



North Tyneside Council

Planning Committee

18 September 2020

To be held on **Tuesday, 29 September 2020** commencing at **10.00 am**.

This meeting will be held via video conferencing technology and streamed live on the Council's YouTube channel.

Agenda Item	Page
<p>1. Apologies for absence</p> <p>To receive apologies for absence from the meeting.</p>	
<p>2. Appointment of substitutes</p> <p>To be informed of the appointment of any substitute members for the meeting.</p>	
<p>3. Declarations of Interest</p> <p>You are invited to declare any registerable and/or non-registerable interests in matters appearing on the agenda, and the nature of that interest.</p> <p>You are also 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.</p>	
<p>4. Minutes</p> <p>To confirm the minutes of the previous meeting held on 1 September 2020.</p>	5 - 8

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5.	Planning Officer Reports To receive the attached guidance to members in determining planning applications and to give consideration to the planning applications listed in the following agenda items.	9 - 14
6.	18/00881/FUL, Land at Backworth Business Park, Ecclestone Close, Backworth To consider a full planning application from The Northumberland Estates for the construction of 67 residential dwellings (C3) including 17 affordable homes (25%) and 14 No. B1, B2 & B8 commercial units totalling 650 sqm, with associated road infrastructure, car parking spaces, open spaces, gardens and landscaping.	15 - 98
7.	18/01373/FUL, Holywell Engineering, Station Road, Backworth To consider a full planning application from David Little Pension Trust Fund for the demolition of several existing buildings, conversion of existing Backworth Lodge, Diary Cottage and Ivy Cottage to form 4no flats and 2no. dwellings and the erection of a new apartment building (13no apartments) and 27no dwellings.	99 - 156
8.	18/01374/LBC, Holywell Engineering, Station Road, Backworth To consider an application for listed building consent from David Little Pension Trust Fund for the demolition of several existing buildings, conversion of existing Backworth Lodge, Diary Cottage and Ivy Cottage to form 4no flats and 2no. dwellings and erection of a new apartment building (13no apartments) and 27no dwellings	157 - 178
9.	20/01073/FUL, 8 Grenada Place and 7 St Johns Place, Whitley Bay To consider a retrospective full planning application from Sharon Cockburn for the erection of a 1.8m high fence to land to the rear of 8 Granada Place and 7 St Johns Place in order to create two private garden spaces.	179 - 194
10.	20/00564/FUL, Kids 1st Nursery, North Tyneside General Hospital, Rake Lane, North Shields To consider a full planning application from Busy Bees Nurseries Ltd for the variation of condition 4 (restriction on number of children) of planning approval 03/00587/FUL, to allow an increase to 136 children to attend nursery at any one time	195 - 206
11.	20/00565/FUL, Kids 1st Nursery, North Tyneside General Hospital, Rake Lane, North Shields To consider a full planning application from Busy Bees Nurseries Ltd for the provision of a new modular garden building to serve the existing nursery.	207 - 222

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, 1 September 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

PQ92/20 Appointment of substitutes

There were no substitute members appointed.

PQ93/20 Declarations of Interest

There were no declarations of interest or dispensations reported.

PQ94/20 Minutes

Resolved that the minutes of the meeting held on 4 August 2020 be confirmed and signed by the Chair.

PQ95/20 Planning Officer Reports

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

PQ96/20 19/01216/FUL, Land Adjacent to Hatfield House, Borough Road, North Shields

The Committee considered a report from the planning officers, together with an addendum circulated prior to the meeting, in relation to a full planning application from Low Town Developments for the erection of 6no. three storey townhouse style terraced dwellings with communal parking and rear amenity space.

A planning officer presented details of the application with the aid of various maps, plans and photographs. During the meeting officers recommended that if the Committee were minded to grant permission then this be subject to an additional condition restricting the hours of construction.

In accordance with the Committee's Temporary Speaking Rights Scheme Carol Hawkins of Vicarage Street, North Shields had been granted permission to submit a written statement to the Committee. However Ms Hawkins had not responded to the invitation and no statement had been received.

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 stability of land surrounding the site;
- b) the responsibility of the developer and/or land owner for securing a safe development;
- c) the proposed condition requiring further investigations and mitigation measures in relation to contaminated and unstable land;
- d) the relationship between the application and the separate, unlinked application for the demolition of the Borough Road footbridge and the timing of each development which would be a matter for each developer to determine;
- e) the design of the town houses in relation to the site's gradients;
- f) the impact of the development on the character and appearance of the New Quay Conservation Area;
- g) the location of the proposed off street car parking; and
- h) the loss of trees, landscaping and part of a wildlife corridor.

Resolved that planning permission be refused on the following grounds:

1. The proposal would result in the loss of habitat and trees that would have an adverse impact upon biodiversity contrary to the advice in NPPF and policies DM5.5, DM5.7 and DM5.9 of the North Tyneside Local Plan 2017.
2. Insufficient information on land stability has been submitted to demonstrate that the site could be developed safely and not affect adjacent land such as Tennyson Terrace. The proposal is therefore contrary to the advice in NPPF and policy DM5.18 of the North Tyneside Local Plan 2017.
3. The proposed design would have an adverse impact upon the character and appearance of the New Quay Conservation Area contrary to the advice in NPPF and policies DM6.1 and DM6.6 of the North Tyneside Local Plan 2017, and The Design Quality Supplementary Planning Document (2018).

PQ97/20 20/00004/FUL, Site of Former NHS Flats, Rake Lane, North Shields

The Committee considered a report from the planning officers in relation to a full planning application from Lidl GB Ltd for the erection of a new discount foodstore (Class A1) with new access, associated car park and landscaping.

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

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 local highway network and in the context of proposed housing developments contained within the Local Plan;
- b) the loss of open space and the proposal to replace the loss with a grassed open space within the site; and
- c) the outcome of the applicant's town centre impact assessment and the cumulative impact of out of town retail developments.

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 highway safety, residential amenity, the character and appearance of the area, loss of open space, ecology and biodiversity.)

PQ98/20 20/00569/FUL, Backworth Park Primary School, Station Road, Backworth

The Committee considered a report from the planning officers, together with an addendum circulated prior to the meeting, in relation to a full planning application from North Tyneside Council for the development of the site for executive homes comprising 5no. four bedroom detached homes and 2 no. five bedroom homes.

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

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 highway safety in the surrounding area; and
- b) the condition requiring the applicant to submit for approval a construction method statement which would include details of how construction vehicles would access and operate on the site.

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

(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 heritage and design, the amenity of existing and future occupiers, parking and highway safety, trees, ecology and biodiversity and the loss of open space.)

PQ99/20 20/00871/FUL, Sterling Pharma Solutions Ltd, Dudley Lane, Dudley

The Committee considered a report from the planning officers, together with an addendum circulated prior to the meeting, in relation to a full planning application from Sterling Pharma Solutions Ltd for the construction of additional pre-treatment steps to be integrated with existing on-site biological effluent treatment plant. This will comprise additional enclosed storage tanks, biological treatment tanks and associated ancillary pipework. A greenhouse will be erected to the east of the existing biological effluent treatment plant.

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

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

- a) the reasons for the audible alarms heard from the site by neighbouring residents attributed to alarm tests;
- b) there being no history of complaints to the environmental health team regarding the

- operation of the plant; and
- c) a ward councillor's account of the positive relationship between Sterling Pharma Solutions and neighbouring residents.

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

(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 character and appearance of the area and highway safety.)

PQ100/20 11 East Farm Mews, Backworth, Tree Preservation Order 2020

The Committee gave consideration as to whether to confirm the making of the 11 East Farm Mews, Backworth Tree Preservation Order 2020. The Order had been made to protect a Sycamore Tree located in the grounds of 11 East Farm Mews, Backworth on 3 April 2020 in response to information from the owners of the property that they were considering felling the tree in question due to their concerns of the tree causing damage to their property.

An objection to the confirmation of the Order had been received from the owners of the land on the grounds of:

- a) The size of the tree in relation to the property and potential damage it could cause and not being appropriate to the current surroundings;
- b) The tree has very limited amenity value, with almost no public visibility and therefore shouldn't be considered for a TPO;
- c) The tree had suffered from branch failure and disease evidence on its leaves;
- d) The impact of the tree on the owners health was a serious concern; and
- e) Surrounding trees had been removed without being subject to a TPO therefore the principle to remove this tree should be acceptable.

The committee considered the objection, a response to the grounds for objection from the Council's landscape architect and guidance relating to the making of tree preservation orders.

Resolved that the 11 East Farm Mews, Backworth Tree Preservation Order 2020 be confirmed without modification.

(Reasons for decision: The sycamore tree is in fair condition, reasonably healthy with no major defects. It has high amenity value, located in a prominent position within the rear garden, highly visible to and enjoyed by a significant number of occupiers of neighbouring residential properties and from vehicular traffic and pedestrians on East Farm Mews. The tree in question is an important element of the local landscape and its biodiversity and provides important screening across the rear gardens of neighbouring properties. Confirming the TPO will not prevent any necessary tree work from being carried out, but will ensure the regulation of any tree work to prevent unnecessary or damaging work from taking place that would have a detrimental impact on the amenity value, health and long term retention of the tree. Protecting the trees will be in accordance with policies DM5.9, S6.5 and DM6.6 of the Council's Local Plan 2017.)

PLANNING COMMITTEE

Date: 29 September 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.

6	18/00881/FUL	Valley
	Land at Backworth Business Park, Eccleston Close, Backworth NEWCASTLE UPON TYNE	
	Speaking rights granted to Robin Wood, R & K Wood Planning LLP	
7	18/01373/FUL	Valley
	Holywell Engineering, Station Road, Backworth, NEWCASTLE UPON TYNE NE27 0AE	
	Speaking rights granted to Robin Wood, R & K Wood Planning LLP	
8	18/01374/LBC	Valley
	Holywell Engineering, Station Road, Backworth, NEWCASTLE UPON TYNE NE27 0AE	
	Speaking rights granted to Robin Wood, R & K Wood Planning LLP	
9	20/01073/FUL	St Marys
	8 Grenada Place and 7 St Johns Place, Whitley Bay, Tyne And Wear NE26 1HY	
10	20/00564/FUL	Collingwood
	Kids 1st Nursery, North Tyneside General Hospital, Rake Lane, North Shields, Tyne And Wear NE29 8AF	
	Speaking rights granted to Mr & Mrs Legg of Cotswold Road, North Shields	
11	20/00565/FUL	Collingwood
	Kids 1st Nursery, North Tyneside General Hospital, Rake Lane, North Shields, Tyne And Wear NE29 8AF	
	Speaking rights granted to Mr & Mrs Legg of Cotswold Road, North Shields	

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Application No: 18/00881/FUL Author: Maxine Ingram
Date valid: 29 June 2018 ☎: 0191 643 6322
Target decision date: 28 September 2018 Ward: Valley

Application type: full planning application

Location: Land at Backworth Business Park, Eccleston Close, Backworth, NEWCASTLE UPON TYNE

Proposal: Construction of 67 residential dwellings (C3) and 14 No. B1, B2 & B8 commercial units totalling 650 sqm, with associated road infrastructure, car parking spaces, open spaces, gardens and landscaping (Amended plans and reports received June/July2019)

Applicant: The Northumberland Estates, Mr Barry Spall Estates Office Alnwick Castle Alnwick NE66 1NQ

Agent: Mr Barry Spall, The Northumberland Estates Estates Office Alnwick Castle Alnwick NE66 1NQ United Kingdom

RECOMMENDATION:

It is recommended that members indicate they are minded to approve the application and authorise the Head of Environment, Housing and Leisure to determine the application subject to:

- a) the conditions set out below and the amendment to, addition or omission of any other condition considered necessary;
- b) the applicant entering into a legal agreement to secure the following:
 - a contribution of £22,759.00 towards a Coastal Mitigation Service to mitigate for the impacts on the Northumbria Coast Special Protection Area;
 - 12 no. affordable units; and,
 - an area of off-site ecology mitigation.

Members are requested to authorise that the Head of Law and Governance and the Head of Environment, Housing and Leisure to undertake all necessary procedures (Section 278 Agreement) to secure:

Alterations to existing access

New access

Upgrade to footpath abutting the site

Provision of traffic calming to 20mph in the vicinity of the site on Station Road

Provision of suitable pedestrian crossing point on Station Road

Associated highway drainage

Associated street lighting

Associated road markings

Associated signage

Associate legal orders

INFORMATION

1.0 Summary Of Key Issues & Conclusions

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

- Principle of the development;
- Impact on the character and appearance of the area, including adjacent heritage assets and the Backworth Conservation Area;
- Impact upon the amenity future residents, including the impacts on existing businesses;
- Impact on highway safety;
- Impact on biodiversity, including the Local Wildlife Site (LWS) and wildlife corridor;
- Other issues.

1.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Members need to consider whether this application accords with the development plan and also take into account any other material considerations in reaching their decision.

2.0 Description of the Site

2.1 The site to which this application relates is an area of land to the east of the B1322 and occupies an area of approximately 6.08 hectares. The land is open in character. Access to the site from the B1322 is provided from Eccleston Close, with existing workshops located close to the road frontage. A further two-storey building adjacent to the application site and Eccleston Close is occupied as offices, with a neighbouring industrial building and plot accommodating Keenan Processing Limited (Keenan's), fruit and vegetable wholesale. On the boundary to the north of the site is residential development on Claverley Drive, Telford Close, and Shrewsbury Drive.

2.2 The site is designated as a mixed-use site (Map Ref: 29 Backworth Business Park and Cottages, Backworth) in the Local Plan (LP). It is also designated as a wildlife corridor and part of the site is designated as a Local Wildlife Site (LWS).

3.0 Description of the Proposed Development

3.1 Planning permission is sought for the construction of 67 residential dwellings (C3) and 14 no. B1, B2 and B8 commercial units, with associated road infrastructure, car parking spaces, open spaces, gardens and landscaping.

4.0 Relevant Planning History

4.1 Application site

12/00637/FUL - Change of use of existing vacant employment land to residential (C3) and construction 65 residential units (including 13 affordable homes) with associated road infrastructure, structural landscaping, gardens and public amenity space – Refused 12.05.2015. Dismissed at appeal 31.08.2016

4.2 Reason for refusal:

The proposed development would result in an unacceptable level of amenity for the occupiers of the proposed residential properties and it would place unreasonable restrictions upon Keenan's Processing factory to the detriment of their business contrary to the advice in NPPF, policies E3, H5, and H11 of the North Tyneside Unitary Development Plan 2002.

4.3 Adjacent site – Holywell Engineering

18/01373/FUL - Demolition of several existing buildings. Conversion of existing Backworth Lodge, Dairy Cottage and Ivy Cottage to form 4no flats and 2no. dwellings. Erection of new apartment building (13no apartments) and 27no dwellings – Pending decision

18/01374/LBC - Demolition of several existing buildings. Conversion of existing Backworth Lodge, Dairy Cottage and Ivy Cottage to form 4no flats and 2no. dwellings. Erection of new apartment building (13no apartments) and 27no dwellings – Pending decision

5.0 Development Plan

5.1 North Tyneside Local Plan (2017)

6.0 Government Policies

6.1 National Planning Policy Framework (NPPF) (February 2019)

6.2 National Planning Practice Guidance (NPPG) (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 Local Planning Authorities (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 development;
- Impact on the character and appearance of the area, including adjacent heritage assets and the Backworth Conservation Area;
- Impact upon the amenity future residents, including the impacts on existing businesses;
- Impact on highway safety;
- Impact on biodiversity, including the Local Wildlife Site (LWS) and wildlife corridor;
- Other issues.

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

8.0 Background information

8.1 In 2016, an appeal, following the council's decision to refuse planning permission for 65 dwellings on part of the site subject of this application, was dismissed. The council refused the application as the housing would have had windows permanently fixed shut (see paragraph 4.2 of this report). The Inspector dismissed the appeal as the development would not have provided acceptable living conditions for future occupiers.

8.2 Since the appeal decision a number of factors have changed with regards to the site and this application, which include:

- Local Plan (2017) allocation for mixed-use development.
- Additional area of land to the east of the previous planning application site has been added to the mixed-use site allocation. This is included within this application.
- This application proposes both residential and commercial uses, the proposed dwellings are located away from Keenan Processing Ltd behind a noise bund and fencing, with commercial units proposed adjacent to Keenan Processing Ltd.
- This application is accompanied by a noise assessment which the applicant has used to form the proposed layout.

8.3 Members are advised that an application seeking full planning permission (18/01373/FUL) for the conversion of existing buildings to form 4no. flats and 2no. dwellings and the construction of 13no. apartments and 27no. dwellings has also been submitted. This application relates to the parcel of land to the south of this application site. This is being considered at the same planning committee as this application.

9.0 Principle of development

9.1 The Local Plan (LP) was adopted in July 2017 to guide development in the period up to 2032. The council acknowledges that the policies contained within the LP predate the publication of the revised NPPF however, it is clear from paragraph 213 of the NPPF that: "However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)." The council considers that, as the plan is recent, the local plan policies set out in this report are consistent with the NPPF and can be afforded significant weight.

9.2 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. For decision taking this means approving development proposals that accord with an up-to-date Plan without delay; or where there are no relevant development plan policies or the policies which are most important are out-of-date grant planning permission, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

9.3 Paragraph 59 of the NPPF states “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%.

9.4 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.

9.5 Strategic 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 strategic, development management and other area specific policies in the Plan. Amongst other matters, this includes: taking into account flood risk, impact on amenity, impact on existing infrastructure and making the most effective and efficient use of land.

9.6 The overarching spatial strategy for housing is to protect and promote cohesive, mixed and thriving communities, offering the right kind of homes in the right locations. The scale of housing provision and its distribution is designed to meet the needs of the existing community and to support economic growth of North Tyneside. Strategic Policy S4.1 ‘Strategic Housing’ sets out the broad strategy for delivering housing.

9.7 LP Policy DM1.3 Presumption in Favour of Sustainable Development states: “The Council will work pro-actively with applicants to jointly find solutions that mean proposals can be approved wherever possible that improve the economic, social and environmental conditions in the area through the Development Management process and application of the policies of the Local Plan.

Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision, then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:

- a. Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole; or
- b. Specific policies in the NPPF indicate that development should be restricted.”

9.8 LP Policy S4.3 Distribution of Housing Development Sites states: “The sites allocated for housing development are identified on the Policies Map of the North

Tyneside Local Plan 2017, including those identified for both housing and mixed-use schemes. The Strategic Housing Land Availability Assessment 2016 outlines that these sites have an overall capacity of approximately 8, 838 homes, assessed as being deliverable and developable over the plan period to 2032.”

9.9 The application site forms part of a larger site that is designated for a mixed use by LP policy S4.3 (29). This allocation covers both the Backworth Business Park site and the Holywell Engineering site, which it identifies as mostly greenfield, but having the potential to accommodate 65 homes. Paragraph 7.31 states “This policy (S4.3) has been identified as having the potential to cause adverse impacts on internationally protected wildlife sites. When implemented, regard should be had to policy DM5.6 that sets out the requirement for appropriate avoidance or mitigation of, or compensation for, any adverse effects.” The impacts of biodiversity are considered in section 14 of this report. However, in terms of the principle of development, this development requires appropriate assessment. Paragraph 177 of the NPPF states “The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.”

9.10 It is noted that an objection has been received stating that this application is contrary to policy S4.3 (29) of the LP, as it seeks too many houses on this site. The objector states that the LP identifies this site for 65 dwellings across the entire 8.5ha site. They state that in combination with the adjacent Holywell Engineering site (18/01373/FUL) there would be a total of 113 dwellings well in excess of what was envisaged in the LP. It is noted that this objection makes specific reference to the terminology used in the Inspector’s Report, including ‘modest and subservient’. However, the Inspector’s report also makes a range of other observations that can be taken from this paragraph including, “The extent of the site allocated and the policy framework to enable a modest amount of residential development would provide appropriate flexibility to find a pragmatic and viable solution to this long-standing opportunity site”. Clearly what modest means is subjective however, Members should consider whether the Inspector wanted to retain flexibility to essentially invite the landowners to come forward with schemes that provide a pragmatic solution to the issues on the site are viable and recognise the existing mix of uses and other constraints (mining history, biodiversity etc).

9.11 The Local Plan identifies that this designated mixed-use site overall can provide a potential of 65 units. The number given in the LP is only “potential” and has been derived for the purposes of assisting the Council to determine how much housing land it needs to provide to ensure enough housing is built. It has not been derived following any detailed design work. Members are advised that at an average density of 27 dwellings per hectare, this allocated mixed-use could accommodate 228 dwellings. The combined total of 113 dwellings across both schemes is consequently far from making the site a 100% residential scheme. Although the site would provide more housing than that indicated in the LP, that in itself is not harmful. The issue is whether the site can adequately accommodate the amount of housing proposed. This is considered in a latter section of this report however, Members must take into account the full range of

uses on the site: open space, trees, SUDS, commercial uses and weigh this against the number of dwellings proposed and consider whether this is overbearing.

9.12 The application site forms part of a larger site that is allocated for a mix of uses. This application would provide an element of mixed-use. This application on its own and alongside application 18/01373/FUL would provide more housing than that indicated in the LP but that in itself is not harmful. Members need to determine whether the principle of development is acceptable. It is officer advice, subject to all other matters set out below being addressed, that the principle of developing part of an allocated site for a mixed-use development is acceptable and is in full accordance with the advice in NPPF and policies DM1.3, S4.1 and S4.3 (29) of the North Tyneside LP 2017.

10.0 North Tyneside Council Housing Land Supply

10.1 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.

10.2 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).

10.3 The potential housing land supply from this proposal is included in the Council's Housing Land Availability Assessment (HLAA) (ref 66a).

10.4 The proposed development would assist in supporting the council's objective of meeting the objectively assessed housing need and ensure a mix of housing for both existing and new residents in the borough. This is therefore in accordance with LP policies S4.1 and S4.2(a) 'Housing Figures'.

11.0 Impact on the character and appearance of the area, including adjacent heritage assets and the Backworth Conservation Area

11.1 Paragraph 124 of the NPPF recognises that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

11.2 Paragraph 127 of the NPPF states that decisions should ensure that developments: will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; optimise the potential of the to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

11.3 Paragraph 91 of the NPPF, amongst other matters, seeks to promote healthy and safe communities. Decisions should aim to achieve healthy, inclusive and safe places which: promote social interaction....street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages; are safe and accessible....enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.

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

11.5 Under Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the impact of this development on the special architectural and historic interest of the setting of nearby heritage assets must be considered.

11.6 In respect of designated heritage assets, the NPPF states that when determining the impact on the significance of a heritage asset, great weight should be given to the assets conservation. The more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm total loss, or less than substantial harm to its significance (para 193). Potential impacts on heritage assets is further considered in paragraphs 194-196 of the NPPF.

11.7 At paragraph 200 of NPPF it states;
'Local planning authorities should look for opportunities for new development within conservation areas... and within the setting of heritage assets to enhance or better reveal their significance.

11.8 LP Policy DM6.1 Design of Development states: "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. Proposals are expected to demonstrate:

- a. A design responsive to landscape features, topography, wildlife habitats, site orientation and existing buildings, incorporating where appropriate the provision of public art;
- b. A positive relationship to neighbouring buildings and spaces;
- c. A safe environment that reduces opportunities for crime and antisocial behaviour;
- d. A coherent, legible and appropriately managed public realm that encourages accessibility by walking, cycling and public transport;
- e. Sufficient car parking that is well integrated into the layout; and,
- f. A good standard of amenity for existing and future residents and users of buildings and spaces.”

11.9 LP Policy S6.5 states that the Council aims to pro-actively preserve, promote and enhance its heritage assets.

11.10 LP Policy DM6.6 states that proposals that affect heritage assets or their settings, will be permitted where they sustain, conserve and, where appropriate enhance the significance, appearance, character and setting or heritage assets in an appropriate manner.

11.11 The Council has produced an SPD on design quality. It states that the Council will encourage innovation in design and layout, provided that the existing quality and character of the immediate and wider environment are respected and enhanced, and local distinctiveness is generated. It also states that all new buildings should be proportioned to have a well-balanced and attractive external appearance.

11.12 LP Policy DM7.9 ‘New Development and Waste’ states “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.”

11.13 Local Planning Authorities have the option to set additional technical requirements exceeding the minimum standards set by Building Regulations in respect of access and water efficiency, and a Nationally Described Space Standard (NDSS). In this context, access relates to how people access and use a dwelling and its facilities and for space, this relates to the internal space of a dwelling. During the preparation of the LP work was undertaken to establish whether there was a need to implement these higher standards in North Tyneside. The evidence concluded that there was a need, in terms of the optional standards relating to access and internal space, to introduce these higher standards. These housing standards are set out in Policy DM4.9 of the LP.

11.14 The objections received regarding the impact on the conservation area, the impact on visual amenity, the impacts on residential amenity and inappropriate design are noted.

11.15 Dairy Cottage, a Grade II Listed Building, is located to the south west of the application site, and the adjacent Backworth Conservation Area is located to the north and west, which the junction between Ecclestone Close and the B1322

sits within. The Backworth Village Conservation Area was designated in 1974; however, there is no character appraisal. It is acknowledged that Dairy Cottage and the conservation area have in the past been defined by the presence of the buildings and infrastructure related to Backworth Colliery on the application site, which has previously been indicated as being operational from the early 19th century until the cessation of mining in the late 1970's, with the removal of buildings, railway lines and sidings taking place in the 1990's. It is the view of officers that Dairy Cottage, which the application site is located within the setting of, would not be adversely affected by the development due to the intervening distance and the physical separation of the application site.

11.16 The area of the conservation area that abuts the application site includes a pocket of existing trees and the existing Backworth workshops on the north west boundary of the site. The majority of these trees within Group 1B will be retained. Therefore, it is considered that the site is well screened from the adjacent conservation area by the existing workshops fronting onto the B1322 and the existing vegetation and trees along the northern boundary of the site.

11.17 The land to the south of the existing workshops is enclosed by a brick wall, timber fencing and existing vegetation along its west boundary and its south west corner. The Design Officer has raised concerns regarding the proposed parking and substation in this area and their impact on the Backworth Conservation Area. However, due to the existing boundary treatment and vegetation, it is not considered that these will adversely impact on the character and appearance of this part of the conservation area. Furthermore, additional planting is proposed in this area.

11.18 The central area of open space, for recreational use and biodiversity enhancements, within the proposed site has a range of landscape proposals, such as amenity grass, neutral grassland, native shrub planting and landscape bunds with fencing. The concerns raised by the Design Officer regarding the visual impact of the mound when viewed from the adjacent conservation area are noted. This proposed mound, which is required to mitigate noise, is sited away from the junction with the B1322. Therefore, due to its positioning within the site, it is not considered that significant views of this mound would be afforded to such an extent that will sustain a recommendation of refusal.

11.19 The remainder of the conservation area to the west and north west of the application site will not be adversely affected by the proposed scheme due to the modern housing development that already exists adjacent to the conservation area, and the existing built form and landform to the west of the site. On balance, it is not considered that this development will result in a significant impact on the character and appearance of the adjacent conservation area. The significance of the heritage assets will not therefore be diminished by the development as it will not detract from their setting and will not therefore conflict with the policies of NPPF, which seek to conserve and enhance the historic environment.

11.20 It is noted that the most north east corner of the site abuts an area of designated Green Belt. However, the proposed built form of this development is set back from the Green Belt. Therefore, it is not considered that this

development will significantly impact on the openness of the Green Belt. As such, it complies with the NPPF and LP.

11.21 This development will provide a range of properties, including bungalows, 67 dwellings in total, as well as 14no. commercial units. The applicant has sought to address the concerns of the Design Officer by amending boundary treatments, their chosen palette of materials and adding features to the gables of the more prominently positioned dwellings. Overall, the Design Officer considers that the property types are traditional in their appearance and their design. A condition is recommended to secure the final materials to ensure a high quality of design is achieved. A further condition is recommended to secure the final boundary treatment details.

11.22 The proposed dwellings do not exceed two storeys; this height is commensurate to the residential dwellings located to the north of the site. It is clear from the site layout that each dwelling will have its own private amenity space, parking and refuse storage.

11.23 The proposed commercial units will be single storey. They are considered to be simple in terms of their design and visual appearance. In response to the Design Officer's comments the boundary treatment to the north, west and south of these units will be paladin fencing. Palisade fencing will be used to the rear of these units. Albeit, the use of palisade fencing is discouraged, its use in this part of the site is considered acceptable. A further condition is recommended to secure the final boundary treatment details.

11.24 The applicant considers that the submitted landscape proposal seeks to create a high-quality landscape framework that provides an attractive residential setting as well as opportunities for recreation and habitat value. The proposed landscaping includes the retention of existing natural features such as tree groups and hedgerows as well as proposed elements such as native shrub planting, ornamental shrub planting, neutral grassland seeding and native tree planting. The applicant considers that such proposals result in a greater range of flora and fauna species thus enhancing habitat and biodiversity value within the site, as well as creating an attractive residential setting.

11.25 Most of the existing woodland corridors within the site are retained and enhanced through additional native woodland planting, including planting to the north of the access from the B1322. The applicant considers that such enhancements serve to strengthen the habitat value of existing woodland corridors and to improve opportunities for wildlife movement, especially to mitigate the loss of parts of a wildlife corridor that currently runs through the site. Along the northern boundary of the site a landscape buffer treatment is implemented through native shrub and tree planting to soften the built edge boundary as well as to strengthen the existing native hedge that runs along the eastern perimeter of the site.

11.26 Neutral grassland is located across the site, particularly near woodland and within the open space in the centre of the site, to mitigate the loss of existing species-rich grassland and to offer habitat value. The applicant considers this to be a particularly important habitat for key species such as Dingy Skipper

butterfly, and a range of invertebrate and amphibious species that depend on such habitats, as well as to reinforce the landscape elements that contribute to the site's designation as a LWS. This open green space also offers, a village green-like character, with amenity grass which can be used for recreational purposes. The landscape bund in this area encloses the open space from the south. This bund also functions as noise mitigation with associated hedge and fence design, as well as providing habitat value.

11.27 To the north of the central open space, within the north west corner of the site, the residential layout and landscape proposals create a more concentrated form of development with properties positioned around a central courtyard area. Ornamental shrub and tree planting create an attractive residential environment. Native hedgerow and boulevard tree planting to the western edge follow a liner north-south axis to strengthen the formal residential character, as well as providing an element of screening from the existing workshops to the west.

11.28 The layout of the properties within the eastern part of the site area is less dense with properties spread out within small clusters. Areas of open green space surround properties to offer greater opportunities for landscape buffer treatments and habitat value, as well as space for space and recreational amenity.

11.29 SuDS basins, with a network of swales and ditches, within the scheme provide attenuation and local drainage, as well as attractive landscape features. The applicant has advised that these areas also provide the opportunity to introduce aquatic and marginal species to diversify the range of habitat within the site.

11.29 Several footpaths are located throughout the site providing pedestrian and recreational access links to facilitate movement across the site to the wider residential and public right of way (PRoW) network. The applicant has advised that fencing and signage will be implemented to reinforce recreation use and provide protection to more ecologically sensitive areas within the site and adjacent LWS.

11.30 The proposed dwellings comply with policy DM4.9.

11.31 The nearest residential dwellings are located to the north of the application site. The proposed layout demonstrates that the residential amenity of these properties would not be significantly affected in terms of loss of light or privacy. It has to be accepted that any views over the site from these properties would be altered as a result of this development.

11.32 The proposed layout would not result in any significant impacts on the potential future occupants of the adjacent Holywell Engineering site.

11.33 Members need to consider whether the proposed development is acceptable in terms of its design and layout, including its impact on the nearby heritage assets and the wider character and appearance of the Backworth Conservation Area. It is officer advice that the proposed number of units can be comfortably accommodated within the site without significantly impacting on the

nearby heritage assets or adversely impacting on the character and appearance of the conservation area or affecting the residential amenity of existing and future residents. This development is sympathetic, and the design and appearance of the properties is acceptable. As such, subject to the imposition of the suggested conditions, the development is in accordance with the advice in the NPPF, LP policies DM6.1, S6.5 and DM6.6 and the Design Quality SPD.

12.0 Impact upon the amenity future residents, including the impacts on existing businesses

12.1 Paragraph 180 of the 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 on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so, they should amongst other matters; mitigate and reduce to a minimum potential adverse impacts resulting from new development – and avoid noise giving rise to significant adverse impacts on health and quality of life.

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

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

Development proposed where pollution levels are unacceptable will not be permitted unless it is possible for mitigation measures to be introduced to secure a satisfactory living or working environment.”

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

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

12.6 Members are advised that the previous appeal decision relating to part of this application site was dismissed. The Inspector determined that having windows permanently fixed shut would not provide an acceptable residential living environment for future occupants. Members are advised that fixed shut windows are not being proposed for this development. It is proposed to have

openable windows on this site, but also to provide appropriate ventilation, so future occupants can cool their homes without needing to open their windows.

12.7 The objections received relating to impacts on residential amenity and noise, particularly the objection received from Keenan's, are noted.

12.8 A noise assessment has been submitted. The Manager of Environmental Health has been consulted. It is clear from their comments that they requested a number of points to be addressed by the applicant. The additional information provided by the applicant has been considered by environmental health. It is clear from their comments that the garden area belonging to plot 62 will be subject to levels of up to 52dB (A), as result of the noise arising from Keenan's. This would be border line adverse nuisance for daytime use of the garden area. Members are advised that this is based on worst case assessment of industrial noise over a one-hour period for the BS4142 calculation but the external noise levels with the acoustic screening will meet the World Health Organisation community noise guidance levels. The habitable rooms for plot 62 are designed so that they are on the screened side of the building. Furthermore, there is an area of private amenity space to the north of this bungalow that will afford greater protection from Keenan's.

12.9 Environmental health has confirmed that the properties closest to Keenan's will have noise sensitive facades facing away from this business. Three of the plots (45, 46 and 57) are shown to still have noise sensitive facades facing towards Keenan's but are located slightly further away from Keenan's and may be afforded some partial screening by other plots. The applicant has advised that the dominant noise for these properties is road traffic noise and rail noise from the east, rather than industrial noise from Keenan's.

12.10 Environmental health has advised that mitigation measures have been proposed to minimise potential nuisance and they have acknowledged the objection from Keenan's. The site layout design for those properties closest to Keenan's are designed so that the noise sensitive rooms are located on the screened façade. It is clear from their comments that internal noise levels can be achieved as the noise sensitive windows are on the screened facade.

12.11 Environmental health has advised that the use of a combination of earth bunding and fencing will help to mitigate noise for those properties closest to Keenan's. The applicant has confirmed that all garden areas are below the recommended WHO guidelines of less than 55dB LAeq for external amenity areas.

12.12 Environmental health has advised that the suggested planning conditions for the commercial units (Use Classes B1, B2 and B8) will be required to mitigate any potential impacts.

12.13 Paragraph 182 of the NPPF advises that planning decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. It goes on to state that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established.

12.14 It is clear from the Local Plan Inspector's Report May 2017 that it was justified in considering a mix of uses on this site. In their report they also considered the impacts of the existing Keenan's vegetable processing plant on bringing this site as a mixed-use site. The Inspector stated:

"The evidence points to the need to avoid housing in close proximity to these premises but I do not consider that it effectively sterilises the entire site from accommodating the relatively modest housing proposed. Looking at the wider site I am not persuaded that a subservient element of housing as part of a wider mix of uses could not be satisfactorily accommodated on the large 8.5ha site. The Council suggested that intervening uses could be successfully used including landscaping and/or compatible employment uses.....I was also advised that no environmental health objection has been received to the principle of a mixed-use approach on the site as part of this Local Plan.....

The extent of the site allocated and the policy framework to enable a modest amount of residential development would provide appropriate flexibility to find a pragmatic and viable solution to this long-standing opportunity site."

12.15 Although there would be more dwellings on the site than initially envisaged by the Inspector, it is clear from the environmental health comments that, subject to the suggested conditions, they have not raised any concerns regarding any unreasonable restrictions being placed on existing businesses and facilities as a result of this development. On balance, it is considered that the number of units proposed can be achieved.

12.16 The NPPF, paragraph 54 states "Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations." Paragraph 55 states "Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects." The NPPF paragraph 180 aims to "avoid noise from giving rise to significant adverse impacts on health and quality of life". Members are advised that it is clear from the environmental health comments set out in paragraphs 1.67-1.80 of the appendix to this report that appropriate mitigation to reduce the impacts arising from noise can be secured by conditions.

12.17 It is clear from the site layout that each dwelling will have its own private amenity space, parking and refuse storage. Sufficient privacy distances will also be achieved between the proposed dwellings and existing dwellings to the north of the site. As already advised, the proposed development will comply with policy DM4.9.

12.18 Members need to determine whether the proposed development is acceptable in terms of its impact on residential amenity and whether it could be integrated effectively with existing businesses and that these businesses would not have unreasonable restrictions placed on them as a result of this development. Based on the advice from environmental health, it is considered that the proposed development is acceptable in terms of its impact on the

residential amenity of future impacts and its impact on existing businesses, subject to the imposition of the suggested conditions. As such, it is officer advice that the proposed development does accord with the advice in paragraph 180 of the NPPF and LP policies DM5.19 and DM6.1.

13.0 Highways

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

13.2 Paragraph 108 of NPPF states that when assessing sites for specific development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and,
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

13.3 Paragraph 109 of NPPF states 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.

13.4 Paragraph 110 of NPPF sets out advice on sustainable transport and connections.

13.5 All developments 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.

13.6 Policy S7.3 states that the Council, will support its partners, who seek to provide a comprehensive, integrated, safe, accessible and efficient public transport network, capable of supporting development proposals and future levels of growth.

13.7 LP Policy DM7.4 New Development and Transport states: “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”. Amongst other matters this includes improving accessibility; being accompanied by the relevant documents; complying with the council’s parking and cycling standards.

13.8 LDD12 Transport and Highways SPD sets out the Council’s adopted parking standards.

13.9 The objections received regarding the impact on the highway network and lack of local services are noted.

13.10 Access to the site is provided off Ecclestone Close, utilising the existing road network and junction at the B1322. Access to the existing workshops on Ecclestone Close will be realigned and will allow for extra parking provision for visitors to the south of the existing workshops.

13.11 Various Public Rights of Way (PRoW) and desire lines run adjacent to or through the site, linking to footpaths in Brierdene Burn and through the village of Backworth to the north. It is clear from the site layout that this site provides numerous connections to the surrounding area.

13.12 The site is located within close proximity to local bus services. Northumberland Park Metro station is located to the south of the site. The site is also within easy access of local shops (Church Road to the north and Northumberland District Park to the south), schools and range of services and facilities.

13.13 A variety of techniques for parking provision have been used to minimise the impact cars in the public realm. Parking provision accords with the council's maximum standards. Cycle storage is provided either in garages or sheds to gardens. Refuse storage is provided within each plot. All refuse collections will be provided from adoptable highways.

13.14 The Highways Network Manager has been consulted. He has recommended conditional approval.

13.15 Members need to consider whether the proposal is acceptable in terms of its impact on highway safety and the wider highway network. It is officer advice that subject to conditions the proposal is acceptable. As such, the proposed development accords with the NPPF and the LP.

14.0 Impact on biodiversity, including the Local Wildlife Site (LWS) and wildlife corridor

14.1 An environmental role is one of the three dimensions of sustainable development according to NPPF, which seeks to protect and enhance our natural environment.

14.2 Paragraph 170 of the NPPF states that the planning policies and decisions should contribute to and enhance the natural and local environment. Amongst other matters, this includes minimising the impacts of biodiversity and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

14.3 Paragraph 174 of the NPPF states that when determining planning applications LPA's should aim to protect and enhance biodiversity and geodiversity by following the principles set out in paragraph 175 which includes, amongst other matters, if significant harm cannot be avoided, adequately mitigated, or as a last resort, compensated from the planning permission should be refused.

14.4 LP Policy S5.4 Biodiversity and Geodiversity states:

“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.”

14.5 LP DM5.5 Managing effects on Biodiversity and Geodiversity states:

“All development proposals should:

- a. Protect the biodiversity and geodiversity value of land, protected and priority species and buildings and minimise fragmentation of habitats and wildlife links; and,
- b. Maximise opportunities for creation, restoration, enhancement, management and connection of natural habitats; and,
- c. Incorporate beneficial biodiversity and geodiversity conservation features providing net gains to biodiversity, unless otherwise shown to be inappropriate. Proposals which are likely to significantly affect nationally or locally designated sites, protected species, or priority species and habitats (as identified in the BAP), identified within the most up to date Green Infrastructure Strategy, would only be permitted where:
- d. The benefits of the development in that location clearly demonstrably outweigh any direct or indirect adverse impacts on the features of the site and the wider wildlife links; and,
- e. Applications are accompanied by the appropriate ecological surveys that are carried out to industry guidelines, where there is evidence to support the presence of protected and priority species or habitats planning to assess their presence and, if present, the proposal must be sensitive to, and make provision for, their needs, in accordance with the relevant protecting legislation; and,
- f. For all adverse impacts of the development appropriate on-site mitigation measures, reinstatement of features, or, as a last resort, off site compensation to enhance or create habitats must form part of the proposals. This must be accompanied by a management plan and monitoring schedule, as agreed by the Council.

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

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

14.7 LP Policy DM5.7 Wildlife Corridors states: “Development proposals within a wildlife corridor, as shown on the Policies Map, must protect and enhance the quality and connectivity of the wildlife corridor. All new developments are required to take account of and incorporate existing wildlife links into their plans at the design stage. Developments should seek to create new links and habitats to reconnect isolated sites and facilitate species movement.”

14.8 Natural England has been consulted. The application site falls within the 6km ‘zone of influence’ for coastal sites designated at a national and international level as Sites of Special Scientific Interest (SSSI) and Special Protection Areas (SPA’s)/Special Areas of Conservation (SAC)/Ramsar sites. Since this application will result in a new increase in recreational accommodation, impacts to the designated sites may result from increased recreational disturbance.

14.9 This development will need to comply with the Coastal Mitigation SPD which provides guidance and information on the mitigation required from development within North Tyneside to prevent adverse impacts on the internationally protected coastline. Natural England are satisfied that, subject to the coastal mitigation contribution being secured, there will be no damage or disturbance to the coastal areas.

14.10 The objections received regarding the impacts on biodiversity and protected sites are noted.

14.11 Members are advised that the site is designated as a wildlife corridor and part of the site is designated as a Local Wildlife Site (LWS). The site links to the remaining part of the Eccles Colliery LWS along its southern and eastern boundary. It is important to note that the site is also designated as a mixed-use site within the Local Plan (2017). Members are advised that prior to the adoption of the Local Plan (2017), this site was designated as an employment site in the former Unitary Development Plan (UDP) 2002. During the UDP the site was designated as a LWS in 2007. Notwithstanding, the sites designation as a LWS and a wildlife corridor, the council has accepted, that this land (under its current allocation under the LP and its previous allocation under the UDP) is also designated for future development.

14.12 The previous planning application was refused on the grounds of the impact on the amenity of future occupants, it was not refused on the grounds of biodiversity. Members are advised that this application would result in the loss of a similar amount of the LWS as this previously dismissed planning application. The Inspectors comments from the previous appeal decision regarding biodiversity are set out below.

14.13 Paragraph 25 of Inspector’s report states:

“Turning to biodiversity, the proposals would see the loss of a part of the Eccles Grassland Local Wildlife Ste (LWS), which was designated for its species rich grassland. However, in the basis of the evidence and recent surveys it would seem that the previous value of the grassland as habitat has significantly diminished to the extent that it would no longer meet the designation criteria. Nevertheless, the appellant has proposed off-site mitigation in the form of an alternative site as an enhancement to replace the loss of existing habitat. Whilst

the surveys did not reveal any protected species which would be directly affected by the development, I note that the proposed development would incorporate measures to enhance the biodiversity value of the site.”

14.14 The applicant has identified several potential impacts, recommendations and mitigation measures within their supporting information:

-Impacts on statutory designated sites (The Northumbria Coast Special Protection Area (SPA) and Northumbria Coast Ramsar site) approximately 5.4km to the east of the site. A small increase in recreational use of the coastal areas may occur as a result of this development. Applicant considers this impact could be offset by the use other sites within the vicinity. Direct impacts to the Holywell Site of Special Scientific Interest (SSSI) are considered to be negligible due to the distance of the designated site from the application site (approximately 3.4km) and the accessibility of the designated site.

-Habitat loss will occur to accommodate this development. This will take place during the construction phase of the development with no further habitat loss expected during the occupation phase. Without mitigation there would be a net loss of habitats. Onsite and offsite mitigation is proposed to mitigate this loss. The majority of woodland habitats will be retained with a loss of a small area of woodland along the northern boundary.

-Badgers: No signs of badger were noted during the walkover survey and therefore no impacts on badger are anticipated as a result of the proposed development.

-Bats: During the construction phase some localised impacts on bat foraging habitat may occur as a result of the loss of small sections of woodland to accommodate the proposed development. During the occupation of the site there may be an increase in on-site lighting during the spring, summer and autumn periods, which is when bats are more active (bats are likely to be hibernating over the winter period). Increased lighting has the potential to disrupt bat movement and foraging activity, in particular along the woodland near the northern site boundary. The majority of the woodland and hedgerows around the site boundaries are to be retained; however, so as not to compromise their value to foraging and commuting bat species, lighting must be designed sympathetically in accordance with guidance published by the Bat Conservation Trust & Institute of Lighting Engineers (2009). It is therefore recommended that lighting in the vicinity of any retained habitats and the new landscaped habitats within the site should be designed to minimise light spillage on sensitive habitats. A total of 4 bat boxes should be recommended.

-Breeding birds: A total of 10 nest boxes suitable for use by a range of passerine species should be erected within retained woodland around the site boundary. All vegetation clearance should ideally be carried out of the breeding seasons for birds i.e. April to August. This should minimise the risk of disturbance to or harming of nesting birds. If it is necessary to carry out vegetation clearance during the bird breeding season advice should be sought from a suitably qualified ecologist before work commences. This will usually involve a walkover survey to check to see if nesting birds are present in the area where work is scheduled to take place. If nesting birds are found to be present, then it is likely that the nest will have to be protected from damage or disturbance until the adults and young have left. This will be achieved by marking out a protection zone around the nest site, the size of the zone being dependent on various factors, such as the density of the vegetation and the species of bird present.

14.15 Since the original submission of this application, the applicant has provided the following additional information to try and overcome both the Council's Biodiversity Officer and Landscape Architect objections:

- Dingy Skipper Habitat Area
- Landscape proposals plan
- Compensation Site Ecology Report
- Landscape and Ecological Management Plan
- Butterfly Survey

14.16 The Councils' Biodiversity Officer has been consulted. Her previous comments outlined the issues with the proposed scheme and set out the reasons why the scheme was not acceptable including the loss of part of a LWS, its failure to meet LP policies and the principles of NPPF. Albeit, additional information has been submitted to support the application, she considers that the scheme remains unchanged and continues to impact a designated LWS resulting in the partial loss of the site as well as impacts on the remaining part of the LWS directly adjacent. She also considers that the development will impact on the wildlife corridor as result of the loss of the LWS and severance of the corridor. She has objected to this development, as in her opinion, it is contrary to policies S5.4, DM5.5, DM5.7 and the advice in paragraphs in 170, 174 and 175 of the NPPF. Her comments are set out in full in the Appendix to this report (paragraphs 1.1-1.37).

14.17 The Biodiversity Officer has advised that a large part of the existing Eccles Colliery LWS will be lost to provide housing as part of this development and the remaining part of the LWS will be impacted by the proximity of the housing scheme directly adjacent (noise and lighting impacts) as well as ongoing recreational impacts (dog walking etc) from residents. The scheme will also sever the wildlife corridor with associated impacts on wildlife dispersal and connectivity. She considers that the importance of the wildlife corridor is demonstrated by the presence of the Dingy Skipper butterfly on site which is a UK Priority Species listed on S41 of the NERC Act (2006).

14.18 Members are advised that the size of part of the LWS to be lost is of a similar size to the area proposed to be lost in 2012. Despite the previous appeal being dismissed, the loss of this part of the LWS was accepted. Members are also advised that the wider wildlife corridor to the west of the site is severed from the application site by a road, a stone wall that encloses part of the Backworth golf course and the existing housing to the north of the site. The most north eastern boundary of the application site will remain linked to the wildlife corridor located to the east of the site.

14.19 The applicant has advised that the mixed-use development seeks to provide a high-quality landscape framework that provides an attractive residential setting as well as opportunities for recreation whilst retaining existing wildlife corridors across the site and enhancing landscape buffers to the adjacent LWS. The overall site layout, including landscaping, has been discussed in greater detail in Section 10 of this report.

14.20 This development seeks to retain current pedestrian access links to facilitate movement across the site to the wider residential area and Public Right of Way (PRoW) network. The applicant has advised that the retention of existing access links is also accompanied by the provision of appropriate signage and facilities to ensure the public are aware of the importance of the site as a LWS and understand how to use the site with minimal impact on the LWS. Members are advised that the application site and LWS are already publicly accessible.

14.21 The submitted landscape proposals include the retention of most of the existing landscape features such as tree groups and hedgerows, as outlined in the submitted Arboricultural Impact Assessment (AIA), as well as proposing additional woodland, native shrub, hedgerows, specimen trees and neutral grassland. Three areas for SuDS basins also provide the opportunity to introduce aquatic and marginal species to diversify the range of habitats found within the site. On-site mitigation of neutral grassland loss is achieved through proposed neutral grassland seeding throughout the proposed scheme. Off-site mitigation is also proposed via an additional area of neutral grassland seeding on a site north of Backworth to compensate for its loss within the proposed development site.

14.22 Street trees, formal hedgerows of evergreen/semi-green species and ornamental shrub planting will create an attractive street scene and provide visual interest for new residents. Open space at the heart of the site will create an area of recreational value whilst the remainder of the proposed open space will enhance the existing green corridors through the site and enhance the site's biodiversity value. Although some habitat loss will be apparent as a result of the development the applicant has advised that their landscape proposals look to provide links across the site to retain the habitat corridors for species such as mammals (including bats), birds and invertebrates. The applicant has also advised that the areas of habitat creation specifically for dingy skipper butterfly link to potential habitats within the adjacent LWS, therefore should the species subsequently colonise adjacent areas there is potential for populations to expand into the development site.

14.23 The Biodiversity Officer has advised that there is no evidence to demonstrate how the benefits of housing in this particular location clearly and demonstrably outweigh the direct and indirect impacts on the LWS, the wildlife corridor and a UK Priority Species. She goes on to state in her comments that: "This site was designated as a LWS in 2007 and therefore its designation pre-dates the housing allocation by 10 years. LWS are designated for wildlife and should be adequately protected by the LP policy and the NPPF and housing should be allocated on appropriate sites which do not result in damaging environmental impacts". As already set out in paragraph 14.11 this site has always been designated for development, the UDP adopted in 2002 allocated the site for employment use. Therefore, historically the site was allocated for development prior to it being designated as a LWS. Despite being a designated LWS the council has to accept that it is also designated as a mixed-use site, and that there are aspirations for development to take place on this site, subject to an appropriate scheme being delivered.

14.24 By designating this land for mixed-use, as well as LWS, the council has to accept some harm to biodiversity, including the LWS, and balance this against its

obligation to deliver housing to meet its identified housing targets. As per the requirements of NPPF, an application should be refused if the development cannot be adequately mitigated, or as a last resort, compensated for. Members are advised that the applicant has sought to mitigate the harm to biodiversity through on and off-site mitigation, which is recognised as an option by the NPPF.

14.25 The Biodiversity Officer has advised that insufficient information has been submitted regarding the off-site compensation land. She considers that there is a possibility that the loss of the LWS could not be adequately mitigated and that little evidence has been provided to demonstrate that the site could be successfully converted from arable land to species rich brownfield grassland site of a similar type and quality to that being lost.

14.26 The applicant acknowledges that the proposed development will impact on land that has ecological interest, with part of the site being designated as a LWS for the habitats and vegetation that are present. The applicant's position is clear, it is not possible to fully mitigate the ecological impacts of the development within the site, it will be necessary to provide compensation on land outside of the site. This approach is recognised by the NPPF.

14.27 The applicant has sought to address initial comments raised by the Council's Biodiversity Officer by providing additional requested surveys and increasing the size of the off-site mitigation to mitigate for the area of LWS and grassland habitat being lost to facilitate the development. The objective of the off-site grassland creation is to convert arable farmland (currently under grass ley) into good semi-improved grassland that is similar in character to the grassland habitat that was present within the site at the time it was designated a LWS. The applicant has advised that the habitat creation will be carried out with reference to published guidance. The area of land identified for the habitat creation extends to approximately 5ha; this excludes the triangular shaped area of unmanaged land that is present on the southern side of the site. The Council's Biodiversity Officer has previously advised that the area of semi-improved grassland/scrub mosaic to the south east of the compensation site should be excluded as this area has its own ecological value. Consequently, this area is not included in the compensation habitat creation proposals. As per, the previously dismissed appeal, it is considered reasonable to secure the off-site mitigation (the area of land or such other area of land) to be used for the creation of a species-rich grassland to compensate for the loss of the grassland on the site, to be secured as part of the S106 Agreement. It is acknowledged that the applicant has provided details of habitat creation, management and monitoring of the compensation site. It is considered that, should planning permission be granted, that a clause is added to the S106 Agreement to secure a scheme to be submitted to the council setting out the works of construction to create the off-site mitigation, together with a scheme for its subsequent maintenance.

14.28 Members need to consider whether the off-site mitigation recommendations could be delivered and secured through a management plan that forms part of the S106 Agreement.

14.29 The Biodiversity Officer has advised that the Dingy Skipper report provides no information on the transect route or a map showing the locations of butterflies

found within the site. The proposed mitigation includes areas of wildflower grassland (already designed into the scheme to address species rich grassland loss). She has advised that these areas are proposed mainly in open landscaped areas which provide open space for residents (with the exception of the eastern boundary). In her opinion, these areas will therefore be subject to high levels of disturbance, reducing their value to dingy skipper. She has also advised that no details of specific brownfield habitat creation for dingy skipper butterfly has been submitted (e.g. appropriate substrates, bare ground and target foodplants).

14.30 The submitted Butterfly Survey Report advises that a small population of dingy skipper butterfly has been recorded within the site (along the northern boundary), with two specimens being recorded on one occasion. This survey indicates that bird's-foot trefoil, which is the larval food plant of dingy skipper, is present within the site; however, it has a patchy distribution and has limited abundance: analysis of data from 2017 shows that bird's-foot trefoil was only recorded in 6 of 30 quadrats surveyed and generally at quite a low domain score; the areas were quite widely spread across the site. More extensive stands of this plant are present outside of the site to the south and south-east, within the adjacent LWS.

14.31 Within the supporting information submitted by the applicant, they have advised that data requests undertaken by their appointed ecologist show that there have been two records of the dingy skipper butterfly within 2km of the site since 2010. The location of these records is separated from the application site by the A186, as it was at the time of the surveys in 2010. Since, then there have been no further records of the dingy skipper butterfly within 2km of the site. It is therefore considered that the small population of dingy skipper that has been recorded reflects the habitat conditions within the site (i.e. limited availability of bird's-foot trefoil) and habitat connectivity with the nearest potential 'donor' population. The applicant's ecologist has advised that the proposed development will result in the loss of the existing grassland habitat including areas that support bird's-foot trefoil, which is the larval food plant of the dingy skipper butterfly. In the absence of mitigation and compensation, it is likely that this will result in the loss of the small dingy skipper population. Within the supporting information site plans show the location of the proposed dingy skipper mitigation, including an area of land within the eastern landscape buffer (planted to be not accessible to the public), to the east of plots 24-29, to the south of the noise bund, to the east of plots 65 and 66 and to the south of plot 57. The applicant has advised that this will be delivered by the planting of neutral grassland throughout the site, to create a mosaic herb-rich vegetation (with a high component of Bird's-foot trefoil) and bare ground for the dingy skipper. Stripping areas of existing herbaceous top-soils for re-use within the proposed scheme will further reinforce the provision of the habitat for the dingy skipper. The main dingy skipper habitat is focused primarily to the south-facing aspect of the proposed bunds within the centre of the site, as well as the corridor of neutral grassland to the eastern site boundary. Habitat areas form links both north-south and east-west across the site. It is officer advice, that the final details of the dingy skipper habitat to be provided on site could be controlled through and appropriately worded condition.

14.32 The surveys carried out by the applicant's appointed ecologist, indicate there are no signs of other protected species on site and that the site offers limited opportunities for bats and breeding birds.

14.33 With regards to pressure on the adjacent LWS, Members must consider that this is already public accessible by the existing PRow network. It is acknowledged that this development may result in an increase in usage however the layout has been designed to utilise existing links. This approach should encourage users to use the formal routes rather than encourage them to create their own informal routes over the proposed open spaces which are to be used for biodiversity purposes. The use of planting will also discourage users from using the open spaces proposed for biodiversity i.e. the open space to the eastern part of the site.

14.34 As with other approved residential schemes, it is considered that adverse impacts from lighting could be conditioned.

14.35 LP DM5.9 Trees, Woodland and Hedgerows states: "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:

- Protect and manage existing woodland, trees, hedgerows and landscape features.
- Secure the implementation of new tree planting and landscaping schemes as a condition of planning permission for new development.
- Promote and encourage new woodland, tree and hedgerow planting schemes.
- 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 LPA."

14.36 The Council's Landscape Architect objects to this application. She has advised that the site is an established landscape that supports biodiversity and ecosystems which are an essential component of a wider framework that is needed for environmental sustainability. She has advised that a large part of the LWS will be lost under this application. The remaining part of the LWS will become very much reduced in size, fragmented by urbanisation, with habitats and ecosystems that can be damaged by public access. She has further advised that this scheme will result in the loss of a large area of habitat within the wildlife corridor that will result in the severance of established ecosystems and impact on wildlife dispersal and connectivity.

14.37 In terms of the landscape, the Council's Landscape Architect has advised that the existing landscape features including trees, hedgerows, grasslands and ponds make an important contribution to the character and biodiversity of the areas and it is essential that new development does not lead to the loss of, or pose a future threat to, such features. In her opinion, the LWS and associated grasslands is a landscape that exists already and therefore has value in its own right. The loss of a landscape which has value, results in a change to the landscape quality and can be seen as a 'disturbance' in the intactness of the landscape and its overall condition. The loss of part of a wildlife site and the

visual and ecological changes that will experienced is not something that can be easily replaced and consequently the proposed scheme is unlikely to achieve a sustainable and resilient environment. Changes could be introduced that could lead to a decline in its function as a wildlife site such as access, noise, and light pollution can alter the character of the landscape on a permanent basis. The impacts on a LWS and disturbance within a wildlife corridor is significant resulting in irreversible change and the LP policies need to be used to protect and enhance the quality, character and amenity value of land within urban areas. Her position is that the scheme as presented is not in accordance with the Council's policies as set out in detail by the Biodiversity Officer (Appendix to this report, paragraphs 1.38-1.45).

14.38 The site layout and proposed landscaping has already been discussed in detail in Section 10 of this report.

14.39 With regard to the existing trees on the site, they have been evaluated in accordance with British Standard 5837-2012 Trees in relation to design, demolition and construction, with regard to their quality and value. Whilst there is currently no TPO's protecting the trees on the site and the majority of the site is not located within a conservation area, the collective tree, shrub groups and grassland defines the land as LWS and wildlife corridor.

14.40 The site has been planted in part with perimeter shelterbelts of fast-growing species which include poplars, willows, alders and hawthorn. The planting density is high with a high degree of natural regeneration extending beyond the planted areas. The applicant's arboriculturalist has highlighted that due to the planting density, the groups are starting to self-thin with suppressed individuals starting to die principally towards the middle of the groups.

14.41 It will be necessary to remove some of the existing trees (Trees 2-5, Group 6, parts of groups 1, 7 and 22) to facilitate the proposed development and to establish a higher level of arboricultural management for the site. Their removal is required to facilitate the construction of the new buildings and associated infrastructure. Of the 4no. trees shown for removal, 1no. are category B trees, and 3 are category C trees as defined in the British standard. Part of groups 1 and 7 are category B, with the remainder categorised as C. No trees have been identified as U, requiring immediate removal. The impact assessment has confirmed that groups 2 and 22 will require tree protection and a modified area of special construction within the root protection area (RPA). On balance, the loss of these trees is considered to be acceptable, subject to a condition securing a detailed landscaping scheme which must include replacement trees.

14.42 Members need to consider whether the proposal is acceptable in terms of its impact on biodiversity, including the loss of part of the LWS and the wildlife corridor, and landscaping. It is officer advice, subject to conditions and securing the off-site mitigation via S106 Agreement, that this development will avoid harm to biodiversity in accordance with the advice in NPPF and LP policies S5.4, DM5.5, DM5.6, DM5.7 and DM5.9.

15.0 Other issues

15.1 Flooding

15.2 Paragraph 157 of the NPPF advises that all plans should apply a sequential, risk-based approach to the location of development – taking into account the current and future impacts of climate change – so as to avoid, where possible, flood risk to people and property.

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

15.4 LP 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.

15.5 LP 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. For greenfield sites, surface water run-off post development must meet or exceed the infiltration capacity of the greenfield prior to development incorporating an allowance for climate change.

15.6 LP 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).

15.7 The objections received regarding inappropriate drainage and flood risk area noted.

15.8 A Flood Risk Assessment (FRA) has been submitted to accompany this planning application. This assessment has been considered by the Lead Local Flood Authority (LLFA) and Northumbrian Water.

15.9 The FRA advises that the application site is located within Flood Zone 1 (lowest risk) with a medium to high risk of pluvial flooding in certain places. The site generally slopes from west to east; however, topography is variable across the site. A small watercourse, the Brierdene Burn, is located to the east of the site, flowing from south to north. There is an additional drainage ditch which runs along the southern boundary of the site and flows into the Brierdene Burn at the south east corner of the site.

15.10 The FRA advises that surface water drainage would be managed on site through the provision of three attenuation ponds, a cellular storage tank and all private driveways/ parking areas to be permeably paved. These measures would provide surface water storage within the site for up to a 1 in 100-year rainfall

event. The scheme would also include swales to provide additional storage and would convey surface water through the south east part of the site. The attenuated surface water would then discharge into the Brierdene Burn at one location at a restricted rate of 21.8 litres per second. In addition, the proposals highlight that properties will be constructed at a finished floor level of 52.5m AOD in order to provide additional floor protection in the event of a culvert blockage.

15.11 The LLFA has confirmed that they have no objections to this development, subject to the imposition of the suggested conditions set out in the appendix to this report (paragraphs 1.54-1.56).

15.12 Northumbrian Water (NWL) has been consulted. NWL has recommended conditional approval.

15.13 Members need to consider whether the proposal is acceptable in terms of its impact on flooding. It is officer advice that subject to conditions it is acceptable.

15.14 Ground conditions

15.15 Paragraph 178 of the NPPF states 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 i.e. mining or land remediation. Paragraph 179 of the NPPF goes on to say that where a site is affected by contamination or land instability issues, responsibility for securing a safe development, rests with the developer and/or landowner. In addition, NPPG makes it clear that planning applications in the defined Coal Mining High Risk Area must be accompanied by a Coal Mining Risk Assessment.

15.16 LP Policy DM5.18 Contaminated and Unstable Land states “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:

- a. Shows that investigations have been carried out to assess the nature and extent of contamination or stability issues and the possible effect it may have on the development and its future users, biodiversity, the natural and built environment; and
- b. Sets out detailed measures to allow the development to go ahead safely and without adverse affect, including, as appropriate:
 - i. Removing the contamination;
 - ii. Treating the contamination;
 - iii. Protecting and/or separating the development from the effects of the contamination;
 - iv. Validation of mitigation measures; and
 - v. Addressing land stability issues.

Where measures are needed to allow the development to go ahead safely and without adverse affect, these will be required as a condition of any planning permission.”

15.17 The NPPF sets out that LPAs should define Mineral Safeguarding Areas (MSAs), with further detail included in National Planning Practice Guidance

(2014). The whole of the local plan area has been identified as a MSA. Policy DM5.17 Minerals is considered to be relevant.

15.18 The applicant has submitted a Phase 2 Site Investigation Report. This report has been assessed by the Contaminated Land Officer. She has recommended conditional approval.

15.19 The Coal Authority has been consulted. They have advised that, based on the information contained in the Geo-Environmental Study Report (22 February 2018), the content of which confirmed the site to be safe and stable from a mining viewpoint. This was further reinforced in the proposed layout, which had been designed around the recorded mine entries, of which have been treated.

15.20 The Coal Authority now notes the submitted Geo-Environmental Appraisal (July 2019), confirms potential risks posed by mine gas within 50m of the historical shafts and that gas protection measures will be required. It is clear from their comments that The Coal Authority agrees with the applicant's consultants approach to gas protection measures, subject to these protection measures being installed by an approved contractor and verified following installation. Subject to the imposition of this condition, they have not raised any objections.

15.21 The Environment Agency (EA) has been consulted. They have raised no objection to the proposed development.

15.22 Members need to consider whether the site is appropriate for its proposed use. It is officer advice, subject to conditions that the site would be appropriate for housing and mixed uses in accordance with the advice in NPPF and Policy DM5.18 of the LP.

15.23 Archaeology

15.24 Paragraph 199 of the NPPF states "Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.

15.25 LP DM6.7 Archaeological Heritage seeks to protect, enhance and promote the borough's archaeological heritage and where appropriate, encourage its interpretation and presentation to the public.

15.26 The Tyne and Wear Archaeology Officer has been consulted. She has advised the site is covered by two archaeological desk-based assessments. One for the east part of the site and one for the west part of the site. These assessments have not been submitted with this application. However, she has confirmed that the site is of industrial archaeological interest. It is clear from her comments that conditional approval is recommended.

15.27 Aviation Safety

15.28 Newcastle International Airport Limited (NIAL) has been consulted. They have recommended conditional approval.

16.0 S106 Contributions

16.1 Paragraph 54 of NPPF states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

16.2 Paragraph 56 of NPPF states that planning obligations must only be sought where they meet all of the following tests;

- 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 LP S7.1 General Infrastructure and Funding states “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.”

16.4 LP Policy DM4.7 states that the Council will seek 25% of new homes to be affordable on new housing development of 11 or more dwellings, taking into consideration specific site circumstances and economic viability.

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

16.6 LP Policy DM7.5 'Employment and Skills' seeks 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.

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

16.8 The applicant has submitted a viability appraisal which has been independently assessed and discussed with IPB. It has been resolved to provide 12no. affordable units and no other S106 contributions.

16.9 The affordable housing provision is considered necessary, directly related to the development. As such, the development complies with the CIL Regulations, the NPPF and LP policies.

16.10 A CIL payment will be required in respect of this development.

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 67no. 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 Conclusions

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

18.3 The application site lies in close proximity to an existing built up area and it is located in close proximity to existing local services. Members need to consider the objections received from the Council's Biodiversity Officer and the Landscape Architect regarding the loss of part of a LWS and its impact on the wildlife corridor against bringing this site forward for a mixed-use development. Other consultees are satisfied that the development is acceptable in terms of its impact on the highway network, its impact on flood risk, its impact on ground conditions, its impact on the nearby heritage assets and conservation area, the impact on the amenity of future occupants, the impact on existing businesses and its overall design and appearance.

18.4 On balance, approval is recommended, subject to conditions and securing off-site mitigation, coastal mitigation and affordable housing provision through a S106 Agreement.

RECOMMENDATION: **Minded to grant legal agreement req.**

It is recommended that members indicate they are minded to approve the application and grant plenary powers to the Head of Environment, Housing and Leisure to determine the application subject to:

- a) the conditions set out below and the amendment to, addition or omission of any other condition considered necessary;**
- b) the applicant entering into a legal agreement to secure the following:**
 - a contribution of £22,759.00 towards a Coastal Mitigation Service to mitigate for the impacts on the Northumbria Coast Special Protection Area;**
 - 12 no. affordable units; and,**
 - an area of off-site ecology mitigation.**

Members are requested to authorise that the Head of Law and Governance and the Head of Environment, Housing and Leisure to undertake all necessary procedures (Section 278 Agreement) to secure:

Alterations to existing access

New access

Upgrade to footpath abutting the site

Provision of traffic calming to 20mph in the vicinity of the site on Station Road

Provision of suitable pedestrian crossing point on Station Road

Associated highway drainage
Associated street lighting
Associated road markings
Associated signage
Associate legal orders

Conditions/Reasons

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

- Site location plan LP-01
- Existing layout Dwg No. EX-01
- Proposed site layout Dwg No. SL-01S
- External finishes Dwg No. EF-01D
- Housetype booklet (June 2019):
 - HT B2 CAT 3 NDSS - Plans and elevations Dwg No. B2-01
 - Housetype NB Dwg No. HTNB-01
 - HT 2B4P CAT 2 NDSS - Plans and elevations Dwg No. 2B4P-02
 - HT 2B4P NDSS - Plans and elevations Dwg No. 2B4P-01
 - HT 2B4P CAT 2 NDSS Plans and elevations Dwg No. 2B4P-03
 - HT 3B5P CAT 2 NDSS Plans and elevations Dwg No. 3B5P-01
 - HT 3B5P WF NDSS Plans and elevations Dwg No. 3B5P-05
 - HT 3B5P CT NDSS Plans and elevations Dwg No. 3B5P-02
 - HT 3B5P V2 NDSS Plans and elevations Dwg No. 3B5P-03
 - HT3B5P CAT 2 NDSS Plans and elevations Dwg No. 3B5-04
 - Housetype L elevations Dwg No. HTL -01
 - Housetype L plan Dwg No. HTL-02
 - Housetype M elevations Dwg No. HTM-01
 - Housetype M plans Dwg No. HTM-02
 - Housetype P elevation Dwg No. HTP-01
 - Housetype P plan Dwg No. HTP-02
 - Single garage plan and elevation Dwg No. SG-01
 - Double garage plan and elevation Dwg No. DG-01
 - Bin store plan and elevation Dwg No. BS-01
 - Cycle store plan and elevation Dwg No. CS-01
- Commercial unit 1-14 floor plan and elevation Dwg No. CU-02A
- Sub station plan and elevation Dwg No. SBS-01

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

2. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

3. Prior to the commencement of any residential dwelling above damp proof course level the following details and a timescale for their implementation must be submitted to and approved in writing by the Local

Planning Authority:

Alterations to existing access

New access
Upgrade of footpath abutting the site
Provision of traffic calming to 20mph in the vicinity of the site on Station Road
Provision of suitable pedestrian crossing point on Station Road
Associated highway drainage
Associated street lighting
Associated road markings
Associated signage
Associate legal orders

Thereafter, these agreed works shall be carried out in accordance with the agreed timescales and retained thereafter.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and of the development having regard to policy DM7.4 of the North Tyneside Local Plan (2017).

4. No part of the development hereby approved shall be occupied until the new means of access has been sited and laid out in accordance with the approved drawing.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and of the access having regard to policy DM6.1 of the North Tyneside Local Plan (2017).

5. No part of the development hereby approved shall be occupied until the means of access has been altered in accordance with the approved drawing.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and of the access having regard to policy DM7.4 of the North Tyneside Local Plan (2017).

6. Within six month(s) of the new/altered access being brought into use all other existing access points not incorporated in the development hereby permitted shall be stopped up by raising the existing dropped kerb/removing the existing bellmouth and reinstating the footway verge and highway boundary to the same line, level and detail as the adjoining footway verge and highway boundary.

Reason: To limit the number of access points along the site boundary for the safety and convenience of the highway user having regard to policy DM7.4 of the North Tyneside Local Plan (2017).

7. No part of the development shall be occupied until an area has been laid out within the site for refuse vehicles to turn in accordance with the approved drawing and that area shall not thereafter be used for any other purpose.

Reason: To enable vehicles to draw off and turn clear of the highway thereby avoiding the need to reverse onto the public highway having regard to policy DM7.4 of the North Tyneside Local Plan (2017).

8. The scheme for parking, garaging and manoeuvring indicated on the approved plans shall be laid out prior to the initial occupation of the development hereby permitted and these areas shall not thereafter be used for any other purpose.

Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway having regard to policies DM6.1 and DM7.4 of the North Tyneside Local Plan (2017).

9. Notwithstanding Condition 1, prior to the commencement of any part of the residential development hereby approved above damp proof course level details of facilities to be provided for the storage of refuse, recycling and garden waste at each residential dwelling shall be submitted to and approved in writing by the Local Planning Authority. The facilities which should also include the provision of wheeled refuse bins for all waste types shall be provided in accordance with the approved details, prior to the occupation of each residential dwelling and thereafter permanently retained.

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

10. Notwithstanding Condition 1, prior to the commencement of any part of the commercial development hereby approved above damp proof course level details of facilities to be provided for the storage of refuse, including recycling and any other waste at each commercial unit shall be submitted to and approved in writing by the Local Planning Authority. Thereafter these facilities shall be provided in accordance with the approved details, prior to the occupation of each commercial unit and thereafter permanently retained.

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

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

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

12. Notwithstanding Condition 1, no development shall commence until a scheme to show wheel washing facilities and mechanical sweepers to prevent

mud and debris onto the public highway has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include details of the location, type of operation, maintenance/phasing programme. Construction shall not commence on any part of the development other than the construction of a temporary site access and site set up until these agreed measures are fully operational for the duration of the construction of the development hereby approved. If the agreed measures are not operational then no vehicles shall exit the development site onto the public highway.

Reason: This information is required pre development to ensure that the adoptable highway(s) is kept free from mud and debris in the interests of highway safety having regard to policies DM5.19 and DM7.4 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

13. No part of the development shall be occupied until a scheme to manage refuse collection has been submitted to and approved by in writing by 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 having regard to policies DM6.1 and DM7.9 of the North Tyneside Council Local Plan (2017).

14. No part of the development shall be occupied until a scheme to manage parking has been submitted to and approved by in writing by 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 having regard to policies DM6.1 and DM7.4 of the North Tyneside Council Local Plan (2017).

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

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

16. Notwithstanding Condition 1, prior to the commencement of any part of the development hereby approved a detailed drainage design shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development hereby approved shall be carried out in full accordance with these agreed details which shall be permanently retained and maintained.

Reason: This information is required from the outset to ensure that appropriate drainage can be accommodated on-site to prevent flood risk having regard to the NPPF.

17. Notwithstanding Condition 1, prior to the commencement of any part of the development hereby approved details of the pollution control measures to prevent contamination of local watercourses during the construction period shall be submitted to and approved in writing by the Local Planning Authority. These agreed details shall be installed prior to the commencement of any development on-site and shall only be removed following written agreement from the LLFA.

Reason: This information is required from the outset to prevent contaminants entering adjacent/nearby watercourses having regard to Policy DM5.7 of the North Tyneside Local Plan (2017).

18. Notwithstanding Condition 1, prior to the commencement of any part of the development hereby approved details on the future maintenance regime of permeable paving to be included within the SUDS maintenance regime shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development hereby approved shall be carried out in full accordance with these agreed details which shall be permanently retained and maintained.

Reason: This information is required from the outset to ensure the viability of the surface water attenuation is maintained in perpetuity having regard to the NPPF.

19. Notwithstanding Condition 1, the development hereby approved shall not be constructed above damp proof course level until the existing damaged culvert located to the south east of the proposed development shall be repaired or the culvert removed and the drainage ditch re-established.

Thereafter, the development hereby approved shall be carried out in accordance with the agreed details.

Reason: This information is required from the outset to prevent any flood risk to the development having regard to the NPPF.

20. Prior to the construction of any sustainable drainage features within the application site a SuDS management contractor shall be appointed and the contact details providing in writing to the Local Planning Authority.

Thereafter, the development hereby approved shall be carried out in accordance with the agreed details.

Reason: To ensure sustainable drainage features are managed to prevent any flood risk to the development having regard to the NPPF.

21. Notwithstanding Condition 1, the development hereby approved shall not be constructed above damp proof course level until the landowners Riparian ownership duties have been undertaken on the Brierdene Burn. This shall include re-establishing the profile of the Brierdene Burn watercourse and the removal of all obstructions from watercourse in order to allow the free passage of water. Particularity the section of watercourse located between Railway culvert and the blocked culvert (X: 430624, Y: 571803). Thereafter, the development hereby approved shall be carried out in accordance with the agreed details.

Reason: This information is required from the outset to prevent any flood risk to the development having regard to the NPPF.

22. The development hereby permitted shall not be constructed above damp proof course level until the details of a scheme of site investigation and assessment to test for the presence and likelihood of gas emissions from underground workings, historic landfill, unknown filled ground or made ground has been submitted to and agreed in writing by the Local Planning Authority.

Upon approval of the method statement:

a) A detailed site investigation should be carried out to establish the degree and nature of the gas regime, and whether there is a risk likely to arise to the occupants of the development. The results and conclusions of the detailed site investigations should be submitted to and the conclusions approved in writing by the Local Planning Authority. The Ground Gas Assessment Report should be written using the current government guidelines.

b) In the event that remediation is required following the assessment of the ground gas regime using current guidelines, then a method statement must be submitted to and approved in writing by the Local Planning Authority.

The detailed design and construction of the development shall take account of the results of the site investigation and the assessment should give regard to results showing depleted oxygen levels or flooded monitoring wells. The method of construction shall also incorporate all the measures shown in the approved assessment.

This should provide details of exactly what remediation is required and how the remediation will be implemented on site; details including drawings of gas protection scheme should be included.

c) Where remediation is carried out on the site then a validation report will be required. This report should confirm exactly what remediation has been carried out and that the objectives of the remediation statement have been met.

The validation report should include cross sectional diagrams of the foundations and how any gas protection measures proposed in the remediation method statement are incorporated. In the event that integrity testing of membranes is required then any test certificates produced should also be included.

A verification report shall be submitted to and approved in writing by the Local Planning Authority before the development is occupied/brought into use.

d) In the event that there is a significant change to the ground conditions due to the development, for example grouting or significant areas of hard standing; then additional gas monitoring should be carried out to assess whether the gas regime has been affected by the works carried out. In the event that the gas regime has been altered then a reassessment of remediation options shall be submitted to the Local Planning authority to be agreed in writing before the development is occupied/brought into use.

Thereafter the development shall not be implemented otherwise than in accordance with the scheme referred to in c) above.

Reason: In order to safeguard the development and/or the occupants thereof from possible future gas emissions from underground and or adverse effects of landfill gas which may migrate from a former landfill site having regard

to policy DM5.18 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

23. No other part of the development shall be commenced until:-

- a) A detailed site investigation has been carried out to establish:
 - i) If the site is contaminated;
 - ii) To assess the degree and nature of the contamination present, and whether significant risk is likely to arise to the residents and public use of land;
 - iii) To determine the potential for the pollution of the water environment by contaminants and;
 - iv) The implication for residential development of the site and the quality of the residential environment for future occupiers.

Such detailed site investigation to accord with a statement of method and extent which shall previously have been agreed in writing by the Local Planning Authority and

b) The results and conclusions of the detailed site investigations referred to in (a) above have been submitted to and the conclusions approved in writing by the Local Planning Authority. The Phase 2 Report should be written using the current government guidelines.

c) If remediation is required following the assessment of the chemical results under current guidelines, then a method statement should be provided for comment. This should provide details of exactly how the remediation works are to be carried out, detailed site location plan of where material is to be deposited and details including drawings of gas protection scheme should be included.

d) If remediation is carried out on the site then a validation report will be required. This should provide evidence of what remediation has been carried out over the site. This report should confirm exactly what remediation has been carried out and that the objectives of the remediation statement have been met. This report should verification of the type, source, depth, location and suitability (to include any test certificates for material to be imported on site to ensure it is not contaminated) of the imported materials for their use on site. This should include cross sectional diagrams for the site and detailed plans of the site. This report should be submitted before the contaminated land condition can be removed from the planning application.

e) If any unexpected contamination or hotspots are encountered during the investigation and construction phases it will be necessary to inform the Local Authority then cease development and carry out additional investigative works and subsequent remediation if any unexpected contamination or underground storage tanks are discovered during the development. Work should be ceased until any risk is assessed through chemical testing and analysis of the affected soils or waters.

Thereafter the development shall not be implemented otherwise than in accordance with the scheme referred to in c) above.

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

24. The construction site subject of this approval shall not be operational and there shall be no construction, deliveries to, from or vehicle movements within the site outside the hours of 0800-1800 Monday - Friday and 0800-1400 Saturdays with no working on Sundays or Bank Holidays.

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

25. There shall be no demolition activity or vehicle movements to, from or within the site outside the hours of 0800-1800 Monday to Friday, 0800-1400 Saturday with no working on Sundays or Bank Holidays.

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

26. Prior to the occupation of any residential dwelling hereby approved, a noise scheme for acoustic glazing scheme in accordance to noise report no. NT12879 shall be submitted to and approved in writing by the Local Planning Authority. Details of the acoustic glazing to be provided must be in accordance with BS8233 and the World Health Organisation community noise guidelines must be provided to show that all habitable rooms are provided with sound attenuation measures to give a resultant noise level of below 30 dB LAeq and maximum noise level of 45dB for bedrooms and 35 dB LAeq for living rooms is achieved. Thereafter, these agreed details shall be installed prior to the occupation of each residential dwelling and shall be permanently retained and maintained.

Reason: To ensure appropriate mitigation is provided to safeguard the amenity of future occupants having regard to policy DM5.19 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

27. Prior to the occupation of any residential dwelling hereby approved, a ventilation scheme for all habitable rooms to ensure an appropriate standard of ventilation, with windows closed, is provided shall be submitted to and approved in writing by the Local Planning Authority. Where the internal noise levels specified in BS8233 are not achievable, with window open, due to the external noise environment, an alternative mechanical ventilation must be provided, such as mechanical heat recovery (MVHR) system should be provided that addresses thermal comfort and purge ventilation requirements to reduce the need to open windows. The alternative ventilation system must not compromise the facade insulation or the resulting internal noise levels.

Thereafter, these agreed details shall be installed prior to the occupation of each residential dwelling and shall be permanently retained and maintained.

Reason: To ensure appropriate mitigation is provided to safeguard the amenity of future occupants having regard to policy DM5.19 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

28. Prior to the commencement of any part of the development hereby approved above damp proof course level details of the 2.8m high acoustic screening (fence and earth bund), running parallel to Ecclestone Close to be provided to screen industrial noise from Keenans, shall be submitted to and approved in writing by the Local Planning Authority. This agreed acoustic screening shall be installed prior to the occupation of any residential dwelling hereby approved. Thereafter, the acoustic screening shall be permanently retained and maintained.

Reason: To ensure appropriate mitigation is provided to safeguard the amenity of future occupants having regard to policy DM5.19 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

29. Notwithstanding Condition 1, prior to the commencement of any part of the development hereby approved damp proof course level details of all screen and boundary walls, fences and any other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. These details shall include 1.8m high acoustic fencing to be provided on the site, to screen noise from the industrial workshops, road and rail noise in accordance to figure 2, drawing reference NT12879/002 of noise report NT12879. These agreed details shall be implemented prior to the occupation of any residential dwelling and any part of the commercial development. Thereafter, these agreed details shall be permanently retained and maintained.

Reason: To ensure that the proposed development does not adversely affect the privacy and visual amenities at present enjoyed by the occupiers of neighbouring properties, and to ensure a satisfactory environment within the development having regard to policies DM6.1 and DM5.19 of the North Tyneside Local Plan (2017).

30. The commercial units hereby approved shall only be operational between the hours of 07:00 and 20:00 hours Monday to Saturday and 09:00 to 17:00 hours on Sundays and Bank Holidays.

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

31. Deliveries and collections to the commercial units hereby approved shall only take place between the times of 07:00 and 18:00 hours; Monday to Saturday and 09:00 to 17:00 hours on Sundays and Bank Holidays.

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

32. Prior to the installation of external plant and equipment to any of the commercial units hereby approved a noise scheme shall be submitted to and approved in writing by the Local Planning Authority. These details shall include the noise rating level from the proposed combined plant and equipment to ensure that the background noise level of 46 dB LA90 T for Daytime and 31 dB LA90 T for night time at nearest façade of residential properties is not exceeded by any more than 5 dB, as detailed in noise report reference NT12879. Thereafter, the development hereby approved shall be carried out in accordance with these agreed details which shall be permanently retained and maintained.

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

33. Within one month of the installation of the plant and equipment acoustic testing shall be undertaken to verify compliance with Condition 32. These testing shall be submitted to and approved in writing by the Local Planning Authority prior to the operation of the plant.

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

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35. All plant and machinery shall be enclosed with sound insulation materials in accordance with a scheme which shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the plant and machinery shall not be used until the approved soundproofing has been implemented and shall be permanently retained and maintained.

Reason: To protect the occupants of nearby residential properties from noise and disturbance having regard to policy DM5.19 of the North Tyneside Local Plan (2017).

36. Prior to the commencement of any part of the commercial units built above damp proof course level details of the height, position, design and materials of any chimney or extraction vent to be provided shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details.

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

37. Prior to the commencement of any part of the commercial units built above damp proof course level details of the air ventilation systems shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details which shall be installed prior to occupation and permanently retained and maintained.

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

38. Prior to the commencement of any part of the commercial units built above damp proof course level details of any refrigeration plant to be installed in connection with the unit shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details which shall be installed prior to occupation and permanently retained and maintained.

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

39. Prior to the commencement of any part of the commercial units built above damp proof course level details of any odour suppression system, if required, to be installed in connection with the unit shall be submitted to and approved in

writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details which shall be installed prior to occupation and permanently retained and maintained.

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

40. Prior to installation of any floodlighting or other form of external lighting, a lighting scheme, that must be designed to minimise light spill to wildlife habitats within the site or adjacent to the site, shall be submitted to and approved in writing by the Local Planning Authority. This shall include the following information:

- a statement of frequency of use, and the hours of illumination;
- a site plan showing the area to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate, and highlighting any significant existing or proposed landscape or boundary features;
- details of the number, location and height of the proposed lighting columns or other fixtures;
- the type, number, mounting height and alignment of the luminaires;
- the beam angles and upward waste light ratio for each light;
- an isolux diagram showing the predicted illuminance levels at critical locations on the boundary of the site and where the site abuts residential properties or the public highway to ensure compliance with the institute of lighting engineers Guidance Notes for the reduction of light pollution to prevent light glare and intrusive light for agreed environmental zone ; and
- where necessary, the percentage increase in luminance and the predicted illuminance in the vertical plane (in lux) at key points.

The lighting shall be installed and maintained in accordance with the approved scheme.

Reason: In the interest of protecting residential amenity and protecting sensitive habitats within or adjacent to the site having regard to policy DM5.7 and DM5.19 of the North Tyneside Local Plan (2017).

41. No groundworks or development shall commence until a programme of archaeological fieldwork (to include evaluation and where appropriate mitigation excavation) has been completed. This shall be carried out in accordance with a specification provided by the Local Planning Authority.

Reason: The site is located within an area identified as being of potential archaeological interest. The investigation is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded, in accordance with paragraph 199 of the NPPF, Local Plan S6.5 and policies DM6.6 and DM6.7.

42. The building(s) shall not be occupied/brought into use until the final report of the results of the archaeological fieldwork undertaken in pursuance of condition 41 has been submitted to and approved in writing by the Local Planning Authority.

Reason: The site is located within an area identified as being of potential archaeological interest. The investigation is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded, in accordance with paragraph 199 of the NPPF, Local Plan S6.5 and policies DM6.6 and DM6.7.

43. The buildings shall not be occupied/brought into use until a report detailing the results of the archaeological fieldwork undertaken has been produced in a form suitable for publication in a suitable and agreed journal and has been submitted to and approved in writing by the Local Planning Authority prior to submission to the editor of the journal.

Reason: The site is located within an area identified in the Local Plan as being of potential archaeological interest and the publication of the results will enhance understanding of and will allow public access to the work undertaken in accordance with paragraph 199 of the NPPF, Local Plan S6.5 and policies DM6.6 and DM6.7.

44. Development shall not commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and the Lead Local Flood Authority. Thereafter the development shall take place in accordance with the approved details.

Reason: To prevent the increased risk of flooding from any sources in accordance with the NPPF.

45. Prior to the use of any crane on site, a crane method statement shall be submitted to and approved in writing by the Local Planning Authority. This statement shall, at least, include the following:

- The exact location of the centre of the crane, as an OS Grid reference (to at least 6 figures for each of eastings and northings), or marked on a map showing the OS Grid;

- The maximum operating height in metres Above Ordnance Datum (AOD), or the height of crane Above Ground Level (AGL) plus ground level in AOD (see Note below);

- The type of crane/equipment (e.g. Tower Crane, Mobile Crane, etc.);

- The radius of the jib/boom of a fixed crane/the area of operation of a mobile crane;

- intended dates and times of operation;

- Applicant's name and contact details;

- Proposed obstacle lighting to be installed.

The use of any crane above 40m in height will penetrate the Airport's 'approach and take-off protected obstacles limitation surface' and will require an operator's licence and the issuing of a notice to airmen for the duration of the construction period. It will also need to be fit with medium intensity lighting. If a crane or other construction equipment is required below 50m in height it is requested that the jib is only in the raised position during use, the Airport's air traffic control service is informed before use, shall be fit with low intensity lighting, and work should cease during poor visibility and cloud ceilings. Thereafter, the development shall be carried out in accordance with these agreed details.

Reason: In the interest of aerodrome safeguarding and in accordance with the National Planning Policy Framework.

46. All street lighting associated with the development should be fully cut off so as not to direct lighting up into the atmosphere with the potential to distract pilots flying aircraft overhead.

Reason: In the interest of aerodrome safeguarding and in accordance with the National Planning Policy Framework.

47. Notwithstanding Condition 1, prior to the commencement of any part of the development hereby approved a birdstrike risk assessment shall be submitted to and approved in writing by the Local Planning Authority in consultation with Newcastle International Airport Limited (NIAL). Thereafter, the proposed development shall only be carried out in accordance with these agreed details.

Reason: In the interest of the safe operation of Newcastle International Airport Limited.

48. Prior to the commencement of any development hereby approved detailed plans of the wetland areas/Sustainable Urban Drainage System (SUDs) must be submitted to and approved in writing by the Local Planning Authority in consultation with Newcastle International Airport Limited (NIAL). The plan should detail the size, depths, profiles and planting designs of the ponds. Thereafter, the wetlands/SUDs shall be carried out in accordance with these agreed details.

Reason: This information is required from the outset in the interests of aviation safety and to safeguard important habitats and species of nature conservation value having regard to the NPPF and policy DM5.7 of the North Tyneside Local Plan (2017).

49. Notwithstanding Condition 1, prior to the commencement of any construction works on the site details showing the existing and proposed ground levels and levels of thresholds and floor levels of the proposed dwelling shall be submitted to and approved in writing by the Local Planning Authority. Such levels shall be shown in relation to a fixed and known datum point. Thereafter, the development shall not be carried out other than in accordance with the approved details.

Reason: This information is required to ensure that the work is carried out at suitable levels in relation to adjoining properties and highways, having regard to amenity, access, highway and drainage requirements and protecting existing landscape features having regard to the NPPF and policy DM6.1 of the North Tyneside Local Plan (2017).

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

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

51. Notwithstanding Condition 1, prior to the construction of any part of the residential development hereby approved above damp-proof course level a schedule and/or samples of all surfacing materials and external building materials, including doors and windows) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details.

Reason: To ensure a satisfactory appearance having regard to Policy DM6.1 of the North Tyneside Local Plan (2017).

52. Notwithstanding Condition 1, prior to the construction of any part of the commercial development hereby approved above damp-proof course level a schedule and/or samples of all surfacing materials and external building materials, including doors and windows) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details.

Reason: To ensure a satisfactory appearance having regard to Policy DM6.1 of the North Tyneside Local Plan (2017).

53. Notwithstanding Condition 1, prior to the commencement of any part of the development hereby approved above damp proof course level a fully detailed landscape plan and landscape maintenance plan for a minimum period of five years, including details of arrangements for its implementation, shall be submitted to and approved in writing by the Local Planning Authority in consultation with Newcastle International Airport Limited (NIAL). The landscape scheme shall include tree and shrub planting (any trees to be a minimum 12-14cm girth) and include the proposed timing and ground preparation noting the species and sizes for all new plant species and details of the dingy skipper habitat. 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 or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season thereafter. The landscape maintenance scheme shall be implemented in accordance with these agreed details.

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

54. 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 are protected in the interests of ecology having regard to the NPPF and Policy DM5.5 of the North Tyneside Local Plan (2017).

55. Notwithstanding Condition 1, prior to the commencement of any part of the development hereby approved above damp proof course level details of 10no. bird boxes to be installed on the exterior walls of the dwellings, including specifications and locations, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, these agreed details shall be installed prior to the occupation of the dwelling(s) on which they are to be installed and permanently retained.

Reason: To ensure that local wildlife populations are protected in the interests of ecology having regard to the NPPF and Policy DM5.5 of the North Tyneside Local Plan (2017).

56. Notwithstanding Condition 1, prior to the commencement of any part of the development hereby approved above damp proof course level details of 4no. bat boxes to be installed on the exterior walls of the dwellings, including specifications and locations, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, these agreed details shall be installed prior to the occupation of the dwelling(s) on which they are to be installed and permanently retained.

Reason: To ensure that local wildlife populations are protected in the interests of ecology having regard to the NPPF and Policy DM5.5 of the North Tyneside Local Plan (2017).

57. High intensity security lights shall be avoided as far as practical. 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.

Reason: To ensure that local wildlife populations are protected in the interests of ecology having regard to the NPPF and Policy DM5.5 of the North Tyneside Local Plan (2017).

58. Notwithstanding Condition 1, prior to the commencement of the development an amphibian precautionary working method statement, in order to address the low risk to great crested newts, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: This information is required from the outset to ensure that local wildlife populations are protected in the interests of ecology having regard to the NPPF and Policy DM5.5 of the North Tyneside Local Plan (2017).

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

Reason: To ensure that local wildlife populations are protected in the interests of ecology having regard to the NPPF and Policy DM5.5 of the North Tyneside Local Plan (2017).

60. Prior to any works commencing on site, an updated checking survey for badger shall be undertaken and, if required, a Method Statement shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the proposed development shall be carried out in full accordance with the agreed Method Statement, if required.

Reason: This information is required from the outset in the interests of biodiversity having regard to policy DM5.5 of the North Tyneside Local Plan 2017.

61. Prior to commencement of works starting on site, details of the tree protection measures, including protective fencing, to protect the trees identified for retention within the site, adjacent to the site or overhanging the site shall be submitted to and approved in writing by the Local Planning Authority. No operational work, site clearance works or the development itself shall commence until the fencing is installed. The protective fence shall remain in place until the works are complete or unless otherwise agreed in writing with the Local Planning Authority. The protective fence is not to be repositioned without the approval of the Local Authority.

Reason: This needs to be pre-commencement condition to ensure that important features are protected and retained in the interests of amenity and to ensure trees and hedges to be retained are adequately protected from damage during the execution of the works hereby permitted, in the interests of visual amenity having regard to policy DM5.9 of the North Tyneside Local Plan (2017).

62. No trees, shrubs or hedges within the site which are shown as being retained on the submitted plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed during the development phase other than in accordance with the approved plans or without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within three years from the completion of the development hereby permitted shall within the next planting season, i.e. October to March, be replaced by with trees, shrubs or hedge plants of similar size and species until the Local Planning Authority gives written consent to any variation.

Reason: To ensure the satisfactory retention of existing trees, shrubs and hedges and in the interests of visual amenity having regard to policy DM5.9 of the North Tyneside Local Plan (2017).

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

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

Informatives

Building Regulations Required (I03)

Consent to Display Advertisement Reqd (I04)

Contact ERH Construct Highway Access (I05)

Contact ERH Works to Footway (I08)

No Doors Gates to Project Over Highways (I10)

Contact ERH Erect Scaffolding on Rd (I12)

Do Not Obstruct Highway Build Materials (I13)

Take Care Proximity to Party Boundary (I21)

Advice All Works Within Applicants Land (I29)

Coal Mining Referral Area , (FULH) (I43)

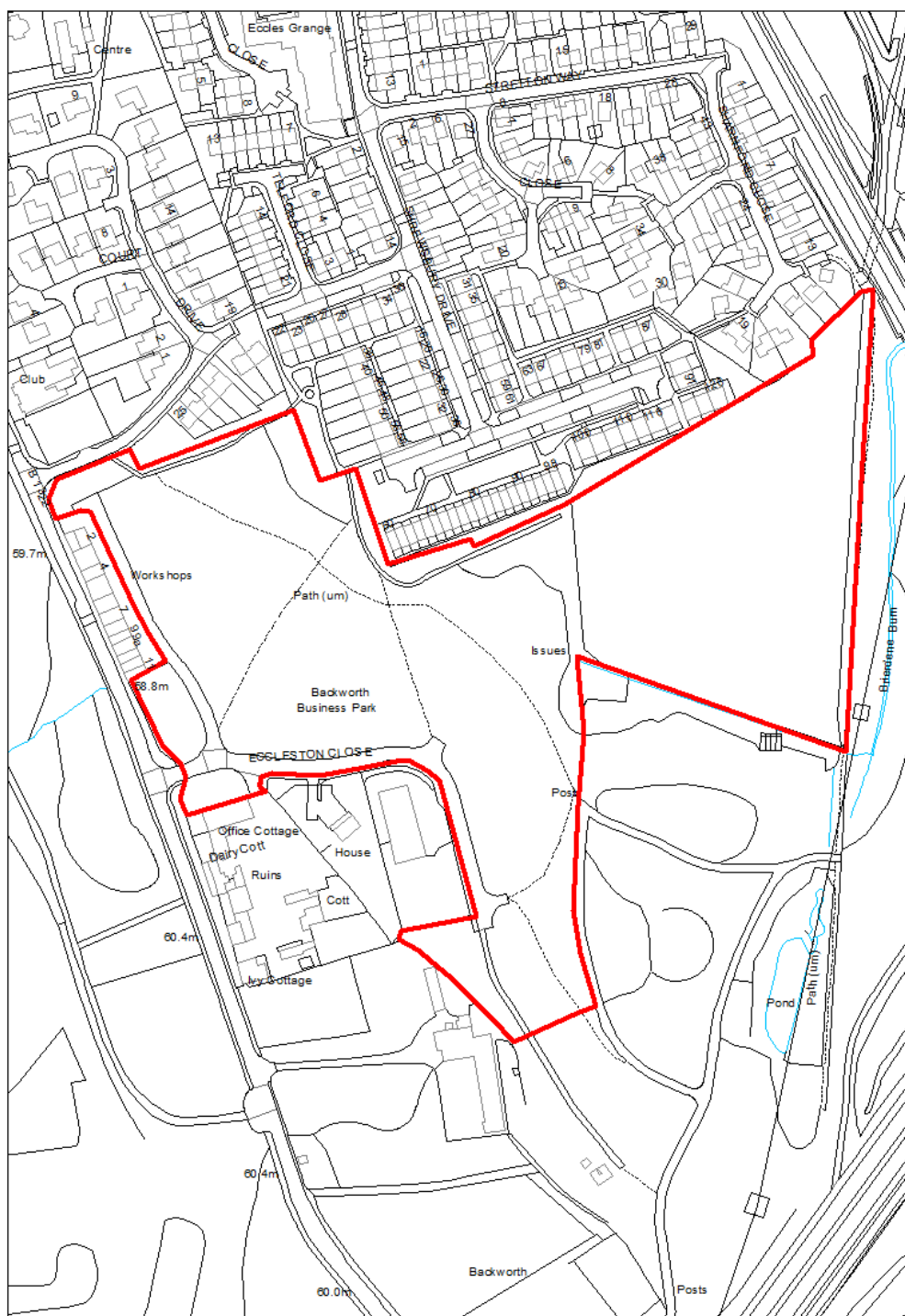
Street Naming and numbering (I45)

Highway Inspection before dvlpt (I46)

The applicant is advised that they should enter into an agreement indemnifying the council's refuse, recycling and garden waste collection vehicles against any claims for damages to the internal road and parking layout.

Northumbrian Water inform you that a number of public sewers cross the site and may be affected by the proposed development. Northumbrian Water do not permit a building over or close to our apparatus and therefore we will be contacting the developer direct to establish the exact location of our assets and ensure any necessary diversion, relocation or protection measures required prior to the commencement of development.

The development hereby approved lies within close proximity to the designated and well-established flightpath from Newcastle International Airport. The airport operates unrestricted, flying 365 days per year, 24 hours per day. The site is also a co-opted military airfield and therefore unrestrictedly accepts military aircraft. Properties contained with the development will be exposed to aircraft noise



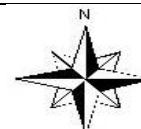
Application reference: 18/00881/FUL

Location: Land at Backworth Business Park, Eccleston Close, Backworth
Proposal: Construction of 67 residential dwellings (C3) and 14 No. B1, B2 & B8 commercial units totalling 650 sqm, with associated road infrastructure, car parking spaces, open spaces, gardens and landscaping

Not to scale

Date: 17.09.2020

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Consultations/representations

1.0 Internal Consultees

1.1 Biodiversity Officer

1.2 The above scheme is located at Ecclestone Close, Backworth, and is for the construction of 67 residential dwellings and commercial units with associated infrastructure and landscaping. The land proposed for development consists of an area of land that is designated as a Local Wildlife Site (Eccles Colliery & Extension LWS) as shown on the North Tyneside Local Plan Policies Map 2017, and an area of land to the east outside of the Local Wildlife Site (LWS) which supports semi-improved grassland habitat. The site is also adjacent to the remaining part of the Eccles Colliery LWS along its southern and eastern boundary and is within a designated wildlife corridor as shown on the Local Plan Policies Map.

1.3 Additional information has been submitted for the above application consisting of: -

- Dingy Skipper Habitat Area
- Landscape Proposals Plan (DWG No: 124517/8001 Rev E)
- Compensation Site Ecology Report
- Landscape and Ecological Management Plan

1.4 Previous comments submitted for this application, outlined the issues with this scheme and set out the reasons why the scheme was not acceptable including the loss of part of a Local Wildlife Site (LWS) and its failure to meet Local Plan Policies and the principles of NPPF. Whilst additional information has been submitted to support the application as highlighted above, the scheme remains unchanged and continues to impact a designated Local Wildlife Site (LWS) resulting in the partial loss of the site as well as impacts on the remaining part of the LWS directly adjacent. The scheme is also within a designated wildlife corridor and will adversely impact this corridor as a result of the loss of the Local Wildlife Site and severance of the corridor. The scheme fails to meet the Local Plan Policies set out below and, therefore, I object to the application.

1.5 North Tyneside Local Plan Policy

1.6 Policy S5.4 Biodiversity and Geodiversity

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.

1.7 The scheme fails to “protect a designated local wildlife site as shown on the policies map or to conserve and enhance a borough wide network of local sites and wildlife corridors” in accordance with the above policy. A large part of the existing Eccles Colliery Local Wildlife Site (LWS) will be lost to provide housing as part of this scheme and the remaining part of the LWS will be impacted by the proximity of the housing scheme directly adjacent (noise and lighting impacts) as well as ongoing recreational impacts (dog walking etc) from residents. The scheme will also result in the loss of a large area of open space designated as a LWS within the wildlife corridor that will result in the severance of this corridor with associated impacts on wildlife dispersal and connectivity. The importance of the wildlife corridor is demonstrated by the presence of dingy skipper butterfly on site which is a UK Priority Species listed on S41 of the NERC Act (2006). This butterfly has been recorded for the first time at this site and is likely to have colonised the Eccles LWS site from Fenwick Pit heap approximately 1km to the east due to the good connectivity and suitable habitats that form part of this wildlife corridor. Dingy skipper will also be impacted by this scheme as habitat currently used by this species will be lost to housing.

1.8 Policy DM5.5 Managing Effects on Biodiversity and Geodiversity

All development proposals should:

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

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

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

1.9 The scheme fails to meet parts a and b of Policy DM5.5 as the biodiversity value of land (the LWS) and a UK priority species (dingy skipper butterfly) will not be protected and the fragmentation of habitats and wildlife links are not minimised as these will be lost to accommodate the scheme.

1.10 The policy goes on to state that; “proposals which are likely to significantly affect nationally or locally designated sites, protected species, or priority species and habitats would only be permitted where:

“d. The benefits of the development in that location clearly demonstrably outweigh any direct or indirect adverse impacts on the features of the site and the wider wildlife links; and,”

1.11 As established above, the proposal set out for this application will significantly affect a locally designated site through its partial loss and associated impacts on the remaining part of the LWS. It will also significantly affect a priority species (dingy skipper) as a result of the complete loss of habitat that supports this species on the site. The policy states, therefore, that the scheme would only be permitted where “the benefits of the development in that location clearly demonstrably outweigh any direct or indirect adverse impacts on the features of the site and the wider wildlife links”.

1.12 With regard to the above, there is no evidence to demonstrate how the benefits of housing in this particular location clearly and demonstrably outweigh the direct and indirect impacts on the Local Wildlife Site, the wildlife corridor and a UK Priority Species. Whilst it is acknowledged that the site was allocated for housing in 2017 as part of the Local Plan, it was allocated in the knowledge that the site was designated as a Local Wildlife Site. This site was designated as a Local Wildlife Site in 2007 and therefore its designation pre-dates the housing allocation by 10 years. Local Wildlife Sites are designated for wildlife and should be adequately protected by Local Plan Policy and the NPPF and housing should be allocated on appropriate sites which do not result in damaging environmental impacts.

1.13 The scheme also fails to meet part (f) of the above policy as inadequate information has been submitted regarding the off-site compensation land and a lack of adequate mitigation has been provided to address the impacts on dingy skipper butterfly. The information provided for the off-site compensation land provides little evidence that the site could successfully be converted from arable land to a species rich brownfield grassland site of a similar type and quality to that being lost. No soil testing has been undertaken to establish nutrient status of the soil, in particular, phosphate levels (as recommended by the Natural England Technical Advice notes) to provide reassurance that arable conversion could successfully be undertaken on this site. Natural England Technical Information Notes regarding arable reversion to species rich grassland specify that “knowledge of soil type, pH and nutrient status is essential”. There is, therefore, a possibility that the loss of the Local Wildlife Site would not be adequately mitigated at the proposed compensation site and the measures recommended not deliverable. There is no specific detail regarding how the site would be converted into a species rich grassland or managed thereafter as the recommendations within the report are vague and refer mainly to advice and guidance notes. If the compensation site failed to deliver a site of equal quality worthy of LWS designation, there is no mechanism in place to address this.

1.14 The dingy skipper survey report provides no information on the transect route or a map showing the locations of butterflies found within the site. With respect to the impacts on dingy skipper butterfly, the proposed mitigation includes areas of wildflower grassland (already designed into the scheme to address species rich grassland loss). The majority of these areas are proposed mainly in open landscaped areas which provide open space for residents (with the exception of the eastern boundary). These areas will therefore be subject to high levels of disturbance, reducing their value to dingy skipper. In addition, no details of specific brownfield habitat creation for dingy skipper butterfly has been submitted (e.g. appropriate substrates, bare ground and target foodplants).

1.15 The scheme will also impact the remaining part of the Eccles Colliery LWS as a result of ongoing disturbance from recreational pressure which has not been addressed.

1.16 An increase in residents in this area will increase recreational activity and footfall into the adjacent Eccles Colliery LWS (e.g. dog walking) which will increase pressure on the site and lead to deterioration of the site. Whilst planting has been retained and enhanced in some areas along the proposed housing site boundary and the adjacent LWS, impacts associated with lighting will remain in an area which is not currently subject to this disturbance. Lighting close to boundaries has the potential to impact boundary planting as well as habitats within the adjacent Local Wildlife Site that are used by wildlife such as foraging and commuting bats and breeding birds.

1.17 The site is also within a designated wildlife corridor that connects a series of Local Wildlife Sites to the wider urban and sub-urban area. The loss of a large part of the Eccles Colliery LWS and the associated impacts on the remaining part of the LWS will result in adverse impacts on the wildlife corridor associated with loss of connectivity and disturbance.

1.18 DM5.7 Wildlife Corridors

Development proposals within a wildlife corridor, as shown on the Policies Map, must protect and enhance the quality and connectivity of the wildlife corridor. All new developments are required to take account of and incorporate existing wildlife links into their plans at the design stage. Developments should seek to create new links and habitats to reconnect isolated sites and facilitate species movement.

1.19 The site is within a designated wildlife corridor that connects a series of Local Wildlife Sites to the wider urban and sub-urban area. The Eccles Colliery LWS connects directly north and east to the greenbelt and also connects to a number of Local Wildlife Sites including Backworth Pond LWS and Fenwick Colliery SLCI (Site of Local Conservation Interest) to the east, Silverlink Biodiversity Park LWS to the south and Backworth Woods SLCI to the west. The loss of a large part of the Eccles LWS and the associated impacts on the remaining part of the LWS will result in adverse impacts on the wildlife corridor including those associated with connectivity and disturbance. As outlined above, the importance of the wildlife corridor is demonstrated by the presence of dingy skipper butterfly on site which is likely to have recently colonised the Eccles LWS site from Fenwick Pit Heap SLCI (Site of Local Conservation Interest) to the east

due to the good connectivity and suitable habitats that form part of this wildlife corridor.

1.20 In addition to the above Local Plan Policies, the scheme also fails to meet the relevant sections of National Planning Policy Guidance (NPPF) set out below as well as Section 40 of the NERC Act (2006).

1.21 NPPF - Conserving and Enhancing the Natural Environment

170. Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

174. To protect and enhance biodiversity and geodiversity, plans should:

- a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and
- b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

175. When determining planning applications, local planning authorities should apply the following principles:

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

1.22 NERC Act (2006) Habitats and Species of Principal Importance

The Natural Environment and Rural Communities (NERC) Act came into force on 1st Oct 2006. Section 41 (S41) of the Act requires the Secretary of State to publish a list of habitats and species which are of principal importance for the conservation of biodiversity in England.

1.23 Section 40 (Duty to Conserve) states:-

40(1) The public authority (Local Planning Authorities) must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.

1.24 Section 41 (Biodiversity lists and action-England)

(1) The Secretary of State must, as respects England, publish a list of the living organisms and types of habitat which in the Secretary of State's opinion are of principal importance for the purpose of conserving biodiversity.

1.25 Importance of Local Wildlife Sites (LWS)

1.26 A Local Wildlife Site (LWS) is defined as a discrete area of land, which is considered to be of significance for its wildlife (Local Wildlife Sites), and/or for its geological/geomorphological features (Local Geological Sites) in at least a County context. In 2006, DEFRA published:

‘Local Sites - Guidance on their Identification, Selection and Management’ with the

objective of creating a more consistent sense of the value and importance of Local Sites by securing broader awareness of this and support for their protection.’

1.27 In accordance with the DEFRA guidance, the selection and confirmation of all Local Wildlife Sites (LWS) in Northumberland, Newcastle and North Tyneside is undertaken through the rigorous application of the guidelines set out within the ‘Guidelines for the Selection of Local Wildlife Sites’ (2016) by the Local Wildlife Sites Partnership. This provides a strategic approach to the identification and protection of sites with substantive nature conservation value throughout Northumberland, Newcastle & North Tyneside.

1.28 The guidelines are designed to fulfil the requirement of National Planning Policy Framework to identify and map components of the local ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity, wildlife corridors and stepping stones.

1.29 In 2010, ‘Making Space for Nature: a review of England’s wildlife sites and ecological networks’ (the Lawton Report) was published and concluded that the current system of wildlife sites “does not comprise a coherent and resilient ecological network”. The report recommended the following key recommendations: -

- That we better protect and manage our designated wildlife sites;
- That we establish new Ecological Restoration Zones;
- That we better protect our non-designated wildlife sites;

1.30 These recommendations formed the basis for objectives within the ‘Natural Environment White Paper: ‘The Natural Choice: securing the value of nature’ (2011) which sets out key reforms for protecting and improving the natural environment with clear environmental objectives for the planning system through NPPF.

1.31 Loss of Local Wildlife Site

1.32 The Eccles Colliery and Extension Local Wildlife Site (LWS) was originally comprised of two separate sites; Eccles Colliery and Eccles Grassland Extension. The boundaries of these sites were merged in 2016 as part of the 2016 LWS review to form one site. The current housing application will result in the loss of one of the original designated sites (Eccles Grassland Extension) which is approximately 3.3ha in size and is now part of the wider Eccles Colliery LWS designation. This site was originally designated in 2007 for its neutral grassland habitat and has consistently met the Local Wildlife Site Criteria for grassland habitat (paragraph 5.16 of the LWS Guidelines) in the 2007, 2009 and 2016 reviews.

1.33 Whilst the site is currently designated because it meets the grassland criteria, the site also qualifies under the 'Post Industrial Land' criteria within the 'Guidelines for the Selection of Local Wildlife Sites'. The presence of dingy skipper found on site in 2019 also means this site would potentially qualify under the butterfly criteria.

1.34 The site is also likely to meet the criteria for a UK Habitat of Principal Importance as defined under S41 of the NERC Act (Natural Environment and Rural Communities Act) 2006. The site currently meets the criteria for the 'Open Mosaic Habitats on Previously Developed Land' and therefore, the development of this site would also potentially result in the loss of a UK S41 Priority Habitat.

1.35 Conclusion

1.36 The above scheme will result in the loss of part of a designated Local Wildlife Site (LWS) with associated impacts on a designated wildlife corridor and the adjacent Local Wildlife Site. Dingy skipper butterfly, a S41 UK Priority Species, will also be impacted due to the loss of habitat supporting this species within the Local Wildlife Site. The development of this site would also set a precedent that would make other Local Wildlife Sites vulnerable to development in the future.

1.37 The scheme fails to meet Local Plan Policies, the National Planning Policy Framework (NPPF) and S40 of The NERC Act (2006) as set out above, therefore I am objecting to this application.

1.38 Landscape Architect

1.39 The loss of a large part of a local wildlife site, the impacts on a wildlife corridor and level of mitigation have been previously discussed both by myself and the Biodiversity Officer where there have been, and still are, concerns relating to the following:

- Loss of a LWS that has been designated for 10 years plus. S5.4(a-d) and DM5.5
- Impacts on dingy skipper. DM5.5 and NERC Act Section 41. A plan has been submitted showing the areas for butterfly mitigation which are all within the site which has its issues:
- Disturbance and damage by residents and other users particularly as many areas proposed are next to footpaths, therefore conflict of use
- Conflict with other areas proposed for habitat enhancement/creation (meadow areas)
- Impacts on the remaining LWS (lighting, noise and access) DM5.5(f)
- Impacts on the wildlife corridor (Biologically diverse areas should be protected to maintain ecological connectivity and developments should not be fragmented) DM5.7
- Mitigation site - The ecological reports for the offsite mitigation does not adequately address the level of mitigation.

1.40 The land proposed for development comprises of a Local Wildlife Site (Eccles Colliery and Extension LWS) and an area of land to the east outside of the Local Wildlife Site (LWS) which supports semi-improved grassland habitat. The site is also adjacent to the remaining part of the Eccles Colliery LWS along

its southern and eastern boundary and is within a designated wildlife corridor as shown on the Local Plan Policies Map.

1.41 This site is an established landscape that supports biodiversity and ecosystems which are an essential component of a wider ecological framework that is needed for environmental sustainability. The North Tyneside Local Plan sets out policies that seek to preserve local environments and local biodiversity enabling green infrastructure networks to function effectively. Each impact has been closely looked at by the Biodiversity officer in relation to the policies (see separate comments).

1.42 The loss of part of a local wildlife site and the impacts on a wildlife corridor is a material consideration in the planning process, particularly where the integrity of these systems will be under threat from human activity and intervention. This landscape is valuable, and a high level of protection should be given to most valued landscapes, wildlife habitats and natural resources which are vulnerable to the scale and speed of urban growth. Where dynamic and established ecosystem exists, the preservation of such areas gains greater importance.

1.43 However, a large part of the existing Eccles Colliery Local Wildlife Site (LWS) will be lost under this application. The remaining part of the LWS will become very much reduced in size, fragmented by urbanisation, with habitats and ecosystems that can be damaged by public access. The scheme will also result in the loss of a large area of habitat within the wildlife corridor that will result in the severance of established ecosystems and impact on wildlife dispersal and connectivity.

1.44 In terms of the landscape, the existing landscape features including trees, hedgerows grasslands and ponds make an important contribution to the character and biodiversity of the area and it is essential that new development does not lead to the loss of, or pose a future threat to, such features. The LWS and associated grasslands is a landscape that exists already and therefore has value in its own right. The loss of a landscape which has value, results in a change to the landscape quality and can be seen as a 'disturbance' in the intactness of the landscape and its overall condition. Preservation is a basic step in maintaining visual aesthetics that, in turn, maintain a sustainable landscape in an urban environment - any change or disturbance can alter the contextual fit and coherence of a landscape. The loss of part of a wildlife site and the visual and ecological changes that will be experienced is not something that can be easily replaced and consequently the proposed scheme is unlikely to achieve a sustainable and resilient environment. Changes could be introduced that could lead to a decline in its function as a wildlife site such as access, noise, and light pollution and can alter the character of the landscape on a permanent basis.

1.45 The Local Plan recognises the value of existing ecosystems and valuable habitats and sets out clear policies for the protection and enhancement of the natural environment. The impacts on a local wildlife site and disturbance within a wildlife corridor is significant resulting in irreversible change and the Local Plan policies need to be used to protect and enhance the quality, character and amenity value of land within urban areas. Therefore, the scheme as presented is

not in accordance with the Councils Policies as set out in detail by the Biodiversity Officer and therefore object to the application.

1.46 Highways Network Manager

1.47 This application is for the construction of 67 residential dwellings (C3) and 14 no. B1, B2 and B8 commercial units with associated road infrastructure, car parking spaces, open spaces, gardens and landscaping.

1.48 The site is accessed via Ecclestone Close. Parking has been provided in accordance with current standards for both the residential and commercial uses and suitable areas for turning a refuse vehicle have been provided for the residential area as well as suitable turning areas for appropriate service vehicles in the commercial area. Improvements to sustainable links to schools and public transport will be required to make the site safe to access by pedestrians. Conditional approval is recommended.

1.49 Recommendation - Conditional Approval

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

Alterations to existing access

New access

Upgrade of footpath abutting the site

Provision of traffic calming to 20mph in the vicinity of the site on Station Road

Provision of suitable pedestrian crossing point on Station Road

Associated highway drainage

Associated street lighting

Associated road markings

Associated signage

Associated legal orders

1.51 Conditions:

ACC11 - New Access: Access prior to Occ

ACC15 - Altered Access Access Alt Prior to Occ

ACC17 - Exist Access Closure: Misc Points, By *6 months

ACC25 - Turning Areas: Before Occ [refuse vehicle]

PAR04 - Veh: Parking, Garaging before Occ

REF01 - Refuse Storage: Detail, Provide Before Occ

SIT07 - Construction Method Statement (Major)

SIT08 - Wheel wash

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

Alterations to existing access

New access

Upgrade of footpath abutting the site

Provision of traffic calming to 20mph in the vicinity of the site on Station Road

Provision of suitable pedestrian crossing point on Station Road

Associated highway drainage
Associated street lighting
Associated road markings
Associated signage
Associated legal orders

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

Reason: In the interests of highway safety.

No part of the development shall be occupied until a scheme to manage refuse collection has been submitted to and approved by in writing by 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.

No part of the development shall be occupied until a scheme to manage parking has been submitted to and approved by in writing by 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.

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

Reason: In the interests of highway safety.

1.52 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 & Numbering
I46 - Highway Inspection before dvlpmt

The applicant is advised that they should enter into an agreement indemnifying the council's refuse, recycling and garden waste collection vehicles against any claims for damages to the internal road and parking layout.

1.53 Lead Local Flood Authority

1.54 I have carried out a review of the above application.

1.55 The applicants surface water drainage proposals for the site involve the provision of three attenuation ponds, a cellular storage tank and all private driveways/parking areas to be permeable paved to provide surface water storage within the site for up to a 1 in 100 yr rainfall event. The development will also include the use of swales to provide additional storage and will convey surface water through the South East part of the site. The attenuated surface water will then discharge into the Brierdene Burn at one location at a restricted discharge

rate of 21.8l/s. In addition, the proposals highlight that properties will be constructed with a finished floor level of 52.5m AOD in order to provide additional flood protection in the event of a culvert blockage.

1.56 I can confirm that I have no objections to the proposals as long as the following conditions are met prior to the commencement of the development.

- Before commencement of development detailed drainage design to be provided to LLFA.

- Before commencement of development details of the pollution control measures to prevent contamination of local watercourses during construction period to be provided to the LLFA.

- Before commencement of development details will need to be provided on the future maintenance regime of permeable paving to be include within the suds maintenance regime. This is to ensure the viability of the surface water attenuation of the development is maintained through its lifetime.

- Before commencement of development the landowners Riparian ownership duties will need to be undertaken on the Brierdene Burn, this will include re-establishing the profile of the Brierdene Burn watercourse and the removal of all obstructions from watercourse in order to allow the free passage of water. Particularity the section of watercourse located between Railway culvert and the blocked culvert (X: 430624, Y: 571803)

- Before commencement of development on site the existing damaged culvert located to the South East of the proposed development site will need to be repaired or the culvert removed and the drainage ditch re-established.

- A SuDS management contractor will need to be appointed prior to construction of sustainable drainage features with contact details provided to the LLFA.

1.57 Contaminated Land Officer

1.58 The Geo Environmental Report states:

1.59 Based solely on calculated Q_{hg} values, the site would be considered to fall within Characteristic Situation (CS) 1. However, the presence of historic shafts on site which have not been sealed or grouted provides a potential pathway for ground gas generated in underground workings to migrate readily to shallower depths. Shallow gas monitoring wells in the vicinity of shafts have not identified significant gas to date, however, gas migration can be subject to short term fluctuations in environmental conditions such as pressure or deep groundwater levels and flow regimes within underground coal workings and may not be readily predicted by a short period of shallow monitoring. On this basis, it is considered that a basic level of gas protection measures in line with a site characterised as CS2 according to BS8485 should be adopted for all residential plots proposed within 50m of a former mine shaft. Made ground within the former reservoir has been found to contain a high proportion of coal fines and some silt with and organic component derived from lagoon bed sediments. These materials are a potential source of gas. WS2 is located within the former lagoon and to date, no significant gas concentrations or flows have been detected. However, plots constructed in this area of the site are likely to require piled foundations which may have the potential to alter the gas regime within the lagoon and potentially create vertical pathways for gas migration. On this basis, it is also considered that plots constructed over the former lagoon should include a minimum of basic

gas protection measured in line with a site characterised as CS2 according to BS8485.

1.60 As there is remediation works required the following must be attached: GAS006.

1.61 The Geo Environmental Report states:

1.62 The revised conceptual site model indicates that potentially unacceptable contaminant linkages exist for both site end-users and controlled waters.

Contaminant linkages assessed as a Low or Negligible risk are not considered significant or requiring remedial action and are not discussed further.

1.63 Human Health Receptors

1.64 Elevated concentrations of arsenic and PAHs in reworked topsoil pose a potentially unacceptable risk to site end users and require further assessment. Elevated concentrations of lead and PAH in granular made ground pose a potentially unacceptable risk to site end users and will require management and remedial action.

1.65 Based on the above and that further works are required the following must be attached: CON001.

1.66 Environmental Health

1.67 I have viewed the noise report which considers the potential impact of industrial noise on the proposed new housing, road traffic noise from the B1322 Station Road and potential noise from the railway line to the east of the site. The noise monitoring for associated industrial noise from Keenan's potato factory was unattended for a one week period. This identified noise from the loading and unloading of delivery vehicles and manoeuvring of vehicles. I note that the highest LAeq 15 min average for the night period has been used within the noise assessment for modelling the potential industrial noise on the proposed residential housing. The noise modelling did include for noise arising from the industrial units to the north west of the site that consists of vehicle washing and valeting and car repair activities but that noise from the Keenan's potato factory is considered to be the dominant industrial noise for the area. An objector located in unit 6, who is a kitchen showroom and workshop, has raised concerns over the proposed housing development. The objector has indicated that they use power tools early morning and evening outside of the showroom opening hours and that they are a relatively new operation. The noise report did not highlight noise from this unit during the monitoring at the site and it is unclear if the noise assessment that included for this noise source. I would require confirmation that this activity has been taken into account, and if not, then this activity will need to be assessed, as it is unclear whether this business was operating within Unit 6 when noise monitoring was carried out.

1.68 The Leq noise levels from Keenan's potato factory would indicate that the levels of noise arising would be of significant adverse impact for the night period and adverse impact for daytime and may give rise to some complaints if assessed in accordance to BS4142, this is based on the closest property plot number 62. BS4142 assesses to the building facade only. The layout plan shows that bungalows with non-habitable rooms to the front with bedrooms and lounge

to the rear resulting in all habitable rooms being screened from noise arising from Keenans.

1.69 Review of the site layout has shown that the properties closest to Keenans will have noise sensitive facades facing away from the business. Three of the plots, 45, 46 and 57 are shown to still have noise sensitive façades facing towards Keenans, but are located slightly further away from Keenans and may be afforded some partial screening by other residential plots. Please can the applicant confirm what screening, if any will be afforded for these properties. All properties will achieve internal noise levels in accordance to the WHO community noise guidelines with open window at night. The applicant has confirmed that no properties will be subject to any repetitive bangs and clatters above 82 dBLAmax and the maximum noise at the facade during the night will be 60 dBLAmax. However, the WHO community noise guidelines is for anonymous noise such as road traffic noise, where residents are subject to industrial noise such as clatters and bangs from the unloading and loading operations or noise from reversing vehicles then residents may be more affected by such noise and therefore any properties that have sensitive facades facing towards Keenans and are not afforded screening by other buildings then they may still be subject to significant adverse impacts from industrial noise.

1.70 Mitigation measures have been proposed to minimise potential nuisance. The residential housing has been designed so that the residential plots have habitable rooms screened from Keenan's. Keenan's has raised an objection against the development. The objectors noise consultant indicates that the assessment methodology for daytime should be in accordance to BS4142 and that lower internal noise limits should be achieved rather than reliance on using the WHO guidelines. It is noted that the site layout design for those properties closest to Keenan's are designed so that the noise sensitive rooms are located on the screened façade and as such located away from Keenan's. Internal noise levels can be achieved as the noise sensitive windows are on the screened façade.

1.71 The use of a combination of earth bunding and fencing to a height of 2.8 metres will help mitigate noise for those properties closest to Keenan's and the applicant has confirmed that all garden areas are below the recommended World Health Organisation guidelines of less than 55 dB LAeq for external amenity areas. It is noted though that plot no. 62 has a garden facing towards Keenan's. The objectors noise consultant has identified concerns with regard to the calculated noise levels for plot 62 and it will be necessary for the applicant to re-assess and reconfirm the calculated noise levels for this garden.

1.72 I would therefore request that further details are provided to address the concerns raised with regard to the kitchen showroom workshop in unit 6 to the north west of the site, clarification of the noise levels for the garden area of plot 62 and confirmation on what screening is afforded to plots 45, 46 and 57 to mitigate industrial noise from Keenan's.

1.73 Additional Comments Dated 11th June 2019

1.74 I have reviewed the additional comments by the applicant in response to my comments dated 7th May 2019. I note that the applicant has confirmed that the noise assessment considered noise levels for the workshop areas that would be consistent with noise arising from the kitchen showroom and workshop.

1.75 With regard to plot 62 the applicant has verified the noise levels for the garden area that will be subject to levels of up to 52 dB(A). A BS4142 assessment for plot 62 was carried out that shows that the rating level for noise arising from Keenan's would be border line adverse nuisance for daytime for use of the garden area. However, this is based on worst case assessment of industrial noise over a 1 hour period for the BS4142 calculation but the external noise levels with the acoustic screening will meet the World Health Organisation community noise guidance levels. The habitable rooms for plot 62 are designed so that they are on the screened side of the building.

1.76 Review of the site layout has shown that the properties closest to Keenan's will have noise sensitive facades facing away from the business. Three of the plots, 45, 46 and 57 are shown to still have noise sensitive façades facing towards Keenan's, but are located slightly further away from Keenan's and may be afforded some partial screening by other residential plots. The applicant has confirmed that the dominant noise for these properties is road traffic noise and rail noise from the east, rather than industrial noise from Keenan's.

1.77 Mitigation measures have been proposed to minimise potential nuisance. The residential housing has been designed so that the residential plots have habitable rooms screened from Keenan's. Keenan's has raised an objection against the development. The site layout design for those properties closest to Keenan's are designed so that the noise sensitive rooms are located on the screened façade and as such located away from Keenan's. Internal noise levels can be achieved as the noise sensitive windows are on the screened façade.

1.78 The use of a combination of earth bunding and fencing to a height of 2.8 metres will help mitigate noise for those properties closest to Keenan's and the applicant has confirmed that all garden areas are below the recommended World Health Organisation guidelines of less than 55 dB LAeq for external amenity areas.

1.79 Planning conditions for the B1, B2 and B8 commercial units will be required to address operating hours, external plant and equipment, odour control for extraction vents and lighting.

1.80 If planning consent is to be given, I would recommend the following conditions:

C3 dwellings

Prior to occupation, submit and implement on approval of the local Planning Authority a noise scheme for the acoustic glazing scheme in accordance to noise report no. NT12879. Details of the acoustic glazing to be provided must be in accordance with BS8233 and the World Health Organisation community noise guidelines must be provided to show that all habitable rooms are provided with

sound attenuation measures to give a resultant noise level of below 30 dB LAeq and maximum noise level of 45dB for bedrooms and 35 dB LAeq for living rooms is achieved.

Prior to occupation, submit details of the ventilation scheme for all habitable rooms, for approval in writing and thereafter implemented to ensure an appropriate standard of ventilation, with windows closed, is provided. Where the internal noise levels specified in BS8233 are not achievable, with window open, due to the external noise environment, an alternative mechanical ventilation must be provided, such as mechanical heat recovery (MVHR) system should be provided that addresses thermal comfort and purge ventilation requirements to reduce the need to open windows. The alternative ventilation system must not compromise the facade insulation or the resulting internal noise levels.

Details of the 2.8m high acoustic screening, running parallel to Ecclestone Close to be provided to screen industrial noise from Keenan's, must be submitted in writing to the Local Planning Authority for approval and thereafter implemented and retained. The acoustic screening to consist of a combination of earth bunding and fencing.

Details of the 1.8m high acoustic fencing to be provided on the site, to screen noise from the industrial workshops, road and rail noise in accordance to figure 2, drawing reference NT12879/002 of noise report NT12879 must be submitted in writing to the Local Planning Authority for approval and thereafter implemented and retained.

HOU04
HOU05
SIT03

B1, B2 and B8 Commercial Units

HOU03 07:00 and 20:00 hours Monday to Saturday and 09:00 to 17:00 hours on Sundays and Bank Holidays.

Deliveries and collections for the commercial B1, B2 and B8 should take place between the times of 07:00 and 18:00 hours; Monday to Saturday and 09:00 to 17:00 hours on Sundays and Bank Holidays

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

External Plant and Equipment

Prior to the installation of external plant and equipment at the commercial units a noise scheme must be submitted that details the noise rating level from the proposed combined plant and equipment to ensure that the background noise level of 46 dB LA90 T for Daytime and 31 dB LA90 T for night time at nearest façade of residential properties is not exceeded by any more than 5 dB, as detailed in noise report reference NT12879.

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

NO102

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

EPL01

EPL02

EPL03

Odour control (if applicable)

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

LIG01

REF01

REF02

1.81 Heritage and Design

1.82 The following issues still need to be addressed:

- Plots 28 and 60 require an active side elevation to support a well-designed street.
- The close boarded fence with brick piers should be replaced in all areas with a brick wall with optional timber infill panels as set out in the Design Quality SPD.
- Visitor car parking should be surfaced in concrete blocks (rather than tarmac) to improve the overall street scene.
- Details of the mesh fencing around the commercial units should be submitted.
- On this site a consistent use of brick should be chosen to reflect the established character of the conservation area.

1.83 Concerns remain about the acoustic landscaping around the village green which results in 1800 mm high bund with 1000 mm high fence on top. This solution will not contribute towards a well-designed public realm. The acoustic bund and fence is also likely to be visible from Station Road. I refer this concern to the Case Officer to make an overall balanced judgement for the application.

1.84 Initial comments:

1.85 The majority of comments which I originally provided have not been responded to. These comments include:

1.86 Part of the application site is located within Backworth conservation area. This relates to the area of parking associated with the workshops and substation.

This area is beside the site entrance and may be visible from Station Road which is a key route into the conservation area. The applicant should submit additional evidence to show proposed views of the site from Station Road. This is required to assess if there is an adverse impact on the character and appearance of Backworth Village. The views should show the site in the summer and winter months to reflect season changes to landscaping.

1.87 Of particular concern in the layout is the approach to the acoustic landscaping around the village green which results in 1800 mm high bund with 1000 mm high fence on top. This is considered to be a solution that will not contribute towards a well-designed public realm. The acoustic bund and fence is also likely to be visible from Station Road. This is not supported.

1.88 Next to the workshops there is a large area of 1.8 metre high acoustic close boarded fencing. Substantial mature landscaping would be required to make this acceptable. Native hedgerow and boulevard tree planting is identified in this area, however further details are required to provide confidence that this area will be well design and the boundary fencing suitably mitigated.

1.89 Without a response to the concerns above, I consider that the development is highly likely to have an adverse impact on the character and appearance of the conservation area.

1.90 Revised information has been submitted with the application including house types, boundary treatments and materials. Please see my comments below in relation to this information:

- Plots 28 and 60 require an active side elevation to support a well-designed street.

- Concerns that the brick wall at the entrance of the development will enclose the site at the detriment to the open views which are currently experienced from Station Road. This seems particularly unnecessary to the south of the entrance where mature landscaping fronts the street.

- The close boarded fence with brick piers should be replaced in all areas with a brick wall with optional timber infill panels as set out in the Design Quality SPD.

- Palisade fencing seems unnecessary around the commercial units. This should be

reviewed and if there is a clear justification for security fencing then this should be designed in accordance with the Design Quality SPD.

- A mixture of brick and tile colours are proposed. On this site a consistent use of brick and tiles should be chosen to reflect the established character of the conservation area. A grey tile is advised for the roof of all properties.

1.91 The site will considerably increase the size of Backworth village. The site is also near listed buildings on Station Road. It is important that this site contributes to the character and appearance of the village.

1.92 Part of the application site is located within Backworth conservation area. This relates to the area of parking associated with the workshops and substation. This area is beside the site entrance and may be visible from Station Road which is a key route into the conservation area. The applicant should submit additional evidence to show proposed views of the site from Station Road. This is required

to assess if there is an adverse impact on the character and appearance of Backworth Village.

1.93 The house types are traditional in appearance and their design quality will largely depend on the quality of materials used. Due to the location of the site, adjacent to the conservation area, high quality natural materials should be used including slate and timber windows.

1.94 Some house types do not respond well to the street scene and present blank side elevations. Plot 29, 44, 49 and 60 specifically need to be reviewed.

1.95 The NB house type elevations do not match with the roof plan of NB house types shown on the site layout plan. This also needs to be reviewed.

1.96 Of particular concern in the layout is the approach to the acoustic landscaping around the village green which results in 1800 mm high bund with 1000 mm high fence on top. This is considered to be a solution that will not contribute towards a well-designed public realm. The acoustic bund and fence is also likely to be visible from Station Road. This is not supported. Next to the workshops there is a large area of 1.8 metre high acoustic close boarded fencing. Substantial mature landscaping would be required to make this acceptable

1.97 Public Rights of Way

1.98 There is a definitive footpath running along east edge and the very same path was fully upgraded and street lit as it crosses Station Road to Pavillion site. Can this be repeated?

1.99 The 'link' at the north east corner is welcome but could be much more inclusive if it came into site at the turning head and VP bays. Also, what is the construction type?

1.100 Definitive and strongly recordable paths criss cross the site. I think the definitive map footpath would need to be diverted. What are the links to the school to prevent car use and how does the site tie into surrounding estate to encourage 'through movement'?

2.0 Representations

2.1 Support

2.2 Three letters of support have been received. These are summarised below:

-I am writing as a significant landowner, business and neighbour to the above site to offer my full support for the proposal.

-The site has remained derelict for far too long and at a time when neighbouring open fields are being developed for housing it is not before time this former colliery site provides much needed housing for residents of North Tyneside. The proposal complies with both national and local policy frameworks and has been sensitively designed to reflect the neighbourhood.

-The proposal will complement the proposals for my own site of Holywell Engineering which has been given positive support at the pre-application stage for housing. Together the two proposals will make a huge difference to the locale and offer a synergy that will contribute to the regeneration of Backworth Village.

-I look forward to a positive decision from the Council.

- The change in designation in the site's planning status has been very welcome and clearly constructive as after some 40 years of inaction when the site was allocated for industry we now have some positive investment and an opportunity to enhance Backworth.
- In recent years a lot of green fields in the vicinity have been turned over to housing development, this brownfield site offers a much more attractive and sustainable opportunity to provide much needed houses for the area.
- Support the proposal to bring a derelict site back into beneficial use in line with government and council policies.

2.3 Objections

2.4 Seven objections have been received, including an objection on behalf of the owners of Prosperous House and Keenans. The objections are set out below:

- Adverse effect on wildlife.
- Affect character of conservation area.
- Affect Site of Special Scientific Interest.
- Impact on landscape.
- Inadequate drainage.
- Inadequate parking provision.
- Inappropriate design.
- Loss of privacy.
- Loss of residential amenity.
- Loss of visual amenity.
- Loss of/damage to trees.
- Nuisance: disturbance, dust, dirt, fumes, noise.
- Out of keeping with surroundings.
- Pollution of watercourse.
- Poor traffic/pedestrian safety.
- Poor/unsuitable vehicular access.
- Traffic congestion.
- Will result in visual intrusion.
- How many times has this been through planning?
- The ground is unsafe, wet and liable to flood in winter.
- There is noise and early morning traffic to Keenans factory.
- The road structure landscaping is inadequate.
- The traffic now is at times a congestion issue we cannot access or get out of the road onto Station Road at peak times.
- The speed limit is never adhered to.
- Do the plans include an electrical sub-station behind my property and why has the boundary line incorporated half of my rear garden?
- Object to the planning application due to the adverse impact of the development on the property, day to day operation of work, effect on the employees.
- We are meeting with a representative from Northumberland Estates to discuss our concerns.
- I am writing regarding the proposed planning permission for development of the land adjacent to Backworth Studios. As the owner of the 34 Design Company kitchen showroom in Unit 6, and joinery workshop in Unit 10 of Backworth Studios I have several concerns about how the proposed plans for the land could impact my business.
- The plans to get rid of the existing road leading up to Backworth Studios is the most concerning aspect of the design for the new housing estate and factory

proposal. In its current state, the road allows just enough space for our delivery lorries to access our units, however they must reverse out as there is not enough space for them to turn around. By changing the road layout, a delivery lorry will not be able to reverse out due to proposed bends in the new road and therefore could not reach our units to deliver our goods. This will drastically impact the day to day running of my business and therefore I am against any changes being made to the existing road which would restrict access.

-I am also concerned about the removal of the two fences to which 34 Design Company signs are mounted which attract a lot of customers to the showroom, due to the busy road to the back of the building. Many customers have stated that it was these signs which caught their eye and led them to visit the showroom. Therefore, I would be strongly averse to the removal of the fences on which these signs are mounted. Signage of that size was a costly investment for us as a recently opened business, therefore I would request that any alteration to my current advertisement is avoided, or at the very least compensated.

-Finally, I have significant concerns about housing being erected directly facing our workshop and showroom. Our workshop in unit 10 produces a significant amount of noise all hours of the day, particularly early mornings and evenings outside of showroom opening hours, which would inevitably lead to noise complaints from residents. The lack of surrounding residencies was one of the main reasons why we chose to establish our showroom and workshop at Backworth Studios, as in its current state there is no risk of noise complaints, and we would like to retain this assurance that our business can continue to function undisturbed.

-In addition, the planned housing development will revoke the active frontage of my units, as the land directly in front of Backworth Studios currently serves as a public thoroughfare. A loss of active frontage would significantly detriment my business and would necessarily require me to object to the housing development entirely.

-I feel that the proposed plans do not align with the industrial history of Backworth Village, and Backworth Studios in particular. Having served as an industrial site for over 100 years, it would be wrong to repurpose the land to the detriment of the businesses currently occupying and upholding the industrial legacy of the area.

-I hope that you will seriously consider my concerns and would be happy to discuss them further if required.

-Object to the current application on the basis of its potential to impact on the continued unfettered operation of Keenan's at their existing site. The concerns are present for the same reasons as was the case in the previous 2012 planning application 12/00637/FUL and as confirmed within the subsequent appeal decision of August 2016 Ref APP/4515/W/15/3137995. As confirmed within the appeal decision the concern with proposed development on this site is that the mitigation measures required to be incorporated within any residential development proposals in order to meet WHO guidelines are steps which are potentially not practically achievable or maintainable. The implications of this are that these new residential receptors may become a source of complaints in relation to the operations of our clients which ultimately may impact on their ability to operate in the manner they currently do. This consequently has an impact on their continued economic viability. On the basis of an initial review of the submitted application and supporting information we remain concerned that this same situation may occur. We are accordingly undertaking our own full

review of the current application including the submitted noise survey prepared by Wardell Armstrong's and will in due course submit further comments as may be appropriate following this review.

- Our noise consultants, Apex Acoustics, in their review of the applicant's report had questioned the validity of the report on the basis that an assessment should have been carried out utilising BS4142 as the British Standard relevant to Human Responses to Industrial and Commercial Noise. Their concern arose because the applicants report was prepared in relation to WHO Guidelines and guidance within BS8233. No assessment had been undertaken with regard to BS4142.

- In light of a new application on land to the south west of our clients site relating to Backworth Lodge and the surrounding area (18/01373/FUL and 18/01374/LBC). Within that application a noise assessment has been submitted. This includes specific consideration of the noise impacts arising from our clients site. It is significant to note that that noise report prepared by an entirely separate Noise Consultant had consistently utilised within its assessment BS4142:2014 Methods for Rating and Assessing Industrial and Commercial Sound. That report provides a detailed assessment of the proposed application in the context of BS4142 with specific regard to noise being generated from our clients site. In this context we believe this reinforces the findings and conclusions of our consultants that the applicants report submitted in relation to application 18/00881/FUL is deficient in not utilising BS4142 in its assessment. We are in the position where two separate noise consultants have concluded that the correct British Standard to assess the impacts of our clients site is BS4142. The noise assessment relating to the adjacent site was not commissioned by our clients and was commissioned by a neighbouring landowner also seeking consent. We would submit that this provides further confirmation that the issues raised are entirely valid and correct and that the application is not capable of proper assessment and determination until the issues with the applicant's report are rectified.

- The LPA's own conservation officer has objected to a significant aspect of the proposed noise amelioration for the site. This is the proposed bund and fence on top of the bund. Due to the location of the conservation area this feature is considered visually inappropriate and in this respect the scheme is unlikely to be able to deliver this key noise amelioration element. This further emphasises the fact, as set out in our last letter that this proposal has not and cannot address the finding of the previous Inspector decision in relation to noise impacts.

- In relation to the principle of development and specifically the mixed-use land allocation for this entire area under policy S3.4. It is apparent now that this application in conjunction with the now submitted neighbouring application at Backworth Lodge, would result in some 113 dwellings being developed over an 8ha area. This is clearly a significant departure from the 65 dwellings envisaged under the mixed-use Local Plan allocation for this area under policy S3.4. The LP allocation was premised on the basis of a mixed-use development coming forward which brought forward meaningful levels of employment. Further to this it was also envisaged, within the context of the policy, that residential development would be a lesser and subservient element of this mixed-use site in order to ensure that a satisfactory scheme could be delivered without adversely impacting on our clients continued operations. This point has been brought into focus by reference to the Backworth Lodge application and the fact that it is solely a residential development proposal.

- With reference to the Inspectors report on the LP, published in May 2017, it can be seen in agreeing to release this area from its original employment allocation

the Inspector intended that the area would be developed as a mixed-use site in order that new employment uses could be developed close to Keenan's Processing in a manner which was compatible with their existing presence and also future residential development. It is quite clear from the Inspectors report that it was envisaged by the Inspector and indeed was promoted by the LPA that employment areas within this mixed-use site would deliver a buffer between Keenan's site and a relatively modest amount of development within the rest of the site. In considering whether or not Keenan's did sterilise large areas of this land, the Inspector concluded the evidence points to the need to avoid housing in close proximity to these premises, but I do not consider that it effectively sterilises the entire site from accommodating the relatively modest amount of housing proposed. We would draw attention to the phrase 'modest amount of housing'.

The Inspector went on to state that looking at the wider sites, I am not persuaded that a subservient element of housing as part of a wider mix of uses could not be satisfactorily accommodated on the large 8.5ha site.

-It is clear therefore that in allowing the mixed-use site to come forward the Inspector not only envisaged that employment use would be present within the site but also that any residential element would be subservient to the employment use. This is clearly not the situation which is now occurring. As detailed these two current applications together would deliver some 113 dwellings with just 14 commercial units being developed. We are in the situation where the employment use within this mixed-use allocation is by far the most subservient land use. We must conclude therefore that both applications including this application are not consistent with the land use allocation for the site.

-What is also of significance is that this land use allocation under policy S4.3 is a relatively recent allocation which is contained within an up to date LP adopted as recently as July 2017. This is of significance because it postdates the previous appeal decision on this site from 2016. Therefore, the policy context has changed since determination of the previous planning appeal and any new proposals on this site must now also be able to demonstrate that they are bringing forward subservient levels of residential development in the context of a wider mixed-use site. This application does not do that.

-We would further submit that the failure to adhere to this mixed-use allocation is one of the principle reasons that noise issues are arising. If the site was being brought forward in the manner expected under a mixed-use planning policy, then it would be expected that less sensitive employment land uses would be brought forward on the closest sites to our client's land. The fact that the application now contains 14 commercial units on one parcel of land does not address this issue and we would submit that in any scheme where residential development was subservient, we would not be in the position where the issues present in the 2016 appeal were even having to be considered again. We would therefore submit, in addition to our previous objections, that this application is in fact also contrary to the adopted LP and is therefore not consistent with the requirements of the NPPF in relation to the determination of applications in accordance with an up to date plan.

-The latest information submitted in respect of noise, still fails to address the technical issues present within the applicant's original noise report. The latest noise letter of 5th March 2019 is an addendum to that original report and in this respect the same issues remain. We therefore conclude that the noise impacts of the proposal have still not been assessed correctly by the applicants. We also note that the noise mitigation that is proposed is still reliant upon a screen fence

erected on top of a boundary bund and this is the subject of an objection from the council's own conservation officer. In this respect, the noise attenuation proposed is premised on an aspect of built development which is not acceptable in relation to its impact on designated heritage assets.

-Appendix 3 & 4 say that Station Road is both accessible to pedestrians and cyclists. Incorrect the pavement is unsafe, unkempt and dangerous, terminates at Holywell engineering. The road is not wide enough of suitable for HTC vehicles. Cyclists cannot be passed on this road and several accidents have nearly occurred due to vehicles trying to pass cyclists.

-Appendix 3-2 regarding- the site is considered accessible by public transport: the 359 and 59 service is about to be withdrawn for good; the 54 service runs on the hour after 6 pm and all day on Sunday; if you wish to return from Haymarket there is no service from 19.45 until 21.45. For residents that have disabilities and cannot walk 1 mile from Northumberland Park metro station, do you consider this to be accessible for public transport.

-The principal of housing on a Local Wildlife Site (LWS) is contrary to NPPF para 170, 174 and 175 as well as your Local Plan policies S5.4, DM 5.5, 5.7 and 5.9. Based on your housing numbers and growth aspirations this can be achieved through alternative housing sites allocated within North Tyneside.

-The site remains as a LWS regardless of the applicant's ecological consultants claiming that their portion of the site no longer meets the requirements as there is sound evidence from the Local Authorities own survey work confirming in 2016/2017 that the site adequately meets LWS criteria. Regardless of this argument and even if a site deteriorates slightly in quality DEFRA do not advise that it is de-designated or built on, time is required to monitor and improve the site.

-Mitigation options proposed are wholly unacceptable based on the suggested direct and in direct impacts from the scheme. The offsite mitigation site is inappropriate and would be unlikely to provide a species rich grassland and is much smaller in size with its own ecological interest features which would then also be lost.

-The scheme impacts on wildlife corridors and high valued landscape which is also contrary to policy and guidance.

-As the Local Planning Authority, you must have regard to the purpose of conserving biodiversity in line with section 40 of the NERC Act (2006) Habitats and Species of Principal Importance. Overall the proposed scheme is hugely detrimental to wildlife particularly protected and priority species and habitats and has total disregard to the importance and protection of designated sites. This scheme would deliver a huge net loss to biodiversity within North Tyneside and would set a worrying precedent for the region.

3.0 External Consultees

3.1 Historic England

3.2 On the basis of this information, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

3.3 Tyne and Wear Archaeology Officer

3.4 I am just going to comment on buried archaeology, not the setting of or visual impact on designated heritage assets, which your Conservation Area Specialist will deal with. I note that a Heritage Statement has been submitted.

3.5 The site is covered by two archaeological desk-based assessments. One for the east part of the site, written in 2007 by Pre-Construct Archaeology and one for the western part of the site, written by Archaeological Services Durham University in 2011. These ideally should have been submitted with the planning application.

3.6 The site lies south-east of East Backworth medieval village, which dates back to at least 1189 AD. During the medieval period, the site was probably used for agricultural purposes.

3.7 The site is of industrial archaeological interest.

3.8 In 1815 Backworth Colliery (A or Maud Pit) was opened on the site. A gasworks was later added. In 1919 a large pithead baths had been built. Backworth Colliery was owned by Waldie & Co in the 1850s, then Maud Taylor & Co, J.C. Lamb & Co, Backworth and West Cramlington Collieries, then Backworth Collieries Ltd, and from 1947 the National Coal Board. A Pit closed in 1960.

3.9 In 2008 Archaeological Services Durham University excavated five trenches in the eastern part of the site in advance of the reclamation of industrial land associated with Eccles Colliery. Eccles Colliery opened in 1813 and closed in 1980. The aim was to ascertain if the Backworth Waggonway West Holywell Branch survived (it's now the line of a public footpath) and to see if archaeological remains lay beneath the colliery waste. No archaeological remains were found.

3.10 Archaeological Work required:

-Archaeological evaluation trenching on the site of colliery buildings, the gas works and the Backworth Colliery Railway West Cramlington Branch of 1818. I wrote a specification for these trenches back in 2012 (specification attached – I can update this if required).

-Where archaeological remains are found in the preliminary trenches, further archaeological excavation will be needed to fully record the remains before development proceeds.

Archaeological Excavation and Recording Condition

No groundworks or development shall commence until a programme of archaeological fieldwork (to include evaluation and where appropriate mitigation excavation) has been completed. This shall be carried out in accordance with a specification provided by the Local Planning Authority.

Reason: The site is located within an area identified as being of potential archaeological interest. The investigation is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded, in accordance with paragraph 199 of the NPPF, Local Plan S6.5 and policies DM6.6 and DM6.7.

Archaeological Post Excavation Report Condition

The building(s) shall not be occupied/brought into use until the final report of the results of the archaeological fieldwork undertaken in pursuance of condition () has been submitted to and approved in writing by the Local Planning Authority. Reason: The site is located within an area identified as being of potential archaeological interest. The investigation is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded, in accordance with paragraph 199 of the NPPF, Local Plan S6.5 and policies DM6.6 and DM6.7.

Archaeological Publication Report Condition

The buildings shall not be occupied/brought into use until a report detailing the results of the archaeological fieldwork undertaken has been produced in a form suitable for publication in a suitable and agreed journal and has been submitted to and approved in writing by the Local Planning Authority prior to submission to the editor of the journal.

Reason: The site is located within an area identified in the Local Plan as being of potential archaeological interest and the publication of the results will enhance understanding of and will allow public access to the work undertaken in accordance with paragraph 199 of the NPPF, Local Plan S6.5 and policies DM6.6 and DM6.7.

3.11 The Coal Authority

3.12 The Coal Authority Response:

3.13 As you may be aware, we previously commented in a letter (dated 30 July 2018) to your colleague. Based on the information contained in the Geo-Environmental Study Report (22 February 2018), the content of which confirmed the site to be safe and stable from a mining viewpoint, The Coal Authority raised no objections to the planning application. This was further reinforced in that we welcomed the development layout, which had been designed around the recorded mine entries, of which have been treated.

3.14 The Coal Authority now notes the submitted Geoenvironmental Appraisal (July 2019, prepared by Sirius Geotechnical Ltd), the content of which confirms potential risks posed by mine gas within 50m of the historical shafts, and that gas protection measures will be required.

3.15 On account of the above, we agree, in principle, with their approach to gas protection measures, with a caveat that they use appropriate gas mitigation, installed by an approved contractor according to manufacturer's specification and verified following installation. In light of the above, the LPA may wish to consult their Environmental Health / Public Protection team in relation to this specific matter.

3.16 Initial comments The Coal Authority Response: Material Consideration

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

3.18 The applicant has obtained appropriate and up-to-date coal mining information for the proposed development site and has used this information to inform the Geo-Environmental Study Report (22 February 2018), which accompanies this planning application.

3.19 The Coal Authority Recommendation to LPA

3.20 The Coal Authority considers that the content and conclusions of the Geo-Environmental Study Report (22 February 2018) are sufficient for the purposes of the planning system and meets the requirements of NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development. The site layout has also been developed in full cognisance of the mine entries present and it is not proposed to build over these or their zones of influence. The Coal Authority therefore has no objection to the proposed development. However, furthermore detailed considerations of ground conditions and/or foundation design may be required as part of any subsequent building regulations application.

3.21 Police Architectural Liaison Officer

3.22 I have looked through the documents attached and can find no grounds on which to object to this from a crime prevention point of view.

3.23 Natural England

3.24 No objection – subject to appropriate mitigation being secured.

3.25 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.

3.26 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:

3.27 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. Therefore it is requested that mitigation is provided to counter this and ensure the protection of the special interest features of the above named sites.

3.28 We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

3.29 Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

3.30 Further advice on mitigation

3.31 Survey data of recreational visitors to the Northumbria Coast SPA and Ramsar highlight that a high percentage of visitors reside within 10km buffer zone of the coast, with this part of the coastline offering significant opportunity for access to the aforementioned designated sites. 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. North Tyneside have recently introduced Supplementary Planning Guidance to provide a Coastal Mitigation Service, which seeks to provide mitigation at strategy level. This initiative involves a financial contribution and the developer should liaise with the LPA to discuss the contribution to this initiative.

3.32 Protected Species

3.33 Natural England has produced standing advice to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

3.34 Local sites and priority habitats and species

3.35 You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraph 170a and 174a of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geo-conservation groups or recording societies.

3.36 Priority habitats and species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped as either SSSI, on the Magic website or as Local Wildlife Sites (LWS). Lists of priority habitats and species can be provided. Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be provided.

3.37 Ancient woodland and veteran trees

3.38 You should consider any impacts on ancient woodland and veteran trees in line with paragraph 175c of the NPPF. Natural England maintains the Ancient Woodland Inventory which can help identify ancient woodland. Natural England and the Forestry Commission have produced standing advice for planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland/veteran trees where they form part of a SSSI or in exceptional circumstances.

3.39 Environmental enhancement

3.40 Development provides opportunities to secure a net gain for nature and local communities, as outlined in paragraphs 102d, 118a, 170d, 174b and 175d of the NPPF. We advise you to follow the mitigation hierarchy as set out in paragraph 175a of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be incorporated into the development proposal. Where on site measures are not possible, you may wish to consider off site measures, including sites for biodiversity offsetting. Opportunities for enhancement might include:

- Providing a new footpath through the new development to link into existing rights of way.
- Restoring a neglected hedgerow.
- Creating a new pond as an attractive feature on site.
- Planting new tree characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and see sources for bees and birds.
- Incorporating swift boxes and bat boxes into the design of new buildings.
- Designing lighting to encourage wildlife.
- Adding a green roof to new buildings.

3.41 You could also consider how the proposed development can contribute to the wider environment and help implement elements of any Landscape, Green Infrastructure or Biodiversity Strategy in place in your area. For example:

- Links to existing greenspace and/or opportunities to enhance and improve access.
- Identifying new opportunities for new greenspace and managing existing (and new) public spaces to more wildlife friendly (e.g. by sowing wild flower strips).
- Planting additional street trees.
- Identifying any improvements to the existing public rights of way network or using the opportunity of new development to extend the network to create missing links.
- Restoring neglected environmental features (e.g. coppicing a prominent hedge that is in poor condition or clearing away an eyesore).

3.42 Access and recreation

3.43 Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

3.44 Rights of Way, Access land, Coastal access and National Trails

3.45 Paragraph 98 of the NPPF highlights the important of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way and coastal access routes in the vicinity of the development. Consideration should also be given to the potential impacts on the any nearby National Trails. The National Trails website provides information including contact details for the National Trail Officer. Appropriate mitigation measures should be incorporated for any adverse impacts.

3.46 Biodiversity duty

3.47 Your authority has a duty to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information can be provided.

3.48 Environment Agency

3.49 We have no objections to the above development proposal as submitted. However, we have the following comments/advice to offer:

3.50 Contaminated Land – Advice to LPA

3.51 This development appears to have been subject of past industrial activity which poses a high risk of pollution to controlled waters. However, we are unable to provide site-specific advice relating to land contamination as we have recently revised our priorities so that we can focus on:

- Protecting and improving the groundwater that supports existing drinking water supplies.
- Groundwater within important aquifers for future supply of drinking water or other environmental use.

3.52 We recommend that you refer to our published 'Guiding Principles for Land Contamination' which outlines the approach which should be adopted when managing this site's risks to the water environment. We also advise that you consult with your Environmental Health/Environmental Protection Department for advice on generic aspects of land contamination management. Where planning controls are considered necessary, we recommend that the environmental protection of controlled waters is considered alongside any human health protection requirements. This approach is supported by paragraph 170 of the NPPF.

3.53 National Quality Mark Scheme for Land Contamination Management – Advice to LPA

3.54 We would recommend that any reports submitted for approval to the relevant LPA are prepared under the National Quality Mark Scheme for Land Contamination (NQMS). The NQMS is a system designed by the industry led Land Forum to ensure that land contamination management works meets the necessary standards. It applies in particular to the presentation of environmental information to the regulator in the form of reports setting out both factual and interpretative information.

3.55 Under the scheme, reports are prepared in line with good practice and signed off by a suitably qualified and experienced person registered under the NQMS who aims to ensure that:

- The work has been planned, undertaken and written up by competent people who have relevant experience and/or qualifications in their respective disciplines.
- The underlying data has been collected in line with established good practice procedures and its collection has been subject to control via established quality management systems.
- The data has been processed, analysed and interpreted in line with established good practice and any specific advice provided by the relevant regulatory authorities or regulatory bodies.
- The reports set out recommendations or conclusions that are substantiated by the underlying data and are based upon reasonable interpretations.
- Any limitations in the data or uncertainties in the analysis are clearly identified along with the possible consequences of such limitations.

3.56 Reports prepared under the National Quality Mark Scheme aims to provide greater confidence to the regulator that land contamination issues have been appropriately identified and suitably investigated. It also demonstrates that all necessary information has been included and reported to a sufficient high standard for regulatory decisions to be made.

3.57 If you need further support understanding the report, please seek advice from your Environmental Health/Environmental Protection Department who will be able to advise on the generic aspects of land contamination management. Where planning controls are considered necessary, we recommend that you seek to integrate any requirements for human health protection with those for protection of the water environment. This approach is supported by paragraph 170 of the NPPF.

3.58 We also recommend that you consider the merits of advising the developer to continue to handle any further land contamination management work that may be required under the NQMS.

3.60 Northumbrian Water

3.61 The planning application does not provide sufficient detail with regards to the management of foul and surface water from the development for Northumbrian Water to be able to assess our capacity to treat the flows from the development. We would therefore request the following condition:

3.62 Condition: Development shall not commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and the Lead Local Flood Authority. Thereafter the development shall take place in accordance with the approved details.

Reason: To prevent the increased risk of flooding from any sources in accordance with the NPPF.

3.63 How to satisfy the condition:

The developer should develop their surface water drainage solution by working through the Hierarchy of Preference contained with Revised Part H of the Building Regulations 2010. Namely:

- Soakaway
- Watercourse, and finally
- Sewer

3.64 If sewer is the only option, the developer should contact Northumbrian Water to agree allowable discharge rates and points into the public sewer network. This can be done by submitting a point of connection enquiry directly to us. Full details and guidance can be found at <https://www.nwl.co.uk/developers/predevelopment-enquiries.aspx> or telephone 0191 419 6646.

3.65 Please note that the planning permission with the above condition is not considered implementable until the condition has been discharged. Application

can then be made for a sewer connection under Section 106 of the Water Industry Act 1991.

3.66 For information only

3.67 We can inform you that a number of public sewers cross the site and may be affected by the proposed development. Northumbrian Water do not permit a building over or close to our apparatus and therefore we will be contacting the developer direct to establish the exact location of our assets and ensure any necessary diversion, relocation or protection measures required prior to the commencement of development.

3.68 Newcastle International Airport Limited (NIAL)

3.69 We would reiterate our comments made on 30/08/19, and on 24.04 & 10/06. To summarise these comments:

- NIAL request the construction statement, bird strike risk assessment (BSRA) and percentage mix of berry-bearing species is submitted with subsequent applications and that we are consulted on these elements. NIAL request that these are conditioned upon planning decision and that our previous aerodrome safeguarding comments are taken into account. We would request that this approach is adopted for future applications associated with this site and any subsequent changes in design layout.

- NIAL would add that the BSRA should be applied to the management of the ecological mitigation area too.

- Noise - we would request that the informative 'The development hereby approved lies within close proximity to the designated and well-established flightpath from Newcastle International Airport. The Airport operates unrestricted flying 365 days per year, 24 hours per day' is conditioned upon planning decision.

3.70 Physical development

3.71 The site is directly under the flightpaths for aircraft which have taken off to the east and are turning south to connect to designated air corridors. However, given the average height of aircraft at this point, the proposed physical development of the site would not result in any obstacle to overflying aircraft, or interference with navigational aids.

3.72 Noise

3.73 The site is not within the Airport's most recent noise contours, which model the potential noise impact for aircraft operating from the Airport up to 2035.

Therefore, it is not expected that noise levels will be above a level which will result in significant community annoyance.

3.74 However, aircraft flying overhead will be audible. The Airport already receives noise complaints from across North Tyneside, and therefore the Airport requests that the below informative is added to a grant of planning permission, in order to make clear the existing aircraft operations which would impact the site.

The development hereby approved lies within close proximity to the designated and well-established flightpath from Newcastle International Airport. The airport operates unrestricted, flying 365 days per year, 24 hours per day. The site is also

a co-opted military airfield and therefore unrestrictedly accepts military aircraft. Properties contained within the development will be exposed to aircraft noise.

3.75 Planning Policy

3.76 Paragraph 180 of NPPF states that planning policies and decisions should aim to recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established. This is especially relevant as the Airport wants to avoid development without suitable mitigation being approved too close to the Airport and its approach paths which would restrict development of the Airport as an existing business. The Masterplan and noise contours are the expression of future growth plans in terms of an expanded flight program at the Airport. Noise would therefore need to be considered in relation to current and future operations at the Airport.

3.77 Consideration should also be given to policy DM5.19 of the North Tyneside Local Plan, which states that “Proposals for development should have regard to the noise impacts arising from the Newcastle International Airport flight path as shown on the Policies Map.

3.78 Lighting

3.79 The Airport expects that all lighting be fully cut off so as to eliminate any vertical light spill into the atmosphere, which could act as a distraction for pilots on approach or departing the Airport. There is also a risk that lighting, if set out in certain patterns, could be confused as operational lighting to pilots, especially in poor visibility. Therefore, any details of permanent or temporary lighting (i.e. for construction) to be installed, which the applicant believes may distract pilots are to be consulted and approved by NIA. This should also be conditioned as part of the planning permission.

3.80 Cranes

3.81 The development site is located close to the Airports ‘approach and take-off protected obstacles limitation surface. Therefore, use of cranes during construction could present a collision hazard and/or impact on the Airport protected obstacle limitation surfaces. The use of any crane above 40m in height would penetrate the surface and would require an operator’s licence and the issuing of a notice to airmen for the duration of the construction period. It would also need to be fit with medium intensity lighting. If a crane or other construction equipment is required above 40m in height above ground, it is requested that the jib is only in the raised position during use, the Airport’s air traffic control service is informed before use, should be fit with low intensity lighting, and work should cease during poor visibility and cloud ceilings.

3.82 The Airport request that the parameters and procedures of crane use for the scheme be set out in a crane method statement, which should be conditioned as part of a grant of planning consent. This should at least set out the following –

- The exact location of the centre of the crane, as an OS Grid reference (to at least 6 figures for each of eastings and northings), or marked on a map showing the OS Grid;

- The maximum operating height in metres Above Ordnance Datum (AOD), or the height of crane Above Ground Level (AGL) plus ground level in AOD (see Note below);
- The type of crane/equipment (e.g. Tower Crane, Mobile Crane, etc.);
- The radius of the jib/boom of a fixed crane/the area of operation of a mobile crane;
- The intended dates and times of operation;
- Applicant's name and contact details.
- Proposed obstacle lighting to be installed.

3.83 Cranes used during operation may be a physical hazard to airlines, as well as potentially impacting on protected navigational surfaces. In order to assess this, NIA require the ground height of the site and an indication from the developer what the maximum height of the cranes will be.

3.84 Landscaping

3.85 Certain types of landscaping can be bird attracting, providing a habitat/feeding source for birds with the potential to result in an increase in bird strike incidences. Berry bearing species should make up no greater than 10% of the planting schedule to ensure there is no increased risk of bird strikes with aircraft operating from the Airport. The following species should not be used on site in quantities greater than 10%, in order to prevent the creation of bird attracting features on site.

Crataegus monogyna Hawthorn
 Ilex aquifolium Holly
 Rosa canina Dog Rose
 Berberis spp Barberry
 Cotoneaster
 Viburnum
 Aucuba Buddleia
 Callicarpa Beauty Berry
 Chaenomeles Japonica
 Clerodendrum
 Danae Butcher's Broom
 Daphne Euonymus Spindle
 Hypericum St John's Wort
 Lonicera Honeysuckle

Lonicera Honeysuckle
 Mahonia
 Malus Crab Apple
 Sorbus aucuparia Rowan
 Pernettya Prickly Heath
 Prunus avium Wild Cherry
 Pyracantha Firethorn
 Rhus Sumac
 Ribes Ornamental Currant
 Sambucus nigra Elder
 Skimmia
 Stransvaesia
 Symphoricarpos Snowberry
 Taxus Yew

3.86 NIA would require further information on the percentage mix of species on the site to determine the volume of bird attracting species.

3.87 The grouping of trees in certain arrangements can also provide a roosting habitat for species such as starlings, which can be especially hazardous to aircraft owing to the density of flocks. Therefore confirmed specific details of tree species to be planted will be required.

3.88 Any on-site skips containing source of foods for birds, including soil, should also be covered.

3.89 Bird strike assessment

3.90 Given the proximity of the site to flightpaths, a bird strike risk assessment should be undertaken to inform the development of the scheme. This should be submitted with a planning application for NIA to review.

3.91 SUDS ponds and wetlands

3.92 There is a general presumption against the creation of open water bodies within 13 km of an aerodrome, which in relation to this scheme is NIA. This is due to the increased likelihood of bird strike as a result of habitat formation within close proximity to the flight path, when aircraft are typically flying at lower level having departed or preparing for arrival at the aerodrome.

3.93 The proposal includes SUD ponds. If the basins of these ponds will be permanently wet, the Airport expect that the basin be fully planted with reeds to cover the surface of the pond with netting used as an interim measure whilst the reed planting is established. If the basin will only be wet during time of flood it is expected that it will drain rapidly (not more than 2 days). It is also expected that water pooling is avoided during construction.

3.94 NIA would like to know how often there would be an area of standing water. Any proposed wetland area is to be fully planted and netted in the interim whilst vegetation is established. The risk to aircraft through increased bird activity from wetland areas should also be considered in the birdstrike assessment. To discourage pooled water attracting hazardous bird species, the Airport expects any standing water to be removed in under 48 hours.

Application No: 18/01373/FUL

Author: Aidan Dobinson Booth

Date valid: 29 October 2018

☎: 0191 643 6333

Target decision date: 28 January 2019

Ward: Valley

Application type: full planning application

Location: Holywell Engineering, Station Road, Backworth, NEWCASTLE UPON TYNE, NE27 0AE

Proposal: Demolition of several existing buildings. Conversion of existing Backworth Lodge, Dairy Cottage and Ivy Cottage to form 4no flats and 2no. dwellings. Erection of new apartment building (13no apartments) and 27no dwellings (Amended Plans received 04.03.19)

Applicant: David Little Pension Trust Fund Mr Andrew Little, C/o Holywell Engineering Limited Station Road Backworth Newcastle Upon Tyne NE27 0AE

Agent: IDPartnership Northern, Hugh Daglish St Jude's Barker Street Shieldfield Newcastle Upon Tyne NE2 1AS

RECOMMENDATION:

It is recommended that members indicate they are minded to approve the application and authorise the Head of Environment, Housing and Leisure to determine the application subject to:

- a) the conditions set out below and the amendment to, addition or omission of any other condition considered necessary;
- b) the applicant entering into a legal agreement to secure the following:
a contribution of £15,500 towards a Coastal Mitigation Service to mitigate for the impacts on the Northumbria Coast Special Protection Area and a contribution of £125,000 towards improvements at Backworth Park Primary School.

Members are requested to authorise that the Head of Law and Governance and the Head of Environment, Housing and Leisure to undertake all necessary procedures (Section 278 Agreement) to secure:

Upgrade of footpaths abutting site

New access

Upgrade of footpath abutting the site

Provision of traffic calming to 20mph in the vicinity of the site on Station Road

Provision of suitable pedestrian crossing point on Station Road

Associated highway drainage

Associated street lighting

Associated road markings

Associated signage

Associated legal orders

INFORMATION

1.0 Summary Of Key Issues & Conclusions

1. Background

1.1 This application was due to be considered by Planning Committee on 9th July 2019, but was deferred. This was following a letter received on 8th July 2019 from The Northumberland Estates. They considered that to determine this application could prejudice their own application in respect on housing on the adjacent site of Backworth Business Park (18/01881/FUL). The Northumberland Estates sought legal advice that said that the Council would be vulnerable to legal challenge if this application was considered in isolation. They state that both applications relate to the same policy area and are affected by the same nature conservation designation and should be determined at the same time.

1.2 Given that The Northumberland Estates' application will be considered at the same Planning Committee as this application they have withdrawn their objection.

2. Main Issues

The main issues for Members to consider are;

- Principle;
- Impact of the proposal in the character and appearance of the site and its surroundings. Members need to have special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess. Members also need to pay special attention to the desirability of preserving or enhancing the character or appearance of the Backworth Conservation Area.
- Impact of noise upon existing and future occupiers;
- Whether the proposed housing would provide a sufficient residential living environment for future occupiers; and
- The impact on highway safety.

3. Description of the Site

3.1 The application site measures approximately 1.97 hectares in area. The site is previously developed land. Towards the south eastern end of the site is the former Holywell Engineering building (Backworth Lodge), which is a large red-brick two storey building with a series of pitched roofs. Backworth Lodge is mid-19th century in date and was the home of the manager of Backworth Colliery. In the late 1950s and early 1960s the Lodge was used as offices by the National Coal Board. A two-storey strong room for mining drawings was built onto the rear northern elevation and a large single storey office annexe added to the south-east.

3.2 There are a number of large mature trees situated around The Lodge Building and either side of the access roads that leads to B1322 (Station Road).

3.3 The site lies on the western fringe of the former Backworth Colliery and includes the last standing buildings of the mine. Backworth A Pit, which was located immediately north of this site opened circa 1813. It was renamed Maude Pit in 1872 and eventually closed in 1960. Backworth Colliery as a whole closed in 1980.

3.4 Dairy and Ivy Cottages are located towards the northern end of the site fronting onto the B1322 (Station Road). They were residential dwellings, both built in the early 19th century. Dairy Cottage is listed grade II. Ivy Cottage is not listed.

4. Description of the proposed development

4.1 This application seeks full planning permission for the demolition of several existing buildings. Conversion of existing Backworth Lodge, Dairy Cottage and Ivy Cottage to form 4no flats and 2no. dwellings. Erection of new apartment building (13no apartments) and 27no. dwellings.

5. Relevant Planning History

20/00542/FUL – Demolition of single storey extension to the south of Backworth Lodge. Land to be made good.
Permitted 19/08.20

18/01374/LBC – Demolition of several existing buildings. Conversion of existing Backworth Lodge, Dairy Cottage and Ivy Cottage to form 4no. flats and 2no. dwellings. Erection of new apartment buildings (13no. apartments) and 27no. dwellings.
Pending Consideration.

02/01870/TPO – Work on various trees within Holywell Mining Station Road, Backworth, TPO, 1995
Split decision, appeal allowed 22.11.02.

98/00497/TPO – Fell 12no. trees and deadwood other trees within Group G1 and G2 of Holywell Mining, Station Road, Backworth TPO, 1995.
Permitted 08.10.98.

97/00538/TPO – Fell 2no. trees in group G2 within Holywell Mining, Station Road, Backworth, TPO, 1995.
Permitted 21.05.97.

Backworth Business Park (Land to the north east of this application)

18/00881/FUL - Construction of 67 residential dwellings (C3) including 17 affordable homes (25%) and 14 No. B1, B2 & B8 commercial units totalling 650 sqm, with associated road infrastructure, car parking spaces, open spaces, gardens and landscaping.
Pending Consideration.

12/00637/FUL - Change of use of existing vacant employment land to residential (C3) and construction 65 residential units (including 13 affordable homes) with associated road infrastructure, structural landscaping, gardens and public amenity space. (Amended Description 04.08.14).
Appeal Dismissed 31.08.16.

6. Development Plan

North Tyneside Local Plan 2017.

7. Government Policy

7.1 National Planning Policy Framework (February 2019)

7.2 National Planning Policy Guidance (as Amended)

7.3 Planning Applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration in the determination of this application. It requires local planning authorities 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

8.1 The main issues for Members to consider are;

- Principle;
- Impact of the proposal in the character and appearance of the site and its surroundings. Members need to have special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess; Members also need to pay special attention to the desirability of preserving or enhancing the character or appearance of the Backworth Conservation Area;
- Impact of noise upon existing and future occupiers;
- Whether the proposed housing would provide a sufficient residential living environment for future occupiers; and
- The impact on highway safety.

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

9. Background

9.1 An appeal following the Council's decision to refuse planning permission for 65 residential dwellings on the Backworth Business Park was dismissed in 2016. This was because the housing would have had windows permanently fixed shut and the Inspector agreed with the Council that this would not have provided acceptable living conditions for the occupiers of the houses.

9.2 An application (18/00881/FUL) which seeks full planning permission for 67 residential dwellings including 17 affordable homes and 14 No. B1, B2 and B8

commercial units totally 650 sq m, with associated road infrastructure, car parking spaces, open spaces, gardens and landscaping has also been submitted and is being considered at the same planning committee as this application. This application provides the mix of uses required by policy S4.3 (29) for the wider allocated site in the Local Plan.

10. Principle

10.1 National Planning Policy Framework (NPPF) states that the purpose of the planning system is to contribute to the achievement of sustainable development.

10.2 Paragraph 59 of NPPF states that the Government's objective is to significantly boost the supply of homes.

10.3 Policy DM1.3 states that the Council will work proactively with applicant's to jointly find solutions that mean proposal can be approved wherever possible that improve the economic, social and environmental conditions in the area.

10.4 Policy S4.1 states that the full objectively assessed housing needs of North Tyneside will be met through the provision of sufficient specific deliverable housing sites.

10.5 The application is part of a larger site that is designated for a mix of uses by policy S4.3 (29) of the North Tyneside Local Plan 2017. This allocation covers both the Backworth Business Park site and the Holywell engineering site, which it identifies as mostly greenfield, but having the potential to accommodate 65 homes. Paragraph 7.31 of the reasoned justification of the policy states that policy S4.3 has been identified as having the potential to cause adverse impacts on internationally protected wildlife sites. When implemented, regard should be had to policy DM5.6 that sets out the requirement for appropriate avoidance or mitigation, or compensation for any adverse effects. This is discussed further in the biodiversity section of this report. 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.

10.6 Keenan's state that the application is contrary to policy S4.3 (29) of the North Tyneside Local Plan, as it seeks too many houses on this site. They state that the Local Plan identifies this site for 65 dwellings across the entire 8.5 hectare site. They state that in combination with the adjacent Backworth Business Park site there would be a total of 113 dwellings well in excess of what was envisaged in the Local Plan. They also state that there would only be residential on this site and that it would not provide a mix of uses.

10.7 Although there would not be a mix of uses on this site, as Keenan's accept that the site is allocated as whole. It is not necessary to have a mix of uses on each part of the site in order for it to comply with it's allocation in the Local Plan. There is some business development proposed as part of the current application (18/00881/FUL) on the Backworth Business Park site to the north. If the entire site was to come forward and be granted planning permission without any

business development on it, that would be contrary to its allocation in the Local Plan, but that is not what is proposed. There is no reason to suggest that some form of commercial development cannot be provided on the site as whole.

10.8 The Local Plan identifies that the 8.5 hectare site overall can provide a potential of 65 units. The number given in the Local Plan is only potential and has been derived for the purposes of helping the Council to determine how much housing land it needs to provide to ensure enough housing is built. It has not been derived following any detailed design work. Although the site would provide more housing than that indicated in the Local Plan that in itself is not harmful. The issue is whether the site can adequately accommodate the amount of housing proposed? This is considered below.

10.9 In conclusion, this site is part of a larger site that is allocated for a mix of uses. Although this site would not provide a mix of uses, alongside application 18/00881/FUL, it would. The site would provide more housing than that indicated in the Local Plan that in itself is not harmful. It is considered that the principle of developing the site part of an allocated site for housing is acceptable in accordance with the advice in NPPF and policies DM1.3, S4.1 and S4.3 (29) of the North Tyneside Local Plan 2017.

11. North Tyneside Council Housing Land Supply

11.1 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.

11.2 The most up to date assessment of housing land supply is 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 supply includes just over 2,000 homes at proposed housing allocations within the Local Plan (2017).

11.3 The potential housing land supply from this proposal is partially included in the Council's Strategic Housing Land Availability Assessment (SHLAA) (ref 66) where it is part of a larger site identified for 65 units. However, if the remainder of the site (Backworth Business Park) was developed for a mix of uses it is likely to result in more housing than identified in the SHLAA, adding further choice as advised by NPPF.

12. Trees and Biodiversity

12.1 An environmental role is one the three dimensions of sustainable development according to NPPF, which seeks to protect and enhance our natural, built and historic environment as a part of this helping to improve biodiversity amongst other matters.

12.2 Paragraphs 170 and 174 of NPPF seek that planning decisions should contribute to and enhance the local environment by amongst other matters protecting and enhancing valued landscapes.

12.3 Paragraph 175 of NPPF states that when determining planning applications that if significant harm to biodiversity cannot be avoided, or as a last resort compensated for, then planning permission should be refused.

12.4 Paragraph 177 of NPPF states that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined.

12.5 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.

12.6 Policy S5.4 states that the Borough's biodiversity and geodiversity resources will be protected having regard to their relative significance.

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

12.8 Policy DM5.7 states that development proposals within a wildlife corridor must protect and enhance the quality and connectivity of it.

12.9 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.

12.10 Natural England have been consulted and states that the development falls within the 'zone of influence' for coastal sites designated at a national and international level as Sites of Special Scientific Interest and Special Protection Areas/Special Areas of Conservation/Ramsar sites. Since this application will result in a net increase in residential accommodation, impacts to the designated sites may result from increased recreational disturbance.

12.11 Northumberland County Council operate a Coastal Mitigation Service to mitigate for potential impacts from increased recreational disturbance resulting from increased residential development and tourism activities within this zone. North Tyneside Council has adopted a Coastal Mitigation Supplementary Planning Document (SPD) (2019).

12.12 Natural England conclude by stating that subject to appropriate mitigation being secured they are satisfied that there will be no damage or disturbance to the interest features of these sites.

12.13 The trees on site are currently protected either by being within a Conservation Area, or a tree preservation order (Holywell Mining Station Road, Backworth, Tree Preservation Order, 1995). The trees collectively make a significant contribution to the general character and amenity of the area, creating a mature landscape setting.

12.14 The proposal would require the removal of 12 individual trees and 3 groups of trees (groups 2, 4 and 5). Two of these groups (2 and 4) are part of the Eccles Colliery Local Wildlife Site. Of those to be removed 8 trees are classified as Category B and the remaining 4 trees and 1 group of trees are classified as Category C. Category B trees are those of moderate quality and value, and of a condition that they make a substantial contribution to the site. Category C trees are considered to be of a low quality and value, but of an adequate condition to remain in the short term.

12.15 The Council's Landscape Architect has been consulted and objects for the following reasons;

- loss of trees due to the proposed layout;
- construction within root protection areas;
- Location of utility runs within root protection areas;
- damage to trees within the site during the demolition and construction;
- pruning trees to create clearance to structures and gardens;
- Damage to structures from trees.

12.16 The Council's Biodiversity Officer also objects for the following reasons;

- the proposal will result in a direct impact on a Local Wildlife Site (Eccles Colliery) through the loss of habitat within the site.
- constructional and operational impacts to the adjacent Local Wildlife Site associated with noise, lighting and recreational disturbance with no acknowledgement of appropriate buffer zones.
- potential cumulative impact of development in this area on Eccles Colliery Local Wildlife Site.
- Loss of trees protected by a Tree Preservation Order (TPO) and of value as protected species habitat.
- Impacts on the Root Protection Areas of numerous trees protected by a Tree Preservation Order (TPO) to facilitate parking, footpaths, road widening and installation of drainage and utilities.
- Impacts of trees protected by a TPO as a result of their proximity to residential units 11-17 and future pressures for removal or excessive pruning that would be associated with this.

No detailed Landscape Mitigation Scheme has been submitted to address the impacts of this scheme.

12.17 The Council's Biodiversity Officer concludes by stating that the proposal is in her opinion contrary to policies S5.4, DM5.5, DM5.7 and the advice in paragraphs 170, 174 and 175 of NPPF.

12.18 With the exception of 1 tree (Category C) all of the trees that would be removed are positioned to the rear of the site and therefore the treescape along the important B1322 would not be adversely affected. All Category A trees would be retained. The loss of trees to the rear of the site away from the main Station

Road, would not adversely affect the character and appearance of the site or the wider consideration area.

12.19 Although there would be a loss of some trees, the mature landscape setting would be retained. Additional planting is proposed to provide mitigation for the trees that would be lost. The applicant proposes to plant 31 new trees and overall this would result in a net gain in the number of trees. This additional planting would take time to mature, in order to fully mitigate for the trees that would be lost. However, the overall condition and extent of the trees on the site would be protected and the proposal would not conflict with policy DM5.9.

12.20 Those people using the footpaths to the south and east would undoubtedly notice a difference when walking close to the site. Currently, the site is vacant and many of the buildings are derelict. In its current state, it detracts rather than enhances the character and appearance of the conservation area. Those using the footpaths to the south of the site can already see the Lodge especially during winter months. They would see more buildings, but the site would be in an active and beneficial use rather than vacant and partly derelict. It is not the case that they would see buildings where previously there were none. There would be more buildings and in close proximity to the footpaths, however through the proposed landscape mitigation, it would not have a harmful impact.

12.21 Plots 10-14 do have small rear gardens. Plots 10 and 11 would have the crown spread of the trees overhanging their rear gardens. It may be the case that those occupiers of these plots seek to have the crowns of these trees reduced. However, even if this was the case significant tree cover would remain. The sense of the dwelling being set within a mature landscape setting would remain and it would not adversely affect the character and appearance of the site, or its surroundings.

12.21 Bat surveys concluded that building 6 (The Lodge, which is to be retained) is used as a day roost by small numbers of common pipstrelle bats and that the site is of local value to the local bat population. Mitigation is proposed in terms of external lighting and this can be controlled by a condition. The applicant has also said that they will not commence works to building 6 until they have obtained a licence from Natural England. It is not the role of the planning system to seek to duplicate or enforce other areas of legislation. However, subject to conditions the proposal would avoid having an adverse impact.

12.22 The Council's Biodiversity Officer has questioned the need for the paths shown through the woodland area to the south of the apartments. Subject to careful construction for example by a no-dig method which could be conditioned, the trees in this area should not be adversely affected. It will provide a pleasant route for residents to be able to enjoy the outdoors.

12.23 Adverse impacts from lighting could be avoided by a condition requiring the details to be submitted to and approved by the local planning authority.

12.24 The south east corner of the site which is part of the Local Wildlife Site (LWS) comprises an area of broadleaved woodland. The Eccles Colliery and Extension Local Wildlife Site is designated for the presence of species rich

grassland, not woodland. There is also a clearly defined boundary along the eastern edge with the mound and ridge that separates the site from the wider Local Wildlife Site.

12.25 In conclusion, subject to conditions and a S106 contribution towards coastal mitigation it is considered that the proposal would not have an adverse impact on biodiversity, or on existing trees. Some trees would be lost and new trees would be planted. These would take time to mature, however the development would still provide a well-landscaped setting, which would avoid harm to biodiversity in accordance with the advice in NPPF, policies S5.4, DM5.5, DM5.6, DM5.7 and DM5.9. Members need to consider whether they agree.

13 Contamination and Land Stability

13.1 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.

13.2 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 out and that detailed measures to allow the development to go ahead safely and without adverse effect.

13.3 The applicant has submitted a Preliminary Environmental Risk Assessment. This concludes that the site is considered to represent a low to moderate geotechnical and contamination risk. The site is considered to pose a negligible risk to controlled waters and a low to moderate risk in terms of ground gas.

13.4 The Council's Contaminated Land Officer states that the site is within an area of known mining and unknown filled ground. Due to the sensitive end use and historical use of the area the Contaminated Land Officer recommends conditions to deal with any contamination that may be present and to deal with any ground gas.

13.5 Subject to conditions, it is therefore considered that the site would be appropriate for its use for housing in accordance with the advice in NPPF and policy DM5.18 of the Local Plan. Members need to consider whether they agree.

14. Flooding

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 undertaken to reduce overall flood risk from all sources, taking into account the impact of climate change over its lifetime.

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

14.4 The applicant has submitted a Flood Risk Assessment (FRA), which concludes that the site is located within Flood Zone 1 (lowest risk) and there are areas of the site indicated to be at low to medium risk of surface water flooding.

14.5 The Council's Local Lead Flood Authority (LLFA) has been consulted and recommends conditional approval.

14.6 In conclusion in terms of the principle, the application site is allocated as a mixed-use site according to the North Tyneside Local Plan 2017. The proposal in combination with the Backworth Business Park if it was granted planning permission would provide a mix of uses, it would provide more housing than that identified in the Local Plan. This in itself is not harmful and the proposal would accord with the advice in NPPF and policies DM1.3, S4.1, S4.3(29), DM5.5, DM5.6, DM5.9, DM5.19, DM5.12 and DM5.14 of the Local Plan. Members need to consider whether they agree.

15. Character and appearance

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

15.2 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). In determining applications, great weight should be given to outstanding or innovative designs which promote high levels of sustainability or help raise the standards of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

15.3 In respect of designated heritage assets, the NPPF states that when determining the impact on the significance of a heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance.

15.4 Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

15.5 Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.

15.6 Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including securing its optimum viable use.

15.7 At paragraph 200 of NPPF it states;
'Local planning authorities should look for opportunities for new development within conservation areas... and within the setting of heritage assets to enhance or better reveal their significance.

15.8 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.

15.9 Policy S6.5 states that the Council aims to pro-actively preserve, promote and enhance its heritage assets.

15.10 Policy DM6.6 states that proposals that affect heritage assets or their settings, will be permitted where they sustain, conserve and, where appropriate enhance the significance, appearance, character and setting of heritage assets in an appropriate manner.

15.11 The Council has produced an SPD on Design Quality (May, 2018) which seeks to encourage innovation in 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.

15.12 The Backworth Village Conservation Area was designated in 1974; however, there is no character appraisal.

15.13 In terms of the Lodge the proposal seeks to retain it. The Lodge is of historic and architectural merit and social historical interest. It is a non-designated heritage asset in accordance with paragraph 197 of NPPF.

15.14 The single storey flat roofed annex non-original extension of the Lodge has planning permission to be removed and this is supported by the County Archaeologist.

15.15 The Design Officer states that Ivy Cottage, Dairy Cottage and Backworth Lodge are important features of the Backworth Conservation Area and their restoration is a highly positive aspect of the scheme.

15.16 The Design Officer goes on to state that the new units around Dairy and Ivy Cottage are proposed to be 1.5 storeys high (providing accommodation in the roofspace). This is considered to be appropriate around the single storey heritage assets. This will help to maintain the prominence of the heritage assets along Station Road. There are some larger two storey dwellings, however these would be set back within the site to minimise their impact.

15.17 The Design Officer considers that the new apartment building would complement Backworth Lodge. Although it would have a larger footprint, it would be set back from the building line of the Lodge, so that it would appear subservient in order to maintain the setting and views towards it.

15.18 The site entrance would maintain the tree lined access and approach to Backworth Lodge. The central wooded area of trees would also be retained, which would maintain the character and setting of Backworth Lodge and the conservation area, as being within a mature landscape setting.

15.19 There are new dwellings proposed in the southern end of the site, which would be 1.5 storeys in height. This would help to mitigate the impact upon the approach to the Backworth Conservation Area from the south. There would also be a landscaped buffer to the rear of the properties that would provide an adequate buffer in order to reduce the visual impact.

15.20 Historic England states that the development would result in an increased suburban character at the edge of the settlement and conservation area, but through reinforcing the line of the road and keeping the secluded aspect of the Lodge intact, this effect would be managed well and not seen incongruous.

15.21 In conclusion, it is officer advice that the application would preserve the heritage assets on this site and the wider character and appearance of the Backworth Conservation Area. The new development is sympathetic and the design and appearance of the properties is considered acceptable in accordance with the advice in NPPF and policies DM6.1, S6.5, DM6.6 and the Design Quality SPD.

16 Noise

16.1 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.

16.2 Paragraph 182 of NPPF states that planning policies and decisions should ensure that new development can be integrated effectively with the existing businesses. Existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business could have a significant adverse effect on new development in its vicinity, the applicant should be required to provide suitable mitigation before the development has been completed.

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

16.4 Policy DM5.19 states that development proposals that may cause pollution either individually or cumulatively of amongst other matters noise, will be required to incorporate measures to prevent or reduce their pollution so as not to cause nuisance or unacceptable impacts on the environment, to people and to biodiversity. Development that may be sensitive such as housing to potentially polluting sources will not be sited in proximity to such sources.

16.5 There are two issues to be considered with regards to noise. Firstly, will the proposal have a significant adverse impact upon existing businesses in the vicinity and secondly whether the proposed residential units can be provided with a satisfactory living environment that it not adversely affected by noise?

16.6 The Manager of Environmental Health (Pollution) has been consulted and states that she has reviewed the noise report, which includes two continuous 24-hour period of noise monitoring. She says that noise from the existing Keenan's operation was not evident during the noise monitoring at any of the noise monitoring locations. The Manager of Environmental Health (Pollution) considers that it is likely that the Keenan's building is screening any of the noise monitoring locations. The dominant noise affecting the site is road traffic from the B1322.

16.7 Keenan's have industrial land to the side of their building, which is adjacent to the development site, which is currently not in use and would require surfacing to allow vehicle use. The Manager of Environmental Health states that if this area was used for storage there could be noise from the use of fork-lift trucks and delivery activities. The noise assessment determined that if the land was utilised by Keenan's the noise from the activities along the night time period would give rise to significant adverse impact, as the rating level of the potential activities was assessed as 53dB, which is 17 decibels above the background of 36 dB L9015min.

16.8 A number of the properties on the eastern boundary will be affected by the potential noise if the industrial land is used. If residents choose to open windows, then the potential noise level will be in the region of 38 dBLAeq during the nighttime period and give rise to sleep disturbance.

16.9 The Manager of Environmental Health says it will be necessary to provide mechanical heat recovery ventilation to prevent the opening of windows, but residents would still have the choice to open their windows should they wish, which will result in them potentially being disturbed by noise. The Manager of Environmental Health states that the proposed mitigation would allow residents to sleep, however this would not prevent complaints and will hamper potential growth of the business as open hardstanding for storage will only be possible if the business took steps to mitigate noise from fork lift trucks by electric run engines and hush alarms. The Manager of Environmental Health does not object and recommends a number of conditions.

16.10 The previous appeal on the adjacent Backworth Business Park site has determined that having windows permanently fixed shut would not provide an acceptable residential living environment for future occupiers. It is proposed to have openable windows on this site, but also to provide mechanical heat recovery, so residents can cool their homes without needing to open their windows.

16.11 The Inspectors Report into the Local Plan states that, 'the evidence points to the need to avoid housing in close proximity [to Keenan's], but I do not consider that it effectively sterilises the entire site from accommodating the relatively modest amount of housing proposed. The Inspector concludes by stating that the extent of the site allocated and the policy framework to enable a modest amount of residential development would provide appropriate flexibility to find a pragmatic and viable solution to this long-standing opportunity site. Although there would be more dwellings on the site than initially envisaged by the Inspector, subject to conditions this can be achieved without causing harm to existing businesses, or future occupiers of the new residential units.

16.12 It is considered on balance and subject to conditions that the proposal would provide suitable residential environment in terms of noise, without adversely affecting existing businesses. It is considered that the new development could be integrated effectively with the existing businesses and that the existing businesses would not have unreasonable restrictions placed on them as a result. Members need to consider whether they agree. It is officer advice that the proposal would accord with the advice in NPPF and policies S1.4 and DM5.19 of the Local Plan.

17. Residential living conditions for future occupiers

17.1 Policy DM6.1 states that proposals are expected to demonstrate a positive relationship to neighbouring buildings and spaces; as safe environment that reduces opportunities for crime and anti-social behaviour; and a good standard of amenity for existing and future residents and users of buildings and spaces.

17.2 Policy DM4.9 seeks to ensure that new homes provide quality living environments for residents. 50% of homes are to meet building regulation M4(2) – 'Category 2 – accessible and adaptable dwellings.' The policy also requires all new homes to meet the Government's Nationally Described Space Standard (NDSS).

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

17.4 All units satisfy the overall requirements of the Nationally Described Space Standards (NDSS) and 50% of the units meet M4(2) policy requirement. The proposal would comply with policy DM4.9.

18. Highway Safety

18.1 The NPPF states that Transport policies have an important role to play in facilitating sustainable development, but also contributing to wider sustainability and health objectives.

18.2 Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

18.3 Policy DM7.4 states that the number of cycle and parking spaces provided in accordance with the standards set out in the Transport and Highways SPD (LDD12).

18.4 Policy DM7.9 states that all developments are expected to ensure a suitable location for the storage and collection of waste.

18.5 The Highway Network Manager has been consulted and states that the existing access from Station Road is being utilised and a new access will be provided to the north. Parking has been provided in accordance with the current standards and suitable areas for turning a refuse vehicle. Improvements to sustainable links to school and public transport will be required to make the site safe to access by pedestrians. He recommends conditional approval. Subject to conditions, it is considered that the proposal would not have an adverse impact upon highway safety and that the residual cumulative impacts on the road network would not be severe. The proposal would comply with the advice in NPPF and policies DM7.4, DM7.9 and Transport and Highways SPD.

19 Other Matters

19.1 S106 Contributions

19.2 Paragraph 54 of NPPF states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

19.3 Paragraph 56 states that planning obligations must only be sought where they meet all of the following tests;

- 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.

19.4 Policy DM4.7 states that the Council will seek 25% of new homes to be affordable on new housing development of 11 or more dwellings, taking into consideration specific site circumstances and economic viability.

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

application's overall conformity with the presumption in favour of sustainable development.

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

19.7 The applicant has submitted a viability appraisal and this has been subject to an independent assessment. This assessment concludes that the scheme would not be viable if all of the contributions sought were provided. Notwithstanding this, the scheme is liable for Community Infrastructure Levy, which would be J87,913. The applicant has agreed to provide the necessary contributions towards primary education of J125,000 towards Backworth Park Primary School and Coastal Mitigation of J15,500. These contributions are considered to meet the CIL tests and are necessary to ensure that the site is socially and environmentally sustainable.

20. Local Financial Considerations

20.1 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).

20.2 The proposal involves the creation of 46 new dwellings. Granting planning permission for new dwellings therefore increases the amount of New Homes Bonus, which the Council will potentially receive.

20.3 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 Government.

21. Conclusions

21.1 In conclusion, this is a previously developed site with a number of buildings which are in a poor condition and vacant. It is undesirable to have such buildings vacant for a protracted period of time, as they detract from the character and appearance of the conservation area. The proposal would ensure the restoration of the Grade II listed Dairy Cottage and the un-designated heritage assets of Ivy Cottage and Backworth Lodge. It would also provide new housing and subject to conditions would not have an adverse impact upon existing businesses. The development would retain a number of trees and secure new planting that would ensure that the housing is provided in a mature landscape setting. The new housing would provide an acceptable residential living environment for future occupiers and avoid having an adverse impact on highway safety. On balance, it is recommended that planning permission should be granted subject to conditions.

RECOMMENDATION: **Minded to grant legal agreement req.**

It is recommended that members indicate they are minded to approve the application and grant plenary powers to the Head of Environment, Housing and Leisure to determine the application subject to:

- a) the conditions set out below and the amendment to, addition or omission of any other condition considered necessary;**
- b) the applicant entering into a legal agreement to secure the following:
a contribution of £15,500 towards a Coastal Mitigation Service to mitigate for the impacts on the Northumbria Coast Special Protection Area and a contribution of £125,000 towards improvements at Backworth Park Primary School.**

Members are requested to authorise that the Head of Law and Governance and the Head of Environment, Housing and Leisure to undertake all necessary procedures (Section 278 Agreement) to secure:

Upgrade of footpaths abutting site

New access

Upgrade of footpath abutting the site

Provision of traffic calming to 20mph in the vicinity of the site on Station Road

Provision of suitable pedestrian crossing point on Station Road

Associated highway drainage

Associated street lighting

Associated road markings

Associated signage

Associated legal orders

Conditions/Reasons

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

Planning Application Form dated 02.01.19.

Location Plan, Drawing No. PL01

Proposed Site Plan, Drawing No. PL01 (A)

Proposed Roof Plan, Drawing No. PL02(A)

Proposed Streetscenes, Drawing No. PL03

Elevation Treatments, Drawing No. PL04

Proposed Boundary Treatment Plan, Drawing No. PL05

Proposed Hard Surfaces Plan, Drawing No. PL06(A)

Proposed Plans & Elevations (Mining Offices), Drawing No. PL23

Proposed Apartment Block Plans, Drawing No. PL31

Proposed Apartment Block Elevations, Drawing No. PL32

House Type Booklet, Rev 5. Dated Feb. '19

Flood Risk Assessment and Drainage Strategy, dated 29 June 2018, Rev

P2

Design and Access Statement, July 2018

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

2. Standard Time Limit 3 Years FUL MAN02 *

3. Prior to the first occupation of any of the dwellings/apartments hereby permitted a noise scheme for acoustic glazing scheme in accordance with noise report no. IDP/HE/005 shall be submitted to and approved in writing by the local planning authority. Details of the acoustic glazing to be provided must be in accordance with BS8233 and World Health Organisation community noise guidelines and must be provided to show that all habitable rooms are provided with sound attenuation measures to give a resultant noise level of below 30 dB LAeq and maximum noise level of 45dB for bedrooms and 35 dB LAeq for living rooms is achieved. Thereafter, the development shall be carried out in accordance with the approved details.

Reason: To ensure an acceptable residential living environment for future occupiers in accordance with policy DM5.19 of the Local Plan 2017.

4. Prior to the first occupation of any of the dwellings/apartments hereby permitted details of the ventilation scheme for all habitable rooms, for approval in writing and thereafter implemented to ensure an appropriate standard of ventilation, with windows closed, is provided. Where the internal noise levels specified in BS8233 are not achievable with a window open due to the external noise environment, and alternative mechanical ventilation must be provided, such as mechanical heat recovery (MVHR) system should be provided that addresses thermal comfort and purge ventilation requirements to reduce the need to open windows. The alternative ventilation system must not comprise the facade insulation or the resulting internal noise levels. This shall thereafter be retained.

Reason: To ensure an acceptable residential living environment for future occupiers in accordance with policy DM5.19 of the Local Plan 2017.

5. Prior to the first occupation of any of the dwellings/apartments hereby permitted, the acoustic screening serving the eastern boundary and gardens facing the B1322 must be installed in accordance with boundary treatments plan no.N81:2173 PL05 to screen any potential noise from Keenans industrial unit and road traffic noise on the B1322. This shall thereafter be retained.

Reason: To ensure an acceptable residential living environment for future occupiers in accordance with policy DM5.19 of the Local Plan 2017

6. Restrict Hours No Construction Sun BH HOU00 *
4

7. Restrict Hours No Demolition Sun BH HOU00 *
5

8. No other part of the development shall be commenced until:-

a) A detailed site investigation has been carried out to establish:

i) If the site is contaminated;

- ii) To assess the degree and nature of the contamination present, and whether significant risk is likely to arise to the residents and public use of land;
- iii) To determine the potential for the pollution of the water environment by contaminants and;
- iv) The implication for residential development of the site and the quality of the residential environment for future occupiers.

Such detailed site investigation to accord with a statement of method and extent which shall previously have been agreed in writing by the Local Planning Authority and

- b) The results and conclusions of the detailed site investigations referred to in (a) above have been submitted to and the conclusions approved in writing by the Local Planning Authority. The Phase 2 Report should be written using the current government guidelines.
- c) If remediation is required following the assessment of the chemical results under current guidelines, then a method statement should be provided for comment. This should provide details of exactly how the remediation works are to be carried out, detailed site location plan of where material is to be deposited and details including drawings of gas protection scheme should be included.
- d) If remediation is carried out on the site then a validation report will be required. This should provide evidence of what remediation has been carried out over the site. This report should confirm exactly what remediation has been carried out and that the objectives of the remediation statement have been met. This report should verification of the type, source, depth, location and suitability (to include any test certificates for material to be imported on site to ensure it is not contaminated) of the imported materials for their use on site. This should include cross sectional diagrams for the site and detailed plans of the site. This report should be submitted before the contaminated land condition can be removed from the planning application.
- e) If any unexpected contamination or hotspots are encountered during the investigation and construction phases it will be necessary to inform the Local Authority then cease development and carry out additional investigative works and subsequent remediation if any unexpected contamination or underground storage tanks are discovered during the development. Work should be ceased until any risk is assessed through chemical testing and analysis of the affected soils or waters.

Thereafter the development shall not be implemented otherwise than in accordance with the scheme referred to in c) above.

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

9. Dust suppression during construction SIT03 *

11. None of the dwellings/apartments around the edge of the site hereby permitted shall be first occupied until details of bat roosting features have been submitted to and approved in writing by the local planning authority. The bat roosting features approved shall be provided in accordance with the approved details prior to any of the dwellings/apartments around the edge of the site being first occupied.

Reason: In the interests of biodiversity in accordance with advice in National Planning Policy Framework (2019).

12. During the construction phase of the development hereby permitted any excavations left open overnight will have a means of escape for mammals that may become trapped in the form of a ramp at least 300mm in width and angles no greater than degrees.

Reason: In the interests of biodiversity in accordance with advice in National Planning Policy Framework (2019).

13. Prior to any of the works hereby permitted commencing on buildings 1-5 a detailed method statement in order to minimise the risk of causing harm to bats shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the works shall be carried out in accordance with the approved details.

Reason: In the interests of biodiversity in accordance with advice in National Planning Policy Framework (2019).

14. Prior to the commencement of the development hereby permitted 4 bat boxes (improved crevice or similar) will be erected in adjacent trees within the site owner's landholding, to provide alternative roost sites. Boxes will be erected as high as possible, ideally at a minimum height of 4m.

Reason: In the interests of biodiversity in accordance with advice in National Planning Policy Framework (2019).

15. No demolition/development shall take place until a programme of archaeological building recording has been completed, in accordance with a specification provided by the Local Planning Authority. A report of the results shall be submitted to and approved in writing by the Local Planning Authority prior to any development or demolition work taking place.

Reason: To provide an archive record of the historic building or structure and to accord with paragraph 199 of the, National Planning Policy Framework (2019), North Tyneside Local Plan (2017) policies S6.5, DM6.6 and DM6.7.

16. No groundworks or development shall commence until a programme of archaeological fieldwork (to include topographic survey or ridge and furrow earthworks, evaluation trenching and where appropriate mitigation excavation) has been completed. This shall be carried out in accordance with a specification provided by the Local Planning Authority.

Reason: The site is of potential archaeological interest. The investigation is required to ensure that any archaeological remains on the site can be preserved

wherever possible and recorded in accordance with the paragraph 199 of National Planning Policy Framework (2019), North Tyneside Local Plan (2017) policies S6.5, DM6.6 and DM6.7.

17. The buildings shall not be occupied/brought into use until the final report of the results of the archaeological fieldwork undertaken in pursuance of condition 16 has been submitted to and approved in writing by the Local Planning Authority.

Reason: The site is of potential archaeological interest. The investigation is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded in accordance with paragraph 199 of the National Planning Policy Framework (2019), North Tyneside Local Plan (2017) policies S6.5, DM6.6 and DM6.7.

18. The buildings shall not be occupied/brought into use until a report detailing the results of the archaeological fieldwork undertaken has been produced in a form suitable for publication in a suitable and agreed journal and has been submitted to and approved in writing by the Local Planning Authority, prior to the submission to the editor of the journal.

Reason: The site is of potential archaeological interest and the publication of the results will enhance understanding of and will allow public access to the work undertaken in accordance with paragraph 169 of the National Planning Policy Framework (2019), North Tyneside Local Plan policies S6.5, DM6.6 and DM6.7.

19. No other part of the development shall be occupied until the new means of access has been sited and laid out in accordance with the approved drawing.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and of the access having regard to policy DM7.4 of the North Tyneside Local Plan 2017.

20. Altered Access Access Alt Prior to Occ	ACC01	*
	5	
21. Exist Access Closure Misc Points By	ACC01	*
	7	
22. Turning Areas Before Occ	ACC02	*refuse vehicles
	5	
23. Veh Parking Garaging before Occ	PAR04	*DM7.4
24. Refuse Storage Detail Provide Before Occ	REF00	*
	1	
25. Construction Method Statement - Major	SIT007	*
26. Wheel Wash	SIT008	*

27. 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 in accordance with policy DM7.4 of the North Tyneside Local Plan 2017.

28. 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 in accordance with policy DM7.4 of the North Tyneside Local Plan 2017.

29. No development shall commence until a scheme for the provision of secure undercover cycle parking shall be submitted to and approved by in writing the Local Planning Authority. Thereafter, this scheme shall be implemented in accordance with the approved details before the development is occupied.

Reason: In the interests of highway safety in accordance with policy DM7.4 of the North Tyneside Local Plan 2017.

30. No development above damp proof course shall commence until an amended drainage strategy has been submitted to and approved by in writing the Local Planning Authority. This scheme shall utilise the existing highway drain and outfall into Brierdene Burn. Thereafter, this scheme shall be implemented in accordance with the approved details and retained for the entire duration of the construction period.

Reason: In the interests of surface water management in accordance with policy DM5.14 of the North Tyneside Local Plan 2017.

31. No development shall commence until a scheme and methodology for pollution control during the construction period has been submitted to and approved in writing by the Local Planning Authority. Thereafter, this scheme shall be implemented in accordance with the approved details and retained for the entire duration of the construction period.

Reason: This condition needs to be pre-commencement to ensure that sufficient details have been approved and are in place to prevent pollution of a watercourse during the construction period in accordance with policy DM5.19 of the North Tyneside Local Plan 2017.

32. Notwithstanding Condition 1, prior to the commencement of the development details of a scheme to reinstate the culvert to the west of the site, including a timetable for the submission of a CCTV survey following completion of the culvert reinstatement works, shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented in full accordance with these agreed details prior to the occupation of any dwelling.

Reason: This needs to be pre-commencement so that the works to the culvert can be agreed in advance of the development in order to help manage flood risk having regard to the advice in National Planning Policy Framework 2019.

33. Flood Lighting Scheme Details

LIG001 *

34. No trees, shrubs or hedges within the site which are shown as being retained on the submitted plans shall be felled, uprooted, wilfully damaged or

destroyed, cut back in any way or removed during the development phase other than in accordance with the approved plans or without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within three years from the completion of the development hereby permitted shall within the next planting season, i.e. October to March, be replaced by with trees, shrubs or hedge plants of similar size and species until the Local Planning Authority gives written consent to any variation.

Reason: To ensure the satisfactory retention of existing trees, shrubs and hedges and in the interests of visual amenity having regard to policy DM5.9 of the North Tyneside Local Plan (2017).

35. Prior to commencement of works starting on site, the trees within or adjacent to and overhang the site that are to be retained are to be protected by fencing and in the locations shown and detailed in the Tree Protection Plan and Arboricultural Method Statement submitted by All About Trees unless otherwise agreed in writing by the Local Planning Authority. No operational work, site clearance works or the development itself shall commence until the fencing is installed. The protective fence shall remain in place until the works are complete or unless otherwise agreed in writing with the Local Planning Authority. The protective fence is NOT to be repositioned without the approval of the Local Authority.

Reason: This needs to be pre-commencement condition to ensure that important features are protected and retained in the interests of amenity and to ensure trees and hedges to be retained are adequately protected from damage during the execution of the works hereby permitted, in the interests of visual amenity having regard to policy DM5.9 of the North Tyneside Local Plan (2017).

36. All tree felling and pruning works shall be carried out in full accordance with the approved specification and the requirements of British Standard 3998: 2010 - Recommendations for Tree Works, detail of which are to be submitted to and approved in writing by the Local Planning Authority prior to any tree felling or pruning works take place.

Reason: In order to safeguard existing trees and the amenity of the site and locality having regard to policy DM5.9 of the North Tyneside Local Plan (2017).

37. Prior to any of the residential units being built above damp proof course, a fully detailed landscape plan shall be submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall include details and proposed timing of all new tree planting and ground preparation noting the species and sizes for all new plant species (trees to be a minimum 12-14cm girth).

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

38. All hard and soft landscape works shall be carried out in accordance with the approved details, and to a standard in accordance with the relevant recommendations of British Standard [4428:1989] including all planting, seeding or turfing. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable agreed with the Local Planning

Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season thereafter.

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

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

Reason: In the interests of biodiversity and in accordance with the advice in National Planning Policy Framework (NPPF) (2019).

40. No construction above ground level shall take place, until the following details and a timescale for their implementation have been submitted to and approved in writing by the Local Planning Authority:

- New access

- Upgrade of footpath abutting the site

- Provision of traffic calming to 20mph in the vicinity of the site on Station Road

- Provision of suitable pedestrian crossing point on Station Road

- Associated highway drainage

- Associated street lighting

- Associated road markings

- Associated signage

- Associated legal orders

Thereafter, these agreed works shall be carried out in accordance with the agreed timescales and retained thereafter.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and of the development having regard to policy DM7.4 of the North Tyneside Local Plan (2017).

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

Coal Mining Standing Advice (FUL,OUT) (I44)

Contact ERH Construct Highway Access (I05)

No Doors Gates to Project Over Highways (I10)

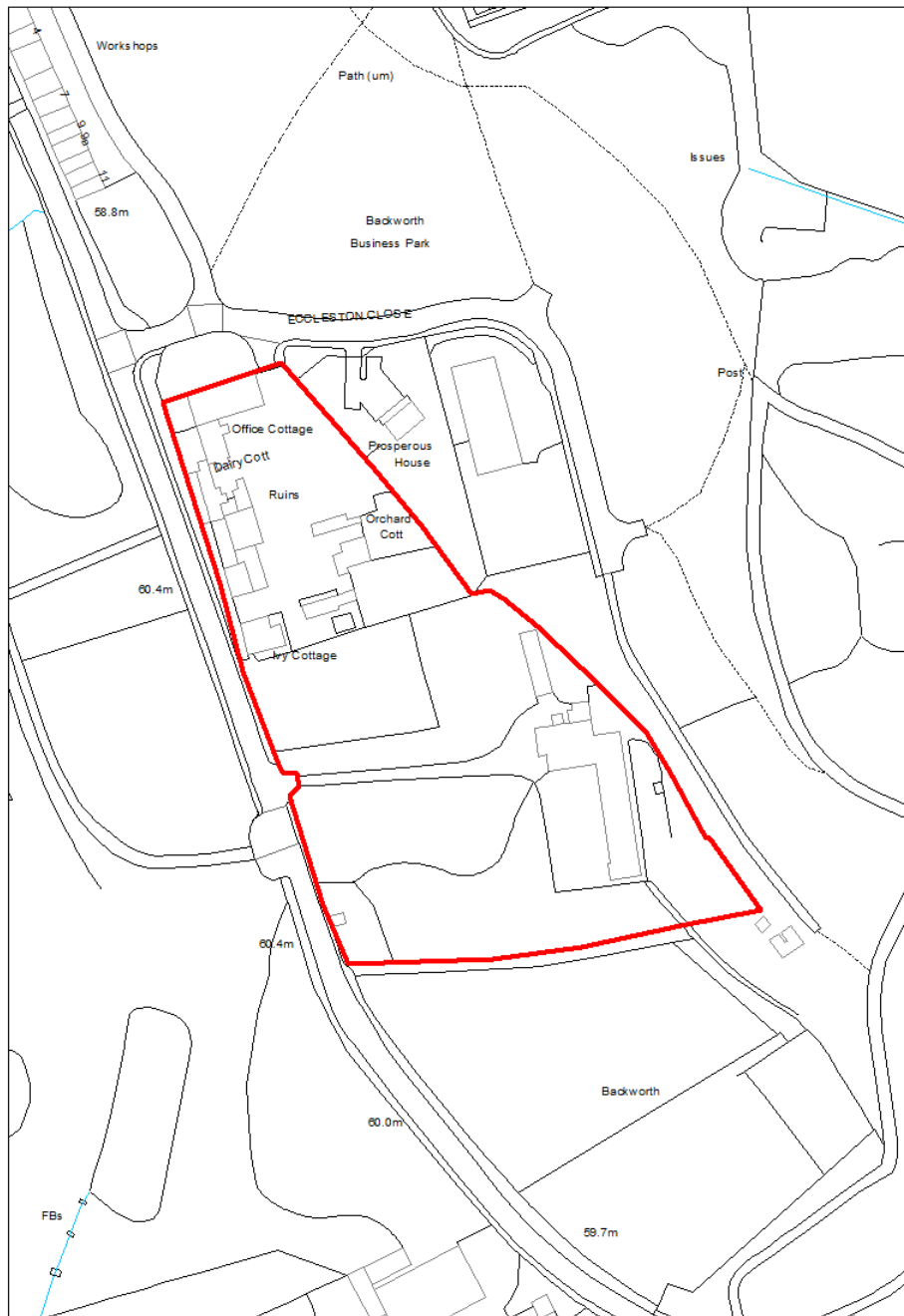
Contact ERH Erect Scaffolding on Rd (I12)

Do Not Obstruct Highway Build Materials (I13)

Street Naming and numbering (I45)

Highway Inspection before dvlpt (I46)

The applicant is advised that they should enter into an agreement indemnifying the Council's refuse, recycling and garden waste collection vehicles against any claims for damages to the internal road and parking layout.



Application reference: 18/01373/FUL

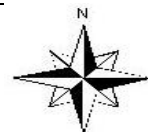
Location: Holywell Engineering, Station Road, Backworth

Proposal: Demolition of several existing buildings. Conversion of existing Backworth Lodge, Dairy Cottage and Ivy Cottage to form 4no flats and 2no. dwellings. Erection of new apartment building (13no apartments) and 27no dwellings (Amended Plans received 04.03.19)

Not to scale

Date: 17.09.2020

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Consultations/representations

Internal Consultees

1. Highway Network Manager

1.1 This application is for the demolition of several existing buildings, conversion of the existing Backworth Lodge, Dairy Cottage & Ivy Cottage to form 4 flats and 2 dwellings, erection of a new apartment building (13 apartments) and 27 dwellings. The existing access from Station Road is being utilised and a new access will be provided to the north. Parking has been provided in accordance with current standards and suitable areas for turning a refuse vehicle. Improvements to sustainable links to schools and public transport will be required to make the site safe to access by pedestrians. Conditional approval is recommended.

1.2 Recommendation - Conditional Approval

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

1.4 Alterations to existing access

New access

Upgrade of footpath abutting the site

Provision of traffic calming to 20mph in the vicinity of the site on Station Road

Provision of suitable pedestrian crossing point on Station Road

Associated highway drainage

Associated street lighting

Associated road markings

Associated signage

Associated legal orders

1.5 Conditions:

ACC11 - New Access: Access prior to Occ

ACC15 - Altered Access Access Alt Prior to Occ

ACC17 - Exist Access Closure: Misc Points, By *6 months

ACC25 - Turning Areas: Before Occ [refuse vehicle]

PAR04 - Veh: Parking, Garaging before Occ

REF01 - Refuse Storage: Detail, Provide Before Occ

SIT07 - Construction Method Statement (Major)

SIT08 - Wheel wash

1.6 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.

1.7 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.

1.8 No development shall commence until a scheme for the provision of secure undercover cycle parking shall be submitted to and approved by in writing the Local Planning Authority. Thereafter, this scheme shall be implemented in accordance with the approved details before the development is occupied.

Reason: In the interests of highway safety.

1.9 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 & Numbering

I46 - Highway Inspection before dvlpt

1.10 The applicant is advised that they should enter into an agreement indemnifying the council's refuse, recycling & garden waste collection vehicles against any claims for damages to the internal road and parking layout.

2. Manager of Environmental Health (Pollution)

2.1 Thank you for consulting Pollution with regard to this application for the demolition of several existing buildings, conversion of existing Backworth Lodge, Dairy Cottage and Ivy Cottage to form 4no flats and 2no. dwellings. Erection of new apartment building (13no apartments) and 27no dwellings. I have concerns with regard to noise affecting the proposed residential development from the adjacent industrial site consisting of Keenan's potato processing factory. The factory operates early morning and associated noise arises from articulated lorry movements, forklift truck movements used for the loading and unloading delivery operations, customer noise on a Saturday from the retail sales ancillary operation. This will give rise to slamming doors and car boots and raised voices from customers to the site.

2.2 I have viewed the noise report. Two continuous 24-hour periods of noise monitoring have been carried out as part of the assessment. Noise from the existing Keenan's operation was not evident during the noise monitoring at any of the noise monitoring locations. It is likely that the Keenan's building is screening any noise arising from the early morning activities. The dominant noise affecting the site is considered to be road traffic noise from the B1322.

2.3 The noise monitoring was representative of the current activities at the site.

2.4 Keenan's have industrial land to the side of their building which is adjacent to this development site, which is currently not in use and would require surfacing to allow vehicle use, but has the potential to be used in the near future. A visit to

the area on the 17th January 2019 confirmed that the land was not in use except for 2 storage containers accessed via service road and door to the units screened from the proposed development. No noise issues from these storage units were determined from monitoring carried out in the noise report.

2.5 There however continues to be concern that if the current land owned by Keenan's was utilised for storage there could be noise from the use of fork lift truck and delivery activities. The noise assessment has considered this potential noise source and assessed the potential noise in accordance to BS4142. This assessment determined that if the land was utilised by Keenan's the noise from the activities during the night period would give rise to significant adverse impact as the rating level of the potential activities was assessed as 53 dB, which is 17 decibels above the background of 36 dB L9015min.

2.6 A number of the properties on the eastern boundary will be affected by this potential noise if the industrial land is utilised. If residents have open windows then the potential noise level will be in the region of 38 dB LAeq during the night period and give rise to sleep disturbance.

2.7 It will be necessary to provide mechanical heat recovery ventilation to prevent opening of windows, but residents will still have the choice to open their windows which will result in them potentially being disturbed by the noise. I would therefore advise that mechanical ventilation is provided for properties where the internal noise levels cannot be achieved to meet a level of 30 dB LAeq 8hr for bedrooms at night and 35 dB LAeq16 hr for daytime, with open window.

2.8 The noise from potential use of land by Keenan's and restriction on business is a material consideration. The mitigation proposed would allow residents to sleep however this would not prevent complaints and will hamper potential growth of business as open hard standing for storage only if business took no steps to mitigation noise from fork lift by use of electric run engine and hush alarms.

2.9 I would also be concerned about any security lighting from the Keenan's site as it is operational from around 4am. This may give rise to potential nuisance for the proposed residential properties. This must be considered within any planning application to ensure the buildings are suitably positioned or screened to prevent any glare and illuminance into habitable windows from any lighting arising from the industrial estate when assessed in accordance to the Institute of Lighting Engineers guidance for the Reduction of Light Pollution.

2.10 Screening for road traffic noise for any garden areas with line of sight of Station Road will be required, as outlined within the noise report, and this will need to be conditioned. I note that there is a 2m high wall to the eastern boundary; if the height of this wall varies and sections are lower than the 2 metres it will be necessary to increase the height to achieve this height. This would need to be conditioned.

2.11 If planning consent is to be given, I would recommend the following:

2.12 Prior to occupation, submit and implement on approval of the local Planning Authority a noise scheme for the acoustic glazing scheme in accordance to noise report no. IDP/HE/005. Details of the acoustic glazing to be provided must be in accordance with BS8233 and the World Health Organisation community noise guidelines must be provided to show that all habitable rooms are provided with sound attenuation measures to give a resultant noise level of below 30 dB LAeq and maximum noise level of 45dB for bedrooms and 35 dB LAeq for living rooms is achieved.

2.13 Prior to occupation, submit details of the ventilation scheme for all habitable rooms, for approval in writing and thereafter implemented to ensure an appropriate standard of ventilation, with windows closed, is provided. Where the internal noise levels specified in BS8233 are not achievable, with window open, due to the external noise environment, an alternative mechanical ventilation must be provided, such as mechanical heat recovery (MVHR) system should be provided that addresses thermal comfort and purge ventilation requirements to reduce the need to open windows. The alternative ventilation system must not compromise the facade insulation or the resulting internal noise levels.

2.14 Prior to occupation, the acoustic screening serving the eastern boundary and gardens facing the B1322 must be installed in accordance to boundary treatments plan no. N81:2173 PL05 to screen any potential noise from Keenan's industrial unit and road traffic noise on the B1322.

HOU04

HOU05

SIT03

3. Local Lead Flood Authority

3.1 This application is for the demolition of several existing buildings, conversion of the existing Backworth Lodge, Diary Cottage & Ivy Cottage to form 4 flats & 2 dwellings and the erection of a new apartment building consisting of 13 apartments and 27 dwellings.

3.2 The applicant is proposing to use a variety of attenuation techniques within their site to store and control the surface water which includes an attenuation pond, underground storage tank, large diameter sewer & permeable paving. They are also proposing two points of discharge from the site, one which will discharge into an existing surface water sewer located within Eccleston Close at a restricted discharge rate of 5 litres per second and the other point of discharge being via a newly constructed 225mm diameter surface water sewer on Station Road which will then discharge into the Brierdene Burn at a restricted rate of 5 litres per second. Details of the proposed maintenance schedule for all the surface water features within the site have also been submitted. Whilst there are potential issues with the highway drain, in all likelihood it would be more cost effective to repair this drain rather than installing a whole new drainage run. This approach has been used with other sites where the applicant has carried out a CCTV survey of the highway drain and supplied the LLFA with the survey results. Following these repairs the applicant will be able to discharge into this drain which we could then look to alter its designation to a surface water sewer

so it becomes a Northumbrian Water asset. Conditional Approval is recommended.

3.3 Recommendation - Conditional Approval

3.4 Conditions:

3.5 No development shall commence until an amended drainage strategy has been submitted to and approved by in writing the Local Planning Authority. This scheme shall utilise the existing highway drain and outfall into Brierdene Burn. Thereafter, this scheme shall be implemented in accordance with the approved details and retained for the entire duration of the construction period.

Reason: In the interests of surface water management.

3.6 No development shall commence until a scheme & methodology for pollution control during the construction period 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 for the entire duration of the construction period.

Reason: In the interests of surface water management.

3.7 Notwithstanding Condition 1, prior to the commencement of any development details of a scheme to reinstate the culvert to the west of the site, including a timetable for the submission of a CCTV survey following completion of the culvert reinstatement works, shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented in full accordance with these agreed details prior to the occupation of any dwelling.

Reason: In the interests of managing flood risk having regard to NPPF.

4. Manager of Environmental Health (Contaminated Land Officer)

4.1 The site is within an area of known mining and unknown filled ground. Due to the sensitive end use and historic use of the area of the following must be applied.

CON01

GAS006.

5. Biodiversity Officer

5.1 The application is located on land at Holywell Engineering, Backworth. The site comprises buildings and hard standing to the north and mature woodland/trees to the south which are protected by a Tree Preservation Order. Part of the development site (in the south west corner), is within the Eccles Colliery Local Wildlife Site (LWS). The site is bordered by grazed fields to the south, Station Road and Backworth Golf Course to the west and Eccles Colliery LWS to the east of the site. All of the land adjacent to this site is within a designated wildlife corridor.

5.2 Arboricultural Impact Assessment (AIA)

The trees and tree groups within the site are protected by a TPO. The AIA concludes that to facilitate the scheme, 12 trees and 3 tree groups are required to be removed. Two of these groups (2 and 4) are part of the Eccles Colliery Local Wildlife Site and form part of the boundary planting to this wildlife site. A number

of individual trees also within the Local Wildlife Site boundary are shown to be removed, the majority of which are Category B trees with one Category A.

5.3 In addition to these tree and tree group removals, the AIA states that numerous trees within the site have the potential to be impacted by the scheme (from building development) and therefore, require no-dig construction techniques to be undertaken to prevent further tree loss or impacts to those trees which are retained within the site. The main works requires that will impact on the RPA's of trees on site include:- access, car parking, road widening of the entrance and the installation of drainage services. In addition, new informal footpaths to be incorporated amongst the trees to the south of the site which creates unnecessary disturbance to trees in this area and I would question the need for these paths on this location.

5.4 There are also concerns regarding this scheme in relation to the above AIA. This relates to:-

- the loss of trees and tree groups protected by a tree preservation order and of good quality (Category B).
- impacts to the RPA's trees of numerous trees within the site as a result of the works associated with the scheme.
- Proximity of the trees to a number of residential units that will create over shading issues and be vulnerable to removal or excessive pruning in the future.
- Loss of trees and tree groups within the Local Wildlife Site
- Loss of bat foraging and commuting habitat.

5.5 Ecological Survey – Extended Phase 1 Habitat Survey

The above survey was undertaken to assess the impacts of the proposed scheme on habitats and species within and adjacent to the site. The report states that the northern part of the site is dominated by ephemeral grassland and a series of buildings, whilst the southern part of the site is comprised of broadleaf woodland. Bat risk assessments of the six buildings on site found that four of these were of moderate risk and the remaining two were low risk. All buildings therefore require further survey work to be undertaken to ascertain whether bats were roosting in any of these buildings. None of the trees within the proposed development site were assessed as having features suitable for roosting bats.

5.6 The report states that impacts from the scheme include construction and operational impacts that extend beyond the site boundary such as those associated with noise, lighting and recreation. Section 4.7 states that impacts on bats may occur as a result of increase in artificial lighting, particularly it its illuminates habitats used by bats.

5.7 The report states that Eccles Colliery LWS is located adjacent to the site, however, the south eastern section of this development is within the boundary of the Local Wildlife Site and therefore there is a direct impact from these scheme on the Local Wildlife Site through the loss of trees/woodland.

5.8 Ecological Survey – Bat and Great Crested Newt Survey (GCN)

The above surveys were undertaken to assess whether there were any bat roosts in any of the buildings on site and to assess the risk of great crested newt in the vicinity of the site.

5.9 Bat surveys recorded a common pipistrelle roost in Building 6 with high levels of bat foraging activity around this building. There were also moderate levels of common pipistrelle foraging and commuting associated with the north of the site.

5.10 eDNA assessment was undertaken on pond 1 to the east of the site (within Eccles Colliery LWS) for great crested newt. This confirmed an absence of great crested nests from the pond, however, the survey found that the pond provided excellent breeding opportunities for the species based on the HSI assessment.

5.11 The impacts of the development on bats and GCN were summarised as following:-

- Causing harm and disturbance to small numbers of common pipistrelle bats within building 6 which may be present at the time of demolition.
 - The destruction of a day roost used by small numbers of common pipistrelle within building 6.
 - Disturbance or harm to a small number of bats that have a low residual risk of using buildings 1-5 at the time of the demolition works.
 - Potential harm to nesting birds should demolition works be undertaken during the breeding season (March to August inclusive).
 - The loss of a number of potential bat roost sites associated with gaps in the brickwork, gaps in the stonework, boxed in eaves and gaps in the roof of buildings 1, 2, 3, 4 and 5.
 - The loss of the local value bat foraging habitat.
 - Increased lighting which could impact on bat foraging and commuting habitat including in the adjacent local wildlife sites to the north and east.
- The negligible risk of causing harm to great crested newts during development.

5.12 The following mitigation measures for the above impacts have been recommended.

External lighting that may reduce bat use or 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 to be installed along the flyways between the roots and adjacent trees, woodland and foraging areas. Where security lights are required, these will be of minimum practical brightness, be set on a short timer and will be motion sensitive only to larger objects.

5.13 The new properties on site should include bat roosting features where possible around the periphery of the site and well linked to local greenspace.

5.14 Works to building 6 will not commence until a Natural England licence is in place for the site.

5.15 Prior to the commencement of works on building 6, a tool-box talk will take place with the main contractor and demolition contractor.

5.16 Supervision of the demolition of the bat roost as well as any other high risk features within the building will take place prior to the roofing works on the building.

5.17 If bats are found during the 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 licenced bat handler.

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

5.19 Works to building 1-5 will be completed to a detailed method statement in order to minimise the risk of causing harm to bats.

5.20 In advance of the start of works 4 bat boxes (improved crevice or similar) will be erected in adjacent trees, within the site owner's landholding, to provide alternative roost sites. Boxes will be erected as high as possible, ideally at a minimum height of 4m.

5.21 Six crevice roosting opportunities will be incorporated into the structures on site to provide sustainable opportunities for individual or small numbers of crevice roosting species in suitable locations.

5.22 Conclusion

Previous preapp comments for this site (dated 10.01.18) raised the issue of the potential impacts of this scheme on the adjacent Local Wildlife Site (Eccles Colliery):-

"I have concerns about this preapp application and the impact this development will potentially have on the adjacent designated Local Wildlife Site (Eccles Colliery and Extension) as well as habitats/species within the site. The loss of habitat to the south east of the site, appears to fall within part of the Eccles Colliery wildlife site and the loss of these trees in this area would not be acceptable. This would have a negative impact on the Local Wildlife Site/wildlife corridor and would not meet current Local Plan policies or the principles of NPPF."

5.23 Whilst previous comments clearly outline the impact of this scheme on the Local Wildlife Site (LWS), this advice has not been taken into account to minimise impacts and to design the scheme in such a way that Eccles Colliery Wildlife Site is not materially impacted.

5.24 I am unable to support this scheme as a result of the following impacts and issues-

5.25 Direct impacts on a Local Wildlife Site (Eccles Colliery) through the loss of habitat within the site.

5.26 Construction and operational impacts to the adjacent Local Wildlife Site associated with noise, lighting and recreational disturbance with no

acknowledgement of appropriate buffer zones between the development site and the Local Wildlife Site.

5.27 Potential cumulative impacts of development in this area on Eccles Colliery LWS.

5.28 Loss of bat roost (Building 6) and the loss of associated commuting and foraging habitat from the loss of trees.

5.29 Impacts of lighting from the development on bats and their foraging habitat.

5.30 Loss of trees protected by a Tree Preservation Order (TPO) and of value as protected species habitat.

5.31 Impacts on the RPA's of numerous trees protected by a Tree Preservation Order (TPO) to facilitate parking, footpaths, road widening and the installation of drainage and utilities.

5.32 Impacts of trees protected by a TPO as a result of their proximity to residential units 11-17 and future pressure for removal or excessive pruning that would be associated with this.

5.33 A detailed 'Landscape Mitigation Scheme' has not been submitted to address the impacts of this scheme.

5.34 This scheme is contrary to North Tyneside Local Plan policies set out below in relation to biodiversity, wildlife corridors and trees & woodland. In addition, it does not meet NPPF policies relating to the natural environment, specifically policies 170; 174 and 175.

5.35 North Tyneside Local Plan

S5.4 Biodiversity and Geodiversity

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:-

The protection of both statutory and non-statutory designated sites within the Borough, as shown on the Policies Map;

Conserving, enhancing and managing a Borough-wide network of local sites and wildlife corridors as shown on the Policies Map; and

5.36 DM5.5 Managing effects on Biodiversity and Geodiversity

All development proposals should:

Protect the biodiversity and geodiversity value of land, protected and priority species and buildings and minimise fragmentation of habitats and wildlife links.'

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

d. The benefits of the development in that location clearly demonstrably outweigh any direct or indirect adverse impacts on the features of the site and the wider wildlife links.

5.37 DM5.7 Wildlife Corridors

Development proposals within a wildlife corridor, as shown on the Policies Map, must protect and enhance the quality and connectivity of the wildlife corridor.

5.38 Paragraph 8.20 of the Local Plan also states that:- *“To assist applicants, the Council has identified buffer zones, within the Green Infrastructure Strategy, around the designated and protected areas which will enable the applicant to see whether proposals are likely to impact these areas and would need to meet the requirement outlines within relevant Local Plan policies.”*

5.39 Page 24 of the Green Infrastructure Strategy indicated that all designated sites are given a specific buffer depending on their importance. For Local Wildlife Sites over 20ha, this buffer is 150, and any proposed development which falls within a buffer zone must consider the impact upon the designated wildlife site.

5.40 National Planning Policy Framework (NPPF)

170. Planning policies and decisions should contribute to and enhance the natural and local environment by:

Protecting and enhancing valued landscapes, site of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

174. To protect and enhance biodiversity and geodiversity, plans should:

a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and

Promote the conservation, restoration and enhancement of priority habitats, ecological networks and protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

175. When determining planning applications, local planning authorities should apply the following principles:

If significant harm to biodiversity resulting from a development cannot be avoided through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

6. Landscape Architect

6.1 A pre-application was made back in 2016/17 for a similar layout. The pre-application comments did not support the development and raised concerns over the impact of the development on the tree groups within the site and the impact of the new buildings on the southern boundary.

6.2 General:

6.3 The site is made up of two areas. The southern section contains a Victorian villa house (Backworth Lodge) set back from the main road surrounded a small woodland with mature trees, accessed by a tarmac-covered driveway. Attached the Villa is a more modern single-storey building. Both Backworth Lodge and the single-storey building were formerly used as office space. The northern section of the application site contains a number of derelict stone buildings located mainly along the alongside the western boundary fronting Station Road.

6.4 The site is located within Backworth Conservation Area and the majority of trees within the southern section of the site are protected by a Tree Preservation Order (TPO). A new TPO has been served recently which is an extension of a previous and existing TPO on the site, to include a number of trees located within a Conservation area. The majority of poorer trees on the site have been removed in recent years leaving a large number of good quality merit worthy trees which are protected by a TPO. This new TPO covers over 80 mature trees which includes in large numbers, sycamore, ash, beech and maple. The TPO recognises the importance of the collective tree group, and their contribution to amenity and protects them from any authorised works or removal. It seeks to preserve and retain trees which enhance the local landscape character and wherever possible, the TPO should be safeguarded as part of the development.

6.5 The south east corner of the site is located within the Eccles Colliery and Extension Local Wildlife Site (LWS).

6.6 Planning Policies:

6.7 Paragraph 18 of the NPPF sets out the natural environment considerations that should be applied by LPAs in the determination of planning applications. This requires that planning permission should be refused where development would result in the loss or deterioration of irreplaceable habitats unless the need for, and benefit of the development in that location clearly outweigh the loss.

6.8 The planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to overall decline in biodiversity including by establishing coherent ecological networks that are more resilient to current and future pressures;

6.9 In addition to this are the North Tyneside Local Plan policies whereby and development should seek to 'Protect the biodiversity value of land, protected and priority species and minimise fragmentation of habitats and wildlife links' (Councils Local Plan DM5.5 Managing effects on Biodiversity and Geodiversity). With regard to the LWS priority will be given to 'the protection of both statutory and non-statutory designated sites within the Borough' (Councils Local Plan S5.4 Biodiversity and Geodiversity) and 'Development proposals within a wildlife corridor,.... must protect and enhance the quality and connectivity of the wildlife

corridor' (Councils Local Plan DM5.7 Wildlife Corridors). Furthermore, the Council will support strategies and proposals that protect and enhance the overall condition and extent of tress, woodland and hedgerows in the Borough, and: 'Protect and manage existing woodland, trees, hedgerows and landscape features.' (Council's Local Plan DM5.9 Trees Woodland and Hedgerows).

6.10 Northern section of the application site:

It is proposed to construct new housing to the north of the existing driveway and beyond a group of mature trees which extends from Station Road to the west to the boundary on the east. The units have been positioned outside the root protection area (RPA's) of the trees and orientated so that the majority of the gardens face southwards. The northern section of the site is characterised by a number of historic stone buildings facing Station Road with many mature self-seeded trees along Station Road removed in the recent past. A small group of trees exists to the far north of the site which are outside the application site.

6.11 Southern section of the application site:

The southern section of the site is characterised by a single Victorian villa (with more modern extensions) surrounded by a large number of mature trees protected by the TPO. The understorey has recently been removed leaving a large number of mature single stemmed trees. To the south of the villa is a paddock/open field which contributes to the semi-rural setting of the site.

6.12 The southern section of the site surrounding the office building is significant in terms of amenity both to the immediate area and the wider setting of Backworth due to its mature tree cover and woodland appearance. The combined presence of both tree cover and historic buildings contribute to the character of the local area. It is proposed to construct a large single 3 storey new build apartment block to the south of the existing Villa and 6 new mews buildings along the southern boundary within an area of land to the south of the mature tree group known as the Paddock. The properties will be accessed via the existing driveway leading to the existing villa and the former car park will be utilised to access the new apartment block and mews dwellings. There will be driveways and car parking associated with each, the majority of new car parking located to the eastern boundary of the site.

6.13 As stated earlier, part of the site (the south east corner) is located within a Local wildlife site (LWS) which extends eastwards of the application site.

6.14 Arboricultural Impact Assessment:

An Arboricultural Impact Assessment has been undertaken that assesses the trees on the site and categories each tree with regard to their quality and retention value was assigned using criteria outlined in British Standard 5837:2012 – 'Trees in Relation to Design, Demolition & Construction' (BS5837:2012). This report found that overall the trees within the site are reasonable condition to good. 22 trees are classed as high value trees (A) and 36 trees and four groups have been classed as moderate value trees (B). Overall, the trees on the site are in reasonable or good condition and this site potentially has one of the highest number of category A and B trees in the borough. Whilst the layout has been revised to retain and conserve the majority of trees on the, a large number of mature trees will require removal to facilitate

the development. There are also major concerns in terms of the impacts on the trees and the TPO, and the level of tree loss that would result, how the scheme relates to its immediate surroundings and how it will sit within the wider landscape.

6.15 Impacts arising from the development

The AIA states that the development will impact on the trees in the following ways;

Loss of trees due to the proposed layout.

Construction within root protection areas.

Location of utilities runs within Root Protection Area

Damage to trees within the site during demolition and construction

Pruning trees to create clearance to structures and gardens

Damage to structures from trees

Taking each impact individually:

6.17 Loss of trees due to the proposed layout.

Twelve individual trees and three tree groups will require removal to accommodate the development. Eight trees and 2no tree groups have been categorised as moderate value (B) Four trees and Group 2 have been categorised as low value (C). With the exception of Tree 1 (Cat. C) all of the trees that would need to be removed are positioned to the rear (east) of the site. The eight trees are to be removed to accommodate the new apartment block and car parking. A further tree T22 (B) will need to be removed to accommodate a double garage.

6.18 The arboricultural report states that because the trees are located to the rear (east) of the site, the treescape along the B1322 would be largely unaffected. However, due to their position on the south western corner of the site, the removal of trees at this location will open up and create direct views on to the new apartment block. Without the backdrop of trees at this location, the new development become prominent in the landscape and not just from the B1322 but from the A186.

6.19 The actual eastern corner of the new apartment block and associated car parking will be within the wildlife site. Trees T26, T27, T68, T67, T71, T70 and groups 3 and 4 located within the wildlife site will require removal in addition to a further 2no trees and tree group. The removal of mature trees from a Local wildlife site will result in the loss of habitat and impact on a wildlife corridor.

6.20 Construction within root protection areas.

The AIM states that *'Numerous trees have structures proposed for construction within their root protection areas. The structures are an extension to the driveway, footpaths, parking bays and boundary features.'* The concern is in relation to 'numerous' whereby a large number of trees will be affected by construction works, not only just for access and car parking but the widening of the entrance and the installation of drainage, including a SUDS' system and the installation of services. It is stated in the Flood Risk Assessment and drainage report that the shared surfacing to the driveways will have permeable paving with the sub-base thickened to provide additional attenuation. In order to achieve this, trees will either be removed to accommodate the driveways/ car parking areas or

excavations will be required within the RPA's of T17(A) and T52(A) – it is unlikely that the contractor on site will follow the curve of the RPA as shown on the plans around T52 – and will require a greater working area. The submitted details show excavations for the shared surfacing to a depth of 680mm deep (deeper than most trees roots go) so whilst the incorporation of permeable paving is welcomed the actual construction associated with it will impact on tree routes. Excavations to this depth within the RPA's would not be acceptable.

6.21 The Flood Risk Assessment also refers to ground levels being listed in the south east corner of the site above existing ground level and retaining walls being constructed in order to achieve gravity connection to Station Road to accommodate the difference in levels. The FRA (section 7.09) refers to the construction of a retaining wall to avoid increasing ground levels in the root protection area (RPA) of the trees. This will be positioned directly to the west of plot no. 24 so cross section details will need to be provided to gain a better understanding of how this will work so close to this property.

6.22 The swale is connected via an underground attenuation system located in front of plot no.'s 24 and 25. Again this has been positioned to the extremity of the RPA of the retained trees and also possibly on the line of the protective fence although details and position of the protective fence has also not been submitted (so the impacts are assumed). As this will be installed by machine, the working area will be greater with excavations expected within the RPA's of T63 and T52.

6.23 The Flood Risk Assessment refers to a small swale proposed off the access road opposite the new apartment block but other than small SUDs pond, a swale is not visible on the plans. The FRA also refers to kerb lines stating that kerb immediately adjacent to the swale are to be laid flush (section 7.10) to allow run off from the roads to discharge directly into it. This makes the assumption that half batter kerbs will be installed elsewhere along the length of the driveways and therefore within the RPA's of the protected trees. Kerbs will require excavations to install and it is unlikely that all this work will be carried by hand which in turn can damage the tree roots.

6.24 The entrance is to be widened by rebuilding a section of the existing wall which would allow the driveway to be increased in width and a section of new footpath to be created. All these works are proposed within the root protection areas of the trees in particular T2, T55, T56 T57, T48 and T58. Again, it would be difficult to undertake such works by hand as required in BS 5837:2012 – 'Trees in Relation to Design, Demolition & Construction' (BS5837:2012) with new wall foundations and footpath build ups being installed by machine. Trenching and digging necessary to install foundations and utilities can sever a portion of a tree's root system. The closer the excavation is to the base of the tree, the greater the likelihood of major damage. As major roots are important to anchoring a tree in the ground, the severing of any major root has the potential to lead to a weakening of the tree's stability.

6.25 New informal footpaths are to be incorporated in amongst the trees. A 'No-dig system has been proposed to limit the impact of the paths upon the root systems. Whilst the No-dig method is acceptable it still requires disturbance

within the woodland area (soil compaction smothering of tree roots) and questions the need for this extent of new footpath.

6.26 Location of utilities runs with Root Protection Areas

No details of intended service runs have been made available other than drainage, so the impacts cannot be fully assessed. It is proposed that new utility runs are not to be located within any of the retained trees root protection areas, but this information needs to be submitted as this could be an additional and significant impact on the tree group.

6.27 Damage to trees within the site during demolition and construction

6.28 Trees may be damaged by machinery including damage to branches and stems of trees. A tree protection fence should be installed to prevent damage from happening but no detail as to the location of the fence has been submitted.

Pruning trees to create clearance to structures and gardens

Trees within and overhanging the site on adjacent land may require pruning operations in order to clear the proposed structures. It is expected that trees will require pruning for construction access/clearance to accommodate the build e.g. T21(B) to Plot 17, T5(A) from plot 10 and 12, and any crown lifting along the driveway. The pruning is only required to accommodate the build and any unnecessary or over pruning could lead to concerns regarding the future viability of these trees.

6.30 Damage to structures from trees

As stated in the arboricultural report, trees capable causing damage to structures either directly, such as physical contact damage or indirectly given the right conditions, such as subsidence. Building foundation depths will be required according to the species of adjacent trees given their intended locations near the existing trees – again an indication that units could be positioned too close to trees.

6.31 Other impacts resulting for the development

6.32 Amenity

6.33 Backworth Lodge and its single storey modern extension are within an established woodland setting. The paddock area to the south is an open field framed by trees which contributes to the semi-rural setting of the site. The southern section of the surrounding the office building is significant in terms of amenity both to the immediate area and wider setting of Backworth due to its mature tree cover and woodland appearance. The trees to the southern boundary are part of a wider tree group which extends eastwards and westward of Holystone Engineering (Backworth Lodge). The asset, in this situation, is the conservation area and the presence of mature trees that help form its character.

6.34 Currently the landscape edge to this southern boundary of the site created a strong landscape visual effect, characterised by the backdrop of mature trees with medium contained views from the B1322 and A186. The tree group along is a distinctive focal feature and prominent against the skyline.

6.35 The paddock is located to the south of the tree group so there are uninterrupted and open views from the public footpath which runs parallel to the new link road to the south across to the paddock and directly onto the backdrop of trees. There are isolated buildings set within the broader collective tree group which extends from the roundabout to the Link Road, up northwards on Station Road and across the eastwards beyond Backworth Lodge. Buildings are predominantly historic in character (the new development has been sympathetically designed to sit within the conservation area) and are either framed by the mature trees or hidden with only glimpses or limited views of the built form. The combined presence of both tree cover and historic buildings contribute to the character of the conservation.

6.36 There are public footpaths associated with the A186 highway and public footpaths leading around the southern boundary of the site which gives uninterrupted views northwards towards the tree group. It is along this southern footpath that the most significant views of the mature backdrop can be seen whereby the trees as a group provide a strong sense of place and a semi-rural edge to Backworth Village. At this location the landscape can be considered to have a high sensitivity to development, as the landscape at this point is currently open with a clear views of the tree group with very little or no built intervention. The apartment block will sit directly behind the one semi-detached properties and compounded by the loss of trees, the new buildings will be clearly visible and adding to the urbanisation of the views. Users of the footpaths are highly likely to be using the area for recreation and therefore appreciating the views and landscape qualities. By virtue of its location, any development when viewed from these specific viewpoints and routes would inevitably cause an urbanising effect upon views from the public footpaths surrounding the site and users of the footpaths will experience a changed or altered view on a permanent basis.

6.37 Six 1.5 storey high new builds will be located within the Paddock to the south of the mature tree group. When viewed northwards from the footpaths associated with the A186, the 6 new units are to be positioned in front of the tree group, therefore the tree group becomes secondary in the landscape and immediately less prominent resulting in a change to a key view – clearly seen on the submitted visualisation. These visualisations demonstrate that the development will have an adverse effect on the setting and distinctiveness of the landscape in this location as experience in the short to medium distance views. The development will be visually intrusive in the landscape resulting in a large magnitude of change and clearly push development further into a semi-rural landscape. The perception by users is that the new buildings will become the dominant feature in the landscape – not the tree group.

6.38 The proposed new apartment building will be set back from the southern edge of the site and behind the mews new builds. Again, the visualisations attempt to show how the views of the apartment block will be mitigated from the views to the south by mature trees, however, the existing trees here are to be removed so there will be no tree cover to break up views, making the visual combined presence of the mews and the apartment block visible in the landscape. This collective tree loss will result in substantial change to the views northwards from the A186, where the new semi-detached dwellings and the single large new build will form a significant and immediately apparent element

within the view. This in turn will have adverse impacts on the overall impression of that view and the character of the local landscape.

6.39 Unfortunately many of the new trees planted on Station Road to replace the mature trees that were felled have died so any screening of the development to minimise the impacts along the southern boundary cannot be guaranteed. The proposal obviously recognises that the development will result in a changed or harmed landscape by proposing new planting to the southern boundary as mitigation or otherwise planting would not be required. Any new planting may help to 'soften' the built form but the visual presence and of the new builds will be no less prominent in the landscape and it will take many years before the planting can mature and the impacts on the views from the junction of B1322 and A186 northwards and reduced and mitigated.

6.40 Overshadowing

No consideration has been given to the dominant presence of the trees once the buildings are complete. Satisfactory levels of amenity (natural light and space) for the development will be difficult to achieve with particular regard to the overbearing impacts of the trees and the overshadowing on the external spaces and habitable rooms particularly to plots 11 to 17 which have small garden space overshadows by the trees to the north of driveway.

6.41 Overall, the trees have been given a good life expectancy with the potential for future growth which, in their current form could give rise to and the consequent pressure for the trees to be lopped, topped or even felled, to the detriment of this continued good health, longevity and in turn to the character and appearance of the conservation area. There are other potential issues such as falling debris or branches, blocked gutters, interference with underground services, and potential concerns in relation to their overbearing presence. Whilst protection afforded by the TPO would enable the Council to control any future tree work, it would be difficult for the council to refuse an application to cut-back or even remove a tree that was threatening the safety or the occupiers or having a harmful effect on their enjoyment of the property. There can be no certainty that such pressures could be reasonably resisted.

6.42 If tree pruning is required to accommodate the build in the first instance and maintain thereafter, then this should be an indication that the units are located too close to the trees.

6.43 Whilst the units to the north are located just outside of the RPA's of the protected trees so any damage to tree roots should be minimal, the tree group is very significant due to their maturity and size. More often than not, future impacts on the mature tree groups are generally always overlooked and the trees to the north of the existing driveway will substantially overhang what appears to be quite small garden space. These trees which have been previously considered suitable for their location and established in their landscape setting will now become unsuitable for their location due to the size and their perceived dominant presence particularly as the trees will cause shade on the south facing gardens and building elevations for most of the day. This will inevitably result in detrimental long-term pruning pressures and/or removal arising from concerns by

future occupants over issues including the size of the trees, safety and overshadowing.

6.44 Whilst protection afforded by the TPO would enable the Council to control any future tree work, it would be difficult for the council to refuse an application to cut-back or even remove a tree that was threatening the safety of the occupiers or having a harmful effect on their enjoyment of the property. There can be no certainty that such pressures could be reasonably resisted.

6.45 There will always be the constant threat of tree damage and removal, both during construction and as soon as the first houses are occupied when light and overshadowing becomes an issue. Whilst it can be argued that the units can sit comfortably within a mature tree setting, it is likely that this setting will be affected in the long term resulting from pressure to prune or remove trees due to the close proximity and overbearing presence. This in turn has a direct impact on the character and appearance of the conservation area.

6.46 Summary:

6.47 The landscape setting is locally both prominent and distinctive and the combined presence of both tree cover and historic buildings contribute to the character of the conservation area.

6.48 Concerns were raised at pre-application stage that any proposal should seek to preserve and enhance the local landscape character providing new benefit in terms of environmental outcomes. The proposal as presented would be damaging to the mature trees groupings, and in turn harmful to the character of the landscape and conservation area. The loss of trees will have a negative impact on the Tree Preservation Order, local landscape character, local wildlife site and conservation area and clearly push development further into a semi-rural landscape.

6.49 Despite the suggestion of mitigation, the construction of the semi-detached units on the very edge of the tree group will result in an altered view from key public footpaths. The loss of the tree screen to the boundary edges of the development will result in the semi-detached properties and apartment block being visually intrusive and prominent in the landscape, both immediately and for a number of years to come.

6.50 The proposal comes with a range of negative impacts and offers no comfort that the protected trees will be adequately retained, or the real threat of future removals can be avoided. The addition of the proposed development introduces new features which are alien to the local landscape do not connect with the historic character of the local area. The landscape character of the conservation area at this location will be altered, the development will be harmful to the local wildlife site and the integrity of the Tree Preservation Order and resulting in irreversible change to the overall setting and character, therefore the application cannot be supported.

7. Design Officer

7.1 Ivy Cottage, Dairy Cottage and Backworth Lodge are important features of the conservation area and their restoration is a highly positive aspect of the

proposed scheme. Dairy Cottage is grade II listed. The proposal retains a large part of the original room layout which includes fireplace openings. An existing low-quality extension would be removed and a new extension would be constructed which is sensitive to the design of the original building. A proposed schedule of works is required to support the LBC application for Dairy Cottage. This should include details of proposed demolitions, alterations and repairs. The schedule should refer to the submitted plans and include method statements where appropriate.

7.2 New units around Dairy and Ivy Cottage are proposed to be 1.5 storeys in height. This is considered to be appropriate around the single storey heritage assets and will help to maintain their prominence on Station Road. Some larger scale two storey dwellings are set back within the site to minimise their impact on the wider area. This is also considered acceptable.

7.3 The proposed new build apartment building compliments the design of Backworth Lodge. Although the building has a larger footprint than the Lodge, it is set back from the building line of the Lodge so that it is subservient in nature and maintains the setting and views towards the Lodge. The eaves height of the apartments also matches the existing Lodge.

7.4 The site entrance maintains the view corridor and approach to Backworth Lodge. The central wooded area of trees are also retained which maintains the setting of Backworth Lodge and the conservation area.

7.5 New dwellings are proposed in southern paddock area of the site which are 1.5 storeys in height to minimise the impact on the approach into Backworth. There is a landscaped buffer to the rear of the properties although the size and maintenance arrangements for this area need to be confirmed.

7.6 High quality materials are required for this site to ensure the development sits well within the context of the heritage assets on the site and the Backworth Village conservation area. Within Eccleston Yard character area, natural stone and natural slate is required to be used. Some brick may be acceptable behind Station Road. Within the Paddock character area, natural stone, natural slate and brick will be acceptable. The use of natural stone and natural slate should be conditioned.

7.7 Overall, the application preserves the heritage assets on the site and preserves the character and appearance of the conservation area. New development is sympathetic and the size and scale of properties considered acceptable throughout.

8. Tyne and Wear Archaeology Officer

8.1 I am delighted that Backworth Lodge and Ivy Cottage are being retained and converted along with the grade II listed Dairy Cottage. I am also pleased to read that the tree lined avenue will be retained.

8.2 In my pre-application comments I asked that the archaeological assessment and Heritage Statement aimed to ascertain the date and original function of the non-listed buildings and I am pleased to see that this has been done.

8.3 The site lies just south of East Backworth medieval village. There are broad ridge and furrow earthworks and at the southern end of the site relating to ploughing during the medieval or early post-medieval period. Early archaeological remains could potentially underlie the ridge and furrow.

8.4 The site is of industrial archaeological interest. It lies on the western fringe of Backworth Colliery and includes the last standing buildings of the mine. Backworth A Pit, which was located immediately north of the development site, opened circa 1813. It was renamed Maude Pit in 1872 and eventually closed in 1960. Backworth Colliery as a whole ceased in 1980.

8.5 Backworth Wagonway forms the eastern boundary of the site. Railway branch lines are shown on early mapping crossing the site and there is a chance that these survive.

8.6 Backworth Lodge, which is mid-19th century in date, was the home of the manager of Backworth Colliery and his family from at least the end of the century. The building was later used as colliery offices. In the late 1950s and early 1960s the Lodge was used as offices by the National Coal Board. A two-storey strong room for mining drawings and cash was built onto the rear northern elevation and a large single storey office annexe added to the south-east. The single storey annexe is of no architectural merit and is proposed for removal, which is welcomed. Backworth Lodge is of historical and architectural merit and social history interest. It should therefore be deemed to be a non-designated heritage asset read para 197 of the NPPF.

8.7 Dairy and Ivy Cottages were residential dwelling, both built in the early 19th century. By the middle of the 19th century the cottages were probably incorporated into the colliery building complex, associated with a yard and railway tracks. Dairy Cottage is listed grade II and is thus a designated heritage asset ref para 193 to 195 of the NPPF. Ivy Cottage should be deemed to be a non-designated heritage asset ref para 197 of the NPPF.

8.8 The buildings to the north part of the site are believed to have formerly housed ancillary support facilities for the colliery. The group may have been originally built as a farmstead (the name Dairy Cottage suggests a dairy farm). In the 20th century the buildings became colliery workshops.

8.9 The following buildings (numbered as per the archaeological assessment) are the most interesting historically:

Building 1 - an L-shaped buildings fronting onto the Station Road, rubble sandstone with a slate roof, single storey, early 19th century domestic reused for industrial purposes.

Building 3 – rubble sandstone with squared and tooled quoins, two storeys, roofless

Building 4 – rubble sandstone with crick insertions and abutments, single storey, roofless.

8.10 The retention of early architectural features in Backworth Lodge such as architraves, cornices and the principal staircase should be encouraged.

8.11 The stone boundary walls with wounded coping should be retained as part of the development.

8.12 I accept that the dilapidated buildings are proposed for demolition, but they do merit archaeological recording beforehand as they form part of the colliery's history.

8.13 Archaeological work required:

1. Archaeological building recording of Backworth Lodge, Dairy Cottage and Ivy Cottage before restoration and conversion.
2. Archaeological building recording the other former colliery buildings prior to demolition.
3. Topographical survey of ridge and furrow earthworks.
4. Evaluation trial trenching – depending on the findings, this may need to be followed by an archaeological excavation and/or watching brief.

8.14 Archaeological Building Recording Condition

No demolition/development shall take place until a programme of archaeological building recording has been completed, in accordance with a specification provided by the Local Planning Authority. A report of the results shall be submitted to and approved in writing by the Local Planning Authority prior to any development or demolition work taking place.

Reason: To provide an archive record of the historic building or structure and to accord with paragraph 199 of the NPPF, Local Plan S6.5 and policies DM6.6 and DM6.7.

8.15 Archaeological Excavation and Recording Condition

No groundworks or development shall commence until a programme of archaeological fieldwork (to include topographic survey of ridge and furrow earthworks, evaluation trenching and where appropriate mitigation excavation) has been completed. This shall be carried out in accordance with a specification provided by the Local Planning Authority.

Reason: The site is of potential archaeological interest. The investigation is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded in accordance with the paragraph 199 of NPPF, Local Plan S6.5 and policies DM6.6 and DM6.7.

8.16 Archaeological Post Excavation Report Condition

The buildings shall not be occupied/brought into use until the final report of the results of the archaeological fieldwork undertaken in pursuance of condition () has been submitted to and approved in writing by the Local Planning Authority.

Reason: The site is of potential archaeological interest. The investigation is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded, in accordance with paragraph 199 of the NPPF, Local Plan S6.5 and policies DM6.6 and DM6.7.

8.17 Archaeological Publication Report Condition

The buildings shall not be occupied/brought into use until a report detailing the results of the archaeological fieldwork undertaken has been produced in a form suitable for publication in a suitable and agreed journal and had been submitted

to and approved in writing by the Local Planning Authority prior to the submission to the editor of the journal.

Reason: The site is of potential archaeological interest and the publication of the results will enhance understanding of and will allow public access to the work undertaken in accordance with paragraph 169 of the NPPF, Local Plan S6.5 and policies DM6.6 and DM6.7.

8.18 I can provide a specification for the archaeological work when required.

External Consultees

9. Natural England

9.1 No objection subject to appropriate mitigation.

9.2 This development falls within the 'zone of influence' for coastal sites designated at a national and international level as Sites of Special Scientific Interest and Special Protection Areas/Special Areas of Conservation/Ramsar sites. Since this application will result in a net increase in residential accommodation, impacts to the designated sites may result from increased recreational disturbance.

9.3 Northumberland and North Tyneside Council's operate a Coastal Mitigation Service to mitigate for potential impacts from increased recreational disturbance resulting from increased residential development and tourism activities within this zone.

9.4 Subject to appropriate mitigation being secured in line with the details of this Service Natural England is satisfied there will be no damage or disturbance to the interest features of these sites.

9.5 Although your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound, Natural England's advice is that this proposed development, and the application of these measures to avoid or reduce the likely harmful effects from it, may need to be formally checked and confirmed by your Authority, as the competent authority, via an appropriate assessment in the view of the European conservation objectives and in accordance with the Conservation of Habitats and Species Regulations 2017.

9.6 This is because Natural England notes that the recent *People Over Wind Ruling* by the Court of Justice of the European Union concluded that, when interpreting article 6(3) of the Habitats Directive, it is not appropriate when determining whether or not a plan or project is likely to have a significant effect on a site and requires an appropriate assessment, to take account of measures intended to avoid or reduce the harmful effects of the plan or project on that site. The ruling also concluded that such measures can, however, be considered during an appropriate assessment to determine whether a plan or project will have an adverse effect on the integrity of the European site. Your Authority should have regard to this and may wish to seek its own legal advice to fully understand the implications of this ruling in this context.

9.7 Natural England advises that it is a matter for your Authority to decide whether an appropriate assessment of this proposal is necessary in light of this ruling. In accordance with the Conservation of Habitats and Species Regulations 2017, Natural England must be consulted on any appropriate assessment your Authority may decide to make.

10. Historic England

10.1 The application site covers part of the former Backworth Colliery an early 19th century coal mine that helped shape the village of Backworth. That part within the Backworth Conservation Area contains a number of historic buildings that were associated with servicing and administration of the colliery. Some such as the grade II listed Dairy Cottage and the unlisted Ivy Cottage appear to be early 19th century in date and are the earliest remaining strictures of the pit on the site or were adapted from cottages and farm buildings when the colliery was sunk in 1813 and then expanded. Backworth Lodge is a typical attractive mid-Victorian house whose use as the dwelling for the colliery manager and his family gives the building historic interest.

10.2 All the historic buildings on the site make a contribution to the significance of the conservation area and we welcome the move to conserve and absorb the three most important within the development, namely Dairy Cottage, Ivy Cottage and Backworth Lodge. In respect to the others we suggest you talk with your in-house archaeological advisers as to whether they feel more recording is necessary prior to their loss in accordance with paragraph 199 of the National Planning Policy Framework (NPPF).

10.3 The layout and form of the new building element of the scheme is influenced by the historic character of this part of the conservation area and would be respectful to the setting of the remaining historic buildings. It would result in an increased suburban character at the edge of the settlement and conservation area, but through reinforcing the line of the road and keeping the secluded aspect of the Lodge intact this effect would be managed well and not seem incongruous.

10.4 The amount of information within the listed building consent application regarding the specific works to Dairy Cottage is poor. The floor plans appear to use the existing building in a logical and sensitive fashion but there is no information on the extent of repairs, the replacement of fabric or historic fixtures and fittings. In a building of this simplicity and poor condition it is important to consider the impact of the proposal on the significance of the listed Dairy Cottage is of concerns and contrary to paragraphs 189 and 190 of the NPPF.

10.5 In summary whilst Historic England has no objection to the proposal overall we strongly suggest that you scrutinise the impact upon the significance of Dairy Cottage and request further information as required before determination.

10.6 Historic England has no objection to the applications on heritage grounds.

11. The Coal Authority

11.1 The application site does not fall within the defined Development High Risk Area and is located within the defined Development Low Risk Area. This means that there is no requirement under the risk based approach that has been agreed

with the LPA for a Coal Mining Risk Assessment to be submitted, or for The Coal Authority to be consulted.

11.2 In accordance with the agreed approach to assessing coal mining risks as part of the development management process, if this proposal is granted planning permission, it will be necessary to include The Coal Authority's Standing Advice within the Decision Notice as an informative note to the applicant in the interests of public health and safety.

12. Northumbrian Water

12.1 We have no issues to raise with the above application, provided the application is approved and carried out within strict accordance with the submitted document entitled "Former Holywell Engineering Site Flood Risk Assessment and Drainage Strategy" dated "29 June 2018" Revision P2 and drawings nos. DS_SK10P2, DS_SK11P2 and DS_SK12P2". In this document it states that the drainage scheme shall ensure that foul flows discharge to the foul sewer at manholes 3805 and 4701 via the existing connection. To also ensure that surface water for the northern portion of the site discharges to manhole 3803 at a restricted rate of 5l/s and surface water for the southern portion of the site discharges to Briardene Burn.

12.2 We therefore request that the following condition be attached to any planning approval, so that the development is implemented in accordance with this document:

CONDITION: Development shall be implemented in line with the drainage scheme contained within the submitted document entitled "Former Holywell Engineering Site Flood Risk Assessment and Drainage Strategy dated "29 June 2018.

13. Police Architectural Liaison Officer

13.1 Having looked at the application documents from a crime prevention point of view (including checking the recent crime and incident figures for the area) I can find no grounds on which to object to it.

13.2 There are a couple of things that do concern me with the application, namely there is no mention of security of the individual units proposed and I would recommend that the applicants consider the police approved security scheme Secured by Design (SBD) guide SBD Homes 2016, which in addition to helping to develop a safe and secure development for residents and visitors alike who will also meet their obligations to building control under Approved document Q (ADQ) recommendations. Details of the SBD guides can be found at www.securedbydesign.com and following the links to "Design Guides." I would also recommend to them to change the design of plots 24-29 to remove the overhead build as these have in the past, become gathering points for youths and subsequently become crime generators and given the slightly remote positioning of these units this could become a problem in the future.

Representations

1 letter of support has been received raising the following issues;
Support this application to bring a derelict site back into beneficial use and to improve the approach to Backworth Village and its conservation area.

1 letter of objection has been received on behalf of Keenan's (Vegetable)

Processing

I am writing to you to set out our concerns in relation to the current applications with regard to the affects that this proposed development, in combination with others in the area, will potentially have on our clients established business. Whilst an entirely separate application, these comments are required to also be considered in the context of the parallel and as yet to be determined application reference 18/00881/FUL which proposed the constriction of 67 residential dwellings and 14 no. Commercial units on land at Backworth Business Park to the north and east of our client's site.

This letter raises two areas of concern. In the first instance these are in relation to the general policy context for this application site and the wider area and what we consider to the developments failure to comply with local plan policy. The second concern is in relation to the direct potential impacts on our client's business by virtue of the development of new residential dwellings in close proximity to their operation. We will deal with these points in turn.

In relation to the local planning policy position and in particular the site allocation, it can be noted that this application site forms part of the wider 8.5-hectare mixed used land allocation under policy S4.3 (29) of the North Tyneside Local Plan adopted in July 2017. Under that policy the 8.5-hectare parcel of land identified as site number 29 is allocated as a mixed-use site with the potential to accommodate 65 dwellings. This application brings forward proposal for 46 dwellings with 1.97 hectares of this allocated area. It may be noted however that this planning application contains no proposals for employment uses or any other non-residential uses as may have been expected to come forward within the allocated mixed-use site. This omission is acknowledged within the submitted planning statement dated 25 June 2018 which accompanied the application. Paragraph 5.4.1 of the statement states that

'Given the various heritage assets which the development proposals seek to protect, retain and enhance it is not considered appropriate to encourage an employment led development on the site however, consideration has been given to how this policy requirements can be addressed.'

The employment consideration, it may be noted from the paragraph, is limited to provision of limited office space within just 6 houses proposed on site through the provision of office space to allow home working. It must therefore be concluded therefore that that the development is in effect solely a residential development scheme and indeed this is the terms of which the development is consistently referred to within the applicant's supporting information. It is considered that this form of development is not consistent with the local plan policy for the site which clearly stipulated that this will be a mixed-use development site.

In this context of the local plan policy, it is expected that the site will bring forward a combination of both employment and residential development of appropriate proportions. This is confirmed by two relevant policies. Policy S2.2 of the Local Plan on the provision of land for employment development acknowledges at the foot of the policy S4.3 may also provide additional contribution to the supply of employment land. It states proposals for employment uses on those sites will be

expected to be compatible with residential development and will be supported where they are consistent with other policies of the local plan. It is therefore envisaged clearly in the context of policy S2.2 that there will be a meaningful and quantifiable level of employment development on mixed use sites which will be compatible with any new residential development coming forward. It may therefore be expected that any development on site 29 in this context would include potentially B1 Light Industrial and Office Uses, which most suitable abut and adjoin any new residential development.

The expectation for this mixed-use site is further confirmed with reference to policy S4.3. As can be seen, although policy S4.3 addresses the distribution of housing development sites, site 29 at Backworth Business Park is separately listed outwith the residential site allocations under the separate heading of mixed-use sites. It is therefore clearly intended and envisaged within the policy that site 29 will not simply be another residential site. The proportion of residential to employment use within the site and it is also expected to be relatively modest in the context of a mixed-use site. This is further confirmed with reference to the potential homes envisaged on the 8.5-hectare site. This, as listed in policy S4.3 is just 65 dwellings which equates to an overall density of development of just 8.1 dwellings per hectare. This low level of residential development is considered to be a reflection of the policies intention for there to be a relatively low level of residential development combined with appropriate employment use. The development as currently proposed is clearly not consistent with this policy objective and within the 1.97-hectare application site there is a density of residential development equivalent to 23.3 dwellings per hectare. The parallel application to the north and east of our client's site reference 18/00881/FUL would deliver come 11 dwellings per hectare. The two sites when combined would potentially deliver 113 dwellings with an average density of 14.1 per hectare. Although this is acknowledged to be a simplified assessment it does help to demonstrate that the level of residential development proposed on these two neighbouring application sites is far in excess of that envisaged with the local plan policy for a mixed-use site. It is acknowledged that the neighbouring application site to the north does include some employment provision and therefore does attempt to comply with the 'spirit' of the policy. In the case of this current application at the Backworth Lodge Site, there is however no genuine employment provision at all and in this respect the proposal fails to comply with the land use allocation for the site. The application provides no actual explanation for this other than to refer to the presence of historic building making an employment led scheme not possible. There is however no further explanation for this and in planning terms it is considered that the presence of a historic context is a design issue and not a land use issue. Whilst a viability justification for the absence of affordable housing is presented no actual justification is provided as to why employment provision is not deliverable on the site and why policy S4.3 is not being adhered to.

This position is more clearly demonstrated when reference is made to the Inspector's report on the local plan of May 2017. Paragraphs 148 to 152 of the Inspector report specifically considered site 29 and its allocation as a mixed-use site under policy S4.3. The Inspector considered the release of land from its previous employment allocation to a mixed-use site with reference to our client's processing plant. In allowing the allocation of the surrounding land to a mixed-

use site the Inspector gave careful consideration to the need to avoid housing in close proximity to our client's premises. In seeking to avoid the need to sterilise the entire site because of Keenan's plant, the Inspector concluded that it was capable of accommodating the relatively modest amount of housing proposed. Clearly it was therefore determined that the 65 dwellings proposed within the plan under policy S4.3 was deemed to be a modest amount of housing suitable for the specific considerations present on the site. To put this in further context, in relation to the expected delivery of employment use within this mixed-use site, it can also be confirmed that the Inspector in finding the plan sound, did expect that housing would be a lesser part of any mixed-use development of the site when compared to the employment elements. This is confirmed also within paragraph 150 when the Inspector stated that, 'Looking at the wider site I am not persuaded that a subservient element of housing, as part of the wider mix of uses could not be satisfactorily accommodated on the large 85 hectares site.

It is quite clear therefore from the Inspectors conclusions on the basis of their report that housing was expected to be subservient in scale to the employment use of the site. It may also be noted that if this application were to be approved and the corresponding application to the north and east for 67 dwellings were to be approved then we would be in the situation that barely any employment use had been delivered on this entire allocated site and residential development would have been brought forward at a level nearly double that expected under the site allocation, with just 14 commercial units developed. It is clearly the case that such the case cannot be considered to be consistent with the adopted Local Plan Policy. We should submit that this situation takes on greater significance given that the local plan is so recently adopted. The local plan in its present form was adopted only 15 months ago and therefore must be treated as a plan which must be afforded full material weight in any planning considerations. In the context of the NPPF and paragraph 11, it is considered that the development does not constitute sustainable development. As the proposal does not accord with an up-to-date development plan, as such the presumption in favour of sustainable development does not apply and there is no requirement for the approval of this application.

The situation outlined above leads directly onto consideration of the second issue which is the potential impact of new residential development upon the ability of our client's site to continue to operate. We consider that the presence of our clients site was central tenant of the way in which policy S4.3 was prepared and in this respect our client should not be in the position where new residential development is being proposed in locations where the proximity is likely to lead to future complaints about our clients business. It is quite clear with reference to the Inspector's plan report that the purpose of putting in place a mixed-use allocation for this area was so that the site would be bounded by appropriate employment uses which could satisfactorily neighbour both our client's business and future residential development brought forward as part of the mixed-use schemes. Effectively, the closest development to our client's site should be employment uses which provide an appropriate transition between Keenan's Processing and a new residential development. This is not the situation and we therefore have a situation where residential development is being proposed in a manner which has the potential to the impact on our client's site. This is the

situation which occurred on the neighbouring site to the north and east in the context of the 2012 planning application and the subsequent 2016 appeal decision. We continue to be of the view that this situation which will arise on that site and have made separate submissions on that application to the LPA.

In the context of this application we note that the application has submitted with a full noise assessment prepared by LA Environmental Ltd, which considers the existing noise climate surrounding the application site and in particular the noise impact of the operation of Kennan Processing. Whilst it is noted that the LA Environmental report concludes that the majority of operations on our client's site may not be likely to exceed noise thresholds within the proposed development, it can be seen that this is not the case for the use of our client's land to the south of their existing processing building. This land, it is noted, may be used by Keenan's in the future and we can confirm that this land is in fact already being used and that further development is being considered on this land and is subject of pre-application consultation with the LPA. As such, any concerns in relation to this area of land within our client's control are entirely valid and are required to be given significant weight. Within the LA Environmental report, it can be seen that within paragraph 6.5.3 and 6.5.4 it is confirmed that our clients use of their land to the south of their existing building will give rise to a sound source that is expected to be 3dB(A) above the daytime background level. At night-time it is predicted that for the closest dwelling within the proposed development Keenan's will produce sound 17dB(A) above the existing night time background levels during the early morning period. This, it is stated is an indication that significant adverse impact would arise for occupiers of this new residential dwelling. We note that the submitted planning statement at 5.3.17 omits any reference to this significant night-time noise issue. The LA Environmental report goes on to within paragraph 6.5.5 highlights that this significant adverse impact would be likely to arise during the early hours of the morning between 04:00 and 07:00 when it is expected residents would be sleeping in bedrooms. The LA Environmental report then goes on within section 7 to provide a number of recommended options for noise amelioration within the design of the dwellings which may ameliorate this adverse noise impact. This includes the options of enhanced glazing, enhanced roof construction and ventilation. In relation to the latter, it is confirmed in paragraph 7.3.12 that 'enhanced glazing must be closed to provide the required benefit and it is consequently necessary to provide the required ventilation by suitably sound attenuated means.' It can therefore be concluded that the success of any enhanced glazing being utilised within the affected properties is premised on the basis of windows being kept closed and mechanical or other forms of ventilation being available as an alternative. Ultimately as correctly concluded within paragraph 7.4.14 and 7.4.15 of the LA Environmental report, it is for developers to ultimately address the building solutions required to achieve the noise levels needed and the options provided within the LA Environmental report are simply recommendations.

The concerns for our client's perspective is that at present the LA Environmental report confirms that the use of their processing site will be likely to give rise to significant adverse impact on the closest residential receptors at the most sensitive times of the night. The significant issue which exists at present and why we must object to this application is that at present the application has not brought forward any specific proposed design solutions which demonstrate how

this adverse noise impact will be satisfactorily ameliorated within the closest residential receptors. Whilst the LA Environmental report provides recommendations, these are simply recommendations and as the report states it is for the developer to bring forward specific proposals to demonstrate how the noise will be ameliorated. At present, the application does not contain any such detailed and confirmed proposals. It is simply submitted with a range of options. The issue is that at present this is not a satisfactory situation because the principle of residential development in this location is dependent on demonstrating beyond any doubt that adverse noise impact to residents will not occur in a manner which will lead to complaints against our client's operations. The application at present has failed to demonstrate the specific measures which it will incorporate to ensure this does not occur and therefore at present the principle of residential development in the form now currently proposed cannot be deemed to be acceptable. This is the very situation which arose in relation to the previous planning application on land to the north and east of our client's site and which was the subject of the 2016 appeal decision. In that appeal decision the same situation applied and the Inspector in that case concluded that, *'from a technical stand point, I am broadly satisfied that it would be possible to incorporate mitigation measures which would provide a technical solution for the reduction of external noise levels to within acceptable parameters at times when outdoor areas are likely to be in use. Furthermore, having regard to the evidence placed before me, I consider it reasonable to conclude that the ameliorative measures would provide a technical basis to ensure the internal noise levels remained within acceptable parameters for bedrooms of 30 dB(a) with no exceedance of the Lmax 45 dB(a) in accordance with the WHO Guidelines,*

As is known from the decision that was not however sufficient for the appeal to be allowed and the Inspector went on to find that, *Despite the conclusion on the technical submissions, I have significant concern over the impact that the proposed mitigation of noise would have on the living conditions of future occupiers. The incorporation of sealed window units and mechanical ventilation would address the technical aspect of the issue, but the inclusion of such would undoubtedly diminish the quality of the living conditions available to the affected properties...*

The Inspector went on to find that.

'It would not be unreasonable for future occupiers of all dwellings to expect to be able to open windows to naturally ventilate their properties without the need for, or reliance upon technical and mechanical assistance to maintain a reasonable standard of living conditions.'

The Inspector concluded that this wish for occupiers to be able to open windows in the future in order to achieve satisfactory living conditions would be likely to have an adverse impact on our client's business. In paragraph 17, the Inspector concluded that,

'It would be likely that there would be complaints regarding noise generation from Keenan's Factory, and consequently restrictions on the business would be considered as necessary. Furthermore, the introduction of a neighbouring residential use would undoubtedly place a disproportionate restriction on any future plans that Keenan's may have to extend the operation within the site,

which I note includes a substantial area of open and unused land, albeit I accept that there is no evidence of such intent at this point.'

It must also be noted that the Inspector in reaching this conclusion specifically referred to the expansion land to the South and Keenan's ability to use this in the future. This is the area identified in this application, the use which would give rise to significant adverse impact during night-time hours.

In the context of this decision, it can be seen that there must certainly for any decision make that the technical solutions proposed to ameliorate noise impact are ones which are deliverable and likely to ensure that adverse impact and subsequent complaints will not arise. As can be seen it is not appropriate to propose permanently closed windows supplemented by a mechanical ventilation system and not is it acceptable to provide opening windows where the opening of them is likely to lead to noise complaints. In this context of the application as currently submitted the proposal simply brings forward a list of amelioration options which the detail of which is not classified as a specific scheme within the application. It is considered that due to the significance of this issue these matters cannot be simply left to be considered as part of a planning condition. The details of any noise amelioration are required to be confirmed in detail at the application stage in order that they can be addressed in the context of relevant legislation and also the 2016 Inspectors appeal decision. Unless this is done it cannot be concluded that the principle of development is acceptable. As things stand, we must conclude that the proposal has not demonstrated satisfactorily that the residential development proposed can be brought forward in a manner which will not result in either unacceptable amenity standards for future occupiers against our clients. The proposal therefore does not meet the requirements of the NPPF and specifically paragraph 182 of the revised framework which states that *'decisions should ensure that new development can be integrated affectively with existing businesses.'* It also advises that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of permitted after they were established. We consider that the proposal, in its present form, has not demonstrated compliance with this aspect of the NPPF and therefore in the absence of required detailed information on noise amelioration, it should be refused permission.

This letter sets out our concerns in relation to the current application and the wider approach to development of this allocated mixed-use site. At present it can be clearly seen that this application is not consistent with the Local Plan allocation as it brings forward a residential development without any employment uses within it. It runs contrary to the purpose and content of policy S4.3 as clearly demonstrated by reference to the 2017 Inspector's report. The level of housing development sought is inconsistent with the levels of housing provision within the land allocation and it is clear that the form of development gives rise to noise considerations and concerns for our client which would not be present of the development were brought forward in compliance with policy S4.3. As part of a recently adopted Local Plan it is expected that this policy would be adhered to and this is not being adhered to it is considered that the proposal is unacceptable. Further to this and without prejudice, we consider that within the context of the scheme now proposed it has also not been demonstrated that the scheme can be developed in a manner which will not give rise to adverse noise

impacts upon future occupiers which would consequently lead to complaints against our client's business operation. We consider that the application is not capable of being approved in the absence of a detailed scheme of noise mitigation to demonstrate that the amenity of occupiers can be safeguarded in a manner which is appropriate in the context of the previous 2016 appeal decision on the neighbouring site. On the basis of the above points we would therefore request that the current application is refused and we would also wish to reserve the right to speak at any forthcoming planning committee at which the application is considered.

Application No: 18/01374/LBC

Author: Aidan Dobinson Booth

Date valid: 29 October 2018
Target decision date: 24 December 2018

☎: 0191 643 6333
Ward: Valley

Application type: listed building consent

Location: Holywell Engineering, Station Road, Backworth, NEWCASTLE UPON TYNE, NE27 0AE

Proposal: Demolition of several existing buildings. Conversion of existing Backworth Lodge, Dairy Cottage and Ivy Cottage to form 4no flats and 2no. dwellings. Erection of new apartment building (13no apartments) and 27no dwellings (Amended Plans received 04.03.19)

Applicant: David Little Pension Trust Fund Mr Andrew Little, C/o Agent Holywell Engineering Limited Station Road Backworth Newcastle Upon Tyne NE27 0AE

Agent: IDPartnership Northern, Hugh Daglish St Jude's Barker Street Shieldfield Newcastle Upon Tyne NE2 1AS

RECOMMENDATION: Application Permitted

INFORMATION

1.0 Summary Of Key Issues & Conclusions

1. Main Issues

1.1 The main issue for Members to consider in this case is the affect upon the character and setting of Dairy Cottage, which is a Grade II Listed Building. This is a building that is considered to be of special architectural or historic interest. It was listed on 19 February 1986.

2. Description of the Site

2.1 The application site is Dairy Cottage, which is a currently vacant dilapidated Grade II listed building. It was built in the early 19th century from sandstone rubble with tooled quoins and Welsh slate roof. It is situated to the eastern side of B1322 and has other existing dilapidated buildings to its north and south. Dairy Cottage is part of a larger development site that measures 1.97 hectares in area. To the north is Eccleston Close with the access road to Backworth Business Park that consists of Keenan Vegetable Processing Plant, Offices and a series of workshop units further to the north. The surroundings are characterised by mature trees, which also contribute to mature landscape setting of the Backworth Conservation Area, which the site is located within.

3. Description of the proposed development

3.1 This application seeks listed building consent for the conversion and restoration of Dairy Cottage into a residential dwelling.

3.2 This is part of a larger development for the wider site involves the demolition of several existing buildings. Conversion of existing Backworth Lodge, Dairy Cottage and Ivy Cottage to form 4no flats and 2no. dwellings. Erection of new apartment building (13no apartments) and 27no dwellings.

4. Relevant Planning History

20/00542/FUL – Demolition of single storey extension to the south of Backworth Lodge. Land to be made good.
Permitted 19.08.20

18/01373/FUL - Demolition of several existing buildings. Conversion of existing Backworth Lodge, Dairy Cottage and Ivy Cottage to form 4no flats and 2no. dwellings. Erection of new apartment building (13no apartments) and 27no dwellings.
Pending Consideration.

Backworth Business Park

18/00881/FUL – Construction of 67 residential dwellings (C3) including 17 affordable homes (25%) and 14no. B1, B2 and B8 commercial units totalling 650 sqm, with associated road infrastructure, car parking spaces, open spaces, gardens and landscaping.
Pending Consideration.

12/00637/FUL - Change of use of existing vacant employment land to residential (C3) and construction 65 residential units (including 13 affordable homes) with associated road infrastructure, structural landscaping, gardens and public amenity space (Amended Description 04.08.14).
Appeal Dismissed 31.08.16

5. Development Plan

North Tyneside Local Plan 2017

6. Government Policy

6.1 National Planning Policy Framework (February 2019)

6.2 National Planning Policy Guidance (as Amended)

6.3 Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration in the determination of this application. It requires local planning authorities 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 National Planning Policy Framework.

PLANNING OFFICERS REPORT

7 Main Issues

7.1 The main issue for Members to consider in this case is the impact of the proposed works on the character and setting of the Grade II Listed Building, Dairy Cottage.

7.2 Character and Appearance

7.3 Paragraph 184 of NPPF advises that heritage assets are an irreplaceable resource, which should be conserved in a manner appropriate to their significance.

7.4 Paragraph 189 of NPPF requires an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting.

7.5 Paragraph 190 of NPPF expects local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal.

7.6 Paragraph 192 of NPPF states that in determining applications local planning authorities should take account of amongst other matters the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.

7.7 Paragraph 193 of NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

7.8 Paragraph 194 of NPPF states any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Substantial harm to or loss of grade II listed buildings should be exceptional.

7.9 Paragraph 195 of NPPF advises that where a proposed development will lead to substantial harm to a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm of total loss is necessary to achieve substantial public benefits that outweigh that harm of loss.

7.10 Paragraph 196 NPPF state that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including where appropriate, securing its optimum viable use.

7.11 Paragraph 197 of NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken in account in determining the application.

7.12 Paragraph 199 states that local planning authorities should require developers to record and advance understanding of the significance of any

heritage assets to be lost in a manner proportionate to their importance and the impact and to make this evidence publicly accessible.

7.13 Paragraph 200 of NPPF states that local planning authorities should look for opportunities for new development within Conservation Areas and within the setting of heritage assets, to enhance and better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset should be treated favourably.

7.14 Local Plan Policy S6.5 seeks to pro-actively preserve, promote and enhance its heritage assets.

7.15 Policy DM6.6 states that proposals that affect heritage assets or their settings will be permitted where they sustain, conserve and where appropriate, enhance the significance, appearance, character and setting of heritage assets in an appropriate manner.

7.16 The Tyne and Wear Archaeology Officer states that the site is of industrial archaeological interest. It lies on the western fringe of Backworth Colliery and includes the last standing buildings of the mine. Backworth A Pit, which was located immediately north of the development site, opened circa 1813. It was renamed Maude Pit in 1872 and eventually closed in 1960. Backworth Colliery as a whole ceased in 1980. She goes on to state that Dairy Cottage was originally a residential property, but that it was probably incorporated into the colliery buildings complex, associated with the yard and railway tracks.

7.17 The Tyne and Wear Archaeology Officer recommends a number of conditions, the majority of which relate to the wider development of the site associated with the planning application. It is not necessary to duplicate these conditions as part of the listed building consent. However, Dairy Cottage should be recorded to provide an archive record of the building and this can be conditioned.

7.18 The Council's Design Officer described Dairy Cottage as an important feature, the restoration of which is a highly positive aspect of the proposed scheme. The proposal retains a large part of the original room layout, which includes the fireplace opening. An existing low quality extension would be removed and a new extension would be constructed, which is sensitive to the design of the original layout. A proposed schedule of works is required, but this can be conditioned.

7.19 The Council's Design Officer has also stated that the new units around Dairy Cottage are proposed to be 1.5 storeys (living in roofspaces) in height. This is considered to be an appropriate height and will help to maintain the prominence of Dairy Cottage on Station Road. Some larger two storey dwellings are proposed, however these would be set back within the site, which would reduce their impact on the setting of the listed building.

7.20 Historic England has been consulted and do not object.

7.21 Other Matters

7.22 Whilst Keenan's object to the proposal, this is on the basis of the effect that the development would have on their business. They do not object to the works to the listed building.

7.23 Conclusion

7.24 In conclusion, it is considered that the proposals are acceptable. They would restore a currently vacant listed building, improving its significance, character and setting that would accord with the advice in NPPF and policies S6.5 and DM6.6 of the Local Plan. Members need to consider whether they agree. It is recommended that listed building consent should be granted subject to conditions.

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.

Planning Application Form dated 28.09.18.

Location Plan, Drawing No. LP01

Proposed Site Plan, Drawing No. PL01(A)

Proposed Roof Plan, Drawing No. PL02(A)

Proposed Streetscenes, Drawing No. PL03

Elevation Treatments, Drawing No. PL04

Proposed Boundary Treatment Plan, Drawing No. PL05

Proposed Hard Surfaces Plan, Drawing No. PL06(A)

Dairy Cottage Proposed Plans, Drawing No. HT-DAIRY(A)

Dairy Cottage Proposed Roof Plans, Drawing No. HT-DAIRY

Dairy Cottage, Proposed Elevations, Drawing No. HT-DAIRY

Accommodation Schedule, Rev 10, dated 22/02/2019

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

2. The works to which this application relates shall be begun before the expiration of three years from the date of this consent.

Reason: To comply with the requirements of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

3. Prior to the works hereby approved commencing a detailed schedule of works shall be submitted to and approved in writing. This shall include details of the proposed demolitions, alterations and repairs. The schedule shall refer to the approved plans and include method statements where necessary. Thereafter the works shall be carried out in accordance with the approved details.

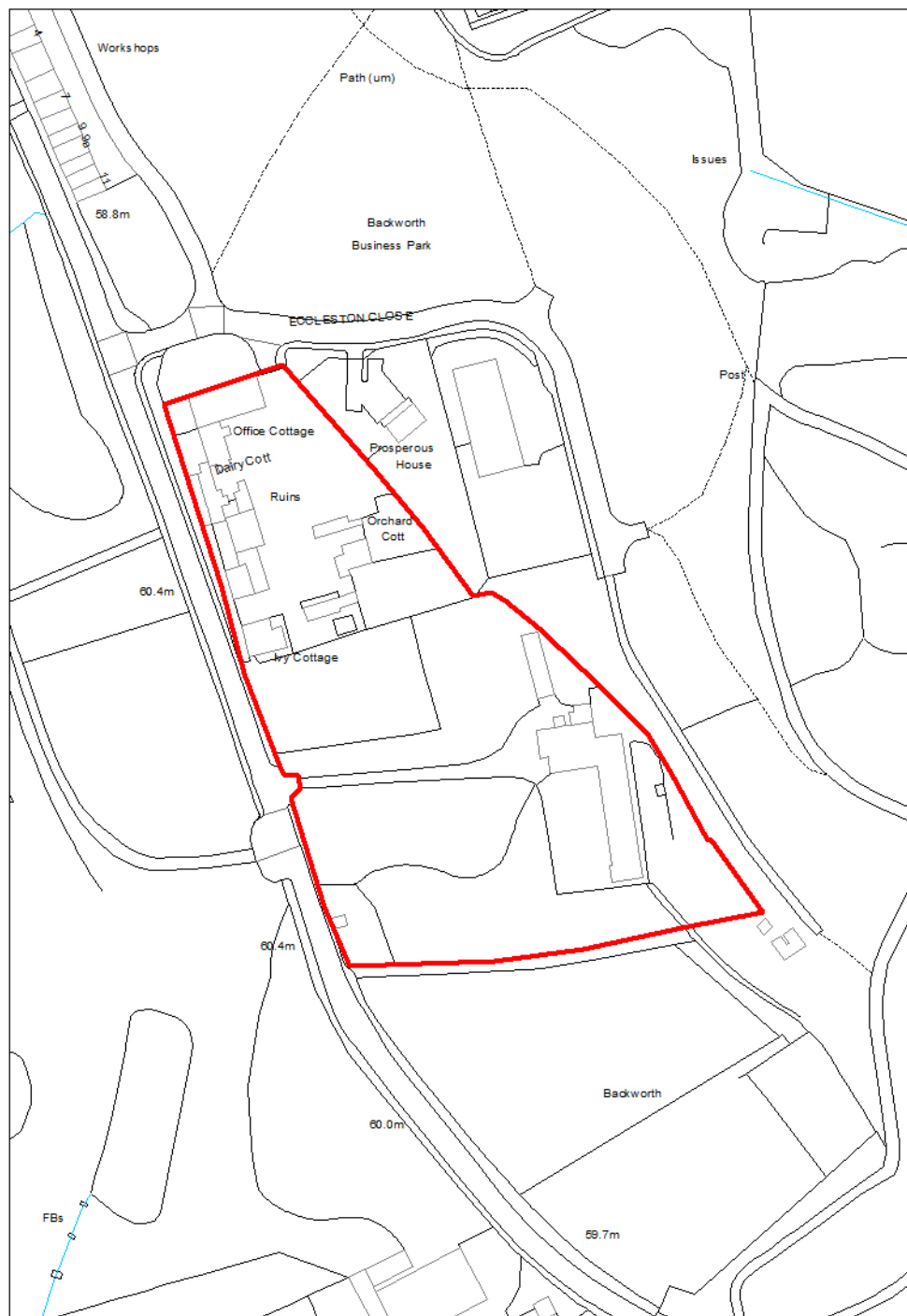
Reason: The condition needs to be pre-commencement to enable the local planning authority to control the work in detail on the interests of preserving the historic character of the listed building in accordance with policy DM6.6 of the North Tyneside Local Plan 2017.

4. No demolition/development to Dairy Cottage shall take place until a programme of archaeological building recording has been completed in accordance with a specification provided by the Local Planning Authority. A report of the results shall be submitted to and approved in writing by the local planning authority prior to any development or demolition work taking place.

Reason: This condition needs to be pre-commencement to provide an archive record of the historic building or structure and to accord with policies DM6.6 and DM6.7 of the North Tyneside Local Plan 2017.

5. Notwithstanding condition 1, no development shall take place until a schedule of materials including natural stone and natural slate has been submitted to and approved in writing by the local planning authority. Thereafter the building work hereby approved shall be carried out using the approved materials.

Reason: This condition needs to be pre-commencement to ensure that the materials used to restore the listed building are appropriate in accordance with policy DM6.6 of the North Tyneside Local Plan 2017.



Application reference: 18/01374/LBC

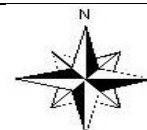
Location: Holywell Engineering, Station Road, Backworth

Proposal: Demolition of several existing buildings. Conversion of existing Backworth Lodge, Dairy Cottage and Ivy Cottage to form 4no flats and 2no. dwellings. Erection of new apartment building (13no apartments) and 27no dwellings (Amended Plans received 04.03.19)

Not to scale

Date: 17.09.2020

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Consultations/representations

Internal Consultees

1. Highway Network Manager (Highways)

1.1 This application is for the demolition of several existing buildings, conversion of the existing Backworth Lodge, Dairy Cottage & Ivy Cottage to form 4 flats and 2 dwellings, erection of a new apartment building (13 apartments) and 27 dwellings. The existing access from Station Road is being utilised and a new access will be provided to the north. Parking has been provided in accordance with current standards and suitable areas for turning a refuse vehicle. Improvements to sustainable links to schools and public transport will be required to make the site safe to access by pedestrians. Conditional approval is recommended.

1.2 Recommendation - Conditional Approval

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

1.4 Alterations to existing access

New access

Upgrade of footpath abutting the site

Provision of traffic calming to 20mph in the vicinity of the site on Station Road

Provision of suitable pedestrian crossing point on Station Road

Associated highway drainage

Associated street lighting

Associated road markings

Associated signage

Associated legal orders

1.5 Conditions:

ACC11 - New Access: Access prior to Occ

ACC15 - Altered Access Access Alt Prior to Occ

ACC17 - Exist Access Closure: Misc Points, By *6 months

ACC25 - Turning Areas: Before Occ [refuse vehicle]

PAR04 - Veh: Parking, Garaging before Occ

REF01 - Refuse Storage: Detail, Provide Before Occ

SIT07 - Construction Method Statement (Major)

SIT08 - Wheel wash

1.6 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.

1.7 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.

1.8 No development shall commence until a scheme for the provision of secure undercover cycle parking shall be submitted to and approved by in writing the Local Planning Authority. Thereafter, this scheme shall be implemented in accordance with the approved details before the development is occupied.

Reason: In the interests of highway safety.

1.9 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 & Numbering

I46 - Highway Inspection before dvlpmt

1.10 The applicant is advised that they should enter into an agreement indemnifying the council's refuse, recycling & garden waste collection vehicles against any claims for damages to the internal road and parking layout.

2. Manager of Environmental Health (Contaminated Land Officer)

2.1 The site is within an area of known mining and unknown filled ground. Due to the sensitive end use and historical use of the area the following must be applied:

Con001

Gas 006

3. Design Officer

3.1 Ivy Cottage, Dairy Cottage and Backworth Lodge are important features of the conservation area and their restoration is a highly positive aspect of the proposed scheme. Dairy Cottage is grade II listed. The proposal retains a large part of the original room layout which includes fireplace openings. An existing low quality extension would be removed and a new extension would be constructed which is sensitive to the design of the original building. A proposed schedule of works is required to support the LBC application for Dairy Cottage. This should include details of proposed demolitions, alterations and repairs. The schedule should refer to the submitted plans and include method statements where appropriate.

3.2 New units around Dairy and Ivy Cottage are proposed to be 1.5 storeys in height. This is considered to be appropriate around the single storey heritage assets and will help to maintain their prominence on Station Road. Some larger scale two storey dwellings are set back within the site to minimise their impact on the wider area. This is also considered acceptable.

3.3 The proposed new build apartment building compliments the design of Backworth Lodge. Although the building has a larger footprint than the Lodge, it is set back from the building line of the Lodge so that it is subservient in nature and maintains the setting and views towards the Lodge. The eaves height of the apartments also matches the existing Lodge.

3.4 The site entrance maintains the view corridor and approach to Backworth Lodge. The central wooded area of trees are also retained which maintains the setting of Backworth Lodge and the conservation area.

3.5 New dwellings are proposed in southern paddock area of the site which are 1.5 storeys in height to minimise the impact on the approach into Backworth. There is a landscaped buffer to the rear of the properties although the size and maintenance arrangements for this area need to be confirmed.

3.6 High quality materials are required for this site to ensure the development sits well within the context of the heritage assets on the site and the Backworth Village conservation area. Within Eccleston Yard character area, natural stone and natural slate is required to be used. Some brick may be acceptable behind Station Road. Within the Paddock character area, natural stone, natural slate and brick will be acceptable. The use of natural stone and natural slate should be conditioned.

3.7 Overall, the application preserves the heritage assets on the site and preserves the character and appearance of the conservation area. New development is sympathetic and the size and scale of properties considered acceptable throughout. I am comfortable on this occasion to condition the schedule of works to the listed building, however, it is essential that this is a pre-commencement condition.

4. Local Lead Flood Authority

4.1 This application is for the demolition of several existing buildings, conversion of the existing Backworth Lodge, Diary Cottage & Ivy Cottage to form 4 flats & 2 dwellings and the erection of a new apartment building consisting of 13 apartments and 27 dwellings.

4.2 The applicant is proposing to use a variety of attenuation techniques within their site to store and control the surface water which includes an attenuation pond, underground storage tank, large diameter sewer & permeable paving. They are also proposing two points of discharge from the site, one which will discharge into an existing surface water sewer located within Eccleston Close at a restricted discharge rate of 5 litres per second and the other point of discharge being via a newly constructed 225mm diameter surface water sewer on Station Road which will then discharge into the Brierdene Burn at a restricted rate of 5 litres per second. Details of the proposed maintenance schedule for all the surface water features within the site have also been submitted. Whilst there are potential issues with the highway drain, in all likelihood it would be more cost effective to repair this drain rather than installing a whole new drainage run. This approach has been used with other sites where the applicant has carried out a CCTV survey of the highway drain and supplied the LLFA with the survey results. Following these repairs the applicant will be able to discharge into this drain

which we could then look to alter its designation to a surface water sewer so it becomes a Northumbrian Water asset. Conditional Approval is recommended.

4.3 Conditions:

4.4 Notwithstanding the details submitted, the proposed drainage scheme including maintenance of the system shall be set out in accordance with the approved details. Thereafter, this scheme shall be implemented in accordance with the approved details before the development is occupied.

Reason: In the interests of surface water management.

4.5 No development shall commence until a scheme & methodology for pollution control during the construction period 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 for the entire duration of the construction period.

Reason: In the interests of surface water management

4.6 Notwithstanding Condition 1, prior to the commencement of any development details of a scheme to reinstate the culvert to the west of the site, including a timetable for the submission of a CCTV survey following completion of the culvert reinstatement works, shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented in full accordance with these agreed details prior to the occupation of any dwelling.

Reason: In the interests of managing flood risk having regard to NPPF.

5. Tyne and Wear Archaeology Officer

5.1 I am delighted to read that Backworth Lodge and Ivy Cottage are being retained and converted along with the Grade II Listed Dairy Cottage. I am also pleased to read that the tree lined avenue will be retained.

5.2 In my pre-application comments I asked that the archaeological assessment and Heritage Statement aimed to ascertain the date and original function of the non-listed buildings and I am pleased to see that this has been done.

5.3 The site lies just south of East Backworth medieval village. There are broad ridge and furrow earthworks and at the southern end of the site relating to ploughing during the medieval or early post-medieval period. Early archaeological remains could potentially underline the ridge and furrow.

5.4 The site is of industrial archaeological interest. It lies on the western fringe of Backworth Colliery and includes the last standing buildings of the mine. Backworth A Pit, which was located immediately north of the development site, opened circa 1813. It was renamed Maude Pit in 1872 and eventually closed in 1960. Backworth Colliery as a whole ceased in 1980.

5.5 Backworth Wagonway forms the eastern boundary of the site. Railway branch lines are shown on early mapping crossing the site and there is a chance that these survive.

5.6 Backworth Lodge, which is mid-19th century in date, it was the home of the manager of Backworth Colliery and his family from at least the end of the century. The building was later used as colliery offices by the National Coal Board. A two-storey strong room for mining drawings and cash was built onto the rear northern elevation and a large single storey office annexe added to the south-east. The single storey annexe is of no architectural merit and is proposed for removal which is welcomed. Backworth Lodge is of historical and architectural merit and social history interest. It should therefore be deemed a non-designated heritage asset refer to paragraph 197 of the NPPF.

5.7 Dairy and Ivy Cottages were residential dwellings, both built in the early 19th century. By the middle of the 19th century the cottages were probably incorporated into the colliery buildings complex, associated with a yard and railway tracks. Dairy Cottage is listed grade II and is thus a designated heritage asset refer para 193 to 195 of NPPF. Ivy Cottage should be deemed to be a non-designated heritage asset ref para 197 of the NPPF.

5.8 The buildings to the north part of the site are believed to have formerly houses ancillary support facilities for the colliery. The group may have been originally built as a farmstead (the name of Dairy Cottage suggests a dairy farm). In the 20th century the buildings became colliery workshops.

5.9 The following buildings (numbered as per the archaeological assessment) are the most interesting historically:

Building 1 - an L-shaped building fronting onto Station Road, rubble sandstone with a slate roof, single storey, early 19th century domestic re-used for individual purposes.

Building 3 – rubble sandstone with squared and tooled quoins, two storeys, roofless

Building 4 – rubble sandstone with crick insertions and abutments, single storey, roofless.

The retention of early architectural features in Backworth Lodge such as architraves cornices and principal staircase should be encouraged.

5.10 The stone boundary walls wounded coping should be retained as part of the development.

5.11 I accept that the dilapidated buildings are proposed for demolition, but they do merit archaeological recording beforehand, as they form part of the colliery's history.

5.12 Archaeological Buildings Recording Condition

No demolition/development shall take place until a programme of archaeological building recording has been completed, in accordance with a specification provided by the Local Planning Authority. A report of the results shall be submitted to and approved in writing by the Local Planning Authority prior to any development or demolition work taking place.

Reason: To provide an archive record of the historic building or structure and to accord with paragraph 199 of the NPPF, Local Plan S6.5 and policies DM6.6 and DM6.7.

5.13 Archaeological Excavation and Recording Condition

No groundworks or development shall commence until a programme of archaeological fieldwork (to include topographic survey of ridge and furrow earthworks, evaluation, trenching and where appropriate mitigation excavation) has been completed. This shall be carried out in accordance with a specification provided by the Local Planning Authority.

Reason: The site is of potential archaeological interest. The investigation is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded in accordance with paragraph 199 of NPPF, Local Plan S6.5 and policies DM6.6 and DM6.7.

5.14 Archaeological Post Excavation Report Condition

The buildings shall not be occupied/brought into use until the final report of the results of the archaeological fieldwork undertaken in pursuance of condition () has been submitted to and approved in writing by the Local Planning Authority.

Reason: The site is of potential archaeological interest. The investigation is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded in accordance with paragraph 199 of the NPPF, Local Plan S6.5 and policies DM6.6 and DM6.7.

5.15 Archaeological Publication Report Condition

The buildings shall not be occupied/brought into use until a report detailing the results of archaeological fieldwork undertaken has been produced in a form suitable for publication in a suitable and agreed journal and has been submitted to and approved in writing by the Local Planning Authority prior to the submission to the editor of the journal.

Reason: The site is of potential archaeological interest and the publication of the results will enhance understanding of and will allow public access to the work undertaken in accordance with paragraph 169 of the NPPF, Local Plan Policies S6.5 and policies DM6.6 and DM6.7.

I can provide a specification for the archaeological work when required.

External Consultees

6. Historic England

6.1 Thank you for your letter of 4 March 2019 regarding further information on the above application for planning permission. On the basis of this information, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

7. Natural England

7.1 This development falls within the 'zone of influence' for coastal sites designated at a national and international levels as Sites of Special Scientific Interest and Special Protection Areas/Special Areas of Conservation/Ramsar Sites. Sites the application will result in a net increase in residential accommodation, impacts to the designated sites may result from increased recreational disturbance.

7.2 Northumberland and North Tyneside operate a Coastal Mitigation Service to mitigate for potential impacts from increased recreational disturbance resulting from increased residential development and tourism activities within this zone.

7.3 Subject to appropriate mitigation being secured in line with the details of this Service, Natural England is satisfied there will be no damage or disturbance to the interest features of these sites.

7.4 Although your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound, Natural England's advice is that the proposed development, and the application of these measures to avoid or reduce the likely harmful effects from it, may need to be formally checked and confirmed by your Authority, as the competent authority, via an appropriate assessment in view of the European Site's conservation objectives and in accordance with the Conservation of Habitats and Species Regulations 2017.

7.5 This is because Natural England notes that the recent People Over Wind Ruling by the Court of Justice of the European Union concluded that, when interpreting article 6(3) of the Habitats Directive, it is not appropriate when determining whether or not a plan or project is likely to have a significant effect on a site and requires significant effect on a site and requires an appropriate assessment, to take account of measures intended to avoid or reduce the harmful effects of the plan or project on that site. The ruling also concluded that such measures can, however, be considered during an appropriate assessment to determine whether a plan or project will have an adverse effect on the integrity of the European site. Your Authority should have regard to this and may wish to seek its own legal advice to fully understand the implications of this ruling in this context.

7.6 Natural England advises that it is a matter for your Authority to decide whether an appropriate assessment of this proposal is necessary in light of this ruling. In accordance with the Conservation of Habitats and Species Regulations 2017, Natural England must be consulted on any appropriate assessment your Authority may decide to make.

8. The Coal Authority

8.1 The application site does not fall within the defined Development High Risk Area and is located instead within the defined Development Low Risk Area. This means that there is no requirement under the risk-based approach that has been agreed with the LPA for the Coal Mining Risk Assessment to be submitted or for The Coal Authority to be consulted.

8.2 In accordance with the agreed approach to assessing coal mining risks as part of the development management process, if this proposal is granted planning permission, it will be necessary to include The Coal Authority Standing Advice within the Decision Notice as an informative note to the applicant in the interests of public health and safety.

9. Representations

9.1 1 letter of objection has been received on behalf of Keenan's (Vegetable) Processing

9.2 I am writing to you to set out our concerns in relation to the current applications with regard to the affects that this proposed development, in

combination with others in the area, will potentially have on our clients established business. Whilst an entirely separate application, these comments are required to also be considered in the context of the parallel and as yet to be determined application reference 18/00881/FUL which proposed the constriction of 67 residential dwellings and 14 no. Commercial units on land at Backworth Business Park to the north and east of our client's site.

9.3 This letter raised two areas of concern. In the first instance these are in relation to the general policy context for this application site and the wider area and what we consider to the developments failure to comply with local plan policy. The second concern is in relation to the direct potential impacts on our client's business by virtue of the development of new residential dwellings in close proximity to their operation. We will deal with these points in turn.

9.4 In relation to the local planning policy position and in particular the site allocation, it can be noted that this application site forms part of the wider 8.5-hectare mixed used land allocation under policy S4.3 (29) of the North Tyneside Local Plan adopted in July 2017. Under that policy the 8.5-hectare parcel of land identified as site number 29 is allocated as a mixed-use site with the potential to accommodate 65 dwellings. This application brings forward proposal for 46 dwellings with 1.97 hectares of this allocated area. It may be noted however that this planning application contains no proposals for employment uses or any other non-residential uses as may have been expected to come forward within the allocated mixed-use site. This omission is acknowledged within the submitted planning statement dated 25 June 2018 which accompanied the application.

Paragraph 5.4.1 of the statement states that

'Given the various heritage assets which the development proposals seek to protect, retain and enhance it is not considered appropriate to encourage an employment led development on the site however, consideration has been given to how this policy requirements can be addressed.'

9.5 The employment consideration, it may be noted from the paragraph, is limited to provision of limited office space within just 6 houses proposed on site through the provision of office space to allow home working. It must therefore be concluded therefore that that the development is in effect solely a residential development scheme and indeed this is the terms of which the development is consistently referred to within the applicant's supporting information. It is considered that this form of development is not consistent with the local plan policy for the site which clearly stipulated that this will be a mixed-use development site.

9.6 In this context of the local plan policy, it is expected that the site will bring forward a combination of both employment and residential development of appropriate proportions. This is confirmed by two relevant policies. Policy S2.2 of the Local Plan on the provision of land for employment development acknowledges at the foot of the policy S4.3 may also provide additional contribution to the supply of employment land. It states proposals for employment uses on those sites will be expected to be compatible with residential development and will be supported where they are consistent with other policies of the local plan. It is therefore envisaged clearly in the context of policy S2.2 that there will be a meaningful and quantifiable level of employment

development on mixed use sites which will be compatible with any new residential development coming forward. It may therefore be expected that any development on site 29 in this context would include potentially B1 Light Industrial and Office Uses, which most suitably abut and adjoin any new residential development.

9.7 The expectation for this mixed-use site is further confirmed with reference to policy S4.3. As can be seen, although policy S4.3 addresses the distribution of housing development sites, site 29 at Backworth Business Park is separately listed outwith the residential site allocations under the separate heading of mixed-use sites. It is therefore clearly intended and envisaged within the policy that site 29 will not simply be another residential site. The proportion of residential to employment use within the site and it is also expected to be relatively modest in the context of a mixed-use site. This is further confirmed with reference to the potential homes envisaged on the 8.5-hectare site. This, as listed in policy S4.3 is just 65 dwellings which equates to an overall density of development of just 8.1 dwellings per hectare. This low level of residential development is considered to be a reflection of the policy's intention for there to be a relatively low level of residential development combined with appropriate employment use. The development as currently proposed is clearly not consistent with this policy objective and within the 1.97-hectare application site there is a density of residential development equivalent to 23.3 dwellings per hectare. The parallel application to the north and east of our client's site reference 18/00881/FUL would deliver some 11 dwellings per hectare. The two sites when combined would potentially deliver 113 dwellings with an average density of 14.1 per hectare. Although this is acknowledged to be a simplified assessment it does help to demonstrate that the level of residential development proposed on these two neighbouring application sites is far in excess of that envisaged with the local plan policy for a mixed-use site. It is acknowledged that the neighbouring application site to the north does include some employment provision and therefore does attempt to comply with the 'spirit' of the policy. In the case of this current application at the Backworth Lodge Site, there is however no genuine employment provision at all and in this respect the proposal fails to comply with the land use allocation for the site. The application provides no actual explanation for this other than to refer to the presence of historic buildings making an employment-led scheme not possible. There is however no further explanation for this and in planning terms it is considered that the presence of a historic context is a design issue and not a land use issue. Whilst a viability justification for the absence of affordable housing is presented no actual justification is provided as to why employment provision is not deliverable on the site and why policy S4.3 is not being adhered to.

9.8 This position is more clearly demonstrated when reference is made to the Inspector's report on the local plan of May 2017. Paragraphs 148 to 152 of the Inspector report specifically considered site 29 and its allocation as a mixed use site under policy S4.3. The Inspector considered the release of land from its previous employment allocation to a mixed-use site with reference to our client's processing plant. In allowing the allocation of the surrounding land to a mixed-use site the Inspector gave careful consideration to the need to avoid housing in close proximity to our client's premises. In seeking to avoid the need to sterilise the entire site because if Keenan's plant, the Inspector concluded that it was capable

of accommodating the relatively modest amount of housing proposed. Clearly it was therefore determined that the 65 dwellings proposed within the plan under policy S4.3 was deemed to be a modest amount of housing suitable for the specific considerations present on the site. 9.9 To put this in further context, in relation to the expected delivery of employment use within this mixed-use site, it can also be confirmed that the Inspector in finding the plan sound, did expect that housing would be a lesser part of any mixed-use development of the site when compared to the employment elements. This is conformed also within paragraph 150 when the Inspector stated that

'Looking at the wider site I am not persuaded that a subservient element of housing, as part of the wider mix of uses could not be satisfactorily accommodated on the large 85 hectares site.

9.10 It is quite clear therefore from the Inspectors conclusions on the basis of their report that housing was expected to be subservient in scale to the employment use of the site. It may also be noted that if this application were to be approved and the corresponding application to the north and east for 67 dwellings were to be approved then we would be in the situation that barely any employment use had been delivered on this entire allocated site and residential development would have been brought forward at a level nearly double that expected under the site allocation, with just 14 commercial units developed. It is clearly the case that such the case cannot be considered to be consistent with the adopted local plan policy. We should submit that this situation takes on greater significance given that the local plan is so recently adopted. The local plan in its present form was adopted only 15 months ago and therefore must be treated as a plan which must be afforded full material weight in an planning considerations. In the context of the NPPF and paragraph 11 it is considered that the development does not constitute sustainable development. As the proposal does not accord with an up to date development plan, as such the presumption in favour of sustainable development does not apply and there is no requirement for the approval of this application.

9.11 The situation outlines above leads directly onto consideration of the second issue which is the potential impact of new residential development upon the ability of our client's site to continue to operate. We consider that the presence of our clients site was central tenant of the way in which policy S4.3 was prepared and in this respect our client should not be in the position where new residential development is being proposed in locations where the proximity is likely to lead to future complaints about our clients business. It is quite clear with reference to the Inspector's plan report that the purpose of putting in place a mixed-use allocation for this area was so that the site would be bounded by appropriate employment uses which could satisfactorily neighbour both our client's business and future residential development brought forward as part of the mixed-use schemes. Effectively, the closest development to our client's site should be employment uses which provide an appropriate transition between Keenan's Processing and a new residential development. This is not the situation and we therefore have a situation where residential development is being proposed in a manner which has the potential to the impact on our client's site. This is the situation which occurred on the neighbouring site to the north and east in the context of the 2012 planning application and the subsequent 2016 appeal

decision. We continue to be of the view that this situation which will arise on that site and have made separate submissions on that application to the LPA.

In the context of this application we note that the application has submitted with a full noise assessment prepared by LA Environmental Ltd. Which considers the existing noise climate surrounding the application site and in particular the noise impact of the operation of Kennan Processing. Whilst it is noted that the LA Environmental report concludes that the majority of operations on our client's site may not be likely to exceed noise thresholds within the proposed development, it can be seen that this is not the case for the use of our client's land to the south of their existing processing building. This land, it is noted, may be used by Keenan's in the future and we can confirm that this land is in fact already being used and that further development is being considered on this land and is subject of pre-application consultation with the LPA. As such, any concerns in relation to this area of land within our client's control are entirely valid and are required to be given significant weight. Within the LA Environmental report, it can be seen that within paragraph 6.5.3 and 6.5.4 it is confirmed that our clients use of their land to the south of their existing building will give rise to a sound source that is expected to be 3dB(A) above the daytime background level. At night time it is predicted that for the closest dwelling within the proposed development Keenan's will produce sound 17dB(A) above the existing night time background levels during the early morning period. This, it is stated is an indication that significant adverse impact would arise for occupiers of this new residential dwelling. We note that the submitted planning statement at 5.3.17 omits any reference to this significant night time noise issue. The LA Environmental report goes on within paragraph 6.5.5 highlights that this significant adverse impact would be likely to arise during the early hours of the morning between 04:00 and 07:00 when it is expected residents would be sleeping in bedrooms. The LA Environmental report then goes on within section 7 to provide a number of recommended options for noise amelioration within the design of the dwellings which may ameliorate this adverse noise impact. This includes the options of enhanced glazing, enhanced roof construction and ventilation. In relation to the latter, it is confirmed in paragraph 7.3.12 that 'enhanced glazing must be closed to provide the required benefit and it is consequently necessary to provide the required ventilation by suitably sound attenuated means.' It can therefore be concluded that the success of any enhanced glazing being utilised within the affected properties is premised on the basis of windows being kept closed and mechanical or other forms of ventilation being available as an alternative. Ultimately as correctly concluded within paragraph 7.4.14 and 7.4.15 of the LA Environmental report, it is for developers to ultimately address the building solutions required to achieve the noise levels needed and the options provided within the LA Environmental report are simply recommendations.

9.12 The concerns for our client's perspective is that at present the LA Environmental report confirms that the use of their processing site will be likely to give rise to significant adverse impact on the closest residential receptors at the most sensitive times of the night. The significant issue which exists at present and why we must object to this application is that at present the application has not brought forward any specific proposed design solutions which demonstrate how this adverse noise impact will be satisfactorily ameliorated within the closest residential receptors. Whilst the LA Environmental report provides

recommendations, these are simply recommendations and as the report states it is for the developer to bring forward specific proposals to demonstrate how the noise will be ameliorated. At present, the application does not contain any such detailed and confirmed proposals. It is simply submitted with a range of options. The issue is that at present this is not a satisfactory situation because the principle of residential development in this location is dependent on demonstrating beyond any doubt that adverse noise impact to residents will not occur in a manner which will lead to complaints against our client's operations. The application at present has failed to demonstrate the specific measures which it will incorporate to ensure this does not occur and therefore at present the principle of residential development in the form now currently proposed cannot be deemed to be acceptable. This is the very situation which arose in relation to the previous planning application on land to the north and east of our client's site and which was the subject of the 2016 appeal decision. In that appeal decision the same situation applied and the Inspector in that case concluded that, *'from a technical stand point, I am broadly satisfied that it would be possible to incorporate mitigation measures which would provide a technical solution for the reduction of external noise levels to within acceptable parameters at times when outdoor areas are likely to be in use. Furthermore, having regard to the evidence placed before me, I consider it reasonable to conclude that the ameliorative measures would provide a technical basis to ensure the internal noise levels remained within acceptable parameters for bedrooms of 30 dB(a) with no exceedance of the Lmax 45 dB(a) in accordance with the WHO Guidelines*

9.13 As is known from the decision that was not however sufficient for the appeal to be allowed and the Inspector went on to find that

Despite the conclusion on the technical submissions, I have significant concern over the impact that the proposed mitigation of noise would have on the living conditions of future occupiers. The incorporation of sealed window units and mechanical ventilation would address the technical aspect of the issue, but the inclusion of such would undoubtedly diminish the quality of the living conditions available to the affected properties...

9.14 The Inspector went on to find that

It would not be unreasonable for future occupiers of all dwellings to expect to be able to open windows to naturally ventilate their properties without the need for, or reliance upon technical and mechanical assistance to maintain a reasonable standard of living conditions.

9.15 The Inspector concluded that this wish occupiers to open windows in the future in order to achieve satisfactory living conditions would be likely to have an adverse impact on our client's business. In paragraph 17, the Inspector concluded that

It would be likely that there would be complaints regarding noise generation from Keenan's Factory, and consequently restrictions on the business would be considered as necessary. Furthermore, the introduction of a neighbouring residential use would undoubtedly place a disproportionate restriction on any future plans that Keenan's may have to extend the operation within the site, which I note includes a substantial area of open and unused land, albeit I accept that there is no evidence of such intent at this point.

9.16 It must also be noted that the Inspector in reaching this conclusion specifically referred to the expansion land to the South and Keenan's ability to use this in the future. This is the area identified in this application, the use which would give rise to significant adverse impact during night time hours.

9.17 In this context of this decision it can be seen that there must certainly for any decision maker that the technical solutions proposed to ameliorate noise impact are ones which are deliverable and likely to ensure that adverse impact and subsequent complaints will not arise. As can be seen it is not appropriate to propose permanently closed windows supplemented by a mechanical ventilation system and not is it acceptable to provide opening windows where the opening of them is likely to lead to noise complaints. In this context of the application as currently submitted the proposal simply brings forward a list of amelioration options the detail of which is not classified as a specific scheme within the application. It is considered that due to the significance of this issue these matters cannot be simply left to be considered as part of a planning condition. The details of any noise amelioration are required to be confirmed in detail at the application stage in order that they can be addressed in the context of relevant legislation and also the 2016 Inspector's appeal decision. Unless this is done it cannot be concluded that the principle of development is acceptable. As things stand, we must conclude that the proposal has not demonstrated satisfactorily that the residential development proposed can be brought forward in a manner which will not result in either unacceptable amenity standards for future occupiers against our clients. The proposal therefore does not meet the requirements of the NPPF and specifically paragraph 182 of the revised framework which states that *'decisions should ensure that new development can be integrated affectively with existing businesses.'* It also advises that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of permitted after they were established. We consider that the proposal, in its present form, has not demonstrated compliance with this aspect of the NPPF and therefore in the absence of required detailed information on noise amelioration, it should be refused permission.

9.18 This letter sets out our concerns in relation to the current application and the wider approach to development of this allocated mixed-use site. At present it can be clearly seen that this application is not consistent with the local plan allocation as it brings forward a residential development without any employment uses within it. It runs contrary to the purpose and content of policy S4.3 as clearly demonstrated by reference to the 2017 Inspector report. The level of housing development sought is inconsistent with the levels of housing provision within the land allocation and it is clear that the form of development gives rise to noise considerations and concerns for our client which would not be present if the development were brought forward in compliance with policy S4.3. As part of a recently adopted local plan it is expected that this policy would be adhered to and this is not being adhered to it is considered that the proposal is unacceptable. Further to this and without prejudice, we consider that within the context of the scheme now proposed it has also not been demonstrated that the scheme can be developed in a manner which will not give rise to adverse noise impacts upon future occupiers which would consequently lead to complaints against our client's business operation. We consider that the application is not capable of being approved in the absence of a detailed scheme of noise mitigation to demonstrate

that the amenity of occupiers can be safeguarded in a manner which is appropriate in the context of the previous 2016 appeal decision on the neighbouring site. On the basis of the above points we would therefore request that the current application is refused and we would also wish to reserve the right to speak at any forthcoming planning committee at which the application is considered.

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Application No: 20/01073/FUL

Author: Julia Dawson

Date valid: 26 August 2020

☎: 0191 643 6314

Target decision date: 21 October 2020

Ward: St Marys

Application type: full planning application

Location: 8 Grenada Place And 7 St Johns Place, Whitley Bay, Tyne And Wear, NE26 1HY

Proposal: Erect a 1.8m high fence to land to the rear of 8 Granada Place and 7 St Johns Place in order to create two private garden spaces.
(Retrospective Planning Application)

Applicant: Sharon Cockburn, 8 Grenada Place Whitley Bay Tyne And Wear NE26 1HY

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;

- Whether the principle of the proposed development is acceptable;
- The impact of the proposal upon the character and appearance of the site and the surrounding area;
- The impact upon neighbours living conditions with particular regard to outlook;
- The impact on biodiversity;
- The highway impact.

2.0 Description of the Site

2.1 The site to which the application relates is the northern most part of a parcel of grassed open space, which is located between dwellings which face in a westerly direction onto Grenada Place and in an easterly direction onto St Johns Place. No's 2, 4, 6 and 8 Grenada Place and No's 1, 3, 5 and 7 St Johns Place are rows of terraced dwellings. All of the properties have small rear gardens, which are largely enclosed by low level boundary treatments, beyond these are a pathway separating the enclosed rear gardens from the area of open space.

2.2 Each resident owns one eighth of the open space (immediately to the rear of their individual dwelling) and it is therefore a privately owned but unenclosed amenity space. It is understood that all of the residents contribute towards a gardener who maintains the trees, shrubs and grass.

2.3 Specifically, the application relates to the area of land immediately to the rear of No.8 Grenada Place and No.7 St Johns Place, which borders the boundary with the Brierdene to the north.

2.4 The Brierdene is a designated local wildlife site, wildlife corridor, open space and green belt (Local Plan 2017).

3.0 Description of the proposed development

3.1 The proposal relates to a retrospective planning application for the change of use of an area of grassed land from communal open space to two private gardens for No.8 Grenada Place and No.7 St Johns Place, enclosed by 1.8m high closed boarded timber fencing along the southern boundary (divided internally by a north to south 1.8m high closed boarded timber fencing to separate the individual garden areas).

4.0 Relevant Planning History

4.1 Land to the rear of St Johns Place and Grenada Place:

79/01902/FUL - To fence land for use as private gardens at land situated between St. Johns Place and Grenada Place – Refused 15.10.1979 (*Reason: The open space attaching to these small individualistic linked houses is a complimentary feature and an integral part of the overall open space provision and visual amenity of this pleasant modern housing development.*)

4.2 7 St Johns Place:

17/01121/FULH - Proposed conservatory extension to the rear and garage conversion – Approved 27.09.2017

5.0 Development Plan

5.1 North Tyneside Local Plan (2017)

6.0 Government Policy

6.1 National Planning Policy Framework (NPPF) (February 2019)

National Planning Practice Guidance (NPPG) (As amended)

6.2 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 The main issues for Members to consider are:

- Whether the principle of the proposed development is acceptable;
- The impact on biodiversity and landscaping;
- The impact of the proposal upon the character and appearance of the site and the surrounding area;
- The impact upon neighbours living conditions with particular regard to outlook;
- The highway impact.

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

8.0 Principle of the Development

8.1 Paragraph 91 of the National Planning Policy Framework states that planning decisions should aim to achieve healthy, inclusive and safe places, which:

- a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;
- b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas; and
- c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.

8.2 Paragraph 96 of the NPPF states that access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities.

8.3 Policy S1.2 'Spatial Strategy for Health and Well-being' states that the wellbeing and health of communities will be maintained and improved by:

- a. Working in partnership with the health authorities to improve the health and well-being of North Tyneside's residents.
- b. Requiring development to contribute to creating an age friendly, healthy and equitable living environment, including through the following:
 - v. Promoting access for all to green spaces, sports facilities, play and recreation opportunities.
- c. Promoting allotments and gardens for exercise, recreation and for healthy locally produced food.

8.4 Policy S7.10 Community Infrastructure states the quantity and quality of open space, sport and recreation provision throughout the Borough will be maintained and enhanced and are accessible to the neighbourhoods that they serve.

8.5 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 the Plan. Amongst other matters this includes ensuring that developments are acceptable in terms of their impact upon local amenity for new or existing residents, adjoining premises and land uses.

8.6 The Council's Design Quality SPD states that areas of open space that are valued by residents provide an important community function and can make a significant contribution to quality of life.

8.7 The application has been submitted by the owner of No.8 Grenada Place on behalf of both herself and the owner of No.7 St Johns Place. Both parties have submitted supporting statements in respect of the land to the rear of their properties. The owners of No.8 have advised that the land is private property and has been maintained as private garden area by the residents/owners of all of the properties which back onto it for over twelve years. It is understood that No.8 was purchased by the current occupiers approximately 5 years ago.

8.8 The owners of No.8 have advised that whilst the garden area is used for normal domestic purposes, i.e. barbecues, hanging out washing, etc. the open nature of area has resulted in them being hesitant to allow their young child to play out without strict supervision due to the danger posed by cars on the nearby road (Grenada Drive), strangers and dog muck (as people who are not resident on either St Johns Place or Grenada Drive allow their dogs to use the grass and do not always clean up after them). There have also been issues with regard to trespass and security. In addition, in recent times the Covid-19 pandemic has brought home how essential it is to have private garden space to enable a safe place where there is no risk of unwittingly coming into contact with others and subsequently contracting and passing the virus on.

8.9 The owners of No.7 have advised that they have lived at the property for approximately 12 years and have reiterated that the shared cost of maintaining the area has been borne by the residents of all eight dwellings. They have also advised that they have use their land as a private garden area for 12 years with trees and shrubs being maintained, washing hung out, to play games, etc. Due to the open nature of the area their children have been unable to play without supervision. Members of the public walk across the area in an attempt to reach the Brierdene (there is no through access) and teenagers have climbed across the fence from the Brierdene to their private yard and then the open space to get access beyond. The owners of No.7 have advised that the Covid-19 pandemic has highlighted the need for private garden space to enable them to socially distance and for their children's mental health, well-being, safety and security.

8.10 Letters of support have been submitted by the occupants of eight separate addresses, only one of these has been submitted by an occupant of one the eight houses which back onto the site. The support, from the occupants of dwellings in the wider surrounding area, is noted. Objections have also been submitted from the occupants of five separate addresses, two of these are from the occupants of dwellings on Grenada Place and one is from the occupant of a dwelling on St Johns Place. It is also noted that two additional letters, one from Grenada Place and one from St Johns Place, have not objected to the specific proposal which is subject of this application, but have raised concerns with regard to the implications if this is approved, in terms future applications for the rest of the communal area, which they would not support.

8.11 The reasoning put forward by the owners of No.8 Grenada Place and No.7 St John Place for the enclosure of the land in question is fully understood. It is

acknowledged that homeowners would prefer a larger private enclosed garden area. However, the area of land which is subject of this planning application was clearly designed to be an attractive open area for the residents of these eight dwellings to use in a communal manner. The open nature of this area positively adds to the character and appearance of the area and towards the residential amenity of the occupants of these dwellings. The loss of part of this open space through enclosure by high level timber fencing will have a negative impact in both respects. Each dwelling has a smaller enclosed rear garden/yard (roughly 25sqm in area excluding any extensions) and there is nothing to prevent these smaller areas from being enclosed with higher level fences if this is considered necessary by each homeowner.

8.12 It is clear that when buying their properties, each of the residents were aware that the open land, although within their ownership, is part of a larger area of shared amenity space. Apart from one planning application to enclose the land with high level fencing in 1979 (which was refused) there have been no formal enquiries or applications to the Local Planning Authority to enclose the land, (up until the current application), which would suggest that the residents have previously been satisfied with the manner in which the land is used and maintained. The 1979 application was refused as it was considered that, *“The open space attaching to these small individualistic linked houses is a complimentary feature and an integral part of the overall open space provision and visual amenity of this pleasant modern housing development”*. This reason still stands.

8.13 In a point raised by a number of residents, it is noted that if the current application is approved and planning permission is granted for the proposed fencing, this will make it increasingly difficult for the Local Planning Authority to refuse similar applications to enclose the rest of the land in a similar fashion. Cumulatively, this will lead to the loss of this attractive piece of privately owned open amenity space, which has been well maintained by its owners for numerous years without any known issues, and this will harm the visual amenity of the area. Whilst the current application would undoubtedly benefit the applicants, it will be of limited benefit to the occupants of the remaining dwellings on Grenada Place and St Johns Place, who will simply see the communal garden decrease in overall size reducing the open aspect they have all benefitted from since the properties were constructed.

8.14 It is acknowledged that security and trespassing are very valid and understandable concerns. However, they are not sufficient to outweigh the harm caused to visual and residential amenity by the development as carried out. In addition, there are many other ways to ensure security including lighting; closed circuit television and landscaping (natural planted screening as opposed to solid walls or fencing) which would not require planning permission. Small signs could also be erected to advise passers-by that the land is privately owned, not for the use of the general public and that they have no right of access.

8.13 Members need to determine whether the principle of the proposed change of use the open space to an enclosed garden area, by way of the installation of 1.8m high timber fencing, is acceptable. Officer is advice is that the principle of the proposed development is not acceptable.

9.0 Impact on Biodiversity and Landscaping

9.1 The National Planning Policy Framework states that the planning system should contribute to and enhance the natural and local environment. Paragraph 175 states that when determining planning applications LPA's should aim to conserve and enhance biodiversity by avoiding significant harm from development. If significant harm cannot be avoided, adequately mitigated, or as a last resort, compensated from the planning permission should be refused.

9.2 Policy S5.4 'Biodiversity and Geodiversity' seeks to protect, create, enhance and manage the Borough's biodiversity and geodiversity sources.

9.3 Policy DM5.5 'Managing effects on Biodiversity and Geodiversity' sets out the policy requirements for development.

9.4 Policy DM5.2 Protection of Green Infrastructure states that the loss of any part of the green infrastructure network will only be considered in the following exceptional circumstances:

- a. Where it has been demonstrated that the site no longer has any value to the community in terms of access and function; or,
- b. If it is not a designated wildlife site or providing important biodiversity value; or
- c. If it is not required to meet a shortfall in the provision of that green space type or another green space type; or
- d. The proposed development would be ancillary to the use of green infrastructure and the benefits to green infrastructure would outweigh any loss of open space.

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. Proposals for new green infrastructure or improvements to existing should seek net gains for biodiversity, improve accessibility and multi functionality of the green infrastructure network and not cause adverse impacts to biodiversity.

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

9.6 The Council's Landscape Architect has noted that the application site itself is not part of a designated wildlife corridor or open space (as defined by the Local Plan). However, she has noted its communal nature and that it offers accessible outdoor space for the benefit of all the properties on Grenada Place and St Johns Place, advising that it provides amenity green space within a suburban environment, providing an outlook to other residential properties, variety in the suburban scene, and that the trees provide a positive element in the landscape.

9.7 She has advised that she is unable to support the current planning application, raising a concern that approval could set a precedent making it difficult to resist similar future development. She notes that the fence is very visible from Grenada Drive and has resulted in a change in character as a result of the addition of this structure. The Landscape Architect has also noted the similar privately owned communal garden area between Grenada Place and St Vincents Place to the east. This area has been personalised by the residents, but the communal nature of the space remains with a hedgerow providing screening along the footpath with Grenada Drive. A similar approach at the application site would be a more appropriate method of providing a safe semi-private useable green space for the benefit of all properties without resulting in harm to the visual amenity of area.

9.8 The Council's Biodiversity Officer has noted that the application site immediately borders a large area of designated open space and a Local Wildlife Site (Brierdene), which is also a designated wildlife corridor. The application site and the wider area of communal open space therefore has the potential to contribute towards the wildlife corridor by facilitating the movement of wildlife. She has also noted the existence of trees and shrubs within the site and is concerned that enclosure of the land will make these vulnerable to removal. The Biodiversity Officer agrees with the suggestion of the Landscape Architect in that a more appropriate way to provide semi-private accessible green space would be via the planting of a hedgerow similar to the one nearby. This would create additional habitat and provide a natural barrier that allows wildlife movement.

9.8 It is acknowledged that the owners of both No.7 and No.8 (the applicant) have stated that they intend to plant flowers, wildflowers, bushes and shrubs so that they can continue to enjoy the variety of birds and wildlife which enter the area from the Brierdene and to maintain a positive environment and habitat for wildlife, but this does not address the fact that the introduction of solid fencing will adversely affect the movement of wildlife to and from the adjoining wildlife corridor, and that the enclosure of the land behind 1.8m high solid timber fencing will make the trees and shrubs more vulnerable to removal.

9.9 Members need to determine whether the proposed change of use the open space to an enclosed garden area, by way of the installation of 1.8m high timber fencing, acceptable in terms of its impact on the adjacent Local Wildlife Site, designated wildlife corridor and green infrastructure. Officer advice is that the proposed works will result in a loss of biodiversity and a harmful impact on the landscape for the reasons set out.

10.0 Impact on Amenity

10.1 NPPF paragraph 180 states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. 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 the quality of life. Planning decisions should also limit the impact of light pollution from artificial light on local amenity.

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

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

10.4 In terms of the impact of the fencing on neighbouring amenity, the main impact is on the standard of outlook enjoyed by the remaining occupants of Grenada Place and St Johns Place. Most directly affected by the current application are the occupants of the dwellings which immediately adjoin the application site at No's 6 Grenada Place and No.5 St Johns Place. The fence immediately borders the area of land to the rear of their dwellings. An letter of support has been received from the occupant of No.5 and an objection has been received from the occupant of No.6. A summary of these concerns of each of these is set out in the representations and is noted.

10.5 Concerns have been raised in relation to the blocking of the existing path and a potential restriction of access to the rear of the properties if future applications are approved. These points are noted. However, the paths are not adopted by the Council and are within the ownership of the property owners, who it is understood are responsible for their upkeep. Rights of access would be set out in the deeds, which are entirely separate to and cannot be controlled by the planning application.

10.5 Members must determine whether the proposed development is acceptable in terms of its impact on the residential amenity of surrounding occupiers with particular regard to outlook. Officer advice is that the proposed development will result in a harmful impact on the outlook from the rear of the neighbouring properties on Grenada Place and St Johns Place.

11.0 Impact on 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 'Design of Development' states "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." Amongst other matters proposals are expected to demonstrate:

- “a. A design responsive to landscape features, topography, wildlife habitats, site orientation and existing buildings, incorporating where appropriate the provision of public art;
- b. A positive relationship to neighbouring buildings and spaces; and
- d. A coherent, legible and appropriately managed public realm that encourages accessibility by walking, cycling and public transport;....”

11.3 The ‘Design Quality’ Supplementary Planning Document (SPD) applies to all planning applications that involve building works. It states, ‘Boundaries are particularly important to the front of properties and should be clearly defined, using appropriate boundary markers, such as gates and gateways, hedges, fences and walls. As a general rule, low walls and/or metal railings are more appropriate in urban areas along higher level streets, while soft planting, hedging and picket fencing is more appropriate in lower density areas which have a more rural character’. It further states that ‘Care should be taken to limit the need for long sections of new walls or high close boarded fences, especially where these bound public areas’.

11.4 Boundary treatments should be carefully considered and should not detract from the public realm. In this case, the application site is sensitive to alteration as it is visible by the public in the wider locality and it is highly visible from all of the rear of the dwellings on Grenada Place and St Johns Place and also from Grenada Drive.

11.5 Enclosing this land would result in a permanent loss of attractive open space and it will create a ‘hard edge’ against the remaining area of shared amenity space for the residents of these dwellings. It is considered the boundary treatment by virtue of its height, length, closed boarded timber construction and siting, including the area it covers, creates a highly incongruous feature in this location. The fencing introduces a hard element to the detriment of the open character of the site and surrounding area, resulting in harm to visual amenity.

11.6 Consequently, the development is contrary to Policies DM5.2 and DM6.1 of the LPA and guidance in the Design Quality SPD. When read together these policies and guidelines only permit development to occur when it harmonises with its surroundings. The development does not result in any benefits that outweigh the visual harm that has been brought to the character and appearance of the area.

11.7 Members must determine whether the proposed fencing is acceptable in terms of its impact on the character and appearance of the area. Officer advice is that the proposed fencing is unacceptable for the reasons set out.

12.0 Highway Impact

12.1 Paragraph 109 of NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

12.2 LDD 12 ‘Transport and Highways SPD’ sets out the Council’s adopted parking standards.

12.3 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 residents health and well-being

12.4 The proposed development would not affect the existing car parking arrangement or vehicular access.

12.5 The Council's Highway Network Manager has been consulted and has raised no objections to the proposal, but he has advised that the applicant should be made aware of two non-adopted footpaths that have been severed by the fence and as such they are advised to seek independent legal advice on whether or not these footpaths require formal closures under Section 247 of the Town and Country Planning Act 1990.

12.6 Members must determine whether the proposal is acceptable in terms of its impact on the highway network. Officer advice is that the proposed development will not result in an unacceptable impact on highway safety or severe residual cumulative impacts. It is therefore in accordance with the NPPF, LDD12 and policy DM7.4.

13.0 Local Financial Considerations

13.1 There are three threads of sustainability outlined in NPPF, these being the environment, economic and social threads, together with the policies in the NPPF as a whole.

13.2 The proposed works would provide larger privately enclosed gardens for the occupants of two dwellings, but would provide no environmental, economic or social benefits to the wider community.

14.0 Conclusion

14.1 Members must determine whether the proposed development is acceptable in terms of its impact on biodiversity, the character and appearance of the application site and surrounding area, neighbouring amenity with particular regard to outlook, and the highway network.

14.2 On balance, and with regard to all of the above, refusal of the application is recommended.

RECOMMENDATION: Application Refused

Reasons

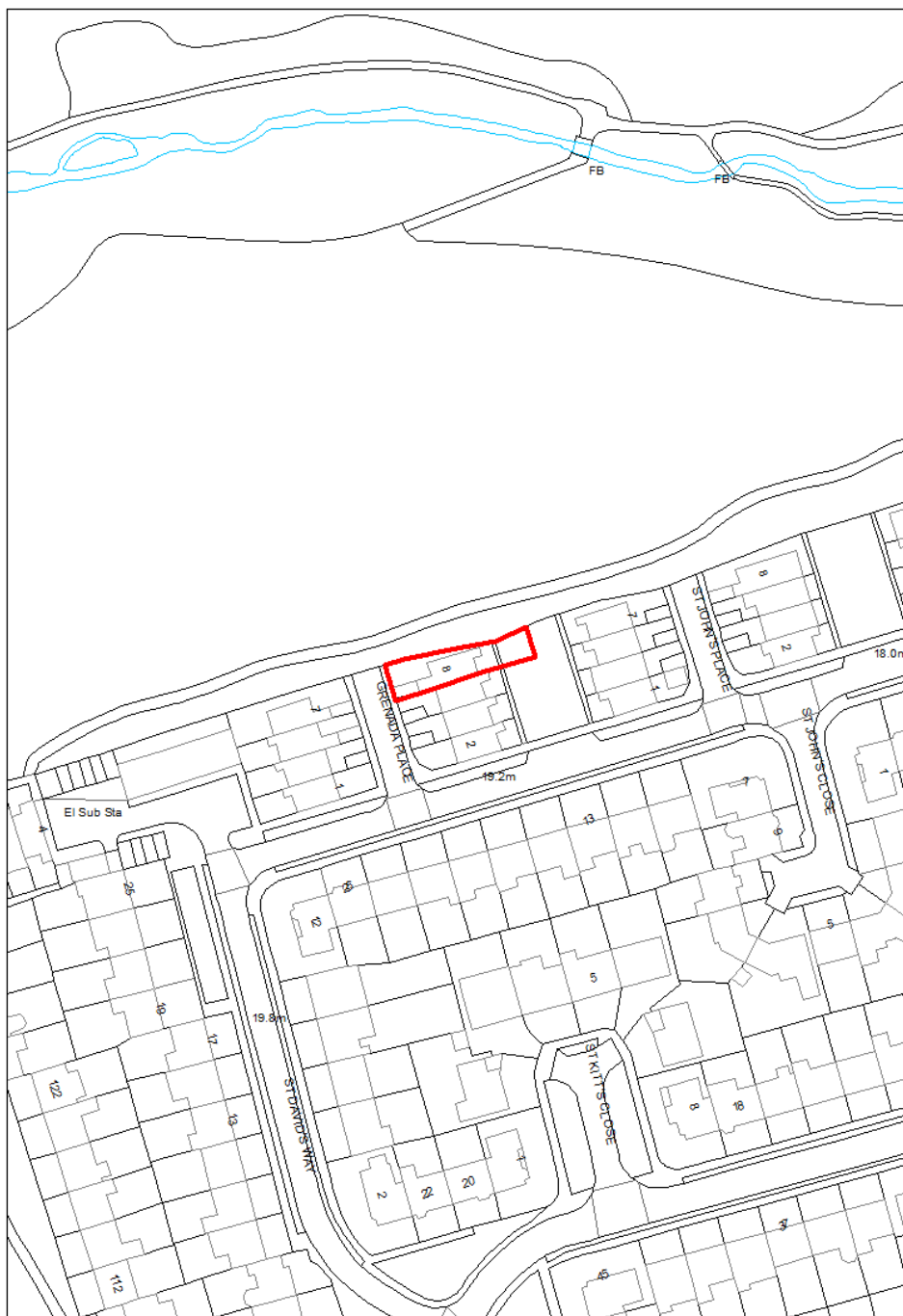
1. The proposed enclosure of the open space by way of the introduction of 1.8m high solid timber fencing would be harmful to the visual amenity of the area and result in the loss of an important area of open space which contributes towards the character and appearance of the surrounding area. This would be contrary to policies DM5.2, DM5.3 and DM6.1 of the North Tyneside Local Plan (2017) and LDD11.

2. The proposed enclosure of the open space by way of the introduction of 1.8m high solid timber fencing will result in a harmful impact on the outlook from the rear of the neighbouring dwellings on St Johns Place and Grenada Place, with particular reference to 6 Grenada Place and 5 St Johns Place. This is contrary to policies S1.4 and DM6.1 of the North Tyneside Local Plan 2017 and the NPPF.

3. The proposed enclosure of the open space by way of the introduction of 1.8m high solid timber fencing will result in a harmful impact on the adjoining Local Wildlife Site (Brierdene) and Wildlife Corridor by adversely impacting on the movement of wildlife. This is contrary to policies DM5.2, DM5.5, DM5.7 and S5.4 of the North Tyneside Local Plan 2017 and the NPPF.

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

The proposal would not improve the economic, social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was not therefore 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: 20/01073/FUL

Location: 8 Grenada Place And 7 St Johns Place, Whitley Bay, NE26 1HY

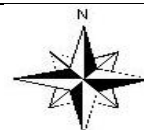
Proposal: Erect a 1.8m high fence to land to the rear of 8 Granada Place and 7 St Johns Place in order to create two private garden spaces.

(Retrospective Planning Application)

Not to scale

Date: 17.09.2020

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Consultations/representations

1.0 Representations

10no. support (8 addresses); 6no. objections (5 addresses); 2 representations (concerned about precedent it will set). Summarised below:

1.1 Support:

- Enhances neighbourhood.
 - Improves security in area, I know others are hoping to do the same.
 - Provides secure area for children to play, preventing them from running into road.
 - Provides privacy for the occupants of the properties as there is currently no privacy.
 - Access to secluded gardens will have positive mental and physical impact for the owners during these unprecedented times.
 - There is no direct adverse effect to me and I therefore have no objections to this.
- Should this have been in the location of my own garden I would however have to give more consideration.
- Makes great use of what was before, an unused area.
 - Allowing this fence will encourage families to move and stay in the area of Whitley Lodge.
 - Shared use of the land may have been suitable in years gone by but for the safety and well-being of these families and any future families that move into the properties the fence is a much-needed addition.
 - I can only imagine the frustration of having ownership of a piece of land that you cannot privately make use of.
 - Another block has used planting to make their area private. This can look untidy and sometimes obstructs the public walkway

1.2 Objections:

- Whilst the fence does not affect my property my first impression was one of surprise at its height alongside its ugly supports on Grenada Drive side.
- Concerns that approval of the application will set a precedent for others to do the same,
which in effect would block access to residents property and harm the visual amenity of the area, which was a pretty common space for residents who live there.
- If others follow suit, those that don't could be fenced in through choice of their own with only one access to the house.
- If others do the same it will prevent access in case of emergency for fire services etc. and also for existing residents to the footpath and grassed communal area.
- The changes should be fully acceptable to everyone who at present look out onto the common green space.
- Eyesore and ugly blot on landscape.
- Upright posts should be on inside and not protruding out onto other people's property.

- This has wrecked the peaceful, open plan original design of the area
- Neighbouring wall of one resident has been badly damaged by the construction of this fence.
- Land has always been designated as a play area in the deeds to the area.
- Spoils open plan aspect.
- A tree was removed when constructing the fence.
- Adverse effect on wildlife.
- Area has been enjoyed by children over the years as a communal grassed safe playground. These are our green spaces and events of the past few months have reaffirmed the importance of these spaces for all of us for our physical and mental wellbeing. We do not want to lose them.
- Enclosing the land will make it difficult to maintain.

2.0 Internal Consultees

2.1 Landscape Architect

2.2 The application refers to two residential terraced rows of housing (Grenada Place and St John Place), which overlook their respective positions across a communal area of grassed land, which also supports a number of mixed-species trees and shrubs; pedestrian access to the respective properties is via 2no walkways, adjoining the Grenada Drive footway. The end-terrace properties also border land associated with Briardene. There is no direct access from the properties onto Briardene with a fence separating the housing from the open space.

2.3 The applicant, and neighbour, have erected a 1.8m height timber fence to enclose the communal land adjacent to their front garden areas, as shown on the submitted documents. This has effectively fenced off the acquired land as a continuation of the applicants, and neighbours, respective front garden areas.

2.4 There are existing trees and shrubs within the overall grassed area which are now enclosed, although it is unclear if any trees have been removed. The land is not designated open space or within a wildlife corridor as defined by the Local Plan but the land is communal and offers accessible outdoor space for the benefit of all the properties. Visually it provides amenity green space within an urban environment, the space provides an outlook to other residential properties, variety in the urban scene, and the trees provide a positive element in the landscape.

2.5 The main concern is the precedent this can set. There is a similar area to the east which is more enclosed giving the appearance of a semi-private space with an established hedgerow along Grenada Drive to the south providing privacy. Many residents have personalised the communal space.

2.6 The new fence between 8 Granada Place and 7 St Johns Place is very visible from Granada Drive. It changes the character of the space and is an addition of a structure that is a visual change. Rather than divide the area up into individual garden areas, a similar solution could be applied at this location with hedgerow planting to the frontage so a safe semi-private useable green space is created for the benefit of all properties.

2.7 Knowing that a more visually pleasing alternative is possible, and to avoid similar application in the future, the installation of the fence at this location is not supported

2.8 Biodiversity Officer

2.9 The application is for a change of use from private open amenity land to private residential.

The applicants have erected the fence to enclose communal land to their front gardens and this area consists of trees and shrubs within the grassed area which are now enclosed by the fence. Whilst the land is not designated open space or identified within a wildlife corridor on the Local Plan (2017), the land is communal offering outdoor space for all residents. In addition, the area of communal land which was previously open, borders a large area of open space and Local Wildlife Site (Brierdene) immediately to the north which is within a designated wildlife corridor. The land, therefore, has the potential to contribute to the adjacent wildlife corridor by facilitating the movement of wildlife.

2.10 There are concerns that the trees and shrubs within this area would be vulnerable to removal as a result of a change to garden use and also that a precedent could be set with similar properties wishing to do something similar.

2.11 The Landscape Architect has suggested that rather than dividing the area up into individual garden areas, hedgerow planting to the frontage could be undertaken so a safe semi-private useable green space is created for the benefit of all properties. This measure would be supported, particularly as it creates additional habitat and provides a natural barrier that allows wildlife movement.

2.12 For the reasons outlined above, the application for the installation of fencing in this location is not supported.

2.13 Highway Network Manager

2.14 This application is to erect a 1.8m high fence to land to the rear of 8 Granada Place and 7 St Johns Place in order to create two private garden spaces. There are no objections in principle to this proposal, however the applicant should be made aware of two non-adopted footpaths that have been severed by the fence and as such they are advised to seek independent legal advice on whether or not these footpaths require formal closures under Section 247 of the Town and Country Planning Act 1990. Approval is recommended.

2.15 Informatives:

- I10 - No Doors/Gates to Project over Highways
- I12 - Contact ERH Erect Scaffolding on Rd
- I13 - Don't obstruct Highway, Build Materials
- I46 - Highway Inspection before dvlpmt

2.16 The applicant is advised to seek independent legal advice on whether or not the two footpaths to the frontage of the properties require formal closures under Section 247 of the Town and Country Planning Act 1990

2.17 The applicant is advised that they will need to cover any legal costs incurred by the council to stop up the area or remove it from the highway adoption agreement (Section 38 Agreement).

Application No: 20/00564/FUL

Author: Will Laing

Date valid: 1 May 2020

☎: 0191 643 6320

Target decision date: 31 July 2020

Ward: Collingwood

Application type: full planning application

Location: Kids 1st Nursery, North Tyneside General Hospital, Rake Lane, North Shields, Tyne And Wear

Proposal: Variation of condition 4 (restriction on number of children) of planning approval 03/00587/FUL - to allow increase to 136 children to attend nursery at any one time

Applicant: Busy Bees Nurseries Ltd, St Matthews Shaftsbury Drive Burntwood Staffordshire WS7 9QP

Agent: ELG Planning, FAO Joe Smith Gateway House 55 Coniscliffe Road Darlington DL3 7EH

RECOMMENDATION: Application Permitted

INFORMATION

1.0 Summary Of Key Issues & Conclusions

1. Main Issues

1.1 Members are advised that the main issues with this application are as follows:

- Principle of Development;
- Residential Amenity;
- Parking and Highway Safety;
- Other Issues

1.2 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Members need to consider whether this application accords with the development plan and also take into account any other material considerations in reaching their decision.

2. Description of the Site

2.1 This application refers to a single-storey 112 space nursery and creche on Rake Lane, North Shields. The site is located Rake Lane running along the northwest boundary, with the Redesdale Court care home to the southeast and the rear gardens of Cotswold Road to the east. The site adjoining the southwest boundary is currently vacant, however has an extant permission for a supermarket.

2.2 The site shares a vehicular access to the south with the Redesdale Court care home. The main building of the nursery has a play area to the northeast and a car parking area to the southwest.

3. Description of the Proposal

3.1 This application seeks a variation of condition 4 of planning approval 03/00587/FUL to allow 136 children to attend nursery at any one time. This would be an increase of 24No pupils.

3.2 The condition would allow an increase of 24No children and has been submitted in conjunction with application 20/00565/FUL.

4. Relevant Planning History

20/00565/FUL

Provision of a new modular garden building to serve the existing nursery
Pending consideration

03/00587/FUL

Erection of new 112 place Creche / Nursery (for public and hospital staff) with associated parking and landscaping. Construction of a new access including, realignment of existing internal access and provision of overflow car parking.
Permitted 18.08.2003

5. Development Plan

5.1 North Tyneside Local Plan 2017

6. Government Policy

National Planning Policy Framework (February 2019)
Planning Practice Guidance (As amended)

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. Main Issues

7.1 The main issues with this application are as follows:

- Principle of Development
- Residential Amenity
- Parking and Highway safety
- Other Issues

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

8. Principle of 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 Paragraph 94 of the NPPF states it is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this that will widen choice in education. They should:

- a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and
- b) work with schools promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.

8.4 Policy S1.4 of the North Tyneside Local Plan 2017 sets out the general principles for development. The policy specifically sets out to ensure that development is acceptable in terms of their impact upon local amenity for new or existing residents and businesses, adjoining premises and land uses.

8.5 The proposed variation of condition would support the existing nursery business which has experienced a rise in demand for the service. It is the view of the officers that the proposal would comply with paragraph 94 of the NPPF to ensure there is adequate provision to meet the needs of existing and new communities within the surrounding area.

8.6 Members are to determine if the principle of the development is acceptable. Officers consider the proposal to be acceptable in principle and as such the proposal is deemed to comply with paragraph 94 of the NPPF and policy S1.4 of the North Tyneside Local Plan 2017.

9. Residential Amenity

9.1 NPPF paragraph 180 states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. 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 the quality of life.

9.2 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 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. In accordance with the nature of development those

proposals 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 DM5.18 states that development proposals that may cause pollution either individually or cumulatively of water, air or soil through noise, smell, smoke, fumes, gases, steam, dust, vibration, light, and other pollutants will be required to incorporate measures to prevent or reduce their pollution so as not to cause nuisance or unacceptable impacts on the environment, to people and to biodiversity. Development proposed where pollution levels are unacceptable will not be permitted unless it is possible for mitigation measures to be introduced to secure a satisfactory living or working environment.

9.4 Policy DM6.1 states that all development should ensure a good standard of amenity for existing and future residents and users of buildings and spaces.

9.5 This application has been submitted in conjunction with application 20/00565/FUL, which seeks consent for a modular building. This proposal would allow for an additional 24 pupils at the nursery (an increase of approximately 18%).

9.6 Three letters of objection have been received, with grounds of noise disturbance being the most common issue raised. Objectors have stipulated that they are currently subjected to unacceptable levels of noise from children using the outdoor play space at the nursery, leaving rear gardens and conservatories unusable during school hours.

9.7 As the nursery is an established use it would not be reasonable to refuse the application on the grounds of the existing noise, as such the key issues for member to consider will be whether the increase in students would result in an unacceptable increase in noise.

9.8 The Manager of Environmental Health does not object to the proposed development, however further conditions will be required to ensure that the increase in children would not lead to an unacceptable impact on residential amenity. These conditions include the upgrading of the existing boundary fence to an acoustic fence, restriction of the hours when the outdoor play space can be used and the submission of a noise scheme prior to the occupation of the proposed modular classroom.

9.9 With the requested noise scheme and details of the acoustic fencing, it is the opinion of the officers that the proposed modular building and the increase of 24 pupils would not lead to such a significant increase in noise as to warrant refusal of the application.

9.10 It is acknowledged that the application has been submitted in conjunction with 20/00565/FUL, from which several objections have been received on the physical impact of the building, which are addressed in the report for 20/00565/FUL.

9.11 It is further acknowledged that the Manager of Environmental Health has requested further conditions for plant prior to installation. This application does

not propose any additional plant and there is a condition restricting the installation of plant on the original application (03/00587/FUL) which shall be re-imposed with the proposed variation of condition.

9.12 Members need to determine whether the proposal would be acceptable in terms of residential amenity. Having regard to the above, it is officer opinion that the proposal would not have an unacceptable impact on residential amenity subject to the imposition of the conditions recommended by the Manager of Environmental Health (Pollution) relating to the noise survey and acoustic fencing and as such the proposal is deemed to comply with policies S1.4, DM5.18 and DM6.1 of the North Tyneside Local Plan 2017.

10. Parking and Highway Safety

10.1 Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

10.2 Policy DM7.4 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 residents health and well-being.

10.3 The Highways Network Manager has been consulted and has no objection to the proposed plans on the basis that the existing car park has spare capacity at peak pick-up and drop-off times. As such, the Highways Network Manager has no objections subject to the relevant conditions from the original consent being reattached to this application should permission be granted.

10.4 Members are to determine whether the application would be acceptable in terms of parking and highway safety. Having regard to the above, it is the view of case officers that the proposal complies with policy DM7.4 of the Local Plan 2017 and would be acceptable in terms of parking and highway safety.

11. Local Financial Considerations

11.1 Local financial considerations are defined as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by the Minister of the Crown (such as New Homes Bonus payments) or sums that a relevant authority has received, or will or could receive in payment of the Community Infrastructure Levy. It is not considered that the proposal results in any local financial considerations.

12. Conclusion

12.1 The proposed variation of condition has been submitted in conjunction with an application for a modular building to serve as a classroom (application 20/00565/FUL).

12.2 Members need to consider whether the proposal would have an acceptable impact on the adjoining properties.

12.3 It is officer opinion that the development is considered to comply with relevant national and local plan policy and is therefore recommended for conditional approval.

RECOMMENDATION: **Application Permitted**

Conditions/Reasons

1. In accordance with approved plans MAN01 *
2. Standard Time Limit 3 Years FUL MAN02 *
3. The number of children to be accommodated within the day nursery at any one time shall not exceed 136.
Reason: In view of the facilities on site including staff, play areas and car parking having regard to policy DM6.1 of the North Tyneside Local Plan 2017.
4. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking or re-enacting that Order), the land and/or building(s) shall be used only for the purpose of a children's nursery and for no other purpose including any other purpose within Use Class E.
Reason: To enable the Local Planning Authority to retain control over the use and in the interest of residential amenity having regard to policies DM5.19 and DM6.1 of the North Tyneside Local Plan 2017.
5. The premises shall not be open for business on any Sunday or Bank Holiday or outside the hours of 07.30 and 19.00 on any other day.
Reason: To safeguard the occupiers of adjacent properties from undue noise or other associated disturbance having regard to policy DM5.19 and DM6.1 of the North Tyneside Local Plan 2017.
6. Notwithstanding the submitted details, no pedestrian or vehicular access shall be formed giving access onto Rake Lane.
Reason: In the interests of highway safety having regard to policies DM6.1 and DM7.4 of the North Tyneside Local Plan 2017.
7. Noise No Tannoys Externally Audible NOI002 *
8. Prior to the first admittance of the increased pupil numbers, a noise scheme shall be submitted to and approved by the Local Planning Authority in writing. The submitted noise scheme shall include an outdoor play activity management plan and details of a 2m high acoustic barrier to the eastern boundary shared with Cotswold Road. The hereby approved details shall be implemented prior to the first use of the building approved under 20/00565/FUL and retained thereafter.

Reason: In the interest of residential amenity having regard to policies DM5.19 and DM6.1 of the North Tyneside Local Plan 2020.

9. Notwithstanding the submitted plans, no plant shall be installed at the site until a noise scheme has been submitted to and approved by the Local Planning Authority. The submitted noise scheme shall be carried out in accordance with BS4142 and shall identify the current background noise levels, and full details of mitigation measures required to ensure the rating level of the plant to be installed would not exceed the existing background noise level for daytime, evening and night time, in accordance with BS4142.

The approved mitigation measure shall be installed prior to the first use of the plant and maintained thereafter.

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

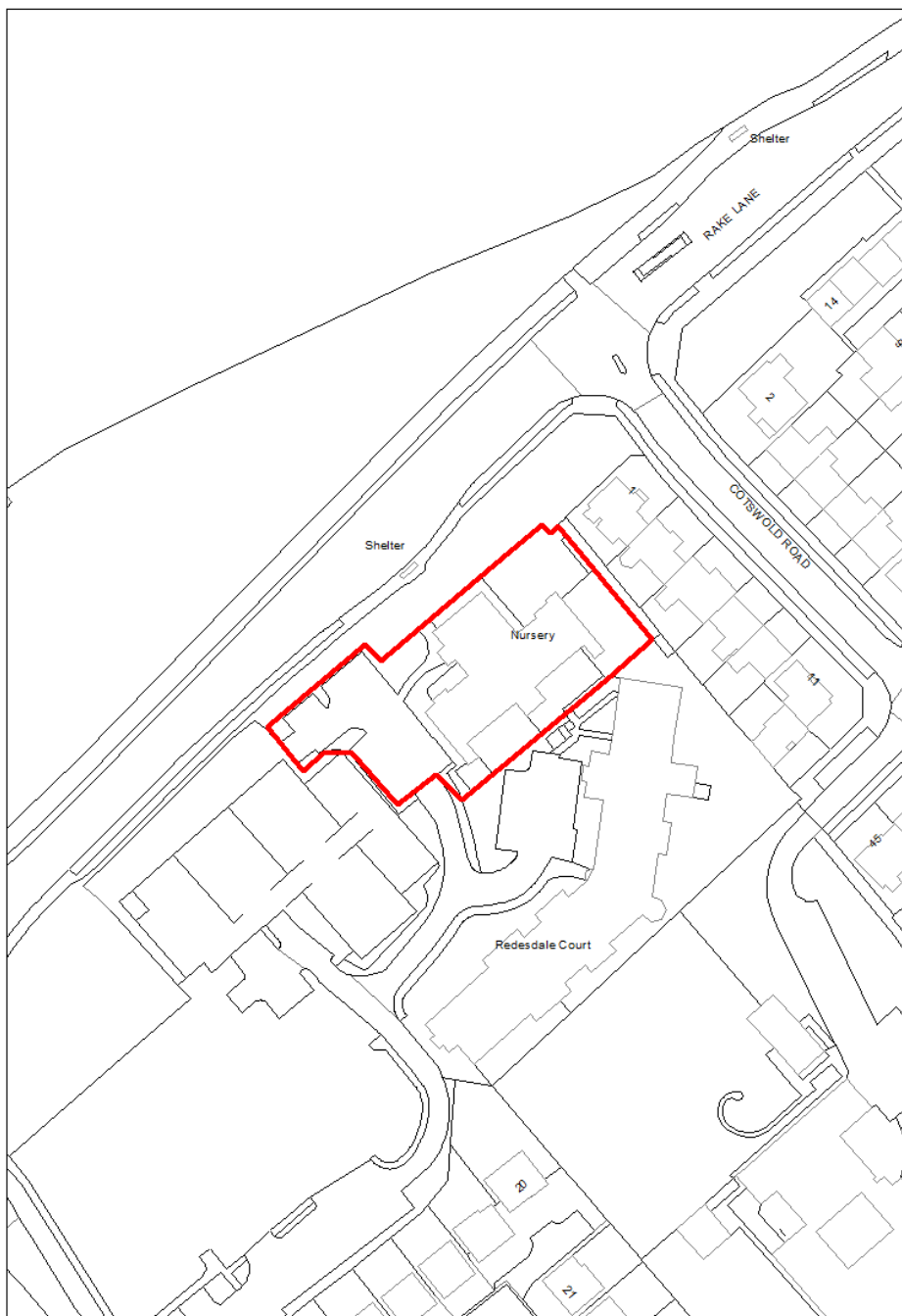
10. Flood Lighting Scheme Details LIG001 *

11. The outdoor play areas shall not be used outside the hours of 08:00 hours and 18:00 hours Monday to Saturdays.

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

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

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



Application reference: 20/00564/FUL

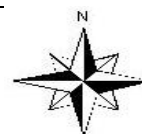
Location: Kids 1st Nursery, North Tyneside General Hospital, Rake Lane, North Shields

Proposal: Variation of condition 4 (restriction on number of children) of planning approval 03/00587/FUL - to allow increase to 136 children to attend nursery at any one time

Not to scale

Date: 17.09.2020

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Consultations/representations

1 Councillor M Rankin

1.1 I am sure all Committee Members fully recognise the importance of good early years/ nursery provision and also the importance of businesses investing and expanding in such uncertain economic times.

1.2 However, having reviewed this application, I would have concerns as to its fundamentally negative impact on neighbouring properties.

1.3 The nursery was originally developed in 2003 from former Greenfield land. It clearly delivers a high standard of early years' child-care provision, with its most recent OFSTED report being 'Good' in all areas (February 2020). It was built adjacent to an established residential area, with a number of properties (Cotswold Road) being originally considered as 'at risk' of loss of amenity from the development and daily operations of the site.

1.4 Indeed, the effect of the development on the potential loss of amenity of neighbouring residential properties was fully recognised in the original Grant of Planning Permission (18th August 2003) within Clause 7 (restrictions on opening times) and Clause 10 (use of sound reproduction equipment audible outside the curtilage of the premises). These restrictions were imposed due to recognition of the potential for undue noise or other associated disturbance from the site which would affect resident's peaceful use of their properties/ rear gardens.

1.5 Clause 12 (a restriction on operation of the site until such time as all plans for screen and boundary walls /fences had been approved by planners) was also imposed due to concerns on loss of visual amenity/ privacy of the residential properties.

1.6 The current (combined) application is for an amendment to Clause 4 of the original Grant of Planning, to increase the current restriction on numbers of children from 112 to 136 and a new modular building to be developed in an existing garden area in order to cater for this increased capacity.

1.7 The modular building will be built in an area of the site immediately adjacent to the residential properties which were seen as at risk of loss of amenity at the time of the original planning application.

1.8 The Applicant states that 'there is an approximate 15m separation distance between the proposed modular building and the rear elevations of the nearest residential property' and that 'there are existing boundary fences and soft landscaping in the area lying between the proposed building and rear elevations of the neighbouring properties, which will act to screen the main bulk and mass of the proposed building when viewed from the rear of neighbouring properties'.

1.9 In relation to noise, the application states that 'the proposals relate to such activities already taking place' and that 'it is not considered that the limited

increase in children associated with the siting of the building would generate a material increase in noise'. A further mitigant is offered in that 'only a set number of children will be able to play in the garden area at any one time'.

I would ask that Planning Committee consider my views as follows:

1.11 The site is one which was readily accepted by previous committees as having a potential detrimental effect on amenity for some residential properties adjacent and it was on this basis that the number of children able to be on-site at any point in time was restricted (and the original design of the scheme approved in the first place). I would contend that had the original application have included the proposed new garden room then it would have been rejected/ amended due to its impact on the residential properties.

1.12 The location of the new modular building, is arguably just c. 10m from the rear elevations of some of the residential units, is only 3m from the boundary line. It is also just 6m from a conservatory of one of the houses and will unreasonably impact on resident's quiet enjoyment of their property. It must be remembered/ recognised that irrespective of its use as a nursery, this is a commercial building which will be operated on a commercial basis between the hours of 7.30 am - 7pm each working day.

1.13 I would also note that the sides of the building facing the residential units would be constructed of plastisol steel sheeting, which is not in keeping with any of the surrounding buildings and will negatively impact visually. It is incredibly difficult to see how residents will not suffer an overbearing impact from both proximity and design.

1.14 I note the intention to limit the numbers of children playing within the garden area (much of which will be lost to the development of the building), but a major design feature of the garden room is the provision of bi-folding doors, the intention of which would obviously be to utilise on days of appropriate good weather. It is inconceivable that this would not impact of noise levels generated from the operation of the site and unreasonably impact resident's quiet enjoyment of their properties and gardens.

1.15 In summary, I feel that the development as detailed in planning application **20/00565/FUL** unreasonably impacts residents living in the adjacent residential properties and so should therefore be rejected.

1.16 It naturally follows from this that if the Applicant cannot satisfy the Committee that they can absorb the additional children requested into their existing site (Application to amend **03/00587/FUL**) then this too should be rejected.

1.17 I would ask that, if practical during these difficult times, the Committee undertake a site visit to better understand the proximity of the new building to residents own properties and thus the impact this development will have.

1.18 And finally, I am aware that some residents have requested speaking rights for the Committee meeting and I would ask that consent is provided for same so

that Members are able to hear first-hand their concerns relating to this application.

2 Highways Network Manager

2.1 This application is for a variation of condition 4 (restriction on number of children) of planning approval 03/00587/FUL - to allow increase to 136 children to attend nursery at any one time. The site has been established for some time and is set well back from the adopted highway. The applicant has advised that there is enough spare capacity within the car park at peak drop off & pick up times. Approval is recommended with all other conditions & informatives applicable.

3 Manager of Environmental Health

3.1 I have concerns about potential noise arising from the variation of condition 4 to allow an increase of children to attend the nursery. Permitting additional children will result in an intensification of use of the outdoor play areas. It is not clear from the application what the existing boundary fencing is screening the play areas from the existing residential properties on Cotswold Road adjoining to the eastern boundary of the nursery.

3.2 The applicant advises that all outdoor play sessions are supervised. However, no information on the proposed number of children outside at any one times have been provided and this information should be provided as part of a noise mitigation scheme, e.g. maximum of 12 children in the outdoor play area at any one time will give rise to approximately 79 dB at 1 metre, this is based on a 15 minute average play time (Proceedings of Acoustics 2006). It is recommended that the existing boundary fencing between the play area and the residential properties of Cotswold Road is upgraded to acoustic fencing to mitigate noise from children playing. I would also recommend a condition to restrict the use of the play areas to ensure they are not used before 8am and no later than 6pm.

3.3 For the new modular building it is unclear if any new external plant is to be installed, such as air conditioning units, condensing units etc., if this was the case then a condition is recommended to require a noise scheme is provided to ensure the noise from the new plant is suitably mitigated.

3.4 If planning consent is to be given the following conditions are recommended.

3.5 NOI02

3.6 Outdoor play areas permitted for use between 08:00 hours and 18:00 hours Monday to Saturdays, no use of the outdoor areas on Sundays and Bank Holidays.

3.7 Prior to the acceptance of additional children at the site, submit for approval prior to implementation and use a noise scheme outlining the outdoor play activity management plan and details of a 2m high acoustic barrier to be fitted to the eastern boundary of the site screening the outdoor play area from Cotswold Road.

3.8 For any new external plant installed:

3.9 A noise scheme must be submitted, for any new external plant installed at the site, in accordance with BS4142 to determine the current background noise levels for the time when the plant and equipment is to be operated. The rating level for all plant must not exceed the existing background noise level for the daytime, evening and night time in accordance with BS4142.

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

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

3.12 HOU04

3.13 LIG01 (for any new external lighting)

4 Representations

4.1 3No letters of objection from three addresses have been received on the following grounds:

- Precedent will be set.
- Loss of residential amenity.
- Nuisance – disturbance.
- Nuisance – noise.
- Existing disturbance from children.
- Increase in pupil numbers and reduction in play area would exacerbate alleged already unacceptable noise levels, particularly with increased numbers and extended play periods.
- Loss of privacy.
- Impact on light to garden.
- Object to the applicant's statement that the proposal would not have a significant cumulative impact on the noise.
- Inappropriate design.
- Loss of visual amenity.
- Unsightly building.

Application No: 20/00565/FUL

Author: Will Laing

Date valid: 13 May 2020

☎: 0191 643 6320

Target decision date: 8 July 2020

Ward: Collingwood

Application type: full planning application

Location: Kids 1st Nursery, North Tyneside General Hospital, Rake Lane, North Shields, Tyne And Wear

Proposal: Provision of a new modular garden building to serve the existing nursery

Applicant: Busy Bees Nurseries Ltd., St Matthews Shaftsbury Drive Burntwood Staffordshire WS7 9QP

Agent: ELG Planning, FAO Joe Smith Gateway House 55 Coniscliffe Road Darlington DL3 7EH

RECOMMENDATION: Application Permitted

INFORMATION

1.0 Summary Of Key Issues & Conclusions

1. Main Issues

Members are advised that the main issues with this application are as follows:

- Principle of Development
- Residential Amenity
- Visual Amenity
- Parking and Highway Safety
- Other Issues

1.2 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Members need to consider whether this application accords with the development plan and also take into account any other material considerations in reaching their decision.

2. Description of the Site

2.1 This application refers to a single-storey 112 space nursery and creche on Rake Lane, North Shields. The site is located Rake Lane running along the northwest boundary, with the Redesdale Court care home to the southeast and the rear gardens of Cotswold Road to the east. The site adjoining the southwest boundary is currently vacant, however has an extant permission for a supermarket.

2.2 The site shares a vehicular access to the south with the Redesdale Court care home. The main building of the nursery has a play area to the northeast and a car parking area to the southwest.

3. Description of the Proposal

3.1 This application seeks full planning permission for the erection of a single storey modular classroom to the southeast corner of the play yard to provide an additional 24No nursery spaces.

3.2 The proposed classroom would be 12.16m long, 6.16m deep and 3.05m high with a flat roof. The proposal would be timber clad in red western cedar and would have 6No windows in the southwest elevation and a concertina door in the northwest elevation.

3.3 The proposed classroom would contain a teaching area, a kitchenette, a disabled-access WC and a WC.

4. Relevant Planning History

20/00564/FUL

Variation of condition 4 (restriction on number of children) of planning approval 03/00587/FUL - to allow increase to 136 children to attend nursery at any one time

Pending consideration

03/00587/FUL

Erection of new 112 place Creche / Nursery (for public and hospital staff) with associated parking and landscaping. Construction of a new access including, realignment of existing internal access and provision of overflow car parking. Permitted 18.08.2003

5. Development Plan

North Tyneside Local Plan 2017

6. Government Policy

National Planning Policy Framework (February 2019)

Planning Practice Guidance (As amended)

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.

PLANNING OFFICERS REPORT

7. Main Issues

7.1 The main issues with this application are as follows:

- Principle of Development
- Residential Amenity
- Visual Amenity
- Parking and Highway Safety
- Other Issues

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

8. Principle of Development

8.1 Paragraph 7 of NPPF states that the purposed 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 takers should approve development proposals that accord with an up-to-date development plan without delay.

8.3 Paragraph 94 of the NPPF states it is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this that will widen choice in education. They should:

- a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and
- b) work with schools promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.

8.4 Policy S1.4 of the North Tyneside Local Plan 2017 sets put the general principles for development. The policy specifically sets out to ensure that development is acceptable in terms of their impact upon local amenity for new or existing residents and businesses, adjoining premises and land uses.

8.5 The proposed building would support the existing nursery business which has experience a rise in demand for the service. It is the view of the officers that the proposal would comply with the paragraph 94 of the NPPF to ensure there is adequate provision to meet the needs of existing and new communities within the surrounding area.

8.6 It is acknowledged that resident objections have been received on the grounds that a precedent would be set for the nursery and for the care home. The extension of schools and nurseries with modular buildings is commonplace throughout the borough and each extension would require planning permission to be assessed on its own merits. As such, it is the view of officers that the objections on the grounds of setting a precedent would not be reasonable grounds for refusal.

8.7 The care home is a separate use providing residential care accommodation, any extension to the care home would require planning permission and would be subject to due consideration should an application be submitted. The proposal would be unlikely to set any precedent for care home due to the significantly different uses and operations.

8.8 Members are to determine if the principle of the development is acceptable. Officers consider the proposal to be acceptable in principle and as such the proposal is deemed to comply with paragraph 94 of the NPPF and policy S1.4 of the North Tyneside Local Plan 2017.

9. Residential Amenity

9.1 NPPF paragraph 180 states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. 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 the quality of life.

9.2 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 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. In accordance with the nature of development those proposals 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 development proposals that may cause pollution either individually or cumulatively of water, air or soil through noise, smell, smoke, fumes, gases, steam, dust, vibration, light, and other pollutants will be required to incorporate measures to prevent or reduce their pollution so as not to cause nuisance or unacceptable impacts on the environment, to people and to biodiversity. Development proposed where pollution levels are unacceptable will not be permitted unless it is possible for mitigation measures to be introduced to secure a satisfactory living or working environment.

9.4 Policy DM6.1 states that all development should ensure a good standard of amenity for existing and future residents and users of buildings and spaces.

9.5 This application has been submitted in conjunction with application 20/00564/FUL, which would allow for an additional 24 pupils at the nursery (an increase of approximately 18%).

9.6 Three letters of objection and one representation with some concerns have been submitted in response to the application, with noise disturbance being the most common issue raised. Objectors have stipulated that they are currently subjected to unacceptable levels of noise from children using the outdoor play space at the nursery, leaving rear gardens and conservatories unusable during school hours.

9.7 As the nursery is an established use it would not be reasonable to refuse the application on the grounds of the existing noise, as such the key issues for member to consider will be whether the increase in students would result in an unacceptable increase in noise.

9.8 The Manager of Environmental Health does not object to the proposed, however further conditions will be required to ensure that the increase in children

would not lead to an unacceptable impact on residential amenity. These conditions include the upgrading of the existing boundary fence to an acoustic fence and the submission of a noise scheme prior to the occupation of the proposed modular classroom.

9.9 With the requested noise scheme and details of the acoustic fencing, it is the opinion of the officers that the proposed modular building and the increase of 24 pupils would not lead to such a significant increase in noise as to warrant refusal of the application.

9.10 The Manager of Environmental Health has requested that conditions are attached to ensure that no plant or external lighting is installed without details of the plant or lighting being submitted to and approved by the Local Planning Authority. The submitted plans do not show any plant or external lighting to be installed. While there is no plant proposed, the conditions requested by the Manager of Environmental Health would ensure that the proposal would not be able to install plant or external lighting without the Local Planning Authority being able to assess the impact on the neighbouring residential properties.

9.11 Objections have been raised on the impact of the proposal on light, outlook and privacy.

9.12 The proposal would be sited directly behind residential gardens, approximately 3m from the boundary with no.3 and no.5 Cotswold Road to the rear. The 3m set back from the boundary and the limited 3.05m height of the dwelling would ensure that the proposed building would have a limited visual impact on the dwellings of Cotswold Road and the impact on light would not be significant and limited to sunset. Furthermore, the proposed modular building would partially be set against the backdrop of the existing nursery building. As such, it is the view of officers that the proposed building would not have an unacceptable impact on light or outlook of the adjacent dwellings.

9.13 While objections have been received on the grounds of privacy, the proposed modular classroom would not contain any openings in the northeast elevation facing the nearest residential properties and as such it is the view of case officers that the proposal would not impact on privacy of the neighbouring dwellings.

9.14 Members are to determine whether the proposal would be acceptable in terms of residential amenity. Having regard to the above, it is officer opinion that the proposal would not have an unacceptable impact on residential amenity subject to the imposition of the conditions recommended by the Manager of Environmental Health (Pollution) and as such the proposal is deemed to comply with policies S1.4, DM5.18 and DM6.1 of the North Tyneside Local Plan 2017.

10. Visual Amenity

10.1 Policy DM6.1 stipulates that development should have a positive relationship to neighbouring buildings and spaces.

10.2 The Council's 'Design Quality' SPD (May 2018) applies to all planning applications that involve building works.

10.3 Objections have been submitted on the grounds of inappropriate design and materials. Officers would make members aware that the originally submitted plans would have had two elevations with timber cladding and two elevations with plastic cladding. The applicant has since amended the submitted plans to ensure that the entire building would be timber clad.

10.4 It is noted that the original submission contained discrepancies with some documents stating the proposal would be sited to the north-eastern corner of the site adjacent to Rake Lane. The applicant has provided clarification proposed classroom would be sited to the south-eastern corner of the site. However, the submitted plans showed the location of the building as proposed.

10.5 The proposed modular classroom would be sited to the south-eastern corner of the application site and would be subservient to the main building. It is noted that objections have been received on the grounds of visual intrusion however, there would be limited views of the proposed building, which would be limited from within the nursery and views from the rear of dwellings on Cotswold Road which would be predominantly screened by the existing boundary fence.

10.6 It is the view of officers that the timber cladding is considered to be an appropriate material in relation to the application site and that the proposed modular building would be appropriate to the size and scale of the application site. As such, the proposal would not have a significant visual impact on the character and appearance of the host building or the surrounding area.

10.7 Members are to determine whether the proposal would be acceptable in terms of visual amenity, character and appearance. Having regard to the above, it is the view of case officers that the proposed building would be acceptable in terms of visual amenity, character and appearance and as such the proposal is considered to comply with policy DM6.1 of the North Tyneside Local Plan and LDD 11 'Design Quality'.

11. Parking and Highway Safety

11.1 Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

11.2 Policy DM7.4 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 residents health and well-being.

11.3 The Highways Network Manager has been consulted and has no objection to the proposed plans.

12. Other Issues

12.1 The Contaminated Land Officer has advised that the proposal would fall within a coal referral area and as such the building would need to ensure it is raised off the ground with sufficient ventilation between the ground and the

underside of the building so as to remove any possibility of the potential build-up of soil gas. This serves to minimise any potential risk to the building and human health from explosion of ground gas. It is the view of the officer that this should be controlled by means of a condition.

12.2 Objections have been raised on the grounds of the impact on landscaping and the impact on existing drains. The proposed modular building would be site on the existing hard-surfacing and would not therefore result in the loss of any landscaping.

12.3 The objector's comments regarding the French drains are noted, however the submitted plans do not indicate the proposal would be sited in a manner to impact on these drains, and they are not a planning issue.

13.0 Local Financial Considerations

13.1 Local financial considerations are defined as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by the Minister of the Crown (such as New Homes Bonus payments) or sums that a relevant authority has received, or will or could receive in payment of the Community Infrastructure Levy. It is not considered that the proposal results in any local financial considerations.

14. Conclusion

14.1 Members need to consider whether the proposal would have an acceptable impact on the adjoining properties and whether the proposal would be acceptable it terms of visual amenity, character and appearance.

14.2 The proposed modular building would be in keeping with the surrounding area and would provide additional nursery places for the surrounding area.

14.3 The development is considered to comply with relevant national and local plan policy and 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 approved plans and specifications. For the avoidance of doubt, the approved plans are as follows:

- Application Form (dated 01.05.2020)
- Proposed Site Plan (dated 03.03.2020)
- 21931B: Rake Lane Nursery (dated 29.06.20)

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

2. Standard Time Limit 3 Years FUL

MAN02 *

3. The outdoor play areas shall only be used for children's play between 08:00 hours and 18:00 hours Monday to Saturdays, with no use of the outdoor areas on Sundays and Bank Holidays.

Reason: In the interest of residential amenity having regard to policies DM5.19 and DM6.1 of the North Tyneside Local Plan 2017.

4. Noise No Tannoys Externally Audible NOI002 *

5. Prior to the first occupation of the hereby approved building, a noise scheme shall be submitted to and approved by the Local Planning Authority in writing. The submitted noise scheme shall include an outdoor play activity management plan and details of a 2m high acoustic barrier to the eastern boundary shared with Cotswold Road. The hereby approved details shall be implemented prior to the first use of the approved building and retained thereafter.

Reason: In the interest of residential amenity having regard to policies DM5.19 and DM6.1 of the North Tyneside Local Plan 2020.

6. Flood Lighting Scheme Details LIG001 *

7. Restrict Hours No Construction Sun BH HOU00 *
4

8. Notwithstanding the submitted plans, no plant shall be installed at the site until a noise scheme has been submitted to and approved by the Local Planning Authority. The submitted noise scheme shall be carried out in accordance with BS4142 and shall identify the current background noise levels, and full details of mitigation measures required to ensure the rating level of the plant to be installed would not exceed the existing background noise level for daytime, evening and night time, in accordance with BS4142.

The approved mitigation measure shall be installed prior to the first use of the plant and maintained thereafter.

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

9. Noise Sound Insulation Plant Machinery NOI04 *

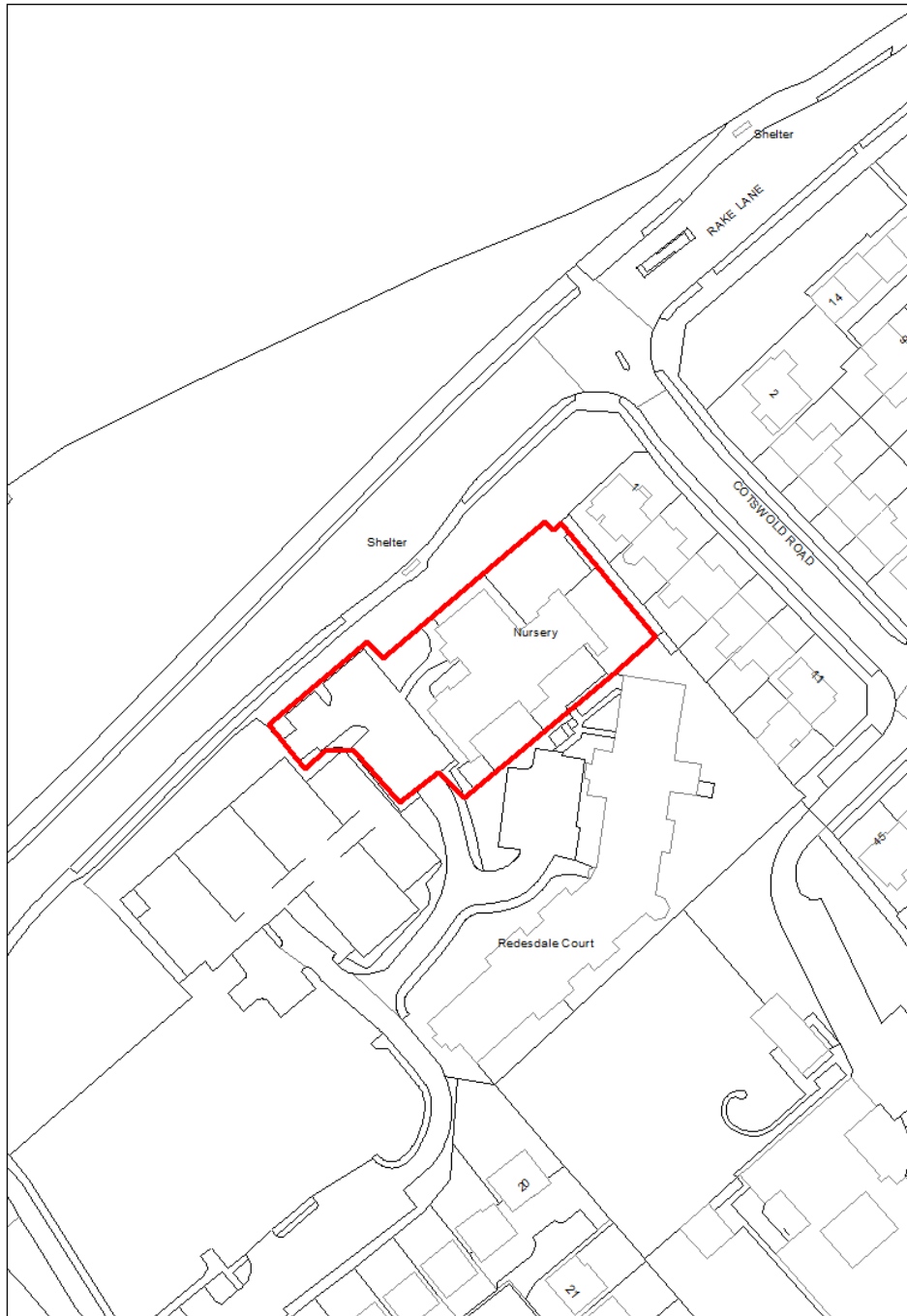
10. The modular building shall be raised off the ground with sufficient ventilation between the ground and the underside of the building in order to remove any possibility of the potential build-up of soil gas.

Reason: In order to minimise any potential risk to the building and human health from ground gas, having regard to Policy DM5.19 of the North Tyneside Local Plan 2017.

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.



Application reference: 20/00565/FUL

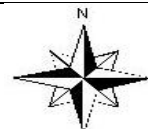
Location: Kids 1st Nursery, North Tyneside General Hospital, Rake Lane, North Shields

Proposal: Provision of a new modular garden building to serve the existing nursery

Not to scale

Date: 17.09.2020

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0100016801



Consultations/representations

1. Councillor M Rankin

1.1 I am sure all Committee Members fully recognise the importance of good early years/ nursery provision and also the importance of businesses investing and expanding in such uncertain economic times.

1.2 However, having reviewed this application, I would have concerns as to its fundamentally negative impact on neighbouring properties.

1.3 The nursery was originally developed in 2003 from former Greenfield land. It clearly delivers a high standard of early years' child-care provision, with its most recent OFSTED report being 'Good' in all areas (February 2020). It was built adjacent to an established residential area, with a number of properties (Cotswold Road) being originally considered as 'at risk' of loss of amenity from the development and daily operations of the site.

1.4 Indeed, the effect of the development on the potential loss of amenity of neighbouring residential properties was fully recognised in the original Grant of Planning Permission (18th August 2003) within Clause 7 (restrictions on opening times) and Clause 10 (use of sound reproduction equipment audible outside the curtilage of the premises). These restrictions were imposed due to recognition of the potential for undue noise or other associated disturbance from the site which would affect resident's peaceful use of their properties/ rear gardens.

1.5 Clause 12 (a restriction on operation of the site until such time as all plans for screen and boundary walls /fences had been approved by planners) was also imposed due to concerns on loss of visual amenity/ privacy of the residential properties.

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1.10 I would ask that Planning Committee consider my views as follows:

1.11 The site is one which was readily accepted by previous committees as having a potential detrimental effect on amenity for some residential properties adjacent and it was on this basis that the number of children able to be on-site at any point in time was restricted (and the original design of the scheme approved in the first place). I would contend that had the original application have included the proposed new garden room then it would have been rejected/ amended due to its impact on the residential properties.

1.12 The location of the new modular building, is arguably just c. 10m from the rear elevations of some of the residential units, is only 3m from the boundary line. It is also just 6m from a conservatory of one of the houses and will unreasonably impact on resident's quiet enjoyment of their property. It must be remembered/ recognised that irrespective of its use as a nursery, this is a commercial building which will be operated on a commercial basis between the hours of 7.30 am - 7pm each working day.

1.13 I would also note that the sides of the building facing the residential units would be constructed of plastisol steel sheeting, which is not in keeping with any of the surrounding buildings and will negatively impact visually. It is incredibly difficult to see how residents will not suffer an overbearing impact from both proximity and design.

1.14 I note the intention to limit the numbers of children playing within the garden area (much of which will be lost to the development of the building), but a major design feature of the garden room is the provision of bi-folding doors, the intention of which would obviously be to utilise on days of appropriate good weather. It is inconceivable that this would not impact of noise levels generated from the operation of the site and unreasonably impact resident's quiet enjoyment of their properties and gardens.

1.15 In summary, I feel that the development as detailed in planning application **20/00565/FUL** unreasonably impacts residents living in the adjacent residential properties and so should therefore be rejected.

1.16 It naturally follows from this that if the Applicant cannot satisfy the Committee that they can absorb the additional children requested into their existing site (Application to amend **03/00587/FUL**) then this too should be rejected.

1.17 I would ask that, if practical during these difficult times, the Committee undertake a site visit to better understand the proximity of the new building to residents own properties and thus the impact this development will have.

1.18 And finally, I am aware that some residents have requested speaking rights for the Committee meeting and I would ask that consent is provided for same so that Members are able to hear first-hand their concerns relating to this application.

2. Highways Network Manager

2.1 This application is for the provision of a new modular garden building to serve the existing nursery.

2.2 The site has been established for some time and the proposal improves the existing facilities and approval is recommended.

2.3 No objections in principle to this proposal.

3. Environmental Health (Pollution)

3.1 I have concerns about potential noise arising from the variation of condition 4 to allow an increase of children to attend the nursery and provision of a new modular building. Permitting additional children will result in an intensification of use of the outdoor play areas. It is not clear from the application what the existing boundary fencing is screening the play areas from the existing residential properties on Cotswold Road adjoining to the eastern boundary of the nursery.

3.2 The applicant advises that all outdoor play sessions are supervised. However, no information on the proposed number of children outside at any one times have been provided and this information should be provided as part of a noise mitigation scheme, e.g. maximum of 12 children in the outdoor play area at any one time will give rise to approximately 79 dB at 1 metre, this is based on a 15 minute average play time (Proceedings of Acoustics 2006). It is recommended that the existing boundary fencing between the play area and the residential properties of Cotswold Road is upgraded to acoustic fencing to mitigate noise from children playing. I would also recommend a condition to restrict the use of the play areas to ensure they are not used before 8am and no later than 6pm.

3.3 For the new modular building it is unclear if any new external plant is to be installed, such as air conditioning units, condensing units etc., if this was the case then a condition is recommended to require a noise scheme is provided to ensure the noise from the new plant is suitably mitigated.

3.4 If planning consent is to be given the following conditions are recommended.

3.5 NOI02

3.6 Outdoor play areas permitted for use between 08:00 hours and 18:00 hours Monday to Saturdays, no use of the outdoor areas on Sundays and Bank Holidays.

3.7 Prior to the acceptance of additional children at the site, submit for approval prior to implementation and use a noise scheme outlining the outdoor play activity management plan and details of a 2m high acoustic barrier to be fitted to

the eastern boundary of the site screening the outdoor play area from Cotswold Road.

3.8 For any new external plant installed:

3.9 A noise scheme must be submitted, for any new external plant installed at the site, in accordance with BS4142 to determine the current background noise levels for the time when the plant and equipment is to be operated. The rating level for all plant must not exceed the existing background noise level for the daytime, evening and night time in accordance with BS4142.

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

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

3.12 HOU04

3.13 LIG01 (for any new external lighting)

4. Contaminated Land

4.1 The proposed location of the modular building is in a coal referral area.

4.2 The siting of the modular building should be such that it is raised off the ground with sufficient ventilation between the ground and the underside of the building so as to remove any possibility of the potential build-up of soil gas. This serves to minimise any potential risk to the building and human health from explosion of ground gas.

5. Representations

5.1 3No letters of objection from three addresses have been received on the following grounds:

- Non-compliance with approved policy.
- Not in accordance with the development plan.
- Precedent will be set for the nursery and car home to expand.
- Loss of residential amenity.
- Nuisance – disturbance.
- Nuisance – noise.
- Existing disturbance from children.
- Increase in pupil numbers and reduction in play area would exacerbate alleged already unacceptable noise levels, particularly with increased numbers and extended play periods.
- Loss of privacy.
- Impact on light to garden.
- The proposal would be sited 6.5m away from a neighbouring properties sunroom, not 15m as stated by the covering letter and will therefore impact on light.

- Proposal would be 3m away from boundary fence and 6m away from conservatory, impacting on enjoyment of rear amenity space and conservatory.
- The opening windows and doors of the building would result in overbearing noise from the activities within the classroom.
- Object to the applicant's statement that the proposal would not have a significant cumulative impact on the noise.
- Inappropriate design.
- Inappropriate materials.
- Out of keeping with the surrounding area.
- Will result in visual intrusion.
- Impact on Landscape.
- Timber cladding on the internal faces and the plastic cladding to the rear would leave the unattractive elevations facing residential properties.
- While screened from the public highway, it would not be screened from the residents.
- From the residents' perspective, the development would not be a 'limited scale' as described in the covering letter.
- The proposal should be re-sited to the opposite side of the site (west).
- Access to drain near the boundary of the site, which is the reasonability of the nursery.
- Letter states the building will be in the northwest corner of the site, the plans show it in the southwest corner, with discrepancies to the location.

5.2 One representation has been received, stating agreement to the proposed building if it is erected in the nursery playground directly behind their existing rear garden fence at the bottom of their garden (No. 1 Cotswold Road), which separates them from the Nursery playground. The building will then act as a buffer for the noise which will be considerable when the number of play times increases due to the increase in children numbers at the nursery. Due to the current level of noise, we cannot use our garden during daily play times. If the building is situated directly behind our garden fence, we are hopeful that some of the noise will be dulled. We would also like written confirmation that the new building will be constructed in either brick or wood, or a substantial material to aid the buffering of noise.

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