



North Tyneside Council

Planning Committee

Friday, 3 November 2023

Tuesday, 14 November 2023 Room 0.02, Quadrant, The Silverlink North, Cobalt Business Park, NE27 0BY **commencing at 6.00 pm.**

Agenda Item	Page
1. Apologies for absence	
To receive apologies for absence from the meeting.	
2. Appointment of substitutes	
To be informed of the appointment of any substitute members for the meeting.	
3. Declarations of Interest	
You are invited to declare any registerable and/or non-registerable interests in matters appearing on the agenda, and the nature of that interest.	
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.	

If you need us to do anything differently (reasonable adjustments) to help you access our services, including providing this information in another language or format, please contact democraticsupport@northtyneside.gov.uk.

You are also invited to disclose any dispensation from the requirement to declare any registerable and/or non-registerable interests that have been granted to you in respect of any matters appearing on the agenda.

4. **Minutes** 5 - 10

To confirm the minutes of the previous meeting held on 24 October 2023.

5. **Planning Officer Reports** 11 - 16

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. **23/01257/FUL Hadrian Yard A, B and C, Hadrian Way, Wallsend, Tyne and Wear** 17 - 58

To determine a full planning application from Smulders Projects UK for the erection of a new workshop building (55m x 270m x 41m) at Yard C to accommodate welding and fabrication activities (Re-submission to amend windows).

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

Tuesday, 24 October 2023

Present: Councillor J Cruddas (Chair)
Councillors C Davis, C Johnston, J Montague,
P Oliver, R O'Keefe, J O'Shea, A Spowart and
M Thirlaway

Apologies: Councillors W Samuel, S Cox, I Grayson and
T Hallway

PQ37/23 Appointment of substitutes

Pursuant to the Council's Constitution the appointment of the following substitute members were reported:

Councillor R O'Keefe for Councillor I Grayson
Councillor A Spowart for Councillor S Cox

PQ38/23 Declarations of Interest

There were no declarations of interest or dispensations reported.

Councillor C Johnston reported that he considered that he had predetermined application 23/01141/FUL and would leave the meeting whist the application was determined.

Councillor M Thirlaway reported that the company that he worked for, not in a managerial capacity, had a limited interaction with the applicant company in respect of application 23/01141/FUL. He confirmed that he had not predetermined the application and would approach the application with an open mind.

PQ39/23 Minutes

Resolved that the minutes of the meeting held on 17 October 2023 be confirmed and signed by the Chair.

PQ40/23 Planning Officer Reports

The Committee received guidance in relation to the principles of decision making when determining planning applications and then gave consideration to the planning application listed in the following minutes.

The Committee's legal advisor referred to the quasi-judicial nature of the Committee and explained that decisions should be based on the information contained in the report and presented at the meeting and take account of material considerations. He explained that evidence presented by members of the public could refer to non-material considerations but these could not be considered by Members when making a decision on an application.

PQ41/23 23/01141/FUL The Sandpiper, Farrington Road, Cullercoats, Tyne And Wear, NE30 3ER

(Councillor C Johnston withdrew from the meeting at this point and took no part in the deliberation and voting on the application)

The Committee considered a report from the planning officers, together with an addendum circulated prior to the meeting, in relation to a full planning application from Malhotra Leisure Limited for the demolition of the existing public house and the redevelopment of the site to provide 1no. drinking establishment with expanded food provision (Sui Generis) and 14 apartments, associated car parking, infrastructure and landscaping works.

A planning officer presented details of the application with the aid of various maps, plans and photographs. The report also made reference to the planning history of the site and the subsequent appeal to the Planning Inspectorate which

had been dismissed on the grounds of a lack of the completed S106 agreement.

In accordance with the Committee's Speaking Rights Scheme, Kathryn Lane addressed the Committee on behalf of a number of local residents who objected to the proposed development. Ms Lane explained that the main issue related to the height of the building and the proposed windows which were out of character of the area and intrusive. She also referred to the cumulative impact of an increase in traffic and parking which would impact on residents and lead to an overspill in surrounding streets. She also explained that the application before the Committee was the same design with the same objections.

Fraser Doherty also addressed the Committee. He explained that the plans were identical to those previously considered and refused by the Committee. He made reference to the properties affected by overshadowing and loss of light from the development and provided examples in relation to the effect it would have on neighbouring properties at various times of the year. He also referred to the impact that the development would have on the efficiency of solar panels that residents had had installed. Reference was also made to the right to light and that similar applications had been refused in the past.

Councillor Willie Samuel had been granted permission to speak to the Committee as a Ward Councillor for Cullercoats. He explained that there was a substantial body of residents who had objected to the application. He referred the size of the 4-storey building and said that it was too large for the site and out of keeping with the area. He also explained that the development was not in a town centre location and that there were currently issues in relation to traffic movements and the surrounding roads would not be able to cope with the increased traffic from the development.

Councillor Samuel also made reference to the planning inspector's decision to dismiss the appeal in relation to the previous application and that this was an almost identical application before the Committee today. He referred to the developers lack of communication/engagement with local residents and asked the Committee to consider the merits of the application.

(Councillor W Samuel withdrew from the meeting at this point)

Harvey Emms of Lichfields addressed the Committee on behalf of the applicant to respond to the speakers' comments. He explained that the officer report in front of the Committee was comprehensive and that the representations against the development had decreased. He also referred to the decision of the Planning Inspector and also explained that the pub was not a community asset and would have to close. He referred to the lack of a 5-year housing land supply, that the development met the Authority's parking standards and the height and massing of the development had been accepted by the planning officer and also the Planning Inspector. He also addressed the issue of daylight/sunlight and explained that the development was in accordance with the required standards. The development was compliant in relation to the provision of affordable homes and Section 106 payments and he explained that the planning officers had not identified any grounds to refuse the application.

Members of the Committee asked questions of the speakers and officers and made comments. In doing so the Committee gave particular consideration to:

- a) The height, scale and massing of the development within the local street scene;
- b) The adequacy of the proposed car parking provision and vehicular access to the site particularly with reference to the nature of the development and the traffic levels and parking in the local area;
- c) The landscaping scheme for the development and the loss of a number of trees from the site;
- d) The decision of the Planning Inspector in relation to application 21/02539/FUL and its relevance to the current application.
- e) The effect of the Housing Land Availability Assessment which confirmed that the Council did not have a five-year housing supply of deliverable housing sites. Consequently, there was a presumption in favour of the development unless the impacts of the development significantly and demonstrably outweigh the benefits.

The Chair proposed acceptance of the planning officer's recommendation.

On being put to the vote, 6 members voted for the recommendation and 2 voted against the recommendation.

Resolved that (1) the Committee is minded to grant the application; and (2) The Director of Regeneration and Economic Development be authorised to issue a notice of grant of planning permission subject to:

- i) the completion of the 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 officers report and addendum;
- iii) the addition, omission or amendment of any other conditions considered

necessary by the Director of Regeneration and Economic Development

(Reasons for the decision: The Committee concluded that having regard to the relevant policies contained in the Local Plan 2017 and National Planning Policy Framework the proposed development was acceptable in terms of the principle of development and its impact on the character and appearance of the area and highway safety. The Committee also had regard to the finding of the Planning Inspector in relation to application 21/02539/FUL on the site.)

PQ42/23 111 Marine Avenue, Whitley Bay – Tree Preservation Order 2023

(Councillor Johnston returned to the meeting at this point)

The Committee gave consideration as to whether to confirm the making of the 111 Marine Avenue, Whitley Bay Tree Preservation Order 2023.

The Council had been notified of the intention to remove a number of trees to the front of 111 Marine Avenue, Whitley Bay. In response the Authority had decided to make a Tree Preservation Order (TPO) to protect two of the trees, namely a Sycamore and a Cherry Tree at the location. The Tree Preservation Order had been served on those people with an interest in the land in May 2023.

An objection to the TPO had been received from engineers acting on behalf of the insurance company investigating a claim for subsidence. The objection concluded that the trees should be removed due to the damage caused to the property. Additional information in relation to the damage caused to the properties had been submitted which had indicated that the damage had been caused by ground movement. The Committee had also been advised that permission had been granted for the removal of two trees located nearer to the property than the trees covered by the TPO.

The Committee also considered further objections to the making of the TPO from the agent acting on behalf of the landowner and from the neighbours at number 113 Marine Avenue which had been set out in an addendum circulated in advance of the meeting. Officer's comments in relation to the additional information had also been included in a second addendum circulated in advance of the meeting.

The Committee considered the objections together with the comments of the planning officers and the Council's Landscape Architect before deciding whether to:

- a) Confirm the TPO without modification;
- b) Confirm the TPO with modifications; or
- c) Not to confirm the TPO

The Chair proposed acceptance of the planning officer's recommendation that the TPO be confirmed without modification.

On being put to the vote 9 members voted for the recommendation and 0 members voted against the recommendation.

Resolved that the 111 Marine Avenue, Whitley Bay Tree Preservation Order 2023 be confirmed without modification.

(Reason for decision: The Committee was satisfied that the trees merited protection via a TPO due to the contribution they make to the amenity and character of the area. The TPO did not prevent works being undertaken to the trees but ensured that any works carried out did not cause damage to the trees. The protection of the trees by a TPO was in accordance with Policy DM5.9 trees, woodland and hedgerows of the adopted Local Plan. Insufficient evidence had been provided that the roots of the trees had caused damage to the structure of the property.)

PLANNING COMMITTEE

Date: 14 November 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
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1 23/01275/FUL

Wallsend

Hadrian Yard A B And C Hadrian Way Wallsend Tyne And Wear

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Item No: 1
Application No: 23/01275/FUL
Author: Jackie Palmer
Date valid: 21 September 2023
Target decision date: 21 December 2023
☎: 0191 643 6336
Ward: Wallsend

Application type: full planning application

Location: Hadrian Yard A B And C, Hadrian Way, Wallsend, Tyne And Wear,

Proposal: Erection of a new workshop building (55m x 270m x 41m) at Yard C to accommodate welding and fabrication activities (Re-Submission to amend windows)

Applicant: Smulders Projects UK

Agent: Lambert Smith Hampton

RECOMMENDATION: Application Permitted

INFORMATION

1.0 Summary Of Key Issues & Conclusions

1.0 Main Issues

1.1 The main issues for Members to consider in this case are:

- Whether the principle of the development is acceptable;
- The impact upon surrounding occupiers;
- The impact of the proposal on the character and appearance of the surrounding area;
- Whether sufficient parking and access would be provided; and
- The impact on trees and ecology.

1.2 By way of information, members of the committee should be aware that the lawfulness of the decision to grant permission for the workshop in December 2022 is subject of a judicial review (legal challenge). The challenge has been brought on two grounds, the first relating to alleged non-compliance with Environmental Impact Regulations and the second to the committee having been misled in applying the NPPF tilted balance in reaching its decision. The legal challenge is due to be considered by the High Court in mid-December. There is further commentary on the legal challenge as appropriate later in this report.

2.0 Description of the Site

2.1 The building subject of this application is substantially complete and is currently being fitted out. The gantry cranes continue to operate under the terms

of the specific planning permission for their use, but they have now effectively been enclosed by the building.

2.2 This application has been submitted because the construction of the building has not been carried out in full accordance with the approved plans. The arrangement of the windows to the north and south elevations are different. The LPA has invited the applicant to submit an application to regularise the situation and seek permission for the building as built. Normal processes are followed in the determination of a retrospective application and the Committee must consider this current application on its own merits.

2.3 The building is located to the southwest part of the established industrial site operated by Smulders which specialises in offshore wind and renewable construction. In terms of the surrounding area, there is residential development to the north of the wider site at Hadrian Mews residential estate and on Railway Terrace, where a terrace of ten dwellings is located to the north-west of the site. To the south is the River Tyne. To the east is Willington Gut. Point Pleasant Industrial Estate, and other light industrial and commercial developments and housing are to the north/north-east. The site is bound to the west by the Oceania Business Park/Industrial Estate.

2.4 The application relates to the western and central parts of the Hadrian yard site. As noted above, the building is substantially complete. Before its construction this part of the site was laid out to hardstanding which was occupied by gantry cranes. There was a retaining wall to the northern part of the site, with the southern part of the site set at a lower level. Levels were altered to accommodate the building. There are on-going works to hard surface parts of the wider site. Whilst there are permitted development rights in place to allow such works, for completeness, a further application is expected to be submitted for works to create an area of hardstanding to the north of this workshop building. Those works do not form part of this application.

2.5 Yard C is located at the western end of the site and extends to Davy Bank and the north to the river frontage. Davy Bank forms the western boundary to this yard providing access to the adjoining industrial area along the river bank. Beyond a small commercial site located on the western side of Davy Bank there is a terrace of ten residential properties at Railway Terrace.

2.6 The main access to the site is from Hadrian Road with an unused, point of access into the yard from Davy Bank. SMD is an established business located on the riverside adjacent to the western boundary of Yard C.

2.7 The B Yard lies centrally within the overall yard and accommodates original office accommodation on this site and extended to the rear to provide covered fabrication and storage areas with an open hardstanding area.

2.8 Yard A is to the east of the site and comprises a further range of fabrication and warehouse buildings and hardstanding adjacent to the river and Willington Gut beyond. Point Pleasant Industrial Estate stands to the north of the A yard.

2.9 On the opposite side of the river is the A&P Tyne. This is an operational yard specialising in ship repair and fabrication and there are structures on site including one large building.

3.0 Description of the Proposed Development

3.1 The proposal is for a workshop building at Yard C to accommodate welding and fabrication activities. The building will enclose the existing gantry cranes which will be lowered to fit inside the building.

3.2 The building is constructed of profile metal cladding and measures 55m by 270m. It has a maximum height of approximately 41m. The internal floorspace is approximately 14,850m². The building is finished in pale cream colour cladding. A smaller, modular building which was subject of a separate planning permission granted in March 2022, has been integrated into the eastern elevation of the new building. The originally approved plans showed five windows on both the north and south elevations of the building but during construction, the arrangement of windows was altered to include three wider windows on each of these elevations.

3.3 The Smulders site is used to construct metal structures that act as a mounting base for wind turbines operating at sea. Most operations conducted on the site are related to metal fabrication, including the cutting and welding of metal and the loading of the finished product onto barges.

3.4 In their Planning Statement the applicant has advised the following:

- The building is part of a wider investment plan to improve and upgrade the existing facilities at Hadrian Yard to ensure the site is fit for purpose and that Smulders remain competitive in winning (and delivering) contracts to construct Transition Pieces and other offshore wind structures such as Transformer Modules and jacket foundations. It offers an enhanced working environment for employees by providing an area of covered space that will allow fabrication work to be carried out in a protected environment away from adverse weather conditions. It also allows for more fabrication and welding activities to be undertaken indoors, thus reducing noise levels from Hadrian Yard and enhancing the amenity of nearby residents.
- The building forms part of a significant wider investment plan for Hadrian Yard following support from the Government's £160 million Offshore Wind Manufacturing Investment Support scheme. Smulders are also investing a further £70 million to make offshore wind turbine transition pieces at Hadrian Yard.
- Consent was granted under 12/00806/FUL on 20.09.12 for a building (120 x 300 x 56m) to accommodate the fabrication of offshore jacket foundations for wind turbines. The consent was never implemented and expired in 2015.
- The NPPF requires the planning system to contribute to the three overarching objectives of sustainable development - economic, social and environmental. In this respect, the proposed development performs the following important roles:
Economic: the proposed workshop represents a significant investment into the site. Its construction will allow for welding and fabrication work to be carried out around the clock, ensuring that Smulders are able to satisfy customer demand and remain competitive as a business. As such, the proposal will support the expansion of an existing business, which is a major employer, and ensure that existing jobs are retained within North Tyneside.

Social: the proposal will support local communities by ensuring local jobs are created and safeguarded in a location that is accessible via public transport (Hadrian Yard Metro Station and local bus services). It will also allow for fabrication activities that are usually undertaken outdoors to be moved indoors, thereby reducing noise levels and improving the amenity and well-being of existing residents. It will also improve working conditions for employees by providing more covered space away from wind, rain and snow.

Environmental: the proposal will utilise previously developed land and provide ecological enhancements to ensure biodiversity net-gain. These enhancements will complement the kittiwake ledges that Smulders have already agreed to install for the 2023 season. As such, the proposal will contribute to protecting and enhancing the natural environment.

3.5 The agent has also advised the following:

- As set out in our previous application, the workshop building is part of a wider investment plan to improve and upgrade the existing facilities at Hadrian Yard to ensure the site is fit for purpose and that Smulders remain competitive in winning (and delivering) contracts to construct offshore wind structures.
- Smulders has to date invested approximately £50 million in the workshop building and has provided a financial contribution of £43,660 to North Tyneside Council towards wider employment and training initiatives within the borough.
- It is anticipated that 290 new direct jobs will be created at Hadrian Yard over the next five years. These new jobs will cover a range of positions that are highly skilled and well paid, including HSE Inspectors, welders, electricians, riggers and scaffolders.
- The workshop, therefore, represents a significant investment in the site and contributes to the overarching aims (economic, social, and environmental) of the NPPF and Policies S1.1 (Spatial Strategy for Sustainable Development), AS2.5 (River Tyne North bank), AS8.1 (The Wallsend and Willington Quay Sub Area) and S2.1 (Economic Growth Strategy) of the North Tyneside Local Plan (2017), all of which encourage sustainable development, the growth of employment land supply and job creation.

4.0 Relevant Planning History

22/01495/FUL - Erection of a new workshop building (55mx270mx41m) at Yard C to accommodate welding and fabrication activities – Permitted 02.12.22 (subject of legal challenge)

23/00148/SCREIA - Screening opinion request - Erection of a new workshop building (55mx270mx41m) at Yard C to accommodate welding and fabrication activities – No EIA required 07.02.23

21/02188/FUL - Erection of a modular workshop building to provide a flexible indoor work area Permitted 01.3.22

21/01007/DEMGDO - Buildings marked 'A22' on the supporting plan to the West of 'A' Shop and part of the Rigging Loft (A17). Also two temporary buildings marked 'A24' & 'A25' on the supporting plan (permission not required) Permitted 07.05.21

21/00739/FUL - Variation of condition 5 (Hours of Operation) to allow 2no. gantry cranes to be operated 24 hours a day Monday to Sunday and partial discharge of condition 6 (Noise Assessment) in respect of the 2no. gantry cranes of planning approval 16/01595/FUL (resubmission) – refused 20.05.21 and allowed on appeal 29.11.21

20/02419/FUL - Variation of condition 5 (Hours of Operation) - to allow 1no ringer crane to be operated between 07:00 and 19:00 hours only Monday to Sunday and 2no gantry cranes to be operated 24 hours a day Monday to Sunday. Variation of condition 6 (Noise Assessment) - remove reference to 'does not exceed the background noise' and replace with 'does not exceed the daytime background noise level by more than +5dB', of planning approval 16/01595/FUL – withdrawn 11.03.21

17/00242/FUL - Removal of condition 5 of application 16/01595/FUL - operating hours of cranes – withdrawn

16/01595/FUL - Erection of 2no gantry cranes and 1no ringer crane – permitted 13.01.17

12/00806/FUL - Demolition of existing buildings and erection of building (120 x 300 x 56m) to accommodate the fabrication of offshore jacket foundations for wind turbines – permitted 20.09.12

09/00937/FUL: Hadrian West Yard: Change of use from use class B8 (storage or distribution) to use class B2 (general industrial) with no operational development. S106 glazing to Railway Terrace. Permitted 12.06.09

09/00868/CLPROP: Hadrian West Yard: Use of the site for the fabrication, assembly, installation, decommissioning and repair services to onshore and offshore traditional and renewable energy projects. Refused 01.05.09

09/00867/CLPROP: Amec Hadrian Yards A and B: Use of the site for the fabrication, assembly, installation, decommissioning and repair services to onshore and offshore traditional and renewable energy projects. Approved 28.04.09

5.0 Development Plan

5.1 North Tyneside Local Plan 2017

5.2 The Local Plan was subject to a review in 2022. This concluded that the plan continues to provide an effective strategy for the management of growth and development in the Borough and that it remains sound.

6.0 Government Policy

6.1 National Planning Policy Framework (2023)

6.2 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. Planning

policies and decisions must also reflect relevant international obligations and statutory requirements. It requires LPAs to apply a presumption in favour of sustainable development in determining development proposals.

6.4 In decision making this means proposals which accord with an up-to-date development plan should be approved without delay. Where there are no relevant development plan policies, or where the policies which are most important for determining the application are out-of-date, permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provide a clear reason for refusing permission, or the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

PLANNING OFFICERS REPORT

7.0 Main Issues

7.1 The main issues for Members to consider in this case are:

- Whether the principle of the development is acceptable;
- The impact upon surrounding occupiers;
- The impact of the proposal on the character and appearance of the surrounding area;
- Whether sufficient parking and access would be provided; and
- The impact on trees and ecology.

7.2 As part of the planning process the application has been screened to establish whether it falls within the remit of the Environmental Impact Assessment Regulations 2017. The proposal is not considered to require an Environmental Impact Assessment. The application is supported by a range of documents which assess the impact of the development on trees and landscaping, archaeology, ecology and biodiversity net gain, flood risk, ground conditions, noise, solar and shadow and visual impact.

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

8.0 Principle of the Proposed Development

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

8.2 Paragraph 11 of NPPF introduces a presumption in favour of sustainable development. In relation to decision making Para 11 (c) states that decision takers should approve development proposals that accord with an up-to-date development plan without delay.

8.3 Paragraph 81 of the NPPF states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and

productivity, taking into account both local business needs and wider opportunities for development.

8.4 Policy S1.1 of the Local Plan 'Spatial Strategy for Sustainable Development' states that in order to ensure North Tyneside's requirements for homes and jobs can be met with adequate provision of infrastructure, and in a manner that enables improvements to quality of life, reduces the need to travel and responds to the challenges of climate change, the Spatial Strategy for the location and scale of development is that:

- a. Employment development will be located:
 - i. within the main urban area; and,
 - ii. at areas easily accessible to residents by a range of sustainable means of transport; and,
 - iii. where businesses may benefit from the Borough's excellent national and international transport connections - including the strategic road network and opportunities provided by the River Tyne.

8.4 Policy S1.4 of the Local Plan states that proposals for development will be considered favourably where it can be demonstrated that they would accord with the strategic, development management or area specific policies of this Plan. Should the overall evidence based needs for development already be met additional proposals will be considered positively in accordance with the principles for sustainable development.

8.5 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 through the Development Management process and application of the policies of the Local Plan. Where there are no policies relevant to the application, or relevant policies are out of date at the time of making the decision, then the Council will grant permission unless material considerations indicate otherwise.

8.6 Policy S2.1 states that proposals that make an overall contribution towards sustainable economic growth, prosperity and employment in North Tyneside will be encouraged. This includes supporting economic growth to develop marine and renewable sectors of manufacturing in the River Tyne North Bank area.

8.7 Policy S2.2 allocates land for the provision of Land for Employment Development.

8.8 Policy DM2.3 states that the Council will support proposals on employment land for new or additional development for uses within use classes B1, B2 or B8 or that which is deemed ancillary. Proposals on identified employment land or other buildings in use-class B1, B2 or B8, for uses that could conflict with the development and regeneration of sites for economic development, will be permitted where these proposals would not:

- a. Result in the unacceptable loss of operating businesses and jobs; and,
- b. Result in an excessive reduction in the supply of land for development for employment uses, taking into account the overall amount, range, and choice available for the remainder of the plan period; and,

c. Have an adverse impact upon the amenity and operation of neighbouring properties and businesses.

8.9 Policy AS2.5 'River Tyne North Bank' states that across the River Tyne North Bank area proposals for all forms of employment development will be supported to enable economic growth, investment and regeneration of the area where they do not restrict riverside access that could compromise the capacity of the River Tyne North Bank to support marine and off-shore related industry.

8.10 Policy AS8.1 'The Wallsend and Willington Quay Sub Area states that within this area the north bank of the River Tyne will provide a location for a range of opportunities for investment and economic development and support growth in advanced engineering, research and development particularly in renewable and marine off-shore manufacturing and sub-sea technologies and it also refers to reducing the impact of intrusive employment uses upon residential amenity in the area.

8.11 The proposal relates to an established industrial location where fabrication works are undertaken. This application seeks retrospective permission for a building to be used for industrial purposes. The proposal complies with the allocation of the site in the Local Plan.

8.12 The land is allocated for employment use under Policy S2.2 of the Local Plan. In addition, the proposal complies with Policy AS2.5 'River Tyne North Bank' which states that across the River Tyne North Bank area proposals for all forms of employment development will be supported to enable economic growth, investment and regeneration of the area where they do not restrict riverside access that could compromise the capacity of the River Tyne North Bank to support marine and off-shore related industry. Given the proposal is for a building to allow fabrication of off shore renewable structures it also complies with Policy AS8.1 which allocates the north bank of the River Tyne as a place where growth in advanced engineering, research and development particularly in renewable and marine off-shore manufacturing and sub-sea technologies can be supported.

8.13 The submitted application seeks retrospective permission for a building which would be used in connection with the main (B2) general industrial use of the site and specifically for marine engineering and renewable energy related development. The riverside location is essential for this type of activity and this complies with the allocation of the site in the North Tyneside Local Plan.

8.14 The agent states that it is anticipated that 290 new direct jobs will be created at the site over the next five years. These jobs will cover a range of positions, including welders, electricians, riggers and scaffolders.

8.15 The principle of the proposal is therefore considered to be acceptable subject to consideration of the issues set out below.

9.0 Impact on Surrounding Occupiers

9.1 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.

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

9.3 Policy DM5.19 states that amongst other matters development that may cause pollution will be required to incorporate measures to prevent or reduce the pollution so as not to cause nuisance or unacceptable impacts to people. Potentially polluting development will not be sited near to sensitive areas unless satisfactory mitigation measures can be demonstrated.

9.4 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.

9.5 One of the key planning considerations is the impact of the proposal on the amenity of neighbouring occupiers, particularly the occupiers of any residential properties, in terms of noise and disturbance, loss of light and outlook. The closest residential properties to the location of the proposed building are approximately 126m to 144m to the north-west along Railway Terrace and also approximately 247m to the north along Alwin Close, Coquet Gardens, Derwent Way. Point Pleasant Terrace is approximately 350m to the north-east of the location of the proposed building. In addition to the pending legal challenge and associated representation, objections have been received from four of the ten properties on Railway Terrace and from Alwin Close. Objectors have expressed concerns about noise from activities on the site, light pollution and shading. There are also concerns relating to the impact of dust from the site but the applicant has suggested that this is most likely associated with construction works and hard surfacing works taking place on the site.

9.6 In terms of the impact of the building on outlook from nearby residential properties and business premises it is clear the impact of the building is most significant in the immediately surrounding area. The land rises from the river edge to Hadrian Road to the north. Railway Terrace is to the north-west of the proposed building and sits at a higher level than the building which is clearly visible in the outlook from the Terrace and from Davy Bank, given its location, height and size. The building is set in the context of riverside industrial development where there are other large buildings and structures on both sides of the river.

9.7 Hadrian Mews is also set higher than the application site and the houses largely have rear gardens abutting the yard, although there are a few properties which have a gable elevation facing the yard.

9.8 Point Pleasant Terrace is to the north-east of the Smulders site. There is other housing in the area, notably to the north of Hadrian Road including Church View and Limekiln Road/Limekiln Court.

9.9 In terms of the impact on daylight and sunlight, the applicant has re-submitted a solar exposure and shadow analysis report which considers the building as originally submitted at 40m in height. It is noted that the maximum height of the building has been increased in height to 40.9m at its western end, with 40.2m at its eastern end. However, the submitted information is considered to remain acceptable to assist in assessing the impact of the proposal on the adjacent properties.

9.10 The analysis includes the modelling of the entire Hadrian Yard site to provide an understanding of the shading effect that the building might have on surrounding areas. Four key areas have been analysed that are in close proximity to the proposed building. The closest areas are industrial areas to the north of the proposed building. Industrial areas will be affected by the shadows caused by the new building in the winter months from November to February, when the sun is at its lowest position in the sky.

9.11 The Hadrian Mews residential estate and Railway Terrace are also considered. With regards to Railway Terrace, the analysis shows that the new building will cause additional shadowing during early mornings in the winter months when the sun is low. The analysis concludes that the overall effect is small and limited to short periods in the winter months. The report states that the Hadrian Mews residential development will be unaffected in terms of shadowing by the proposed building. It is officer advice that whilst there will be some impact on Railway Terrace at certain times of the year in the morning, the impact is not considered to be so significant as to warrant refusal of the application when balanced against the employment and economic benefits of the provision of the building.

9.12 There are objections about the impact of lighting from and on the building. It has become evident that whilst no external lighting was originally proposed this has recently been introduced. A condition was imposed on the original grant of permission which required any external lighting to be agreed prior to its installation. Prior agreement was not sought and the applicant is aware of this. Currently from the information provided and from visits to the site, the main impact is from externally fitted lighting rather than the light coming from the doors and windows. Details of the external lighting are expected to be submitted to discharge the condition very soon and will include a lighting study to assess the impact of light on the surrounding area. The applicant has noted that prior to the building being constructed the gantry cranes were fitted with lighting so this is not an entirely new feature in this location. As building work continues there is evidence of a range of equipment with fitted lights being used on the site. To mitigate the impact of the lighting in advance of the required submission being made, the applicant has indicated that lighting is currently being switched off at 17:30. Consideration is being given to adjusting the angle of lighting and use of dimmers. The applicant has also indicated that there would be scope to introduce additional planting to help screen the building and help mitigate the impact of lighting. A condition is recommended to agree the details of such

additional planting. An additional condition is also recommended to agree a lighting management scheme.

9.13 In terms of noise impact, the applicant wishes to use the building 24 hours a day. The C yard was subject of a planning consent (reference 09/00937/FUL) for B2 use which did not include planning conditions restricting its hours of use (beyond a condition to restrict the times pile driving equipment could be used). Gantry cranes have been operating in the area where the building is now located following planning permission for their installation being granted in 2016. Whilst a condition was originally imposed to limit their use between the hours of 0700-2300, the removal of this condition was allowed, on appeal, in 2021. Until very recently these cranes have operated in an open environment on Yard C for up to 24hrs a day. They are now effectively enclosed within the building which has been constructed around them.

9.14 Details of the planning appeal relating to the gantry cranes are a relevant material consideration. In allowing the appeal the Planning Inspector noted that the appellant's business already operates for 24 hours a day Monday to Sunday and that the proposed use of the cranes would not exceed the existing night time background noise levels. He advised:

“15. It may well be the case, as the Council contend, that there may be activities associated with the operation of the gantry crane through the night that would give rise to the generation of noise. However, the yard is already allowed unrestricted operation through the night and those noises, and others, may and will continue to occur. I am satisfied that it has been adequately demonstrated that the operation of the gantry crane would not exceed overnight background noise levels. Notwithstanding the concerns and misgivings of nearby residents regarding operations more widely at the appeal site, I have not been presented with compelling evidence that the operation of the gantry crane during the hours originally prohibited by disputed condition 5 would be responsible for harm to the living conditions of residential occupiers of nearby properties.

16. ...For the reasons I have set out, I am satisfied that the appellant has demonstrated that the variation of the 2017 permission in the manner sought would not give rise to additional levels of noise above background levels. Noise arising from other activities carried on by the appellant at the appeal site are not within the scope of the appeal proposal and do not alter my conclusion in respect of the main issue.

17.Whilst I sympathise with local residents in terms of the site's 24-hour operation, exposure to activities within the site such as light, noise and particulate matter these are all matters that have, and are currently, being experienced. The dismissal of this appeal, had I been so minded, would not alter many aspects of the neighbour's concerns and these therefore remain matters between residents, the appellant and the Council.”

9.15 Members are therefore advised, as set out in the appeal decision, that currently activities can take place across the site without planning restrictions.

9.16 A Noise Impact Assessment has been re-submitted. The Manager of Environmental Health has been consulted and provided comments. She notes the site is located in close proximity to residential properties at Railway Terrace, Derwent Way, Alwin Close and Coquet Gardens, with rear gardens of properties overlooking into the yard. She raises no objection in principle to this application which includes for amended windows. The noise breakout from the amended windows is unlikely to be different to that of the previous design and conditions were recommended for planning application 22/01495/FUL to address the noise breakout from the building via a noise management plan and conditions to require the acoustic doors to be kept closed when fabrication activities take place. It is recommended that these conditions are reattached if planning consent is to be given.

9.17 The provision of a building enables activities previously undertaken outside, to be carried out inside. The building is airtight and insulated so that when the doors are closed it forms a sealed enclosure to control noise. The noise report assessed the proposal on the basis of there being five windows on the north and south elevations. Whilst this element of the scheme has been amended, the Environmental Health officer has advised no objections subject to conditions. Objectors have noted that the main door to the western elevation (facing Davy Bank) is thin and translucent. The approved plans did indicate the acoustic doors to both elevations were of fabric construction and the applicant has provided information to indicate the material used has a sound insulation value of 22dB.

9.18 In terms of the wider impact of noise there have been historic complaints relating to operational noise from the yard. This resulted in a statutory notice being served on the operator 2017, primarily in relation to noise from work activities occurring at night predominantly in yard B which faces the residential development known as Hadrian Mews. The Environmental Health officer previously reviewed the noise assessment which assessed worst case noise based on all the activities taking place at the same time in the workshop in yard C. This determined that at Railway Terrace the noise rating level at the nearest sensitive receptor was +5 above the background of 33 dB during the night period with all the other locations being below the existing background. A noise level of +5 above background would be considered to be of adverse impact but would not be considered to give rise to significant adverse impacts. The rating level of 39 dB during the night is below the noise limit of 45 dB specified within the statutory notice and is below the ambient night period noise level of 42 dB. Internal noise levels for bedrooms would be in the region of 24 dB LAeq during the night period, based on an open window.

9.19 The mobile modular building (approved under planning reference 21/02188/FUL) now adjoins the workshop building. A condition was attached to that permission (which has been complied with) and subsequently to the original permission for the workshop requiring a noise management plan to be submitted before the building is operational. This is expected to be submitted very shortly. Conditions were also imposed to require validation of noise mitigation measures, and this will take place in November.

9.20 In relation to the workshop building, the noise assessment demonstrated previously that nearest sensitive receptors will not be subject to noise levels

giving rise to significant adverse impacts from the provision of the workshop, based on the structure being provided with acoustic doors. It is noted that the noise assessment assumed acoustic doors will be fitted and therefore conditions were imposed to ensure acoustic doors are installed and that these were kept shut when fabrication works were taking place. Objectors have noted that the door has often been observed to be left open in breach of the planning condition imposed on the original permission. As the building is not yet fully completed it is not considered the condition could be effectively enforced at this time. The applicant has been reminded of the requirements of the conditions which are recommended to be reimposed. The relevant conditions are recommended to be re-imposed on any further grant of planning permission.

9.21 Members need to consider whether the impact on existing occupiers would be acceptable in terms of loss of light, noise and disturbance. It is officer advice that subject to conditions the impact would be acceptable and in accordance with Policy DM5.19.

10.0 Visual impact of the building

10.1 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.

10.2 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).

10.3 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.

10.4 Policy AS8.9 'Segedunum Roman Fort and Hadrian's Wall World Heritage Site' states:

The Council will ensure that regeneration and development of the town centre and riverside protects and enhances the unique heritage and setting of the World Heritage Site (WHS), and will:

- a. Ensure the safeguarding of the Outstanding Universal Value of the WHS and those attributes which define it, both within and outside its Buffer Zone, as shown on the Policies Map. Formal environmental impact assessment (EIA) will be required for developments likely to have a significant effect on Hadrian's Wall WHS and its Buffer Zone.
- b. Ensure proposals for development respect the status of the WHS and ensure its preservation.

- c. Establish the presence of a key part of a transnational WHS in the centre of Wallsend at the heart of strategies for Wallsend town centre encouraging greater awareness of Wallsend as a place to visit and enjoy.
- d. Work with partners to continue to promote, interpret, use and conserve the WHS and its Buffer Zone.

10.5 The Design Quality SPD applies to all planning applications that involve building works. It states that extensions must offer a high quality of the built and natural environment. It further states that extensions should complement the form and character of the original building.

10.6 The application site is located within an established industrial area and there are other large industrial buildings in the vicinity of the site. The building measures 270m by 55m with a height up to approximately 41m. There are different levels across the wider Smulders site, with parts of Yard A and C sitting at a lower level than the housing to the north and north-west.

10.7 The building will have a significant visual impact due to its height and size in some short, medium and long distance views. The existing gantry cranes would be lowered to fit inside the building. The height of the building is required to allow the fabrication of transition pieces to be undertaken.

10.8 The applicant has advised that whilst the building is utilitarian in design, it is appropriate for a building serving an industrial function, and which is located within a designated employment area. Hadrian Yard is used for the assembly of very large offshore wind turbine foundation structures of a height much taller than the proposed building. There are also already a number of large industrial sheds within the site and the wider industrial area along River Tyne. The design of the building follows its function and the size and height are required to allow the necessary work to be undertaken.

10.9 Whilst there are a range of fabrication halls and industrial sheds along the River Tyne, including on the adjoining A yard and opposite at A&P Tyne, there are no structures of a similar height within the locality. As noted above, the most significant visual impact is in the immediately surrounding area. The building dominates views from Davy Bank but is seen in the context of the industrial landscape of the River Tyne.

10.10 The Townscape and Visual Impact Assessment (TVIA) for the building has been resubmitted. It has been supplemented with recent photographs of the building from the six key viewpoints - including from Davy Bank/Railway Terrace, Alwin Close, Limekiln Road, Willington Quay and Segedunum Roman Fort.

10.11 The TVIA refers to the site being in the Tyne and Wear Lowlands National Character area as published by Natural England. The key characteristics of this with relevance to the current assessment include an undulating landform incised by the Tyne, widespread urban and industrial development with a dense network of major road and rail links and the spreading conurbations of Tyneside in the north and a long history of settlement, mining and industry evidenced through historic buildings and settlement patterns which form a core part of today's landscape.

10.12 A Landscape and Townscape Character Description was published in 2014. Areas closest to the site are the riverside Employment Area, Mid to Late 20th and 21st Century Residential Areas, and Traditional Centres. It notes that the riverside at Wallsend has been historically an area of heavy industry as it was a major hub for ship building. Much of this character that developed through that period still remains. Today it is defined by large industrial units interspersed by significant areas of concrete hardstanding. These buildings and areas are generally screened from wider view by buffers of trees and hedges. There are many views across the river to South Tyneside. The Landscape and Townscape Character Description also defines a number of 'Landscapes of Note' including the River Tyne, Rosehill and Wallsend Dene, and Rising Sun Country Park.

10.13 The TVIA appraises the potential townscape effects of the building. This is summarised in paragraphs 10.14 to 10.37. In terms of the Riverside Employment Area, the area is considered to be of low sensitivity and the proposal would not substantially change the character of the riverside area therefore it considers the nature of the effect is considered to be neutral.

10.14 With regards to the area in South Tyneside on the other side of the River Tyne, the TVIA states that the proposal will be a prominent feature from the south bank of the River Tyne however views of large scale industrial buildings are in keeping with the character of the riverside therefore the magnitude of change is considered to be low. The area is considered to be of low sensitivity and the proposal would not substantially change the character of the riverside area. The nature of the effect is considered to be neutral.

10.15 With regards to the housing estate at Hadrian Mews to the north and Point Pleasant to the north-east, the TVIA states that views of the proposed building would be glimpsed through gaps in the built form of the residential street and given the proximity it would be visible therefore the magnitude of change is negligible/low. There would be a limited impact on townscape character of the residential estate, and the nature of the effect is considered to be neutral. Being largely completed, the building is visible from Alwin Close but it is not considered to dominate views, although it is recognised it will be more dominant in views from properties which abut the Smulders site. Views are already dominated by a range of large buildings and equipment and at various times significant structures on the Smulders site.

10.16 With regards to Wallsend town centre, the TVIA states that views of the proposed building would be glimpsed through gaps in the built form therefore the magnitude of change is negligible. There would be a limited impact on townscape character of Wallsend, and the nature of the effect is considered to be neutral.

10.17 With regards to NTC landscapes of note, the riverscape is considered to have a high value as it is one of the defining features of the region. However, for that section of river within the study area the susceptibility to change of the type proposed is low given its industrialised character. The development would be a prominent feature within this part of the riverscape. However, the building is

entirely in keeping with its industrial surroundings and the magnitude of change is negligible.

10.18 The TVIA appraises representative viewpoints. It states that from Davy Bank, the development would occupy a large part of the view and be a very prominent feature. The building will block views of the river, although this is not considered to be a key viewpoint for the riverscape. The magnitude of change is high. The proposals would result in what is considered to be a large change in the view but would be experienced by relatively few receptors (the appraisal considers the following receptors: occupiers of residential properties surrounding the site, pedestrians and cyclists on public rights of way and other routes to the north of the site, nearby road users and more distant views from recreational landscapes and areas of open space). The change would be prominent, and the view of the river would be blocked at this location; however, the character of the view would remain one of an industrialised townscape. The nature of the effect is considered to be adverse.

10.19 From the pedestrian footpath on the north side of Alwin Close within the centre of the housing estate, a small part of the development would occupy a very small part of the view, visible in the space between houses. Whilst the building will be seen on the skyline the pale coloured cladding reduces its prominence. The building will not block or screen any part of the view which contains features of interest. The magnitude of change is low. The proposals would result in what is considered to be a small change in the view. The change would be noticeable, but the overall view composition would remain very similar to the baseline. The nature of the effect is considered to be neutral.

10.20 From the top of Limekiln Road (adjacent to Church Bank), a very small part of the development would occupy a very small part of the view, filtered by intervening vegetation. Whilst the building will be seen on the skyline the pale coloured cladding reduces its prominence. The building will not block or screen any part of the view which contains features of interest. The building would be seen at relatively close range, but within a very restricted view and by a relatively small number of receptors. the magnitude of change is negligible/low. The proposals would result in a very small change in the view, likely to be barely perceptible once construction is completed. The overall view composition would remain almost identical. The nature of the effect is considered to be neutral.

10.21 From the pedestrian footpath on the east side of Sandhoe Walk within the Dilston Grange estate at Willington Quay, the development would occupy a small part of the view, which is open but partially screened by (and seen in the context of) existing buildings at Hadrian Yard. Whilst the building will be seen on the skyline the pale coloured cladding reduces its prominence. The building will not block or screen any part of the view which contains features of interest. The effect is stated as minor/ moderate (for residential receptors; lower for other types of receptors) and the proposals would result in a small change in the view. The change would be noticeable, but the overall view composition would remain very similar to the baseline. The magnitude of change is low. The nature of the impact would be considered to be neutral/adverse.

10.22 From the roof of the viewing tower at Segedunum, the development would occupy a very small part of the view, which is open but partially screened by (and seen in the context of) existing buildings in the foreground. The building will not block or screen any part of the view which contains features of interest with the Roman remains being viewed from the opposite side of the viewing tower. Taking all these factors into consideration, the magnitude of change is low. The proposals would result in what is considered to be a small change in the view. The change would be noticeable, but the overall view composition would remain very similar to the baseline. The nature of the impact would be considered to be neutral/adverse.

10.23 From within an area of linear open space running north – south between Holy Cross and Willington, the effect on recreational users of the open space at this location is considered to be minor/moderate. The nature of the change resulting from the proposed development may be described as neutral/adverse.

10.24 From the top of the reclaimed spoil heap in Rising Sun Country Park, the proposals would result in what is considered to be a small change in the view. The change would be noticeable, the effect is considered to be neutral/adverse.

10.25 With regards to the appraisal of visual effects, the TVIA states the following.

10.26 At Railway Terrace, the TVIA states that the magnitude of change would be medium and the effect would be moderate. It is clear the building is visible and prominent but as indicated in the TVIA, does not dominate views although (partially) views of the river would be blocked at this location; however, the character of the view would remain one of an industrialised townscape/riverscape. The new building would be prominent and the nature of the effect would be adverse.

10.27 From Alwin Close/Coquet Gardens and Hadrian Mews, the TVIA states that the development would occupy part of the view, seen above existing buildings on the site. It would be a prominent feature and may partially block views of the river looking south-west although views south and south-east towards the river would remain. The magnitude of change would be medium and the nature of the effect would be adverse, however, the character of the view would not change remaining one of an industrialised townscape/riverscape.

10.28 From Point Pleasant, fieldwork suggests that views from both ground floor windows and gardens and first floors would be screened by intervening trees and vegetation. In this case the magnitude of impact would be negligible.

10.29 From the A187 the development would be seen above existing buildings and it would be a prominent feature in the view but would not block views towards the river (which is not directly visible from the road at this location) nor screen views of any notable townscape features. The magnitude of impact would be low and the effect minor and the nature of the effect neutral/adverse as the character of the view would not change.

10.30 From the Hadrian's Wall path, where visible the development would be seen above existing buildings on the site. It would be a prominent feature in the view but would not block views towards the river (which is not directly visible from the road at this location) nor screen views of any notable townscape features. The building would be seen at close range, occupying part of the view. Views are focused on the line of travel which is perpendicular to the development. The view would be glimpsed along a short section of road only. The magnitude of change is low. The effect is up to minor/moderate as the new building would be prominent but seen obliquely along a short stretch of road only. For the vast majority of the route, receptors would not be affected. The nature of the effect is considered to be neutral/adverse as the character of the view would not change remaining one of an industrialised townscape/riverscape.

10.31 From Segedunum the development would occupy a very small part of the view, which is open but partially screened by (and seen in the context of) existing buildings in the foreground. The building will barely break the skyline and the pale coloured cladding will help to integrate it with its industrial surroundings. The building will not block or screen any part of the view which contains features of interest with the Roman remains being viewed from the opposite side of the viewing tower. The building would be seen in the middle distance, in an open view, by moderate numbers of receptors. The magnitude of change is low. The effect is up to minor/moderate and the nature of the effect is considered to be neutral/adverse.

10.32 From the Rising Sun Country Park the development would occupy a very small part of the view, which is open but partially screened by (and seen in the context of) existing buildings in the foreground. The proposal would result in what is considered to be a small change in the view. The change would be noticeable, but the overall view composition would remain very similar to the baseline. The TVIA states that from most areas within the country park, visibility of the proposed development would be screened.

10.33 The TVIA sets out a zone of theoretical visibility of 3.5km from the site. The TVIA states that the effects on townscape character would be greatest at the site itself and in its immediate vicinity. On adjacent character areas, the effects on townscape character would be minor. The nature of townscape effects is considered to be neutral.

10.34 For receptors using nearby streets, the overall level of effect would be up to moderate. The nature of effect is considered to be neutral/adverse: for some receptors the proposed building would be perceived as having an adverse effect whereas for others, the effect may be perceived as neutral, given that the character of the view would remain similar to the baseline.

10.35 The appraisal has considered that the proposed development could give rise effects of up to moderate on residential receptors. The nature of these effects is assessed as neutral/adverse. This reflects the likelihood that for some receptors the proposed building would be perceived as having an adverse effect whereas for others, the effect may be perceived as neutral, given that the character of the view would remain similar to the baseline i.e. that of an industrialised townscape.

10.36 The TVIA states that as a result of its location on the riverside, surrounded by industrial development, and its degree of fit with existing buildings in terms of form, scale and mass, line, height, and overall appearance, the proposed development is likely to be perceived as a large-scale but appropriate addition to the townscape which is in accordance with relevant planning policies.

10.37 It is officer advice that there are areas of landscaping near the site which offer some screening to the site but given the height of the building it is not considered that this would offer any significant screening of the building. The building is set at a lower level than some of the adjacent buildings on the Hadrian Yard site and at a lower level than the housing to the north on Hadrian Mews. Its floor level also is lower than Railway Terrace. However again given its height it will have a significant visual impact from nearby sites and properties.

10.38 The site is over 500m to the east of the Roman fort of Segedunum and the Hadrian's Wall military zone. A photomontage shows views from here and the building will be visible. In considering the application for a 56m high building in 2012, Historic England requested further information considering the impact of the building on the forts on the north and south sides of the river. It was considered that the building would be clearly visible in views from Segedunum and will appear significantly above the skyline compared to other industrial buildings and structures however Historic England assessed the impact on views between the forts at that time and they advised that they had no objections in terms of impact on views for that building. Historic England made no comments on the original application.

10.39 In planning terms, the right to a view is not itself a material planning consideration. It is officer advice that the development has a significant visual impact when viewed from certain areas close to the site, in particular Davy Bank and Railway Terrace and also areas to the north of the site as well as from areas to the south of the River Tyne.

10.40 Members need to determine whether the proposed development would be acceptable in terms of its visual impact. It is officer opinion that the visual impact would be acceptable and in accordance with Policy DM6.1.

11.0 Whether there is sufficient car parking and access provided

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

11.2 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.

11.3 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.

11.4 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.

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

11.6 The Highways Network Manager has been consulted and advised no objections. He advises that the site has been established for some time and access and parking remain unchanged.

11.7 Members need to consider whether the proposal is acceptable in terms of its impact on the highway network. It is officer advice that the impact is acceptable.

12.0 Landscaping and ecology

12.1 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.

12.2 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.

12.3 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.

12.4 Local Plan 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. Priority will be given to:

- a. The protection of both statutory and non-statutory designated sites within the Borough, as shown on the Policies Map;
- b. Achieving the objectives and targets set out in the UK Post-2010 Biodiversity Framework and Local Biodiversity Action Plan;
- c. Conserving, enhancing and managing a Borough-wide network of local sites and wildlife corridors, as shown on the Policies Map; and
- d. Protecting, enhancing and creating new wildlife links.

12.5 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.

Proposed development on land within or outside a SSSI likely to have an adverse effect on that site would only be permitted where the benefits of the development clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the SSSI national network.

12.6 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.

DM5.7 'Wildlife Corridors' states that development proposals within a wildlife corridor must protect and enhance the quality and connectivity of the wildlife corridor. All new developments are required to take account of and incorporate existing wildlife links into their plans at the design stage. Developments should seek to create new links and habitats to reconnect isolated sites and facilitate species movement.

12.7 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.

12.8 The application site is located within a designated wildlife corridor and adjacent to the River Tyne Local Wildlife Site (LWS).

12.9 During the construction of the building to the current stage, a retaining wall and ground has been removed to accommodate the new workshop and this

involved the removal of an area of mixed native and non-native scrub. This included trees which consisted mainly of young, scattered trees and dense scrub that include species such as elder, sycamore, goat willow, wild cherry, silver birch and whitebeam as well as self-set species such as buddleja. Cotoneaster is also within the planting mix. They were all been categorised as 'C – low value'.

12.10 In terms of the ecological impact of the building, the habitats lost to the development were of low value as the site was mainly laid out to hardstanding. The site was also of low value to protected species. A biodiversity net gain assessment has been submitted. This indicates that a gain of 2.98% can be achieved through the creation of improved habitats within the wider site area. This will be by way of the management of an area of woodland within the site to enhance its value. The Biodiversity Officer's comments on this application are awaited however she had no objections to the original application subject to conditions. Conditions are proposed in the interests of biodiversity.

13.0 Other issues

13.1 Contaminated Land

13.2 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.

13.3 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.

13.4 The site lies within the Contaminated Land Buffer Zone.

13.5 On the recommendation of the Manager of Environmental Health (Contaminated Land) conditions were imposed on the original permission in relation to potential contamination and gas risk. These conditions will be updated as appropriate.

13.6 The applicant has submitted a Coal Mining Assessment. The Coal Authority have been re-consulted and have no objections.

13.7 Flooding

13.8 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.

13.9 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.

13.10 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.

13.11 Policy DM5.15 states that applicants will be required to show, with evidence, they comply with the Defra technical standards for sustainable drainage systems.

13.12 The application site is located within Flood Zones 1, 2 and 3. A Flood Risk Assessment, including a Sequential Test, has been submitted. The report notes that the proposed development is inextricably linked to the current operations of Hadrian Yard and can only be located on land owned by Smulders. The report notes that the majority of other sites are partly in flood zones 2 and 3. The Flood Risk Assessment advises that all proposed development within the Flood Zone 2 and 3 areas will have finished floor levels set at a minimum of 4.24mAOD to ensure that the proposed building is not at risk of flooding and is set at a level placing the structure in a Flood Zone 1 area.

13.13 The Local Lead Flood Authority carried out a review of the flood risk and surface water drainage proposals detailed in planning application 23/01275/FUL. As the revised proposals do not alter the proposed footprint of the building and the associated hardstanding areas, the area of impermeable surfaces for the development will remain the same so the previous comments are still applicable. Previously he had noted that the application was subject to a sequential test which established there were no suitable alternate sites. In order to mitigate against the current flood risk within the site the applicant proposed to set all plot levels to a minimum level of 4.24mAOD which is equivalent to the Flood Zone 1 level. The surface water drainage from the site is proposed to utilise the existing drainage system which drains into the adjacent River Tyne. It was recommended a flood action plan to be provided and this was submitted as part of planning application 23/00718/COND which is acceptable.

13.14 The Environment Agency have also raised no objections.

13.15 Members need to consider whether the proposed development is acceptable in terms of flood risk. It is the view of officers, that subject to a condition, the proposed development accords with the relevant national and local planning policies.

13. 15 Archaeology

13.16 Policy DM6.7 of the Local Plan states that the Council will seek to protect, enhance and promote the Borough's archaeological heritage and development that may harm archaeological features will require an archaeological desk based assessment and evaluation report with their planning application. The Tyne and Wear Archaeology Officer has been consulted and notes the applicant has submitted reports on archaeological investigations including a desk based assessment (HER event 5315 report 2022/29) and a watching brief during groundworks (HER event 5348 report 2022/52) which have already been

undertaken in relation to the construction of the workshop on this site (22/01495/FUL). No further work is required. It is therefore officer advice that the proposal complies with Local Plan policy in respect of archaeology.

13.17 S106 obligations and CIL

13.18 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.

13.19 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.

13.20 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.

13.21 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.

13.22 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.

13.23 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.

13.24 In response to the previous application a contribution towards employment and training initiatives within the borough was requested. The sum of £43660 has already been paid. As such no further contribution would be required.

13.25 A CIL payment will not be required for this development.

13.2 Local Financial Considerations

13.27 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.

13.28 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 CIL contributions are material in terms of making this development acceptable in planning terms.

14.0 Other Matters

14.1 The solicitor acting for the resident who is the claimant in the ongoing judicial review proceedings has stated that it would be unlawful and irrational for the Council to determine this application before the judicial review proceedings have been decided. This is because they consider the current application is substantively a resubmission of the original so that the grant of permission subject of the challenge is so material to the determination of this current application. They consider that until the challenge is decided, the LPA cannot lawfully or rationally decide what weight to give the existing permission because it is not yet known if the decision to grant that permission was lawful.

14.2 Whilst these comments are noted, the application before Members whilst being similar to that already approved, is to be determined by the Planning Committee on its individual merits, being assessed in full against national and local planning policy and guidance.

14.3 It is noted that the Court would generally encourage the defendant in a challenge to seek to remedy the fault claimed. It is not therefore considered necessary to delay the determination of this current application.

15.0 Conclusion

15.1 It is officer advice that the proposals are in accordance with the North Tyneside Local Plan. The development accords with the allocation of the site for employment use, specifically supporting marine/offshore related development on the River Tyne North Bank. The development would secure economic development in accordance with the NPPF. In officer opinion the principle of development is acceptable.

15.2 The building proposed is, by necessity, of a substantial scale and has a significant visual impact, in particular when viewed from within the immediately surrounding area. It will be difficult to secure mitigation which can reduce this impact. In visual terms, the colour of the cladding has been selected to reduce visual impact and established planting helps to screen the building from some viewpoints. The site is within a location which is characterised by larger industrial structures and equipment, although the building will be taller than other buildings.

15.3 There are however benefits in enabling works which currently take place outside within an enclosed building where there is more scope to control both noise, for the benefit of the occupiers of nearby properties and also for the applicant in terms of being less impacted by adverse weather. An additional condition is recommended to ensure lighting associated with the building can be appropriately controlled and to secure additional planting close to the building which will, once established, help to screen activities and lighting on and around the building.

15.4 Members need to balance the adverse visual impact, and the impact on the loss of daylight to the south facing elevation of Railway Terrace on early mornings in winter months when the sun is low, against the benefits arising from the development in terms of sustaining employment on this riverside site.

15.5 Having regard to the para 11 of the NPPF, this is development which accords with the adopted Local Plan and it is therefore officer advice that it should be approved subject to the conditions set out below.

RECOMMENDATION: Application Permitted

***It is recommended that:
the Committee indicates that it is minded to grant the application following expiry of the consultation; and***

***the Director of Regeneration and Economic Development be authorised to issue a notice of grant of planning permission subject to:
the conditions set out in the planning officers report;
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
 - Site location plan
 - Location for fabrication shop 8520-1001-01-E-01
 - Overview Drawing KSD 0000 1001 E Rev 11 (levels)
 - Floor and Roof plans 8520-1002-01-E-03
 - Elevations 8520-1003-01-E-04

- Flood Risk Assessment

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. Restrict Hours No Construction Sun BH HOU00 *
4

4. All construction works shall be undertaken in accordance with the 'Hadrian C Yard Workshop Construction Phase Health & Safety Plan' (November 2022) and these measures shall be retained for the duration of construction.

Reason: In order 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.

5. If the design of the building changes to include any confined spaces, then ground gas monitoring should be undertaken to assess this risk and the results shall be submitted to and approved by the Local Planning Authority in writing. Any mitigation measures shall be undertaken prior to the use of that part of the building.

Reason: In order to safeguard the development and/or the occupants thereof from possible future gas emissions from underground and or adverse effects of landfill gas which may migrate from a former landfill site having regard to policy DM5.18 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

6. If any unexpected contamination or hotspots are encountered during the investigation and construction phases it will be necessary to inform the Local Authority within 24 hours. Work must be ceased until any risk is assessed through chemical testing and analysis of the affected soils or waters. If required remediation of any unexpected contamination or underground storage tanks discovered during the development must take place before development recommences. Thereafter the development shall not be implemented otherwise than in accordance with the scheme approved under the planning consent.

Any additional reports should be written in accordance with the current government guidelines including but not exclusive of those including in the BS10175 2011+A1 2013, BS 5930 2015 +A12020, Verification Requirements for Cover Systems YALPAG Version 3.4 - November 2017, Land Contamination Risk Management - Environment Agency.

Reason: To ensure that the potential contamination of the site is properly investigated and its implication for the development approved fully taken into account having regard to policy DM5.18 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

7. A flood evacuation plan shall be submitted to and approved in writing to the Local Planning Authority prior to the commencement of the use of the building. The operation of the unit shall be carried out in accordance with the approved plan.

Reason: To prevent any impact from flooding from any sources in accordance with the NPPF and Policy DM5.12 of the North Tyneside Local Plan 2017.

8. Prior to operational activities taking place within the workshop, acoustic fabric doors must be installed. These shall thereafter be retained and the workshop doors of the modular unit must be kept closed whenever fabrication activities take place, except for access, egress and in case of an emergency.

Reason: In the interest of residential amenity with regards to policy DM5.19 of the North Tyneside Local Plan 2017.

9. Prior to the occupation of the workshop a noise management plan must be produced, submitted to and approved in writing by the local planning authority and implemented thereafter. The noise management plan must be reviewed annually or whenever there are any alterations to the structure. The noise management plan must be considered with regard to guidance provided by the Environment Agency Horizontal Guidance Note IPPC H3 (part 2) with particular regard to reviewing the impact of noisy activity upon closest residential premises.

Reason: In the interest of residential amenity with regards to policy DM5.19 of the North Tyneside Local Plan 2017.

10. Prior to the installation of external plant, ventilation and extraction systems to the development, a noise scheme must be submitted to and approved in writing by the planning authority giving mitigation measures. The noise scheme must provide details of all noisy external plant and any tonal or impulsivity characteristics to the plant and the assessment must be carried out in accordance to BS4142. The noise scheme shall include the overall equivalent noise level and noise rating level for different worst case operational scenarios for day and night time arising from the site. The scheme shall be implemented prior to the use of the building and retained thereafter, 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 and thereafter maintained in working order.

Reason: In the interest of residential amenity with regards to policy DM5.19 of the North Tyneside Local Plan 2017.

11. Noise No Tannoys Externally Audible NOI002 *

12. Prior to the occupation of the unit, details of the height, position, design and materials of any chimney or extraction vent to be provided in connection with the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details.

Reason: In order to protect the amenities of occupiers of nearby properties having regard to policy DM5.19 of the North Tyneside Local Plan (2017).

13. Prior to the occupation of the development details of the air ventilation systems shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be implemented before the development is first occupied in accordance with the approved details and permanently retained.

Reason: In order to protect the amenities of occupiers of nearby properties having regard to policy DM5.19 of the North Tyneside Local Plan (2017).

14. There shall be no visible airborne emission of dust beyond the site boundary, from any external vent fitted to the modular building. If emissions are visible, monitoring to identify the origin of a visible emission shall be undertaken. All emissions to air shall be free from droplets.

Reason: In order to protect the amenities of occupiers of nearby properties having regard to policy DM5.19 of the North Tyneside Local Plan (2017).

15. Flood Lighting Scheme Details LIG001 *

16. Prior to the occupation of the workshop a lighting management plan must be produced, submitted to and approved in writing by the local planning authority and implemented thereafter. The lighting management plan shall specify mitigation measures to mitigate pollution from light overspill from internal and external lighting and must be reviewed annually or whenever there are any alterations to the structure.

Reason: In the interest of ecology and residential amenity with regards to policy DM5.19 of the North Tyneside Local Plan 2017.

17. The development hereby permitted shall be landscaped and planted in accordance with a fully detailed scheme which shall be submitted to and approved in writing by the Local Planning Authority before the building is brought into operational use.

Reason: To protect the amenity of local residents and to ensure a satisfactory standard of landscaping having regard to policy DM5.9 of the North Tyneside Local Plan (2017).

18. Landscape Scheme Implementation LAN00 *
Period 5

19. Prior to the development hereby approved being brought into operational use, a 'Landscape Ecological Management & Monitoring Plan' (LEMMP) and associated Landscape Plan for off-site 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 details set out within the BNG Assessment Report and Biodiversity Metric 3.1 (OS Ecology October 2022) and shall be implemented on commencement of the 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 and reviews in years 3, 5 and 10 and 5 yearly thereafter, 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 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 (2017).

20. No vegetation removal or works to features (buildings) that could support nesting birds will 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 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 (2017).

21. 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°.

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 (2017).

22. 2no. bird boxes and 2no. bat boxes will be provided in suitable locations within the development site. Details of the bird and bat box specification and locations must be submitted to and approved in writing by the Local Planning Authority within four weeks of development commencing on site and shall be installed in accordance with the approved plans on completion of works and permanently 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 (2017).

23. No trees, shrubs or hedges within the site which are shown as being retained on the submitted plans 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.

Reason: In the interests of amenity and to ensure a satisfactory standard of landscaping having regard to Policies DM6.1 and DM5.9 of the North Tyneside Local Plan (2017).

24. Prior to the commencement of any site clearance works (including demolition works, tree works, soil moving, hardstandings, temporary access construction and/or widening or any operations involving the use of motorised vehicles or construction machinery, site security fencing, services), tree protection fencing is to be installed in accordance with All About Trees Arboricultural Impact Assessment, Tree Protection plan and Method Statement. The tree protection fence is to be of a type and height as described in the AMS.

The area surrounding each tree group within the approved protective fencing shall be protected for the full duration of the development and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

Reason: In order to ensure that existing landscape features are adequately protected during construction having regard to Policies DM6.1 and DM5.9 of the North Tyneside Local Plan (2017).

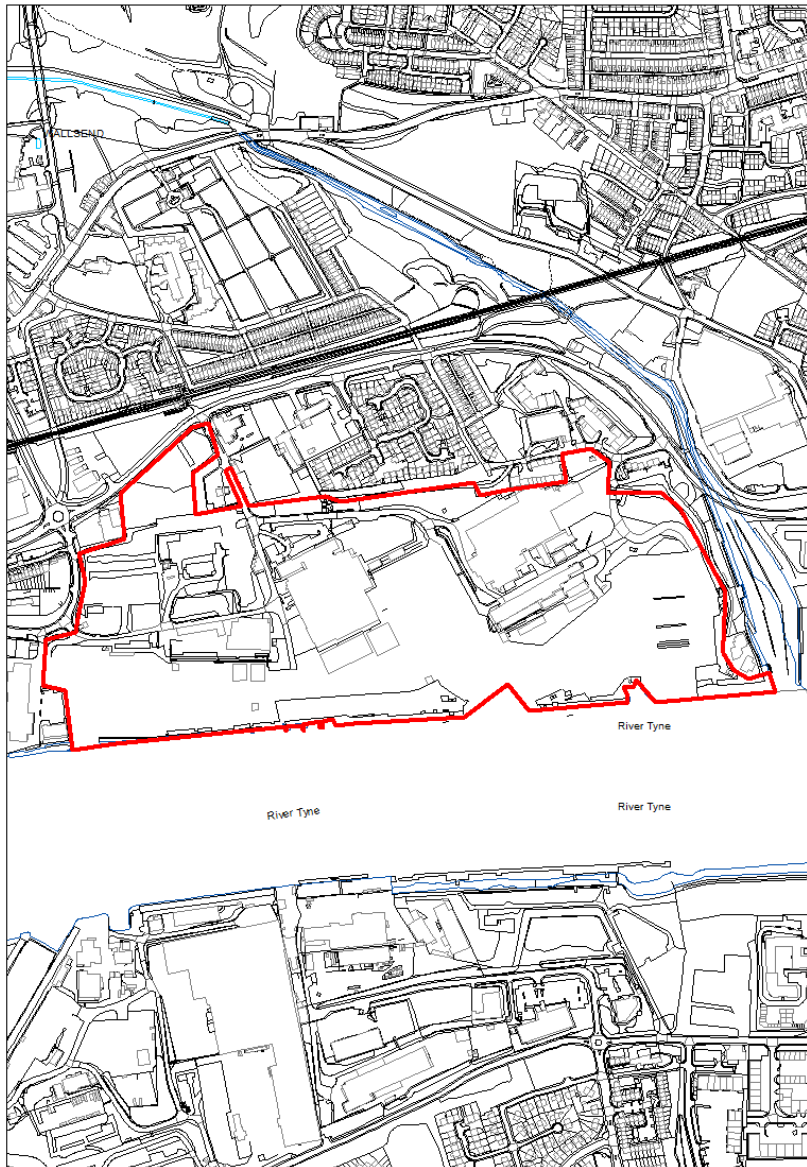
25. All works within the RPA of retained trees involving excavation of soil, including the installation of all services, construction for vehicular drives, parking areas, acoustic fencing, foundations, lighting and other activities requiring excavation are to be installed in accordance with BS5837:2012 'Trees in relation to design, demolition and construction - Recommendations', the National Joint Utilities Group (NJUG) 'Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity To Trees') and the following information:

- Arboricultural Impact Assessment (AIA) 1st June 2022
- Arboricultural Method statement (AMS) and Tree Protection Plan (AMS/TPP) 1st June 2022

Reason: In order to ensure that existing landscape features are adequately protected during construction having regard to Policies DM6.1 and DM5.9 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.



Application reference: 23/01275/FUL

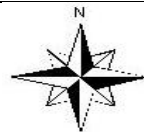
Location: Hadrian Yard A B And C, Hadrian Way, Wallsend, Tyne And Wear

Proposal: Erection of a new workshop building (55m x 270m x 41m) at Yard C to accommodate welding and fabrication activities (Re-Submission to amend windows)

Not to scale

Date: 02.11.2023

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Consultations/representations

1.0 Internal Consultees

2.0 Highways Network Manager

2.1 Comments of New Developments Team

2.2 This application is for the erection of a new workshop building - 55m by 270m by 40m - at Yard C to accommodate welding and fabrication activities. It is a resubmission of application reference 22/01495/FUL to amend the windows.

2.3 The site is long-established, and access & parking remain unchanged.

Conditional approval is recommended.

Condition:

The Construction Management Plan shall be implemented in accordance with the approved details and retained for the duration of construction.

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

Informatives:

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 Local Highway Authority for any furniture 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 a pavement license must be obtained from the Local Highway 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, the site abuts adopted highway, if access to this highway is to be restricted during the works the applicant must contact the Local Highway Authority to obtain a temporary footpath closure. Contact Streetworks@northtyneside.gov.uk for further information.

The applicant is advised that they should contact the Local Highway Authority 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 no part of the gates or doors may project over the highway at any time. Contact New.Developments@northtyneside.gov.uk for further information.

3.0 Local Lead Flood Officer

4.1 I have carried out a review of the flood risk & surface water drainage proposals detailed in planning application 23/01275/FUL, as the revised proposals do not alter the proposed footprint of the building and the associated hardstanding areas. The area of impermeable surfaces for the development will remain the same so my previous comments are still applicable.

4.2 I would highlight my previous comments required a flood action plan to be provided this was submitted as part of planning application 23/00718/COND which I can confirm is acceptable.

5.0 Environmental Health (Pollution)

5.1 This application is for the erection of a new workshop building at Yard C to accommodate welding and fabrication activities. It is a resubmission of application reference 22/01495/FUL to amend the windows.

5.2 The site is located in close proximity to residential properties at Railway Terrace, Derwent Way, Alwin Close and Coquet Gardens, with rear gardens of properties overlooking into the yard.

5.3 I have no objection in principle to this application which includes for amended windows. The noise breakout from the amended windows is unlikely to be different to that of the previous design and conditions were recommended for planning application 22/01495/FUL to address the noise breakout from the building via a noise management plan and conditions to require the acoustic doors to be kept closed when fabrication activities take place. It is recommended that these conditions are reattached if planning consent is to be given as detailed below.

Prior to operational activities taking place within the workshop, acoustic doors must be installed. The workshop doors must be kept closed whenever fabrication activities take place, except for access, egress and in case of an emergency.

Prior to the installation of the workshop a noise management plan must be produced, submitted for written approval to the local planning authority and implemented thereafter. The noise management plan must be reviewed annually or whenever there are any alterations to the structure. The noise management plan must be considered with regard to guidance provided by the Environment Agency Horizontal Guidance Note IPPC H3 (part 2) with particular regard to reviewing the impact of noisy activity upon closest residential premises.

Prior to the installation of external plant, ventilation and extraction systems to the development, a noise scheme must be submitted to the planning authority agreed in writing giving mitigation measures and thereafter implemented and maintained. The noise scheme must provide details of all noisy external plant and any tonal or impulsivity characteristics to the plant and the assessment must be carried out in accordance to BS4142. The noise scheme shall include the overall equivalent noise level and noise rating level for different worst case operational scenarios for day and night time arising from the site. 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 and thereafter maintained in working order.

NOI02

EPL01 for any external vents and chimneys

EPL02

There shall be no visible airborne emission of dust beyond the site boundary, from any external vent fitted to the modular building. If emissions are visible, monitoring to identify the origin of a visible emission shall be undertaken. All emissions to air shall be free from droplets.

HOU04

HOU05

SIT03 In accordance with the submitted details

LIG01 for any new external lighting

6.0 Representations:

Seven objections have been received from six addresses and one letter of support. In addition, a letter of representation has been received from the solicitor acting for the resident who has submitted the judicial review.

The following objections are raised:

- Already noise from building works from talking and beeping horns during the night which makes it difficult to sleep some nights
- Worried about any buildings being erected behind my home and blocking sunlight, more noise and devaluing my home.
- Plans online are very confusing and clarification sought as to whether the building was located adjacent to Alwin Close (Officer comment: clarified the application related to the building already constructed)
- The noise of diggers and flattening of the land suggests that regardless of what we say they are getting permission to build another workshop.
- Letters are sent out to us deliberately try to mislead and confuse us so we don't bother objecting
- Strongly object that with the noise during the day and also during the night which includes car doors banging, people talking, car alarms going off, and not to forget the eyesore all of which is not helping our mental health.
- You are quick enough to build but what about us worked hard all our lives to afford somewhere to live happily and you are making us miserable, got trees that need trimming as they are growing out of hand which affects our light but don't see the council rushing to do that even though I emailed them 3yr ago.
- Applicant describes this change to its original planning application (22/01495/FUL) as being only "minor" and relating "solely to the location and number of windows on the workshop" as if the extensive light pollution emanating from these windows has no further detrimental impacts upon the local residential community than the devastation to local amenity we are already experiencing since construction on the site began, and will continue to face once fully operational.
- This contempt for the local community, who yet again have not been consulted in any form whatsoever by Smulders despite clear national planning guidance, is further exemplified by the applicant's complete lack of any definitive impact studies incorporating these windows. As the applicant states "most of the

supporting documents submitted as part of the original application remain unchanged” The ‘Town and Visual Impact Appraisal’ supporting the application does not even include an image of the building with windows. Nor, unbelievably, does the ‘appraisal’ even consider any form of visual impact during night-time hours of excessive light emanating from the windows or wide open doors. As the applicant says; 8.4 “Viewpoint photographs have not been taken at night” 8.5 “It lies outside the scope of the current appraisal to consider these effects and would require a specific lighting assessment”

- The Planning Committee is being asked by the applicant to believe, on faith alone, that this light pollution is nothing to worry about and has no negative impact upon local residents – any actual proof such as an authoritative light pollution assessment, or even simply accurate night-time photographs, would easily prove the applicant is trying to hoodwink the Committee members. To be absolutely clear, the residents of Railway Terrace now face huge amounts of light pollution emanating from these brightly illuminated windows and the building’s eastern ‘door’ throughout night-time hours.

- Before this building was granted planning permission we enjoyed relatively dark skies. Now our homes are polluted by very bright light from the interior and exterior of the building. This light pollution now streams into our living areas, and especially our bedrooms, with massively negative consequences for our sleep patterns and subsequent mental health.

- The applicant is now requesting retrospective permission (built and installed without permission) from the Committee to not only restrict our natural light in the crucial winter months but also pollute our natural darkness, essential to circadian rhythms and healthy sleep, by extensive and ridiculously bright electrical lighting. They essentially want the Committee to grant permission to fully destroy the local residents’ mental health.

- The applicant offers no mitigation measures to avoid light pollution, no shuttering of windows at night, no angling of light sources to avoid wider light pollution, and even fails to adhere to planning restrictions to keep the eastern ‘acoustic door’ closed when work is undertaken inside the building.

- It should be noted, however, that even shut this ‘door’ allows light to stream through it as it is no more than a curtain. This is symptomatic of the applicant’s general attitude towards its operations – they treat local residents with contempt and ignore planning requirements and restrictions frequently. The applicant completely fails to engage with the local community as required by national planning guidelines, and it builds first before retrospectively applying for planning permission.

- This arrogant attitude is best exemplified by the applicant’s disregard for the Planning Committee’s restrictions on hours of operation – this summer the applicant ignored the prohibition placed upon it by the Committee to not work on Bank Holidays. On complaining direct to the applicant (Environmental Health doesn’t work on Bank Holidays!) we were informed that the workforce is entirely Belgian and doesn’t work to the UK calendar. This also makes a mockery of the “local jobs” that the applicant claimed the site would bring to North Tyneside if permission was granted!

- In September 2022 (for permission of 22/01495/FUL) we warned the Planning Committee what would inevitably happen if the original permission was granted despite the applicant’s claims to the contrary. Now the residents of Railway Terrace are being subjected to the massively increased night-time noise disturbance we knew would occur from the 24 hour work undertaken on site –

frequently taking place with the eastern 'acoustic door' open against specific planning restrictions prohibiting it. The applicant, as part of the original permission, was instructed to incorporate this so called 'acoustic door' at its eastern end, yet have clearly ignored the Committee's demands. The so called 'door' is no more than a thin drop-down curtain – so thin that, in addition to the noise pollution it even fails to prevent light pollution as stated above.

- With regards to dust pollution we pleaded with the Committee to prevent it by opposing the original permission, now local residents are actually suffering a huge increase over the existing shot-blast pollution despite the applicant's claim the building would actually reduce it, due in large part to the extensive earthworks created by Smulders to the north of the building. This is a huge bank of earth, in scale an actual hill of soil level with our upstairs windows, which has shed tonnes of dust over and inside our homes, cars, laundry, gardens and surrounding area. No dust suppression has been in place whatsoever, no planning permission was ever sought for its creation, and it has been acknowledged as a health issue by Environmental Health (Frances McClen) after residents' reporting – and yet absolutely nothing has been done about it.

- In summary, as the photographs testify, this so-called 'minor' change to planning permission to allow retrospective permission subjects the residents of Railway Terrace to seriously damaging levels of light pollution with devastatingly negative impacts upon our mental health, and we urge the Planning Committee to refuse permission.

- Despite the applicant saying that these changes are only minor and relating solely to the location and number of windows on the workshop, we are concerned about the light pollution. The appraisal does not consider the impact of the light coming from those windows on our street, especially at night, into our bedrooms, causing issues with sleeping patterns.

- Not only will this shed restrict our light in winter, but it is now going to impact us with artificial lighting in the evenings.

- Also, the doors, which were meant to be soundproof, remain open most evenings and even when closed are nothing but a curtain and definitely not sound proof. We now suffer noise disturbance 24 hours a day, as when open or shut the door offers no sound or light protection.

- They have already built the shed with the windows there, without getting planning permission to change the layout. The street has/was not consulted regarding any of these changes. Surely, planning guidelines require this? Surely some kind of light pollution assessment is required? It's as though they can do what they want when they want with no consequence. The fact that they flouted the Planning Committees restrictions on hours of operation and soundproof doors goes further in confirming this. I have attached a photograph taken from my bedroom window that shows the amount of light coming from the shed, it is partially covered at the minute by leaves, so once those leaves have been shed it will be even worse. We urge you to refuse planning permission.

- The application states the change to the original planning application (22/01495/FUL) as being minor and relating solely to the location and number of windows on the workshop, however the light pollution from these windows is having a huge impact on all residents. Not only does this massive shed block our light during the day, it is also having a huge effect on us during the night too. The light which emanates from the windows, the 'door' (which is often left open and even when down offers no blockage to the light shining out whatsoever) and the huge flood light shining towards our properties, is unbelievably bright. Before the

building was erected, we had darkness, now we struggle to sleep as even with the blinds down and curtains closed, the light still shines in. Not only is this incredibly frustrating for myself and my partner, but it is also massively unfair for our 3-year-old daughter. Our daughter used to love playing in the garden but is now unable to do that due to the noise and dust pollution so not only does this building affect her during the day but the light pollution is also affecting her during the night.

- In September 2022 (for permission of 22/01495/FUL) the Planning Committee was made aware of the detrimental effect this would have to local residents, if the original permission was granted. Now the residents of Railway Terrace are suffering due to not just the light pollution, but also the constant noise from the 24 hours work on the site.

- We are very often kept awake during the night and woken up very early in the morning, due to the noise of diggers, cranes, horns and staff. Again, not only is this incredibly frustrating for us but also very unfair on our 3-year-old daughter.

- In regards to dust pollution, we were advised the shed would prevent the amount of dust, however this has not been the case and in recent months it has actually massively increased. There is a huge hill of soil, level with our upstairs windows, which sheds a ridiculous amount of dust across to our properties. This has had a huge effect on us as it settles within our homes, on our windows & doors, on our cars, clothes hung out to dry, on all outdoor furniture, gardens etc. This has had not only an effect on our health as we now all suffer with regular coughs, it has also affected our mental health and has impacted us financially as we now need to pay for regular window cleans so we can even see out of our property due to the constant dust settling on our windows. We also need to pay for regular car cleans and the windscreen wipers on our car broke and the mechanic advised us it was due to a dirt blockage, which is very likely to be from the dirt/dust settling on our car constantly from Smulders, again, costing us money. I contacted Environmental Health and spoke to Frances McClen on numerous occasions regarding this matter, however absolutely nothing has been done.

- Please could the Committee note that my objection proceeds in the light of the current permission being subject to judicial review proceedings that are due to be heard in December, and on the basis of a potential outcome being that the previous permission is quashed.

- The noise emanating from the building is considerable. The effect of this large shed has been to magnify noises and reflect them back to residential areas and not, as claimed, to reduce them.

- The noise has occurred throughout the day and into the evening to the extent that my windows often remained closed during the recent hot nights and I now regularly have to make the decision not to sit in the garden because of the extent of the noise.

- Whilst the planning committee has attempted to put some operating restrictions in place to protect residents, Smulders will ignore those restrictions if they wish to do so. For example, on one occasion, a manager at Smulders being asked by a neighbour of mine why they were working on a bank holiday (which I understand was against the planning restrictions in place at that time), the manager replied that his workers were Belgian and did not celebrate this particular bank holiday! (I would also request that in considering this planning application the planning committee re-examine any claims in the planning application that the consent to

the construction of this building would create permanent UK jobs given the comment relating to Belgian employees.)

- Shortly after the construction of this building, Smulders utilized for a time some machines which created impact-waves to flow underground and that caused loud reverberations to emanate from underneath our properties. These sound waves which invariably commenced at 7.55 each morning and went on intermittently for several hours sometimes, had a significant negative impact to our quality of life. I understand that this area is known to have underground mines and I hope that the planning committee has fully considered the possible effects of such significant underground reverberations so close to a residential area.

- I have also had to install blackout curtains in my bedroom because of the high intensity of the lights utilized in the Smulders yard overnight.

- The photograph submitted by Smulders to the planning committee of the visual impact of this building to Railway Terrace is very misleading. I attach two photos taken yesterday, one looking out of the window with no telephoto and one from the entrance to my bedroom with a x2 telephoto, that show the actual visual impact of this building on us.

- The construction of this building, and possibly also its continuing operation, has led to considerable quantities of dust around Railway Terrace. The effect of this was most markedly seen in the dirt that accumulated on the cars, bins and windows around Railway Terrace.

- May I draw the committee's attention to policy DM5.19 of the Council's Local Plan, which makes clear that potentially polluting development in terms of noise, vibration, light, or otherwise will only be sited next to sensitive areas (such as housing) where satisfactory mitigation measures can be secured. We have experienced all of these factors as a result of the building being situated so closely to our properties. Given that there is evidence that Smulders will not necessarily comply with any planning restrictions imposed by the committee to mitigate the effects of this polluting development, it is difficult to see how planning permission could in fact be granted for this development.

The letter of support notes that in the past year there has been a lot of red like dust on my windows and doors which is worrying. Will the amendment to windows will mean more windows open and more dust likely to come our way and possibly noise issues during the night time. This is a health question, as I have always supported the recreation of more work for Wallsend as brings jobs into the area and Smulders are doing this.

(Applicant comment: the windows are non-openable and all windows and doors will remain closed to reduce noise and dust during fabrication activities. The 'red like dust' was most likely from ground works relating to the hard surfacing works on land to the north of the Workshop C. Earlier in the year (May/ June) the ground works in combination with the dry weather created dust. Smulders made efforts to minimise the dust by spraying water but weren't always successful.)

Representation on behalf of the claimant in the legal challenge

It would be unlawful and irrational for the Council to determine the Application before the ongoing judicial review proceedings have been decided. Given that the Application is substantively a re-submission of the previous application, the grant of permission that is currently under challenge is so obviously material that the Council would have a duty to have regard to it in determining the current

Application. We note that the applicant, Smulders Projects UK Ltd, has referred to the grant of permission reference 22/01495/FUL in its Planning, Design and Access Statement.

Ground 2 of the judicial review claim (that was granted permission by the Court to proceed by way of an Order dated 9 May 2023) is that the officer report erred in law by advising members that they had to apply the tilted balance contained in the National Planning Policy Framework. This ground of challenge is therefore relevant to the entirety of the officer report and the principle of development, as it is not possible to conclude what members would have decided had they not been misled by the report. In this context, it is particularly notable that the vote in favour of granting permission was only five votes to four.

As this ground has not been determined, the Council is not in a position to lawfully or rationally decide what weight to give the planning permission under challenge, because it is not known if the decision to grant permission was taken on a lawful basis. The Council should not therefore determine the Application until the ongoing judicial review claim has been decided.

We trust that determination of the Application will therefore be delayed pending the outcome of the ongoing judicial review proceedings accordingly. We reserve the right to apply to the Court to amend the Claimant's grounds of challenge in the ongoing judicial review claim as a consequence of any matters associated with the Application if necessary.

7.0 External Consultees

8.0 Newcastle International Airport

8.1 The proposal has been assessed by the Aerodrome Safeguarding Team and given its location and modest nature it is not considered that the proposal would result in any detriment to the safe operations of the Airport. NIA would not therefore offer any objection to this application.

9.0 Port of Tyne

9.1 The Port of Tyne can confirm we have no comments to include with this application.

10.0 Tyne and Wear Archaeology Officer

10.1 The applicant has submitted reports on archaeological investigations including a desk based assessment (HER event 5315 report 2022/29) and a watching brief during groundworks (HER event 5348 report 2022/52) which have already been undertaken in relation to the construction of the workshop on this site (22/01495/FUL). No further work is required.

11.0 Environment Agency

11.1 We have assessed the supporting information and confirm that we have no objection to the re-submitted planning application. We would normally expect the submitted Flood Risk Assessment to describe flood risk to the development using the design flood event (1 in 200 years plus climate change) for the lifetime of the development. However, taking into account the vulnerability of the development we strongly recommend resilience measures are installed. We do not consider the development will have an increased risk to off-site flooding. We request that

the Local Planning Authority (LPA) lists the Flood Risk Assessment as an approved plan/document, to which the development must adhere.

11.2 Separate to the above matters, we also have the following comments/advice to offer: Flood Resistance and Resilience - Advice to LPA/Applicant We strongly recommend the use of flood resistance and resilience measures. Physical barriers raised electrical fittings and special construction materials are just some of the ways you can help reduce flood damage.

11.3 Emergency Response - Advice to LPA We do not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network. The planning practice guidance (PPG) to the National Planning Policy Framework states that, in determining whether a development is safe, the ability of residents and users to safely access and exit a building during a design flood and to evacuate before an extreme flood needs to be considered. One of the key considerations to ensure that any new development is safe is whether adequate flood warnings would be available to people using the development. In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. As such, we recommend you refer to 'Flood risk emergency plans for new development' and undertake appropriate consultation with your emergency planners and the emergency services to determine whether the proposals are safe in accordance with paragraph 167 of the NPPF and the guiding principles of the PPG.

11.4 Signing up for Flood Warnings – Advice to Applicant The applicant/occupants should register for a flood warning

12.0 The Coal Authority

12.1 Notes as previously that part of the site falls within the defined Development High Risk Area and that records indicate that there is a recorded mine entry and its resultant zone of influence within 20m of the site boundary and four off-site recorded mine entries located to the north west of the site, with the potential zone of influence of one of these mine entries (shaft 431566-001) extending marginally into the north western part of the site. This shaft is used by the Coal Authority for the monitoring of mine water and gas.

12.2 Also note the submission of a Phase 1 Geo-environmental Desk study prepared by GVR Geoservices Ltd, dated September 2023 which provides brief details regarding the coal mining legacy on site. However, the part of the site where the development is proposed lies outside of the defined High Risk Area. We also acknowledge that this application is a resubmission of application reference 22/01495/FUL for which we provided comments on in a letter to the LPA dated 14th September 2022. We note that amendments are proposed for the building's windows. Therefore we do not consider that a Coal Mining Risk Assessment is necessary to support this proposal and we do not object to this planning application.

12.3 Whilst the proposed building will be located outside the defined Development High Risk Area, we wish to make the applicant aware that the Coal Authority's information indicates that adit 431566-004 '*runs at 1 in 100 rising for 107m then level on bearing 318 degs for 384m into Wallsend H Shaft. This is a pumping culvert from shafts G and H to the River Tyne.*' The applicant should ensure that their development proposals give due consideration to the presence of this feature crossing the site, and they should take any necessary steps in the design and construction of the building to ensure that it will not affect the integrity of this structure.

12.4 We request that an Informative Note is added on any planning permission granted referring to the culvert and coal mining area.

13.0 South Tyneside Council

13.1 Acting under delegated powers I would advise you that this Authority raises no objections to the above proposal.