

Application No: 21/00304/FUL Author: Maxine Ingram
Date valid: 3 February 2021 ☎: 0191 643 6322
Target decision date: 5 May 2021 Ward: Valley

Application type: full planning application

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

Proposal: Construction of 57 residential dwellings (Use Class C3(a)) and 14 No. commercial units totalling 650 sqm (Use Class E(g)), with associated road infrastructure, car parking spaces, open spaces, gardens, and landscaping. (Resubmission) (Amended plans and reports received 04.04.2022)

Applicant: The Northumberland Estates

Agent: The Northumberland Estates

RECOMMENDATION:

It is recommended that:

- a) *the Committee indicates that it is minded to grant the application;*
- b) *the Director of Regeneration and Economic Development be authorised to issue a notice of grant of planning permission subject to:*
 - i) *the conditions set out in the planning officers report and any subsequent addendum(s);*
 - ii) *the addition, omission or amendment of any other conditions considered necessary by the Director of Regeneration and Economic Development; and,*
 - iii) *completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990 to secure affordable housing provision and a financial contribution for the following:*
 - 6no. affordable units
 - Travel plan bond (£20,000) and monitoring fee (£2,500)
 - a contribution of £19,209 towards a Coastal Mitigation Service to mitigate for the impacts on the Northumbria Coast Special Protection Area; and,
 - an area of off-site ecology mitigation.
- c) *the Committee authorises the Assistant Chief Executive and the Director of Regeneration and Economic Development to undertake all necessary procedures under Section 278 of the Highways Act 1980 to secure the following highways improvements:*

- Provision of suitable pedestrian crossing facility (zebra crossing) 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

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; and,
- 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 occupying approximately 6.08 hectares (ha). 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. To the north of the site are existing residential dwellings.

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 Background Information and Description of the Proposed Development

3.1 Planning application 18/00881/FUL for the construction of 67 residential dwellings and the construction of commercial units was refused in September 2020. This application was refused for the following three reasons:

Insufficient information regarding the off-site mitigation on the arable land has been provided. The proposal would have a significant adverse impact on

biodiversity contrary to the advice in National Planning Policy Framework (2019) and policies S5.4 and DM5.5 of the North Tyneside Local Plan (2017).

The proposed development would sever an existing wildlife corridor undermining its function contrary to policy DM5.7 of the North Tyneside Local Plan (2017).

The proposal would adversely impact upon an existing business' ability to operate contrary to the advice in National Planning Policy Framework (2019) and policies S1.4 and DM5.19 of the North Tyneside Local Plan (2017).

3.2 The applicant appealed against the Council's decision. Prior to the appeal the Council, following the receipt of additional information relating to biodiversity and an independent review of the noise information, did not put forward a case to defend the reasons for refusal. The receipt of additional information and the independent review concluded that the Council could not defend the reasons for refusal. However, this appeal was dismissed in November 2021. This appeal considered the following issues:

- whether or not the appeal proposal would prejudice the undertaking of existing neighbouring premises business operations, with particular regard to the living conditions of occupants of the proposed dwellings in terms of noise levels; and
- the effect of the appeal proposal on biodiversity interests, with particular regard to the existing Local Wildlife Site (LWS) and protected species.

3.3 The appeal decision concluded that the appeal proposal would prejudice the undertaking of existing neighbouring business operations, with particular regard to living conditions of occupants of the proposed dwellings in terms of noise levels.

3.4 The appeal decision concluded that the appeal proposal will provide a biodiversity net gain both within and off-site and this was not disputed by the Council through the course of the appeal. The proposed mitigation would be secured through planning conditions and a duly executed Section 106 Legal Agreement. The appeal scheme would not cause unacceptable harm to biodiversity interests, with regard to the existing LWS and protected species.

3.5 Members are advised that prior to and following the outcome of the appeal the applicant submitted a revised proposal. The applicant has reduced the number of residential dwellings from 67 to 57.

4.0 Relevant Planning History

4.1 Application site

18/00881/FUL - 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) – Refused 30.09.2020. Dismissed at appeal 16.11.2021.

4.2 Reason for refusal are set out in paragraph 3.1 of this report.

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

4.3 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.

4.4 Officer note: 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. The Inspector dismissed the appeal as the development would not have provided acceptable living conditions for future occupiers.

4.5 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 – Refused 30.09.2020. Dismissed at appeal 28.09.2021.

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 – Consent granted 30.09.2020.

5.0 Development Plan

5.1 North Tyneside Local Plan (2017)

6.0 Government Policies

6.1 National Planning Policy Framework (NPPF) (July 2021)

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 matters,
- Impact on biodiversity, including the Local Wildlife Site (LWS) and wildlife corridor; and,
- 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 Principle of the 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 8 of NPPF states that a social objective is one of the three overarching objectives of the planning system and that amongst other matters it should seek to support a sufficient number and range of homes to meet present and future needs which support communities' health, social and cultural well-being.

8.3 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; 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. In this case, development plan policies important to the determination of housing applications will be regarded as out of date because the LPA cannot currently demonstrate a five-year supply of deliverable housing sites. What is referred to as the 'tilted balance' principle means there is a presumption towards planning permission being granted unless there are adverse impacts which would significantly and demonstrably outweigh the benefits.

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

8.5 Paragraph 74 of the NPPF requires Local Planning Authorities to identify and update 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 needs where the strategic policies are more than five years old. The supply of specific deliverable sites should in addition include a buffer of 5% to ensure choice and competition in the market for land. Where there has been a significant under delivery of housing over the previous three years, the buffer should be increased by 20%.

8.6 The purpose of the planning system is to contribute to the achievement of sustainable development. This purpose is key to the role of the planning system in the development process. The aims of how the Local Plan contributes towards achieving sustainable development for North Tyneside are set out under Policy S1.1 'Spatial Strategy for Sustainable Development'. This policy sets out the broad spatial strategy for the delivery of the objectives of the Plan.

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

8.8 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.

8.9 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.

8.10 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."

8.11 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...."

8.12 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 13 of this report. However, in terms of the principle of development, this development requires appropriate

assessment. Paragraph 182 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.”

8.13 The objection from Keenan’s states that this site is expected to bring forward a combination of both employment and residential development of appropriate proportions. Specific reference is made to Policy S2.2 which acknowledges that mixed-use sites allocated at Policy S3.4 may also provide additional contribution to the supply of employment land. 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. The objector considers that there should be a meaningful and quantifiable level of employment development on mixed-use sites that is compatible with any new residential development coming forward. The objector accepts that this application does constitute mixed-use but does not consider the proportion of residential to employment development to be acceptable. Based on 65 potential dwellings, as set out in Policy S4.3, being provided across the entire mixed-use allocation equates to a residential development of just 8.1 dwellings per hectare (ha). The objector acknowledges that such figures are only an indicative yield when considering residential allocations, but they do not consider that to be the case here. They consider that the sites very specific circumstances and constraints require a low level of residential development combined with appropriate employment use because of the presence of Keenan’s. They consider that the policy dictated a lower residential level to ensure dwellings did not come forward too close to Kennan’s which generates noise.

8.14 The objector makes specific comments on the Inspector’s report of the Local Plan. It is noted that this objection makes specific reference to the terminology used in the Inspector’s Report. However, the Inspector’s report also makes a range of other observations that can be taken from this section of their report including:

“Keenan’s vegetable processing plant is positioned towards the south-west of the site, it does not have restricted hours of operation, HGVs deliver and collect from the highway and the building has various openings, ancillary yard areas and a modest area of land for expansion. I have also taken account of the evidence of complaints from housing in Backworth regarding noise and burning of waste from this site.

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. 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 the 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.*

I am satisfied that parts of the site have the potential to contribute to the identified housing need at what is a sustainable location close to facilities in Backworth and Northumberland Park. There is also no persuasive evidence to contradict the Employment Land Review findings that there is sufficient employment land in the right locations to meet future needs. Accordingly, it would not be justified or effected to retain Site 29 for just employment uses and the proposed mixed-use allocation is therefore sound.”

8.15 The Inspector’s reference to a subservient element of housing is noted and 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).

8.16 Members are advised that the proposed housing numbers are below those referred to in Policy S4.3 but this proposal does not cover the entire allocation. The Holywell Engineering site remains separate from this application. Should the Holywell Engineering site be brought for development then it will need to be assessed on its own merits. Members must consider whether this proposal, covering part of the wider allocation, can 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 site constraints and the layout of the site to accommodate open space, trees, SUDS, commercial uses and weigh this against the number of dwellings proposed and consider whether this is overbearing.

8.17 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 on part of a wider designation. This application on its own proposes less housing than indicated in the LP, but if the Holywell Engineering site is brought forward for development it could 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 accordance with the advice in NPPF and policies DM1.3, S4.1 and S4.3 (29) of the North Tyneside LP 2017.

9.0 North Tyneside Council Housing Land Supply

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

9.2 The most up to date assessment of housing land supply informed by the five-year housing land summary included within the Housing Land Availability Assessment, November 2022. It identifies the total potential 5-year housing land

supply in the borough at 4,008 additional dwellings, a total which includes delivery from sites yet to gain planning permission. This represents a shortfall against the Local Plan requirement or approximately a three-year supply of housing land. It is important to note that this assessment of five-year land supply includes over 1,000 homes at proposed housing allocations within the Local Plan (2017). The proposed dwellings would make a contribution towards the borough achieving a five-year housing land supply.

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

9.4 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'.

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

10.1 Paragraph 126 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.

10.2 Paragraph 130 of the NPPF states "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."

10.3 Paragraph 92 of the NPPF, amongst other matters, seeks to promote health and safe communities.

10.4 Paragraph 131 of the NPPF states "Trees make an important contribution to the character and quality of urban environments and can also help to mitigate climate change." It goes on to state that decisions should ensure that new streets are tree-lined (unless, in specific cases, there are clear, justifiable and compelling reasons why this would be inappropriate). Opportunities should be taken to incorporate trees elsewhere into developments, secure measures to ensure the

long-term maintenance of newly planted trees and that existing trees are retained wherever possible.

10.5 Paragraph 134 of the NPPF makes it clear that development that is not well-designed, especially where it fails to reflect local design policies and government guidance on design should be refused. Significant weight should be given to development which reflects local design policies etc. and development which promote high levels of sustainability or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of the surroundings.

10.6 Under Sections 66(1)) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that when considering to grant planning permission which affects a listed building, or its setting, the LPA shall have special regard to the desirability of preserving the building or its setting, or any feature of special architectural or historic interest which it possesses. Section 72(1) of the same Act contains similar requirements with respect to buildings or land in a conservation area.

10.7 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 (para 199). Potential impacts on heritage assets are further considered in paragraphs 200-202 of the NPPF.

10.8 Paragraph 206 of the NPPF 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."

10.9 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 of 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."

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

10.11 LP Policy DM6.6 'Protection, Preservation and Enhancement of Heritage Assets' 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.

10.12 LP Policy DM4.6 'Range of Housing Types and Sizes' seeks to ensure that new residential development provides a mix of homes to meet current and future demand, and to create sustainable communities.

10.13 LP Policy DM4.9 'Housing Standards' states that the Council will require that new homes provide quality living environments for residents both now and in the future. All new homes, both market and affordable, are to meet the Government's Nationally Described Space Standards (NDSS).

10.14 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."

10.15 LP DM5.9 'Trees, Woodland and Hedgerows' 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.

10.16 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.

10.17 The objections received regarding the impact on the conservation area, the amount of development proposed, the impact on visual amenity, the impacts on residential amenity and inappropriate design are noted.

10.18 Dairy Cottage, a Grade II Listed Building, is located to the southwest 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, of 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. This view was also shared by the Planning Inspectorate in the most recent appeal decision (paragraph 29).

10.19 The area of the conservation area that abuts the application site includes a pocket of existing trees and the existing Backworth workshops on the northwest boundary of the site. Most 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.

10.20 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 southwest corner. Immediately to the south of the workshops parking bays and a substation are proposed. 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.

10.21 There are views into the site from the conservation area, mainly from the site access. 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 and objector's 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. 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. It is the view of the case officer that the harm would be less than substantial, and it is required to mitigate potential noise impacts. The Planning Inspectorate stated in the most recent appeal decision:

“Views into the site would largely comprise a foreground of landscape public open space and appropriately scaled dwellings beyond. The proposed landscape bund and acoustic fence would not be unduly prominent once planting is matured. Overall, the appeal scheme would not result in a development which would be uncharacteristic to the context of the Conservation Area in terms of form. This would have a neutral impact on the significance, character and appearance of the Conservation Area and its setting...”

10.22 Development within the site will be set back from Station Road and most of the housing will not be visible from key viewpoints. Therefore, the remainder of the conservation area to the west and northwest 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.

10.23 It is noted that the most northeast 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 adversely impact on the openness of the Green Belt. As such, it complies with the NPPF and LP.

10.24 This development will provide a range of properties, 57 dwellings in total, as well as 14no. commercial units. In general, the design and layout closely follow that of planning application 18/00881/FUL.

10.25 House types, surface materials and refuse storage are all well designed. The house types are traditional in appearance. It is noted that the Design Officer has advised that their design quality will depend on the materials used and due to the proximity of the adjacent conservation area, high quality natural materials should be used. This point is noted however, this site does not form part of the conservation area and the adjacent housing is modern. A condition is recommended to ensure that appropriate materials are secured.

10.26 The Design Officer has raised concerns regarding a long stretch of 1.8m high acoustic closed boarded fencing opposite the existing workshops. This concern is noted; however, it will be mitigated in part by native shrub planting which is proposed alongside the fencing. It is officer opinion that the proposed fence will not be unduly prominent once planting matured. A condition is recommended to secure the final details of the boundary treatment which could assist in addressing the points raised by Northumbria Police.

10.27 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.

10.28 The proposed commercial units will be single storey. These units are simple in terms of their design and visual appearance. 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.

10.29 The proposed landscaping includes the retention of existing natural features such as tree groups and hedgerows which will be enhanced and strengthened with additional landscaping such as native shrub planting, ornamental shrub planting, neutral grassland seeding and native tree planting.

10.30 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. Additional native tree planting along with feature tree planting throughout the site,

helps to create attractive green spaces for residents and other users of the site. Along the eastern boundary of the site a landscape buffer is proposed to soften the built edge of the development in this part of the site as well as to strengthen the existing native hedge that runs along the eastern perimeter of the site.

10.31 Within the centre of the site and area of open space offers a village green like character. The use of planting in this area would create a varied aesthetic as well as a range of habitat types, with specific reference to the dingy skipper butterfly. The proposed earthworks bund undulates and are shaped to appropriately with the surrounding landscape. This bund would also function as noise mitigation with associated hedge and fence design.

10.32 To the north of the central open space, within the northwest corner of the site, the residential layout and landscape proposals create a more concentrated form of development. Ornamental shrub and tree planting create an attractive residential environment. Native shrub planting will provide screening from the existing workshops to the west.

10.33 The layout of the properties within the eastern part of the site area is less dense. Areas of green space are located to the east, west and southeast of these properties, providing greater opportunities for landscape buffer treatments and habitat value.

10.34 SuDS basins, with a network of swales and ditches, within the scheme provide attenuation and local drainage, as well as attractive landscape features and opportunities for wildlife.

10.35 The Public Right of Way (PRoW) comments are noted. The issue of anti-social behaviour regarding the connections onto Claverley Drive and Telford Close are noted. Northumbria Police have also expressed concerns regarding potential for motorcycle anti-social behaviour within the site and particularly around plots 15 and 16. Members must assess the application as submitted. The applicant is utilising an existing connection point onto Claverly Drive. The NPPF and LP policies encourage connectivity, and the applicant is utilising existing connections, providing new connections, and relocating existing connections within their development. Bollards may need to be introduced to deter the use of motorbikes to some of the connections and Northumbria Police will welcome discussions with the applicant on this matter. It is also clear from their comments that this development may help reduce the problem of anti-social behaviour.

10.36 It is officer opinion that the proposed footpaths located throughout the site provide pedestrian and recreational access links to facilitate movement across the site to the wider residential and PRoW network. The PRoW has requested a connection to be provided to the northeast corner of the site. This connection has been removed which assists in reducing the impacts on the adjacent Local Wildlife Site (LWS). 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.

10.37 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. The sites designation as a mixed-use site accepts that the views from these properties towards this site will be altered.

10.38 Should planning permission be granted, any future development on the adjacent Holywell Engineering site will need to consider the layout of this development.

10.39 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 causing harm to the character and setting of any listed building or the Backworth Conservation Area. It would not significantly adversely affect 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.

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

11.1 Paragraph 185 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 impact resulting from new development – and avoid noise giving rise to significant adverse impacts on health and quality of life.

11.2 Paragraph 187 of the NPPF states that planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. 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 (or 'agent of change') should be required to provide suitable mitigation before the development is complete.

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

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

11.5 LP Policy DM6.1 'Design of Development' 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. Policy DM 4.9 sets out housing and accessibility standards.

11.6 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.

11.7 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 relevant wording from the Inspector's report is set out in paragraph 8.14 of this report.

11.8 Members are advised that planning application 18/00881/FUL was refused for the following reason:

"The proposal would adversely impact upon an existing business' ability to operate contrary to the advice in National Planning Policy Framework (2019) and policies S1.4 and DM5.19 of the North Tyneside Local Plan (2017)."

11.9 Members are advised that the most recent appeal decision pertaining to the above application was dismissed on noise grounds and prejudicing the undertaking of existing neighbouring business operations. The Planning Inspector discusses noise at Paragraphs 9-20 of the appeal decision. The following matters were raised:

- The Inspector considered the mitigation measures put forward by the appellant into their design, layout and landscaping. From a technical perspective and in combination, these proposed measures would reduce the noise that would be experienced to a level which would meet the standards relied upon by both the appellant and the Council.
- The Inspector considered that the evidence also demonstrated that occupants of some of the proposed dwellings would be subject to industrial noise above the standards advanced should their windows be opened. They considered the business operations of Keenan's and considered the number of properties reliant upon having to keep their windows closed to achieve a reasonable level of tranquillity would be significant. Impacts would more likely occur during the early hours of the morning when the business operation is at its greatest operational capacity. At those times some of those rooms would be in use. This would coincide with when resident's expectations would be greatest. In the event these windows were opened, significant adverse effect would be encountered.
- The Inspector did not consider that it had been adequately demonstrated that the proposed glazing and ventilation measures would secure a satisfactory standard of living conditions for the occupants of those units to encourage their deployment as occupants may want to open their windows for other reasons. Nor

was it demonstrated that the operation of any ventilation system would not cause undue disturbance. The Inspector also gave weight to the deployment of the proposed mitigation measures falls beyond the control of the Council. Despite the appellant offering a choice the Inspector considered either scenario would compromise living conditions for future occupants. They did not consider that a planning condition could be imposed with sufficient certainty to demonstrate that appropriate mitigation could be achieved.

-The Inspector considered that there was a real prospect that complaints arising from the operation of Keenan's business operations would arise from future occupants.

-Paragraph 185 of the NPPF states planning decisions should avoid noise giving rise to significant adverse impacts on health and the quality of life. In the context of paragraph 187 of the NPPF the appellant being the 'agent of change' is required to provide suitable mitigation before the development is completed. The Inspector found it would be unreasonable for the existing business operation to be unduly fettered or expected to provide additional measures. The Inspector concluded the proposal would conflict with the Framework in this regard.

11.10 The Planning Inspector stated:

"For the reasons given, the appeal proposal would prejudice the undertaking of existing neighbouring business operations, with particular regard to the living conditions of occupants of the proposed dwellings in terms of noise levels. Consequently, although the proposed uses accord with Policy S4.3 of the Local Plan, the particular appeal scheme is in conflict with Policies S1.4 and DM5.19 of that Plan which require proposals are acceptable amongst other things in terms of their impact upon local amenity for new or existing residents and businesses, adjoining premises and land use; the use of mitigation measures to provide satisfactory living environment; and that development that may be sensitive will not be sited in proximity to polluting sources."

11.11 The objections received relating to the planning history of this site, the impacts on residential amenity, impacts on noise, overheating and impacts on existing business operations, are noted. The consultant, acting on behalf of Keenan's considers that the advice from the Manager of Environmental Health is unclear, as it does not provide advice as to whether the development is acceptable in terms of noise. This issue has been put to the Manager of Environmental Health who states, 'The noise assessment has shown that the recommended WHO guideline internal noise levels can be met with open windows. My comments do not recommend refusal of the application and therefore if planning is to grant the application, then I have recommended conditions to be attached, so solely considering noise there is no reason to object to the application.' It is the view of officers that the advice is clear from the Manager of Environmental Health that they do not object to this application on the grounds of noise.

11.12 The noise sources relevant to this site are: 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 potential impacts of the proposed housing must not result in existing businesses having unreasonable restrictions placed on them as a result of development

permitted after they were established. The NPPF makes it clear that the applicant (or 'agent of change') should be required to provide suitable mitigation before the development is complete.

11.13 The number of residential units has been reduced from 67 to 57. The applicant's noise assessment confirms that the residential dwellings closest to Keenan's have been removed which they consider provides a stand-off between this business and the proposed development. The noise assessment advises that good acoustic design has been implemented throughout the site design and proposes the following mitigation measures: noise barrier between Keenan's and the development (noise bund and acoustic fencing overall height approximately 2.8m), some garden areas require 1.8m high close boarded timber fencing, where possible, noise sensitive rooms have been located behind facades which face away from identified noise sources, façade mitigation in the form of glazing and ventilation should be considered, Plots 27, 28, 29, 55, 56 and 57, which are the most exposed to noise from Keenan's, first-floor bedroom (or study) will be dual aspect and fitted with two windows (one openable and one fixed shut) facing Keenan's. The number of units requiring a fixed shut window has been queried by the case officer. The applicant has confirmed it is six properties and submitted a revised Figure 12 to accompany the noise assessment to include Plot 27. As the case officer was seeking clarification on this point it was not considered necessary to carry out any further statutory consultation/publicity.

11.14 The applicant's noise assessment confirms several noise surveys have been undertaken at the site at seven locations between December 2016 and November 2020. One of the surveys took place over a full week close to Keenan's. The applicant has considered BS4142 and BS8233 in their noise assessment.

11.15 The submitted noise assessment states: "Planning policy or guidance does not preclude the use of closed windows and alternative means of ventilation to reduce noise impacts, however the previous planning appeal decision expressed a concern from the Inspector on this topic which led to the appeal being dismissed on noise grounds therefore a pragmatic approach has been taken when assessing industrial noise to ensure that good internal acoustic conditions are achieved when considering open windows for all sensitive rooms. The proposed development would still offer a higher protection to residents, via closed windows and provision of alternative ventilation, should the residents wish to close windows for any reason".

11.16 The applicant considers their noise assessment has demonstrated good acoustic design in mitigating transportation and industrial noise levels that meets the requirements of British Standards and Guidance. The applicant considers their scheme goes beyond what is typically required by National Planning Policy, Standards and Guidance to protect future residents' amenity. This proposal includes mitigation that can be secured by appropriately worded conditions and covenants to ensure future residents are protected and no unreasonable restrictions placed on existing businesses. The noise assessment concludes that this development is in accordance with paragraph 185 of the NPPF, significant adverse effects have been avoided and potential adverse impacts have been mitigated and reduced to a minimum. It also concludes that this development is in

accordance with the paragraph 187 of the NPPF, the development would include mitigation that ensures future residents are protected and no unreasonable restrictions placed on existing businesses.

11.17 The Manager for Environmental Health has been consulted. She has reviewed the updated noise assessment, which has been updated to combine previous noise updates provided by the applicant's consultant and data for the BS4142 assessment. She has also considered the objections and their accompanying noise consultant's reports. Her comments are set out in full in the appendix to this report. It is clear from her comments that industrial noise has been assessed and some of the plots will be subject to noise levels that are considered to give rise to adverse impacts, but none of the plots have been shown to result in significant adverse impact.

11.18 The Manager for Environmental Health has advised that the noise assessment considered noise levels that must be achieved to comply with BS8233. As noise impacts will be internal regard has been given to the noise standards set out in BS8233. She has advised the modelled data demonstrates that BS8233 standards will be met. The submitted noise assessment also demonstrates most gardens will meet the relevant noise guidelines due to protection afforded from the residential dwelling and appropriate boundary treatments. A condition is recommended to ensure appropriate boundary treatment details are secured.

11.19 The Manager for Environmental Health has advised that the BS4142 assessment has calculated the rating level for all properties. Except for two plots (27 and 29) the background rating level will be less than 5dB above background noise levels. She has confirmed that the two plots where the background level is +5dB results in an adverse impact, but importantly not a significant adverse impact. It is noted that her comments make reference not being able to comment on residual noise levels as they have not been provided. However, it is clear from her comments that she is not requesting this information to be provided to finalise her comments. She has raised concerns regarding lower noise levels affecting properties fronting onto Keenan's if windows are open (Plots 1-3, 26-29, 45-46) but is clear she does not object. The BS4142 assessment demonstrates that internal noise levels can be met with windows open, it is noted six plots will require one fixed shut window, and no properties are subject to noise levels giving rise to significant adverse impact.

11.20 Regarding overheating the Manager for Environmental Health has advised that she has reviewed the noise levels for the exposure at the facades of residential properties against Approved Document on Overheating. She considers the applicant has demonstrated that the properties will have a low risk of overheating. It is noted that her comments advise that six properties will have a habitable room where the internal noise levels will not be met at night (Plot 27, 28, 29, 55, 56 and 57). The bedroom affected in each of the six properties will require a fixed shut window. Members are advised that these bedrooms will also be served by another openable window. She has recommended a condition to ensure that the relevant windows remain fixed shut.

11.21 It is noted that the Manager for Environmental Health has referred the matter of whether the use of sealed windows is good design to the Local Planning Authority. Members are advised that the 2016 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. To clarify, the use of sealed windows will only apply to six properties (Plots 27, 28, 29, 55, 56 and 57). Members are advised that only one first-floor room of each of these six properties requires a fixed shut window and the rooms are served by another window that can be opened. It is the view of the case officer that this design approach is acceptable and is materially different to the previously dismissed appeal which required all windows to be fixed shut.

11.22 The NPPF, paragraph 55 states "Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations." Paragraph 56 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 185 aims to "avoid noise from giving rise to significant adverse impacts on health and quality of life". The NPPF paragraph aims to ensure that "Existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established." Although there would be more dwellings on the site than initially envisaged by the Inspector, it is clear from the final Manager for Environmental Health comments that, subject to the suggested conditions, they have not raised any objections regarding any unreasonable restrictions being placed on existing businesses and facilities as a result of this development, 'the agent of change', and that appropriate mitigation to reduce the impacts arising from the identified noise sources can be secured by conditions. It is also clear from her comments that the applicant has demonstrated that the properties will have a low risk of overheating. On balance, based on the advice from the Manager for Environmental Health, it is considered that as a result of the proposed development it will not result in unreasonable restrictions being placed on existing businesses and that future occupants will not be exposed to significant adverse impacts.

11.23 Albeit, the Manager for Environmental Health's comments does not make specific reference to any complaints relating to Keenan's existing business operations the case officer has sought clarification on this matter. She has confirmed that there have been no recent complaints about Keenan's. The last complaint received was in 2013 relating to alleged smoke nuisance.

11.24 Conditions are suggested to control future equipment being installed at the proposed commercial units which may give rise to nuisance, odours and disturbance. Subject to imposing these conditions, it is not considered that the proposed commercial units will significantly affect the residential amenity of future occupants.

11.25 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. The proposed layout provides connections to the surrounding infrastructure and pockets of amenity space within the development. Subject to conditions to ensure that the proposed development complies with Policy DM4.9 and the removal of certain permitted development rights, it is considered that the proposed layout would provide future occupants with an appropriate level of residential amenity.

11.26 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 the Manager for 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 185 and 187 of the NPPF and LP policies DM5.19 and DM6.1.

12.0 Impacts on highway matters

12.1 The NPPF paragraph 111 makes it clear that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

12.2 The NPPF paragraph 112 states, amongst other matters, that applications for development should give priority first to pedestrian and cycle movements both within the scheme and with neighbouring areas and address the needs of people with disabilities and reduced mobility in relation to all modes of transport.

12.3 The NPPF paragraph 113 sets out guidance on sustainability and connectivity.

12.4 LP 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.

12.5 LP Policy DM7.4 'New Development and Transport' makes it clear that the Council will ensure that the transport requirements of new development, commensurate to the scale and type of development, are taken into account and seek to promote sustainable travel to minimise environmental impacts and support resident's health and well-being.

12.6 The Council's maximum parking standards are set out in the Transport and Highways SPD.

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

12.8 Access to the site is provided off Ecclestone Close, utilising the existing road network and junction at the B1322. Extra parking provision for visitors to the workshop will be provided to the south.

12.9 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. The PRoW that exists to the south of the proposed commercial units can be provided and accommodated to the north of these.

12.10 The site is located close 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.

12.13 Parking has been provided in accordance with current standards for the residential and commercial uses. Suitable turning areas have been provided for refuse vehicles and service vehicles. Cycle storage and refuse storage is provided for each residential dwelling and the commercial uses. All refuse collections will be provided from adoptable highways.

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

12.15 The NPPF makes it clear that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual impacts on the road network would be severe. In this case, it is clear from the Highway Network Managers comment that, in their opinion, the proposed development would not result in any unacceptable or severe impacts.

12.16 The PRoW comments are noted. Connections are provided that link onto existing footpaths to provide access to the residential estate located to the north of the site. The existing PRoW to the south of the commercial units would be affected because of this development however, it can be provided to the north of the commercial units. This would retain a similar level of connectivity in this part of the site to gain access to the surrounding PRoW network. On balance, there are considered to be sufficient connections to the surrounding area from within this proposed development.

12.17 The Sustainable Transport Team Leader has been consulted. He has advised Travel Plan would be required. This can be secured by condition. A Travel Plan Bond and monitoring fee would be required. This would be secured via a S106 Agreement.

12.18 Nexus has been consulted. They have requested that, if appropriate, that the applicant meet the costs of two introductory tickets per dwelling to the equivalent of four week's travel per ticket. This would be secured as part of the TP requirements.

12.19 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.

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

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

13.2 Paragraph 174 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.

13.3 Paragraph 179 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 180 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.

13.4 LP Policy S5.4 'Biodiversity and Geodiversity' seeks to protect, create, enhance and manage sites within the borough relative to their significance.

13.5 LP DM5.5 'Managing effects on Biodiversity and Geodiversity', amongst other matters, seeks to protect the biodiversity and geodiversity value of land, protected and priority species and buildings and minimise fragmentation of habitats and wildlife links. Proposals should maximise opportunities to create, restore, enhance, manage and connect natural habitat. Net gains to biodiversity should be considered, unless otherwise shown to be inappropriate. Proposals that 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: the benefits of the proposal clearly demonstrably outweigh any adverse impacts, applications are accompanied by the appropriate ecological surveys that are carried out to industry guidelines, and for all adverse impacts of the development appropriate on site mitigation measures, reinstatement of features, or, as a last resort, off site compensation to enhance or create habitats must form part of the proposals. This must be accompanied by a management plan and monitoring schedule, as agreed by the Council.

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

13.7 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."

13.8 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 an increase in residential accommodation, impacts to the designated sites may result from increased recreational disturbance.

13.9 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.

13.10 Natural England have been consulted. They are satisfied that, subject to the coastal mitigation contribution being secured, there will be no damage or disturbance to the coastal areas.

13.11 The objections received regarding the impacts on biodiversity and protected sites are noted. The objections received from non-statutory consultees the Northumberland Wildlife Trust and Butterfly Conservations North of England Conservation Manager are also noted.

13.12 This development will result in the loss of part of the Eccles Colliery Local Wildlife Site (LWS) which is designated for its species rich grassland and supports dingy skipper butterfly, S41 UK Priority Species. The boundaries of the site contain broadleaved woodland and scrub habitat which support common urban birds and low numbers of foraging and commuting bats. The site is also within a designated wildlife corridor. The loss of habitats within the site will adversely impact the wildlife corridor without appropriate mitigation or compensation being secured. The site also has the potential to impact the adjacent Eccles Colliery LWS through recreational disturbance associated with the housing scheme.

13.13 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. The principle of development within the LWS has therefore been established.

13.14 Several ecology and landscape survey reports and plans have been submitted to support this application. This information has been considered by the Council's Landscape Architect and Biodiversity Officer.

13.15 To address the loss of species rich grassland, a 5-hectare (ha) area of land is being offered as compensation habitat. This off-site compensation land has the potential to provide suitable compensatory habitat. The site is also located within a wildlife corridor and the green belt and provides good connectivity to the wider corridor including sites such as Eccles Colliery LWS and Fenwick Pit Heap Site of Local Conservation Interest (SLCI).

13.16 The reduction in the number of residential units has resulted in additional landscaping within the site. The landscaping provided will be subject to disturbance because of the housing, but the consultees acknowledge that wildlife links are retained throughout the site for those species which have been found to use the site. Limited tree removal is proposed. Broadleaved woodland and scrub planting is retained and enhanced around the perimeter of the site which will continue to provide habitat and green links for foraging and commuting bats and common urban birds. Species rich grassland has also been provided within the site for dingy skipper butterfly, some of these areas will be subject to recreational disturbance, but these areas will provide some habitat for this species along with an undisturbed area along the eastern boundary which provides corridor connections to Eccles Colliery and Fenwick Pit Heap where these butterflies have been recorded. The off-site compensation land will provide additional dingy skipper habitat with the potential for this butterfly to colonise from Fenwick Pit Heap and it is also connected by suitable habitat to Eccles Colliery along the railway and wagonway.

13.17 The proposed development will impact the wildlife corridor. However, the retention of existing woodland and provision of new woodland and scrub habitat within the site will maintain corridor links for those species found within the site. In addition, translocation and creation of species rich grassland will provide habitat for dingy skipper butterfly, with the most valuable areas being along the eastern boundary which is protected by fencing preventing this area from being disturbed. The off-site compensation land will also enhance a different part of the wildlife corridor to the north which is currently of low ecological value and provide additional benefits for dingy skipper butterfly. The consultees have advised that the provision of on-site and off-site mitigation and compensation will ensure that wildlife corridor impacts are minimised and enhanced elsewhere and will ensure that key species associated with the site have appropriate habitat that enables them to forage, commute, disperse and colonise other sites.

13.18 The Planning Inspectorate stated in the most recent appeal decision that:

“The principle of the development within the LWS has previously been established through the Local Plan process. Limited tree felling is proposed. Construction impacts on the local biodiversity interests could be dealt with through a planning condition....The LWS already permits informal recreational access and any further significant increase in recreational disturbance is not evident from the evidence before met. Although the scale of development proposed is greater than that set out in the Local Plan, the submitted evidence

demonstrates that the proposed layout would provide a suitable habitat for local species, including the dingy skipper, bats and birds which would not lead to the fragmentation of the existing wildlife corridor. The evidence before me indicates that the appeal proposal would not conflict with the provisions of the Wildlife and Countryside Act 1981. Suitable off-site mitigation to compensate for the proposed loss is proposed in the locality”.

13.19 The appeal decision goes onto state:

“.....the appeal proposal will provide a biodiversity net-gain both within and off-site and this was not disputed.....”

13.20 The appeal decision further states:

“For these reasons, I find the appeal scheme would not cause unacceptable harm to biodiversity interests, with particular regard to the existing LWS and protected species. Consequently, the appeal proposal would not conflict with Policies S5.4 and DM5.5 of the Local Plan.....Neither would the appeal proposal conflict with Policy DM5.7 which seeks to ensure that all new developments take account of and incorporate existing wildlife links into their plans at the design stage. In the absence of harm, neither would there be conflict with paragraph 180 of the Framework which seeks to avoid, adequately mitigate, or as a last resort, compensate for significant harm to biodiversity”.

13.21 The proposed development will provide a biodiversity net gain both within and off-site. The proposed mitigation will be secured through planning conditions and a S106 Legal Agreement.

13.22 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 that the proposal will not cause unacceptable harm to biodiversity interests, with particular regard to the existing LWS and protected species. Officers do not consider that the proposal will conflict with Policies S5.4 and DM5.5 of the LP which seek to protect biodiversity resources, including non-statutory sites; conserving, enhancing and managing local sites and wildlife corridors; and the effects on protected species and locally designated sites. Officers do not consider that the proposal will conflict with Policy DM5.7 which seeks to ensure that all new developments take account of and incorporate existing wildlife links into their plans at the design stage. In the absence of harm, neither will there be conflict with paragraph 180 of the NPPF which seeks to avoid, adequately mitigated, or as a last resort, compensate for significant harm to biodiversity.

14.0 Other issues

14.1 Flood Risk

14.2 Paragraph 167 of the NPPF states “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....”

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

14.4 LP Policy DM5.14 'Surface Water Run Off' 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.

14.5 LP Policy DM5.15 'Sustainable Drainage' states that applicants will be required to show, with evidence, they comply with the Defra technical standards for sustainable drainage systems (unless otherwise updated and/or superseded).

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

14.7 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.

14.8 The FRA advises that the application site is located within Flood Zone 1 and it is also located within a critical drainage area. 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 part of the southern boundary of the site and flows into the Brierdene Burn at the southeast corner of the site.

14.9 The FRA advises that surface water drainage would be managed on site through the use of a swale, two attenuation ponds and within permeable paved areas. These measures would provide surface water storage within the site for up to a 1 in 100-year rainfall event plus a 40% allowance for climate change. The attenuated surface water would then discharge into the Brierdene Burn at a restricted rate. In addition, some plots should be raised at least 300mm above external finished ground levels to mitigate the risk of flooding from the Brierdene Burn. Elsewhere, the finished floor level should be no less than 150mm to manage the residual risk from surface water or sewer flooding.

14.10 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.

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

14.12 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.

14.13 Ground conditions

14.14 Paragraph 183 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.

14.15 Paragraph 184 of the NPPF goes onto 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.

14.16 LP Policy DM5.18 "Contaminated and Unstable Land" seeks to ensure that the future users or occupiers of a development would not be affected by contamination or stability issues.

14.17 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.

14.18 The objections received regarding ground conditions and the site being suitable for development are noted.

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

14.20 The Coal Authority has been consulted. The proposed layout takes account of the location of the mine entries and their zone of influence, and no buildings are proposed in these areas. On this basis they have raised no objection.

14.21 The Coal Authority has advised that the applicant will need to seek their own advice from a technically competent person to ensure that a proper assessment has been made of the potential interaction between hydrology, the proposed drainage system and ground stability, including the implications this may have for any mine workings which may be present beneath the site.

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

14.23 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.

14.24 Archaeology

14.25 Paragraph 205 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.”

14.26 LP Policy 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.

14.27 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.

14.28 Aviation Safety

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

15.0 S106 Contributions

15.1 Paragraph 55 of NPPF states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

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

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

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

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

15.5 LP Policy DM7.5 'Employment and Skills' states that the Council will seek applicants of major development proposals to contribute towards the creation of local employment opportunities and support growth in skills through an increase in the overall proportion of local residents in education or training.

15.6 LP Policy DM4.7 'Affordable Housing' sets out that to meet the Borough wide housing target, the Council will seek provision of 25% affordable homes on new housing developments.

15.7 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 the applicants to identify appropriate solutions where matters of viability arise and require negotiation.

15.8 The applicant is proposing to provide six affordable units, the travel plan bond and monitoring fee, the coastal mitigation contribution and off-site compensation land.

15.9 The delivery of the affordable units, off-site compensation land and financial contributions towards coastal mitigation and the TP bond are considered necessary and directly related to the development. As such, the development complies with the CIL Regulations, the NPPF and LP policies.

15.10 The coastal mitigation contribution is considered necessary, directly related to the development. As such, the development complies with the CIL Regulations, the NPPF and LP policies.

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

16.0 Local Financial Considerations

16.1 Paragraph 11 of National Planning Practice Guidance states that Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local financial consideration as far as it is material. Section 70(4) of the 1990 Act (as amended) defines a local financial consideration as a grant or other financial assistance that has been, will or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments) or sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy.

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

17.0 Conclusions

17.1 Members should carefully consider 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.

17.2 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.

17.3 The site is an allocated mixed-use (Site 29) site. Members need to consider the amount of development and type of development being proposed. It is officer advice that it is acceptable.

17.4 This proposal would make a valuable contribution towards the requirement for the council to have a 5-year supply of deliverable housing sites. This is a significant material consideration which weighs in favour of the proposal.

17.5 Members need to consider whether the design and layout of the proposal is acceptable in terms of its impact on existing residential dwellings, proposed residential dwellings, and the adjacent Conservation Area. It is officer advice that it is acceptable.

17.6 Members need to consider whether this development, as the 'agent of change' is acceptable in terms of its impact on existing businesses and its impacts on future occupants having regard to paragraphs 185 and 187 of the NPPF and Local Plan Policies DM6.1 and DM5.19. Based on the advice from the Manager for Environmental Health this development will not result in a significant adverse impact on future occupants, nor will it result in unreasonable restrictions being placed on existing businesses. It is officer that it is acceptable subject to imposing the suggested conditions.

17.7 Members need to consider whether this development is acceptable in terms of its impacts on highway safety and whether sufficient parking is provided. The proposal will provide parking in accordance with the Council adopted standards and will not have an unacceptable impact on highway safety or result in a residual cumulative impact that will be severe. It is officer advice that it is acceptable.

17.8 As there is a potential impact on designated sites at the coast, this development requires appropriate assessment however, the impacts relating to the Northumbria Coast SPA and Ramsar sites can be mitigated without causing significant adverse impacts. Members need to consider whether this development is acceptable in terms of biodiversity. Subject to a legal agreement to secure coastal mitigation and off-site compensation and conditions to secure on-site mitigation the proposal would provide biodiversity net gain, which is encouraged by NPPF, and secure appropriate mitigation. The development will not significantly impact on the LWS, protected species or significantly impact on the wildlife corridor. It is officer advice that it is acceptable.

17.9 The Tyne and Wear Archaeology Officer has put forward suggested conditions.

17.10 Issues to do with flooding and contaminated land can be dealt with via conditions

17.11 The applicant has agreed to provide planning obligations in accordance with what the Council is seeking, and six affordable units will be provided which weighs in favour of this proposal.

17.12 The Council does not have a 5-year supply of deliverable housing sites. It therefore follows that planning permission should be granted unless the impacts of the development significantly and demonstrably outweigh the benefits. In the opinion of officer's the impacts of the development would not significantly and demonstrably outweigh the benefits. It is therefore recommended that planning permission should be granted subject to a S106 Legal Agreement and conditions.

RECOMMENDATION:

It is recommended that:

- a) the Committee indicates that it is minded to grant the application; and***
- b) the Director of Regeneration and Economic Development be authorised to issue a notice of grant of planning permission subject to:***
 - iii) the conditions set out in the planning officers report and any subsequent addendum(s);***
 - iv) the addition, omission or amendment of any other conditions considered necessary by the Director of Regeneration and Economic Development; and,***
 - iii) completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990 to secure affordable housing provision and a financial contribution for the following:***
 - 6no. affordable units***
 - Travel plan bond (£20, 000.00) and monitoring fee (£2, 500.00)***
 - a contribution of £19,209.00 towards a Coastal Mitigation Service to mitigate for the impacts on the Northumbria Coast Special Protection Area; and,***
 - an area of off-site ecology mitigation.***
- c) the Committee authorises the Assistant Chief Executive and the Director of Regeneration and Economic Development to undertake all necessary procedures under Section 278 of the Highways Act 1980 to secure the following highways improvements::***
 - Provision of suitable pedestrian crossing facility (zebra crossing) 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:

- Site location plan LP-01
- Proposed site layout Dwg No. 102 Rev P7
- Proposed external finishes Dwg No. 103 Rev P8
- Housetype booklet (August 2022 Rev I)
- Landscape proposals Dwg No. 145059/8001E
- 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. Notwithstanding Condition 1, the following highway works shall be carried out within six months of final occupation and subject to Technical Approval and Road Safety Audits which shall be submitted to and approved in writing by the Local Planning Authority:

- 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).

4. Notwithstanding Condition 1, the scheme for access and vehicle turning shall be laid out in accordance with the approved plans, Proposed site layout Dwg No. 102 Rev P7, and permanently retained and maintained thereafter.

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

5. Notwithstanding the Condition 1, the scheme for driveways, private parking spaces, visitor parking spaces and garages associated with the residential use and the scheme for parking associated with the commercial use shall be laid out in accordance with the approved plans, Proposed site layout Dwg No. 102 Rev P7. All garage doors, serving residential dwellings, shall be up and over as per the specification shown on 'Garage Door Opening' Dwg No. GDL001 P1. These parking areas shall not be used for any other purpose and shall be permanently retained thereafter.

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

6. No part of the development shall be occupied until a scheme for Electric Vehicle (EV) charging points for each dwelling has been submitted to and approved by in writing the Local Planning Authority. This scheme shall be implemented in accordance with the approved details before the development is occupied and retained thereafter.

Reason: In the interests of promoting sustainable transport having regard to the NPPF and Policy DM7.4 of the North Tyneside Local Plan (2017).

7. Notwithstanding Condition 1, the scheme for the provision of and storage of refuse, recycling and garden waste bins shall be laid out in accordance with the approved plans prior to the occupation of each residential dwelling hereby approved and the provision of and storage of refuse and recycling (if required) shall be laid out in accordance with the approved plans prior to the occupation of each commercial unit hereby approved. These storage areas and refuse shall not be used for any other purpose and retained thereafter.

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

8. Notwithstanding Condition 1, the scheme for storage of cycles shall be laid out in accordance with the approved plans and prior to the occupation of each dwelling. These storage areas shall not be used for any other purpose and retained thereafter.

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

9. Notwithstanding Condition 1, no development shall commence until a Construction Method Statement, including details of wheel washing facilities and mechanical sweepers, 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); include tree protection measures for the trees to be retained and retention and protection of woodland, scrub and grassland habitat areas marked as such on approved drawings. Cabins, storage of plant and materials and parking are not to be located within the root protection area (RPA) of retained trees or woodland areas as defined by the Tree Protection Plan. Species rich grassland areas should be avoided where possible and should be maintained for the duration of the works. Where this is not possible then vegetation/top soil must be stripped and stored or translocated as agreed with the Council. Details of site security fencing to include hedgehog gaps and their locations on the exterior fence line. The scheme must include a

site plan illustrating the location of facilities and any alternative locations during all stages of development and shall include details of how the compound, storage area and haul roads will be removed and habitats restored upon completion. 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.

10. Notwithstanding the details submitted in the Travel Plan, no part of the development shall be occupied until a Full Travel Plan in accordance with the council's Travel Plan Scope, has been submitted to and approved by in writing the Local Planning Authority. Thereafter, the development shall be carried out in full accordance with the agreed Travel Plan. The Travel Plan will require the Travel Plan Coordinator to be in place three months prior to first occupation until at least five years from first occupation and will also include an undertaking to conduct annual travel surveys to monitor whether the Travel Plan targets are being met with a Monitoring Report submitted to the council within two months of surveys being undertaken.

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

11. Notwithstanding Condition 1, prior to the commencement of any part of the development hereby approved a detailed drainage design/plans of the wetland areas/Sustainable Drainage System, including details of permeable paving for driveways and parking spaces, ditches, swales and attenuation ponds, and a timetable for their implementation shall be submitted to and approved in writing by the Local Planning Authority in consultation Newcastle International Airport Limited (NIAL). Details shall include profiles, cross sections, size, depth and planting of SuDS features. Any ditches, swales or attenuation ponds shall be designed to provide ecological benefits and shall provide native planting. 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.

12. Notwithstanding Condition 1, prior to the first occupation of any part of the development hereby approved details of the appointed SUDS management company, to manage the SUDS and any associated infrastructure is managed and maintained in perpetuity, 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. Following the appointment of the SUDS management company, if any changes to the appointed SUDS management company are required the Local Planning Authority must be informed in writing before any changes occur.

Reason: To ensure the viability of the surface water attenuation is maintained in perpetuity having regard to the NPPF.

13. Notwithstanding Condition 1, prior to the commencement of any part of the development hereby approved details of the proposed culvert improvement works identified within the submitted Flood Risk Assessment are submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in full accordance with these agreed details and shall be permanently maintained and retained.

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.

14. 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) 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.

15. Prior to commencement of development a detailed Site Investigation (Phase 2) must be carried out including an interpretative report on potential contamination of the site. This must be prepared by an appropriately qualified person and submitted to and approved in writing by the LPA to establish:

- i) If the site is contaminated;
- ii) To assess the degree and nature of the contamination present, and an assessment whether significant risk is likely to arise to the end users and public use of land, building (existing or proposed) or the environment, including adjoining land;
- iii) To determine the potential for the pollution of the water environment by contaminants and;
- iv) an appraisal of remedial options, and proposal of the preferred option(s).

The Site Investigation report must include the following information:

- A site plan with sampling points and log;
- Results of sampling and monitoring carried out in accordance with sampling strategy, and;
- An interpretative report on potential contamination of the site, conclusions must be prepared by a competent person (a person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution or land instability, and membership of a relevant professional organisation).

The Site Investigation report should be written in accordance with the current government guidelines including but not exclusive of those including in the BS10175 2011+A1 2013, BS 5930 2015 +A12020, Development on Land Affected by Contamination YALPAG Version 11.2 - June 2020, Land Contamination Risk Management - Environment Agency.

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

16. Prior to the commencement of the development a detailed Remediation Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The remediation method must include phase 1 and 2 reports in accordance with BS10175 risk assessment pre and post remediation scheme.

The method statement must specify remediation for each identified contaminants giving installation or construction methods required to break pathway, or specifying disposal; or in situ treatment as deemed appropriate, the handling and disposal of contaminants to prevent spread of contaminants and the critical control checks required to ensure remediation areas, handling and deposition areas and installation drawings of gas protection scheme must be included.

The design of the remediation strategy should consider the results from the previous two phases of investigation and consider the proposed use/layout of the development.

The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protections Act 1990 in relation to the intended use of the land after remediation. An options appraisal will only be acceptable upon the inclusion of the recommended preferred option.

The Remediation Method Statement should be written in accordance with the current government guidelines including but not exclusive of those including in the BS10175 2011+A1 2013, BS 5930 2015 +A12020, Development on Land Affected by Contamination YALPAG Version 11.2 - June 2020, Land Contamination Risk Management.

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

17. Prior to the occupation of each dwelling on the development hereby permitted, a Remediation Validation report for the site must be submitted to and approved in writing by the Local Planning Authority. A Validation report (sometimes referred to as a Verification report) is used to demonstrate remediation completed in accordance with submitted and approved remediation report.

This report must contain the following:

- A summary of site investigation and remediation works undertaken with accompanying site layout identifying source / treatment areas;
- Confirmation of Required Concentration of Reduction Targets, and/or Cover and Break Screens;
- Post Remediation Interpretative report of Sampling to demonstrate compliance with quantitative goals.
- An explanation / discussion of any anomalous results, or failure to meet agreed target values, alongside additional work proposed and actioned;
- Demonstrate via photographic and documentation evidence of remedial measures;
- Post-remediation contaminated land risk assessment profile;
- Cross sectional diagrams for the site and detailed plans of the site.

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

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

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

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

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

19. 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.

20. Prior to any works commencing on site, a fully detailed Dingy Skipper Mitigation Strategy for the retention, translocation and creation of new dingy skipper habitat within the application site will be submitted to and approved in writing by the Local Planning Authority. The Strategy shall be in accordance with the habitat creation and enhancement details set out within the Biodiversity Net Gain Report (BSG June 2021) and Ecological Assessment Report (BSG) to be implemented for a minimum period of 30 years and will include the following:

- Details of grassland areas retained within the site for dingy skipper
- Details of protection measures (fencing) of dingy skipper mitigation areas during construction works;
- Details of permanent protection measures along the eastern boundary of the site to protect species rich grassland/dingy skipper habitat during the operational phase of the scheme;

- Details of receptor site preparation and translocation of turf habitat;
- Details of an Ecological Clerk of Works (ECoW) to advise on dingy skipper habitat mitigation and protection for the site; and to undertake regular supervision visits to oversee the habitat creation, habitat translocation and creation work, protection of the butterfly mitigation areas and retained habitats, monitor the site and visit as required to oversee unexpected works that could affect these areas;
- Updated dingy skipper surveys to be undertaken prior to commencement of work to aid habitat creation and delivery
- Details of dingy skipper habitat creation, including types of substrate used and creation and management of bare areas
- Details of dingy skipper habitat management and monitoring measures within the site for a minimum period of 30 years

The approved mitigation areas must be completed in accordance with the approved details prior to the commencement of construction works and the removal of existing dingy skipper habitat on site.

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.

21. Prior to the commencement of development on site, an Invasive Species Control Plan shall be submitted to and approved in writing by the Local Planning Authority, including Japanese rose *Rosa rugosa* and Montbretia *Crocsmia x crocosmiiflora* within the site. Invasive species shall subsequently be eradicated in accordance with the approved plan prior to works commencing on site.

Reason: This information is required from the outset to prevent contamination within the site having regard to Policy DM5.18 of the North Tyneside Local Plan (2017).

22. 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 and Lead Local Flood Authority (LLFA). 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).

23. 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).

24. 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.

25. Prior to any works commencing on site details of the footpath that will connect to the east Public Right of Way (PRoW) including alignment, width, levels, surface treatment, boundary treatment, lighting (if required), and details of the proposed signage and fencing along the footpaths near the access points to the Local Wildlife Site to limit access to the footpaths shall be submitted to and approved in writing by the Local Planning Authority. The footpath connections to the LWS are to be reviewed to limit the number of access points, with the removal of a footpath associated with the SUD's pond. Thereafter, the footpaths and signage shall be constructed in accordance with the approved details and shall be brought into use before any of the dwellings hereby permitted are occupied. Where footpaths are constructed within the RPA's of retained trees, works shall be carried out in accordance with BS 5837:2012 using Cell web or similar. 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.

26. Notwithstanding Condition 1, prior to any works commencing onsite a revised AIA and AMS is to be submitted that retains trees within Groups 4 and 7, that include (but not limited to) kerb installation, fence post installation, lighting and drainage. Thereafter all works are to be carried out in accordance with the AIA, Arboricultural Method Statement, BS 5837:2012 and the National Joint Utilities Group (NJUG) 'Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity To Trees'. This includes trenchless techniques and hand digging are to be undertaken where drainage is installed near to trees. Thereafter, the development shall be carried out in full accordance with these agreed details.

Reason: This information is required from the outset 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).

27. Prior to the commencement of any site clearance works in connection with the development hereby approved (including demolition/excavation works, tree works, soil moving, hardstandings, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery, site security fencing, services), 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 in the Tree Protection Plan (TPP). No operational work, site clearance works or the development itself shall commence until the fencing is installed and photographic evidence is to be submitted showing the fence in place. 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 information is required from the outset 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).

28. Prior to any works commencing on site,

a) details demonstrating that the Developer has engaged the services of an arboricultural consultant shall be submitted to and approved in writing by the Local Planning Authority. This will discharge the pre-commencement part of this condition.

b) Then, within 1 month of the first occupation of the 60th house to be completed, sufficient written evidence of regular monitoring and compliance by the pre-appointed tree specialist during construction shall be submitted to and approved in writing by the LPA. This will discharge the second part of this condition.

The role of the consultant shall be to advise on the tree management for the site and to undertake regular supervision visits to oversee the agreed tree protection and visit as required to oversee any unexpected works that could affect the trees. The supervision is to be undertaken in accordance with the approved Arboricultural Method Statement relating to the development hereby approved. If the appointed consultant changes, then the developer shall provide updated contact details to the LPA via the general planning contact email address.

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.

29. 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 shall be submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall be in accordance with the habitat creation and enhancement details set out within the Biodiversity Net Gain Report (BSG June 2021) and Ecological Assessment Report (BSG) and shall include details of the following:

- Details and extent of new native scrub planting, native woodland structure planting (including edge mix & infill planting) and new native hedgerows

- Details of planting to enhance existing woodland, scrub and hedgerows

- Details of wildflower meadow understorey and grassland creation and enhancement

- Details of native planting to SuDs features such as attenuation ponds, ditches and swales and the existing watercourse

- Proposed timing of all new tree, shrub and wildflower grassland planting and ground preparation noting the species and sizes for all new plant species

- New standard tree planting to be a minimum 12-14cm girth. Standard tree planting to the entrance and along the access roads to be semi mature trees.

- The landscaping scheme shall be implemented in accordance with the approved details within the first available planting season following the approval

of details. All hard and soft landscape works shall be carried out in accordance with the approved details and to a standard in accordance with the relevant recommendations of British Standard 8545:2014. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season thereafter.

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).

30. Within 4 weeks of any of the development hereby approved commencing on site, details of a Litter Management Strategy for the development site that extends into the Eccles Colliery Local Wildlife Site (LWS) in order to reduce impacts from the housing scheme on the adjacent LWS shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall then be implemented in full on site before the first occupation of any of the dwellings or commercial units, or any such other timescale set out in the agreed details. The Strategy will cover litter management associated with the construction and operation of the site.

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

31. Within 4 weeks of any of the development hereby approved commencing on site, a revised 'Landscape Ecological Management & Monitoring Plan' (LEMMP) shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall be in accordance with the details set out within the Biodiversity Net Gain Report (BSG June 2021) and the Ecological Assessment Report (BSG) and shall be implemented on site before the first occupation of any of the dwellings or commercial units and thereafter for a minimum period of 30 years.

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

Reason: This information is required within the set timeframe in the interests of amenity and to ensure a satisfactory standard of landscaping and in the interests of biodiversity having regard to Policies DM6.1, DM5.5 and DM5.9 of the North Tyneside Local Plan (2017).

32. Prior to any approved drainage works associated with the existing culvert or watercourse (Briardene Burn) taking place, an otter and water vole checking survey shall be undertaken and submitted to the Local Planning Authority for approval. All works will subsequently be undertaken in accordance with an approved working method statement.

Reason: This information is required prior to the commencement of any drainage works with the existing watercourse or culvert in the interests of

biodiversity having regard to policy DM5.5 of the North Tyneside Local Plan 2017.

33. 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 and details of 7no. bat boxes to be installed on the exterior walls of the dwellings and 10no. Shwelger bat boxes to be installed on suitable trees within the development site, 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 for those to be installed on trees prior to the occupation of any dwelling hereby approved and permanently maintained and 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).

34. Hedgehog gaps (13cmx13cm) will be provided within any new or permanent fencing or construction phase fencing within the scheme. Locations of hedgehog gaps shall be detailed on fencing plans and submitted to the LPA for approval prior to installation.

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).

35. Prior to installation of any floodlighting or other form of external lighting, a lighting scheme, that must be designed to minimise light spill (less than 2 lux) 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 ;
- where necessary, the percentage increase in luminance and the predicted illuminance in the vertical plane (in lux) at key points; and
- all street lighting associated with the development should be fully shielded so as to prevent direct lighting up into the atmosphere and avoid potential distraction to pilots flying overhead.

High intensity security lights shall be avoided as far as practical and if required, these will be of minimum practicable brightness, be set on a short timer

and will be motion sensitive only to larger objects. Lighting must be designed in accordance with the BCT & Institute of Lighting Professionals (ILP) Guidance Note 08/18 "Bats & Artificial Lighting in the UK" to minimise light spill to adjacent boundary features such as woodland, scrub, grassland and hedgerow habitats and should be less than 2 lux in these areas.

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; and in the interest of aerodrome safeguarding having regard to policy DM5.7 and DM5.19 of the North Tyneside Local Plan (2017) and the National Planning Policy Framework.

36. 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, ie. 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).

37. 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, details of which shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in full accordance with these agreed details.

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).

38. 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).

39. 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).

40. Development shall not commence until a detailed scheme for the disposal of foul 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.

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 205 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 42 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 205 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 205 of the NPPF, Local Plan S6.5 and policies DM6.6 and DM6.7.

44. 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).

45. Notwithstanding Condition 1, prior to the construction of any part of the residential development and 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).

46. 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).

47. 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. 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).

48. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order), no development falling within Class A, B, C, D, E and F of Part 1 of Schedule 2 or within Class A of Part 2 of Schedule 2 shall be carried out without the prior, express planning permission of the Local Planning Authority.

Reason: In order that the Local Planning Authority can properly consider the effect of any future proposals on the character and amenity of the locality having regard to policy DM6.1 of the North Tyneside Local Plan (2017).

49. Notwithstanding Condition 1, prior to first occupation of any residential dwelling or commercial unit hereby permitted full details (including samples, drawings and/or specifications) of any proposed photovoltaic panels to serve the development, including a timetable for their implementation, and a Glint and Glare Assessment shall be submitted to and approved in writing by the Local Planning Authority in consultation with Newcastle International Airport Limited (NIAL). Thereafter, the photovoltaic panels shall be installed in accordance with these agreed details and shall be permanently maintained.

Reason: In the interests of aviation safety and to ensure a satisfactory standard of development in the interests of both visual and residential amenity having regard to Policy DM6.1 of the North Tyneside Local Plan (2017).

50. Notwithstanding Condition 1, 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 NT16157. Thereafter, the development hereby approved shall be carried out in accordance with these agreed details and any details pursuant to Condition 51 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).

51. Within one month of the installation of the plant and equipment acoustic testing shall be undertaken to verify compliance with Condition 50. 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).

52. 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).

53. 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).

54. No sound reproduction equipment which is audible outside the curtilage of the premises shall be operated on the site.

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

55. Notwithstanding Condition 1, prior to the commencement of any part of the commercial units built above damp proof course level details of any of the following shall be submitted to and approved in writing by the Local Planning Authority:

- the height, position, design and materials of any chimney or extraction vent to be provided;
- any refrigeration plant to be installed in connection with the unit;
- air ventilation systems;
- any odour suppression system.

Thereafter, the development shall not be carried out other than in accordance with the approved details which shall be installed prior to the occupation of the unit and shall be permanently maintained and retained.

Reason: In order to safeguard the amenities of adjoining properties having regard to policy DM5.19 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 the 2.8m high acoustic screening (fence and earth bund), running parallel to Ecclestone Close to be provided to screen industrial noise from Keenan's, in accordance with Figure 6, drawing ref NT/161157/006 of noise report NT16157, 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.

57. Prior to the occupation of any residential dwelling hereby approved a noise scheme, providing details of the glazing and ventilation scheme provided to habitable rooms, as outlined in Noise Report NT16157 to ensure bedrooms meet the good internal equivalent standard of 30 dB LAeq at night and prevent the exceedance of LMAX of 45dB(A) and living rooms meet an internal equivalent noise level of 35 dB LAeq as described in BS8233 and the World Health Organisation community noise guidelines. These agreed details shall be implemented prior to the occupation of each 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.

58. The fixed shut windows as shown on Housetype booklet (August 2022 Rev I) for plots 27, 28, 29, 55, 56 and 57 shall be retained as permanently maintained and retained as such.

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).

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)

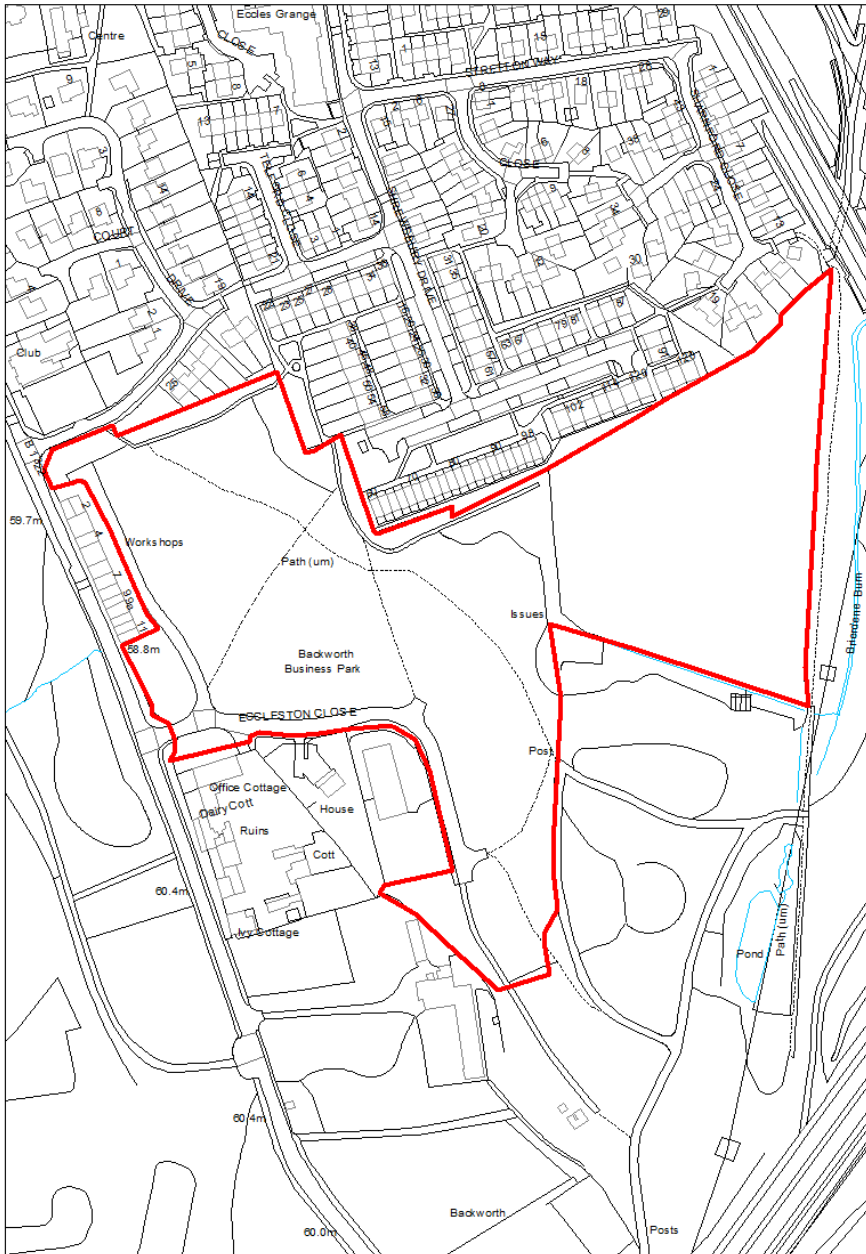
Highway Inspection before dvlpt (I46)

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

Northumbrian Water - How to satisfy Condition 46 attached to this grant of planning permission: The development should develop their surface water drainage solution by working through the Hierarchy of Preference contained within Revised Part H of the Building Regulations 2010. Namely: -Soakway - Watercourse and finally -Sewer If sewer is the only option the developer should contact Northumbrian Water to agree allowable discharge rates and connection points into the public sewer network. This can be done by submitting a pre planning enquiry directly to use. Full details and guidance can be found at <https://www.nwl.co.uk/developers/predevelopment-enquiries.aspx> or telephone 0191 419 6559 Please note the planning permission with condition 46 is not considered implementable until the condition has been discharged. Only then can an application be made for a new sewer connection under S106 of the Water Industry Act 1991. For information only Northumbrian Water informs you that a water main crosses part of the site and may be affected by the proposed development. Northumbrian Water does not permit a building over or close to our apparatus. We will work with the developer to establish the exact location of our assets and ensure any necessary diversion, relocation or protection measures required prior to the commencement of the development. We include this informative so that awareness is given to the presence of assets on site. For further information is available at <https://nwl.co.uk/services/developers/>

The Coal Authority advises that where SUDs are proposed as part of the development scheme consideration will need to be given to the implications of this in relation to the stability and public safety risks posed by coal mining legacy. The developer should seek their own advice from a technically competent person to ensure that a proper assessment has been made of the potential interaction between hydrology, the proposed drainage system and ground stability, including the implications this may have for any mine workings which may be present beneath the site.

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



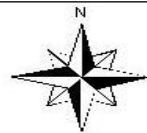
Application reference: 21/00304/FUL

Location: Land At, Backworth Business Park, Eccleston Close, Backworth
Proposal: Construction of 57 residential dwellings (Use Class C3(a)) and 14
No. commercial units totalling 650 sqm (Use Class E(g)), with associated
road infrastructure, car parking spaces, open spaces, gardens, and
landscaping. (Resubmission) (Amended plans and reports received
04.04.2022)

Not to scale

Date: 02.02.2023

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**Appendix 1 – 21/00304/FUL
Item 1**

Consultations/representations

1.0 Internal Consultees

1.1 Highways Network Manager

1.2 The site is accessed via Eccelston Close; parking and cycle storage will be provided in accordance with current standards and the proposed highway layout is acceptable. The existing commercial units at the western part of the site will benefit from improvements to the current parking provision. Improvements to sustainable links to schools and public transport will be required to make the site safe to access by pedestrians and conditional approval is recommended.

1.3 Recommendation - Conditional Approval

1.4 The applicant will be required to enter into a Section 278 Agreement with the Local Authority for the following works:

Provision of suitable pedestrian crossing facility (zebra crossing) on Station Road
Associated highway drainage
Associated street lighting
Associated road markings
Associated signage
Associated legal orders

1.5 Conditions:

Notwithstanding the details submitted, the following off-site highway works shall be carried out within 6 months of final occupation and subject to Technical Approvals and Road Safety Audits:

Provision of suitable pedestrian crossing facility (zebra crossing) on Station Road
Associated highway drainage
Associated street lighting
Associated road markings
Associated signage
Associated legal orders

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

Notwithstanding Condition 1, the scheme for access; vehicle turning, under cover, secure cycle parking and refuse storage, as set out in drawing number N81:2842 – 102 – Revision P7 (Proposed Site layout) shall be laid out in accordance with the approved plans and permanently retained and maintained thereafter.

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

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

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

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

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

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 bowsers, and/or wheel washing and/or road cleaning facilities, and any other wheel cleaning solutions and dust suppressions measures considered appropriate to the size of the development). The scheme must include a site plan illustrating the location of facilities and any alternative locations during all stages of development. The approved statement shall be implemented and complied with during and for the life of the works associated with the development.

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

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.

1.6 Informatives:

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

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

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

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

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

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

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

The applicant is advised that free and full access to the Public Right of Way network is always to be maintained. Should it be necessary for the protection of route users to temporarily close or divert an existing route during development, this should be agreed with the council's Public Rights of Way Officer. Contact Highways@northtyneside.gov.uk for further information.

The applicant is advised to contact the council's Public Rights of Way Officer prior to construction arrange s joint inspection of the Public Right of Way network on and adjacent to the site. If this inspection is not carried out, the Local Highway Authority may pursue the developer for any costs to repair damage to these routes. Contact Highways@northtyneside.gov.uk for further information.

1.7 Sustainable Transport Team Leader

1.8 As part of the application, a Framework Travel Plan (TP) has been submitted, which will be developed during the build out and the TP aspires to reduce car journeys associated with the site and promote alternative modes of transport. Improvements to sustainable links to schools and public transport will be required to make the site safe to access by pedestrians and conditional approval is recommended. Conditional approval is recommended.

1.9 The applicant will be required to enter in a Section 106 Agreement for £20,000.00 for a Travel Plan Bond. The Travel Plan Bond will be payable if a 10% reduction in car trips from the initial baseline survey is not achieved by the 5-year post occupation survey.

1.10 The applicant will be required to enter in a Section 106 Agreement for £500.00 per annum for Travel Plan monitoring from occupation of 20 dwellings to 5 years post final occupation.

1.11 The applicant will be required to offer each dwelling two Pop Pay As You Go Pop Cards per dwelling with £50 of credit preloaded onto each card.

1.12 Condition:

Notwithstanding the details submitted in the Travel Plan, no part of the development shall be occupied until a Full Travel Plan has been submitted to and approved by in writing the Local Planning Authority. The Travel Plan will require the Travel Plan Coordinator to be in place prior to first occupation until at least five years from occupation of the final unit and will also include an undertaking to conduct annual travel surveys to monitor whether the Travel Plan targets are being met and be retained thereafter.

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

1.13 Lead Local Flood Authority (LLFA)

1.14 I have carried out a review of the surface water drainage proposals. I can confirm that in principle I have no objections to the surface water drainage proposals for this development. The applicant is proposing to attenuate the developments surface water within the site via the use of a swale, two attenuation ponds and within permeable paved areas which will provide attenuation for all rainfall events up to the 100 year plus a 40% allowance for climate change. The surface water from the development is then proposed to discharge into the Briedene Burn at a restricted rate of 9.4l/s. In addition, as the development is located within a Critical Drainage area and is adjacent to the Briedene Burn the applicant has run various flood scenarios to identify the potential flood risk in the area. This flood modelling exercise has identified a requirement for the Finished Floor Level (FFL) of plots 39-44 should be raised at least 300mm above external finished ground levels to mitigate the residual risk of

flooding from the Brierdene Burn. Elsewhere the FFL should be no less than 150mm to manage the residual risk from surface water or sewer flooding.

1.15 I would recommend the following conditions are placed on the application:

- A copy of the detailed drainage design to be provided to the LLFA prior to construction for approval.
- Details of the appointed Suds management company to be provided to the LLFA upon completion of the development.
- The proposed culvert improvement works identified within the FRA to be finalised and submitted to the LLFA prior to commencement of development.

1.16 Heritage and Design Comments

1.17 Following previous comments which raised some concerns, revised plans have been submitted.

1.18 Previous comments outlined that there will be a clear view of the 1800 mm high acoustic bund with a 1000 mm high fence on top, as shown in the indicative view submitted with the application. This would negatively impact on views from the conservation area, at Station Road. The harm would be less than substantial and in line with NPPF, clear and convincing justification is required. Further information has been submitted in the landscape plan which sets out that *“bunds to be shaped to blend into the open landscape. Excess spoil material to be utilised to create undulating earth mounds creating interest in the open space”*. The bunds would have the appearance of a substantial mound of material with relatively steep sides with a fence on top. This is not considered to blend into the open landscape and would appear as an incongruous construction that would dominate the surroundings. Previous comments requested that the need for the fence on the western bund is reviewed again and balanced with the visual impact. No further information about the consideration and assessment of this has been submitted.

1.19 Some additional tree planting is shown towards the edges of the bund. This will help to mitigate, in part, the mound's intrusive appearance. The landscape plan sets out that trees are to be supplied bare root and planted between mid-November and end of February. These trees are likely to take several years to establish and some mature specimens with a mix of evergreen and deciduous trees should be included.

1.20 The further information and amendments requested above should be provided to the planning case officer within a timescale that would allow for the case to be determined within its deadline. The planning case officer should assess the request above and set a suitable timescale for this further submission.

1.21 Part of the application site is located within Backworth conservation area. This relates to the area of parking and substation to the south of Backworth workshops. The site will considerably increase the size of Backworth village, although it is set back from Station Road and most of the housing will not be visible from key viewpoints.

1.22 Next to the existing workshops, a long stretch of 1.8 meter high acoustic close boarded fencing is proposed. This is likely to create an unattractive street

scene although it will be mitigated, in part, by native shrub planting which is proposed alongside the fencing.

1.23 In general, the design and layout closely follow that of application ref: 18/00881/FUL, with a reduced number of units. House types, surface materials and refuse storage are all well designed. Landscaping is also included to support the street scene. The house types are traditional in appearance and their design quality will largely depend on the 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.

1.24 Overall, there are concerns about the acoustic design measures which are required and the impact that this has on views from the conservation area. I refer this concern to the Case Officer.

1.25 Manager for Environmental Health (Contaminated Land)

1.26 The Geo Environmental Report states:

1.27 Based solely on calculated Qhg 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.

1.28 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.

1.29 As there is remediation works required the following must be attached: GAS 006.

1.30 The Geo Environmental Report states:

- 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.

1.31 Human Health Receptors

1.32 Elevated concentrations of arsenic and PAHs in reworked topsoil pose a potentially unacceptable risk to site end users and require further assessment.

1.33 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.

1.34 It is noted that further investigation and testing of the topsoil is recommended and that these works should be completed before reworked topsoil is stripped and stockpiled.

1.35 Based on the above and that further works are required the following must be attached:

Con 003

Con 004

Con 005

Con 006

Con 007

1.36 Landscape Architect and Biodiversity Officer

1.37 The land proposed for development consists of an area of land that is within part of a designated Local Wildlife Site (Eccles Colliery 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 poor 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.

1.38 A number of ecology and landscape survey reports and plans have been submitted to support the application including:

-Ecological Assessment

-Landscape & Ecological Management Plan

-Landscape Plan

-Landscape Design Statement

-Compensation Land Habitat Creation and Management Plan

-Botanical Report

-Dingy Skipper Habitat Plan

-Report to Inform HRA

-AIA Reports and Plans

-AMS Reports and Plans

-Butterfly Report (BSG) submitted July 2021

-Biodiversity Net Gain Report (BSG) submitted July 2021

1.39 Additional information has also been submitted (April 2022) in order to support the above application and includes the following:

-Landscape and Ecological Management plan

-Landscape design statement

-Dingy skipper plan (revised)

-Landscape plan (revised)

-Proposed Site Layout (revised)

- AIA report (revised)
- AMS report (revised)
- AIA Tree protection plan (revised)
- AMS tree protection plan (revised)

1.40 The updated information has been reviewed and does not significantly alter previous comments. The latest amended 'Landscape Proposals Plan' 145059/8001 Rev D, submitted (April 2022), removes the north-east footpath which is a positive change and will help to reduce the impacts on the adjacent Local Wildlife Site (Eccles Colliery LWS). The layout of the units has been altered with alterations to house types and orientation resulting in changes to the tree removal locations. Updated comments in relation to the Arboricultural Impact Assessment are included.

1.41 Ecological Assessment

1.42 An ecological assessment has been submitted (2021) that includes previous survey work as well as updated surveys for the current application. Previous surveys undertaken on the application site in 2017 included a Phase 1 Habitat Survey, badger survey, bat activity and transect surveys, great crested newt assessment and a butterfly survey in 2019. A Phase 1 habitat survey of the site was repeated in November 2020 and included a further badger check.

1.43 Habitats

1.44 The site consists of around 3.3ha of species-rich semi-improved neutral grassland to the western part of the site (this area is part of the Eccles Colliery Local Wildlife Site) and approximately 1.8ha of poor semi-improved grassland to the northeast of the development site. An area of marshy grassland is present in the southern part of the site with a small watercourse that flows along the south-eastern boundary. There are also areas of scattered scrub around the boundaries of the site and broadleaved woodland and trees along the northern boundary. Two invasive species have been found on site: Japanese rose *Rosa rugosa* and *Montbretia Crocosmia x crocosmiiflora*.

1.45 Species

1.46 Badger

1.47 During the surveys in 2017 and 2020, no badger signs, including setts, were found anywhere within or adjacent to the site. The habitats within the site are considered to have limited suitability for badgers, however, the grassland areas within the site have some suitability for foraging badger.

1.48 Bats

1.49 No bat roosts and no suitable features for roosting bats are present within the site and no trees on site were considered to have the potential to provide roosting opportunities for bats. Bat transect surveys carried out in 2017 recorded very low numbers of foraging and commuting bats across the site with the majority of the bat passes attributed to common pipistrelle. All activity was associated with areas of woodland and scrub around the site boundaries. In addition, the static monitoring detector recorded low levels of bat foraging and commuting during the 2017 monitoring period. The limited activity was mostly attributable to common pipistrelle, with small numbers of soprano pipistrelle, noctule and *Myotis* sp. bat passes also recorded.

1.50 Breeding Birds

1.51 The breeding bird surveys recorded the presence of twenty four species of bird within the site or along the boundaries of the site. Ten species were considered to be breeding or probably breeding either within or in the immediate vicinity of the site and up to 16 territories may have been present. All territories within or adjacent to the site were for common species included on the BoCC Green List and mostly associated with areas of woodland and scrub along the site boundaries.

1.52 Great Crested Newt

1.53 Pond 1 was assessed for its suitability to support great crested newts during the walkover survey on the 24 March 2017 and was re-assessed during the survey on 24 November 2020. Water samples taken from the pond in April 2017 were analysed for great crested newt eDNA and were negative for this species. The report concludes that it is highly unlikely that this species will have subsequently colonised the site, due to the separation distance from other ponds and the presence of significant barriers to movements, such as roads and a watercourse.

1.54 Otter and Water Vole

1.55 No signs of water vole or otter presence were recorded during the surveys in 2017 and 2020 and they are considered to be absent from the site.

1.56 Butterflies

1.57 Butterfly surveys were undertaken in June and July 2019 and species found within the site were predominantly widespread and common species with the exception of the S41 Priority Species, dingy skipper, which was found on one of the June surveys (28th) near the northern boundary of the site. The report concludes that as common bird's-foot trefoil, the foodplant of dingy skipper, has a scattered and patchy distribution across the site, it is assumed that the dingy skipper population is likely to be similarly distributed.

1.58 An updated butterfly survey was undertaken in 2021 with 4 visits between May and early June and the results show that no dingy butterflies were recorded within the site. The report concludes that given the survey results of adult butterflies (2 in 2019 and none in 2021) and the distribution and abundance of the food plant, the site is assessed as supporting a small population of dingy skipper butterfly.

1.59 Mitigation proposed for dingy skipper butterfly includes the provision of habitat on-site that will provide suitable conditions for dingy skipper including the provision of larval food plants, basking areas and south-facing banks as well as a 5ha species rich grassland off-site that will include areas for dingy skipper.

1.60 Impacts

1.61 The scheme will result in the loss of 3.3ha of species rich grassland which forms part of the Eccles Colliery LWS and 1.8ha of semi-improved grassland to the northeast of the LWS. This area is within a designated wildlife corridor which will be impacted through the loss of habitat and an increase in disturbance associated with the housing scheme. In addition, the remaining part of Eccles

Colliery LWS which will be adjacent to the housing scheme, will be subject to ongoing recreational disturbance which will result in issues with litter, dog fouling and habitat degradation. Lighting also has the potential to impact adjacent habitats if not designed appropriately.

1.62 Mitigation

1.63 The developer has proposed on-site mitigation measures and off-site compensation to mitigate for the loss of the 3.3ha of species rich grassland within Eccles Colliery LWS and 1.8ha of semi-improved grassland to the northeast. This includes the following measures:

1.64 On-Site Mitigation (Landscaping)

- Approximately 1.27ha of species rich grassland retained and enhanced
- Approximately 151 individual native trees
- 0.32ha of new native woodland planting and 0.47ha of existing woodland enhanced
- 0.31ha of native scrub planting and 634 linear metres of new native hedgerow planting
- Signage and fencing alongside the footpaths near the access points to the LWS to limit access to the footpaths only
- Pre-construction checks for badger
- Lighting design to minimise impacts on bats
- Bird and bat boxes
- Retention/creation of species rich grassland within the site for dingy skipper butterfly that includes the provision of larval food plants (birds foot trefoil), basking areas and south facing banks

1.65 Off-Site Mitigation

- 5ha area of arable land 750m north of the site which will be converted to species rich grassland
- A 5m buffer within the off-site compensation land for dingy skipper butterfly

1.66 Biodiversity Net Gain

1.67 A Biodiversity Net Gain Assessment has been submitted. The outcome of the biodiversity metric calculations (using the DEFRA Biodiversity Metric 2.0) shows a 5.29% net gain for area habitats and a 476.57% net gain for hedgerows post-development. This is achieved through landscaping within the site that includes habitat retention and enhancement and habitat creation. There will also be off-site habitat creation to provide species-rich grassland (see mitigation measures above).

1.68 Designated Coastal Site Impacts

1.69 The developer commits to paying the financial tariff set out in the Councils Coastal Mitigation SPD to mitigate the effects of development resulting from recreational impacts at the coast. This will be secured through a planning obligation.

1.70 Arboricultural information

1.71 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 Tree Preservation Orders (TPO's) protecting the trees on the site and the site is not located within a conservation area, the collective tree, shrub groups and grassland defines the land as a Local Wildlife Site (LWS) and a wildlife corridor. 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 with natural regeneration extending beyond the planted areas. The 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. Japanese Knotweed is present in the water course and other areas of knotweed have been observed.

1.72 All significant trees within the specified site area have been surveyed in accordance with British Standard 5837:2012 – Trees in relation to design, demolition and construction.

1.73 The Arboricultural Impact Assessment (AIA) (Revision C) confirms that it will be necessary to remove some of the existing trees to facilitate the proposed development therefore the following trees will require removal:

- Trees 2(C), 3(B) 4(C) and 5(C)
- Group 6 (C), and parts of groups 4(B) and 7(B)

1.74 In previous layouts the tree removal was as follows:

- Trees 2(C), 3(B) 4(C) and 5(C)
- Group 6 (C), and parts of groups 1(B), 7(B) & 9(B)

1.75 The amended layout shows a number of properties re-orientated which includes the area to the northwest of the site. This means that all trees within group 1 can be retained.

1.76 Trees in tree group 4 are to be removed for a new footpath which is consistent with earlier layouts but additional trees appear to be removed in the new layout with trees being removed further back from the footpath.

1.77 The tree group 6 (C) is still to be removed but additional trees are to be removed within group 7 with tree removal taken further back from the back of the visitor car parking spaces, north of the new access road. The original layout looked to retain more trees here, and similarly, additional trees are to be removed on the southern side of the new access road which were shown to be retained previously.

1.78 Trees within group 9 appear to be retained in the new layout. The western section of the group was to be removed previously to allow drainage/attenuation, but the new layout does not show this, so it is assumed that the drainage has been altered to allow the tree group to be retained.

1.79 The AIA should include all impacts, including drainage, as this could result in additional tree removal.

1.80 Tree removal is required to facilitate the construction of the new buildings and associated infrastructure but should be kept to a minimum. Of the 4no

individual trees shown for removal, 1 no is a category B trees, and 3 are category C trees as defined in the British standard. Part of groups 4 and 7 are to be removed (category B trees) along with Group 6, categorised as C. No trees have been identified as U, i.e., requiring immediate removal. The impact assessment confirms that Groups 2 and 22 will require tree protection and a modified area of special construction within the root protection area (RPA).

1.81 Whilst the overall areas of tree removal is small, it should be kept to a minimum with trees being retained where possible unless reasonable justification can be given for their removal, particularly as trees were shown to be retained previously.

1.82 Protective barriers as per section 5.1 of the AIA are to be erected around all retained trees in the position indicated on the Tree Protection Plan prior to any works on site.

1.83 Landscape Strategy

1.84 Key to any development is to provide a landscape scheme that should be an asset to the development, the local community and to the wider landscape. The landscape scheme can contribute by prompting landscape character, reduce visual impact of the development, improve the physical environment, provide enhanced biodiversity and sustainability and provide opportunities for recreation. All issues need to be addressed and can often conflict with each other; however, the landscape scheme should be a reflection of the importance and understanding of the existing site and to ensure there will not be an unacceptable impact on the landscape character or biodiversity. In this case the prime objective of the landscape scheme on this site should be to conserve and enhance biodiversity and achieve a net increase, achieve high quality landscape, conserve and enhance landscape character and to contribute towards recreation opportunities.

1.85 The landscape proposals include retaining the majority of existing tree groups and hedgerows, as outlined within the Arboricultural Impact Assessment (All About Trees). There will be tree loss from the site but through design discussions and alterations, tree loss has been kept to a minimum. The proposal also 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.

1.86 Habitat loss will result from the development; however, the scheme provides mitigation for this loss through the planting of new woodland, native shrub, hedgerows, specimen trees and neutral grassland. Approximately 99 specimen native trees are proposed, which is an overall gain of 85 and whilst some scrub will be lost from the site, the new proposed woodland areas with associated scrub planting, collectively, provides adequate mitigation. Two SUDS areas are also proposed which provide the opportunity to introduce new habitats within the site. The scheme provides large central areas of public open space for recreational use, with the remaining areas enhanced for biodiversity and maintaining links with the existing green corridors through the site. This will be achieved through extensive proposed neutral grassland throughout the site. In addition, off-site mitigation is also proposed to the north of Backworth through the

creation of 5ha area of neutral grassland to compensate for the loss of species rich grassland within the Local Wildlife Site.

1.87 There remain some concerns, however, that recreational impacts associated with the housing scheme on the adjacent Local Wildlife Site (Eccles Colliery LWS), have not been fully addressed. The provision of signage and fencing to access points into the LWS will not prevent issues such as littering, dog fouling and habitat/footpath degradation within the LWS associated with an increase in footfall. The updated landscape plans show the removal of the north-east footpath which will help to reduce access points into the LWS, which is welcomed, however, it is considered that a financial contribution is required to enable the Council to manage recreational impacts on this site in the future.

1.88 Landscape and Ecological Management Plan

1.89 A 'Landscape and Ecological Management Plan' has been submitted which sets out the aims and objectives for on-site landscape/habitat management, the time period for management and landscape management specifications. The document does not provide any details about how dingy skipper and species rich grassland will be created/translocated, how areas of bare ground will be maintained and managed for dingy skipper or any details of species rich grassland and dingy skipper monitoring to ensure the mitigation on site is successful. In addition, the Management Plan period is only for 10 years and should be for a longer period (30 years) in line with the delivery of Biodiversity Net Gain, to ensure the mitigation provided for the site is successful and is maintained and managed in the long term. There are also some discrepancies within the document, such as section 1.25 which states that 4ha of land will be provided for off-site compensation, whereas the 'Off-Site Compensation Report' and 'Ecological Appraisal' state that 5ha will be provided. However, it is considered that these details can be provided, and the document updated, by attaching detailed conditions to the planning application.

1.90 Compensation Land Habitat Creation and Management Plan

1.91 The above document has been submitted to support the application and provides details on how the off-site compensation land will be converted from arable land to species rich grassland and how it will be managed to ensure the site delivers compensatory habitat off-site for the loss of species rich grassland from Eccles Colliery LWS. The information provided includes details of site soil analysis and management of nutrient levels to ensure species rich grassland is successful. The document also includes the provision of alternative measures to be employed if the proposed habitat creation fails. Whilst the document provides most of the detail that has previously been requested for the off-site compensation land and is generally acceptable, it does not clearly set out the timescales of the Management Plan or full details of a monitoring programme for the species rich grassland or dingy skipper habitat area. It is essential that the off-site compensation area is provided in perpetuity for the loss of part of the Local Wildlife Site and is managed in perpetuity for this purpose. This should be imposed through a legal agreement or planning condition. Details of habitat and species monitoring within the site will also be required and should be secured through a planning condition.

1.92 Conclusion

1.93 The scheme will result in the loss of part of the Eccles Colliery Local Wildlife Site (LWS) which is designated for its species rich grassland and supports dingy skipper butterfly, a S41 UK Priority Species as set out under the NERC Act (2006). The boundaries of the site contain broadleaved woodland and scrub habitat which support common urban birds and low numbers of foraging and commuting bats. The site is also within a designated wildlife corridor as shown on the Local Plan Policies Map (2017) and the loss of habitats within the site will adversely impact the wildlife corridor without appropriate mitigation or compensation being secured. The site also has the potential to impact the adjacent Eccles Colliery LWS through recreational disturbance associated with the housing scheme. However, it is acknowledged that the site is also allocated in the North Tyneside Local Plan for housing.

1.94 In order to address the loss of the species rich grassland within the housing site, a 5ha area of land at Backworth has been offered as compensation habitat. This area is 750m north of the housing site and consists of arable land of low biodiversity value which has the potential to provide suitable compensatory habitat (species rich grassland) if created and managed appropriately. The site is also located within a wildlife corridor and the greenbelt and provides good connectivity to the wider corridor including sites such as Eccles Colliery LWS and Fenwick Pit Heap SLCI. Off-site compensation details have been provided within the 'Compensation Land Habitat Creation and Management Plan' report setting out how the 5ha of arable land will be converted to species rich grassland and how it will be managed to ensure a similar or better quality area of species rich grassland is secured in the long term. The details provided (including soil analysis details of the site) provide significantly more detail than the previous application and the provision of this site is therefore considered to be acceptable to compensate for the loss of the species rich grassland within Eccles Colliery LWS. Additional details are required in relation to the monitoring of the site; however, this can be secured through detailed conditions.

1.95 The reduction of residential units from 67 to 57 for the current scheme, has also resulted in additional landscaping within the site, which is welcomed. Whilst the landscaping provided, such as wildflower grassland, SUDs and native trees and scrub will be subject to disturbance as a result of the housing scheme (lighting, noise, recreational disturbance etc), it is acknowledged that wildlife links are retained through the site for those species which have been found to use the site. Broadleaved woodland and scrub planting has been retained and enhanced around the site boundaries which will continue to provide habitat and green links for foraging and commuting bats and common urban birds. Species rich grassland has also been provided within the site for dingy skipper butterfly, and whilst some of these areas will be subject to recreational disturbance (the central open space), these areas will provide some habitat for this species along with an undisturbed area along the eastern boundary which provides corridor connections to Eccles Colliery and Fenwick Pit Heap where these butterflies have been recorded. In addition, the proposed off-site compensation land to the north of the housing development, provides additional dingy skipper habitat in the form of a 5m wide buffer to the southern part of the site. This will provide additional habitat for dingy skipper to potentially colonise from Fenwick Pit Heap to the east and is also connected by suitable habitat to Eccles Colliery along the railway and wagonway to the southeast.

1.96 Whilst the housing scheme will impact the wildlife corridor in this location for the reasons set out above, the retention of existing woodland and provision of new woodland and scrub habitat within the site, will maintain corridor links for those species found within the site. In addition, translocation and creation of species rich grassland will provide habitat for dingy skipper butterfly, with the most valuable areas being along the eastern boundary which is protected by fencing and should remain undisturbed. The provision of a 5ha area of species rich compensation grassland off-site will also enhance a different part of the wildlife corridor to the north which is currently of low ecological value and create habitat and connectivity for dingy skipper butterfly to disperse and colonise. It is therefore concluded that the provision of on-site and off-site mitigation and compensation will ensure that wildlife corridor impacts are minimised and enhanced elsewhere and will ensure that key species associated with the site have appropriate habitat that enables them to forage, commute, disperse and colonise other sites.

1.97 There remain some concerns regarding the impacts of recreational disturbance associated with the scheme on the adjacent Eccles Colliery LWS. The applicant acknowledges these impacts and whilst measures have been suggested to mitigate these impacts, such as signage and some fencing at footpath access points into the LWS, it is considered that these measures alone will not be sufficient to mitigate ongoing issues such as littering, dog fouling and habitat degradation associated with the housing scheme. The updated landscape plans show the removal of the northeast footpath which will help to reduce access points into Eccles Colliery LWS, however, recreational impacts will remain, and it is recommended that a small financial contribution is provided to enable the Council to manage recreational impacts on this site in the future.

1.98 Conditions

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:

- a) identify the access to the site for all site operatives (including those delivering materials) and visitors;
- b) provide for the parking of vehicles of site operatives and visitors;
- c) details of the site compound for the storage of plant (silos etc) and materials used in constructing the development;
- d) provide a scheme indicating the route for heavy construction vehicles to and from the site;
- e) provide a turning area within the site for delivery vehicles;
- f) provide details of a dust suppression scheme (such measures shall include mechanical street cleaning, and/or provision of water bowsers, and/or wheel washing and/or road cleaning facilities, and any other wheel cleaning solutions and dust suppressions measures considered appropriate to the size of the development). The scheme must include a site plan illustrating the location of facilities and any alternative locations during all stages of development;
- g) include tree protection measures for the trees to be retained and retention and protection of woodland, scrub and grassland habitat areas marked as such on approved drawings. Cabins, storage of plant and materials and parking are not to be located within the root protection area (RPA) of retained trees or woodland

areas as defined by the Tree Protection Plan or within species rich grassland/dingy skipper mitigation areas as defined by the Dingy Skipper Mitigation Strategy, to be maintained for the duration of the works; and
h) Details of site security fencing to include hedgehog gaps and their locations on the exterior fence line.

The approved statement shall be implemented and complied with during and for the life of the works associated with the development.

Dingy Skipper Mitigation Strategy

Prior to any works commencing on site, a fully detailed Dingy Skipper Mitigation Strategy for the retention, translocation and creation of new dingy skipper habitat within the application site will be submitted to and approved in writing by the Local Planning Authority. The Strategy shall be in accordance with the habitat creation and enhancement details set out within the Biodiversity Net Gain Report (BSG June 2021) and Ecological Assessment Report (BSG) to be implemented for a minimum period of 30 years and will include the following:

- Details of grassland areas retained within the site for dingy skipper;
- Details of protection measures (fencing) of dingy skipper mitigation areas during construction works;
- Details of permanent protection measures along the eastern boundary of the site to protect species rich grassland/dingy skipper habitat during the operational phase of the scheme;
- Details of receptor site preparation and translocation of turf habitat;
- Details of an Ecological Clerk of Works (ECoW) to oversee habitat translocation and creation work, protection of retained habitats and monitor the site;
- Updated dingy skipper surveys to be undertaken prior to commencement of work to aid habitat creation and delivery;
- Details of dingy skipper habitat creation, including types of substrate used and creation and management of bare areas;
- Details of dingy skipper habitat management and monitoring measures within the site for a minimum period of 30 years;

The approved mitigation areas must be completed in accordance with the approved details prior to the commencement of construction works and the removal of existing dingy skipper habitat on site.

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.

Off-site Compensation Land

Prior to any works commencing on site, a 'Compensation Land Habitat Creation, Management and Monitoring Plan' for a minimum period of 30 years, will be submitted to the LPA for approval. The Strategy shall be in accordance with the habitat creation details set out within the 'Biodiversity Net Gain' Report (BSG June 2021) and the 'Ecological Assessment' Report (BSG). The approved compensation site will provide a 5ha area of land for the loss of species rich grassland within the Eccles Colliery Local Wildlife Site (LWS) and will be provided as compensation habitat in perpetuity for this loss. The Plan will include the following:

- Soil analysis of the compensation site;
- Details of how the arable land will be converted to species rich grassland;

- Details of an Ecological Clerk of Works (ECoW) to oversee the habitat creation works and monitor the site
- Details of the type and quality of species rich grassland that will be targeted within the site;
- Details of the dingy skipper habitat creation, including types of substrate used and the creation and management of bare areas;
- Wildflower seed specifications;
- Details of the management techniques that will be employed within the site to achieve the quality of species rich grassland and dingy skipper habitat set out in the Plan;
- Details of the management company responsible for undertaking the habitat creation and management of the site.
- Details of a regular soil analysis programme (including methodology) to monitor nutrient levels within the grassland and the success of the arable conversion. Soil data will be submitted, when required, as part of the Annual Monitoring Reports.
- Details of the annual monitoring of habitats and species within the compensation site to ensure the delivery of species rich grassland and dingy skipper habitat are successful. Monitoring will include annual botanical surveys and butterfly/dingy skipper surveys with details of survey methodologies and timings to also be included. Annual Monitoring Reports will be submitted to the LPA for approval and will include Net Gain Assessment updates to evidence the success of the scheme.

Details of corrective actions that will be undertaken if arable conversion is unsuccessful or if monitoring demonstrates that the condition of the species rich grassland or dingy skipper habitat does not meet the objectives of the Plan.

-Arable conversion/grassland creation on the approved off-site compensation land shall be completed in accordance with the approved details prior to the commencement of construction works and the removal of species rich grassland within the Eccles Colliery Local Wildlife Site (LWS).

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

Invasive Species

Prior to the commencement of development on site, an Invasive Species Control Plan will be submitted to the LPA for approval detailing measures for the control of Invasive Species including Japanese rose *Rosa rugosa* and *Montbretia Crocosmia x crocosmiiflora* within the site. Invasive species shall subsequently be eradicated in accordance with the approved Plan prior to works commencing on site.

Pollution Control

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).

SUDs

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).

Amphibians

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 undertaken 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.

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).

Badger Check

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.

Footpaths

Prior to any works commencing on site details of the footpath network including alignment, width, levels, surface treatment, boundary treatment and lighting if required, have been submitted to and approved in writing by the local planning authority. The footpath connections to the LWS are to be reviewed to limit the number of access points, with the removal of a footpath associated with the SUD's pond. Thereafter, the footpaths shall be constructed in accordance with the approved details and shall be brought into use before any of the dwellings hereby permitted are occupied. Where footpaths are constructed within the RPA's of retained trees, works shall be carried out in accordance with BS 5837:2012 using Cell web or similar. A financial contribution is to be agreed to enable the Council to manage these impacts in the future.

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.

Arboricultural Impact Assessment and Arboricultural Method Statement

A revised AIA and AMS is to be submitted that retains trees within Groups 4 and 7, that include (but not limited to) kerb installation, fence post installation, lighting

and drainage. Thereafter all works are to be carried out in accordance with the AIA, Arboricultural Method Statement, BS 5837:2012 and the National Joint Utilities Group (NJUG) 'Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity To Trees'. This includes trenchless techniques and hand digging are to be undertaken where drainage is installed near to trees.

Tree Protective Fencing

Prior to the commencement of any site clearance works in connection with the development hereby approved (including demolition/excavation works, tree works, soil moving, hardstandings, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery, site security fencing, services), 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 in the Tree Protection Plan (TPP). No operational work, site clearance works or the development itself shall commence until the fencing is installed and photographic evidence is to be submitted showing the fence in place. 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.

Protection of trees in relation to levels survey

No development or other operations shall commence on site until a detailed levels and contour proposal has been submitted to and approved in writing by the Local Planning Authority. No changes in levels shall be implemented unless wholly in accordance with the approved details or otherwise approved in writing by the Local Planning Authority. Any excavations within the RPA are not acceptable unless approved by the LPA prior to any works being undertaken and are to be undertaken by hand or suitable method such as an air spade.

Tree Removal

Prior to any works commencing on site, details are to be submitted to the LPA for approval setting out the number of trees to be removed and their replacement species, age and location. Trees are to be replaced at a minimum 12-14cm girth unless otherwise agreed with the LPA. The approved tree scheme shall then be implemented in accordance with the timings and replacement regime of the wider landscaping scheme.

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.

Prior to any works commencing on site,

a) details demonstrating that the Developer has engaged the services of an arboricultural consultant shall be submitted to and approved in writing by the Local Planning Authority. This will discharge the pre-commencement part of this condition.

b) Then, within 1 month of the first occupation of the 60th house to be completed, sufficient written evidence of regular monitoring and compliance by the pre-appointed tree specialist during construction shall be submitted to and approved in writing by the LPA. This will discharge the second part of this condition.

The role of the consultant shall be to advise on the tree management for the site and to undertake regular supervision visits to oversee the agreed tree protection and visit as required to oversee any unexpected works that could affect the trees. The supervision is to be undertaken in accordance with the approved Arboricultural Method Statement relating to the development hereby approved. If the appointed consultant changes, then the developer shall provide updated contact details to the LPA via the general planning contact email address. 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.

Landscape scheme

Within one month from the start on site of any operations such as site excavation works, site clearance (including site strip) for the development, a fully detailed landscape plan shall be submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall be in accordance with the habitat creation and enhancement details set out within the Biodiversity Net Gain Report (BSG June 2021) and Ecological Assessment Report (BSG) and shall include details of the following:

- Details and extent of new native scrub planting, native woodland structure planting (including edge mix and infill planting) and new native hedgerows.
- Details of planting to enhance existing woodland, scrub and hedgerows.
- Details of wildflower meadow understorey and grassland creation and enhancement
- Details of native planting to SuDs features such as attenuation ponds, ditches and swales and the existing watercourse.
- Proposed timing of all new tree, shrub and wildflower grassland planting and ground preparation noting the species and sizes for all new plant species.
- New standard tree planting to be a minimum 12-14cm girth. Standard tree planting to the entrance and along the access roads to be semi mature trees.
- The landscaping scheme shall be implemented in accordance with the approved details within the first available planting season following the approval of details. All hard and soft landscape works shall be carried out in accordance with the approved details and to a standard in accordance with the relevant recommendations of British Standard 8545:2014. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season thereafter.

Signage and Fencing

Within 4 weeks of any of the development hereby approved commencing on site, details of the proposed signage and fencing along the footpaths near the access points to the Local Wildlife Site to limit access to the footpaths shall be submitted to and approved in writing by the Local Planning Authority. These details shall then be implemented in full on site before the first occupation of any of the dwellings or commercial units and retained as such.

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

Litter Management

Within 4 weeks of any of the development hereby approved commencing on site, details of a Litter Management Strategy for the development site that extends into the Eccles Colliery Local Wildlife Site (LWS) in order to reduce impacts from the housing scheme on the adjacent LWS shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall then be implemented in full on site before the first occupation of any of the dwellings or commercial units, or any such other timescale set out in the agreed details. The Strategy will cover litter management associated with the construction and operation of the site.

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

LEMMP

Within 4 weeks of any of the development hereby approved commencing on site, a revised 'Landscape Ecological Management and Monitoring Plan' (LEMMP) shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall be in accordance with the details set out within the Biodiversity Net Gain Report (BSG June 2021) and the Ecological Assessment Report (BSG) and shall be implemented on site before the first occupation of any of the dwellings or commercial units and thereafter for a minimum period of 30 years. The Management Plan will be a long-term management strategy and will set out details for the creation, enhancement, management and monitoring of landscaping and ecological habitats within the site for a minimum period of 30 years. The Plan will also include details of regular Net Gain Assessment updates that include habitat condition assessments to evidence the success of the scheme and net gain delivery. Thereafter, these areas shall be managed and maintained in full accordance with these agreed details unless first agreed in writing by the Local Planning Authority.

Reason: This information is required within the set timeframe in the interests of amenity and to ensure a satisfactory standard of landscaping and in the interests of biodiversity having regard to Policies DM6.1, DM5.5 and DM5.9 of the North Tyneside Local Plan (2017).

Drainage

Within 4 weeks of any of the development hereby approved commencing on site detailed drainage plans, including details of ditches, swales and attenuation ponds shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall then be implemented on site before the first occupation of any of the dwellings or commercial units, or any such other timescale set out in the agreed details. Details shall include profiles, cross sections and planting of SuDs features. Any ditches, swales or attenuation ponds shall be designed to provide ecological benefits, including appropriate native planting agreed by the Local Planning Authority.

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

ECoW

Within 6 weeks of any of the development hereby approved commencing on site:

a) details demonstrating that the developer has engaged the services of an Ecological Clerk of Works (ECoW) shall be submitted to and approved in writing by the Local Planning Authority. This will discharge the first part of this condition.

b) Then, within 1 month of the first occupation of the 50th house to be completed, sufficient written evidence of regular monitoring and compliance by the pre-appointed ECoW during construction shall be submitted to and approved in writing by the LPA. This will discharge the second part of this condition.

The ECoW shall be appointed by the developer to advise on dingy skipper habitat mitigation and protection for the site; and to undertake regular supervision visits to oversee the habitat creation, protection of the butterfly mitigation areas and visit as required to oversee any unexpected works that could affect these areas.

The supervision is to be undertaken in accordance with the approved Dingy Skipper Mitigation Strategy.

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

Protected Species Checks

Prior to any approved drainage works associated with the existing culvert or watercourse (Briardene Burn) taking place, an otter and water vole checking survey will be undertaken and submitted to the LPA for approval. All works will subsequently be undertaken in accordance with an approved working method statement.

Bird Boxes

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 first 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).

Bat Boxes

Prior to the commencement of any part of the development hereby approved above damp proof course level, details including specifications and locations, of:

a) 7no. bat boxes to be installed on the exterior walls of the approved dwellings; and

b) 10no. Schwegler bat boxes to be installed on suitable trees within the development site, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, these agreed details shall be installed prior to the first occupation of any of the dwellings hereby approved and retained thereafter.

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).

Mammals

Hedgehog gaps (13cmx13cm) will be provided within any new or permanent fencing or construction phase fencing within the scheme. Locations of hedgehog

gaps shall be detailed on fencing plans and submitted to the LPA for approval prior to installation.

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).

Lighting

Prior to installation of any floodlighting or other form of external lighting, a lighting scheme, that must be designed to minimise light spill (less than 2 lux) 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;
- where necessary, the percentage increase in luminance and the predicted illuminance in the vertical plane (in lux) at key points; and
- all street lighting associated with the development should be fully shielded so as to prevent direct lighting up into the atmosphere and avoid potential distraction to pilots flying overhead.

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

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; and in the interest of aerodrome safeguarding having regard to policy DM5.7 and DM5.19 of the North Tyneside Local Plan (2017) and the National Planning Policy Framework.

Tree Protection

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).

Tree Pruning works

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, details of which are to be submitted for approval.

Mammals

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).

Bird Protection

No vegetation removal or works to features (buildings) that could support nesting birds will take place during the bird nesting season (March-August inclusive) unless a survey by a suitably qualified ecologist has confirmed the absence of nesting birds immediately prior to works commencing.

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.

1.99 Public Rights of Way

1.100 North West Links to existing estate: The adopted footways to the Claverley and Telford etc are not welcoming and clear signs of anti-social behaviour, worth an inspection. Is there any opportunity to 'stop up' where possible and 'centre' the links from both the existing and proposed sites? I am keen to see if we can encourage/enable safer links to the school and limit the opportunities for anti-social behaviour.

1.101 Northwest parcel: The 'desire lines' of recordable paths have been adequately encompassed into design. To retain the continuous lines and directness I wonder if we can persuade the developer to install priority across the 5 openings? This is in line with national and local policy within cycle design but can be adapted to centre on pedestrians and play. This would further enable safe links to school.

1.102 It does appear to have raised table or other across the junction and in other areas through the site – is that the case and do they prioritise pedestrians and improve safety for kids etc?

1.103 What is the construction specification of the link paths and widths in northwest parcel?

1.104 Halfway into the main internal road there is a link path either side of the main access road. These need to be lined up and I would also request a raised table with give way markings to retain priority. Also, the south link appears to be wider – is it, and if so, why can't we retain the wider version through the links? I assume ecology? What is the construction specification?

1.105 Northeast parcel: The 'desire lines' of recordable paths have been adequately encompassed into design. There needs to be a link to the north south path from between the VP's. The plan online shows the north/south path incorporated in. Worth clarifying.

1.106 Gates: Our policy is to only utilise access controls when necessary. Horses are on occasion kept in the field, this will of course change so there is no need for gates – there may be need for reflective bollards to prevent car drivers etc – these must be set aside of the path and not in the centre line of same.

1.107 What is the construction spec of the link paths and widths in the north east parcel?

1.108 South parcel: The 'desire lines' of recordable paths have been adequately encompassed into design - however, to the south of the proposed block there is a definitive footpath. The path takes a very odd line at present, and it has been my intention to alter. Also, the incumbent occupiers have installed illegal access controls. These will need to be removed – if we were to divert the line it would still head through this opening and any controls added by developer must be necessary and to our standards as referenced in comments on NE parcel above. My proposal would be to split it and remove the east west section – the middle line where it currently sits is recognised in design and heads north towards Backworth village.

What is the construction spec of the link paths and widths in south parcel?

1.109 Is there any contribution to refurbish the remainder of the definitive map as it heads to Station Road?

1.110 Manager for Environmental Health (Pollution)

1.111 I have reviewed the applicants updated noise assessment dated December 2021 and the objector's response dated 17th January 2023.

1.112 The noise assessment has been updated to combine previous noise update letters. The updated noise assessment has included the data for the BS4142 assessment.

1.113 Potential noise from road traffic noise from the B1322 Station Road, noise from the railway line to the east of the site and noise from industrial units to the northwest of the site that consists of vehicle washing and valeting and car repair activities is all considered within the noise assessment. The noise monitoring identified that noise from the loading and unloading of delivery vehicles and

manoeuvring of vehicles. I note that noise from the Keenan's potato factory is considered to be the dominant industrial noise for the area.

1.114 The noise assessment considered noise with regard to internal noise levels that must be achieved to comply with BS8233 for good habitable living and has been for annoyance and likelihood of nuisance in accordance to BS4142 and has been assessed with open windows to meet the concerns of the Planning Inspector. The noise assessment has considered the deliveries and loading activities in the early hours of the morning during the night-time period and also any machinery noise from within the factory. Noise impacts will be internal, and consideration was therefore given with regard to the noise standards set out in BS8233. Noise levels have been modelled for daytime and night-time at the façade of the properties. The modelled data demonstrates that the internal BS8233 standards will be met. The noise assessment has shown that most of the gardens will meet the WHO community noise guidelines and achieve levels of 50 dB LAeqT or below, and are either on the screened side of the property facing away from Keenans or are provided with 1.8m high fencing.

1.115 I note in paragraph 2.1.5 that the design process included for the orientation of internal noise sensitive rooms, for some plots to face away from the factory. This is not demonstrated in the site layout plans for the housing types.

1.116 The BS4142 assessment has calculated the rating level which will be less than 5 dB above background for all properties, except for plots 27 and 29, where the level is +5 dB, this is considered adverse impact. The assessment includes for a correction for tonality and impulsivity, which takes into account clatters and bangs from the delivery and unloading operations. The presentation of the data by Wardell Armstrong does not give details of the residual noise without the noise source. BS4142 states "for a given difference between the rating level and the background sound level, the magnitude of the overall impact might be greater for an acoustic environment where the residual sound is high." I am unable to review the residual noise levels as this has not been provided, however the average background noise level of 44 dB LA90 between 5am and 7am is high and the magnitude of the impact will be greater than the difference between the noise rating level and the background. I do not consider that the noise will be less noticeable internally as the tonality and impulsivity of the noise from reversing alarms may be more pronounced. Maximum noise levels at the façade of the properties facing onto Keenan's are between of 46 - 54 dB LAmax and internally the impact noise from deliveries would be evident, although the noise assessment has shown that the internal maximum noise levels will meet the BS8233 standard of 45 dB LAmax. This is however based on anonymous noise, e.g. transport related noise rather than industrial. I would be concerned that the impact on residents could be worse due to an already elevated background noise level between 5am and 7am. The objectors noise consultant in paragraph 1.5 suggests that there is a likelihood of noise induced sleep awakenings. I would agree Keenan's operate early morning with deliveries and loading operations occurring between 5am and 7 am. This is considered a sensitive period during the night when residents sleep is likely to be light and more susceptible to noise. It is therefore considered that residents may be affected by lower noise levels internally if windows are open for those properties fronting onto Keenan's, specifically plots 1-3, 26 - 29, 45-46, and 54-57.

1.117 I note the objectors concerns regarding overheating and using an attenuation of 9 dB for an open window. The applicant has demonstrated that the properties are subject to a low risk of overheating. Approved Document O states that windows are likely to be closed during sleeping hours if noise within bedrooms exceeds a level of 40 dB LAeqT between 11pm and 7am and a level of 55 dB LAFmax more than 10 times a night between 11pm and 7am. I have reviewed the noise levels for the exposure at the facades of the residential plots against Approved Document on Overheating and would agree that the applicant has demonstrated that the properties will have a low risk of overheating. A level no greater than 45 dB LAeq 1 metre from the façade of the property at night will ensure a level of 30 dB LAeq internally, assuming that the typical noise reduction from outside to inside with window open is 15 dB (WHO community noise guidelines). Figure 6 within the noise report shows that all properties can achieve the internal noise level of 30 dB LAeq during the night period based on an attenuation of 13 dB for open window. Six properties have habitable rooms where the internal noise levels will not be met at night, these are plot numbers 27, 28, 29, 55, 56, and 57. The bedrooms are provided with two windows and will require one of the windows to be a fixed window. If planning consent is to be given, then a condition will be required to ensure permitted development rights are removed so that these windows cannot be changed in the future to an openable window for plots 27, 28, 29, 55, 56, and 57.

1.118 The applicant has demonstrated that internal noise levels of BS8233 can be met. As outlined in previous comments dated 17th November 2022, BS8233 sets internal noise levels based on anonymous traffic noise and therefore it is not possible to consider those values as acceptable in an industrial setting. A lower internal noise level was agreed in January 2022 to address the character of the noise, with the view that the internal noise level would be calculated from the rating level rather than the specific noise level and L max level.

1.119 The BS4142 assessment has demonstrated that two properties, plots 27 and 29 will be subject to noise levels that are considered to give rise to adverse impacts, although none of the properties are subject to significant adverse impacts. However, the rating level was reviewed on whether reversing alarms etc would be perceptible I would suggest tonality and impulsivity are higher than the 6 dB correction as the maximum noise levels would be perceptible internally with windows open. This issue has been addressed by considering use of sealed windows. It is for the planning department to determine whether this would be considered good design.

1.120 I note the objector's comments stating that the development would not satisfy the requirements of NPPF. The noise assessment has demonstrated that development would result in adverse impacts for 2 dwellings, plot 27 and 29, based on the rating level being +5 dB above background, but the noise levels would not give rise to significant adverse impact, as set out in section 185 of NPPF and that the development can be implemented in accordance with paragraph 187 of the NPPF, where the new development can be integrated effectively with existing businesses. The noise assessment has determined that the standards to comply with BS8233 can be achieved, but this is dependent on sealed windows. Industrial noise may be noticeable at night due to the time of

occurrence during light sleep, so I do have concerns that occupiers will require to change their behaviour e.g. close windows to ensure good sleep. The objector also raises concerns over 2 of the properties, plots 27 and 29 being subject to a rating level of +5 dB above background, and that this will result in potential constraints being placed on the factory. It is considered that Keenan's will not have unreasonable restrictions placed on them under statutory nuisance legislation. The industrial noise has been assessed as adverse impact for 2 plots but none of the plots have been shown to result in significant adverse impacts. Six plots will have sealed windows in one bedroom only to ensure the habitable bedroom is not subject to noise levels giving rise to significant adverse impacts. These bedrooms are provided with a second window on the façade facing away from Keenan's, which will be openable.

1.121 If planning consent is to be given, I would recommend the following conditions to require a noise scheme for the glazing and ventilation system for all plots to be submitted which must then be implemented following written approval.

1.122 I would also recommend the removal of permitted development rights regarding extensions and glazing installations if different from the original agreed scheme.

1.123 Other conditions recommended include as follows:

Housing

Prior to occupation submit and implement on written approval of the Local Planning Authority a noise scheme, providing details of the glazing and ventilation to be provided to habitable rooms, as outlined in Noise Report NT16157 to ensure bedrooms meet the good internal standard of 30 dB LAeq at night and prevent the exceedance of Lmax of 45 dB(A) and living rooms meet an internal equivalent noise level of 35dB LAeq as described in BS8233 and the World Health Organisation Community Noise guidelines.

Details of the 2.8m high acoustic screening, running parallel to Ecclestone Close to be provided to screen industrial noise from Keenan's, in accordance to figure 6, drawing reference NT NT16157/006 of noise report NT16157, 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 6, drawing reference.

NT16157/006 of noise report NT16157, must be submitted in writing to the Local Planning Authority for approval and thereafter implemented and retained.

HOU04 – hours of construction

SIT03 – dust and mud mitigation measures

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 NT16157. 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 – no external audible equipment

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 – lighting scheme

REF01 – refuse details

REF02 – refuse details

1.124 Case officer note: The consultant, acting on behalf of Keenan's considers that the advice from the Manager of Environmental Health is unclear, as it does not provide advice as to whether the development is acceptable in terms of noise. This issue has been put to the Manager of Environmental Health who states, 'The noise assessment has shown that the recommended WHO guideline internal noise levels can be met with open windows. My comments do not recommend refusal of the application and therefore if planning is to grant the application, then I have recommended conditions to be attached, so solely considering noise there is no reason to object to the application.' It is the view of officers that the advice is clear from the Manager of Environmental Health that they do not object to this application on the grounds of noise.

2.0 Representations

2.1 Seven objections submitted on behalf of Keenan's have been received. Members are advised that this objector has instructed their own consultant to review the noise information accompanying this planning application. Their own consultant has produced their own reports to accompany some of their objections. The most recent objection is set out below and the other objections have been summarised. Members are advised that all objections and accompanying reports have been considered by the Manager for Environmental Health.

2.2 Objection January 2023

2.3 As with other submissions made by the applicants, we and Apex Acoustics on behalf of Keenan Processing Limited have undertaken a full review of the submitted information. We attached for reference the detailed analysis of the document carried out by Apex Acoustics and ask this be reviewed by officers and in particular the Local Planning Authority's Environmental Health Officer.

2.4 In summary, the latest Apex assessment identifies that the new document prepared and submitted by Wardell Armstrong does not address the existing and ongoing issues which have been previously identified by both Apex Acoustics and the Council's Environmental Health Officer. Previous correspondence from Apex is appended has not been addressed. It is evident from the latest review undertaken by Apex that significant unresolved issues remain with amongst others the continued incorrect application of BS4142 in the assessment process. Also significant is the omission of proper assessment of related matters arising from the proposed mitigation, including potential overheating issues within the dwellings proposed. No assessment has been undertaken to demonstrate that consequent overheating arising from the noise mitigation solutions being proposed has been undertaken. As a consequence, the design mitigation brought forward cannot be considered to address matters outwith the ongoing issues regarding the baseline assessment and incorrect application of relevant standards.

2.5 In planning terms, it is evident that the proposal continues to not satisfy the requirements of the NPPF and, in particular, paragraph 187. The position is clear, as set out in the Apex review, that the latest document has not addressed either the previous issues set out in the submissions provided by Apex Acoustics nor, as noted in paragraph 1.31 and 1.32, the issues previously raised by the Environmental Health Officer. There is therefore no basis for the removal of either our objection to the proposal or indeed the Council Environmental Health Officer objection to the proposal, given none of the issues raised by both experts have been satisfactorily addressed.

2.6 Going forward, it is clear that LPA Officers can still not recommend approval of this application and consequently it must therefore be refused. This site has now been the subject of two dismissed appeals on the basis of noise impacts, and the LPA must have full regard to the decisions of previous Inspectors. The matters which led to dismissal of the appeals still remain and therefore, as dictated by caselaw, permission cannot now be granted. It must also be borne in mind that a third appeal on the Holystone workshop site was also dismissed in 2021, thereby meaning that three appeals have now been dismissed in relation to

the agent of change impacts of new residential development adjacent to Keenan Processing. It is an important point to note that all three of these applications were recommended for approval by Local Planning Authority Officer, and on all three occasions it has been shown that the recommendations were not correct and that the refusal by members of the LPA Development Control Committee were correct and valid. This further strengthens the fact that permission cannot now be granted for this scheme, given the unresolved issues which remain and the planning history which exists relating to this matter. Clearly any grant of permission would be capable of successful legal challenge.

2.7 We trust therefore that the LPA will now move to refuse permission on the basis of our client's and the Environmental Health Officer's stated position.

2.8 Summary of other objections submitted on behalf of Keenan's Processing:

- Our submissions in relation to previous application have been premised on a consistent concern regarding the potential for new residential development to lead to noise complaints from new occupiers relating to our client's business operation, with a potential consequent impact on their ability to operate. This concern has been upheld by previous appeal decisions with the most recent being dismissed because it would adversely impact on an existing business' ability to operate (Refusal Reason 3).
- Any revised application must fully address the previous reasons for refusal along with the findings of the previous appeal decision.
- Acknowledge the applicant has made some effort to try and resolve this matter, through the deletion of 10 of the closest residential dwellings to our client's site. This is the totality of the amendments that have been made. The noise issues related to this proposed development have still not been satisfactorily addressed.
- Five of the proposed dwellings (Plots 1, 2, 3, 27 and 54) are still compromised by unacceptable noise levels likely to lead to complaints about our client's business. The applicant's noise assessment confirms that these five dwellings cannot meet required internal noise levels if their occupiers choose to have windows open within rooms facing the Keenan's site. As with the previous application these dwellings are subject to the provision of mechanical ventilation to be achieved without the need to open windows. Windows in the sensitive elevations are however able to be opened and it is acknowledged that if this occurs then required noise level will not be able to be achieved. This is the same situation which was present in the last application.
- Applicant's noise assessment states "Acceptable internal noise levels, even with open windows, would be achieved during the majority of the week at most facades of all dwellings. The clear implication of this conclusion is that acceptable noise levels cannot be achieved for periods of the week at several facades if windows are opened.
- Applicant's noise assessment states "Despite all efforts at the design stage, it was not possible to meet the internal guideline noise levels for the entire site based on having open windows for ventilation (i.e., 13-15dB attenuation provided by the overall façade). This again confirms that there is a problem for several dwellings on the site (plots 1, 2, 3, 27 and 54) in that they cannot meet internal guideline noise levels if their windows are open.
- Applicant's noise assessment states that the internal noise level criteria would be met across the entire site and at all times when the resident chooses to close the windows for acoustic comfort, based on the façade specifications (glazing

and trick ventilators). This statement therefore confirms that the internal noise level criteria can only be met if all windows are kept closed and that compliance with this is dependent on the action of the occupier.

-Applicant's noise assessment clarifies that none of the windows are proposed to be sealed and would be openable and operate as any standard window.

However, meeting the internal noise guideline criteria with windows open may not always be possible for a minority of the development. In the situation where the windows are closed for acoustic comfort, sufficient ventilation would be provided by alternative means. The approach is entirely in accordance with all relevant guidance and forms the basis of current industry practice for good acoustic design. This paragraph further confirms required noise levels in the dwellings in question cannot be met if windows are opened, and that if they are closed the alternative means (i.e. mechanical ventilation) will have to be utilised to achieve required ventilation levels.

-The applicant's noise assessment and recommendation and resulting design for specific plots are identical to the previous refused application.

-Reliance on alternative ventilation systems to provide acoustic comfort remains completely unacceptable to our clients as it in no way addresses the issues which led to the dismissal of the planning appeal and previous reason for refusal.

-The applicant's solution would still mean that a situation would be created which is exactly that described in paragraph 16 of the Inspector's appeal decision i.e. that it would not be unreasonable for future occupants 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. Whilst this approach may address the quality of living conditions issue previously identified by the Inspector, it clearly however does nothing to address the issues identified in paragraph 17 of the Inspector's decision with regard to the likelihood of noise complaints occurring regarding noise generation from Keenan's factory.

-The solution put forward by the applicant relies completely on residents choosing to close their windows and operate a ventilation system to avoid noise disturbance from an existing business. This is an uncontrollable and unenforceable solution to the issue. If residents choose to leave their windows open, they will be subject to noise disturbance. This disturbance will, as was concluded by the Inspector, be likely to result in complaints which ultimately will place a disproportionate restriction on our client's business.

-The current application is no more acceptable. In the context of the same issues being present we would submit it is therefore incumbent on the LPA that it must also come on the application i.e. to refuse permission. Consistency in decision making dictates this must be the case, and this is confirmed with reference to relevant case law, e.g. North Wiltshire District Council v Secretary of State for the Environment and Clover (1993) 65 P&CR137. This case set out the requirement for decision makers to act in a consistent manner in decision making when having regard to other decisions that the same decision maker has previously taken. We would therefore submit that this application must be refused for the same reasons as set out in refusal reason 3 of application 18/00881/FUL.

-This site forms part of the wider 8.5 hectare (ha) mixed-use land allocation under policy S4.3 (29) of the Local Plan (2017). Under that policy this site, number 29, is allocated as a mixed-use site with the potential to accommodate 65 dwellings. This policy expects the allocation will bring forward a combination of both employment and residential development of appropriate proportions. This is

confirmed by two relevant policies. Policy S2.2 on the provision of land for employment development acknowledges at the foot of the policy that mixed-use sites allocated at policy S3.4 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. 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 be of a form which will be compatible with any new residential development coming forward. It may therefore be expected that on development on site 29 in this context would therefore include potentially B1 light industrial and office uses which most suitably abut and adjoin any new residential development.

-The proportion of residential to employment use within the site we continue to submit was always expected to be relatively modest in the context of a mixed-use site. This is in part confirmed with reference to the potential homes envisaged on the entire 8.5ha site. This, as listed in policy S4.3 is just 65 dwellings which equates to an overall density of residential development of just 8.1 dwellings per hectare. Although such figures are only an indicative likely yield when normally considering residential allocations, this is not the case here. This is because of the very specific circumstances and constraints present on this site which were fully explored in the preparation of the Local Plan. In this case the 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 because of the presence of existing businesses i.e. Keenan's. This dictated a lower residential level to ensure dwellings did not come forward too close to this noise generating site.

-This position is more clearly demonstrated when reference is made to the Inspector's report on the LP of May 2017. Paragraphs 148 to 152 of the Inspectors report specifically consider site 29 and its allocation as a mixed-use site under Policy S4.3. The Inspector considered the release of the 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 as 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 on 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 8.5ha site'

-Clear 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. 57

dwellings compared to the 14 commercial units proposed is still not consistent with the concept of residential development being subservient to employment uses. We acknowledged that the housing numbers now proposed are below those envisaged within the allocation, but it must be borne in mind that this site does not constitute the entirety of the allocation. A large part of the site remains separate within the Holywell Engineering site. We continue to submit that the scale of residential development within this application site, is not consistent with purpose and content of the allocation in that it brings forward too greater density of residential development in this part of the allocation, with the consequent impact that it places residential development in locations in which acceptable noise conditions cannot be delivered. The tension and problems which exists in relation to noise would be removed if the proposal were more consistent with the allocation whereby residential density was reduced, allowing the deletion of development from plots 1, 2, 3, 27 and 54.

-The latest noise assessment is accompanied by updated survey information from November 2020. It is important to note that any noise surveys relating to the operation of Keenan's during this period cannot be reviewed as representative. Keenan's works in the food processing and preparation sector and most of its business relates to the supply of catering outlets such as sandwich shops, cafes, pubs and restaurants. During the COVID-19 pandemic such outlets have been largely closed with a consequent impact on the supply and therefore processing of food undertaken by Keenan's. This was the case in November 2020. As a result of this business has not been operating at anything near capacity, in terms of working hours and intensity. Therefore, any noise readings derived from this period do not represent an accurate context for assessment of the business when fully working.

-The noise level modelling for all dwellings, continues to be based on the provision of mitigation measures which include a bind and noise attenuation fence, between the dwelling's and Keenan's. As highlighted previously, this noise attenuation measure in itself is unacceptable in visual terms by virtue of the site location in the conservation area. This is considered again in the latest objection of this element of the scheme from the Council's conservation officer. Therefore, even to achieve noise levels proposed, which are unacceptable for the reasons detailed, it relies on a scheme of mitigation which in itself is deemed harmful in heritage terms.

-It is our clients continued position that the Council as the competent authority must ensure that new development is both compliant with planning policy on noise and that it should not lead to complaints of statutory nuisance. Our clients are clear that should development be permitted that generates nuisance complaints, then responsibility for this will still rest with the Authority on the basis of any grant of permission it has previously made. Consequently, our clients are clear that they will pursue compensation from the Authority should any restrictions on Keenan's ability to operate and trade occur, as a result of nuisance complaints, which flow from any decision to grant permission for dwellings too close to their premises.

-This application fails to address the reasons for refusal of the last application and conclusions of both appeals. It remains contrary to Policies S1.4 and DM5.19 of the LP.

-It fails to meet the requirements of paragraph 182 of the framework which states that 'decisions should ensure that new development can be integrated effectively with existing businesses'. It also advises that existing businesses and facilities

should not have unreasonable restrictions placed on them as a result of development permitted after they were established. The applicants as the agents of change have not provided suitable mitigation as required by the NPPF and therefore the proposal remains contrary to national policy.

-With regard to the content of the applicant's noise assessment, we note the reference to and commentary on the agent of change principle as set out within paragraph 9 of the NPPG on noise. Of particular relevance within the submission, is the reference that the agent of change will also need to define clearly the mitigation being proposed to address any potential significant adverse effects that are identified. The NPPG goes on to identify that the approach may not prevent all complaints from new residents/users about noise or other affects but can help to achieve a satisfactory living or working environment and help to mitigate the risk of statutory nuisance being found if the new development is used as designed (for example keeping windows closed and using alternative ventilation systems when the noise or other effects are occurring). With reference to this extract, it can be noted that the mitigation effects referred to within the NPPG are caveated as potentially being acceptable if the mitigation measures such as keeping windows closed and alternative ventilation are used as designed. It is clear therefore that such mitigation measures may only have a positive effect if new occupiers of the proposed development adhere to the use of these alternative measures and do not have windows open at the times when noise limits cannot be adhered to.

-No control can be placed on the development to require occupiers to utilise the mitigation measures in the manner proposed. There is nothing to prevent occupiers opening windows during periods when satisfactory noise levels cannot be achieved, and this was an issue that was clearly identified by the Inspector as part of the previous appeal. The mitigation measures proposed cannot therefore ensure that complaints will not arise with a consequent impact on our client's business in the very form identified by the Inspector.

-The NPPG also requires the agent of change to take into account not only current activities that may cause a nuisance, but also those activities that businesses or other facilities are permitted to carry out, even if they are not occurring at the time of the application being made. This extract of the NPPF is significant because it must be noted in the context of Keenan's that there are no controls whatsoever on the hours of operation of this longstanding business or the manner in which external areas of the site are used. The noise surveys undertaken in this application are not appropriate or have adopted the right standards and further to this, it may be noted that the times or surveys, particularly in relation to the recent periods during Covid when reduced work activities were taking place, are not representative of either normal working practices or what may occur in the future without the need for planning permission. In this context, the mitigation measures proposed and the justification for them on the basis of their requirement for use during limited periods of time are not sufficient to address the issues present. The situation is that, in order to avoid complaints against our client's business in the future, the mitigation measures of closed windows and alternative ventilation may have to be used for significantly longer periods in a manner which occupiers of new dwellings cannot be expected to undertake. The current situation is that the proposal has not taken account of this point, and this is again an issue which was identified by the Inspector within the previous appeal with reference to the company's ability to expand within its current existing site.

-None of the LPA consultation responses on noise from Environmental Protection are being uploaded to the council website. The applicant's letters are clearly responding to matters being raised on this issue, but these consultee comments are not visible and never have been. As public documents could I again request that all Environmental Protection and consultee comments on noise are uploaded to the council webpage so they are visible. *Case officer note: The Environmental Health comments are available to view online. These comments are input into the council system and automatically upload to Public Access and can be viewed in the comments.*

-Request that meeting notes referred to in the applicant's noise assessment are made available to view so that full assessment can be made.

-It is now claimed that only two properties (plots 29 and 57) have bedrooms with opening windows, which when opened would not be able to meet the required internal night-time noise levels when Keenan's operations may give rise to disturbance. The applicant does not consider this to be an issue because both properties in question have a second window serving the relevant bedrooms. These windows can meet the required noise standards, even with the windows open. We do not consider that this satisfactorily addresses the issues that are present, and which led to the dismissal of the previous appeal. The Inspector was quite clear in finding that where windows are potentially able to be opened by occupiers in locations where internal noise standards at night could be reached then it would be likely to lead to potential complaints against our client. Specific reference is made to paragraphs 14, 15, 16 and 18 of the Inspector's report. The Inspector's report made it clear that the potential for anyone to open windows in dwellings where night time noise standards internally could not be achieved, would be likely to lead to complaints against our client's business and that this approach was unacceptable with reference to the NPPF requirements for the agent of change to avoid such circumstances. The LPA cannot exercise any control whatsoever on the actions of residential occupiers over which windows they do or do not open, and indeed mitigation of this type is not capable of being required to be used. The Inspector made it clear that mitigation measures that fall beyond the control of either the appellant or the Council are not remedies and do not address the agent of change requirements.

-We have significant concerns regarding the absence of proper assessment of these and indeed the information submitted with the application. The same issues outlined above for plots 29 and 57 will equally apply to plots 27, 28, 55 and 56. The applicant advises that these plots do not contain bedroom windows on their sensitive elevations. This is a concern as the plans show a bedroom/study. The space is therefore clearly intended to be a bedroom window on the elevation in question. Re-labelling a room does not address the concerns raised. The LPA cannot impose any control whatsoever on how internal space can be used. The applicant has therefore failed to properly assess the impacts on these properties. The same concerns apply to plots 27, 28, 55 and 56.

-The noise standards enjoyed by existing dwellings in the locality of Keenan's are not material considerations or relevant to any current application of the NPPF requirements in respect of the agent of change. The applicant refers to the facts that the facades of the existing nearest houses on Shrewsbury Drive are higher during the night time than bedrooms within dwellings in the proposed development. The noise levels present on the southern façade of properties within Shrewsbury Drive cannot be considered in any way as representing an acceptable noise position for the proposal, given that the NPPF paragraph 187 is

clear in requiring that appropriate environmental standards are delivered in new development. In this respect, any new proposals such as this area required to adhere to the requirements of policy in place at the time of determination and this includes the requirements of the NPPF, with specific reference to the agent of change. Whether or not existing dwellings which predate current requirements can meet current standards is not relevant or material to the acceptability of this proposal. Existing dwellings do not set a precedent for application of lower standards in new development.

-Discrepancies between the information submitted pertaining to the acoustic bund and acoustic fence. This is significant as the noise assessment modelling and conclusions are clearly based on the provision of 2.8m high bund/fence. Unless these discrepancies are addressed the noise attenuation will not be achieved and more properties will be affected.

-The mitigation proposed is premised on the application of a ventilation strategy which by the time of implementation in any scheme is unlikely to be consistent with building regulations at that time. Therefore, the conclusions of the noise assessment are not sound given it is reliant upon a standard of ventilation regulation which will not be in place at the time of determination of building regulations for this scheme and its implementation. Any assessment of mitigation for noise impacts must be undertaken pursuant to the building control regulations at the time of development. Any other approach would mean that the noise assessment conclusions and therefore the likelihood of complaints etc being mitigated by lesser requirements cannot be relied on due to the changes that would come forward, again the noise assessment provided has not satisfactorily addressed the findings of the recent appeal decision.

-Note reference is made to the permanent closure of all windows serving noise sensitive rooms. We note this change which could go some way to address our concerns. However, none of the submitted plans reflect this statement.

-Request that any potential odour impacts arising from our client's site have been fully considered by the LPA and Environmental Health Officer. The Inspector asked during the hearing whether there have been any previous complaints regarding this business. It was confirmed that there had been a previous complaint in relation to odour arising from this business. I am not aware that any consideration has been given to this matter and I would appreciate confirmation that this matter is also being fully considered and addressed by relevant consultees to the application.

-Continued issue of the use of inappropriate British Standards for the assessment of this proposal.

-Reference has been made to work undertaken by Apex themselves, on a different site, in order to give validity to the applicant's submission.

-Key calculations used within the applicant's assessment are not provided, nor is the assessment methodology clearly described.

-Issue of controls on overheating and the requirements of the approved Document O, with the consequent potential impacts on the noise strategy being adopted. We are not aware of that any building regulation application or approval was secured prior to the introduction of new building regulation standards earlier in 2022 and therefore this matter, with reference to overheating etc, is a material consideration which must be addressed prior to any determination of the application.

-Continued discrepancies in the report including the distance of the closest dwelling within the proposed development from Keenan's Processing is 90m not

120m. This calls into question the accuracy and validity of the measurements and calculations which been carried out and the conclusions which are derived from these.

2.9 Sixteen objections have been received. These objections are set out below:

- Adverse effect on wildlife
- Affect character of conservation area
- Impact on landscape
- Inadequate drainage
- Nuisance – disturbance, noise, fumes
- Poor traffic/pedestrian safety
- Loss of privacy
- Loss of visual amenity
- Loss of/damage to trees
- Out of keeping with surroundings
- Poor/unsuitable vehicular access
- Traffic congestion
- Loss of residential amenity
- Will result in visual intrusion
- Nothing has changed since the last application failed and please get some of your facts right. The number 359 bus does operate along Station Road and has not done so for over a year. Paths are not on both sides off the carriageway all along Station Road, and they are certainly not in good condition. Please send a Councillor along to have a look.
- Again large articulated vehicles access this site daily. Not safe for pedestrians, children, or pets. The noise of vehicles from existing commercial premises is also too high now. More residential and commercial traffic will only add to this.
- Along with damage to wildlife, the environment and to add to the existing poor drainage around the called shafts
- My residence does not overlook that piece of land and therefore we didn't get a letter as it is deemed unnecessary as the building of 50+ houses and numerous industrial units will not 'impact' the other residents on the estate. This is not correct.
- The infrastructure. As you have already granted planning permission for thousands of new homes which has caused problems getting into and out of the estate, due to the excessive volume of traffic the village road has to take. What remedy have you for the existing problem and the future problem the new homes and industrial units will cause?
- Many of the primary school children walk to school via that land enabling them to avoid walking along a busy main road. What is the plan for keeping children away from the busy road on their way to and from school? Is there a proposed safe alternative route?
- The land is used by locals as an area to walk their dogs and children play there. Considering that the government warns about obesity in children who do not get enough exercise, outdoor play etc. please advise where the children, dog walkers etc go? They can't all wander up towards Earsdon.
- I understand it is claimed there are no bats there, as you can see the bats that fly round there in the summer, in fact post lockdown you are welcome to come and watch them in our garden! Can you advise where the bats come from?
- That land is a little eco system covered in insects and flowers, in the spring it is very pretty. Given the number of new houses built in the local area and the

displacement and destruction of wildlife habitats and eco systems, what plans have you got to preserve the existing flora and fauna? Those flowers attract main pollinating insects, the importance of which we are only now beginning to be really understood.

-Does it not make a mockery of the little scraps of land the Council signpost as not being mown for 'bio diversity' reasons for the benefit of wildflowers and insects.

-I appreciate the need for homes, Backworth Village is surrounded by thousands of new homes. That said, I look forward to your response advising why there is a need to create a problem where none exists and, exacerbating the existing issues.

-To give a balanced view on this as a resident who will be significantly affected by this proposal, I would acknowledge some (limited) positives. Firstly, developing the land would get rid of the daily disturbance from regular motorbike activity which no one at the Council or Police seem interested in. Secondly, clearing out the rubbish as it is used as a fly tipping area and thirdly, getting attention paid to the trees, many of which are unsafe, invasive and obscure any light to the immediate homes. However, the area could be put to much better use for the local community by being a well-maintained area for walking and for children to play as well as preserving the many different types of wildlife which inhabit the area.

-To undertake observations and write reports on the area during lockdown is nothing short of irresponsible and is not a true reflection of how the area functions outside of Covid19. The roads are beginning to show congestion again as restrictions subside, the impact of the ongoing housing developments has not yet been completely evidenced, the footpaths all need attention and are not on both sides of the road, the bus route is not as well served as described in the report.

-To increase the existing noise (the gym blasting music from 8 am to 8pm and the Keenan's factory deliveries), footfall, traffic and commercial use of this land is unacceptable not to mention the severe impact on those whose homes are adjacent to the proposed boundary. There are also proposals for other housing developments within the immediate location and this will add to the burden on the roads and footpaths even more.

-There are bats clearly evident in the area, today that they are not untruthful. The land hosts a wide variety of wildlife, butterflies, dragonflies, rabbits, woodpeckers (including a green woodpecker) foxes, herons and white egrets have all been spotted in the immediate vicinity.

-The area requires landscaping and improvement to get access to wagonways but is a valuable open space if it were kept tidy.

-Traffic from Northumberland Park is already congested, with Backworth used as a "rat run", try turning out of Claverley Drive.

-Increase of traffic on the village road, which is already struggling to cope with the huge increase of traffic using this road since the continuous construction newbuild and also as a result of the construction work to improve the flow of traffic using the A19 and congestion at Silverlink. Although these works are since complete the volume of traffic using the village road has remained.

-The submitted plan has a road infrastructure on the site proposed for development, however entering and leaving the proposed development has no thought or plan to deal with the increase of traffic. Traffic will further increase from customers visiting the 14no additional commercial units.

-I also understood that Japanese knotweed had been identified on the proposed site, this can also have a serious impact on the environment if not controlled.

-The area which is shown on the map is inherently unsafe due to the mine workings. I moved into Rushbury Court in 1988 and since then the land shown in the map has sunk by about 6 to 8 feet. This is surely not safe to build on.

-When Tylers Green (Claverley Drive and Rushbury Court) was built by Bellway, they (Bellway) wanted to build 66 dwellings. North Tyneside Council (as I understand) rejected the application due to lack of infrastructure in Backworth. Bellway were then allowed to build 33 dwellings which is the current number. My point is that the infrastructure of Backworth has not changed.

-Following on from resurfacing of the A19 (20 years ago), the Silverlink Underpass and massive housing development at Northumberland Park, a significant amount of traffic was diverted through Backworth. I have written to North Tyneside Council on many occasions for road traffic calming measures which has only resulted in 20 mph signs being installed, which most drivers exceed significantly.

-The volume of traffic through Backworth grows exponentially each year and with even more housing will only get worse.

-To drive out of Claverley Drive onto the main road is dangerous (please come and see me and I will show you) as you have to drive onto the main road to see traffic from the Shiremoor direction. At times I can wait 2 to 3 minutes to safely drive out of Claverley. The only safe way is to install traffic lights.

-The pathway from Backworth to the school (Backworth School was closed 2 or 3 years ago) is inherently unsafe for children to walk to school and is regularly used (illegally) by cyclists as the road is dangerous.

-The council has failed to inform all of the residence on Claverley Drive and Rushbury Court. A property does not have to overlook the land that the proposal applies to for there to be a detrimental impact on all residents. Anyone that uses Backworth Lane to access their residence is going to have a detrimental impact on access and egress to their property. Therefore, I submit that all residents on Backworth Lane are entitled to be advised that the already heavy traffic flow through the village will increase, with the buildings proposed, without any plans to improve the infrastructure of a narrow road.

-There are 2 types butterflies that will suffer a serious impact if this proposal is allowed to go ahead. The Wall butterfly and the Dingy Skipper are both in serious decline and under threat. The conservation status of the Dingy Skipper is 'protected in the UK under the Wildlife and Countryside Act 1981. Priority Species under the UK Post 2010 Biodiversity Framework'.

-Butterflies have a very short life span that can be measured in days and weeks rather than months and years. Therefore, it is irresponsible to suggest that the butterflies can be reinstated with the creation of a compensatory habitat. This will not be so, the larvae of the butterflies will be destroyed, therefore the whole generation will be lost forever. As there will be no future generation.

-The land has its own eco system covered in insects, flowers etc. Given the number of new houses built in the local area and the displacement and destruction of wildlife habitats it must be clear that wildlife cannot simple be reinstated. The decline of the nation's wildlife is testament to that. The clover and many flowers that grow attract numerous pollinating insects, the importance of which we are only now beginning to understand. There is no mention of other wildlife bats, hedgehogs, birds etc. All of which rely on that land for their existence. This proposal goes against the whole ethos of conservation, and it is

within the council's gift to preserve or destroy. Once a wildlife habitat has been destroyed it cannot be reinstated by a landscaping scheme.

-Who is going to remove and control the spread of the infestation of Japanese knotweed identified on that site? This is a very invasive weed that can cause great damage to property causing property to be greatly devalued. Japanese knotweed is classified as a controlled plant under the Wildlife and Countryside Act 1981. I am given to understand that it is against UK law to cause or allow the spread of Japanese knotweed in the wild. What remedy is there to prevent this? Who is responsible? Who will prevent the knotweed from spreading to adjacent properties?

-As public transport links are no more than adequate residents rely on their cars. It is a 15 minute walk to the metro from where I live, or a bus ride then a metro ride if going into town. Using public transport is not always an option for disabled people and families with young children and babies.

-Many primary school children walk to school via that land enabling them to avoid walking along a busy main road. What is the plan for giving parents the option of keeping children safe and away from a very busy road and car fumes? Is there an alternative walking route for children?

-The land is used by locals as an area to walk their dogs and an area where children play. I was given to understand that the council pledged to protect areas where children play, and people walk etc. Given that the council reneged on that in granting plan permission to build houses on the playing fields at Castle Park, is the council going to keep its promise and protect this environmentally important piece of land that is also used recreationally by residents?

-Considering obesity is a growing problem is the rationale for allowing building on ground that is used as recreational space?

-I can add that I have had to rescue 4 hedgehogs since the disturbance of the hedgerows to the land at the rear of my property. Butterflies, bats, foxes, rabbits, hedgehogs, herons, woodpeckers and other local birds.

-Lack of function of NTC planning websites for updates. Residents are not able to access and view updated documents. This has been relayed to NTC via a phone call with no response. My details are said to be invalid when trying to sign in but emails for sign in are received and responded to. Very strange.

-Noise and Disruption to local residents - this will negatively impact on those who back onto to proposed development. In conjunction with the proposed work to the railway line, this will be a massive noise problem.

-Consultations and observations were made during national lockdowns and do not reflect the use of the area or traffic in any real, day to day way.

-The land could be put to much better use for the community with the development of user friendly paths, gardens, fencing and supporting the local wildlife but keeping the destructive fly tippers and illegal off road bikes out.

3.0 External Consultees

3.1 Natural England

3.2 No objection. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

3.3 European sites

3.4 Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites

and has no objection to the proposed development. To meet the requirements of the Habitats Regulations, we advise you to record your decision that a likely significant effect can be ruled out.

3.5 Sites of Special Scientific Interest

3.6 Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development.

3.7 Sites of Special Scientific Interest Impact Risk Zones

3.8 The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires LPA's to consult Natural England on "Development in or likely to affect a SSSI2 (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help LPA's decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed online.

3.9 Natural England's further advice on the consideration of protected species and the other natural environment issues is set out below.

3.10 SSSI's

3.11 Local authorities have responsibilities for the conservation of SSSI's under s28G of the Wildlife & Countryside Act 1981 (as amended) The NPPF (paragraph 175c) states that development likely to have an adverse effect on SSSIs should not normally be permitted. Natural England's SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help LPA's decide when to consult Natural England on developments likely to affect SSSI. The dataset and user guidance can be accessed from the Natural England Open Data Geoportal.

3.12 Biodiversity duty

3.13 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.

3.14 Protected Species

3.15 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.

3.16 Local sites and priority habitats and species

3.17 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.

3.18 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.

3.19 Ancient woodland and veteran trees

3.20 You should consider any impacts on ancient woodland and veteran trees in line with paragraph 175 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.

3.21 Protected Landscapes

3.22 For developments within or within the setting of a National Park or Area of Outstanding Natural Beauty (AONB), we advise you to apply national and local policies, together with local landscape expertise and information to determine the proposal. The NPPF (paragraph 172) provides the highest status of protection for the landscape and scenic beauty of National Parks and AONBs. It also sets out a 'major developments test' to determine whether major developments should be exceptionally permitted within the designated landscape. We advise you to consult the relevant AONB Partnership or Conservation Board or relevant National Park landscape or other advisor who will have local knowledge and information to assist in the determination of the proposal. The statutory management plan and any local landscape character assessments may also provide valuable information.

3.23 Public bodies have a duty to have regard to the statutory purposes of designation in carrying out their functions (under (section 11A (2) of the National Parks and Access to the Countryside Act 1949 (as amended) for National Parks and S85 of the Countryside and Rights of Way Act, 2000 for AONBs). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

3.24 Heritage Coasts are protected under paragraph 173 of the NPPF. Development should be consistent character of Heritage Coasts and importance of its conservation.

3.25 Landscape

3.26 Paragraph 170 of the NPPF highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local

landscape features or characteristics (such as ponds, woodland or dry stone walls) could be incorporated into the development in order to respect and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape and Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the Landscape Institute Guidelines for Landscape and Visual Impact Assessment for further guidance.

3.27 Best and most versatile agricultural land and soils

3.28 LPA's are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 170 and 171). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in GOV.UK guidance. ALC information is available on the Magic website on the Data.Gov.uk website. If you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss this matter further.

3.29 Guidance on soil protection is available in the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, and we recommend its use in the design and construction of development, including any planning conditions. Should the development proceed, we advise that the developers use an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

3.30 Access and recreation

3.31 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.

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

3.33 Paragraph 98 and 170 of the NPPF highlights the importance of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way, coastal access routes and coastal margin in the vicinity of the development and the scope to mitigate any adverse impacts. Consideration should also be given to the potential impacts on any nearby National Trails, including the England Coast Path. The National Trails website provides information including contact details for the National Trail Officer.

3.34 Environmental enhancement

3.35 Development provides opportunities to secure net gains for biodiversity and wider environmental gains as outlined in the NPPF (paragraphs 8, 72, 102, 118, 170, 171, 174 and 175). We advise you to follow the mitigation hierarchy set out in paragraph 175 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 trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed 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.

3.36 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).

3.37 Case officer note: It is noted that some of the NPPF paragraph numbers are no longer correct as the Natural England comments were issued prior to the July 2021 NPPF.

3.38 The Coal Authority

3.39 We have previously commented on this application in letters to the LPA dated 24 February 2021, 16 July 2021, 2 September 2021 and 27th September 2021 raising no objections to the planning application. We note that the submission is now supported by amended plans, but these still appear to take account of the location of the mine entries and their zones of influence and no buildings are proposed in these areas. On this basis we have no objection to the planning application.

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

3.41 Mine Gas

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

3.43 Northumbrian Water

3.44 In making our response to the LPA Northumbrian Water will assess the impact of the proposed development on our assets and assess the capacity within Northumbrian Water's network to accommodate and treat the anticipated flows arising from the development. We do not offer comment on aspects of planning applications that are outside of our area of control.

3.45 It should also be noted that, following the transfer of private drains and sewers in 2011, there may be assets that are the responsibility of Northumbrian Water that are not yet included on our records. Care should therefore be taken prior and during construction work with consideration to the presence of sewers on site. Further information is available on their website.

3.46 The planning application confirms that surface water is intended to be directed to a local watercourse. However, it does not provide sufficient detail with regards to the management of foul water from the development for Northumbrian Water to be able to assess our capacity to treat the flows from the development.

3.47 We would therefore request the following condition:

Condition: Development shall not commence until a detailed scheme for the disposal of foul 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.

3.48 How to satisfy the condition

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

- Soakway
- Watercourse and finally
- Sewer

3.50 If sewer is the only option, the developer should contact Northumbrian Water to agree allowable discharge rates and connection points into the public sewer network. This can be done by submitting a pre planning enquiry directly to use. Full details and guidance can be found at <https://www.nwl.co.uk/developers/predevelopment-enquiries.aspx> or telephone 0191 419 6559

3.51 Please note the planning permission with the above condition is not considered implementable until the condition has been discharged. Only then can an application be made for a new sewer connection under S106 of the Water Industry Act 1991.

3.52 For information only

3.53 We can inform you that a water main crosses part of the site and may be affected by the proposed development. Northumbrian Water does not permit a building over or close to our apparatus. We will work with the developer to establish the exact location of our assets and ensure any necessary diversion, relocation or protection measures required prior to the commencement of the development. We include this informative so that awareness is given to the presence of assets on site. For further information is available at <https://nwl.co.uk/services/developers/>

3.54 Tyne and Wear Archaeology Officer

3.55 The applicant has provided a heritage assessment for the site (event 5111 report 2021/2). This identifies the potential for archaeological remains pre-dating the 19th century as low due to industrial development. The report concluded that no significant archaeological remains have been identified on the site previously and proposes further work secured by condition to identify if there are any surviving archaeological remains relating to the colliery buildings, the gas works and the Backworth Colliery Railway West Cramlington Branch of 1818. I support this recommendation.

3.56 The applicant has also provided a geo-environmental appraisal carried out by Sirius Geotechnical Ltd (October 2019). This states that the colliery buildings were cleared some time during the 1980s, and that that the site had been subject to a previous phase of remediation work during the 1980s. A number of trial pits were excavated across the site. The results of this work should be reviewed prior to designing any further archaeological investigation.

3.57 The archaeological work can be secured using the following conditions:

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 Unitary Development 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.

3.58 Case officer note: It is noted that some of the NPPF paragraph numbers are no longer correct as the Tyne and Wear Archaeology Office comments were issued prior to the July 2021 NPPF.

3.59 Environment Agency

3.60 We have no objections to the proposed development, as submitted. However, we have the following comments to offer:

Historic Landfill – Advice to LPA/Applicant

It is noted that part of the proposed development is located within a historic landfill site. Local Planning Authorities have records of all historic (unpermitted) landfill sites through their contaminated land responsibilities (registers) and will be able to identify development proposals in proximity to historic landfill. Please refer to link on historic landfills.

3.61 Newcastle International Airport Limited (NIAL)

3.62 In line with the previous schemes at this site that the Airport has been consulted on, it is requested that the proposed species mix of landscaping on site should not consist of any more than 10% berry bearing species. It is noted in the proposed landscaping mix that a number of species mentioned are of a berry bearing nature. The most up to date list of berry bearing species is as below.

Crataegus monogyna Hawthorn
Ilex aquifolium Holly
Rosa canina Dog Rose
Berberis spp Barberry
Cotoneaster
Viburnum

Lonicera Honeysuckle
Mahonia
Malus Crab Apple
Sorbus aucuparia Rowan
Pernettya Prickly Heath
Prunus avium Wild Cherry

Aucuba Buddleia
Callicarpa Beauty Berry
Chaenomeles Japonica
Clerodendrum
Danae Butcher's Broom
Daphne Euonymus Spindle
Hypericum St John's Wort
Lonicera Honeysuckle
Yew (Taxus baccata)
Scot Pine (Pinus sylvestris)

Prunus spinosa Blackthorn
Pyracantha Firethorn
Rhus Sumac
Ribes Ornamental Currant
Sambucus nigra Elder
Skimmia
Stranvaesia
Symphoricarpus Snowberry
English Oak (Quercus robur),
Leylandi

3.63 I therefore would request a condition that the proposed landscaping mix does not consist of any more than 10% berry bearing species.

3.64 Nexus

3.65 In terms of public transport accessibility, the site proposed for development is adequately served by public transport.

3.66 As stated in the Travel Plan accompanying the report, the site is served by two buses an hour during the day as recommended by the Nexus Planning Liaison Policy, and all dwellings appear as though they will be located within 400m of bus stops.

3.67 Metro services at Northumberland Park are somewhat further away at 1.2 to 1.5km but are within easy reach by active travel modes such as walking and cycling. From 2024 there should be additional rail services between Northumberland Park, Newcastle, Blyth and Ashington when Northumberland Line services begin.

3.68 The guidance within the Nexus Planning Liaison Policy states the following:

“For larger residential developments of 50 or more dwellings, Nexus will request via the Local Planning Authority that the applicant meet the costs of two introductory tickets per dwelling to the equivalent of four weeks travel per ticket. These tickets should be offered to residents as part of the Welcome Pack with the onus on residents to apply for these through the necessary process... The tickers required are two Pop Pay As You Go cards per dwelling with £50 worth of credit preloaded onto each of them”.

3.69 This policy is also similar for applications where there is a commercial usage, for new employees travelling to and from the development site.

3.70 The Nexus Planning Liaison Policy is upheld by Nexus in regard to all development planning applications in order to increase awareness and provision of sustainable travel across Tyne and Wear. Sustainable travel should be encouraged through the frequent public transport services, and through means of people accessing these services. Nexus views that the provision of introductory travel tickets encourage greater take up of public transport in the long term for new residents or new employees at any given site.

3.71 Nexus is also mindful that new residents as part of this development are likely to opt to travel to other areas across North Tyneside or neighbouring Newcastle on a somewhat regular basis.

3.72 At present, two zones travel on Metro for four weeks is £61.50, which exceeds the introductory ticket requirement. This is the price a resident of Backworth would expect to pay if they were to travel frequently between Northumberland Park and Newcastle City Centre, as an example. As the pricing matrix figure for Metro shows below, the developers offer of £20.00 per ticket would fall below the threshold for one zone monthly ticket, meaning the resident would have to meet the additional cost in their introductory month.

3.73 Similarly, as Pop PAYG cards can be used to purchase tickers on board all bus services within Tyne and Wear and beyond, £20 worth of credit would not be sufficient to meet the costs of one months travel for new residents as introductory provision. At present, Arriva charge £68.00 for an adult 4-week travel season ticket for Tyne and Wear. Arriva weekly tickets are process at £19.00, meaning that a £20.00 PAYG Pop Card would only provide the resident with one week's introductory travel on bus.

3.74 Taking the above pricing into account, Nexus sees that it is therefore entirely within reason to ask the developer to meet the costs of two £50.00 introductory travel tickets in order to meet the needs of residents or employees over the course of four weeks. This is subject to the resident applying for the tickets.

3.75 In summary, Nexus recommends that the applicant should be mindful that the Nexus Planning Liaison Policy is upheld by Nexus across all development applications that meet the criteria within Tyne and Wear. Therefore, Nexus recommends that the LPA uphold the Planning Liaison Policy requirements as a condition.

3.76 Case note: The applicant has agreed to meet the costs of two £50.00 introductory travel tickets.

3.77 Northumbria Police

3.78 Thank you for the opportunity to comment on the above planning matter, we have previously made comments in relation to this planning application on a number of occasions, the most recent on 7th September 2021, where clarification was sought on boundary treatments.

3.79 I see from the most recent External Finishes (Drawing No. 103) plans, that our recommendation for boundary treatments for some of the plots has not been considered. Therefore, I would like to reiterate my previous comments:

-Plot No's 18/19, 23/24 and 11/12

These plots have a sub-divisional fencing of 1800mm close boarded. This makes the rear access very narrow and will offer very little surveillance. I would recommend a 1500mm high close boarded fence for the sub-divisional boundary, which would enhance the surveillance and feel less oppressive.

-Plot No's 15, 26 and 36 (for example)

These plots have 1800mm closed boarded fence, however, there is a 900mm estate rail adjoining the close boarded fence, this is not ideal as the estate rail could be used as a climbing aid.

-Lighting Plan – we would recommend that the development (including footpaths conforms to British Standard for street lighting BS5489-1:2020 which is the industry standard for road and public amenity lighting.

3.80 Finally, as mentioned in comments dating back to March 2021, we do have concerns around the public footpath between plots 15 and 16 and the potential for motorcycle anti-social behaviour to occur within the development, which although as previously stated the introduction of domestic and commercial development will help reduce the problem, it may not totally prevent it from occurring, we would welcome discussions with the applicant to look at ways to reducing this.

3.81 Northumberland Wildlife Trust

3.82 We would like to take the opportunity to respond to the butterfly report of 21 June.

3.83 We are pleased to see these surveys carried out at the correct time of year as requested in our previous comments. We acknowledge that this spring was a challenging time to survey for butterflies with poor weather conditions for much of this period.

3.84 The guidance notes for butterfly transects suggest weather conditions suitable for transect surveys “The minimum criteria are either 13-17 C with at least 60% sunshine, or if there is no sunshine the temperature must be 17 C or above”; UK BMS guidance for butterfly survey (UKBMS.org). While it is acknowledged that this is not a transect survey this is useful guidance of undertaking butterfly surveys. It is noted that only the survey of 2 June would have complied. Even with some leeway the weather on the survey of 20 May cannot be described as suitable. It is therefore disappointing that the survey is still not ideal to ascertain the dingy skipper presence on site.

3.85 For information dingy skipper was recorded on adjacent North Tyneside land on 27 May 2021. We accept that this information was not available to the surveyors but it does indicate a colony on land adjacent to the application site.

3.86 We do agree that the precautionary principle must be applied given the occasional records from this site and adjacent areas. We welcome the provision on and off site for dingy skipper and in light of nearby records would encourage this to be undertaken specifically with their habitat requirements in mind. With a small colony present the mitigation has the opportunity to increase suitability for this butterfly in the future.

3.87 Butterfly Conservation’s North of England Conservation Manager

3.88 Objection subject to imposition of appropriate planning conditions to protect and enhance wildlife interests.

3.89 You will be aware that Butterfly Conservation (Mr Dave Wainwright) objected to an earlier submission of this development proposal centred on the

inadequacy of surveys for Dingy Skipper butterfly. The subsequent surveys and updated ecological report appear to us to address this main issue and we are pleased that surveys were undertaken in the middle of the flight season. Based on this information we are satisfied that the colony of Dingy Skipper on the application site is likely to be of small size.

3.90 The applicant has submitted outline proposals for both on-site mitigation and off-site habitat compensation for wildlife including the creation and management of habitat for Dingy Skipper butterfly. We believe that it is feasible for suitable new habitats to be created for Dingy Skipper which would also serve to support other important butterflies such as Wall Brown. We are satisfied that providing the mitigation and compensation proposals put forward by the applicant are suitably conditioned as part of any planning permission, the compensation land handed to a suitable conservation organisation and its long-term management adequately secured by the authority, which we would suggest is for at least 30 years, then we are satisfied that our objection can be withdrawn.

3.91 We would be pleased to be involved in assisting with the ground works specification for the creation of habitat suitable for Dingy Skipper and other butterfly species. In particular, it is important to create habitat on soils with hardly any or no nutrients, and certainly no topsoil. This is particularly critical given that the 5ha habitat compensation area is currently an arable field. The specification should include measures to expose subsoils or friable bare mineral, or to re-use site-derived nutrient-poor material, to create sparse vegetation with abundant Common Bird's-foot-trefoil, especially in areas with a south-facing aspect.