conditions are imposed to address contamination issues and the past coal mining legacy.

15.1.5 The site lies within a Coal Mining Development High Risk Area and accordingly the Coal Authority have been consulted. They state that intrusive site investigation works should be undertaken prior to development commencing in order to establish the exact situation regarding coal mining legacy issues on the site. The Coal Authority states that they have no objection to the proposed development subject to the imposition of conditions to secure this.

15.1.6 Subject to the conditions recommended by the Contaminated Land Officer and Coal Authority, it is officer advice that the proposal complies with policy DM5.18 of the Local Plan 2017.

15.2 Flooding

15.2.1 The National Planning Policy Framework states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.

15.2.2 Policy DM5.12 of the Local Plan states that all major developments will be required to demonstrate that flood risk does not increase as a result of the development proposed, and that options have been undertaken to reduce overall flood risk from all sources, taking into account the impact of climate change over its lifetime.

15.2.3 Policy DM5.14 states that applicants will be required to show, with evidence, they comply with the Defra technical standards for sustainable drainage systems (unless otherwise updated and/or superseded. On brownfield sites, surface water run off rates post development should be limited to a maximum of 50% of the flows discharged immediately prior to the development where appropriate and achievable. For greenfield sites, surface water run off post development must meet or exceed the infiltration capacity or the greenfield prior to development incorporating an allowance for climate change.

15.2.4 The site is located within Flood Zone 1 and is not within a Critical Drainage Area. A Drainage Strategy has been submitted as part of the application and this has been reviewed by the LLFA.

15.2.5 It is proposed to provide surface water attenuation within the site via the use of permeable paving and an underground storage tank which will provide storage for up to a 1 in 100yr rainfall event with a 40% allocation for climate change. The surface water leaving the development would be restricted to 2.9l/s before it enters the local sewer network in order to reduce the impact of the development on the surrounding areas drainage system.

15.2.6 The LLFA raises no objections and recommends a condition to control the detailed drainage design, permeable paving and attenuation tank.

15.2.7 Subject to conditions, it is officer advice that the proposal would not have an adverse impact in terms of flooding and would accord with the advice in NPPF and policies DM5.12 and DM5.14. Members need to consider whether they agree.

15.3 S106 Contributions

15.3.1 Paragraph 55 of 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 should only be used where it is not possible to address unacceptable impacts through a planning condition.

15.3.2 Paragraph 57 of NPPF states that planning obligations must only be sought where they meet all of the following tests:

- a) Necessary to make the development acceptable in planning terms;
- b) Directly related to the development; and

c) Fairly and reasonably related in scale and kind to the development.

15.3.3 Policy S7.1 states that the Council will ensure appropriate infrastructure is delivered so it can support new development and continue to meet existing needs. Where appropriate and through a range of means, the Council will seek to improve any deficiencies in the current level of provision.

15.3.4 Policy DM7.2 states that the Council is committed to enabling a viable and deliverable sustainable development. If the economic viability of a new development is such that it is not reasonably possible to make payments to fund all or part of the infrastructure required to support it, applicants will need to provide robust evidence of the viability of the proposal to demonstrate this. When determining the contributions required, consideration will be given to the application's overall conformity with the presumption in favour of sustainable development.

15.3.5 Policy DM7.5 states that the Council will seek applicants of major development proposals to contribute towards the creation of local employment opportunities and support growth in skills through an increase in the overall proportion of local residents in education or training. Applicants are encouraged to agree measures with the Council to achieve this, which could include:

- a. The development or expansion of education facilities to meet any identified shortfall in capacity arising as a result of the development; and/or,
- b. Provision of specific training and/or apprenticeships that:
 - i. Are related to the proposed development; or,
 - ii. Support priorities for improving skills in the advanced engineering, manufacturing and the off-shore, marine and renewables sector where relevant to the development.

15.3.6 The Council's adopted SPD on Planning Obligations (2018) states that the Council takes a robust stance in relation to ensuring new development appropriately mitigates its impact on the physical, social and economic infrastructure of North Tyneside. Notwithstanding that, planning obligations should not place unreasonable demands upon developers, particularly in relation to the impact upon the economic viability of development. The Council will consider and engage with the applicants to identify appropriate solutions where matters of viability arise and require negotiation.

15.3.7 Contributions have been requested by service areas; however, these are subject to IPB approval. A further update will be provided to planning committee.

15.3.8 Contributions are considered necessary, directly related to the development and fairly and reasonable relate in scale and kind to the development and therefore comply with the CIL Regulations.

15.3.9 A CIL payment will be required.

15.4 Local Financial Considerations

15.4.1 Paragraph 11 of National Planning Practice Guidance states that Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a

local planning authority must have regard to a local financial consideration as far as it is material. Section 70(4) of the 1990 Act (as amended) defines a local financial consideration as a grant or other financial assistance that has been, will or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments) or sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL).

15.4.2 Whether or not 'a local financial consideration' is material to a particular decision will depend on whether it could help make the development acceptable in planning terms. It is not considered that New Homes Bonus or CIL contributions are material in terms of making this development acceptable in planning terms.

16.0 Conclusion

16.1 Members should consider carefully the balance of issues before them and the need to take into account national policy within NPPF and the weight to be accorded to this as well as current local planning policy.

16.2 Specifically, NPPF states that LPA's should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. A core planning principle within NPPF requires that every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth.

16.3 Weight should also be given to the planning history of the site. Despite dismissal of an appeal the Planning Inspector awarded costs to the applicant as the Inspector considered that the Council had behaved unreasonably in its defence of each reason for refusal.

16.4 The Council does not have a 5-year housing land supply. The proposed development of 14no. homes would make a valuable contribution to the current shortfall. This is a significant benefit that weighs in favour of the proposal.

16.5 It is officer advice that the proposal would ensure sufficient separation distances to neighbouring properties and would not have an adverse impact on the amenity of existing residents. The standard of accommodation provided for future occupiers is also considered to be acceptable.

16.6 It is officer opinion that the proposal is of an acceptable standard of design and would not result in any harm to the streetscene or character of the area.

16.7 It is considered that the level of parking proposed is acceptable and that the development would not have an unacceptable impact on highway safety or result in a residual cumulative impact that would be severe.

16.8 The development would achieve a net gain in biodiversity and would not impact on any protected habitats or species.

16.9 The Council does not have a 5-year supply of deliverable housing sites. It therefore follows that planning permission should be granted unless the impacts

of the development significantly and demonstrably outweigh the benefits. In the opinion of officers, the development avoids having any adverse impact that would outweigh the benefits. It is therefore recommended that planning permission should be granted subject to a S106 Legal Agreement and conditions.

RECOMMENDATION: Minded to grant legal agreement req.

The Committee is recommended to

**a) indicate that it is minded to grant this application;
b) authorise the Director of Regeneration and Economic Development to issue a notice of grant of planning permission subject to;**

**i) completion of a legal agreement with the applicant under Section 106 of the Town and Country Planning Act 1990 to secure financial contributions.
ii) the conditions set out in the planning officer report; and
iii) the addition, omission or amendment of any other conditions considered necessary by the Director of Regeneration and Economic Development.**

Conditions/Reasons

1. The development to which the permission relates shall be carried out in complete accordance with the following approved plans and specifications.

- Application form 21.08.2023
- Landscape proposals plan 146165/8001 Rev.D, date 21.10.21
- Proposed elevations 300 D4, date 29.04.22
- Proposed floor plans 200 D5, date 26.04.22
- Proposed site layout 103 P3, date 15.11.21

Reason: To ensure that the development as carried out does not vary from the approved plans.

2. Standard Time Limit 3 Years FUL MAN02 *

3. The scheme for access shall be laid out in accordance with the approved plans prior to occupation of the development and retained thereafter.

Reason: In the interests of highway safety having regard to policy DM7.4 of the North Tyneside Local Plan (2017).

4. The scheme for parking shall be laid out in accordance with the approved plans prior to occupation of the development. It shall not be thereafter retained and not used for any other purpose.

Reason: In the interests of highway safety having regard to policy DM7.4 of the North Tyneside Local Plan (2017).

5. Notwithstanding the details submitted, the scheme for servicing and refuse collection shall be laid out in accordance with the approved plans. These areas shall not be used for any other purpose and retained thereafter.

Reason: In the interests of highway safety and of the development having regard to policy DM7.4 of the North Tyneside Local Plan (2017).

6. Notwithstanding the details submitted, the scheme for the provision of and storage of refuse shall be laid out in accordance with the approved plans and prior to the occupation. These storage areas shall not be used for any other purpose and retained thereafter.

Reason: In the interests of highway safety and of the development having regard to policy DM7.4 of the North Tyneside Local Plan (2017).

7. No part of the development shall be occupied until details of Electric Vehicle (EV) charging provision has been submitted to and approved by in writing the Local Planning Authority. This scheme shall be implemented in accordance with the approved details and retained thereafter.

Reason: In the interests of highway safety

8. No part of the development shall be occupied until details of undercover, secure cycle provision for the commercial development and apartments has been submitted to and approved by in writing the Local Planning Authority. This scheme shall be implemented in accordance with the approved details and retained thereafter.

Reason: In the interests of highway safety

9. No part of the development shall be occupied until details of a parking management strategy has been submitted to and approved by in writing the Local Planning Authority. This scheme shall be implemented in accordance with the approved details and retained thereafter.

Reason: In the interests of highway safety

10. No part of the development shall be occupied until details of taxi & private hire provision has been submitted to and approved by in writing the Local Planning Authority. This scheme shall be implemented in accordance with the approved details and retained thereafter.

Reason: In the interests of highway safety

11. No development shall commence until a Construction Method Statement for the duration of the construction period has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall: identify the access to the site for all site operatives (including those delivering materials) and visitors, provide for the parking of vehicles of site operatives and visitors; details of the site compound for the storage of plant (silos etc), materials used in constructing the development, fuels and waste as well concrete mixing and use of fires; provide a scheme indicating the route for heavy construction vehicles to and from the site; a turning area within the site for delivery vehicles; dust suppression scheme (such measures shall include mechanical street cleaning, and/or provision of water bowsers, and/or wheel washing and/or road cleaning facilities, and any other wheel cleaning solutions and dust suppressions measures considered appropriate to the size of the development). The scheme must include a site plan illustrating the location of facilities and any alternative locations during all stages of development. The approved statement shall be implemented and complied with during and for the life of the works associated

with the development. It must also include tree protection measures for the trees to be retained. Cabins, storage of plant and materials and parking must not be located within the RPA of the retained trees.

Reason: This information is required pre development to ensure that the site set up does not impact on highway safety, pedestrian safety, retained trees (where necessary) and residential amenity having regard to policies DM5.19 and DM7.4 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

12. Site Investigation	CON00 4	*
13. Remediation Method Statement	CON00 5	*
14. Validation Report	CON00 6	*
15. Unexpected Hotspots	CON00 7	*
16. Gas Investigate no Development	GAS00 6	*
17. Restrict Hours No Construction Sun BH	HOU00 4	*
18. Restrict Hours No Demolition Sun BH	HOU00 5	*
19. Dust suppression during construction	SIT03	*

20. The commercial units shall not be open for business outside the hours of 07:00 to 23:00 on Monday to Saturday and 09:00 to 23:00 on Sundays and Bank Holidays.

Reason: To safeguard the occupiers of the development from undue noise of other associated disturbance having regard to policy DM5.19 of the North Tyneside Local Plan (2017).

21. There shall be no deliveries and collections for the commercial units outside the hours of 07:00 to 21:00 hours on Monday to Saturday and 09:00 to 18:00 hours on Sundays and Bank Holidays

Reason: To safeguard the occupiers of the development from undue noise of other associated disturbance having regard to policy DM5.19 of the North Tyneside Local Plan (2017).

22. A noise management scheme for the drinking establishment shall be submitted to and approved in writing by the Local Planning Authority. This shall detail any external seating areas or smoking areas to be provided at the

premises, to minimise external noise late at night. Any external seating areas to be restricted for use to between 08:00 to 21:00 hours.

Reason: To protect the amenity of residential premises against noise, having regard to policy DM5.19 of the North Tyneside Local Plan (2017).

23. No live music in the form of bands, solo and duo artists and no amplified music in the form of discos, DJ's and karaoke. Only recorded background music to be permitted to be played at the premises at any time.

Reason: To protect the amenity of residential premises against noise, having regard to policy DM5.19 of the North Tyneside Local Plan (2017).

24. Prior to the installation of external plant and equipment at the commercial units a noise scheme must be submitted to and approved in writing by the Local Planning Authority. The scheme must detail the noise rating level from the proposed combined plant and equipment to ensure that the background noise levels are not exceeded and that the rating levels provided in Table 1 as detailed in noise report reference 9118.1 are met.

Reason: To safeguard the occupiers of the development from undue noise of other associated disturbance having regard to policy DM5.19 of the North Tyneside Local Plan (2017).

25. Within 1 month of the external plant and equipment being installed, acoustic testing must be undertaken to verify compliance with condition 24 and the results submitted to and agreed in writing by the Local Planning Authority.

Reason: To safeguard the occupiers of the development from undue noise of other associated disturbance having regard to policy DM5.19 of the North Tyneside Local Plan (2017).

26. Noise No Tannoys Externally Audible	NOI002	*
27. Noise Sound Insulation Plant Machinery	NOI04	*DM5.19
28. Ext Plant Details Extractor Chimney	EPL01	*
29. Ext Plant Details Ventilation System	EPL02	*
30. Ext Plant Details Refrigeration Plant	EPL03	*

31. Prior to the construction above damp proof course level details of an odour suppression system for the arrestment of cooking odours associated with the commercial units must be submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be implemented before the commercial uses commence in accordance with the approved details and permanently retained. The odour suppression system shall be maintained in accordance with the details provided by the manufacturer, which must be submitted for the purposes of discharging this condition. All odour abatement

systems should be in accordance to DEFRA report Guidance and Control of Odour and Noise from Commercial Kitchen Exhaust System.

Reason: To safeguard the amenity of nearby residents having regard to policy DM5.19 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

32. Flood Lighting Scheme Details LIG001 *

33. Refuse Storage Detail Provide Before Occ REF00 *
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34. Refuse Bins Details Provide Before Occ REF02 *

35. Notwithstanding any indication of materials which may have been given in the application, no development shall take place above damp proof course level until a schedule and/or samples of the construction and surfacing materials and finishes for the development 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.

Reason: To secure a satisfactory external appearance; having regard to policy DM6.1 of the North Tyneside Council Local Plan 2017.

36. Notwithstanding any indication of materials which may have been given in the application, no development shall take place above damp proof course level until details of the materials for the hard surface areas have been submitted to and agreed in writing by the Local Planning Authority. Thereafter the development must be carried out in accordance with the agreed details.

Reason: To secure a satisfactory external appearance; having regard to policy DM6.1 of the North Tyneside Council Local Plan 2017.

37. Details of any external signage must be submitted to and agreed in writing by the Local Planning Authority prior to installation. Thereafter the development must be carried out in accordance with the agreed details.

Reason: To secure a satisfactory external appearance; having regard to policy DM6.1 of the North Tyneside Council Local Plan 2017.

38. No trees, shrubs or hedges within the site which are shown as being retained on drawing No:146165/8001 - Rev D, shall be felled, uprooted, wilfully damaged or destroyed, cut back in anyway or removed during the development phase other than in accordance with the approved plans or without the prior written consent of the Local Planning Authority.

Reason: In order to safeguard existing trees, the amenity of the site and locality, and in the interests of good tree management having regard to Policy DM5.9 of the North Tyneside Local Plan (2017).

39. Prior to commencement of development, trees within or adjacent to and overhanging the site that are to be retained are to be protected by in the locations shown and detailed in the Arboricultural Impact Assessment and Tree Protection Plan by Dendra Consulting Ltd (June 2021) unless otherwise agreed in writing by

the Local Planning Authority. No operational work, site clearance works or the development itself shall commence until the fencing is installed. The protective fence shall remain in place until the works are complete or unless otherwise agreed in writing with the Local Planning Authority. The protective fence is not to be repositioned without the approval of the Local Authority.

Reason: In order to safeguard existing trees, the amenity of the site and locality, and in the interests of good tree management having regard to Policy DM5.9 of the North Tyneside Local Plan (2017).

40. All works within the RPA of the retained trees that include (but not limited to) kerb installation, fence post installation, lighting and drainage, must to be carried out in complete accordance with BS 5837:2012 and the National Joint Utilities Group (NJUG) 'Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity To Trees'. The AMS is to form part of the contractors method statement regarding the proposed construction works.

Reason: In order to safeguard existing trees, the amenity of the site and locality, and in the interests of good tree management having regard to Policy DM5.9 of the North Tyneside Local Plan (2017).

41. Within one month from the start on site of any operations such as site excavation works, site clearance (including site strip) for the development, a fully detailed landscape plan shall be submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall be in accordance with the habitat creation and enhancement details set out within the Ecological Assessment and Biodiversity Metric 3.1 Reports (Dendra Consulting October 2022). The landscape plan shall include full planting details and specifications. Any new standard tree planting shall be a minimum 14-16cm girth. The landscaping scheme shall be implemented in accordance with the approved details within the first available planting season following the approval of details. All hard and soft landscape works shall be carried out in accordance with the approved details and to a standard in accordance with the relevant recommendations of British Standard 8545:2014. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting.

Reason: In order to safeguard existing trees, the amenity of the site and locality, and in the interests of good tree management having regard to Policy DM5.9 of the North Tyneside Local Plan (2017).

42. Within 4 weeks of any of the development hereby approved commencing on site, a 'Landscape Ecological Management & Monitoring Plan' (LEMMP) for landscape mitigation and enhancement shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall be in accordance with the approved Landscape Plan and the details set out within the Ecological Assessment Report and Biodiversity Metric (Dendra Consulting October 2022) and shall be implemented on completion of the landscape scheme and thereafter for a minimum period of 30 years.

The Management Plan will be a long-term management strategy and will set out details for the creation, enhancement, management and monitoring of landscaping and ecological habitats within the site for a minimum period of 30 years. The Plan will also include details of regular Net Gain Assessment updates

that include habitat condition assessments to evidence the success of the scheme and net gain delivery. Thereafter, these areas shall be managed and maintained in full accordance with these agreed details unless first agreed in writing by the Local Planning Authority.

Reason: To ensure a satisfactory standard of landscaping having regard to policies DM5.5 and DM5.9 of the North Tyneside Local Plan (2017).

43. High intensity security lights shall be avoided as far as practical and if required, these will be of minimum practicable brightness, be set on a short timer and will be motion sensitive only to larger objects. Lighting must be designed in accordance with the BCT & Institute of Lighting Professionals (ILP) Guidance Note 08/18 "Bats & Artificial Lighting in the UK" to minimise light spill to adjacent boundary features such as woodland, scrub, grassland and hedgerow habitats and should be less than 2 lux in these areas.

Reason: To ensure that local wildlife populations are protected in the interests of ecology, having regard to the NPPF and Policy DM5.5 of the North Tyneside Local Plan.

44. All works must be undertaken in accordance with the working methods set out in section 6.5.1 (Hedgehog) of the Ecological Impact Assessment Report (Dendra Consulting October 2022) to prevent the killing or injuring of Hedgehog during vegetation clearance, demolition and construction works.

Reason: To ensure that local wildlife populations are protected in the interests of ecology, having regard to the NPPF and Policy DM5.5 of the North Tyneside Local Plan.

45. All demolition works will be undertaken in accordance with a 'Precautionary Bat Working Method Statement' which shall be submitted to the LPA for approval in writing prior to works commencing on site.

Reason: To ensure that local wildlife populations are protected in the interests of ecology, having regard to the NPPF and Policy DM5.5 of the North Tyneside Local Plan.

46. Any excavations left open overnight will have a means of escape for mammals that may become trapped in the form of a ramp at least 300mm in width and angled no greater than 45 degrees.

Reason: To ensure that local wildlife populations are protected in the interests of ecology, having regard to the NPPF and Policy DM5.5 of the North Tyneside Local Plan.

47. No vegetation removal or building/demolition works shall take place during the bird nesting season (March- August inclusive) unless a survey by a suitably qualified ecologist has confirmed the absence of nesting birds immediately prior to works commencing.

Reason: To ensure that local wildlife populations are protected in the interests of ecology, having regard to the NPPF and Policies DM5.5 of the North Tyneside Local Plan.

48. 2no. House Sparrow terrace nest boxes, such as the 1SP Schwegler Sparrow Terrace (or similar), must be provided on new buildings within the site. Details of the bird box specification and locations must be submitted to and

approved in writing by the Local Planning Authority within 4 weeks of development commencing. The boxes must be installed in accordance with the approved plans prior to occupation of the development and thereafter retained.

Reason: To ensure that local wildlife populations are protected in the interests of ecology, having regard to the NPPF and Policy DM5.5 of the North Tyneside Local Plan.

49. 1no. integrated bat box, such as the Habibat Access Box, Schwegler bat tube, Ibstock bat box (or similar) must be installed into the new building. Details of bat box specification and location must be submitted to and approved in writing by the Local Planning Authority within 4 weeks of development commencing. The box must be installed in accordance with the approved plans prior to occupation of the development and thereafter retained.

Reason: To ensure that local wildlife populations are protected in the interests of ecology, having regard to the NPPF and Policy DM5.5 of the North Tyneside Local Plan.

50. Prior to occupation of the development details of all screen and boundary walls, fences and any other means of enclosure, which must include 1.8m high timber fencing on the northern boundary, must be submitted to and approved in writing by the Local Planning Authority. Hedgehog gaps (13cmx13cm) must be provided within all new and existing fencing. The fencing shall be installed in accordance with the agreed details prior to occupation of the development and the hedgehog gaps must be thereafter retained.

Reason: In the interests of visual and residential amenity and wildlife protection having regard to policies DM6.1, DM5.19 and DM5.5 of the North Tyneside Local Plan.

51. Details of any external flues, vents, utility boxes and other utility equipment must be submitted to and agreed in writing by the Local Planning Authority prior to installation. Thereafter the development must be carried out in accordance with the agreed details.

Reason: To secure a satisfactory external appearance; having regard to policy DM6.1 of the North Tyneside Council Local Plan 2017.

52. Notwithstanding Condition 1, the proposed dwellings must comply with the housing standards set out under Policy DM4.9 of the North Tyneside Local Plan (2017).

Reason: To ensure appropriate living conditions for future occupiers are provided in accordance with Policy DM4.9 of the North Tyneside Local Plan (2017).

53. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking or re-enacting that Order), Unit 2 as identified on the 'Proposed Floor Plans' Drawing No.200 D5 shall only be used for the purposes of a drinking establishment with expanded food provision (Sui Generis).

Reason: To enable the Local Planning Authority to retain control over the use and ensure a community facility is retained within the site; having regard to Policy S7.10 of the North Tyneside Local Plan.

54. No extension or amalgamation of the commercial units shall take place without the prior written approval of the local planning authority.

Reason: To maintain control over the nature and size of the retailing units in order to ensure that they do not develop into a form of retailing which could undermine the vitality and viability of neighbouring town centres taking into account Policy DM3.4 of the North Tyneside Local Plan and the NPPF.

55. No development (excluding demolition) shall commence until;

a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;

b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed. The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework.

56. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: To ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework.

57. A vapour barrier must be installed throughout the ceiling between the ground floor retail units and the residential apartments above prior to first occupation of the first floor residential units to prevent migration of odours into upstairs apartments.

Reason: To safeguard the amenity of future residents having regard to policy DM5.19 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

58. Prior to occupation of the residential apartments a scheme of sound insulation works must be submitted to and approved in writing by the Local Planning Authority. The scheme must include an acoustic glazing scheme and ventilation scheme in accordance to noise report no. 9118.1 to address external road traffic noise arising from Farringdon Road and Shaftsbury Crescent and noise arising from the ground floor commercial units to show that all habitable rooms are provided with sound attenuation measures to give a resultant noise level of below 30 dB LAeq and maximum noise level of 45dB for bedrooms and 35 dB LAeq for living rooms. The scheme shall be implemented in accordance

with the agreed details prior to occupation of the development and thereafter retained.

Reason: To safeguard the amenity of future residents having regard to policy DM5.19 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

59. Prior to the first operation of the hereby approved commercial units, a scheme for one (1) apprenticeships for North Tyneside residents, , including a programme for monitoring and demonstrating compliance of appointing apprentices, shall be submitted to and approved in writing by the Local Planning Authority. The apprenticeship schemes shall be run in full accordance with the agreed details.

Reasons: To contribute towards the creation of local employment opportunities and support growth in skills inline with policy DM7.5 of the North Tyneside Local Plan 2017.

Statement under Article 35 of the Town & Country (Development Management Procedure) (England) Order 2015):

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirements in Paragraph 38 of the National Planning Policy Framework.

Informatives

The applicant is advised that the vehicular access to the highway must be constructed by or to the satisfaction of the Local Highway Authority. Contact Highways@northtyneside.gov.uk for further information.

The applicant is advised that a licence must be obtained from the Local Highway Authority before any works are carried out on the footway, carriageway verge or other land forming part of the highway. Contact Highways@northtyneside.gov.uk for further information.

The applicant is advised that it is an offence to obstruct the public highway (footway or carriageway) by depositing materials without obtaining beforehand, and in writing, the permission of the Council as Local Highway Authority. Such obstructions may lead to an accident, certainly cause inconvenience to pedestrians and drivers, and are a source of danger to children, elderly people and those pushing prams or buggies. They are a hazard to those who are disabled, either by lack of mobility or impaired vision. Contact Highways@northtyneside.gov.uk for further information.

The applicant is advised that a license must be obtained from the Highways Authority for any scaffold placed on the footway, carriageway verge or other land forming part of the highway. Contact Streetworks@northtyneside.gov.uk for further information

The applicant is advised that no gates may project over the highway at any time. Contact New.Developments@northtyneside.gov.uk for further information.

The applicant is advised to contact Highway Maintenance to arrange for an inspection of the highways adjacent to the site. The applicant should be aware that failure to do so may result in the Council pursuing them for costs of repairing any damage in the surrounding area on completion of construction. Contact Highways@northtyneside.gov.uk for further information.

The applicant is advised that requests for Street Naming & Numbering must be submitted and approved by the Local Highway Authority. Any complications, confusion or subsequent costs that arise due to non-adherence of this criteria will be directed to applicant. Until a Street Naming and Numbering & scheme been applied for and approved by the Local Highway Authority it will not be officially registered with either the council, Royal Mail, emergency services etc. Contact Streetworks@northtyneside.gov.uk for further information.

Building Regulations Required (103)

The building is thought to have been on site since 1973, as such there may be asbestos contained within it. An asbestos survey should be carried out prior to demolition and any findings acted upon.

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission to enter or disturb our property will result in the potential for court action. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at:www.gov.uk/get-a-permit-to-deal-with-a-coalmine-on-your-property

In areas where shallow coal seams are present caution should be taken when carrying out any on site burning or heat focused activities. To check your site for

coal mining features on or near to the surface the Coal Authority interactive map viewer allows you to view selected coal mining information in your browser graphically. To check a particular location either enter a post code or use your mouse to zoom in to view the surrounding area.



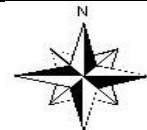
Application reference: 23/01141/FUL

Location: The Sandpiper, Farrington Road, Cullercoats, Tyne And Wear
Proposal: Demolition of existing public house and redevelopment of site to provide 1no.retail unit (Class E), 1no.drinking establishment with expanded food provision (Sui Generis) and 14no. apartments, associated car parking, infrastructure and landscaping works

Not to scale

Date: 12.10.2023

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 AC0000820329



Consultations/representations

1.0 Internal Consultees

1.1 Highways

1.1.1 This application is for the demolition of the existing public house and redevelopment of the site to provide 1 retail unit, 1 drinking establishment with expanded food provision and 14 apartments, associated car parking, infrastructure, and landscaping works.

1.1.2 A Transport Assessment (TA) was submitted as part of the planning application and the traffic associated with the sites does not cause capacity issues at the site access or wider network.

1.1.3 To improve pedestrian safety and connectivity to the site, the applicant has agreed to install a zebra crossing on Farringdon Road adjacent to the existing parade of shops. This will benefit both application site as well as these local businesses.

1.1.4 The site utilises existing accesses on Farringdon Road and Shaftsbury Crescent, which are appropriate for the level of traffic and type of vehicles that is expected to be associated with the site and an appropriate level of parking will be provided, and a Framework Travel Plan is included with the application.

Conditional approval is recommended.

Recommendation - Conditional Approval

1.1.5 The applicant will be required to enter into a Section 106 Agreement under The Town and Country Planning Act 1990 for a sum of £30,000 for improved pedestrian crossing facilities on Farringdon Road

1.1.6 Suggested Conditions:

1.1.6.1 Notwithstanding the details submitted, the scheme for access shall be laid out in accordance with the approved plans. This access shall not be used for any other purpose and retained thereafter.

Reason: In the interests of highway safety and of the development having regard to policy DM7.4 of the North Tyneside Local Plan (2017).

1.1.6.2 Notwithstanding the details submitted, the scheme for parking shall be laid out in accordance with the approved plans. These parking areas shall not be used for any other purpose and retained thereafter.

Reason: In the interests of highway safety and of the development having regard to policy DM7.4 of the North Tyneside Local Plan (2017).

1.1.6.3 Notwithstanding the details submitted, the scheme for servicing and refuse collection shall be laid out in accordance with the approved plans. These areas shall not be used for any other purpose and retained thereafter.

Reason: In the interests of highway safety and of the development having regard to policy DM7.4 of the North Tyneside Local Plan (2017).

1.1.6.4 Notwithstanding the details submitted, the scheme for the provision of and storage of refuse shall be laid out in accordance with the approved plans and prior to the occupation. These storage areas shall not be used for any other purpose and retained thereafter.

Reason: In the interests of highway safety and of the development having regard to policy DM7.4 of the North Tyneside Local Plan (2017).

1.1.6.5 No part of the development shall be occupied until details of Electric Vehicle (EV) charging provision has been submitted to and approved by in writing the Local Planning Authority. This scheme shall be implemented in accordance with the approved details and retained thereafter.

Reason: In the interests of highway safety

1.1.6.6 No part of the development shall be occupied until details of undercover, secure cycle provision for the commercial development and apartments has been submitted to and approved by in writing the Local Planning Authority. This scheme shall be implemented in accordance with the approved details and retained thereafter.

Reason: In the interests of highway safety

1.1.6.7 No part of the development shall be occupied until details of a parking management strategy has been submitted to and approved by in writing the Local Planning Authority. This scheme shall be implemented in accordance with the approved details and retained thereafter.

Reason: In the interests of highway safety

1.1.6.8 No part of the development shall be occupied until details of taxi & private hire provision has been submitted to and approved by in writing the Local Planning Authority. This scheme shall be implemented in accordance with the approved details and retained thereafter.

Reason: In the interests of highway safety

1.1.6.9 Notwithstanding Condition 1, no development shall commence until a Construction Method Statement for the duration of the construction period has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall: identify the access to the site for all site operatives (including those delivering materials) and visitors, provide for the parking of vehicles of site operatives and visitors; storage of plant and materials used in constructing the development; provide a scheme indicating the route for heavy construction vehicles to and from the site; a turning area within the site for delivery vehicles; a detailed scheme to prevent the deposit of mud and debris onto the highway and a dust suppression scheme (such measures shall include mechanical street cleaning, and/or provision of water bowsers, and/or wheel washing and/or road cleaning facilities, and any other wheel cleaning solutions and dust suppressions measures considered appropriate to the size of the development). The scheme must include a site plan illustrating the location of facilities and any alternative locations during all stages of development. The approved statement shall be implemented and complied with during and for the life of the works associated with the development.

Reason: This information is required pre development to ensure that the site set up does not impact on highway safety, pedestrian safety, retained trees (where

necessary) and residential amenity having regard to policies DM5.19 and DM7.4 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

1.1.7 Informatives:

1.1.7.1 The applicant is advised that the vehicular access to the highway must be constructed by or to the satisfaction of the Local Highway Authority. Contact Highways@northtyneside.gov.uk for further information.

1.1.7.2 The applicant is advised that a licence must be obtained from the Local Highway Authority before any works are carried out on the footway, carriageway verge or other land forming part of the highway. Contact Highways@northtyneside.gov.uk for further information.

1.1.7.3 The applicant is advised that it is an offence to obstruct the public highway (footway or carriageway) by depositing materials without obtaining beforehand, and in writing, the permission of the Council as Local Highway Authority. Such obstructions may lead to an accident, certainly cause inconvenience to pedestrians and drivers, and are a source of danger to children, elderly people and those pushing prams or buggies. They are a hazard to those who are disabled, either by lack of mobility or impaired vision. Contact Highways@northtyneside.gov.uk for further information.

1.1.7.4 The applicant is advised that a license must be obtained from the Highways Authority for any scaffold placed on the footway, carriageway verge or other land forming part of the highway. Contact Streetworks@northtyneside.gov.uk for further information

1.1.7.5 The applicant is advised that no gates may project over the highway at any time. Contact New.Developments@northtyneside.gov.uk for further information.

1.1.7.6 The applicant is advised to contact Highway Maintenance to arrange for an inspection of the highways adjacent to the site. The applicant should be aware that failure to do so may result in the Council pursuing them for costs of repairing any damage in the surrounding area on completion of construction. Contact Highways@northtyneside.gov.uk for further information.

1.1.7.7 The applicant is advised that requests for Street Naming & Numbering must be submitted and approved by the Local Highway Authority. Any complications, confusion or subsequent costs that arise due to non-adherence of this criteria will be directed to applicant. Until a Street Naming and Numbering & scheme been applied for and approved by the Local Highway Authority it will not be officially registered with either the council, Royal Mail, emergency services etc. Contact Streetworks@northtyneside.gov.uk for further information.

1.2 Lead Local Flood Authority

1.2.1 I have carried out a review of the surface water drainage proposals detailed in planning application 23/01141/FUL, I can confirm that I have no objections to the drainage proposals as the development will be providing surface water attenuation within the site via the use of permeable paving and an underground

storage tank which will provide storage for up to a 1in100yr rainfall event with a 40% allocation for climate change. The surface water leaving the development will be restricted to 2.9l/s before it enters the local sewer network in order to reduce the impact of the development on the surrounding areas drainage system.

1.3 Manager of Environmental Health (Contaminated Land)

1.3.1 Previous comments apply: The Phase 1 report has identified a number of on-site contaminative issues. The site also lies within a Coal referral area so there is the potential for mine gas. Based on this the following must be attached to any future application

Con 04

Con 05

Con 06

Con 07

Gas 06.

1.3.2 The building is thought to have been on site since 1973, as such there may be asbestos contained within it. An asbestos survey should be carried out prior to demolition and any findings acted upon.

1.4 Manager of Environmental Health (Pollution)

1.4.1 Thank you for consulting Pollution with regard to the Demolition of existing public house and redevelopment of site to provide 1no.retail unit (Class E), 1no.drinking establishment with expanded food provision (Sui Generis) and 14no. apartments, associated car parking, infrastructure and landscaping works. The development site is located an area which is surrounded by residential properties.

1.4.2 I have viewed the noise report which has considered the potential impact of road traffic noise on the proposed new residential apartments and potential noise from the retail unit and the drinking establishment including noise arising from the car park and deliveries. The noise report included for unattended noise monitoring over a 72 hour period in October 2021. The noise monitoring was carried out at 2 locations P1 to assess noise to the front façade adjacent to Farringdon Road and P2 to assess noise to the rear of the site adjacent to Shaftsbury Crescent. Daytime noise levels were 59 dBLAeq and 54 dB LAeq for P1 and P2, and night time were in the region of 49 and 43 dB LAeq. An appropriate glazing and ventilation scheme has been recommended and a condition is recommended for the apartments to ensure the noise scheme is provided. The noise report has not considered internal noise transmission from the retail unit and the drinking establishment to the first- floor apartments and a condition is recommended to ensure a suitable sound mitigation scheme is provided that ensures internal noise levels comply with the WHO community noise guidance of 30 dB LAeq and maximum noise level of 45dB for bedrooms at night and 35 dB LAeq for living rooms during the day is achieved.

1.4.3 The noise assessment has considered delivery noise suggesting that the number of deliveries each week will be double that of the existing use, but that all deliveries would be during daytime hours. A condition is also recommended to restrict deliveries to day time hours. The service yard for the retail unit will be located to the rear of the site. The noise assessment takes into account an

existing 1.8m boundary fencing between the development site and the existing residential properties that will be retained and this will provide some attenuation of associated delivery noise and noise from the car parks. The layout plans do not confirm this and therefore I would recommend a condition to require 1.8m acoustic fencing to the northern and eastern boundaries to screen associated noise from the service yard and car parks. The noise assessment has modelled the noise levels from the car park and shown that internal BS8233 daytime habitable noise levels can be achieved with open window.

1.4.4 It is not clear from the layout plans whether any outdoor seating areas will be provided for the drinking establishment, a condition is recommended to restrict the use of any commercial external seating areas to no later than 9pm.

1.4.5 Conditions are recommended to ensure a noise scheme is provided for all new external plant and equipment and operating hours. The drinking establishment and the retail unit may give rise to potential odours and fumes and it therefore recommended that a vapour barrier is provided between the ground floor and first floor apartments.

- Residential Apartments: Prior to occupation the residential accommodation hereby permitted shall not be occupied until a scheme of sound insulation works has been submitted to and approved in writing by the Local Planning Authority and installed and thereafter retained that includes for an acoustic glazing scheme and ventilation scheme in accordance to noise report no. 9118.1 to address external road traffic noise arising from Farringdon Road and Shaftsbury Crescent and associated noise arising from the ground floor retail units to show that all habitable rooms are provided with sound attenuation measures to give a resultant noise level of below 30 dB LAeq and maximum noise level of 45dB for bedrooms and 35 dB LAeq for living rooms is achieved.

- Vapour barrier: vapour barrier must be installed throughout the ceiling between the ground floor retail units and the residential apartments to prevent migration of odours into upstairs apartments.

Reason: this is not controlled by Building Control and will prevent internal migration of odours via the ceiling/floor space.

- Prior to the occupation of the housing, retail unit and drinking establishment, details of the 1.8m high acoustic screening to the northern and eastern boundaries of the site must be provided in writing to the Local planning Authority for approval, implemented and thereafter retained.

- HOU04

- HOU05

- SIT03

- Retail Unit (Class E) & Drinking Establishment (Sui Generis)

- HOU03 07:00 and 23:00 hours Monday to Saturday and 09:00 to 23:00 hours on Sundays and Bank Holidays.

- Deliveries and collections to be restricted to between the times of 07:00 and 21:00 hours; Monday to Saturday and 09:00 to 18:00 hours on Sundays and Bank Holidays

Reason: To protect the amenity of residential premises against noise.

- Submit for approval and implement a noise management scheme for the drinking establishment with regard to any external seating areas or smoking areas to be provided at the premises, and agreed, to minimise external noise late

at night. Any external seating areas to be restricted for use to between 08:00 to 21:00 hours.

- Non-standard condition: Entertainment Restrictions for Drinking Establishment. No live music in the form of bands, solo and duo artists and no amplified music in the form of discos, DJ's and karaoke or any recorded background music to be permitted to be played at the premises at any time.

- External Plant and Equipment: Prior to the installation of external plant and equipment at the commercial units a noise scheme must be submitted that details the noise rating level from the proposed combined plant and equipment to ensure that the background noise levels are not exceeded, the rating levels are provided in Table 1 that need to be met at nearest façade of residential properties, as detailed in noise report reference 9118.1.

- It will be necessary following installation of the plant and equipment that acoustic testing is undertaken to verify compliance with this condition within one month of its installation and submitted for written approval prior to the operation of the plant.

- NO102

- NO104 this will include details of the noise levels expected to be created by the combined use of external plant and equipment to ensure compliance with the noise rating level.

- EPL01

- EPL02

- EPL03 Odour control (if applicable for any bakery and/or kitchen facilities provided within the retail unit and drinking establishment

- EPL04 The applicant shall maintain the odour suppression system as approved in accordance with the details provided by the manufacturer and submitted by the applicant for the purposes of demonstrating compliance with Standard Condition EPL04. All odour abatement systems should be in accordance to DEFRA report Guidance and Control of Odour and Noise from Commercial Kitchen Exhaust System.

- LIG01

- REF01

- REF02

1.5 Landscape and Biodiversity

1.5.1 The site currently consists of The Sandpiper public house with associated car parking and landscaping along the northern boundary/north-east part of the site associated with external seating areas. The external planting appears to consist of amenity grass located in the central seating area and hedgerow and tree planting along the northern boundary and a small section of the eastern boundary.

1.5.2 Trees: Pre-Development Arboricultural Report and Arboricultural Impact Assessment (AIA) has been submitted by Dendra Consulting Ltd (October 2021) in accordance with BS 5837: Trees in Relation to Design, Demolition and Construction – Recommendations, 2012. A total of 3 trees were surveyed and categorised in accordance with BS 5837. 2no. hawthorn trees (T2 and T3) on the site are category B and 1no Laburnum (T1) is a category C tree. The proposals require the removal of both hawthorn trees, T2 and T3. Both of these

trees are of a moderate value (category B) and approximately 6.0m in height. The AIA also indicates that protective fencing will be required and installed in the locations as shown on the tree protection plan.

1.5.3 Ecological Assessment: An updated Ecological Impact Assessment (EclA) has been submitted ((Dendra Consulting October 2022) and found habitats of limited ecological value within the site including modified grassland, introduced shrub and hard standing. The impacts resulting from the development works include:

- Potential disturbance/injury/killing impacts on a European Protected Species (Bats) during demolition works, if present
- Potential disturbance/injury/killing of an active bird's nest during demolition and vegetation clearance works
- Loss of foraging habitat and potential killing or injuring of a UK Priority species (Hedgehog)

1.5.4 A dusk activity bat survey was conducted at the site on 14th July 2021 in accordance with BCT Guidelines after a preliminary appraisal assessed the building as low value for bats. The activity survey did not find any evidence of roosting bats at the site.

1.5.5 An active Herring gull nest was present on the roof of the two-storey building during both of the site surveys and the report recommends that demolition and vegetation clearance works are scheduled to take place outside of the main bird breeding season of March to August (inclusive). If it is considered necessary to undertake works during the period March to August, the site will require an inspection by a suitably qualified ecologist immediately prior to commencement.

1.5.6 The Report also recommends that working methods should be adopted to prevent the killing or injuring of Hedgehog during the vegetation clearance, demolition and construction phases of the proposed works.

1.5.7 Landscape & Biodiversity Net Gain: The submitted Landscape Plan (DWG No: 146165/8001 - Rev D) details a number of proposed trees, spread throughout the site including native hedges, a sedum roof and green wall and mixed native scrub. An updated Biodiversity Metric calculation (Dendra Consulting October 2022) has been submitted which indicates a 39% net gain based on an improved landscape plan. This is acceptable and meets the requirements of planning policy and the NPPF with regard to net gain.

1.5.8 Designated Coastal Sites: The scheme is within 6km of the Northumbria Coast SPA and will have an impact on the coast as a result of an increase in recreational disturbance. The scheme will, therefore, need to comply with the Councils Coastal Mitigation SPD. The SPD provides guidance and information on the mitigation required from development within North Tyneside to prevent adverse impacts on the internationally protected coastline.

1.5.9 Should the scheme be supported the following conditions should be applied:

- No trees, shrubs or hedges within the site which are shown as being retained on drawing No: 146165/8001 - Rev D, shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed during the development phase other than in accordance with the approved plans or without the prior written consent of the Local Planning Authority.

- Prior to commencement of works starting on site, trees within or adjacent to and overhang the site that are to be retained are to be protected by fencing and in the locations shown and detailed in the Arboricultural Impact Assessment and Tree Protection Plan by Dendra Consulting Ltd (June 2021) unless otherwise agreed in writing by the Local Planning Authority. No operational work, site clearance works or the development itself shall commence until the fencing is installed. The protective fence shall remain in place until the works are complete or unless otherwise agreed in writing with the Local Planning Authority. The protective fence is NOT to be repositioned without the approval of the Local Authority.

- All works within the RPA of the retained trees that include (but not limited to) kerb installation, fence post installation, lighting and drainage, are to be carried out in complete accordance with BS 5837 and the National Joint Utilities Group (NJUG) 'Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity To Trees'.

- The contractors construction method statement relating to traffic management/site compounds/contractor access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires must be submitted in writing and approved by the Local Planning Authority and include tree protection measures for the trees to be retained. Cabins, storage of plant and materials, parking are not to be located within the RPA of the retained trees as defined by the Tree Protection Plan and maintained for the duration of the works.

- Within one month from the start on site of any operations such as site excavation works, site clearance (including site strip) for the development, a fully detailed landscape plan shall be submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall be in accordance with the habitat creation and enhancement details set out within the Ecological Assessment and Biodiversity Metric 3.1 Reports (Dendra Consulting October 2022). The landscape plan shall include full planting details and specifications. Any new standard tree planting shall be a minimum 14-16cm girth. The landscaping scheme shall be implemented in accordance with the approved details within the first available planting season following the approval of details. All hard and soft landscape works shall be carried out in accordance with the approved details and to a standard in accordance with the relevant recommendations of British Standard 8545:2014. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting

- Within 4 weeks of any of the development hereby approved commencing on site, a 'Landscape Ecological Management & Monitoring Plan' (LEMMP) for landscape mitigation and enhancement shall be submitted to and approved in

writing by the Local Planning Authority. The Plan shall be in accordance with the approved Landscape Plan and the details set out within the Ecological Assessment Report and Biodiversity Metric (Dendra Consulting October 2022) and shall be implemented on completion of the landscape scheme and thereafter for a minimum period of 30 years.

- The Management Plan will be a long-term management strategy and will set out details for the creation, enhancement, management and monitoring of landscaping and ecological habitats within the site for a minimum period of 30 years. The Plan will also include details of regular Net Gain Assessment updates that include habitat condition assessments to evidence the success of the scheme and net gain delivery. Thereafter, these areas shall be managed and maintained in full accordance with these agreed details unless first agreed in writing by the Local Planning Authority.

- High intensity security lights shall be avoided as far as practical and if required, these will be of minimum practicable brightness, be set on a short timer and will be motion sensitive only to larger objects. Lighting must be designed in accordance with the BCT & Institute of Lighting Professionals (ILP) Guidance Note 08/18 "*Bats & Artificial Lighting in the UK*" to minimise light spill to adjacent boundary features such as woodland, scrub, grassland and hedgerow habitats and should be less than 2 lux in these areas.

- All works will be undertaken in accordance with the working methods set out in section 6.5.1 (Hedgehog) of the Ecological Impact Assessment Report (Dendra Consulting October 2022) to prevent the killing or injuring of Hedgehog during vegetation clearance, demolition and construction works.

- All demolition works will be undertaken in accordance with a 'Precautionary Bat Working Method Statement' which shall be submitted to the LPA for approval in writing prior to works commencing on site.

- Any excavations left open overnight will have a means of escape for mammals that may become trapped in the form of a ramp at least 300mm in width and angled no greater than 45°

- No vegetation removal or building/demolition works shall take place during the bird nesting season (March- August inclusive) unless a survey by a suitably qualified ecologist has confirmed the absence of nesting birds immediately prior to works commencing.

- Provision of hedgehog gaps (13cmx13cm) will be provided within any new or existing fencing within the scheme. Details shall be submitted to the LPA for approval within 4 weeks of development commencing on site and will be installed in accordance with the approved plans on completion of works and permanently retained.

- 2no. House Sparrow terrace nest boxes, such as the 1SP Schwegler Sparrow Terrace (or similar), will be provided on new buildings within the development site. Details of bird box specification and locations must be submitted to and approved in writing by the Local Planning Authority within 4 weeks of

development commencing on site and will be installed in accordance with the approved plans on completion of works and permanently retained.

- 1 no. integrated bat box, such as the Habibat Access Box, Schwegler bat tube, lbstock bat box (or similar) will be installed into the new building within the development site. Details of bat box specification and location must be submitted to and approved in writing by the Local Planning Authority within 4 weeks of development commencing on site and will be installed in accordance with the approved plans and permanently retained.

1.6 Planning Policy (Design)

1.6.1 Confirmation was received from Planning Policy and Planning Policy (Design) that the previous response on behalf of Planning policy and design regarding this site and development apply equally to the new application 23/01141/FUL. These previous comments are given below;

1.6.2 The proposed building remains four-storeys, however the top floor is concealed within a series of gabled feature roofs. This helps to reduce the perceived height of the building. The design of some parts of the roof to accommodate staircases is a disappointment although these parts are concealed from some views. While the scheme would be higher density and taller than the surrounding buildings, it has been designed with consideration to the local vernacular and building materials. The use of brick and wall tiles picks up on its use in the local area. Feature banding, sections of brick soldier course and green living walls also adds interest to the design. The ground floor retail uses have an active frontage which front Farringdon Road. The proposal includes some landscaping to the edges of the site. Overall, the revised scheme is a well-considered development that will stand out as a focal point within the street scene.

1.6.3 The scheme may impact on the amenity of neighbouring residents. A Daylight and Sunlight Analysis has been submitted, however this does not show the impact of the scheme clearly at different times of the year and further information should be submitted. This issue is referred to the Case Officer.

1.6.4 Suggested conditions:

- a) Materials of construction
- b) Boundary walls and fences
- c) Hard surfacing
- d) Signage
- e) Landscape works implementation
- f) Design of refuse store
- g) Location of flues, vents, utility boxes and any other utility equipment

1.7 Planning Policy

1.7.1 The site is an existing public house within a residential area on the junction of Shaftesbury Crescent and Farringdon Road. The Sandpiper is adjacent to a small parade of shops that serve the local community. The applicant seeks to develop a mixed-use scheme with retail and drink establishment on the ground floor and apartments above.

1.7.2 The retail element of the scheme would be for a convenience retail unit (400m² gross) that would be a E (a) use class and the adjacent unit (280m²) for a drinking establishment with expanded food provision, which would be a sui generis use class. Both of these uses are recognised as main town centre uses in the National Planning Policy Framework (NPPF), the remainder of the site is proposed to be for residential development (use class C3), which is not a main town centre use.

1.7.3 Due to the development being a town centre use, in an out of centre location, the local planning authority is expected to consider if there are any sequential preferable sites within relevant designated centres that are suitable, available, and viable. Both the applicant and the local authority are expected to demonstrate flexibility on issues such as format and scale so that opportunities to consider alternative sites are fully explored. The search for sites should acknowledge the business needs of the applicant within the sequential test. The applicants sequential test has considered a variety of different sites within the surrounding town centres, but no sites were identified as being suitable, available, or viable.

1.7.4 The government guidance for 'Town Centres and Retail' outlines the need for local planning authorities to be realistic and flexible when applying the sequential test and the applicant has stated that the viability of each individual use within the application is dependent upon one another and it is not appropriate to disaggregate the uses. Therefore, whilst there were units identified in the site search that could accommodate some of the uses proposed, there was no site that could deliver the entire scheme. The information is in accordance with Policy DM3.4 of the Local Plan (2017) and does not require an impact test on the surrounding centres as it does meet the local or national criteria.

1.7.5 The Sandpiper pub was nominated to be an asset of community value, and whilst the local authority determined that it did not merit such a listing, it is encouraging that the applicant has amended the plans to retain a drinking establishment within the scheme (supporting policy S7.10). The proposed development would support the existing businesses along Farringdon Road and are within convenient and safe walking distance of the surrounding communities. The Local Plan seeks to support small scale out of centre facilities serving local retail or leisure needs less than 500m² (gross) (Policy DM3.6) and the proposed uses would contribute towards social inclusion and sustainable development.

1.7.6 The development of the site to a mixed use scheme that incorporates commercial premises and residential development on a brownfield site supports Policy S1.4 and DM4.5 to make the most effective and efficient use of available land that contributes to the identified housing needs of the borough.

1.7.7 Conclusion: The proposed development would support sustainable development in the Borough on a brownfield site. The proposed development would be in accordance with Policy S1.4, DM3.4, DM3.6, DM4.5 and S7.10 of the Local Plan (2017).

2.0 External Consultees

2.1 The Coal Authority

2.1.1 I have reviewed the proposals and confirm that the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

2.1.2 The applicant has obtained appropriate and up-to-date coal mining information for the proposed development site and has used this information to inform the Phase 1: Desk Top Study and Coal Mining Risk Assessment Report (1 July 2021, prepared by Arc Environmental Ltd), which accompanies this planning application.

2.1.3 The Report correctly identifies that the application site may have been subject to past coal mining activity. The Coal Authority records indicate that the site is likely to have been subject to historic unrecorded underground coal mining at shallow depth.

2.1.4 The Report has been informed by an appropriate range of sources of information; including geological mapping and borehole data. The Report confirms that it would be prudent to drill rotary boreholes to establish the exact situation with regard to potential unrecorded shallow mine workings and to establish any necessary remedial measures.

2.1.5 The intrusive site investigations should be designed and undertaken by competent persons and should be appropriate to assess the ground conditions on the site in order to establish the coal-mining legacy present and the risks it may pose to the development and inform any remedial works and/or mitigation measures that may be necessary.

2.1.6 The applicant should note that Permission is required from the Coal Authority Permit and Licensing Team before undertaking any activity, such as ground investigation and ground works, which may disturb coal property. Please note that any comments that the Coal Authority may have made in a Planning context are without prejudice to the outcomes of a Permit application.

2.1.7 Mine Gas - It should be noted that wherever coal resources or coal mine features exist at shallow depth or at the surface, there is the potential for mine gases to exist. These risks should always be considered by the LPA. The Planning & Development team at the Coal Authority, in its role of statutory consultee in the planning process, only comments on gas issues if our data indicates that gas emissions have been recorded on the site. However, the absence of such a comment should not be interpreted to imply that there are no gas risks present. Whether or not specific emissions have been noted by the Coal Authority, local planning authorities should seek their own technical advice on.

2.1.8 SUDS- It should be noted that where SUDs are proposed as part of the development scheme consideration will need to be given to the implications of this in relation to the stability and public safety risks posed by coal mining legacy. The developer should seek their own advice from a technically competent person to ensure that a proper assessment has been made of the potential interaction between hydrology, the proposed drainage system and ground stability, including

the implications this may have for any mine workings which may be present beneath the site.

2.1.9 The Coal Authority Recommendation to the LPA - The Coal Authority concurs with the recommendations of the Phase 1: Desk Top Study and Coal Mining Risk Assessment Report (1 July 2021, prepared by Arc Environmental Ltd), that coalmining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. Accordingly, the Coal Authority recommends the imposition of the following conditions:

1. No development shall commence (EXCLUDING DEMOLITION) until;
 - a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;
 - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed. The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.
2. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

2.1.10 The Coal Authority therefore has no objection to the proposed development subject to the imposition of the conditions to secure the above. This is our recommendation for condition wording. Whilst we appreciate that you may wish to make some amendment to the choice of words, we would respectfully request that the specific parameters to be satisfied are not altered by any changes that may be made.

2.1.11 The following statement provides the justification why the Coal Authority considers that a pre-commencement condition is required in this instance:

2.1.12 The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework.

2.1.13 PLEASE INCLUDE AS INFORMATIVE NOTES FOR APPLICANTS ON ANY PLANNING PERMISSION GRANTED

2.1.14 Ground Investigations

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine

workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission to enter or disturb our property will result in the potential for court action. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at:www.gov.uk/get-a-permit-to-deal-with-a-coalmine-on-your-property

2.1.15 2 Shallow Coal Seams

In areas where shallow coal seams are present caution should be taken when carrying out any on site burning or heat focused activities.

To check your site for coal mining features on or near to the surface the Coal Authority interactive map viewer allows you to view selected coal mining information in your browser graphically. To check a particular location either enter a post code or use your mouse to zoom in to view the surrounding area

2.2 Northumbria Police

2.2.1 Having reviewed the proposed redevelopment of The Sandpiper Public House, Farringdon Rd, Cullercoats, Northumbria Police have no objections from a crime prevention perspective, we would however make the following recommendations:

2.2.2 Communal parking facilities should be lit to the relevant levels as recommended by BS 5489-1:2020 (design of road lighting and public amenity areas)

2.2.3 Entrance to the residential element of the development should be subject to access control on both stair wells, ideally via the use of a security encrypted electronic key (e.g. fob, card, mobile device, etc.).

2.2.4 Remote control of these doors should be provided via a video intercom with a vandal resistant external door panel.

2.2.5 It shouldn't be presumed that individual dwellings will be afforded mail delivery, so for that reason provision should be made for secure mail delivery.

2.2.6 The doors to individual flats and maisonettes should be specified to one of the following standards:

- PAS 24:2016, or
- PAS 24:2022, or
- STS 201 Issue 12:2020, or
- LPS 1175 Issue 7.2:2014 Security Rating 2+, or
- LPS 1175 Issue 8:2018 Security Rating A3+, or
- STS 202 Issue 10:2021 Burglary Rating 2, or
- LPS 2081 Issue 1.1:2016 Security Rating B, or
- STS 222 Issue 1:2021

3.0 Representations

3.1 35 no. objections have been received. These are summarised below;

Highways

- Inadequate parking provision.
- Poor traffic/pedestrian safety.
- Traffic congestion.
- Poor/unsuitable vehicular access.
- Located on a busy road with inadequate parking and on a bus route.
- Increased traffic and overspill parking on nearby streets.
- Traffic congestion is already bad.
- Safety risk to school children.
- The roads are not equipped to be dealing with delivery HGVs.
- Inadequate parking for customers and staff.
- Safety risk from HGV deliveries.
- Where are the crossings, speed, calming measures etc.
- Impact on the safety of pedestrians, cyclists and motorists.
- Concerns regarding the entrance ways to the development.
- Concerns for the speed levels of the newly incurred traffic.
- There is a high chance that residents will have 2 or more cars.
- Mast Lane will require improvements to cope with extra traffic.
- Customers will not be using public transport.
- Increased traffic noise and air pollution from heavy goods vehicle and extra vehicles.
- Noise from deliveries

Design

- Impact on landscape.
- Inappropriate design.
- Inappropriate in special landscape area.
- Out of keeping with surroundings.
- Inappropriate materials.
- Too high compared to existing properties.
- Four storeys is too high.
- Would set a precedent for 4-storey development.
- Would be an eyesore.
- Bungalows would fit in better.
- Makes too intensive use of the site.
- Detrimental to the area.
- Design of boundary enclosures (2.5m high fence).
- It will look overpowering and be obtrusive.
- Overdevelopment.
- Size and scale is inappropriate for the area.
- First floor terraces are not acceptable.
- Footprint is double that of the pub.
- Precedent of refusal of the 3-storey redevelopment of the Magpie Pub site.
- There has been no reduction in height the proposal is the same as what was refused.

Residential Amenity

- Loss of privacy.

- Loss of residential amenity.
- Nuisance – disturbance.
- Nuisance – noise.
- Nuisance - dust/dirt.
- Nuisance – fumes.
- Will result in visual intrusion.
- Loss of privacy and sunlight.
- Overshadowing and loss of light to surrounding properties.
- The loss of sunlight will have the potential to increase running costs/carbon emissions for adjacent properties.
- Overlooking of neighbouring properties.
- Delivery and unloading noise.
- Additional pollution from traffic.
- Additional noise and light pollution.
- Will encourage anti-social behaviour.
- Noise and mess from retail use.
- Construction noise.
- Height and proximity of the development to neighbouring properties will cause overshadowing.
- Will be closer to boundaries than the existing building.
- Is likely to open from early morning to late evening.
- The revised plans do not address the impact on privacy.
- Impact of the communal bin store on neighbouring residents.

Proposed use/loss of existing

- No need for another small supermarket.
- Too many shops within a short distance.
- Will impact on existing businesses.
- Loss of one of the last surviving pubs in the area.
- The pub is well used and does well.
- In the surrounding area we have lost 3 pubs already.
- Impact on elderly people who use the pub as a place to meet.
- Huge impact on the community.
- Need to help the pub trade after covid.
- Some units locally have been empty for years.
- No need for more housing.
- The company who own the property/land have obviously not bought this bar to make it a success.
- The pub has been deliberately run down by the owners.
- It is not well used due to poor management.
- If a wine bar would be a viable concern, why has the existing pub not been refurbished.
- No need for a cash machine.
- The sequential test is not adequate.
- Adjacent premises may suffer a loss of revenue for obvious reasons resulting in more closures.
- Loss of rooms available to hire.

3.2 A petition against the development containing 91 signatures has been received.

3.3 A representation was received from the Tyneside and Northumberland Campaign for Real Ale objecting on the grounds of the loss of a community asset, contrary to Local Plan Policy S7.10

3.4 2no. comments of support have been received. These are summarised below.

- If this is what the Malhotra Group want to do with the land, just let them get on with it. They lost previously on a technicality so can't see this one not being approved.
- Everyone objecting in the local vicinity will end up using the shop/cafe/wine bar more than the pub anyway.
- Support increase in housing
- The precedent set by the council allowing planning for the development around Tynemouth station and the reason given by councillor Samuel (chair of the committee) on social media that it would cost the council in legal fees to object, it is somewhat ironic when a development in his own area is proposed.

4.0 Councillor Comments

4.1 Cllr Willie Samuel

4.1.1 As local councillor for Cullercoats I wish to formally object to the above application.

4.1.2 This application is almost identical to one submitted and refused by committee last year. It was also refused on appeal and the comments by the planning inspector will be covered later in my submission.

4.1.3 The proposed development brings three retail units and 14 flats to a site currently occupied by one public house. It will bring increased traffic through cars owned by residents of the flats and vehicles delivering to the retail units. It will also bring traffic caused by customers of the retail units. This site is not a city centre area but is situated in a residential area. The capacity of the local roads cannot cope with this increased demand.

4.1.4 The proposed development also extends to four stories over a wide geographical area. This is completely out of keeping with the surrounding area. The applicant cites the development near the Community Fire Station as precedent for this application. This is a lower development in an area set back from nearby buildings. A much more accurate precedent was sent by the much closer Magpie Pup, where the planning inspector refused a similar development because of its proximity to nearby buildings no higher than two stories.

4.1.5 In my opinion the recommendations from officers in regard to the last application failed to take this into account and this was accepted by the committee members. It is noted that the last application was also refused on appeal. It is my view that the planning inspector was right to do so, but reached the wrong conclusions in finding fault with the council members decision.

4.1.6 I will be submitting a petition objecting to the application.

4.1.7 I would like to speak as local member on this issue. Obviously, as happened on the first application, I must stand aside as a member and chair of the committee for this application and will take no part in the consideration of the matter.

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North Tyneside Council Report to Planning Committee Date: 24 10 2023

<p style="text-align: center;">ITEM</p> <p>Title: 111 Marine Avenue, Whitley Bay Tree Preservation Order 2023</p>
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Report from Directorate: Environment, Housing and Leisure

Report Author: John Sparkes, Director of Regeneration and
Economic Development

Wards affected: Whitley Bay

1.1 Purpose:

To consider the above Tree Preservation Order for two trees taking into account any representations received in respect of the Order.

1.2 Recommendation(s)

Members are requested to consider the representation to 111 Marine Avenue, Whitley Bay, Tree Preservation Order 2023 and confirm the Order.

1.3 Information

1.3.1 The Council were notified of the intention to remove a sycamore, cherry, apple and laburnum trees to the front of 111 Marine Avenue, Whitley Bay by a section 211 notice of the Town and Country Planning Act 1990 (23/00497/TREECA). These works were assessed, and the Council made a split decision, deciding to make a Tree Preservation Order (TPO) (Appendix 1) for the sycamore and cherry tree in question but allowing the removal of the apple and laburnum. The Order was served in May 2023.

1.3.2 One objection has been received following the Council's decision to serve a TPO on the trees from the engineers acting on behalf of the insurance company investigating a claim of subsidence. A copy of the representation is included as Appendix 3 to this report.

1.3.3 The objection concludes that the sycamore (T1) and cherry (T2) should be removed due to the trees causing damage to the property and the original application reported the trees should be removed because of subsidence to the property.

1.3.4 The Council Response

The Council has responded, in consultation with the landscape architect (who has provided a full response in Appendix 4) and the main issues regarding the value of the trees to the local area and the issues of subsidence are addressed below:

- a) The contribution the trees make to the conservation area (amenity value);
- b) The potential damage to the property (subsidence);
- c) Concluding remarks.

1.3.5 **a) The contribution the trees make to the conservation area (amenity value)**
In serving a TPO, the tree must be able to show that protection would bring a reasonable degree of public benefit in the present or future. As defined by the governments 'Tree

Preservation Orders and Trees in Conservation Areas' *'Amenity' is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order. Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public'*. To evaluate amenity, the TEMPO assessment (Tree Evaluation Method for Evaluating Preservation Orders) was used to assess the suitability of a tree for a TPO. This is a widely recognised and respected method of valuation which takes into account factors such as a tree's visibility to the public, its condition, age and remaining life-expectancy, its function within the landscape (such as screening development or industry), its wildlife or historic value and ultimately its importance to the local environment. Furthermore, the tree(s) usually need to be under an immediate or foreseeable threat to warrant protection.

- 1.3.6 With regard to amenity, the trees need to be visible from public places, usually the public highway, footpaths and open spaces. In this case the trees are highly visible from a public highway and footpaths which surround the property to the east and west. The sycamore tree is a large and mature sycamore on the northern boundary of the property which has a commanding individual presence visible from locations on Marine Avenue. Therefore, the tree is considered to have a high degree of visual prominence and makes a significant contribution to the character and appearance of the local area. T2 (cherry), T3 (apple) and T5 (laburnum) are much smaller trees, closer to the house. However, all the trees make a positive and significant contribution to the landscape to some extent, although the apple possibly less so than the other trees.
- 1.3.7 The sycamore (T1) is an old pollard and has some decay in the point of pollard. However, this does not detract from the positive effect the tree makes on the landscape and there are management options that could be used should the pollard growth and decay become an issue of concern.

b) The potential damage to the property (subsidence)

- 1.3.8 In the case of damage to the property itself, the information provided in support of the application shows minor damage to the structure, intermediate/high plasticity soil, inconclusive root analysis and no seasonal monitoring. There is a recommendation within the engineer report to provide level and crack monitoring to 'confirm the exact nature of any movement to the building and gather evidence in respect of any necessary TPO application'.
- 1.3.9 If there is damage to the structure of the property by the roots of the tree, a fully detailed structural engineers report must be submitted to prove actual damage as the tree may not be the only factor that can cause building movement. For example, natural seasonal soil moisture changes, localised geological variations, damaged drainage, over loading of internal walls and settlement, amongst others so clear evidence is required that the damage caused is due to the trees in order to require their removal. This information required will be in line with current TPO guidance to ensure trees are not unnecessarily removed. In many cases, trees co-exist next to structures and in many situations without conflict, so unless evidence is provided indicating otherwise, it is not considered a reason remove the tree.
- 1.3.10 Typical evidence and information that is necessary to assess the influence of a tree can be provided by a Structural Engineer and should include:
- A description of the property including, type and depth of foundations, a description of the damage and the crack pattern, the date that the damage first occurred/was

noted, details of any previous underpinning or building work, the geological strata for the site identified from the geological map.

- Details of vegetation in the vicinity and its management since discovery of the damage, together with a plan showing the vegetation and affected building.
- Measurement of the extent and distribution of vertical movement using level monitoring. However, where level monitoring is not possible, the applicant should state why and provide crack-monitoring data. The data provided must be sufficient to show a pattern of movement consistent with the presence of the implicated tree(s).
- A profile of a trial/bore hole dug to identify soil characteristics and foundation type and depth.
- The sub-soil characteristics including soil type (particularly that on which the foundations rest), liquid limit, plastic limit and plasticity index.
- The location and identification of roots found. Where identification is inconclusive, DNA testing should be carried out.

1.3.11 In addition, this should be supported by a drainage survey and a report from an arboriculturalist to support the tree work proposals, including arboricultural options for avoidance or remediation of indirect tree-related damage.

1.3.12 On the basis of the information given, the request to fell T1 Sycamore, T2 Cherry is not supported and a TPO is proposed for the following reasons:

1.3.13 The removal of the trees would impact on visual amenity,

1.3.14 Lack of evidence with regard to damage to the property.

c) Concluding remarks

1.3.15 The trees are suitable for a TPO based on a TEMPO assessment (Tree Evaluation Method for Preservation Orders), which is an industry standard methodology. Any reasons to remove trees must be convincing and the information submitted with the application is not sufficiently convincing to remove all the trees. Putting any issues with subsidence aside and assessing at the trees based on amenity (TEMPO assessment) and their contribution to the character of the conservation area it was decided that the Apple and Laburnum have a less convincing TEMPO score than the Sycamore and the Cherry, would not merit a TPO and could be removed.

1.3.16 Trees co-exist next to structures and in many situations without conflict, so unless evidence is provided indicating otherwise, it is not considered a reason remove the tree.

1.3.17 The TPO does not prevent works being undertaken to the trees but ensures that if any pruning works or construction works in close proximity to the trees are carried out so that the trees are not damaged in any way. Further detail is provided in BS5837: 2012 '*Trees in Relation to Construction-Recommendations*'.

1.3.18 The making of a TPO is a 'discretionary' power under the Town and Country Planning Act 1990 and the Town and Country Planning (Tree Preservation) (England) Regulations

2012, that allows the Local Planning Authority (LPA) time to consider if the tree is worthy of protection or not.

1.3.19 The Local Planning Authority currently has over 100 individual tree preservation orders in place for various parts of the borough and the majority of TPO's are protecting trees in privately owned property. There is a process within the authority to determine whether a tree or trees merit protection based on a number of factors such as the size, type or location of the tree or trees and whether it/they are at risk of removal or damage. Whilst the TPO does bring additional responsibilities to the owner of the tree, this is not unusual across the borough.

1.3.20 The sycamore and cherry tree at this current stage, are in reasonable condition with no major structural defects. They are located in a prominent position within the front garden of the property and therefore highly visible to occupiers of neighbouring residential properties and from vehicular and pedestrians routes on Marine Avenue. Therefore, the trees are considered to be an important element of the local landscape. The Order has been made in accordance with Government guidelines and in the interests of securing the contribution this tree makes to the public amenity value in the area. The concerns of the homeowner have been fully considered and balanced against the contribution the sycamore and cherry trees makes to the to the local environment and it is not felt that they outweigh the contribution this tree makes to the amenity of the local area. Their loss would be considered a visual change and local residents will experience a changed or altered view on a permanent basis.

1.3.21 Due to the prominence of the trees within the local landscape, the age of the trees, their current condition, and on the understanding that the trees are at risk of being felled, it is considered expedient in the interests of amenity to confirm a Tree Preservation Order without modification on this tree.

1.3.22 It is important to reiterate that, if the Order is confirmed, this would not preclude future maintenance works to the trees. Should any works need to be carried out to the trees for safety reasons, or for any other reason, an application can be made to the local planning authority to carry out works to the protected trees.

Additional Guidance

1.3.23 North Tyneside Council is firmly committed to providing a clean, green, healthy, attractive and sustainable environment, a key feature of the 'Our North Tyneside Plan'.

1.3.24 Trees play an important role in the local environment providing multiple benefits but they need to be appropriately managed, especially in an urban environment.

1.3.25 Confirming the TPO will not prevent any necessary tree work from being carried out but will ensure the regulation of any tree work to prevent unnecessary or damaging work from taking place that would have a detrimental impact on the amenity value, health and long term retention of the tree. If the owners/occupiers were concerned about the condition of the tree and require pruning works to be carried out, an application to the Council can be submitted as required by the TPO.

1.3.26 Protecting the tree with a TPO would be in accordance with the Councils adopted Local Plan policy DM5.9 Trees, Woodland and hedgerows, which states;

'DM5.9 Trees, Woodland and Hedgerows: Where it would not degrade other important habitats the Council will support strategies and proposals that protect and enhance the overall condition and extent of trees, woodland and hedgerows in the borough and:

a) Protect and manage existing woodlands, trees, hedgerows and landscape features'

- 1.3.27 The recently updated National Planning Policy Framework (2023) emphasises the importance of street trees to the character and quality of urban environments, which can also help to mitigate and adapt to climate change. From this recognition of the importance of street trees to an urban area the NPPF seeks to ensure that all new streets are tree-lined and that existing trees are retained wherever possible.
- 1.3.28 The National Planning Practice Guidance (NPPG) advises that a local authority should confirm a TPO if it appears to them to be 'expedient in the interests of amenity to make provision for the preservation of trees or woodland in their area' (Town and Country Planning Act, 1990).
- 1.3.29 'Amenity' is not defined in law, but the local authority should be able to show that protection would bring about a reasonable degree of public benefit in the present or future. The NPPG identifies certain criteria to consider when assessing the amenity value of a tree(s) that include the visibility of the tree to the public, its contribution to the landscape, the characteristics of the tree, its future potential and whether the tree has a cultural or historical value.
- 1.3.30 In accordance with the Town and Country Planning Act 1990 (as amended) the Authority considers it necessary to issue a Tree Preservation Order to maintain and safeguard the contribution made by the trees to the landscape and visual amenity of the area. The Tree Preservation Order was served on the owners and other relevant parties on 24th May 2023 A copy of the TPO schedule (Appendix 1) and a map of the TPO (Appendix 2) is included in the Appendices.
- 1.3.31 The Order must be confirmed by 24 November 2023 otherwise the Order will lapse and there will be nothing to prevent the removal of the trees.

1.4 Decision options:

1. To confirm the Tree Preservation Order with no modifications.
2. To confirm the Tree Preservation Order with modifications.
3. To not confirm the Tree Preservation Order.

1.5 Reasons for recommended option:

Option 1 is recommended. A Tree Preservation Order does not prevent the felling of trees, but it gives the Council control in order to protect trees which contribute to the general amenity of the surrounding area.

1.6 Appendices:

Appendix 1 – Schedule of 111 Marine Avenue, Whitley Bay Tree Preservation Order 2023
Appendix 2 – Map of 111 Marine Avenue, Whitley Bay Tree Preservation Order 2023
Appendix 3 – Objection email from Agents (Sedgwick) Holywell Avenue, Whitley Bay
Appendix 4 – Response from the Council Landscape Architect to the objection of the TPO

1.7 Contact officers:

Peter Slegg (Tel: 643 6308)

1.8 Background information:

The following background papers have been used in the compilation of this report and are available for inspection at the offices of the author:

1. Town and Country Planning Act 1990.
2. Planning Practice Guidance (As amended)
3. The Town and Country Planning (Tree Preservation) (England) Regulations 2012

Report author Peter Slegg

Town and Country Planning Act 1990
The Council of the Borough of North Tyneside (111 Marine Avenue, Whitley Bay) Tree Preservation Order 2023

The Council of the Borough of North Tyneside in exercise of the powers conferred on them by sections 198 of the Town and Country Planning Act 1990 hereby make the following Order—

Citation

1. This Order may be cited as the (111 Marine Avenue, Whitley Bay) Tree Preservation Order 2023.

Interpretation

2. (1) In this Order “the authority” means the Council of the Borough of North Tyneside

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect

3.—(1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—

(a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4.—In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 24th day of May 2023

The Common Seal of the
Council of the Borough of North Tyneside
was affixed to this order in the presence of:

Stephen G. Bellamy
Authorised Signatory



TREE PRESERVATION ORDER 2023

111 MARINE AVENUE, WHITLEY BAY

SCHEDULE

The map referred to is at a scale of 1:500 and is based on an enlargement of the O.S. edition of sheet numbered NZ3472. The area covered by the Order is on land at 111 Marine Avenue, Whitley Bay, NE26 3LW. The area is wholly within the Metropolitan Borough of North Tyneside in the County of Tyne and Wear.

SPECIFICATION OF TREES

TREES SPECIFIED INDIVIDUALLY (encircled in black on the map)		
<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Sycamore (<i>Acer sp.</i>)	Located approximately 13.5m in a north westerly from the northern point of 111 Marine Avenue and approximately 13m in a north westerly direction from the western corner 111 Marine Avenue.
T2	Cherry (<i>Prunus sp</i>)	Located approximately 9.0m in a north westerly from the northern point of 111 Marine Avenue and approximately 13m in a northerly direction from the western corner 111 Marine Avenue.

TREES SPECIFIED BY REFERENCE TO AN AREA (within a dotted black line on the map)		
<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
None		

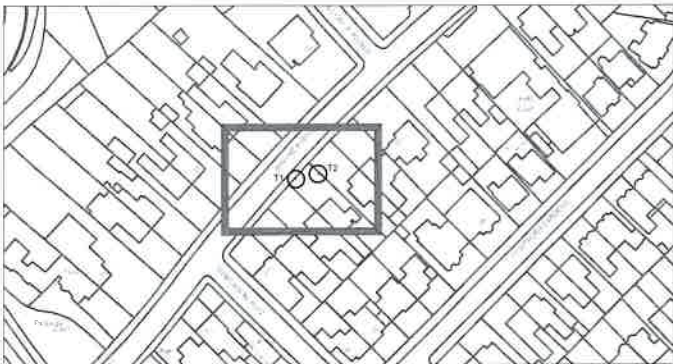
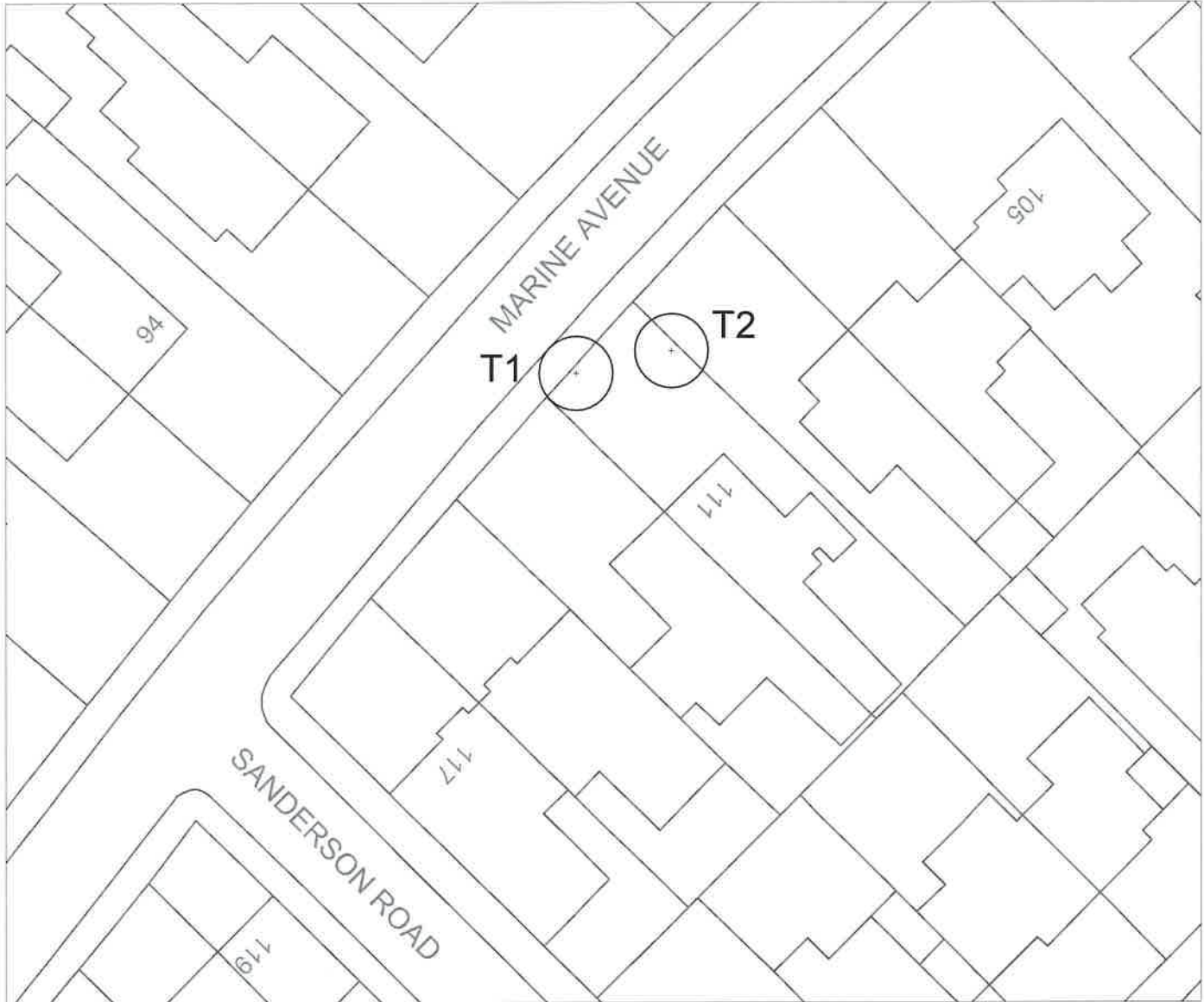
GROUPS OF TREES (within a broken black line on the map)		
<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
None		

WOODLANDS

(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
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None		
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JOHN SPARKES
 DIRECTOR OF REGENERATION AND ECONOMIC
 DEVELOPMENT

QUADRANT EAST
 THE SILVERLINK
 COBALT BUSINESS PARK
 NORTH TYNESIDE
 NE27 0BY

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 Ordnance Survey Licence Number 0100016801


SCALE 1:500



14466

Dated this day:
 24 May 2023 (date)

The Common Seal of the Council of
 the Borough of North Tyneside was
 affixed to this Order in the presence of:

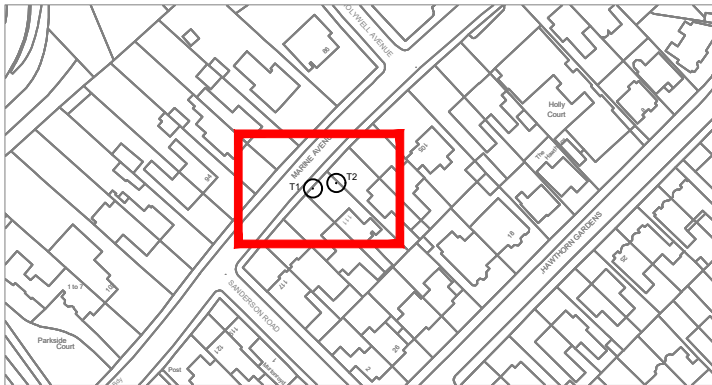
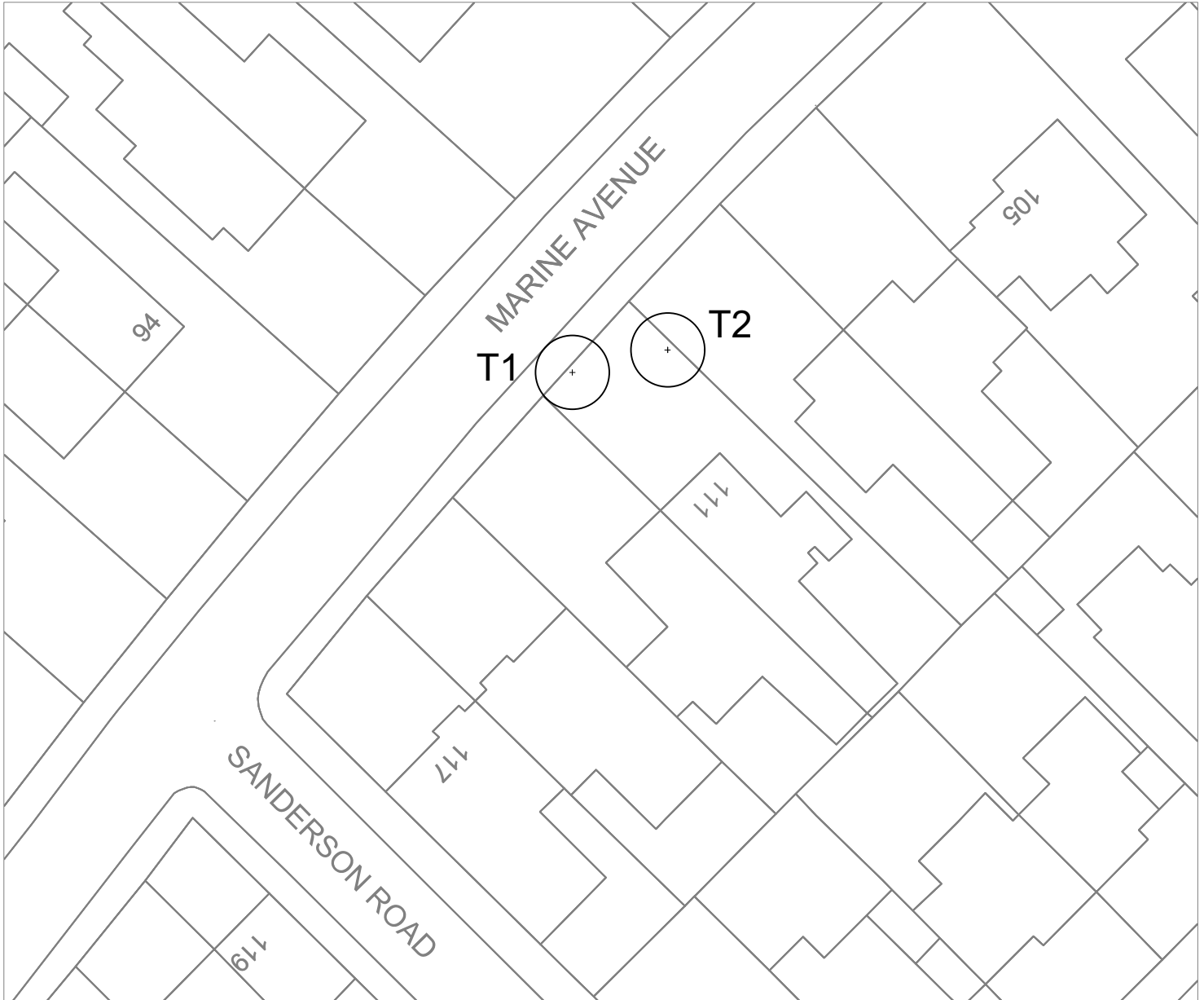


Stephen G. Bellamy
 (Authorised Signatory)

NORTH TYNESIDE COUNCIL
TREE PRESERVATION ORDER 2023

111 MARINE AVENUE
 WHITLEY BAY

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Dated this day :
(date)

The Common Seal of the Council of
 the Borough of North Tyneside was
 affixed to this Order in the presence of :

.....
 (Authorised Signatory)

JOHN SPARKES
 DIRECTOR OF REGENERATION AND ECONOMIC
 DEVELOPMENT

QUADRANT EAST
 THE SILVERLINK
 COBALT BUSINESS PARK
 NORTH TYNESIDE
 NE27 0BY

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SCALE 1:500

NORTH TYNESIDE COUNCIL
TREE PRESERVATION ORDER 2023

111 MARINE AVENUE
 WHITLEY BAY

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North Tyneside Council
16 The Silverlink North
NEWCASTLE UPON TYNE
Tyne and Wear
NE27 0BY

07/06/2023

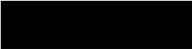
Our Ref: 9811952
Your Ref: Application No:
23/00497/TRECA

Dear Mr Slegg

Re: T1 Sycamore & T2 Cherry – at 111 Marine Avenue Whitley Bay NE26 3LW

We are writing to object to the serving of the above TPO on the grounds that following investigations at the above property, we and our experts strongly believe that the T1 Sycamore & T2 Cherry trees is causing damage to the property and without adequate mitigation the damage is likely to get worse.

Yours sincerely



Tree Mitigation Specialist

Direct dial: [Redacted]
E-mail: [Redacted]

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111 MARINE AVENUE, WHITLEY BAY: OBJECTION TO TPO

The trees subject to this TPO are located on land at 111 Marine Avenue, Whitley Bay. An objection has been received from the owner of the property to this order that has been served at the above address. The order was served as the owner wishes to remove the trees, however it was considered that the trees are sufficiently prominent in the streetscape to warrant protection by a TPO

An objection to the serving of the TPO has been received from a tree surgeon acting on behalf of the owner based on the following:

- The tree is potentially causing damage to the property.

The application refers to 4no trees located within the gardens of the property; T1 Sycamore, T2 Cherry, T3 Apple and T5 Laburnum. All trees have been identified for removal to combat subsidence damage.

There are two issues to be considered:

- The contribution the trees make to the conservation area (amenity value)
- The potential damage to the property (subsidence)

Amenity Value

In serving a TPO, the tree must be able to show that protection would bring a reasonable degree of public benefit in the present or future. As defined by the governments 'Tree Preservation Orders and Trees in Conservation Areas' '*Amenity* is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order. Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public'. To evaluate amenity, the TEMPO assessment (Tree Evaluation Method for Evaluating Preservation Orders) was used to assess the suitability of a tree for a TPO. This is a widely recognised and respected method of valuation which takes into account factors such as a tree's visibility to the public, its condition, age and remaining life-expectancy, its function within the landscape (such as screening development or industry), its wildlife or historic value and ultimately its importance to the local environment. Furthermore, the tree(s) usually need to be under an immediate or foreseeable threat to warrant protection.

With regard to amenity, the trees need to be visible from public places, usually the public highway, footpaths and open spaces. In this case the trees are highly visible from a public highway and footpaths which surround the property to the east and west. The sycamore tree is a large and mature sycamore on the northern boundary of the property which has a commanding individual presence visible from locations on Marine Avenue. Therefore, the tree is considered to have a high degree of visual prominence and makes a significant contribution to the character and appearance of the local area. T2 (cherry), T3 (apple) and T5 (laburnum) are much smaller trees, closer to the house. However, all the trees make a positive and significant contribution to the landscape to some extent, although the apple possibly less so than the other trees.

The sycamore (T1) is an old pollard and has some decay in the point of pollard. However, this does not detract from the positive effect the tree makes on the landscape and there are management options that could be used should the pollard growth and decay become an issue of concern.

Structural damage to property

In the case of damage to the property itself, the information provided in support of the application shows minor damage to the structure, intermediate/high plasticity soil, inconclusive root analysis and no seasonal monitoring. There is a recommendation within the engineer report to provide level and crack monitoring to 'confirm the exact nature of any movement to the building and gather evidence in respect of any necessary TPO application'.

If there is damage to the structure of the property by the roots of the tree, a fully detailed structural engineers report must be submitted to prove **actual** damage as the tree may not be the only factor that can cause building movement. For example, natural seasonal soil moisture changes, localised geological variations, damaged drainage, over loading of internal walls and settlement, amongst others so clear evidence is required that the damage caused is due to the trees in order to require their removal. This information required will be in line with current TPO guidance to ensure trees are not

unnecessarily removed. In many cases, trees co-exist next to structures and in many situations without conflict, so unless evidence is provided indicating otherwise, it is not considered a reason remove the tree.

Typical evidence and information that is necessary to assess the influence of a tree can be provided by a Structural Engineer and should include:

- A description of the property including, type and depth of foundations, a description of the damage and the crack pattern, the date that the damage first occurred/was noted, details of any previous underpinning or building work, the geological strata for the site identified from the geological map.
- Details of vegetation in the vicinity and its management since discovery of the damage, together with a plan showing the vegetation and affected building.
- Measurement of the extent and distribution of vertical movement using level monitoring. However, where level monitoring is not possible, the applicant should state why and provide crack-monitoring data. The data provided must be sufficient to show a pattern of movement consistent with the presence of the implicated tree(s).
- A profile of a trial/bore hole dug to identify soil characteristics and foundation type and depth.
- The sub-soil characteristics including soil type (particularly that on which the foundations rest), liquid limit, plastic limit and plasticity index.
- The location and identification of roots found. Where identification is inconclusive, DNA testing should be carried out.

In addition, this should be supported by a drainage survey and a report from an arboriculturalist to support the tree work proposals, including arboricultural options for avoidance or remediation of indirect tree-related damage.

On the basis of the information given, the request to fell T1 Sycamore, T2 Cherry is not supported and a TPO is proposed for the following reasons:

- The removal of the tree would impact on visual amenity,
- Lack of evidence with regard to damage to the property.

Justification for the removal of 2no trees

The trees are suitable for a TPO based on a TEMPO assessment. Any reasons to remove trees must be convincing and the information submitted with the application is not sufficiently convincing to remove all the trees. Putting any issues with subsidence aside and assessing at the trees based on amenity (TEMPO assessment) and their contribution to the character of the conservation area it was decided that the Apple and Laburnum have a less convincing TEMPO score than the Sycamore and the Cherry, would not merit a TPO and could be removed.

Conclusion

Trees co-exist next to structures and in many situations without conflict, so unless evidence is provided indicating otherwise, it is not considered a reason remove the tree.

The TPO does not prevent works being undertaken to the tree but ensures that if any pruning works or construction works in close proximity to the tree are carried out so that the tree is not damaged in any way. Further detail is provided in BS5837: 2012 '*Trees in Relation to Construction-Recommendations*'.

The making of a TPO is a 'discretionary' power under the Town and Country Planning Act 1990 and the Town and Country Planning (Tree Preservation) (England) Regulations 2012, that allows the Local Planning Authority (LPA) time to consider if the tree is worthy of protection or not.

The Local Planning Authority currently has over 100 individual tree preservation orders in place for various parts of the borough and the majority of TPO's are protecting trees in privately owned property. There is a process within the authority to determine whether a tree or trees merit protection based on a number of factors such as the size, type or location of the tree or trees and whether it/they are at risk of removal or damage. Whilst the TPO does bring additional responsibilities to the owner of the tree, this is not unusual across the borough.

The Sycamore and cherry tree at this current stage, are in reasonable condition with no major structural defects. They are located in a prominent position within the front garden of the property and therefore highly visible to occupiers of neighbouring residential properties and from vehicular and pedestrians routes on Marine Road. Therefore, the tree is considered to be an important element of the local landscape. The Order has been made in accordance with Government guidelines and in the interests of securing the contribution this tree makes to the public amenity value in the area. The concerns of the homeowner have been fully considered and balanced against the contribution the Sycamore and Cherry trees makes to the to the local environment and it is not felt that they outweigh the contribution this tree makes to the amenity of the local area. Their loss would be considered a visual change and local residents will experience a changed or altered view on a permanent basis.

Due to the prominence of the trees within the local landscape, the age of the trees, their current condition, and on the understanding that the trees are at risk of being felled, it is considered expedient in the interests of amenity to confirm a Tree Preservation Order without modification on this tree.

It is important to reiterate that, if the Order is confirmed, this would not preclude future maintenance works to the trees. Should any works need to be carried out to the trees for safety reasons, or for any other reason, an application can be made to the local planning authority to carry out works to the protected trees.

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