



**North Tyneside Council**

# Planning Committee

26 June 2020

To be held on **Tuesday, 7 July 2020** commencing at **10.00 am**.

This meeting will be conducted using video conferencing technology. A live stream of the meeting will be available on the [Council's YouTube Channel](#).

| <b>Agenda Item</b>   | <b>Page</b>   |
|--|---------------|
| <b>1. Apologies for absence</b><br><br>To receive apologies for absence from the meeting.  |               |
| <b>2. Appointment of substitutes</b><br><br>To be informed of the appointment of any substitute members for the meeting.   |               |
| <b>3. Declarations of Interest</b><br><br>You are invited to declare any registerable and/or non-registerable interests in matters appearing on the agenda, and the nature of that interest.<br><br>You are also requested to complete the Declarations of Interests card available from the Democratic Services Officer.<br><br>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. |               |
| <b>4. Minutes</b><br><br>To confirm the minutes of the previous meeting held on 9 June 2020.   | <b>5 - 10</b> |

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| <b>Agenda Item</b>  | <b>Page</b>    |
|---|----------------|
| <b>5. Planning Officer Reports</b>  | <b>11 - 16</b> |
| To receive the attached guidance to members in determining planning applications and to consider the planning applications listed in the following agenda items.  |                |
| <b>6. 19/01305/FUL, Trinity United Reformed Church, Esplanade Place, Whitley Bay</b>  | <b>17 - 40</b> |
| To determine a full planning application from Mr G O'Brien for the demolition of former Church and Church Hall to accommodate new residential development comprising 28no. apartments with associated underground and ground level parking with landscaping.                |                |
| <b>7. 20/00523/FUL, Royal Quays Outlet Centre, Coble Dene, North Shields</b>  | <b>41 - 58</b> |
| To determine a full planning application from North Shields Investment Properties for the proposed partial Change of Use of existing A1 Factory Outlet Shopping Centre to A1 Factory Outlet/B1/B8 Industrial. Alterations to existing service arrangements to suit new use. |                |

**Circulation overleaf ...**

**Members of the Planning Committee:**

Councillor Ken Barrie  
Councillor Brian Burdis  
Councillor Sandra Graham  
Councillor Frank Lott (Chair)  
Councillor Willie Samuel  
Councillor Frances Weetman

Councillor Trish Brady (Deputy Chair)  
Councillor Linda Darke  
Councillor Muriel Green  
Councillor Paul Richardson  
Councillor John Stirling

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## Planning Committee

**Tuesday, 9 June 2020**

Present: Councillor F Lott (Chair)  
Councillors K Barrie, T Brady, B Burdis, L Darke,  
S Graham, M Green, P Richardson, W Samuel and  
F Weetman

### **PQ70/20 Appointment of Substitutes**

There were no substitute members appointed.

### **PQ71/20 Declarations of Interest**

Councillor W Samuel stated that whilst he had requested that planning application 20/00241/FUL, 1A Preston Wood, North Shields be referred to the Planning Committee for consideration he had not predetermined the matter and had an open mind to the arguments to be presented during the meeting.

### **PQ72/20 Minutes**

**Resolved** that the minutes of the meeting held on 17 March 2020 be confirmed and signed by the Chair.

### **PQ73/20 Temporary Speaking Rights Scheme**

The Committee considered the adoption of a Temporary Speaking Rights Scheme during the period when face to face meetings were not possible because of the Coronavirus outbreak.

The Scheme normally allowed objectors and supporters of major and controversial planning applications with a right to attend meetings and speak to the Committee before it makes its decision. At present face to face meetings were not possible and were to be held using video conferencing software and streamed live on the Council's YouTube channel where they could be viewed by the press and public.

In these circumstances it was proposed that the scheme be temporarily varied so that:

- a) where speaking rights are granted to a member of the public or a councillor, the speaker would be invited to submit a written statement of no more than 850 words to highlight or expand on the important points made in their representation;
- b) where a member of the public or a councillor has submitted a statement to the Committee, the applicant would be provided with a copy and given a right to respond by submitting a written statement of no more than 850 words; and
- c) the clerk to the Committee would read out any written statements submitted by speakers or applicants during the remote meeting.

Those granted speaking rights would not be invited to participate in a remote meeting. This was to ensure that everyone had the same opportunity to contribute to the process and anyone who was unable to access a remote meeting was not disadvantaged. The submission of written statements in these circumstances was considered to be the fairest system for all.

Once it was possible to resume face to face meetings the temporary scheme would expire and the Committee would revert to operating its original scheme.

**Resolved** that the Temporary Speaking Rights Scheme 2020 be approved and adopted with immediate effect.

#### **PQ74/20      Planning Officer Reports**

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

#### **PQ75/20      19/01517/FUL, The Flying Scotsman, Briar Edge, Forest Hall**

The Committee considered a report from the planning officers in relation to a full planning application from Punch Taverns for formation of roof terrace/beer garden to section existing single storey flat roof to south east of property including timber frame covered seating area, external and covered external stair access and formation of new door opening to rear at ground floor level.

A planning officer presented details of the application with the aid of various maps, plans and photographs.

In accordance with the Committee's Temporary Speaking Rights Scheme, Mrs Jennifer Adamson of Benton, View, Forest Hall had been granted permission to submit a written statement to the Committee which was read out. In the statement Mrs Adamson expressed her concerns regarding the visual impact of the proposed development in terms of the materials to be used and its visibility from Forest Hall shopping area and 109 Station Road. She did not consider that the proposed conditions restricting the use of the roof terrace would overcome the adverse noise impacts on neighbouring residents. There was already noise disturbance from the existing smoking area at the pub and neither the Council nor the publican had taken action to enforce the planning condition that the area should only be used until 9.00pm.

Mr Duanne Wilson of Laurel Avenue, Forest Hall had also been invited to submit a written statement but no response had been received to the invitation.

Mr Andrew Lorimer of Wakefields Chartered Building Surveyors had submitted a written statement in response to Mrs Adamson's statement on behalf of the applicants, Punch Taverns. Mr Lorimer's statement was read to the Committee in which he highlighted the positive aspects of the development including employment, financial viability and service to the locality. In the context of the Covid-19 outbreak the development of external space would be more important. The applicants were mindful of neighbouring residents and were

committed to ensuring the proposed conditions were accepted and adhered to. The applicants considered the design of the terrace to be respectful of the existing streetscape and to enhance the existing structure of the pub.

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

- a) relevance of the current social distancing guidelines in determining planning applications. The Committee were advised that they should be guided by Paragraph 80 of the National Planning Policy Framework which states that significant weight should be placed on the need to support economic growth;
- b) record of planning enforcement complaints received in relation to the operation of the smoking area at The Flying Scotsman which had included complaints received in 2015 and 2017;
- c) powers available to the Council to enforce planning and licensing conditions;
- d) provision of car parking at the site;
- e) economic benefits of the proposed development; and
- f) proposed design of the roof terrace.

The Committee also paid attention to the proposed condition restricting the use of the roof terrace after 9.00pm. The Committee considered an amendment to the condition so that the use of the roof terrace would be prohibited after 8.00pm. The proposed amendment was rejected by the Committee because they considered 9.00pm to be a reasonable limit to its operation and because the Council had a range of enforcement powers available to it should the condition be breached.

**Resolved** that the application be permitted subject to the conditions set out in the planning officers report.

(Reasons for decision: The Committee concluded that, having regard to the relevant policies contained in the Council's 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 amenity of neighbouring residents, the character and appearance of the surrounding area and highway safety.)

#### **PQ76/20      20/00241/FUL, 1A Preston Wood, North Shields**

The Committee considered a report from the planning officers in relation to a full planning application from Mr & Mrs Sample for one and a half storey, three bedroomed dwelling on land which is presently part of the applicant's garden.

A planning officer presented details of the application with the aid of various maps, plans and photographs.

The Committee was advised that the granting of planning permission would be subject an agreement under Section 106 of the Town and Country Planning Act 1990 to secure a contribution of £337 towards the coastal mitigation service.

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

- a) the impact of the development on the protected trees immediately adjacent to the site and the proposed conditions aimed at protecting the trees;

- b) the location of the two replacement trees to be planted;
- c) the proposed condition requiring the applicant to submit for approval details of the materials and surfaces to be used which would enable the authority to ensure that permeable surfaces would be used for any hard standings;
- d) the impact of the development on the character and appearance of the surrounding area; and
- e) the impact of the proposed driveway on highway safety.

**Resolved** that planning permission be refused because the proposed development, by virtue of the proximity of the proposed dwelling and associated works to trees protected by a Tree Preservation Order, would have a negative impact on those trees and could lead to their further damage. This would be harmful to those protected trees and the biodiversity of the area, contrary to policies DM5.9, DM5.7 & DM5.5 of the North Tyneside Local Plan 2017.

### **PQ77/20      Discretionary Approach to Enforcement on Construction Working Hours**

The Chair had agreed to the following item of business being considered at the meeting as an urgent item in accordance with Section 100(B)(4)(b) of the Local Government Act 1972 (as amended) to allow the Authority to respond to a Ministerial Statement in a timely manner.

As part of its response to supporting businesses, a Written Ministerial Statement had been published on 13 May 2020 which indicated that local planning authorities were expected to approve requests to extend construction working hours temporarily to ensure safe working in line with social distancing guidelines until 9pm, Monday to Saturday, unless there were very compelling reasons against this. This would facilitate safe working and social distancing on site and help reduce pressure on public transport.

It was the Authority's general practice to impose a condition restricting construction working hours from 8am-6pm on Monday to Friday, 8am-2pm Saturday and no working on Sundays and Bank Holidays. Where complaints were received these matters would normally be investigated and where harm was identified, formal enforcement action would be progressed. Whilst this condition would remain in place, the effect of the relaxation of working hours as proposed by the Secretary of State, would be that the Authority would be expected to use discretion in the use of its available enforcement powers.

Developers would be required to apply to the Authority who would have to respond within 10 days. To ensure that consideration was given to the ongoing protection of local amenity developers would be encouraged to provide a range of information to be taken into account in considering their requests including:

- an explanation of the need to extend the hours;
- a site plan to show distances to houses and other sensitive uses such as care homes;
- a commitment to carry out any noisy works during "normal hours";
- an explanation of proposed activities considered for the extended hours; and
- if necessary, a noise management plan.

Whilst the arrangements to temporarily extend construction working hours would largely be dealt with informally, given the potential sensitivity of such changes, it was proposed that a clear record of the informal advice issued would be maintained and to have a clearly agreed



position, on a site by site basis, as to the circumstances in which a discretionary appropriate to the enforcement of working hours will be taken.

Where developers failed to adhere to the agreed, informal arrangements, the Authority would maintain the ability to enforce against the original condition which would remain extant, having regard to national enforcement policy. Alternatively the Authority could still take appropriate action under other relevant legislation.

The Committee asked that ward councillors be notified of any requests received from developers so that they may be prepared to explain to residents the basis for extended hours of construction working.

**Resolved** that (1) the Head of Environment, Housing and Leisure, in consultation with the Chair and/or Deputy Chair of the Planning Committee, be authorised to agree to suspend enforcement activities relating to site working hours on a temporary basis to allow extended working periods on construction sites across the Borough on a case by case basis; and (2) the Head of Environment, Housing and Leisure be authorised to put in place relevant procedures to implement the above recommendation and set out, for each site where there has been a request to extend working hours, the basis on which extended hours are agreed.

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## PLANNING COMMITTEE

Date: 7 July 2020

### PLANNING APPLICATION REPORTS

#### **Background Papers - Access to Information**

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

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

##### Interests of the whole community

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

All applications should be determined on their respective planning merits.

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

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

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

## Planning Considerations

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

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

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

Briefly, material planning considerations include:-

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

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

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

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

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

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

### Officers' Advice

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

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

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

When refusing permission:

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

When granting permission:

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

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

### Lobbying of Planning Committee Members

While recognising that lobbying of members has an important role in the local democratic process, members of Planning Committee should ensure that their response is not such as to give reasonable grounds for their impartiality to be questioned or to indicate that the decision has already been made. If however, members of Committee express an opinion prior to the Planning Committee this does not necessarily prevent any such member from speaking or voting on the application provided they approach the decision making process with an open

mind and ensure that they take account of all the relevant matters before reaching a decision. Any Member (including any substitute Member) who finds themselves in this position at the Planning Committee are advised to state, prior to consideration of the application, that they have taken a public view on the application.

#### Lobbying of Other Members

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

#### Lobbying

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

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

**PLANNING APPLICATION REPORTS  
CONTENTS**

**6. 19/01305/FUL**

**Whitley Bay**

**Trinity United Reformed Church, Esplanade Place, Whitley Bay, Tyne  
And Wear**

Speaking rights granted to Mrs H Overy of Esplanade, Whitley Bay

**7. 20/00523/FUL**

**Riverside**

**Royal Quays Outlet Centre, Coble Dene, North Shields, Tyne And  
Wear**

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**Application No:** 19/01305/FUL Author: Julia Dawson  
Date valid: 12 November 2019 ☎: 0191 643 6314  
Target: 11 February 2020 Ward: Whitley Bay  
decision date:

Application type: full planning application

**Location: Trinity United Reformed Church, Esplanade Place, Whitley Bay, Tyne And Wear,**

**Proposal: Demolition of former Church and Church Hall to accommodate new residential development comprising 28no. apartments with associated underground and ground level parking with landscaping**

Applicant: Mr G O'Brien, LA Brias Limited C/o Agent

Agent: Michael Convery Town Planning Consultants, 62 Victoria Embankment  
Darlington DL1 5JS

**RECOMMENDATION:** Application Refused

## **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;

- Principle of the proposed development
- North Tyneside 5-year housing land supply
- Impact on surrounding occupiers and the standard of amenity provided for future occupiers
- Impact on character and appearance of site and surrounding area
- Highway impact; and
- Other Matters including ecology, flood risk, landscaping and viability

#### 2.0 Description of the Site

2.1 The site to which the application relates is the former Trinity United Reformed Church and Church Hall located on Esplanade Place in Whitley Bay town centre. The site has been vacant for several years and in this time the buildings have suffered fire damage on at least two occasions. The site is now derelict and unsightly. The immediate surrounding area is largely residential in nature consisting of two storey terraced properties, many with additional habitable rooms within the roof space having been extended by dormer windows of various styles and sizes. The properties are generally a mixture of flats, houses and some guest houses. The front elevations of properties on Esplanade (to the east), Esplanade Place (to the north) and Linden Terrace (to the south) face onto

the application site. The gable ends of two residential dwellings face onto the site from the west. A small number of commercial uses (barbers, dental surgery, restaurant, etc.) are located to the south east on Esplanade.

### 3.0 Description of the Proposed Development

3.1 Planning permission is sought for the construction of 28no. apartments with associated underground and ground level parking with landscaping. The existing buildings on the site are to be demolished.

### 4.0 Relevant Planning History

None.

### 5.0 Development Plan

5.1 North Tyneside Local Plan 2017

### 6.0 Government Policy

6.1 National Planning Policy Framework (February 2019)

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. It requires LPAs to apply a presumption in favour of sustainable development in determining development proposals. Due weight should still be attached to Development Plan policies according to the degree to which any policy is consistent with the NPPF.

## **PLANNING OFFICERS REPORT**

### 7.0 Main Issues

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

- Principle of the proposed development
- North Tyneside 5 year housing land supply
- Impact on surrounding occupiers and the standard of amenity provided for future occupiers
- Impact on character and appearance of site and surrounding area
- Highway impact; and
- Other Matters including ecology, flood risk, landscaping and viability.

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

### 8.0 Principle of the Proposed Development

8.1 The National Planning Policy Framework (NPPF) states that at the heart of the Framework is a presumption in favour of sustainable development running through both plan-making and decision taking. However, in terms of the principle of development because the development requires appropriate assessment following the advice in paragraph 177 of National Planning Policy Framework, the presumption in favour of sustainable development does not apply. It follows

therefore that that this application should be determined in accordance with the development plan, unless material considerations indicate otherwise.

8.2 To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed. In order to achieve this objective Government requires local planning authorities to identify annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. The supply of specific deliverable sites should in addition include a buffer of 5% to ensure choice and competition in the market for land. Where there has been a significant under delivery of housing over the previous three years, the buffer should be increased by 20%.

8.3 The underlying principle of national policy is to deliver sustainable development to secure a better quality of life for everyone now and future generations. This principle is key to the role of the planning system in the development process. The aims of how the Local Plan contributes towards achieving sustainable development for North Tyneside are set out under Policy S1.1 'Spatial Strategy for Sustainable Development'. This policy sets out the broad spatial strategy for the delivery of the objectives of the Plan.

8.4 Policy S1.4 'General Development Principles' 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 S4.3 'Distribution of Housing Development Sites' lists the allocated housing sites within the borough.

8.6 The application involves the demolition of the remainder of the derelict former Trinity United Reformed Church and Church Hall and its replacement with 28no. apartments (22no. two bed and 6no. one bed). The site has been vacant for a considerable length of time and has suffered fire damage in this time. During this time complaints have been made to the Council regarding the untidy nature of the site, which clearly detracts from the character of the surrounding area.

8.7 Policy S4.3 identifies the application site as a Local Plan Housing Site (138) with potential for 28 homes. The application site is also a previously developed brownfield site in a built-up residential area. The principle of the proposed development is considered to be in accordance with the aims of the NPPF to increase the delivery of new homes and policies S1.4 and S4.3 in that it will make effective and efficient use of this allocated housing site, whilst making a positive contribution to the identified housing needs of the borough and contributing to an existing sustainable residential community within the designated town centre of Whitley Bay.

8.9 Having regard to the above, the principle of the proposed development is considered acceptable subject to consideration of the following matters.

#### 9.0 North Tyneside 5-Year Housing Land Supply

9.1 Paragraph 73 of National Planning Policy Framework (NPPF) requires local planning authorities to identify and maintain a rolling five-year supply of deliverable housing land. This includes an additional buffer of at least 5%, in order to ensure choice and competition in the market for housing land.

9.2 The most up to date assessment of housing land supply informed by the March 2019 five-year Housing Land Supply Summary identifies the total potential five-year housing land supply in the borough at 5,396 new homes (a total which includes delivery from sites yet to gain planning permission). This represents a surplus against the Local Plan requirement (or a 6.1-year supply of housing land). It is important to note that this assessment of five-year land supply includes just over 2,000 homes at proposed housing allocations within the Local Plan (2017).

9.3 The potential housing land supply from this proposal is included in the assessment that North Tyneside has a 6.1-year supply of housing land. The potential housing land supply from this proposal is included in the assessment that North Tyneside has a 6.1 year supply of housing land and it is officer opinion that the proposed 28 dwellings will make a small, but valuable contribution towards the five year housing land supply.

#### 10.0 Impact on Amenity

10.1 The NPPF states that there are three dimensions to sustainable development; economic, social and environmental. The planning system needs to perform each of these roles. The environmental role contributes to protecting and enhancing our natural, built and historic environment, and as part of this, helping minimise waste and pollution.

10.2 Policy S1.4 'General Development Principles' states that development proposals should be acceptable in terms of their impact upon local amenity for new or existing residents and businesses, adjoining premises and land uses.

10.3 Policy DM6.1 'Design of Development' states that proposals are expected to demonstrate a good standard of amenity for existing and future residents and users of buildings and spaces.

10.4 Policy DM5.19 'Pollution' states that development proposals that may cause pollution either individually or cumulatively of water, air or soil through noise, smell, smoke, fumes, gases, steam, dust, vibration, light, and other pollutants will be required to incorporate measures to prevent or reduce their pollution so as not to cause nuisance or unacceptable impacts on the environment, to people and to biodiversity.

10.5 Policy DM7.9 'New Development and Waste' states that all developments are expected to:

- a. Provide sustainable waste management during construction and use.
- b. Ensure a suitable location for the storage and collection of waste.

c. Consider the use of innovative communal waste facilities where practicable.

10.6 Policy DM4.9 'Housing Standards' states that all new homes, both market and affordable, will meet the Government's Nationally Described Space Standard (NDSS).

10.7 The Manager of Environmental Health has raised no objection to the proposed development subject to the attachment of conditions to control the hours of demolition and construction and dust suppression measures.

10.8 The main impact of the proposed development will be on the surrounding dwellings on Linden Terrace, Esplanade Place and Esplanade, particularly No's 8 Esplanade Place and 22 Linden Terrace located to the north west, which are the most directly affected dwellings. However, the proposed development will be located to the south east/east of the gable ends of these dwellings and, whilst it will be visible from their rear yards and windows (at an oblique angle) it is not considered that it will introduce such a significant and harmful loss of privacy, outlook or daylight for the occupants of these dwellings that refusal of the application could be justified on these grounds.

10.9 Several objections have been received from the occupants of nearby dwellings and the content of these is noted, with particular reference to the proximity to Linden Terrace to the south west, and the impact on natural light to the surrounding dwellings. However, whilst the footprint of the proposed development will be slightly larger than the existing buildings on the site, the south west facing elevation will be located just over 20m from the front elevations of the facing dwellings. This is considered acceptable in terms of retaining an acceptable separation distances in respect of outlook, daylight, sunlight and privacy on this town centre infill site.

10.10 Accessibility, floor areas and built in storage comply with the new housing standards for each of the flats, in compliance with the requirements of the NDSS, apart from Apartment 14 (Type H). This two bedroomed four person apartment will have an overall internal floor area of 61.6sqm, whereas the NDSS requirement is 70sqm. However, it is noted that the bedroom floor areas and the storage are actually in excess of the minimum required by the NDSS (bedroom one will be 15.3sqm and bedroom two will be 14.3sqm, with storage at 2.07sqm). The NDSS requires a minimum of 11.5sqm floor area for each double/twin bedroom and at least 2.0sqm storage. Whilst the shortfall in overall floor area for this apartment is noted, it is not considered that it will result in such a substandard quality of accommodation that refusal of the application is warranted for this reason.

10.11 It is considered that the proposed dwellings will provide an acceptable standard of internal and external habitable space, with sufficient incurtilage refuse storage facilities for the dwellings. Therefore, the proposal is considered to comply with policy DM4.9 of the Local Plan.

10.12 Members need to consider whether the impact on surrounding occupiers is acceptable and whether acceptable living conditions would be provided for future

occupiers. In officer opinion the impact is acceptable subject to the conditions discussed above.

## 11.0 Character and Appearance

11.1 The National Planning Policy Framework states that good design is a key aspect of sustainable development and that permission should be refused for development of poor design.

11.2 Policy DM6.1 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.

11.3 Design guidance for high quality design is set out in the Council's Supplementary Planning Document on Design Quality (2018).

11.4 Objections have been received in relation to the design of the proposed development and its impact on the character and appearance of the host site and surrounding area. It has been suggested that the existing building should be retained and used for any new development. These points are noted. However, it must be pointed out that the existing site is not within Council ownership and is not formally listed. It has also been significantly damaged by fire. Therefore, whilst the LPA can control the method of demolition, it cannot currently prevent its demolition or insist that it is retained in any future development.

11.5 It has also been suggested that the proposed development is overdevelopment of the site, and this concern is also noted. The Council's Design Officer has commented on the proposed development. He has offered his support of the proposal noting that whilst the proposed building is larger than the surrounding dwellings, it is largely lower than the original ridgeline of the Church (with the exception of the northern section of the site). The design of the building follows the topography of the area, stepping down the street, and respecting the surrounding building pattern.

11.6 Windows have been designed to add detail and interest to the design with a mixture of sizes but all with a vertical emphasis which reflect the traditional proportions of the surrounding properties. He has also noted that low level soft landscaping will soften the proposed undercroft car parking and the existing low-level brick wall will be retained.

11.7 Overall, it is considered that the proposed layout, design and materials respond well to the street scene and will positively improve the character and appearance of the area. Appropriate locations are shown on the layout for car parking and refuse storage to support the street scene. Boundary treatments have been appropriately chosen.

11.8 Members need to determine whether the proposed development would be acceptable in terms of its impact on the character and appearance of the site and the surrounding area. It is officer opinion that the development will result in the regeneration of this vacant and derelict site which would result in a positive

impact on the street scene. The proposal is therefore considered to accord with the NPPF and Policy DM6.1 of the North Tyneside Local Plan 2017.

## 12.0 Car Parking and Access

12.1 NPPF states that transport issues should be considered from the earliest stages of plan-making and development proposals. It states that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.

12.2 Paragraph 109 of NPPF states that development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highway safety, or where the residual cumulative impacts of development are severe.

12.3 Local Plan Policy DM7.4 New Development and Transport states that the Council and its partners will 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 resident's health and well-being.

12.4 LDD12 Transport and Highways SPD set out the parking standards for new development.

12.5 30no. parking spaces are proposed, 2no. of these will be allocated for disabled parking and 2no. for visitor parking. Vehicular access to the 21no. parking spaces in the undercroft parking area and the 8no. parking spaces on the ground level to the front of the north east elevation will be provided from Esplanade Place with 1no. disabled space being accessed from the service lane that runs parallel with the Esplanade.

12.6 A number of objections have been submitted on highways grounds with concerns raised regarding the amount of parking proposed, which some residents consider to be insufficient, and the impact the proposed development will have on the existing on street parking provision. These concerns are noted. However, the Council's Highway Network Manager has raised no objection to the proposed development advising that a suitable level of parking will be provided with cycle parking and refuse storage provided within the development. The site is in Whitley Bay town centre with good links to public transport and there are parking control measures in the vicinity of the site, although new residents are unlikely to be entitled to any permits in this area. On this basis, he has recommended approval of the application, subject to a number of conditions.

12.7 Members need to consider whether the proposal would accord with the advice in NPPF, Policy DM7.4 and the Transport and Highways SPD. It is officer advice that the development is acceptable in terms of its impact on highway safety.

## 13.0 Impact on Biodiversity and Landscaping

13.1 The National Planning Policy Framework states that the planning system should contribute to and enhance the natural and local environment.

13.2 Policy S5.4 'Biodiversity and Geodiversity' 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.

Where development proposals are considered to meet the exceptional circumstances above, permission will only be granted where alternative provision, equivalent to or better than in terms of its quantity and quality, can be provided in equally accessible locations that maintain or create new green infrastructure connections.

13.3 Policy DM5.5 'Managing effects on Biodiversity and Geodiversity' 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.

It also states that 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.

13.4 Policy DM5.6 'Management of International Sites' states that 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. Expert advice will be sought on such proposals and, if necessary, developer contributions or conditions secured to implement measures to ensure avoidance or mitigation of, or compensation for, adverse effects. Such measures would involve working in partnership with the Council (and potentially other bodies) and could include a combination of two or more of the following mitigation measures:

- a. Appropriate signage to encourage responsible behaviour;
- b. Distribution of information to raise public awareness;
- c. Working with local schools, forums and groups to increase public understanding and ownership;
- d. Use of on-site wardens to inform the public of site sensitivities;
- e. Adoption of a code-of conduct;
- f. Zoning and/or seasonal restrictions to minimise disturbance in particular sensitive areas at particularly sensitive times;
- g. Specially considered design and use of access points and routes;
- h. Undertaking monitoring of the site's condition and species count;



i. Provision of a Suitable Accessible Natural Green Space (SANGS).

13.5 The application site is located within 6km of the Northumbria Coast Special Protection Area and Ramsar Site, the Northumberland Shore Site of Special Scientific Interest (SSSI) and Tynemouth to Seaton Sluice SSSI. Natural England and the Council's Biodiversity Officer have both advised that the proposed development will have an impact on the coast as a result of an increase in recreational disturbance and that the scheme will, therefore, need to comply with the Council's Coastal Mitigation SPD. The SPD provides guidance and information on the mitigation required from development within North Tyneside to prevent adverse impacts on the internationally protected coastline.

13.6 The SPD sets out a tariff for a financial contribution per new dwelling in the Borough. For new dwellings within the 6km buffer zone of the SPA (as per the application site) this is £337 per dwelling and it would normally be secured by a Unilateral Undertaking. However, the applicant has not agreed to this financial contribution, without which the development is contrary to the requirements of the Coastal Mitigation SPD and Local Plan policies.

13.7 The Council's Biodiversity Officer has also reviewed the submitted bat survey. The survey concluded that the structure was classified as low suitability for bats and a dusk emergence survey carried out in June 2019 found no evidence of roosting bats and recorded no bat activity on site. However, it did make a number of findings with regard to feral pigeons and nesting birds. The Bat Survey report recommended a number of key mitigation measures and the Biodiversity Officer has recommended several conditions in order to mitigate the impacts of the proposed development on the SPA and nesting birds, invasive species and bats.

13.8 In addition, although new landscaping is limited as a result of the nature of the site, the Biodiversity Officer has noted the findings of the Bat Survey report which states that landscaping should enhance structural diversity, with plants bearing flowers, nectar and fruits that are attractive to invertebrates and a food resource for bats and wildlife generally. The submitted landscape plan indicates some hedge, tree and shrub planting but this is all ornamental. As such, she has recommended a condition requiring a landscape plan for the site which should incorporate a native mixed hedge on site to enhance biodiversity as well as a mix of native and ornamental trees and shrubs that will benefit wildlife.

13.9 Subject to the suggested conditions and the securing of the financial contribution towards the Coastal Mitigation Service, it is not considered that the proposed development will result in harm to the ecology or the designated sites and it would therefore not conflict with policies S5.4, DM5.5, and DM5.6 in this regard.

13.10 The applicant has not agreed to enter into a legal agreement to secure the financial contribution towards the Coastal Mitigation Service to address the impact on the SPA as a result of 28no. new dwellings in this location and therefore it is officer advice that the proposal would conflict with policies S5.4, DM5.5, DM5.6 and the Coastal Mitigation SPD (2019). Members need to consider whether they agree and weight this in their decision.

## Other Issues

### 14.0 Flood Risk

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

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

14.3 All new development should contribute positively to actively reducing flood risk in line with national policy, through avoidance, reduction, management and mitigation.

In addition to the requirements of national policy, development will avoid and manage flood risk by:

- a. Helping to achieve the flood management goals of the North Tyneside Surface Water Management Plan and Northumbria Catchment Flood Management Plans; and
- b. According with the Council's Strategic Flood Risk Assessment, including meeting the requirement for a Flood Risk Assessment for sites over 0.5ha in identified Critical Drainage Areas.

14.4 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). A reduction in surface water run off rates will be sought for all new development. 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 development where appropriate and achievable.

14.5 Policy DM5.15 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).

14.6 The application site is located within Flood Zone 1 and occupies less than 1ha. In accordance with the requirements for an application of this nature and a site of this size the applicant has submitted a Flood Risk and Drainage Assessment. The Local Lead Flood Authority has raised no objection to the proposed development subject to a condition to ensure the surface water drainage system is installed as per the planning application submission.

14.7 Members must determine whether the proposed development is acceptable in terms of flood risk and surface water drainage. Officer advice is that the development is acceptable in this regard and is in accordance with policies DM5.12 and DM5.14 of the Local Plan.

### 15.1 Land Stability and Contamination

15.2 NPPF states that planning policies and decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.

15.3 Policy DM5.18 of the Local Plan 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 which shows that investigations have been carried and set out detailed measures to allow the development to go ahead safely and without adverse affect.

15.4 The Contaminated Land Officer has been consulted. She has recommended conditional approval.

15.5 The Coal Authority has reviewed the submitted Coal Authority Mining Review report and has recommended that a condition be attached to the grant of approval to ensure that intrusive site investigations area undertaken to determine the exact ground conditions and the presence or otherwise shallow coal mine workings prior to construction works commencing.

15.6 Members must determine whether the proposed development is acceptable in terms of contamination and land stability. Officer advice is that the development is acceptable in these regards subject to the suggested conditions and it is in accordance with policy DM5.18 of the Local Plan.

### 16.0 S106 Contributions

16.1 The NPPF states that planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.

16.2 Regulation 122 of the Community Infrastructure Levy (CIL) Regulations makes it unlawful for a planning obligation to be taken into account in determining a planning application, if it does not meet the three tests set out in Regulation 122. This states that a planning obligation may only constitute a reason for granting permission for the development if the obligation is:

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

16.3 The Council's adopted SPD on Planning Obligations (2018) states that the planning obligations are considered an appropriate tool to ensure that the environment is safeguarded and that the necessary infrastructure facilities are provided to mitigate impacts, ensure enhancements and achieve a high-quality environment where people choose to live, work, learn and play.

16.4 The SPD states that the Council will take a robust stance in relation to the requirements for new development to mitigate its impact on the physical, social, economic and green infrastructure of North Tyneside.

16.5 Policy S7.1 'General Infrastructure and Funding' 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. The Council will also work together with other public sector organisations, within and beyond the Borough, to achieve funding for other necessary items of infrastructure. This will include the use of combined and innovative funding schemes to maximise the amount and impact of funding. New development may be required to contribute to infrastructure provision to meet the impact of that growth, through the use of planning obligations and other means including the Community Infrastructure Levy (CIL). Planning obligations will be sought where:

a. It is not possible to address unacceptable impacts through the use of a condition; and b. The contributions are fair, reasonable, directly related to the development and necessary to make the application acceptable. In determining the level of contributions required from a development, regard will be given to the impact on the economic viability of the scheme."

16.6 Policy DM7.2 'Development Viability' advises that the Council is committed to enabling 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. In these circumstances the Council may:

a. Enter negotiations with the applicant over a suitable contribution towards the infrastructure costs of the proposed development, whilst continuing to enable viable and sustainable development;  
b. Consider alternative phasing, through the development period, of any contributions where to do so would sufficiently improve the economic viability of the scheme to enable payment.

When determining the contributions required, consideration will be given to the application's overall conformity with the presumption in favour of sustainable development.

16.7 Policy DM7.5 'Employment and Skills' 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.

16.8 Policy DM4.7 Affordable Housing of the Local Plan states that the Council will seek 25% of new homes to be affordable, on new housing developments of 11 or more dwellings and gross internal area of more than 1000m<sup>2</sup>, taking into consideration specific site circumstances and economic viability.

16.9 The S106 subgroup of the Investment Programme Board (IPB) has considered the S106 contributions being sought, including viability. The following contributions have been sought:

25% affordable housing

£2,700 towards the provision of 1 new allotment plot;

£10,080 towards equipped play/multi use games area;  
£62,500 towards primary education (5 primary aged pupils);  
£7,000 towards employment and training;  
£1,000.00 towards other infrastructure (1 litter/dog fouling bin);  
£9,436 towards a Coastal Mitigation Service to mitigate for the impacts on the Northumbria Coast Special Protection Area.

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

16.11 The applicant has advised that the provision of affordable housing and S106 contributions would make the development unviable. A Viability Assessment has been submitted. This has been assessed to determine its robustness. The review of the appraisal disagrees with applicants Viability Assessment and concludes that the development would be viable with 25% affordable housing and full S106 contributions.

16.12 The applicant considers that Covid-19 has created an unprecedented situation in that its impact on the housing market is currently unknown. They have advised that they are not objecting per se to meeting any reasonable financial contributions sought by the Council, but that they consider that it would be more appropriate to enter into a legal agreement now requiring the level of contributions to be determined at a later date, post decision but prior to occupation, when the impact of the pandemic on the housing market is clearer. This point is fully acknowledged and the Local Planning Authority agrees that the impact is unknown. However, information submitted within the Viability Assessment does not demonstrate that the proposed development will be financially unviable with the required contributions. Therefore, in terms of assessing and determining the current planning application it would be contrary to the SPD and local and national planning policies to recommend approval of the application without first securing the identified contributions by way of a S106 agreement.

16.13 Furthermore, S106A, Town and Country Planning Act 1990 ('Modification and discharge of planning obligations.') provides the applicant and the LPA with scope to review the specified contributions at a later date by mutual agreement. This would be the correct mechanism to allow for the contributions to be reviewed and potentially renegotiated when the effects of Covid-19 will have become clearer.

16.14 It is officer advice that the Council should maintain its position and insist upon 25% affordable housing and all of the S106 contributions sought as these are required to mitigate the impacts of the developments. The applicant has failed to demonstrate that the site is not viable and that all of the required S106 contributions cannot be afforded. It is officer advice that the proposal is contrary policies S7.1, DM4.7, DM7.2, DM7.5 of the North Tyneside Local Plan (2017) and the advice in Planning Obligations SPD (2018). Members need to consider whether they agree and weight it in their decision.

## 17.0 Local Financial Considerations

17.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to local finance considerations 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, that will or could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments).

17.2 The proposal involves the creation of 28no. new dwellings. Granting planning permission for new dwellings therefore increases the amount of New Homes Bonus, which the Council will potentially receive. As the system currently stands, for North Tyneside for the new increase in dwellings built 2017/18, the council will receive funding for five years. However, the Secretary of State has confirmed that in 2018/19 New Homes Bonus payments will be made for four rather than five years. In addition, the new homes will bring additional revenue in terms of Council Tax and jobs created during the construction period.

17.3 Members should give appropriate weight to amongst all other material considerations to the benefit of the Council as a result of the monies received from central Government.

17.4 In addition, the new homes will bring additional revenue in terms of Council Tax and jobs created during the construction period.

17.5 Members should give appropriate weight to amongst all other material considerations to the benefit of the Council as a result of the monies received from central Government.

## 18.0 Conclusion

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

18.2 Specifically NPPF states that LPA's should approve development proposals that accord with an up-to-date development plan without delay. However, the NPPF also recognises that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan permission should not usually be granted.

18.3 The application site is a designated housing site within the Local Plan.

18.4 In terms of the impact of the development, it is considered that the development is acceptable in terms of its impact on the highway network, the amenity of future occupants and surrounding land uses, flood risk, land stability and contaminated land issues.

18.5 However, the development does not make contributions to infrastructure requirements to make the impacts of the development acceptable and therefore on balance it is recommended for refusal.

## **RECOMMENDATION: Application Refused**

### **Conditions/Reasons**

1. The applicant has failed to demonstrate that the development is not viable with the contributions that the Council is seeking, therefore the development fails to mitigate against the unacceptable impacts of the development contrary to Planning Obligations Supplementary Planning Document LDD8 (2018), and Policies DM4.7, S7.1, DM7.2 and DM7.5 of the North Tyneside Local Plan 2017.
2. In the absence of a scheme of mitigation to address the impact on the Northumbria Coast Special Protection Area and Ramsar Site, the Northumberland Shore SSSI and Tynemouth to Seaton Sluice SSSI, the additional residents at the coast as a result of the proposed development and a subsequent increase in recreational activity, particularly in relation to cumulative impacts with other residential schemes at the coast and the wider area, will result in significant harm to the designated sites. This is contrary to policies S5.4, DM5.5, and DM5.6 of the North Tyneside Local Plan 2017 and the Coastal Mitigation SPD July 2019.

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

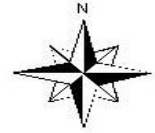
The Local Planning Authority offered solutions to the applicant in order to make the development acceptable. The applicant was however unwilling to amend the plans. Without these amendments the proposal would not improve the economic, social and environmental conditions of the area and therefore does not comprise sustainable development. In the absence of amendments or conditions which could reasonably have been imposed to make the development acceptable it was not possible to approve the application. The Local Planning Authority has therefore implemented the requirements in Paragraph 38 of the National Planning Policy Framework.



**Application reference: 19/01305/FUL**  
**Location: Trinity United Reformed Church, Esplanade Place, Whitley Bay**  
**Proposal: Demolition of former Church and Church Hall to accommodate new residential development comprising 28no. apartments with associated underground and ground level parking with landscaping**

Not to scale  
 Date: 25.06.2020

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 0100016801





**Consultations/representations**

**1.0 Internal Consultees**

**1.1 Design Officer**

1.2 The design and layout reflects the pre-application advice and is supported. The building steps down the street which responds to the topography of the area and the surrounding building pattern. Windows have been designed to add detail and interest to the design with a mixture of sizes but all with a vertical emphasis which reflect the traditional proportions of the surrounding properties.

1.3 The proposed development is larger than its surrounding residential neighbours, however it is largely lower than the ridgeline of the church with exception of the northern section of the site where the building height is increased when compared to the church. Although the building is a similar scale and mass to the church, there is potential for an impact on residential amenity due to the number of proposed habitable windows. This should be considered further by the Case Officer.

1.4 Undercroft car parking is not generally supported, however on this site it appears to be the only viable solution to address car parking on the site. Low level soft landscaping is incorporated to help soften this. The existing brick wall with stone topping will also remain as part of the proposal which is welcomed.

**1.5 Recommended conditions:**

- Natural slate roof tiles. Other proposed materials should be submitted to the LPA and approved.
- Construction details of windows and doors should be submitted to the LPA and approved. Windows should be set back within the window reveal unless otherwise agreed by the LPA.
- No alarm boxes or other external features, including meter boxes, satellite dishes or ventilation extraction shall be installed unless approved by the LPA
- Details of surface materials should be submitted to the LPA and approved.

**1.6 Contaminated Land Officer**

1.7 The site lies within a coal referral area. There may be the potential for mine gas to affect the development. The building was destroyed by fire, the age of the building may mean that there was asbestos present. Photos sourced on the internet show the building had lead flashing. The fire itself would give rise to Polyaromatic hydrocarbons.

1.8 Due to above issues and the proposed sensitive end use the following must be applied: Gas 006 and Con 001.

**1.9 Highway Network Manager**

1.10 This application is for the demolition of the former church and church Hall to accommodate a new residential development comprising 28 apartments with associated underground and ground level parking with landscaping.

1.11 The site is accessed via Esplanade Place and a suitable level of parking will be provided with cycle parking and refuse storage provided within the development. The site is in Whitley Bay town centre with good links to public transport and there are parking control measures in the vicinity of the site, although new residents are unlikely to be entitled to any permits in this area. Conditional approval is recommended.

1.12 The applicant will be required to enter into an appropriate legal agreement with the Local Authority for the following works:

New access

Upgrade of footpath abutting the site

Associated highway drainage

Associated street lighting

Associated road markings

Associated signage

Associated Traffic Regulation Orders

1.13 Conditions:

ACC11 - New Access: Access prior to Occ

ACC25 - Turning Areas: Before Occ

PAR04 - Veh: Parking, Garaging before Occ

REF01 - Refuse Storage: Detail, Provide Before Occ

SIT06 - Construction Method Statement (Minor)

1.14 No part of the development shall be occupied until a scheme to manage refuse collection has been submitted to and approved by in writing the Local Planning Authority. Thereafter, this scheme shall be implemented in accordance with the approved details and retained thereafter.

Reason: In the interests of highway safety.

1.15 No part of the development shall be occupied until a scheme to manage parking has been submitted to and approved by in writing the Local Planning Authority. Thereafter, this scheme shall be implemented in accordance with the approved details and retained thereafter.

Reason: In the interests of highway safety.

1.16 No part of the development shall be occupied until a scheme for the provision of secure undercover cycle parking has been submitted to and approved by in writing the Local Planning Authority. Thereafter, this scheme shall be implemented in accordance with the approved details and retained thereafter.

Reason: In the interests of highway safety.

1.17 No part of the development shall be occupied until a scheme for the following off-site highway works has been submitted to and approved by in writing the Local Planning Authority:

New access

Upgrade of footpath abutting the site

Associated highway drainage

Associated street lighting

Associated road markings

Associated signage

Associated Traffic Regulation Orders

Thereafter, this scheme shall be implemented in accordance with the approved details and retained thereafter.

Reason: In the interests of highway safety.

1.18 Informatives:

I05 - Contact ERH: Construct Highway Access

I08 - Contact ERH: Works to footway.

I10 - No Doors/Gates to Project over Highways

I12 - Contact ERH Erect Scaffolding on Rd

I13 - Don't obstruct Highway, Build Materials

I45 - Street Naming and Numbering

I46 - Highway Inspection before dv/pt

1.19 The applicant is advised that end users are unlikely to be eligible for any parking permits in this area nor for any and the onus will be on the developer to convey this information to these users. Please contact the Parking Control team on e-mail at [parking.control@northtyneside.gov.uk](mailto:parking.control@northtyneside.gov.uk) or telephone number (0191) 643 2121 for further information.

#### 1.20 Local Lead Flood Authority

1.21 I can confirm that I have no objections to the surface water drainage proposals for this proposed development. The applicant is proposing to attenuate surface water within the site for a 1in100yr +40% climate change rainfall event by installing a 40cu.m underground storage tank to be located in the car park area of the development. This will then discharge into the adjacent combined sewer at a restricted discharge rate of 4l/s controlled by a vortex control device.

1.22 I would recommend a condition is placed on the application to ensure the surface water drainage system is installed as per the planning application submission.

#### 1.23 Biodiversity Officer

1.24 Bat Survey 2019 (E3):

The 2019 inspection found that the former church building has been significantly damaged from a fire which is thought to have occurred around 2017. The southern section of the site is now standing in a state of disrepair with only external walls standing following a roof collapse. The northern section is remaining but the structure is derelict. Some features suitable for use by roosting bats were recorded, predominantly associated with hanging tiles and loose brickwork, however conditions are very exposed. A loft void is present within the northern section and will provide suitable roosting opportunities, however internal inspection could not be undertaken.

1.25 Overall, the structure was classified as low suitability for bats. A dusk emergence survey carried out in June 2019 found no evidence of roosting bats and recorded no bat activity on site.

1.26 Feral pigeon were recorded roosting within the burnt structure, and the remaining northern section of the church and shrubs present in the church grounds are suitable for use by nesting birds. Additional notable species

recorded on site include wall cotoneaster (*Cotoneaster horizontalis*). This is listed as a schedule 9 invasive species on the Wildlife and Countryside Act 1981 and will require removal to an invasive species method statement.

The building was classified as low suitability for bats and both historic and recent survey data did not record any evidence of roosts or activity on site. As a result, no further survey work was recommended.

1.27 The Bat Survey report recommends the following key mitigation measures:-

- A detailed method statement will be provided to contractors prior to the start of works.
- Where safe and practicable, old slates, water tables and ridge tiles will be removed carefully by hand, being aware that bats may be present beneath slates or ridge tiles, within mortise joints, cavity walls, between loose stones, between lintels and in gaps around window frames.
- If bats are found during works, works will stop in that area and the ecological consultant will be contacted immediately. If it is necessary to move the bats for their safety, this will be undertaken by a licensed bat handler.
- Vegetation clearance/tree felling will be undertaken outside of the bird nesting season (March to August inclusive) unless a checking survey by a suitably experienced ornithologist confirms the absence of active nests.
- Removal of wall cotoneaster will be undertaken by a specialist contractor and works carried out to an invasive species method statement.
- External lighting that may reduce bat usage of the site will be avoided.
- Bat bricks and slates may be incorporated within the new apartment building to enhance opportunities for bats.

1.28 Landscape Plan:

The Bat Survey Report recommends that landscape planting is designed to enhance structural diversity, with plants bearing flowers, nectar and fruits that are attractive to invertebrates and a food resource for bats and wildlife generally. The submitted Landscape Plan indicates some hedge, tree and shrub planting but this is all ornamental. The landscape plan for the site should incorporate a native mixed hedge on site to enhance biodiversity as well as a mix of native and ornamental trees and shrubs that will benefit wildlife. This should be made a condition of the application.

1.29 Designated Coastal Sites:

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

1.30 I have no objection to the above scheme subject to the following conditions being attached to the application:-

Conditions:

- A Bat Method Statement will be submitted to the Local Planning Authority for approval prior to development commencing. All demolition works must be undertaken in accordance with the approved Method Statement.

- An Invasive Species Method Statement will be submitted to the Local Planning Authority for approval prior to development commencing. Removal of wall cotoneaster will be undertaken by a specialist contractor and in accordance with the approved Method Statement.
- If demolition does not commence within 12 months of the date of the Bat Survey (August 2019) an updated bat activity survey must be undertaken between May and August prior to demolition commencing and the details submitted to the LPA for approval.
- 4no. bat roosting features will be incorporated into the new build through the provision of internal bat features (2no. bat slates and 2no. bat bricks). Details of the bat roosting features and their locations must be submitted to and approved in writing by the Local Planning Authority within 4 weeks of development commencing and will be installed in accordance with the approved plans.
- External lighting that may reduce bat use of potential roost sites (retained and/or new) will be avoided. High intensity security lights will be avoided as far as practical, and any lighting in areas identified as being important for bats will be low level (2m) and low lumen. Light spillage to areas used by foraging or commuting bats should be less than 2 lux. No lighting will be installed along the flyways between the roosts and adjacent trees, woodland and foraging areas. Where security lights are required, these will be of minimum practicable brightness, be set on a short timer and will be motion sensitive only to larger objects.
- Demolition of the northern section of the church and adjoining southern wall will not take place during the hibernation period (mid-November to mid-March inclusive), this is to minimise risk of harm/disturbance to hibernating bats, if present, within the loft void.
- No vegetation removal or building works shall take place during the bird nesting season (March- August inclusive) unless a survey by a suitably qualified ecologist has confirmed the absence of nesting birds immediately prior to works commencing
- 4no. swallow/house martin nest boxes will be incorporated into the new build in suitable locations. Details of bird box specification and locations must be submitted to and approved in writing by the Local Planning Authority within 4 weeks of development commencing on site and will be installed in accordance with the approved plans.
- A detailed Landscape Plan will be submitted to the Local Planning Authority for approval within 4 weeks of development commencing on site. Planting will include a mixed native species hedgerow as well as a mixture of native and ornamental trees and shrubs that are of benefit to wildlife.
- In order to address the recreational impacts of the scheme on the Northumbria Coast SPA, an appropriate financial contribution will be required towards the delivery of a Coastal Mitigation Service in accordance with the Councils Coastal Mitigation SPD.

### 1.31 Environmental Health (Pollution)

1.32 I have no objection in principle to this development but would recommend condition be attached to any approval to control construction hours and dusts during construction: HOU04; HOU05, and; SIT03.

## 2.0 External Consultees

### 2.1 Natural England

2.2 No objection – subject to appropriate mitigation being secured.

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of Northumbria Coast Special protection Area (SPA) and Ramsar <https://designatedsites.naturalengland.org.uk/>.

2.3 In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

2.4 The proposal has the potential to have significant adverse effect on the special interest features of the sites named above. It is advised that likely significant effects would be presented through recreational disturbance, increased by the provision of dwellings at this location.

2.5 Survey data of recreational visitors to the Northumbria Coast SPA and Ramsar highlight that a high percentage of visitors reside within a 10km buffer zone of the coast., with this part of the coastline offering significant opportunity for access to the aforementioned designated sites.

2.6 Appropriate mitigation may take the form of various schemes and provisions and the developer should liaise with the LPA on how to address the issue of mitigation as and where appropriate. Details of a strategy to mitigate against recreational disturbance needs to be submitted within the context of this application. We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

### 2.7 The Coal Authority

2.8 Final Comments (10.03.20):

The Coal Authority recommends the imposition of the following conditions:

- No development shall commence until intrusive site investigations have been carried out on site to establish the exact situation in respect of coal mining legacy features. The findings of the intrusive site investigations shall be submitted to the Local Planning Authority for consideration and approval in writing. The intrusive site investigations shall be carried out in accordance with authoritative UK guidance.

- Where the findings of the intrusive site investigations (required by condition XX above) identify that coal mining legacy on the site poses a risk to surface stability, no development shall commence until a detailed remediation scheme to protect the development from the effects of such land instability has been submitted to the Local Planning Authority for consideration and approval in writing. Following approval, the remedial works shall be implemented on site in complete accordance with the approved details.

- Following implementation and completion of the approved remediation scheme (required by condition XX above) and prior to the first occupation of the development, a verification report shall be submitted to and approved in writing by the Local Planning Authority to confirm completion of the remediation scheme in accordance with approved details.

2.9 The Coal Authority therefore has no objection to the proposed development subject to the imposition of the conditions to secure the above. This is our recommendation for condition wording.

#### 2.10 Northumbrian Police Architectural Liaison Officer

2.11 I have considered it from a crime prevention point of view and can find no grounds on which to object to it. I would, however, recommend that the applicant considers using the guidance set out in the police approved security scheme Secured by Design (SBD) 2019 Homes guide to provide a safe and secure environment for residents and visitors. Details of SBD can be found at [www.securedbydesign.com](http://www.securedbydesign.com) and following the links to Design Guides.

#### 2.12 Tyne and Wear Archaeology Officer

2.13 The applicant has submitted a heritage statement and a report on the archaeological building recording of the church. This fulfils the requirements of the NPPF in describing the significance of the heritage asset (para 189) and making a record of the heritage asset prior to its loss (para 199). No further archaeological investigation is required prior to the redevelopment of the site.

### 3.0 Representations

Thirteen representations have been received from the occupants of ten separate addresses. The issues raised are summarised below:

- Overdevelopment of site.
- Out of keeping with area and site.
- Original structure of church should be incorporated into development plans.
- Too many flats which are too small with no outdoor space.
- Concerns regarding demolition/construction. Please restrict operating hours and also make for a compulsory skin around the building during demolition to stop dust omissions.
- Impact on privacy of surrounding properties as the apartments would look directly onto these properties.
- Detrimental highway impact.
- Inadequate vehicle and cycle parking provision provided as part of development
- Proposal will exacerbate existing parking problems as the street is already overcrowded. All or part of Esplanade should be made residents only to alleviate this issue alongside new development.
- Too close to pedestrian road on south west side.
- Inadequate space to dry clothes (ongoing environmental issue), no specification to make dwellings passive which use far less energy.
- There are existing unsold flats in Whitley Bay.
- Building is too high and will impact light of neighbouring properties.
- Concerns regarding possible structural damage to surrounding properties as a result of underground car park.
- There needs to be a lift (in addition to the stairs) to make the development accessible.
- No benefit to community as per the original use which allowed for worship and community groups.

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**Application No:** 20/00523/FUL

Author: Rebecca Andison

Date valid: 23 April 2020

☎: 0191 643 6321

Target decision date: 23 July 2020

Ward: Riverside

Application type: full planning application

**Location: Royal Quays Outlet Centre, Coble Dene, North Shields, Tyne And Wear,**

**Proposal: Proposed partial change of use of existing A1 Factory Outlet Shopping Centre to A1 Factory Outlet/B1/B8 Industrial. Alterations to existing service arrangements to suit new use.(AMENDED DESCRIPTION TO OMIT B2 USE)**

Applicant: North Shields Investment Properties, Mr Peter Everest C/O WD 9-10 Staple Inn London WC17 7QH

Agent: Hector Black, 6 Manor Place Edinburgh EH3 7DD

**RECOMMENDATION:** Application Permitted

## **INFORMATION**

### **1.0 Summary Of Key Issues & Conclusions**

#### 1.0 Main Issues

1.1 The main issues for Members to consider are:

- Principle;
- Impact on surrounding occupiers;
- Impact of the proposal on the character and appearance of the site and its surroundings;
- Whether there is sufficient car parking and access provided; and
- Impact on trees and ecology.

#### 2.0 Description of the Site

2.1 The application relates to the Royal Quays Outlet shopping centre, which is located on Coble Dene, North Shields.

2.2 The factory outlet centre contains a number of retail/food and drink outlets of varying sizes, located around a central courtyard. Car parking is provided to the north and east. The type of goods that can be sold is strictly controlled by planning conditions which ensures that retail units are used only for the sale of factory outlet goods.

2.3 To the south east of the site is the EVO sports centre, and to the east are a leisure facility and hotel. To the north is a bowling alley and water park. Hayhole Road runs along the western boundary with Howdon Sewage Works beyond.

### 3.0 Description of the proposed development

3.1 The proposal seeks planning permission for a partial change of use of the existing factory outlet shopping centre to a factory outlet centre, B1 and B8 use.

3.2 The proposal relates to 28no. units in the north west part of the site. It is proposed to demolish one of these 28no. units (unit 38) to create a service access. The remaining units have a floor area of 6,751 sqm.

3.3 The existing internal landscaped courtyard would be used to create a service yard.

### 4.0 Relevant Planning History

4.1 The Royal Quays Centre has an extensive planning history dating back to 2000 when planning permission was granted for the refurbishment of the Royal Quays development under the following application:

00/00328/FUL - Proposed refurbishment to include some change of use, demolition and rebuilding, provision of new and extended retail units, new canopies, amended car parking – Permitted 15.09.2000

4.2 The most recent applications are listed below:

20/00632/OUT - Outline application with all matters reserved - new hotel development comprising approximately 70 bed spaces and associated car parking – Not yet determined

16/01963/FUL - Erection of a trampoline hall with mezzanine level.  
(Resubmission) – Permitted 16.03.2017

16/01263/AMEND – Non Material Amendment of planning approval

15/01567/FUL - Repositioning of main entrance and service access, three new emergency accesses and steps, changes to ground level and height, loss of two car parking spaces and altered hard landscaping layout – Permitted 28.09.2016

15/01567/FUL - Erection of a trampoline hall – Permitted 17.02.2016

14/01961/FUL - Proposed temporary garden centre (A1 Use) to be part of the existing Royal Quays Outlet Shopping Centre – Permitted 10.03.2015

### 5.0 Development Plan

5.1 North Tyneside Local Plan 2017

### 6.0 Government Policy

6.1 National Planning Policy Framework (February 2019)

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. It requires LPAs to apply a presumption in favour of sustainable development in determining development proposals. Due weight should still be attached to Development Plan policies according to the degree to which any policy is consistent with the NPPF.

## **PLANNING OFFICERS REPORT**

### 7.0 Main Issues

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

- Principle;
- Impact on surrounding occupiers;
- Impact of the proposal on the character and appearance of the site and its surroundings;
- Whether there is sufficient car parking and access provided; and
- Impact on trees and biodiversity.

7.2 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, which amongst other matters states that decision makers should approve development proposals that accord with an up-to-date development plan without delay.

8.3 The NPPF (para.80) states that 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 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.

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

8.6 Local Plan Policy S2.1 states that proposals that make an overall contribution towards sustainable economic growth, prosperity and employment in North Tyneside will be encouraged.

8.7 Policy DM2.4 states that proposals for new employment uses outside the 150ha of available land or existing areas of employment land will be permitted where it can be demonstrated that the proposal:

- a. Cannot be accommodated within the existing portfolio of available employment land; and,
- b. Would make a contribution to job creation and diversification of the economy in North Tyneside; and,
- c. Can be provided with appropriate vehicular access, and supports access to sustainable transport connections; and,
- d. Would not be detrimental to local amenity.

8.8 The existing outlet shopping centre contains 13,008 sqm of A1 factory outlet floorspace and 501 sqm of catering floor space. It is proposed to use 6,751 sqm of the existing A1 floor space for purposes falling within uses classes B1, B8, or A1 factory outlet shopping. Trade counters are also proposed for the B1/B8 units. There would be no change to the level of catering provision. The overall floor space within the centre would reduce by 208 sqm as a result of unit 38 being demolished. The applicant has stated that there is a need to change the existing retail use as the centre has been performing weakly as a retail outlet centre.

8.9 The site is an out of centre location and has no allocation within the Local Plan.

8.10 The proposal accords with the NPPF and Local Plan Policy S2.1 given that it would support economic growth and productivity. It would also contribute to job creation in accordance with part b of Policy DM2.4. It does not accord with part a of Policy DM2.4 as it has not been demonstrated that the employment use could not be accommodated within the existing employment land portfolio.

8.11 Although not fully in accordance with Policy DM2.4 it is officer opinion that the principle of the proposal is acceptable when taking into account the existing use of the site and the purpose of the proposal. The change of use away from retail has the potential to impact positively on North Shields town centre by reducing competition for town centre retailers.

8.12 Having regard to the above it is officer opinion that the principle of the proposal is acceptable subject to consideration of the following matters:

#### 9.0 Impact on surrounding occupiers

9.1 Paragraph 180 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 their 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 The application site is located within a predominantly commercial area. Surrounding the shopping centre is the EVO sports centre to the south east, a leisure facility and hotel to the east and a bowling alley and water park to the north. The area to the south west is more industrial in character. The closest residential properties are located approximately 230m to the north, 390m to the north west and 480m to the south east. There is also a hotel less than 100m to the east.

9.5 The application seeks permission for part of the shopping centre to be used B1 and B8 uses in addition to A1 factory outlet shopping. B2 use was also proposed originally but this has been omitted following concerns raised by officers regarding the potential impact of noise on surrounding occupiers. The Manager of Environmental Health has confirmed that she has no objections to the revised proposal.

9.6 Given the separation from residential properties, the nature of the proposal and the character of the area it is officer opinion that the proposal is unlikely to result in any harm to nearby occupiers as a result of additional noise disturbance. A condition is recommended to control any external plant that may be required.

9.7 Members need to consider whether the impact on existing occupiers would be acceptable. It is officer advice that the impact is acceptable.

#### 10.0 Character and appearance

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 Planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents (para. 130, NPPF).

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 of the characteristics of the site, its wider context and the surrounding area.

10.4 Policy DM5.9 states that where it would not degrade other important habitats the Council will support strategies and proposals that protect and enhance the overall condition and extent of trees, woodland and hedgerows in the Borough, and:

a. Protect and manage existing woodland, trees, hedgerows and landscape features.

- b. Secure the implementation of new tree planting and landscaping schemes as a condition of planning permission for new development.
- c. Promote and encourage new woodland, tree and hedgerow planting schemes.
- d. In all cases preference should be towards native species of local provenance. Planting schemes included with new development must be accompanied by an appropriate Management Plan agreed with the local planning authority.

10.5 The Council has produced an SPD on Design Quality, which seeks to encourage innovative design and layout and that contemporary and bespoke architecture is encouraged. The chosen design approach should respect and enhance the quality and character of the area and contribute towards creating local distinctiveness.

10.6 It is proposed to create a hard-surfaced service yard within the existing courtyard and to demolish one retail unit to provide access. No other external changes are proposed to the existing units.

10.7 The proposed service yard would result in the loss of a small area of ornamental planting and trees. The planting adds to the amenity value of the shopping centre but has limited visibility in the wider public domain.

10.8 The Landscape Architect and Biodiversity Officer have provided comments. They raise no objections to the application and recommend conditions in respect of a replacement landscaping scheme.

10.9 Subject to this condition it is considered that the proposal would accord with the advice in NPPF, policy DM6.1, DM5.9 and the Design Quality SPD. Members need to consider whether they agree.

#### 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 109 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 site contains a large car park on the north and east side, accessed from Coble Dene and a service yard to the west, accessed from Hayhole Road. The existing access and parking will remain. By demolishing unit 38 access will be created from the existing service yard into the proposed service yard.

11.7 The Highway Network manager has provided comments. He states that sufficient parking will be provided for the proposal and recommends that the application is approved with conditions.

11.8 Members need to consider whether the proposal would provide sufficient parking and access and weight this in their decision. It is officer advice that subject to conditions it would, in accordance with the advice in NPPF, Policy DM7.4 and LDD12.

## 12.0 Trees and Biodiversity

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 175 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.

12.3 Policy DM5.5 of the Local Plan states that all development proposals should amongst other matters protect biodiversity and minimise the fragmentation of habitats and wildlife links.

12.4 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.

12.5 The proposal would result in the loss of a small area of ornamental planting from within the internal courtyard.

12.6 The Landscape Architect and Biodiversity Officer have provided comments. They raise no objections to the application and recommend conditions in respect of a replacement landscaping scheme, tree protection measures for trees on the adjacent site, a construction method statement, bird boxes and to prevent vegetation being removed during the bird nesting season.

12.7 It is officer advice that subject to these conditions the proposal would avoid having an adverse impact in terms of landscaping and ecology, and therefore would accord with the advice in NPPF, Policy DM5.5 and policy DM5.9 of the Local Plan.

### 13.0 Local Financial Considerations

13.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to local finance considerations 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, that will or could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments).

13.2 The proposal would result in the creation of jobs during the construction period and when the B1/B8 units are in operation.

13.3 Members should give appropriate weight to amongst all other material considerations to the benefit of the Council as a result of the monies received from central Government.

### 14.0 Conclusions

14.1 Members should consider carefully the issues before them and take in account national policy within NPPF and the weight to be accorded to this as well as current local planning policy.

14.2 At the heart of the NPPF is a presumption in favour of sustainable development, which for decision making means approving development proposals that are in accordance with an up-to-date development plan without delay.

14.3 The application site has no allocation within the Local Plan and in terms of the existing retail use lies in an out of centre location. It is the officer's opinion that the principle of the proposal is acceptable.

14.4 Members also need to consider whether the proposal will impact on surrounding occupiers, whether the development would have an acceptable impact on the character of the area, landscaping, ecology and the highway network. It is the officer's advice that the proposed development is acceptable in these terms.

14.5 The application is therefore recommended for conditional approval.

**RECOMMENDATION:      Application Permitted**

### **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
  - Location Plan PL-00
  - Proposed site plan SK-07 Rev.B
  - Proposed downtakings SK-06





Reason: In order to safeguard the amenities of the area having regard to policies DM6.1 of North Tyneside Local Plan (2017).

8. Prior to any B1/B8 uses occupying the site a Travel Plan must be submitted to and approved by in writing the Local Planning Authority. This will include an undertaking to conduct travel surveys to monitor whether the Travel Plan targets are being met.

Reason: In the interests of promoting sustainable transport in accordance with policy S7.3 of the North Tyneside Local Plan 2017.

9. Any plant and machinery required in connection with the B1 and B8 uses shall be enclosed with sound insulation materials in accordance with a scheme to be submitted to and agreed by the Local Planning Authority in writing and the plant and machinery shall not be used until the approved soundproofing has been implemented.

Reason: To protect the occupants of nearby occupiers from noise and disturbance having regard to policy DM5.19 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

10. Any spoil generated must be tested and disposed of at a suitably licensed facility.

Reason: To ensure that the potential contamination of the site, which is located over an area of known landfill, is taken in to account having regard to policy DM5.18 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

11. Within one month of development commencing on the proposed service yard, including site excavation works and clearance, a fully detailed landscape plan shall be submitted to and approved in writing by the Local Planning Authority to show replacement planting to mitigate for the loss of trees. The landscape scheme shall include details and proposed timing of all new tree and shrub planting and ground preparation noting the species and sizes for all new plant species (trees to be a minimum 12-14cm girth). Trees are to be replaced on a one for one basis at locations to be agreed. The landscaping scheme shall be implemented in accordance with the approved details within the first available planting season following the approval of details. Any trees and shrubs that die or are removed within five years of planting shall be replaced in the next available planting season with others of similar size and species. The agreed landscaping shall be maintained for a minimum of five years in accordance with a maintenance schedule that must be submitted and approved in writing by the Local Planning Authority for the purposes of discharging this condition.

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

12. Any work to trees to the north of the site must be carried out in accordance with the guidelines contained within BS5837:2012 'Trees in relation to design, demolition and construction - Recommendations' and NJUG Volume 4.

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

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

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

14. 3no. bird boxes must be provided in suitable locations within the development site (suitable trees or buildings). Details of bird box specification and locations must be submitted to and approved in writing by the Local Planning Authority within 4 weeks of development commencing. The boxes shall be installed in accordance with the approved details and thereafter retained.

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

15. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) no part of the development to be used for A1 Shops (as defined by that Order) shall be used for any purpose other than as "factory outlet shopping". " Factory outlet shopping" shall be defined as manufacturer operated clearance stores selling only branded factory seconds, surplus stock and discontinued lines at discount prices and retail chains selling directly supplied rejects, seconds and surplus stock from a range of manufacturers at discount prices. None of the "factory outlet shopping" units shall be used for the retail sale of food (except in an ancillary capacity) or convenience goods without the prior written approval of the local planning authority.

Reason: To maintain control over future changes in the development as planning permission has been granted on the basis of a particular type of retailing, and to ensure that the development does not have a detrimental effect on the vitality and viability of neighbouring town centres, having regard to Policy DM3.4 of the North Tyneside Local Plan and the NPPF.

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

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

17. Records or other relevant information shall be made available to the Local Planning Authority upon request to enable it to visit the development and ascertain that retail merchandise conforms to the limitations described in condition 15 above. The Local Planning Authority shall be permitted to make copies of the records or other relevant information referred to above for the purposes of fulfilling the Local Planning Authority's statutory duties.

Reason: To maintain control over future changes in or extensions to the proposed development as planning permission has been granted on the basis of a particular type of retailing and to ensure that the development does not have a

detrimental effect on the vitality and viability of neighbouring town centres taking into account Policy DM3.4 of the North Tyneside Local Plan and the NPPF.

18. Notwithstanding the provisions of Part 3 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 the floorspace hereby approved for use as Class A3 Food and Drink, shall not be used for any purpose falling within Class A1 Shops as defined in part A to the Schedule of the Town and Country (Use Classes) Order 1987 (as amended), without the prior approval of the local planning authority.

Reason: To maintain control over future changes in or extensions to the proposed development as planning permission has been granted on the basis of a particular type of retailing and to ensure that the development does not have a detrimental effect on the vitality and viability of neighbouring town centres taking into account Policy DM3.4 of the North Tyneside Local Plan and the NPPF.

19. Notwithstanding the approved plans, the new service yard shall not be brought into use until details of the means of enclosure have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details prior to the yard being brought into use.

Reason: To ensure a satisfactory environment within the development having regard to policy DM6.1 of the North Tyneside Unitary Development Plan 2002.

20. The total gross A1 retail floorspace of the development identified within the red line boundary of the site and as defined in condition 15 shall not exceed 13,097 sq. metres gross floorspace measured externally.

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

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

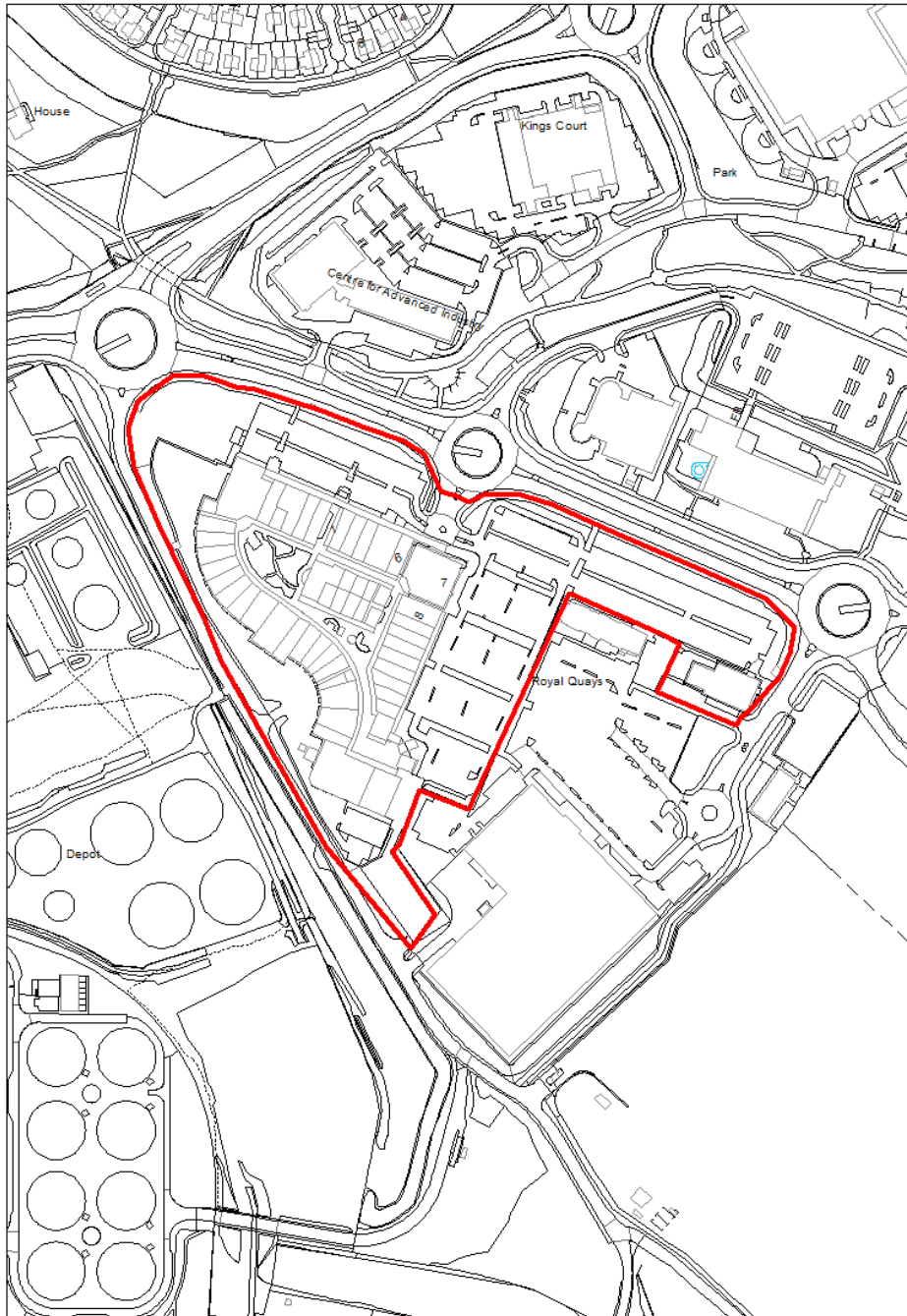
The Local Planning Authority worked proactively and positively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirements in Paragraph 38 of the National Planning Policy Framework.

**Informatives**

Building Regulations Required (I03)

Do Not Obstruct Highway Build Materials (I13)

Highway Inspection before dvlpt (I46)

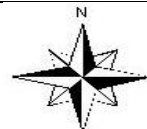


**Application reference: 20/00523/FUL**  
**Location: Royal Quays Outlet Centre, Coble Dene, North Shields**  
**Proposal: Proposed partial change of use of existing A1 Factory Outlet Shopping Centre to A1 Factory Outlet/B1/B8 Industrial. Alterations to existing service arrangements to suit new use.**

Not to scale

Date: 25.06.2020

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 2011. Ordnance Survey Licence Number  
 0100016801



**Appendix 1 – 20/00523/FUL  
Item 2**

**Consultations/representations**

1.0 Internal Consultees

1.1 Highway Network Manager

1.2 This application is for a proposed partial change of use of existing A1 Factory Outlet Shopping Centre to A1 Factory Outlet/B1/B8 Industrial with alterations to existing service arrangements to suit new use.

1.3 The site has been established for some time, access and parking remain unchanged and enough parking will be proved to accommodate the proposed change of use. Service access will remain from Hayhole Road and unit 38 will be demolished to allow the internal servicing arrangements to suit the new uses with a segregated pedestrian route remaining to allow access to building frontages. Conditional approval is recommended.

1.4 Recommendation - Conditional Approval

1.5 Conditions:

ACC25 - Turning Areas: Before Occ

PAR04 - Veh: Parking, Garaging before Occ

REF01 - Refuse Storage: Detail, Provide Before Occ

SIT06 - Construction Method Statement (Minor)

No part of the development shall be occupied until a Travel Plan has been submitted to and approved by in writing the Local Planning Authority. This will include an undertaking to conduct travel surveys to monitor whether the Travel Plan targets are being met.

Reason: To accord with Central Government and Council Policy concerning sustainable transport.

1.6 Informatives:

I13 - Don't obstruct Highway, Build Materials

I46 - Highway Inspection before dvlp

2.0 Local Lead Flood Authority

2.1 I have carried out a review of planning application 20/00523/FUL. As the proposals are for a change of use to the existing buildings the current surface water drainage for the site will remain the same so the overall flood risk in the area will not increase. As a result I can confirm I have no objections to the proposals.

3.0 Manager of Environmental Health (Pollution)

3.1 Noted "B2" now removed from description, no further objections.

4.0 Manager of Environmental Health (Contaminated Land)

4.1 The site overlies a known landfill. Any spoil generated must be tested and disposed of at a suitably licensed facility.

## 5.0 Landscape Architect

5.1 Existing Site Context: The (Royal Quays) shopping outlet and its retail units are well serviced by the existing car parking areas and the Coble Dene and Howdon transport corridors. There are occasional semi-mature landscaped zones internally and bordering the perimeter site areas, which have link together with island tree locations, within the car parking areas to form a contemporary landscape matrix throughout the site area.

5.2 Landscape Comments (Trees and Landscape Design): This application is for a proposed partial 'Change of Use' of existing A1 Factory Outlet Shopping Centre to A1 Factory Outlet/B1/B2/B8 Industrial. With this application, no additional floor area is proposed, with one existing unit (Unit 38) to be demolished to create a service access. The building footprint and landscaping layout remains essentially unchanged although the existing internal landscaped courtyard is to be hard landscaped to create a new service yard. The proposed change of use is to be located on the north half of the centre. The proposals will utilise the exiting highway system surrounding the Royal Quays Outlet Centre, without any alteration, and the existing public road and car parking system. The area to the very north of the site is located within a wildlife corridor as defined by the Local Plan and remains unchanged by the proposals but should not be used for site compounds, storage, etc.

5.3 The internal courtyard supports a level of existing, mainly ornamental planting including a number of trees which are to be removed. The planting has limited visibility, adding amenity value to the internal spaces of the development, however, there will be biodiversity associated with them. The application does not propose any reinstatement or mitigation planting which will be required as a condition to ensure the proposal meets Local Plan policies.

Suggested conditions:

i) Within one month from the start on site of any operations such as site excavation works, site clearance (including site strip) for the development, a fully detailed landscape plan shall be submitted to and approved in writing by the Local Planning Authority to show replacement planting to mitigate for the loss of trees. The landscape scheme shall include details and proposed timing of all new tree and shrub planting and ground preparation noting the species and sizes for all new plant species (trees to be a minimum 12-14cm girth). Trees are to be replaced on a one for one basis at locations to be agreed. The landscaping scheme shall be implemented in accordance with the approved details within the first available planting season following the approval of details. Any trees and shrubs that die or are removed within five years of planting shall be replaced in the next available planting season with others of similar size and species.

ii) No development shall take place until a schedule of landscape maintenance for a minimum period of five years including details of the arrangements for its implementation has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved schedule.

iii) The contractors construction method statement relating to traffic management/site compounds/contractor access, temporary parking, on site

welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires must be submitted in writing and approved by the Local Planning Authority and include tree protection measures for the trees to be retained on adjacent sites. Cabins, storage of plant and materials, parking are not to be located within the RPA of the retained trees or on land within the wildlife corridor. Details and the location of any tree protection based on root protection areas (BS5837:2012 'Trees in relation to design, demolition and construction – Recommendations') is to be included in the contractors construction method statement and maintained for the duration of the works.

iv) With regard to trees to the north of the site and on neighbouring site the following applies: All works to be carried out in accordance with the guidelines contained within BS5837:2012 'Trees in relation to design, demolition and construction – Recommendations and NJUG Volume 4.

### 6.0 Biodiversity Officer

6.1 The above application will result in the loss of a small area of ornamental planting and trees from a courtyard area to provide an additional service area. In order for the scheme to meet planning policies, planting mitigation will be required to address this loss and will need to include replacement trees for those that are to be lost.

6.2 I have no objection to the application subject to the following conditions being attached:

i) Within one month from the start on site of any operations such as site excavation works, site clearance (including site strip) for the development, a fully detailed landscape plan shall be submitted to and approved in writing by the Local Planning Authority to show replacement planting to mitigate for the loss of trees. The landscape scheme shall include details and proposed timing of all new tree and shrub planting and ground preparation noting the species and sizes for all new plant species (trees to be a minimum 12-14cm girth). Trees are to be replaced on a one for one basis at locations to be agreed. The landscaping scheme shall be implemented in accordance with the approved details within the first available planting season following the approval of details. Any trees and shrubs that die or are removed within five years of planting shall be replaced in the next available planting season with others of similar size and species.

ii) No development shall take place until a schedule of landscape maintenance for a minimum period of five years including details of the arrangements for its implementation has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved schedule.

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

iv) 3no. bird boxes will be provided in suitable locations within the development site (suitable trees or buildings). Details of bird box specification and locations



must be submitted to and approved in writing by the Local Planning Authority within 4 weeks of development commencing on site and will be installed in accordance with the approved plans.

#### 7.0 Regeneration Team

7.1 As the B2 use has been omitted, Regeneration have no objections to this application.

#### 8.0 External Consultees

##### 8.1 Northumbrian Water

8.2 As this application relates to the change of use of existing buildings, we have no comments to make as there will be no change to impact on our networks.

##### 9.0 Northumbria Police

9.1 I have reviewed the above planning application and we have no objection; however, I would like to recommend that any new traffic flow systems will keep retail customers away from the proposed servicing area.

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