

# PLANNING AND DEVELOPMENT COMMITTEE AGENDA

Wednesday, 24 April 2019 at 6.00 pm in the Council Chamber, Civic Centre

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From the Chief Executive, Sheena Ramsey

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Item	Business
<b>1</b>	<b>Apologies for Absence</b>
<b>2</b>	<b>Minutes</b>  The Committee is asked to approve as a correct record the minutes of the meeting held 3 April 2019 (copy previously circulated).
<b>3</b>	<b>Declarations of Interest</b>  Members to declare interests in any agenda items
<b>4</b>	<b>Planning Applications (Pages 3 - 8)</b>  Report of the Strategic Director, Communities and Environment
4i	<b>No. 1 - NHW Waste Services Ltd, Owen Pugh Properties Ltd, Factory Road, Blaydon, NE21 5RZ (Pages 9 - 20)</b>
4ii	<b>No. 2 - Friends of Chopwell Park, Chopwell Park North of Marx Terrace, Chopwell, Newcastle upon Tyne (Pages 21 - 32)</b>
4iii	<b>No. 3 - John F Hunt Group Ltd, Former Palmer and Harvey Ltd, Shadon Way, Birtley, DH3 2RN (Pages 33 - 40)</b>
4iv	<b>No. 4 - Storage Land, Forge Road, Gateshead (Pages 41 - 52)</b>
4v	<b>No. 5 - 309 - 311 Old Durham Road Gateshead NE8 3TS (Pages 53 - 60)</b>
<b>5</b>	<b>Delegated Decisions (Pages 61 - 72)</b>  Report of the Strategic Director, Communities and Environment
<b>6</b>	<b>Enforcement Team Activity (Pages 73 - 74)</b>  Report of the Strategic Director, Communities and Environment

- 7** | **Enforcement Action** (Pages 75 - 84)  
Report of the Strategic Director, Communities and Environment
- 8** | **Planning Appeals** (Pages 85 - 98)  
Report of the Strategic Director, Communities and Environment
- 9** | **Planning Obligations** (Pages 99 - 100)  
Report of the Strategic Director, Communities and Environment



PLANNING AND DEVELOPMENT  
COMMITTEE  
**24 April 2019**

**TITLE OF REPORT:** Planning applications for consideration

**REPORT OF:** Anneliese Hutchinson, Service Director,  
Development, Transport and Public Protection

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### **Purpose of the Report**

1. The Committee is requested to consider the attached schedule of miscellaneous planning applications, which are presented as follows:-

#### **PART ONE:**

Planning Applications  
Applications for Express Consent under the Advertisement Regulations  
Proposals for the Council's own development  
Proposals for the development of land vested in the Council  
Proposals upon which the Council's observations are sought  
Any other items of planning control

#### **PART TWO: FOR INFORMATION ONLY**

Applications determined in accordance with the powers delegated under Part 3, Schedule 2 (delegations to managers), of the Council Constitution.

### **Recommendations**

2. Recommendations are specified in the schedule.

The Human Rights Implications of the recommendations have been considered. Unless specified there are no implications that outweigh the material planning considerations.

## **Contents**

<b>Application Number</b>	<b>Site Location</b>	<b>Ward</b>
1. DC/18/01131/COU	Owen Pugh Properties Ltd Factory Road	Blaydon
2. DC/19/00071/FUL	Chopwell Park North Of Marx Terrace	Chopwell And Rowlands Gill
3. DC/19/00121/FUL	Former Palmer And Harvey Ltd Shadon Way	Birtley
4. DC/19/00150/COU	Storage Land Forge Road	Dunston And Teams
5. DC/19/00179/COU	309 Old Durham Road Gateshead	Deckham

## DEVELOPMENT PLAN

Section 38(6) of the Planning & Compulsory Purchase Act 2004 specifies that: 'If regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the Plan unless material considerations indicate otherwise.'

## NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

The NPPF was published in June 2018 by Ministry of Housing, Communities and Local Government (MHCLG) and is a material consideration in planning decisions. The NPPF is supported by Planning Practice Guidance (PPG), which provides further detail on how some policies of the NPPF should be applied.

## LOCAL PLAN

In 2015 Gateshead Council and Newcastle City Council adopted Planning for the Future Core Strategy and Urban Core Plan for Gateshead and Newcastle Upon Tyne 2010-2030 (CSUCP). This Development Plan Document (DPD) sets area-wide Planning Policies for Gateshead and Newcastle, (including policies setting out the amount, and broad distribution of new development) and provides more detailed policies for the Urban Core of Gateshead and Newcastle.

In accordance with the Planning and Compulsory Purchase Act 2004 (as amended) the CSUCP now forms part of the statutory development plan for Gateshead. The CSUCP also supersedes and deletes some of the saved policies in the Unitary Development Plan (UDP). A list of deleted UDP policies is provided in Appendix 1 of the CSUCP.

The Unitary Development Plan for Gateshead was adopted in July 2007 and the remaining saved policies together with the CSUCP represent a current up to date development plan. In the report for each application, specific reference will be made to those policies and proposals which are particularly relevant to the application site and proposed development. Where the saved UDP policies are in general conformity with the NPPF due weight should be given to them. The closer the consistency with the NPPF the greater the weight can be given.

Some UDP policies are supported by Interim Policy Advice notes (IPA), or Supplementary Planning Guidance (SPG). IPA 4 and 17 and SPG 4 and 5 excerpts, will continue to be used until they have been replaced by appropriate alternatives.

The Council is currently working on new draft detailed policies and land allocations for the new Local Plan. The DPD will be called Making Spaces for Growing Places (MSGP), which once adopted will replace any remaining saved UDP policies and designations/allocations.

## UPDATES

The agenda is formed and printed approximately a week prior to the Planning and Development Committee meeting. Information, correspondence and representations can sometimes be received in the intervening period. In such cases a written update report will be circulated to Members the day prior to the meeting and on occasion there may be further verbal updates to Members from officers, so that Members are aware of all material planning considerations when making their decision on applications.

## SPEAKING AT COMMITTEE

Gateshead Council seeks to be inclusive in its decision making process and therefore allows applicants, agents and interested parties to make verbal

representation to Members at Committee in accordance with the Council's agreed speaking rights protocol; amongst other procedural requirements, a person must have submitted a request to speak in writing at least a week, in advance of the meeting, and subsequently confirmed their intention to speak.

For further details of speaking rights at committee contact the Development Management Section on (0191) 4333150 or please view the leaflet 'Having Your Say' available from Development Management.

#### SITE PLANS

The site location plans included in each report are for illustrative purposes only. Scale plans are available to view on the application file or via Public Access.

#### PUBLICITY/CONSULTATIONS

The reports identify the responses to site notices, press notices, consultations and/or neighbour notifications which have been undertaken. The reports include a précis of the comments received, full copies of letters are available to view on the application file. In all cases the consultations and publicity have been carried out in accordance with the appropriate procedure(s).

#### SITE VISITS

On occasion the Committee will defer making a decision until they have viewed the application site themselves as a group. The visits are fact finding visits only and no debate or decision making will take place on the visit and no representations will be heard at these visits and therefore the Local Planning Authority will not invite applicants or third parties to attend unless for the sole purpose of arranging access to land and or/ buildings.

#### LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION (AS AMENDED)

The background papers material to the reports included on this agenda are:

- The application and supporting reports and information;
- Responses from consultees;
- Representations received;
- Correspondence between the applicant and/or their agent and the Local Planning Authority;
- Correspondence between objectors and the Local Planning Authority;
- Minutes of relevant meetings between interested parties and the Local Planning Authority;
- Reports and advice by specialist consultants employed by the Local Planning Authority;
- Other relevant reports.

Please note that not all of the reports will include background papers in every category and that the background papers will exclude any documents containing exempt or confidential information as defined by the Act.

These papers are held on the relevant application file and are available for inspection during normal office hours at the Communities and Environment reception, Civic Centre, Regent Street, Gateshead NE8 1HH

### Generalised Guide to Use Classes Order 1987 (as amended)

<b>A1 Shops</b>	Shops, retail warehouses, hairdressers, undertakers/funeral directors, travel and ticket agencies, post offices, pet shops, sandwich shop, showrooms, domestic hire shops.	<b>C1 Hotels</b>	Hotels, boarding and guest houses
<b>A2 Financial and Professional Services</b>	Banks, building societies, estate and employment agencies, professional and financial services.	<b>C2 Residential Institutions</b>	Residential schools and colleges convalescent homes/nursing homes
<b>A3 Restaurants and Cafes</b>	Restaurants, snack bars, cafes.	<b>C2A Secure Residential Institutions</b>	Secure residential accommodation including detention centres, young offenders institutions, prisons and custody centres.
<b>A4 Drinking Establishments</b>	Public Houses and Wine bars etc	<b>C3 Dwellinghouses</b>	Dwellings, small business at home, communal housing of the elderly and handicapped
<b>A5 Hot food Take-Aways</b>	Hot Food Take-away shops	<b>C4 Houses in Multiple Occupation</b>	Small shared dwellinghouses occupied by between 3 and 6 unrelated individuals who share basis amenities such as kitchen or bathroom.
<b>B1 Business</b>	Offices not within A2, research and development studios, laboratories, high tech., light industry appropriate in a residential area.	<b>D1 Non-residential Institutions</b>	Places of worship, church halls, clinics, health centres, crèches, day nurseries, consulting rooms, museums, public halls, libraries, art galleries, exhibition halls, non-residential education and training centres.
<b>B2 General Industry</b>	General industry.	<b>D2 Assembly &amp; Leisure</b>	Cinemas, music and concert halls, baths, skating rinks, gymnasiums. Other indoor and outdoor sports and leisure uses, bingo halls.
<b>B8 Storage and Distribution</b>	Wholesale warehouses repositories, including open air storage	<b>Sui generis</b>	Any use not included within any of the above use classes, such as theatres, nightclubs, taxi businesses, motor vehicle sales, betting shops.

In many cases involving similar types of use, a change of use of a building or land does not need planning permission. Planning permission is not needed when both the present and proposed uses fall within the same 'class', or if the Town and Country Planning (Use Classes) Order 1987 says that a change of class is permitted to another specified class.

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**Committee Report**

<b>Application No:</b>	<b>DC/18/01131/COU</b>
<b>Case Officer</b>	<b>David Morton</b>
<b>Date Application Valid</b>	<b>28 November 2018</b>
<b>Applicant</b>	<b>NWH Waste Services Ltd</b>
<b>Site:</b>	<b>Owen Pugh Properties Ltd Factory Road Blaydon NE21 5RZ</b>
<b>Ward:</b>	<b>Blaydon</b>
<b>Proposal:</b>	<b>Change of use of warehouse and integral offices with hardstanding for vehicle and materials storage and vehicle circulation (use class B8) to waste transfer station including waste recycling, storage of waste materials, storage of products, vehicle parking including vehicle operating licence (sui generis) (amended 22/02/19).</b>
<b>Recommendation:</b>	<b>GRANT</b>
<b>Application Type</b>	<b>Change of Use</b>

**1.0 The Application:**

**1.1 DESCRIPTION OF APPLICATION SITE**

The application site is located on the south east side of the River Tyne, within the Blaydon/Derwenthaugh Primary Employment Area. The application site comprises of a warehouse building, parking to the south and west of the site and vehicle and materials storage in the yard area to the north and east. The site currently has two accesses to the east and west of the existing warehouse.

1.2 The site is bound to the north, south and east by industrial units, yards and offices, including metal scrap yards to the north and east. The closest office to the site is the Blaydon Communications Ltd office located on the opposite side of Factory Road.

1.3 The closest residential properties are 470 metres southwest of the site on Shibdon Road, with the A695 dual carriageway, a railway line and a commercial area in between the site and the properties.

**1.4 DESCRIPTION OF APPLICATION**

The application seeks consent for the change of use of the application site from the current storage and distribution use (Use Class B8) to waste transfer station (Sui Generis).

1.5 The application proposes to accept commercial and industrial waste from Newcastle and the surrounding area, the application site will provide a material recycling facility with materials being sorted into the appropriate waste stream

then moved to the appropriate licenced waste facility for further processing/recycling.

- 1.6 It is proposed for the site to handle the contents of skips/containers and vehicles that are returned from customers. The majority of the waste will be construction waste e.g. soil, bricks and concrete.
- 1.7 It is proposed that commercial and industrial waste would be delivered to the site using skip and hook vehicles where it would be processed/sorted using a grabber/excavator and stored in skips and containers within designated areas. Sorted materials would be loaded using a wheeled loading shovel.
- 1.8 The applicant has indicated that the intention would be for the site to operate 24 hours a day, however the site is only likely to accept waste deliveries between 0600 - 1800 Monday to Friday and 0700 - 1400 Saturday and Sunday.
- 1.9 It has been estimated that the application would employ approximately 15-20 people (equivalent to 10 full time staff).
- 1.10 RELEVANT PLANNING HISTORY
- 1.11 The planning history associated with the application site is summarised as follows;
  - 1431/88; Planning permission granted for 'Erection of warehouse (Use Class B8) with integral offices for storage of extruded plastic pipes and fittings.' Date; 07 March 1989.
  - 272/92; Planning permission granted for 'Erection of single-storey building to provide storage accommodation (use class B8).' Date; 30 April 1992.
  - 1226/93; Planning permission granted for 'Erection of single-storey building to provide storage accommodation (use class B8).' Date; 03 February 1994.
  - 156/02; Planning permission granted for 'Erection of warehouse for the storage and distribution of building materials (use class B8) and integral offices with hardstandings for materials storage and vehicle circulation.' Date; 08 March 2002.
  - DC/17/00355/COU; Planning application withdrawn for 'Change of use of warehouse and integral offices with hardstanding for vehicle and materials storage and vehicle circulation (Use Class B8) to commercial rental vehicle and maintenance premises (Sui Generis) and/or warehouse and integral offices with hardstanding for vehicle and materials storage and vehicle circulation (Use Class B8).' Date; 30 June 2017.

## **2.0 Consultation Responses:**

Northumbrian Water	No objection subject to condition.
Environment Agency	No objection.

### **3.0 Representations:**

3.1 Neighbour notifications were carried out in accordance with the formal procedures introduced in the Town and Country Planning (Development Management Procedure) Order 2015. A total of five letters of objection have been received and are summarised as follows;

- The proposed development would lead to additional noise, dust, odour, traffic and vermin;
- Parking within the area is already an issue and the proposal will worsen this situation and;
- There are already a number of recycling sites on the industrial estate.

### **4.0 Policies:**

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

DC1D Protected Species

DC2 Residential Amenity

ENV3 The Built Environment - Character/Design

ENV46 The Durham Biodiversity Action Plan

ENV47 Wildlife Habitats

ENV54 Dev on Land Affected by Contamination

JE1 Primary Employment Areas

CS6 Employment Land

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

CS17 Flood Risk and Waste Management

CS18 Green Infrastructure/Natural Environment

CS21 Waste

GPGSPD Gateshead Placemaking Guide SPG

## 5.0 Assessment:

5.1 The main planning issues are considered to be the principle of the development within a primary employment area and its acceptability in terms of design, highway safety and the amenity of adjacent businesses and residents.

## 5.2 BACKGROUND

The proposed development is to be controlled through an Environmental Permit (by the Environment Agency).

5.3 The NPPG (Paragraph: 050 Reference ID: 28-050-20141016) states the following;

*"There exist a number of issues which are covered by other regulatory regimes and waste planning authorities should assume that these regimes will operate effectively. The focus of the planning system should be on whether the development itself is an acceptable use of the land and the impacts of those uses, rather than any control processes, health and safety issues or emissions themselves where these are subject to approval under other regimes. However, before granting planning permission they will need to be satisfied that these issues can or will be adequately addressed by taking the advice from the relevant regulatory body."*

5.4 Therefore, it is important to ensure that the planning application does not seek to duplicate matters controllable through other consent regimes. This also applies in regard to the imposition of planning conditions, Paragraph 206 of the NPPF states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. The NPPG provides further guidance on conditions and sets out that a condition must not be used to control matters where there are specific controls outside planning legislation (in the case of this application it would be the permit regulated by the Environment Agency).

## 5.5 PRINCIPLE

The site is located within the Blaydon/Derwenthaugh Primary Employment Area, allocated by policy JE1. Policy JE1 seeks to prevent change of use to non-employment uses. Non-employment uses are usually categorised as those outside B1, B2 and B8 use. However, there are some uses which fall outside B-use classes which can be considered compatible, in principle, with employment uses. The latest Employment Land Review recommended that the application site is retained within the Blaydon Employment Area proposed for allocation within the emerging MSGP.

5.6 While the proposed sui generis use is not within the definition of B-use development defined within policy JE1, it may be noted that waste transfer/recycling facilities operate within several of Gateshead's employment areas, including within Blaydon/Derwenthaugh. Such facilities can often be

appropriately accommodated within employment areas, provided that they do not have a detrimental impact on other uses, most notably residential uses. Accordingly the proposed change of use is considered broadly compatible with the Council's approach to the use of employment land.

5.7 The proposed development is therefore considered to be an acceptable addition to the Blaydon/Derwenthaugh Primary Employment Area and accords with the aims and objectives of the NPPF, saved policy JE1 of the Council's UDP and policy CS6 of the CSUCP.

#### 5.8 DESIGN

The proposed development proposes a minimal amount of physical development (placing of a weighbridge and setting out of storage areas) and as such would retain the appearance of an industrial facility which is considered appropriate in the context of the wider area. It is, however, considered necessary to set a height limit on the storage of materials to ensure no unacceptable impact would occur (Condition 3). Subject to conditions, the proposed development is considered to be acceptable from a visual perspective and accords with the aims and objectives of the NPPF, saved policy ENV3 of the UDP and policy CS15 of the CSUCP.

#### 5.9 HIGHWAY ISSUES

Given the nature of the proposed development the application has been supplemented by a Transport Statement (TS) and a Travel plan (TP).

5.10 The TS provides information on the expected hourly flows in and out of the site with maximum movements of 15 to 20 movements per hour in the 0700 to 0800 period. The daily movements at the site are expected to be around 80 to 100 departures; this figure will include site based vehicles that may make multiple trips to and from the site.

5.11 It is considered by Officers that the trips generated as part of the new use of the site are unlikely to be greater than that of the established storage and distribution use (Use Class B8).

5.12 Regarding parking levels, the application proposes 20 spaces to the front of the site. Officers are of the view that this would provide adequate parking for the 15 to 20 staff; this arrangement can be monitored through the TP and the applicant has allowed for an additional parking area if required.

5.13 The submitted TS has estimated that the number of articulated vehicles accessing the site will be approximately four per day. The routing plan submitted within the TS has indicated that these vehicles will access the site from Patterson Street to the west; on this basis, it is considered that the proposal would not have an unacceptable impact on highway safety.

5.14 Improvements to accessibility by sustainable means are dealt with within the TP which carries out an assessment of the site for access by sustainable means. The bus services are approximately 400 metres from the site with train

station some 200m further. The final details of the TP including targets would need to be agreed via planning condition (Conditions 4 and 5).

5.15 It is also considered that final details of the cycle parking to be provided ought to be secured via planning condition (Conditions 6 and 7).

5.16 Based on the above assessment and subject to appropriate conditions, it is considered that the proposal would comply with the aims and objectives of the NPPF and policy CS13 of the CSUCP.

#### 5.17 AMENITY ISSUES

The planning application has been supplemented by a Noise Impact Assessment (NIA). The NIA concludes;

*"... noise from the site will be within WHO Guidelines for Community Noise during daytime hours; predicted internal noise levels will meet the recommended criterion suggested in BS 8233 for sleeping in bedrooms at night with windows open for ventilation purposes; and Internal noise levels at the offices closest to the site are not expected to exceed the recommended BS 8233 criterion for executive offices, even with windows open."*

5.18 Officers are in broad agreement with the submitted NIA, however there are some concerns in regard to 'impulsive noise' during the evening i.e. banging and clattering. It is considered that the report lacks some detail in this regard, however it is noted that there are no residential properties close to the application site that are likely to be effected.

5.19 Further to the above, the day to day management of noise from the site is primarily regulated by the Environment Agency through the permit for the site.

5.20 Management measures through the environmental permit are set up to be responsive to local conditions and changing circumstances and therefore provide important flexibility. Whilst consideration has been given to whether planning conditions are required to control noise, these would have to impose fixed specifications of noise control measures given the need for planning conditions to be precise. The disadvantage of this approach is that it cannot provide the flexibility of changing circumstances on the site. Therefore, the flexibility of the permit would be the most appropriate to control the impact of noise from the site.

5.21 In terms of the physical development taking place, it is considered that there is sufficient distance between the proposed development and residential properties to ensure that no unacceptable level of impact would occur. While there are other commercial properties located close to the development, it is considered that the form of development would not be alien to the area and would not lead to any significant loss of amenity to neighbouring occupiers.

5.22 Officers are of the view that given the industrial nature of the area some level of noise disturbance is to be expected and any potential. As such the residual levels of noise would not be so significant as to warrant refusal in this locality as

it is considered unlikely that the development would have any significant impact on the living conditions of residential properties.

5.23 It is therefore considered that the proposed development is acceptable from an amenity point of view and accords with the aims and objectives of the NPPF, saved policy DC2 of the Council's UDP and policy CS14 of the CSUCP.

#### 5.24 ECOLOGY

A Preliminary Ecological Appraisal has been submitted in support of the application which confirms the site is generally of low ecological value, but recognises the local value of the area of habitat situated along the length of the site boundary adjacent the River Tyne LWS.

5.25 The submitted ecology report makes a number of recommendations for biodiversity enhancements, including the provision:

- tree mounted nest (bird) boxes;
- building mounted swift boxes; and
- tree mounted bat boxes.

5.26 Officers agree with the recommendations set out within the submitted ecology report and it is recommended that a condition requiring the final details of the proposed bird and bat boxes (Conditions 8 and 9).

5.27 Therefore, subject to the recommended conditions above, it is considered that the proposal would be acceptable in terms of impact on ecology and is in accordance with the aims and requirements of saved policies DC1(d), ENV46 and ENV47 of the UDP and policy CS18 of the CSUCP.

#### 5.28 LAND CONDITIONS

The site has been assessed and inspected as part of the Council's Contaminated Land Strategy and is situated on potentially contaminated land based on previous historic use.

5.29 No Preliminary Risk Assessment (PRA) to assess the condition of the land has been submitted by the applicant. However, given the proposed application proposes a change of use and would not require any ground breaking it is considered that the development would not represent any risk to human health.

5.30 Therefore, the proposal therefore complies with the aims and objectives of the NPPF and saved policy ENV54 of the UDP and policy CS14 of the CSUCP.

#### 5.31 DRAINAGE

The application has been supported by a Flood Risk Assessment, Officer agree with the broad conclusions of the document. However, it is considered that subject to conditions requiring the final detail of the drainage system (Conditions 10 and 11) and conditions pertaining to an evacuation plan (Conditions 12 and 13) the application is acceptable from a flood risk perspective.

5.32 Subject to the conditions cited above, it is considered that the proposal does not conflict with the aims and requirements of policy CS17 of the CSUCP or the NPPF.

5.33 **COMMUNITY INFRASTRUCTURE LEVY**

On 1st January 2017 Gateshead Council became a Community Infrastructure Levy (CIL) Charging Authority. This application has been assessed against the Council's CIL charging schedule and the development is not CIL chargeable development as it is not for qualifying retail or housing related.

5.34 **OTHER MATTERS**

Concerns have been raised in regard to the number of recycling site within the local vicinity, It is considered by officers that this matter isn't material to the decision-making process and as such the application has been considered on its individual merit.

5.35 It is considered that all material planning considerations raised by objectors have been addressed within the main body of the report.

**6.0 CONCLUSION**

6.1 It is clear that there are a number of environmental impacts from the site such as noise which have potential to impact upon neighbouring businesses in the area. It is considered that these impacts are to be primarily controlled by the permit for the site which is regulated by the Environment Agency. The NPPG is clear that planning should not duplicate the role of the pollution control body.

6.2 Taking all the relevant issues into account it is considered that the proposed development accords with national and local planning policies. It is therefore recommended that planning permission be granted subject to the planning conditions below.

**7.0 Recommendation:**

That permission be GRANTED subject to the following condition(s) and that the Service Director of Development, Transport and Public Protection be authorised to add, vary and amend the planning conditions as necessary

1

The development shall be carried out in complete accordance with the approved plan(s) as detailed below -

NWH/036/PLAN/001

NWH/036/PLAN/002

NWH/036/PLAN/003

NWH/036/PLAN/004

NWH/036/PLAN/005

NWH/036/PLAN/006

Any material change to the approved plans will require a formal planning application to vary this condition and any non-material change to the



plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.

Reason

In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

2

The development to which this permission relates must be commenced not later than 3 years from the date of this permission.

Reason

To comply with section 91 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.

3

All materials on site shall be stored to a maximum height of four metres (from existing ground level).

Reason

To ensure that no unacceptable impact on the amenity of neighbouring properties or the wider area would occur in accordance with Policies ENV3 and DC2 of the Unitary Development Plan and Policy CS14 of the CSUCP.

4

The use hereby approved shall not commence until a final Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include:

- An assessment of the site, including the transport links to the site, on-site facilities, any transport issues and problems, barriers to non-car use and possible improvements to encourage walking, cycling and bus use.
- Clearly defined objectives, targets and indicators.
- Details of proposed measures.
- Appointment of a travel plan.
- Detailed timetable for implementing measures.
- Proposals for maintaining momentum and publicising success.
- A programme of continuous review of the approved details of the Travel Plan and the implementation of any approved changes to the plan.

Evidence of the implementation of the approved Travel Plan over a minimum period of 12 months shall be submitted to and approved in writing by the Local Planning Authority prior to formally discharging the condition.

Reason

In order to promote sustainable travel and accord with the NPPF and policy CS13 of the CSUCP.

5

The Travel Plan approved under condition 4 shall be wholly implemented in accordance with the approved details for the life of the development

Reason

To ensure sustainable travel and in accordance with CSUCP CS13 and the NPPF.

6

Prior to the commencement of use hereby permitted final details of cycle storage for staff, including details of the locking mechanism and/or anchor point shall be submitted to and approved in writing by the Local Planning Authority.

Reason

In the interests of sustainable development and in order to accord with policy CS13 of the CSUCP and the Gateshead Cycling Strategy.

7

The cycle storage provision approved at condition 6 shall be provided prior to the commencement of the use hereby permitted and retained thereafter.

Reason

In the interests of sustainable development and in order to accord with policy CS13 of the CSUCP and the Gateshead Cycling Strategy.

8

Prior to the commencement of the use hereby permitted full details including the number, specification and precise location of building and tree mounted bat and bird boxes to be installed on site, shall be submitted to and approved in writing by the LPA.

Reason

To ensure the maintenance of the local bat and bird populations at or above its current level in accordance with the NPPF and Saved UDP policies CS18, DC1(d) and ENV46.

9

The bat and bird box details approved at Condition 8 shall be implemented in full prior to the use hereby approved and retained for the life of the development.

Reason

To ensure the maintenance of the local bat and bird populations at or above its current level in accordance with the NPPF and Saved UDP policies CS18, DC1(d) and ENV46.

10

The use hereby permitted shall not commence until full details of the drainage scheme have been submitted and approved in writing by the LPA. The scheme shall include detailed drainage drawings, electronic model, adoption arrangements, timetable for implementation and health and safety assessment in accordance with the Council's SuDS Guidelines

Reason

In order to ensure the provision of satisfactory drainage and avoid pollution of the environment in order to comply with the NPPF, saved Policy DC1(j) of the Unitary Development Plan and Policies CS14 and CS17 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne.

11

The final drainage scheme shall be carried out in full accordance with the details approved under condition 10 (including timings for implementation).

Reason

In order to ensure the provision of satisfactory drainage and avoid pollution of the environment in order to comply with the NPPF, saved Policy DC1(j) of the Unitary Development Plan and Policies CS14 and CS17 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne.

12

The use hereby approved shall not commence until an emergency flood warning and evacuation plan for the site which includes:

- a. details of the flood warning procedures
- b. details of the emergency flood access and egress routes
- c. identified places that people could be evacuated to
- d. flood response procedures

has been submitted to and approved in writing by the Local Planning Authority.

Reason

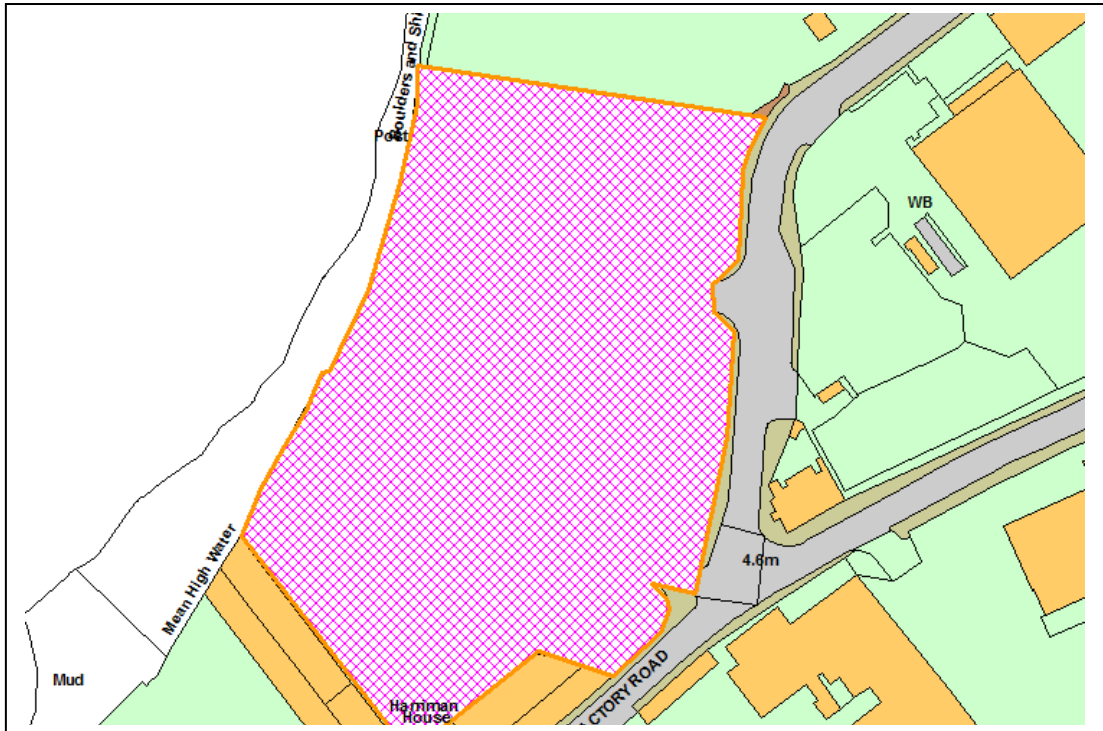
To ensure the safe evacuation of the development in the event of a flood incident in accordance with the NPPF and Policy CS17 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne.

13

The emergency flood warning and flood evacuation measures approved under condition 12 shall be implemented prior to the use hereby approved commencing and retained as such in accordance with the approved details thereafter.

**Reason**

To ensure the safe evacuation of the development in the event of a flood incident in accordance with the NPPF and Policy CS17 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne.



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**Committee Report**

<b>Application No:</b>	<b>DC/19/00071/FUL</b>
<b>Case Officer</b>	<b>David Morton</b>
<b>Date Application Valid</b>	<b>27 January 2019</b>
<b>Applicant</b>	<b>Friends of Chopwell Park</b>
<b>Site:</b>	<b>Chopwell Park North of Marx Terrace Chopwell Newcastle Upon Tyne</b>
<b>Ward:</b>	<b>Chopwell And Rowlands Gill</b>
<b>Proposal:</b>	<b>Formation of cycle track within existing park</b>
<b>Recommendation:</b>	<b>GRANT PERMISSION FOLLOWING THE SATISFACTORY RESOLUTION OF THE COAL AUTHORITY'S HOLDING OBJECTION AFTER CONSULTATION WITH THE CHAIR AND/OR VICE-CHAIR WITH A VIEW TO GRANT PERMISSION SUBJECT TO CONDITIONS</b>
<b>Application Type</b>	<b>Full Application</b>

**1.0 The Application:**

**1.1 DESCRIPTION OF SITE**

The application relates to an area of land within Chopwell Park, to the north of Marx and Woodside Terrace. The application site is within the wider park area which comprises of sport and recreation facilities including tennis courts, a play area and a bowling green.

1.2 The application site is currently undeveloped and is identified as public open space within the Local Plan.

**1.3 DESCRIPTION OF APPLICATION**

The application seeks planning permission for the formation and laying out of a cycle (pump) track on a portion of the application site.

1.4 A pump track is a circuit of rollers, banked turns and features designed to be ridden completely by riders "pumping" - meaning to create momentum by up and down body movements, instead of pedalling or pushing.

1.5 Therefore, the application is limited to a series of engineering operations required to create the undulations required. The materials to be used can be broken into two distinct courses:

- Type 1 dust to 40mm recycled roadstone
- 80mm depth Surface Course (Custom Specification Asphalt 100/150 Pen)
- Edges of the asphalt are to be rolled and compacted at a slope ratio of 1:1, ensuring the base course extends sufficiently beyond the outer edge.

## 1.6 PLANNING HISTORY

There is no planning history associated with the application site.

## 2.0 Consultation Responses:

Coal Authority                      Holding objection issued.

## 3.0 Representations:

3.1 Neighbour notifications were carried out in accordance with the formal procedures introduced in the Town and Country Planning (Development Management Procedure) Order 2015. A total of 54 letters of support, including from a Ward Councillor (Councillor Dave Bradford) have been received and are summarised as follows;

- The proposed development would create an important community asset;
- The proposal will serve to reduce the number of unofficial tracks;
- The proposal will bring tourism and money to the area; and
- The proposed development would aid people in learning cycling skills.

## 4.0 Policies:

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

DC1P Contamination, derelict land, stability

DC2 Residential Amenity

ENV3 The Built Environment - Character/Design

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

CS17 Flood Risk and Waste Management

CS18 Green Infrastructure/Natural Environment

GPGSPD Gateshead Placemaking Guide SPG

## 5.0 Assessment:

- 5.1 The key considerations to be taken into account when assessing this planning application are visual amenity, residential amenity, highway safety and parking and ground conditions.
- 5.2 **VISUAL AMENITY**  
Given the nature of the proposed development and the limited nature of the works it is considered that the proposed development would not adversely impact on the visual amenity of the area. The proposal would comply with the aims and requirements of saved policy ENV3 of the UDP and policy CS15 of the CSUCP.
- 5.3 **RESIDENTIAL AMENITY**  
The nearest properties to the application site are located some 65 metres away to the north; given the level of separation and the proposed use it is considered that the development would not impact on amenity to an unacceptable degree. The proposal would comply with the aims and requirements of saved policy DC2 of the UDP and policy CS14 of the CSUCP.
- 5.4 **HIGHWAY SAFETY AND PARKING**  
It is considered, based on the proposed development an anticipated used, that the proposed development would not result in any highway safety implications and nor would it result in a severe highway impact. It is anticipated that the majority of riders arriving on foot or on bicycle and that vehicles would be accommodated within the existing car park. The proposal would comply with the aims and requirements of policy CS13 of the CSUCP.
- 5.5 **GROUND CONDITIONS**
- 5.6 **Contaminated Land**  
The site has been inspected and assessed as part of the Councils Contamination Land Strategy, in accordance with the Local Authorities' obligations under Part IIA of the Environmental Protection Act of 1990 and has not been determined as "contaminated land".
- 5.7 The submitted contamination report assesses that the risk of contamination being present is low based on the fact that the site has not previously been developed. However, the report also identifies a low potential risk of colliery ash or other potentially contaminated made ground being present.
- 5.8 It is therefore considered necessary to condition further investigative works in the form of a phase 2 risk assessment (Conditions 3 to 8).
- 5.9 The proposal would comply with the aims and requirements of saved policy DC1 of the UDP and policy CS14 of the CSUCP.
- 5.10 **Land Stability**  
The Coal Authority have issued a holding objection in relation to the application awaiting the receipt of additional information (which is now under consideration). It is considered likely that the concerns of the Coal authority can

be satisfied through the additional information submitted and through the imposition of conditions (where necessary).

#### 5.11 COMMUNITY INFRASTRUCTURE LEVY

On 1st January 2017 Gateshead Council became a Community Infrastructure Levy (CIL) Charging Authority. This application has been assessed against the Council's CIL charging schedule and the development is not CIL chargeable development as it is not for qualifying retail or housing related.

#### 5.12 OTHER MATTERS

It is considered all material planning considerations raised by objectors have been considered within the main report.

### 6.0 CONCLUSION

6.1 Taking all the relevant issues into account, the proposal would allow for enhancement and upgrade of an existing facility without resulting in an unacceptable impact on visual amenity and residential amenity, highway safety and parking. The proposal would comply with the aims and objectives of the NPPF, and the relevant policies of the UDP and the CSUCP.

6.2 Therefore, it is recommended that planning permission be granted, subject to the satisfactory resolution of the Coal Authority's holding objection and the conditions below conditions.

### 7.0 Recommendation:

7.1 Authorise the Service Director of Development, Transport and Public Protection to deal with the application following the satisfactory resolution of the Coal Authority's holding objection after consultation with the Chair and/or Vice-Chair with a view to GRANT the following condition(s) and that the Service Director of Development, Transport and Public Protection be authorised to add, vary and amend the planning conditions as necessary;

1

The development shall be carried out in complete accordance with the approved plan(s) as detailed below -

CHO002\_1  
CHO001\_1  
0000181 (A)  
CH001\_0  
CHO003\_1

Any material change to the approved plans will require a formal planning application to vary this condition and any non-material change to the plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.

Reason



In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

2

The development to which this permission relates must be commenced not later than 3 years from the date of this permission.

Reason

To comply with section 91 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.

3

No development shall commence until an intrusive site investigation is undertaken, and a Phase 2 Risk Assessment report of the findings submitted to the Local Authority for written approval.

The site investigation will consist of a series of boreholes / trial pits, soil sampling, chemical laboratory testing, to assess potential contamination issues.

The site investigation and Phase 2 Risk Assessment report shall identify potential contamination, and possible areas which may require remedial works in order to make the site suitable for its proposed end use to ensure that no contamination is present that poses a risk to the environment, future users of the site and construction workers. Reference should be made to CLR 11 - Model Procedures for the Management of Land Contamination and BS 10175:2011 - Investigation of Potentially Contaminated Sites - Code of Practice.

The Risk Assessment should confirm possible pollutant linkages and should provide recommendations with regard to an appropriate remediation scheme, which will ensure safe redevelopment.

Reason

In order to ensure the land is suitable for its sensitive end use in accordance with the National Planning Policy Framework, policy CS14 of the Core Strategy and Urban Core Plan and saved policy DC1(p) of the Unitary Development Plan.

4

The recommendations of the intrusive site investigation and the Phase 2 Risk Assessment Report approved under condition 3 shall be implemented insofar as it relates to each individual phase prior to commencement of each phase of the development hereby permitted.

Reason

In order to ensure the land is suitable for its sensitive end use in accordance with the National Planning Policy Framework, policy CS14

of the Core Strategy and Urban Core Plan and saved policy DC1(p) of the Unitary Development Plan.

5

Prior to commencement of the development hereby permitted, where required, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and submitted for the written approval of the Local Planning Authority. 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 Protection Act 1990 in relation to the intended use of the land after remediation.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with the National Planning Policy Framework, policy CS14 of the Core Strategy and Urban Core Plan and saved policy DC1(p) of the Unitary Development Plan.

6

The details of remediation measures approved under condition 5 shall be implemented in full prior to commencement of the development of the development hereby permitted and maintained for the life of the development.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with the National Planning Policy Framework, policy CS14 of the Core Strategy and Urban Core Plan and saved policy DC1(p) of the Unitary Development Plan.

7

Following completion of the remediation measures approved under condition 5 a verification report that demonstrates the effectiveness of the remediation carried out must be submitted for the written approval of the Local Planning Authority prior to first use of the development hereby permitted.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with the National Planning Policy Framework, policy CS14 of the Core Strategy and Urban Core Plan and saved policy DC1(p) of the Unitary Development Plan.

8

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme shall be submitted to and approved in writing by the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved in writing by the Local Planning Authority.

If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until this condition has been complied with in relation to that contamination.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policies DC1, and ENV54 of the Unitary Development Plan and policy CS14 of the Core Strategy and Urban Core Plan and saved policy DC1(p) of the Unitary Development Plan.



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# **UPDATE**

**REPORT OF THE  
SERVICE DIRECTOR, DEVELOPMENT TRANSPORT AND PUBLIC  
PROTECTION**

**TO THE PLANNING AND DEVELOPMENT COMMITTEE ON  
24 April 2019**

Please note this document should be read in conjunction with the main report of the  
Service Director, Development Transport and Public Protection



**MINOR UPDATE**

<b>Application No:</b>	<b>DC/19/00071/FUL</b>
<b>Site:</b>	<b>Chopwell Park North Of Marx Terrace Chopwell Newcastle Upon Tyne</b>
<b>Proposal:</b>	<b>Formation of cycle track within existing park (additional information received 04/04/19).</b>
<b>Ward:</b>	<b>Chopwell And Rowlands Gill</b>
<b>Recommendation:</b>	<b>Grant Permission</b>
<b>Application Type</b>	<b>Full Application</b>

**Reason for Minor Update**

Further consultation response received/Additional representation received

***Consultation Response***

Further to Paragraphs 2.0 and 5.10, an updated Coal Authority consultation response has been received. The updated response withdraws the holding objection and states;

*“... upon reviewing the proposals further and considering the nature and scale of the proposed development whereby 1.4m will be cut from the surface; I believe it would be most proportionate if the risk posed was covered by an informative note within the decision notice should permission be granted.”*

It is therefore recommended that the recommendation at Paragraph 7.1 be amended to the following;

*“That permission be GRANTED subject to the following condition(s) and that the Service Director of Development, Transport and Public Protection be authorised to add, vary and amend the planning conditions as necessary;”*

***Additional Representation***

Councillor Michael McNestry has offered his support for the proposal in writing; no further material planning considerations were raised.

**SEE MAIN AGENDA FOR OFFICERS REPORT.**

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**Committee Report**

<b>Application No:</b>	<b>DC/19/00121/FUL</b>
<b>Case Officer</b>	<b>Amy Dunbar</b>
<b>Date Application Valid</b>	<b>13 February 2019</b>
<b>Applicant</b>	<b>John F Hunt Group Ltd</b>
<b>Site:</b>	<b>Former Palmer and Harvey Ltd Shadon Way Birtley DH3 2RN</b>
<b>Ward:</b>	<b>Birtley</b>
<b>Proposal:</b>	<b>Part demolition (of part office and part lorry wash), elevational alterations and new vehicle access from Shadon Way to facilitate site reconfiguration and subdivision into 6 units (description amended 09.04.2019).</b>
<b>Recommendation:</b>	<b>GRANT</b>
<b>Application Type</b>	<b>Full Application</b>

**1.0 The Application:****1.1 DESCRIPTION OF SITE**

The application site is a vacant building located within the Portobello Primary Employment Area and last operated as a food and drink wholesaler under use class B8 with B1 as an ancillary use.

**1.2 DESCRIPTION OF APPLICATION**

The applicant proposes to undertake work to the building and its surrounding yard to facilitate the subdivision of the unit into 6 smaller units.

**1.3 The works include the following;**

- demolish part of the office and warehouse space located within the north east corner of the site and reinstatement with a wall and a pedestrian and vehicular door each for units 1 and 2. This will result in a loss of 432 m<sup>2</sup> of internal floorspace. The applicant does not propose to reinstate this floorspace elsewhere on the site. This demolition would create a larger yard for units 1 and 2 with access via the existing access from Shadon Way.
- A new vehicle access has also been proposed to serve the remaining 4 units. This would be located on the south-western boundary of the site exiting onto Shadon Way. The existing access (adjacent to unit 3) would be fenced off and the public footpath reinstated.
- Ground levels at the new access point would also be lowered so that the gradient of the land is less steep and safer for large vehicles to use.

- Various doors, ramps and loading bays are proposed to be removed from the southern elevation and replaced with one pedestrian and one vehicle door for each unit and the reconfiguration of windows in unit 6.
- New palisade fencing which will be 2.4 metres in height is proposed to delineate the yard area for each unit.
- Recladding of parts of all four elevations of the building with horizontal insulated cladding.

#### 1.4 PLANNING HISTORY

- DC/04/00367/FUL- Planning permission granted for 'installation of vehicle wash/screens with associated plant housing on south-west side of site, extension of existing service yard to provide HGV parking, extension of existing car park and erection of new 2.4m high security fence all to south of site'. Date 28 May 2004

#### 2.0 Consultation Responses:

None.

#### 3.0 Representations:

The Council issued neighbour notification letters to 9 properties surrounding the application site on 15th February 2019. A notice was displayed on site on the 27th March 2019 and an advert for the development was published in the Newcastle Journal on the 3rd April 2019.

No representations have been received.

#### 4.0 Policies:

ENV61 New Noise-Generating Developments

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

ENV3 The Built Environment - Character/Design

DC2 Residential Amenity

## **5.0 Assessment of the Proposal:**

5.1 The key considerations to be taken into account when considering this planning application are the principle of the development, residential amenity, visual amenity and highway safety.

### **5.2 PRINCIPLE OF THE DEVELOPMENT**

The application proposes to subdivide a vacant warehouse and distribution unit, (Use Class B8 with ancillary B1 offices) into six smaller units. The proposed floor plan indicates that Units 1,2,4,5 and 6 would remain in B8 Use, with Unit 3 indicated as being in B1 (business) Use.

5.3 Schedule 2, Part 3, Class I of the Town and Country Planning (General Permitted Development) (England) Order 2015 enables a change of use from B8 to B1 (business) where the floor area falls under 500m<sup>2</sup>. Consequently, if the subdivision takes place in accordance with the submitted layout plan, due to their floor areas, both Units 3 and 4 would benefit from these permitted development rights and could change to B1 Use without first needing planning permission.

5.4 Furthermore, the act of subdividing the unit would not fall under the meaning of development and would not require planning permission.

5.5 Overall, the principle of the development is acceptable subject to all other material considerations being satisfied.

### **5.6 RESIDENTIAL AMENITY**

As the site is located within Portobello Industrial Estate, the proposed development would not have a detrimental impact on residential amenity. Residential dwellings located to the rear of the site on Portmeads Road are lower than the site and screened by a steep highway verge therefore the proposed development would not have an impact on the privacy of occupiers or result in a loss of light or overshadowing of properties.

5.7 Additionally, the proposed development would be unlikely to have a significant impact on the level of noise disturbance received by residents.

5.8 Overall, as the site is located within Portobello industrial estate and is sufficiently screened from nearby residential dwellings, the proposed development would not have a detrimental impact on residential amenity and is in accordance with policy CS14 of the CSUCP and saved policies DC2 and ENV61 of the UDP.

### **5.9 VISUAL AMENITY**

Commercial units of this nature are common place within the Portobello Primary Employment Area therefore it is considered that there will be no significant visual amenity issues associated with this application. It is likely that bringing this building back into use and the improvements proposed to each elevation would result in improvements to the overall appearance of the building subject to the requirements

of condition 3. This is in accordance with policy CS15 of the CSUCP and saved policy ENV3.

#### 5.10 TRANSPORT/HIGHWAY SAFETY

The proposed new access point on Shadon Way is considered acceptable as it would allow more commodious movement of large vehicles to and from the site.

5.11 The applicant has also proposed to provide six areas of secure cycle storage which would be located within the site, this would promote the use of sustainable transport and reduce the demand for parking along Shadon Way. Cycle storage should be installed prior to the occupation of the site as required by condition 4.

5.12 Additionally, there would be 24 car parking spaces located on site which should be instated prior to the occupation of the site as required by condition 5.

5.13 The applicant also proposes to close the existing access, as required by condition 6, and reinstate the public footpath however this should be addressed through the submission of a Section 278 Agreement.

5.14 The applicant has suggested that boundary treatment would be instated on site at some point throughout the course of the development therefore condition 7 requires details of any such boundary treatment to be submitted following its installation.

5.15 Overall, this proposal is considered acceptable from a highways perspective and is in accordance with policy CS13 of the CSUCP.

#### 5.16 COMMUNITY INFRASTRUCTURE LEVY

On the 1st January 2017 Gateshead Council became a Community Infrastructure Levy (CIL) Charging Authority. This application has been assessed against the councils CIL charging schedule and the development is not a CIL chargeable development.

### 6.0 CONCLUSION

Taking all of the relevant issues into account, it is considered that the proposed development is acceptable and accords with the relevant national and local planning policies.

It is recommended that planning permission is granted subject to conditions.

#### **Recommendation:**

That permission be GRANTED subject to the following condition(s) and that the Service Director of Development, Transport and Public Protection be authorised to add, vary and amend the planning conditions as necessary

1

The development shall be carried out in complete accordance with the approved plan(s) as detailed below -  
3890\_PL01, 3890\_PL04A and 3890\_PL05

Any material change to the approved plans will require a formal planning application to vary this condition and any non-material change to the plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.

Reason

In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

2

The development to which this permission relates must be commenced not later than 3 years from the date of this permission.

Reason

To comply with section 91 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.

3

Prior to occupation of the development details of the proposed cladding material should be submitted to and approved in writing by the Local Planning Authority.

Reason

To safeguard the visual amenities of the area and to ensure that the proposed development does not have an adverse effect upon the appearance of the existing building in accordance with the NPPF, Saved Policies DC2 and ENV3 of the Unitary Development Plan and Policies CS14 and CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne.

4

Exterior works involving the use of cladding shall be completed using the materials approved under condition 3 and retained as such in accordance with the approved details thereafter.

Reason

To safeguard the visual amenities of the area and to ensure that the proposed development does not have an adverse effect upon the appearance of the existing building in accordance with the NPPF, Saved Policies DC2 and ENV3 of the Unitary Development Plan and Policies CS14 and CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne.

5

Cycle storage facilities shown on approved plan 3890\_PL04A, shall be installed prior to occupation of the development hereby approved and thereafter permanently retained.

Reason

In order to ensure adequate provision for cyclists and in compliance with Policies CS13 of the Core Strategy and Urban Core Plan and the Gateshead Cycling Strategy.

6

The parking areas (including the marking out of spaces) shown on approved plan 3890\_PL04A shall be constructed prior to occupation of the development hereby approved and thereafter permanently retained.

Reason

To ensure that adequate facilities are provided and having regard to the requirements of Policy CS13 of the Core Strategy and Urban Core Plan.

7

Prior to occupation of the site a timetable of works detailing the closure of the existing vehicle access as shown in approved plans 3890\_PL04A shall be submitted to and approved in writing by the Local Planning Authority.

Reason

In the interests of highway safety and having regard to the requirements of Policy CS13 of the Core Strategy and Urban Core Plan.

8

The closure of the existing vehicle access shall be carried out in accordance with the details and timeframe approved under condition 7.

Reason

In the interests of highway safety and having regard to the requirements of Policy CS13 of the Core Strategy and Urban Core Plan.

9

Prior to the installation of any boundary treatment, a fully detailed scheme should be submitted and approved in writing by the Local Planning Authority. The scheme shall include details of the type, position, design, dimensions and materials of the boundary treatment.

Reason

In the interests of highway safety and visual amenity of the area and in accordance with policies ENV3 of the Unitary Development Plan and Policy CS13 and CS15 of the Core Strategy and Urban Core Plan.

10

Any boundary treatment shall be implemented wholly in accordance with details approved under condition 9.

**Reason**

In the interests of highway safety and visual amenity of the area and in accordance with policies ENV3 of the Unitary Development Plan and Policy CS13 and CS15 of the Core Strategy and Urban Core Plan.



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**Committee Report**

<b>Application No:</b>	<b>DC/19/00150/COU</b>
<b>Case Officer</b>	<b>David Morton</b>
<b>Date Application Valid</b>	<b>22 February 2019</b>
<b>Applicant Site:</b>	<b>Mr Satiar Arif Storage Land Forge Road Gateshead</b>
<b>Ward:</b>	<b>Dunston And Teams</b>
<b>Proposal:</b>	<b>Proposed change of use from amenity land to car wash, erection of canopy, portakabins, screen fencing and underground oil interceptor tank.</b>
<b>Recommendation:</b>	<b>REFUSE</b>
<b>Application Type</b>	<b>Change of Use</b>

**1.0 The Application:**

**1.1 DESCRIPTION OF THE SITE**

The application site is located on Forge Road, close to the roundabout with Derwentwater Road. The application site shares a boundary with Jennings Harley-Davidson to the north, the site is bound by highway to the south and east and by open space and the Teams Cycleway to the west.

**1.2 DESCRIPTION OF THE APPLICATION**

The current application follows previously refused application DC/18/00610/COU; the application proposed the change of use of the land including the erection of a canopy, modular buildings and fencing. The application was refused based upon its visual impact on the application site and wider area and, its potential impact on the amenity of a neighbouring commercial property.

1.3 The current application seeks to address the reasons for refusal cited above and is supported by a Design and Access Statement and a Noise Impact Assessment (NIA).

1.4 The current application still seeks planning permission for a change of use to a car wash including some physical development. The application proposes the erection of two modular buildings to the west of the application site and a palisade fencing (with screening) around the application site.

1.5 The application site proposes a single point of access (to Forge Road) and the submitted plan shows a total of five parking spaces (two for staff); it is indicated that the site can accommodate/service six vehicles at one time.

1.6 The application provides limited information regarding the equipment to be used (although noise assumptions of noise levels are set out within the NIA). The applicant proposes operating hours between 0900 and 1800 seven days a week.

1.7 The applicant indicates within their submission that the proposal would create four full-time jobs.

### 1.8 RELEVANT PLANNING HISTORY

The relevant planning history is set out as follows;

- 528/81; Planning permission granted for 'Demolition of existing joinery workshop and erection of a single-storey factory unit (amended plan).' Date; 12 August 1981.
- 01327/83; Planning permission granted for 'Change of use from warehouse to light industrial (manufacture and storage and distribution of furniture) and showroom.' Date; 02 December 1983.
- 00163/90; Planning permission refused for 'Construction of two-storey bus depot building, installation of diesel storage tank, provision of hard surfacing for parking of 51 buses and 36 space staff car park and erection of 2.1m high chainlink fence adjacent to north and east perimeter'. Date; 29 March 1990.
- DC/18/00610/COU; Planning permission refused for 'Change of use from amenity land to car wash and erection of canopy, portakabins and fencing.' Date; 29 August 2018. The application was refused based upon its impact on the visual amenity of the site and the wider area, and it's potential noise impact on a neighbouring commercial premises.

## 2.0 Consultation Responses:

Northumbrian Water

No objection

## 3.0 Representations:

3.1 Neighbour notifications were carried out in accordance with the formal procedures introduced in the Town and Country Planning (Development Management Procedure) Order 2015. A total of 41 letters of objection (including two from Ward Councillors (Councillors Gary Haley and Brenda Clelland)) were received in addition to two petitions opposing the proposal (of nine and 78 signatures respectively). Three letters of support were also received.

3.2 The objections were summarised as follows;

- There are already a number of carwashes within the local vicinity and the carwash is not necessary;
- The proposal would impact on highway safety;
- The use of the road for a carwash would impact on Appleton and Thornhill Close;
- The proposed screening, temporary structures and canopy would have an unacceptable visual impact;

- The proposal would cause highway safety issues during school pick up and drop off times;
- The proposal would impact on air quality;
- Water running onto the highway could freeze and cause highway safety issues;
- The proposed development is too close to a busy junction with Clockmill Road;
- The proposal would undo a lot of the visual improvements made in the area; and
- The site has already been destroyed by the applicant.

3.3 The letters of support are summarised as follows;

- The proposal would introduce a 'trusted car wash'; and
- Small businesses should be supported.

#### **4.0 Policies:**

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

ENV3 The Built Environment - Character/Design

ENV61 New Noise-Generating Developments

DC1H Pollution

DC2 Residential Amenity

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

CS17 Flood Risk and Waste Management

GPGSPD Gateshead Placemaking Guide SPG

#### **5.0 Assessment:**

5.1 The main planning issues to be considered are the principle of the proposed development, design, residential amenity, surface water/flooding and highway safety.

#### **5.2 PRINCIPLE**

The proposed use comprises the creation of a car wash business. The application site is not allocated for a particular use in the Local Plan for Gateshead nor are there specific policies relating to the type of use proposed. On this basis, it is considered that there is no reason to withhold planning

permission in land use terms subject to satisfying all other material planning considerations.

5.3 VISUAL AMENITY

The NPPF at Paragraph 124 makes it clear that *'the creation of high quality buildings and places is fundamental to what the planning and development process should achieve.'* It goes on to make clear that *'good design is a key aspect of sustainable development...'*

5.4 Further, Paragraph 130 states that;

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

5.5 The CSUCP reflects the general aims of the NPPF encouraging economic growth and identifying the importance of quality of place. Policy CS15 refers specifically to Place Making and the need for new development to demonstrate high and consistent design standards in line with the Council's design guidance contained in the Gateshead Placemaking SPD.

5.6 It is considered that the proposed development would significantly change the character and appearance of the application site.

5.7 Given the prominence of the site and its role as a gateway into Dunston on a busy roundabout, it is considered that the proposal would have an unacceptable visual impact on both the site and the wider area. While the proposed development would be located within a commercial area, the use of portacabins (which have a temporary appearance) on a tarmac surface would result in a very stark appearance. The application proposes the re-provision of fencing, while also proposing to install clear splash guards. It is considered the installation of splash guards would add to the visual impact of the proposed development.

5.8 While it is accepted that development offers some level of improvement when considered alongside the refused application (DC/18/00610/COU), these changes are not so significant to make the application acceptable.

5.9 Officers consider that the proposed development would be harmful to the visual amenity of the application site and the wider area. The application would fail to comply with the aims and objectives of the NPPF, policy CS15 of the CSUCP and saved policy ENV3 of the UDP.

5.10 AMENITY

The NPPF (Paragraph 170) states that decisions should contribute to and enhance the local environment by;

*"preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by,*

*unacceptable levels of soil, air, water or noise pollution or land instability..."*

- 5.11 The NPPG (Paragraph: 008 Reference ID: 30-008-20140306) sets out the broad areas of potential mitigation against noise impacts including the use of planning conditions '*... to restrict activities allowed on the site at certain times and/or specifying permissible noise levels...*'
- 5.12 As a reflection of the national planning policies and specific guidance on noise generating development, UDP policy ENV61 (new noise-generating development) states that new noise generating development will not be permitted if it causes an unacceptable increase in noise levels.
- 5.13 It is considered that the proposed use has the potential to produce noise both from the comings and goings associated with the use as well as the use itself (namely the use of vehicle cleaning equipment). In this case, the nearest existing noise sensitive receptors (the offices associated with Jennings Harley-Davidson) beyond the site boundary are located on the northern boundary of the site.
- 5.14 The applicant has submitted their application with a Noise Impact Assessment (NIA). The NIA has identified the nearest noise sensitive receptor as the Ropery Care Home approximately 100m to the north-east of the site and concentrated their monitoring/results to determine the impact of proposed development on this property and it is agreed that the impact to the residents at the care home would be negligible.
- 5.15 The NIA has failed to identify the neighbouring Harley Davidson Garage as a noise sensitive receptor and has failed to assess the impact of the proposed development on the garage.
- 5.16 While it is acknowledged a business premises cannot be afforded the same level of protection as a residential property, British Standard 8233:2014 identifies that an "executive office" should be between 35-40dB LAeq.
- 5.17 The garage's office windows are immediately adjacent to the proposed car wash bays; with the boundary of the site being close to the windows to the three ground floor private offices. The private offices are the most sensitive element of their business, with a need for an environment to concentrate, make phone calls and engage with customers without interruption. Based on discussions with the garage operators, it has been confirmed that the garage does not benefit from air conditioning and staff rely on having windows open during warmer weather for ventilation purposes.
- 5.18 The NIA has identified the dominant noise source as the pressure washers to be used for vehicle cleaning, which would be used at approximately four metres from the garage offices. There could potentially be three pressure washers used concurrently.

- 5.19 Based on the submitted NIA, The Council's Environmental Health Service have carried out calculations as to what the noise levels within the offices would be. These calculations indicate that the noise levels set out within British Standard 8233 will not be achievable; the internal noise within the office would equate to approximately 60.3dB(A) (while the power washers are in use) exceeding the standard of 35 - 40dB LAeq.
- 5.20 The applicant has failed to demonstrate that the proposed development is acceptable in terms of noise impact, specifically in regard to the garage adjacent to the application site. Officers have given consideration to the use of planning conditions in order to limit the impact of the proposal, however it is considered that conditions (either in regard operating hours or limiting noise levels) are either unlikely to be effective or would be unreasonable.
- 5.21 On the basis of the above, it is considered that the proposal is contrary to the aims and objectives of the NPPF, saved policy ENV61 of the Unitary Development Plan and Policy CS14 of the CSUCP.
- 5.22 HIGHWAY SAFETY  
The previous planning application on the site (DC/18/00610/COU), proposed a one-way system within the site with a point of access and a point of egress. It was concluded that this arrangement was acceptable (subject to planning conditions).
- 5.23 In designing the amended scheme, the applicant has chosen to amend the access arrangements. The proposed application shows a one-way system with a new single point of access, with the existing site access being extinguished. Officers have considered the proposed layout and concluded that a vehicle placed at the front of the car wash would be unable to turn within the site and exit in a forward manner. As such, it is considered that the proposed arrangement would inevitably cause backing up and congestion within the site and in turn on the highway network.
- 5.24 The NPPF is clear that application should only be '...refused on highways grounds if there would be an unacceptable impact on highway safety...'
- 5.25 Forge Road in the vicinity of the site is known to be well used for parking, particularly during the school drop off and collection times due to the proximity to St Philip Neri School. As such it is considered that the creation of queueing and congestion on the highway will result in an unacceptable highway safety impact.
- 5.26 Therefore, it is considered that the proposal would fail to comply with the requirements of the NPPF and policy CS13 of the CSUCP.
- 5.27 DRAINAGE/SURFACE WATER  
The applicant has indicated their intention to provide drainage channels, which will connect to a drainage tank and subsequently to a petrol/oil interceptor. Limited information (beyond the above) has been provided by the applicant regarding the drainage system. Northumbrian Water have indicated they have

no objection to the proposal subject to conditions requiring the final drainage design to be approved.

5.28 Officers are of the view that conditions pertaining to drainage could be attached to make the acceptable in drainage terms, therefore, it is considered that the proposal complies with the NPPF, policy CS17 of the CSUCP and saved policy DC1(h).

#### 5.29 ECOLOGY

The application site is located approximately 150m west of the River Team and is situated entirely within a Wildlife Corridor. Prior to the submission of the current planning application the site was stripped of vegetation resulting in the loss of an area of mosaic of ephemeral/short perennial grassland and scrub. Given the vegetation clearance took place prior to the submission of the application no weight can be afforded to its loss in deciding this application.

#### 5.30 COMMUNITY INFRASTRUCTURE LEVY

On 1st January 2017 Gateshead Council became a Community Infrastructure Levy (CIL) Charging Authority. This application has been assessed against the Council's CIL charging schedule and the development is not CIL chargeable development as it is not for qualifying retail or housing related.

#### 5.31 OTHER MATTERS

A number of objectors have stated that the proposed development would result in an over proliferation of carwashes within the local vicinity. It is considered by officers that this matter isn't material to the decision-making process and as such the application has been considered on its individual merit.

5.32 It is considered all material planning consideration raised by objectors have been addressed within the main body of the report.

### **6.0 CONCLUSION**

6.1 Taking all the relevant issues into account, it is recommended that planning permission be refused as it would have a detrimental impact visually on the site and the wider area, would result in an unacceptable impact on neighbouring occupiers in terms of noise production and would lead to an unacceptable impact on highway safety.

6.2 The applicant has failed to submit any supporting information that would outweigh officers' concerns. It is considered that the proposed development does not accord with national and local planning policies and as a result it is recommended that planning permission be refused. The recommendation is made taking into account all material planning considerations including the information submitted by the applicant and third parties.

## 7.0 Recommendation:

That permission be REFUSED for the following reason(s) and that the Service Director of Development, Transport and Public Protection be authorised to add, vary and amend the refusal reasons as necessary

1

By virtue of its location and design, the proposed development would cause an unacceptable visual impact on the application site and wider area. As a result the development is contrary to the National Planning Policy Framework, policy CS15 of the Core Strategy and Urban Core Plan and saved policy ENV3 of the Unitary Development Plan.

2

The proposed use is considered to give rise to unacceptable levels of noise which would be determinantal to the amenity of staff and customers utilising the offices associated with Jennings Harley-Davidson (to the north). It is considered that the application would be contrary to the NPPF, saved policy ENV61 of the Unitary Development Plan and Policy CS14 of the Core Strategy and Urban Core Plan.

3

The proposed development is likely to lead to obstruction of the highway network (through queueing) as a result of the proposed internal layout and access arrangement. It is therefore considered that the proposed development would lead to highway conflicts and would be contrary to the NPPF and policy CS13 of the CSUCP.



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# **UPDATE**

**REPORT OF THE  
SERVICE DIRECTOR, DEVELOPMENT TRANSPORT AND PUBLIC  
PROTECTION**

**TO THE PLANNING AND DEVELOPMENT COMMITTEE ON  
24 April 2019**

Please note this document should be read in conjunction with the main report of the  
Service Director, Development Transport and Public Protection



**MINOR UPDATE**

<b>Application No:</b>	<b>DC/19/00150/COU</b>
<b>Site:</b>	<b>Storage Land Forge Road Gateshead</b>
<b>Proposal:</b>	<b>Proposed change of use from amenity land to car wash, erection of canopy, portakabins, screen fencing and underground oil interceptor tank.</b>
<b>Ward:</b>	<b>Dunston And Teams</b>
<b>Recommendation:</b>	<b>Refuse Permission</b>
<b>Application Type</b>	<b>Change of Use</b>

**Reason for Minor Update**

**Amended Plans Submitted/Additional Representation Received**

***Amended Plans***

Following the publication of the main agenda report the applicant has elected to submit amended plans; the amended plans change the layout of the site and introduces a one-way system (as was the case with the previously refused application).

The amended plans have subsequently been considered by officers and the amended plans are considered to satisfy the highway safety concerns outlined within the main agenda report (Paragraphs 5.22 – 5.26).

While there is no broad objection to the use of a one-way system (with a single point of access and egress), due to the number of movements which could be expected at a car wash both the access and egress should be constructed with fully kerbed radii with associated crossing points; this is currently not shown on the submitted plans.

Further to the above, the level of visibility which could be achieved at the proposed exit from the site is not clear. On this basis, final details of this site access (including the achievable visibility splay) would need to be submitted to and approved by officers, this could be done through an appropriately worded condition.

Forge Road in the vicinity of the site is known to be well used for parking, particularly during the school drop off and collection times due to the proximity to St Philip Neri School. As such to ensure that a suitable level of visibility is retained for drivers emerging from the site it would be necessary for the applicant to fund the installation of double

yellow 'no waiting at any time' restrictions on the north side of Forge Road from the roundabout to the western access to the development site.

Sufficient parking is proposed within the site for both staff and customers and the proposed one-way system would allow vehicles to pass through the site in an orderly manner.

It is considered that final details of the site entrances (including visibility splay), parking restrictions and highway signage could be controlled through appropriately worded planning conditions.

Therefore, subject to conditions, it is considered that the proposal would comply with the requirements of the NPPF and policy CS13 of the CSUCP.

It is therefore recommended that refusal reason 3 (Highway Safety) be omitted from the recommendation following consideration of the amended plans submitted by the applicant.

*Additional Representation*

A single additional objection has been received, no additional material planning considerations were raised.

**SEE MAIN AGENDA FOR OFFICERS REPORT.**

**Committee Report**

<b>Application No:</b>	<b>DC/19/00179/COU</b>
<b>Case Officer</b>	<b>Richard Smith</b>
<b>Date Application Valid</b>	<b>28 February 2019</b>
<b>Applicant</b>	<b>Mr Mark Tunney</b>
<b>Site:</b>	<b>309-311 Old Durham Road Gateshead NE8 3TS</b>
<b>Ward:</b>	<b>Deckham</b>
<b>Proposal:</b>	<b>Change of use from Dwelling (C3) to Residential Institution (C2)</b>
<b>Recommendation:</b>	<b>GRANT</b>
<b>Application Type</b>	<b>Change of Use</b>

**The Application:**

- 1.1 DESCRIPTION OF SITE.  
The application site is a south-west facing mid terraced property on Old Durham Road, set within a block with includes both commercial and residential properties at first floor level.
- 1.2 The host property adjoins Gatsbys Interiors to the south-east and Smiths Furniture to the north-west. A rear lane separates the host property from no's.1-2 Roseberry Avenue and no's.3-5 Caris Street to the north-east.
- 1.3 Old Durham Road operates as a busy mixed-use area and the block of properties to which the host property sits, also consists of a Church to the south-east and a hot food takeaway to the north-east. The next block down includes another hot food takeaway, a tattoo parlour and a hairdresser's.
- 1.4 There is a bus stop located outside of the host property and 2no car parking spaces either side which are unrestricted.
- 1.5 The property appears to have been previously split into 2no flats, but it has been converted into one dwellinghouse at some time in the past, as there are two front doors which face onto Old Durham Road, no.309 and no.311.
- 1.6 DESCRIPTION OF APPLICATION  
The application under consideration seeks retrospective permission for a change of use from a residential dwelling (use class C3) to a residential institution (use class C2).

- 1.7 A C2 use comprises for the provision of a residential accommodation and care to people in need of care; use as a hospital or nursing home or a residential school, college or training centre.
- 1.8 NPPG at Paragraph: 015 Reference ID: 21a-015-20140306 advises that it is rarely appropriate to use conditions to limit the benefits of the planning permission to a particular person or group of people. As in any application for dwellings, planning is not able to control the type of individual who would occupy the properties within that use class.
- 1.9 The submitted plans show 5no bedrooms, 3 on the first floor with the addition of a lounge and bathroom and 2 on the second floor with a bathroom and study. The ground floor shows an office which will be used by staff, a lounge area, kitchen and bathroom.
- 1.10 Further information provided by the applicant show that the proposed use will have 2no members of staff on site at all times, working nights on a 3-shift pattern, with staff parking to be used with the local area (on-street parking)
- 1.11 No external changes have been proposed, however the ground floor plan indicates the door which would have previously served no.311 has been removed.
- 1.12 **PLANNING HISTORY**  
No previous planning history

### **Consultation Responses:**

Brian Stobbs Northumbria - No objections  
Police

### **Representations:**

- 3.1 **REPRESENTATIONS**  
Neighbour notifications were carried out in accordance with formal procedures introduced in the Town and Country Planning (Development Management Procedure) Order 2015.
- 3.2 A petition of 114 names representing local residents has been received, objecting to the application on the grounds that they are against drug and drink offenders in their community.
- 3.3 In addition, 8no letters of objection were received, raising concern with regards
  - o Already experiencing disruption from residents
  - o Anti-social behaviour
  - o Drug use
  - o Impact on local businesses
  - o Personal Safety - feeling intimidated

- o No structure in place to control residents' behaviour
- o Property value
- o Failure to follow the planning system
- o Noise
- o Inadequate Parking
- o Children use the bus stop located outside the property
- o Inappropriate in residential area
- o Also converting flats next door
- o Heavy police presence at the property

**Policies:**

CS14 Wellbeing and Health

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

CS9 Existing Communities

CS13 Transport

CS15 Place Making

DC2 Residential Amenity

**Assessment of the Proposal:**

5.1 The key considerations to be taken into account when assessing this planning application are the principle of the use in terms of housing policy, residential amenity, and highway safety and parking.

5.2 HOUSING POLICY

Paragraph 11 of the National Planning Policy Framework (NPPF) 2019 states that:

'At the heart of the NPPF is a presumption in favour of sustainable development. For decision making this means:

- approving 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 for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of importance provides a clear reason for refusing the development proposed; or

- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'
- 5.3 Policy CS9 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle 2010 - 2030 (CSUCP) states that existing communities will be sustainable places of quality and choice. This will be achieved by preventing the loss of family homes, through the sub-division, change of use or redevelopment and by preventing an over concentration of shared accommodation. This development contributes to the range and choice of accommodation in the borough. The premises could become an HMO (use class C4) without needing planning permission, so it is not considered that this development would result in a loss of family housing. There is no evidence if an overconcentration of shared accommodation in the local area, nor any expectation that this development would result in an over concentration.
- 5.4 Furthermore, paragraph 91 of the NPPF, states that planning decisions should aim to achieve healthy, inclusive and safe places which promote social integration... through mixed-use developments. Paragraph 92, then goes on to state that planning decisions should ensure an integrated approach to considering the location of housing, economic uses and community facilities and services. Whilst, paragraph 59 states, that it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed.
- 5.5 It is therefore considered that the change of use from a dwellinghouse to a residential institution would, in principle, accord with the above policies; albeit that detailed consideration needs to be given to potential impacts upon the local area. These are given consideration below.
- 5.6 VISUAL AMENITY  
No significant external alterations have occurred nor are proposed and as such the impact on appearance of the property is nominal and thus the development does not conflict with the aims and objectives of the relevant paragraphs in the NPPF, policy CS15 of the CSUCP or saved policy ENV3 of the UDP.
- 5.7 RESIDENTIAL AMENITY  
Officers are aware that there have been representations on the basis that there has been and could continue to be antisocial behaviour, due to the property housing 16-18-year-old males. Officers would, however, draw to attention that the planning system deals with the use and development of land; rather than the identity and background of any particular occupiers of existing and proposed buildings. As noted above, officers consider that the use of the building would accord with policy.
- 5.8 It is considered that anti-social behaviour (including noise) is a matter for the management of the building in connection with the Police and the Council's Environmental Health section and should not preclude granting planning permission in this case for the reasons cited above. The applicant has provided information to state that they intend to have 2no staff members on site at any



time on rotating shift basis. Officers are satisfied that the applicant has demonstrated an operational management of the property, subject to a management plan, which can be imposed as a condition (condition 3).

- 5.9 The building is located mid-terrace on a block of 5 properties, all of which at ground floor are commercial units however it is noted that there are flats located above some of the units most notably above Gatsbys which adjoins the site to the south-east, therefore it is considered that the site lies within an area which has a mix of different types of uses other than residential.
- 5.10 Saved policy DC2 of the UDP states that planning permission will be granted for new development, where it does not have an adverse impact on amenity or the character of an area and does not cause undue disturbance to nearby residents or conflict with other adjoining uses.
- 5.11 Whilst it is acknowledged that a level of 'domestic' noise may be generated as a result of the change of use, it is not considered that this level of noise would be unduly different to that associated with the use of the property as a dwellinghouse. Furthermore, given the location of the site, on Old Durham Road, which faces on to a busy road, and the noise generated by the nearby hot foot takeaway (whose website states is open until 21.45) and other evening activity in the area, it is not considered that a significant loss of amenity will be caused as a result of the use, which would warrant a refusal of planning permission.
- 5.12 HIGHWAY SAFETY AND PARKING  
Small residential institutions of this nature are considered to generate very little traffic and parking demand particularly when compared to the existing residential use.
- 5.13 Policy CS13 of the CSUCP ensures any new development provides safe, secure and direct pedestrian links. Whilst no parking has been provided within the red line boundary, there is parking available within close proximity of the site, on-street with no restrictions and therefore it is not considered the proposed change of use would create undue disturbance to local residents in terms of parking.
- 5.14 Furthermore, the Council's Transport section confirmed they have no objections, however secure and weatherproof cycle storage should be provided, which can be imposed as a condition (condition 2).
- 5.15 Therefore, it is considered that the development is acceptable in terms of highway safety; in accordance with policy CS13 of the CSUCP and the NPPF.
- 5.16 OTHER MATTERS  
Concerns raised regards to anti-social behaviour drug-use, safety and the impact on property value are not material considerations in determining this planning application.

- 5.17 The Council's Community Safety Team are aware of concerns raised by the objectors and the issues regarding anti-social behaviour will be managed within their remit.
- 5.18 In terms of failing to follow the planning system, whilst this application is retrospective the applicant has sought to regularise the use and S73A of the Town and Country Planning Act 1990 allows for the submission of retrospective planning applications.
- 5.19 There have also been representations submitted at the prospect of a further facility of this nature located next door or further along Old Durham Road. The applicant does not necessarily have to demonstrate a need for the proposed facility with the planning system dealing with any potential impacts upon the local area. The Council's Enforcement Team have been asked to investigate this claim and should an application be forthcoming for a further property it will be considered at that time.
- 5.20 In terms of waste management, the rear yard is also large enough to accommodate bins, with easy access to the rear lane.
- 5.21 **COMMUNITY INFRASTRUCTURE LEVY**  
On 1st January 2017 Gateshead Council became a Community Infrastructure Levy (CIL) Charging Authority. This application has been assessed against the Council's CIL charging schedule and the development is not CIL chargeable development as it is not qualifying housing related.

## 6.0 **CONCLUSION**

Taking all the relevant issues into account, it is therefore recommended that retrospective planning consent be granted, as the development has been able to demonstrate that it is acceptable in principle and subject to suitable conditions would not cause significant harm to amenity or highway safety. It is considered that the development does accord with national and local planning policies and the recommendation is made taking into account all material planning considerations including the information submitted by the applicant and third parties.

Therefore, it is recommended that planning permission be granted, subject to the below conditions

### **Recommendation:**

That permission be GRANTED subject to the following condition(s) and that the Service Director of Development, Transport and Public Protection be authorised to add, vary and amend the planning conditions as necessary

1

The development shall be carried out in complete accordance with the approved plan(s) as detailed below -  
Site Location Plan, received 28.02.2019, Existing and Proposed Floor Plans, received 28.02.2019.

Any material change to the approved plans will require a formal planning application to vary this condition and any non-material change to the plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.

Reason

In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

2

Secure and weatherproof cycle parking, capable of storing at least one cycle shall be provided. The provisions of which shall be retained on site in perpetuity.

Reason

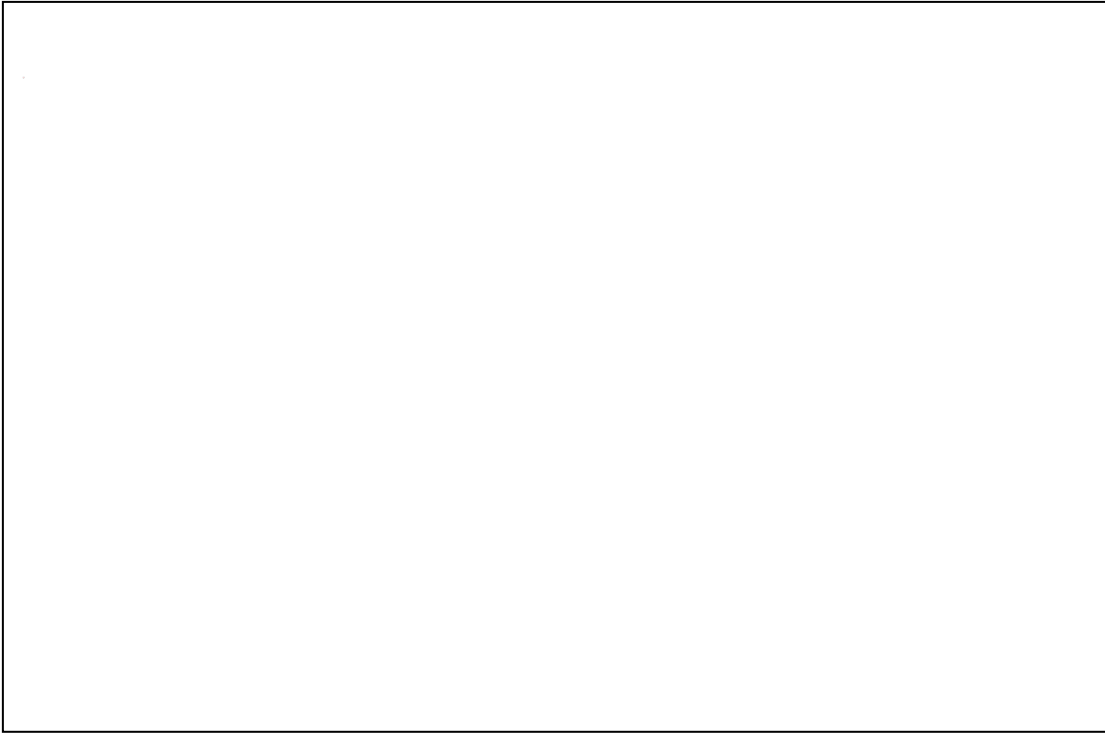
In order to ensure adequate provision for cyclists and in compliance with Policy CS13 of the CSUCP and the Gateshead Cycling Strategy.

3

Within 1 month of the date of decision details of a management plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall demonstrate how the property will be managed, to minimise impact on neighbouring occupiers. Thereafter, the use of the property shall be in accordance with the approved management plan unless otherwise agreed in writing by the Local Planning Authority.

Reason

In the interests of residential amenity and so as to accord with Policy DC2 of the Unitary Development Plan and CS14 of the CSUCP



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## REPORT OF THE STRATEGIC DIRECTOR COMMUNITIES AND ENVIRONMENT

### TO THE PLANNING AND DEVELOPMENT COMMITTEE ON: 24 April 2019

PART TWO: THE FOLLOWING APPLICATIONS, DETERMINED SINCE THE LAST COMMITTEE MEETING IN ACCORDANCE WITH THE POWERS DELEGATED UNDER PART 3, SCHEDULE 2 (DELEGATIONS TO MANAGERS) OF THE COUNCIL CONSTITUTION, ARE LISTED FOR INFORMATION ONLY.

<b>Application ref.</b>	<b>Nature of proposed development</b>	<b>Location of proposed development</b>	<b>Decision</b>	<b>Ward</b>
DC/18/00574/FUL	Variation of condition 1 (approved drawings) of planning permission DC/18/00237/OUT to incorporate the adjacent South Follingsby Farm site into the wider Follingsby International Enterprise Park development area by extending the green infrastructure and built development zones further west and removing access 1 and repositioning accesses 2 -5 and the associated bus stops and crossing along Follingsby Lane (Submitted with a Supplementary Environmental Statement).	Follingsby Park South, Follingsby Lane,	Granted;	Wardley And Leam Lane

DC/18/00575/FUL	Variation of condition 1 (approved drawings) of planning permission DC/18/00111/REM to incorporate the adjacent South Follingsby Farm site into the wider Follingsby International Enterprise Park development area by extending the green infrastructure and built development zones further west (Submitted with a Supplementary Environmental Statement).	Follingsby Park South, Foillingsby Lane,	Granted;	Wardley And Leam Lane
DC/18/00788/HHA	Raised decking to rear (north) elevation (retrospective) (amended plans received 19.03.19)	47 May Avenue, Blaydon On Tyne,	Granted;	Winlaton And High Spen
DC/18/00803/FUL	Erection of four terraced dwellings with dormer loft conversions.	Land Adj To 29 Alexandra Gardens, Ryton,		Ryton Crookhill And Stella
DC/18/00917/CPE	CERTIFICATE OF LAWFULNESS FOR AN EXISTING USE: living in the property while being engaged in an employment other than agriculture (additional information received 14.11.2018)	Riding Chase, Garesfield Lane,	Granted;	Winlaton And High Spen
DC/18/01012/BPIP	Permission in Principle for residential development of between 1 and 6 dwellings.	Former Chase Park Depot, Off Rectory Lane,	Granted;	Dunston Hill And Whickham East

DC/18/01036/FUL	Construction of single storey extension to provide marriage and function room facilities, internal refurbishment and external alterations to existing building (revised application) (amended 10/01/19 and additional information received 14/01/19).	Woodmans Arms , Fellside Road,	Granted;	Whickham South And Sunnside
DC/18/01154/FUL	Construction of single storey building in rear garden and change of use from dwellinghouse (C3 Use) to a mixed use of dwellinghouse and yoga studio (sui generis) (retrospective) (description amended 12.03.2019)	83 Whaggs Lane, Whickham,	Granted;	Whickham North
DC/18/01175/ADV	Display of four externally illuminated fascia signs, one internally illuminated projecting sign and two non-illuminated fascia signs, all advertising 'Northumbria University Newcastle' and/or Trinity Square Accommodation	Trinity Square, Gateshead,	Temporary permission granted;	Bridges
DC/18/01220/OUT	Outline planning application with all matters reserved for the subdivision of the curtilage of Daisy Cottage to accommodate one new two-storey dwelling, and a two-storey extension to Daisy Cottage.	Daisy Cottage, Ivy Lane,	Granted;	Chowdene

DC/18/01229/COU	Proposed change of use from office (B1) to a mixed (A1 and D1) use with hairdressers/barbers on ground floor and a training facility on first floor (additional information received 15/03/19).	Marquis Court, F21 , Kingsway South,	Granted;	Lamesley
DC/18/01266/COU	Change of use from waste transfer site (sui generis) to gym (use class D2).	Former FCC Environment Premises, Whiteley Road,	Granted;	Blaydon
DC/18/01273/FUL	Erection of two storey extension to side of existing shop (Amended Description 03.04.2019 and Amended Plans received 03.04.2019).	25-27 Springwell Terrace, Wrekenton,	Granted;	High Fell
DC/19/00001/FUL	Demolition of existing detached garage and shed buildings followed by erection of 5-bedroom detached house in garden of dwellinghouse with new vehicular and pedestrian access.	Land adj Meynell House, Dipwood Road,	Refused;	Chopwell And Rowlands Gill
DC/18/01283/FUL	Demolition of existing agricultural style building and construction of 2 self-catering bed and breakfast units and common games room (revised application).	Park Farm Hotel, Park Farm,	Granted;	Lamesley



DC/19/00037/HHA	Installation of 2 antennae on chimney stack and 1 antenna on side of house	7 Kays Cottages, Gateshead,	Granted;	Windy Nook And Whitehills
DC/19/00015/ADV	Display of various non-illuminated fascia signs on front and rear elevations	Unit 15, Kingsway Interchange,	Temporary permission granted;	Lamesley
DC/19/00018/TPO	Felling of Beech tree and works to Sycamore tree and Laurel tree in garden of Chase Court.	Chase Court, Whickham,	Refused;	Whickham North
DC/19/00029/FUL	Reconstruction of stone stables built over outline of original building to form new stable and storage areas with associated works.	Kyo Hall, The Peacocks, Kyo Lane,	Granted;	Crawcrook And Greenside
DC/19/00035/HHA	Part first floor and part ground floor extension to rear with succah, dormer window to rear and 2 velux windows to front elevation (amended 19.03.2019).	26 Bensham Avenue, Gateshead,	Granted;	Lobley Hill And Bensham
DC/19/00041/HHA	Replacement of existing pitched roof to front elevation, convert existing garage flat roof to pitched and rendering exterior of bungalow and erection of a single storey extension to rear (Amended Plan received 10.04.2019).	39 Beverley Drive, Winlaton,	Granted;	Winlaton And High Spen

DC/19/00047/COU	Change of use of vacant building to boxing club and fitness centre (use class D2).	160 Third Avenue, Gateshead,	Granted;	Lobley Hill And Bensham
DC/19/00079/HHA	Proposed 2 storey side extension	27 Hunt Lea, Whickham,	Granted;	Whickham South and Sunnside
DC/19/00086/HHA	Two storey front and side extension	23 Eskdale, Vigo,	Refused;	Birtley
DC/19/00096/HHA	Demolition of garage, installation of 2 velux windows and blocking up existing window opening	Old School House, School Lane,	Granted;	Dunston Hill And Whickham East
DC/19/00083/HHA	Erection of single storey extension to the rear of the property.	3 Falsgrave Place, Whickham,	Granted;	Whickham South And Sunnside
DC/19/00087/LBC	Proposed fire protection upgrade works to an existing system within the Stables building at Gibside (additional information received 27.03.2019)	Stables Building At Gibside , Newcastle Upon Tyne,	Granted;	Whickham South And Sunnside
DC/19/00088/HHA	Single storey side extension (amended 21.03.19)	2 Lindale Avenue, Whickham,	Granted;	Whickham North

DC/19/00090/FUL	VARIATION OF CONDITION 7 (Opening Hours) of DC/07/00623/FUL to extend hours of operation to between 7am to 11pm Monday to Friday; 8am to 10pm on Saturdays and 10am to 4pm on Sundays (previously restricted to between 9 am to 10pm Monday to Saturday and 10am to 3pm on Sundays).	31 Harraton Terrace, Durham Road,	Granted;	Birtley
DC/19/00093/HHA	Single storey extension to replace existing conservatory	34 Dunkeld Close, Wardley,	Granted;	Wardley And Leam Lane
DC/19/00099/HHA	Single storey front extension (amended 29.03.19)	6 Grange Nook, Whickham,	Granted;	Whickham South and Sunnyside
DC/19/00100/HHA	Dormer windows to front and rear	13 Rosslyn Avenue, Low Fell,	Granted;	Low Fell
DC/19/00101/TPO	Tree works at 39 Western Way	39 Western Way, Blaydon On Tyne,	Granted;	Blaydon
DC/19/00103/FUL	RENEWAL OF TEMPORARY PERMISSION: Retention of residential caravan.	Caravan, Willowbeds Farm,	Granted;	Lamesley
DC/19/00105/TPO	Tree works at 11 Saltwell Gardens Shipecote Gateshead.	11 Saltwell Gardens, Shipcote,	Granted;	Saltwell
DC/19/00108/HHA	Two storey side extension.	1 Tiverton Gardens, Chowdene,	Granted;	Chowdene

DC/19/00109/HHA	Proposed 2 storey side extension	101 Garden House Estate, Ryton,	Granted;	Crawcrook And Greenside
DC/19/00113/HHA	Two rooflights to front elevation and dormer window to side elevation	34 Beverley Road, Low Fell,	Granted;	Low Fell
DC/19/00114/HHA	Single storey rear extension	13 Parkdale Rise, Whickham,	Granted;	Whickham North
DC/19/00116/TPO	Tree Works at 1 Castle Hill House	1 Castle Hill House, Crawcrook,	Granted;	Crawcrook And Greenside
DC/19/00119/COU	Change of use from Public House (Class Use A4) to Veterinary Surgery (Class Use D1)	Commercial Hotel, Commercial Street,	Granted;	Blaydon
DC/19/00125/COU	Change of use from Cafe (Class Use A3) to Micro Pub (Class Use A4)	1 Old Co Op Building, Front Street,	Granted;	Winlaton And High Spen
DC/19/00126/FUL	Proposed 2 No. semi-detached dwellings and diversion of existing footpath (amended 26/03/19).	West of Leven House, Bute Road South,	Granted;	Winlaton And High Spen
DC/19/00128/FUL	VARIATION OF CONDITION 2 (approved plans) of DC/18/00799/FUL to allow for the construction of a roof terrace	Tyne Bridge House, Bottle Bank,	Granted;	Bridges

DC/19/00129/COU	Change of use from Pet Grooming salon (Sui Generis) to Podiatry clinic (Class Use D1) Retrospective.	37-39 Orchard House, Orchard Street,	Granted;	Birtley
DC/19/00130/COU	Temporary change of use from public open space to site compound (until October 2019).	Land Adj Ramsay Street, Blaydon,	Temporary permission granted;	Blaydon
DC/19/00131/CPL	Single storey rear extension to dwelling	3 Horsley Avenue, Crawcrook,	Granted;	Crawcrook And Greenside
DC/19/00139/HHA	Proposed 2 storey side extension and single storey rear	15 Greenacres Close, Ryton,	Granted;	Crawcrook And Greenside
DC/19/00149/FUL	Erection of detached dwellinghouse.	25 Cornmoor Road, Whickham,	Refused;	Dunston Hill And Whickham East
DC/19/00135/HHA	Single storey rear extension to replace existing	76 Moorfoot Gardens, Lobley Hill,	Granted;	Lobley Hill And Bensham
DC/19/00137/HHA	Proposed single storey rear extension and part Garage Conversion, with new single storey detached Garden Room to rear.	117 Oakfield Road, Whickham,	Granted;	Whickham North
DC/19/00138/HHA	Three storey rear extension including basement	Kenmuir , Durham Road,	Granted;	Lamesley

DC/19/00153/HHA	Single storey rear extension and first floor side extension over garage	51 Mountside Gardens, Gateshead,	Granted;	Dunston Hill And Whickham East
DC/19/00140/FUL	Installation of two external louvres and two external condensing units on Unit 1 and two external louvres on Unit 3 (description amended 11.04.2019).	Virgin Media, Communications House,	Granted;	Lamesley
DC/19/00146/HHA	Single storey side extension	2 Wythburn Place, Gateshead,	Granted;	High Fell
DC/19/00161/CPE	CERTIFICATE OF LAWFULNESS FOR AN EXISTING USE: the continued use of the converted former ground floor shop unit for the purposes of domestic storage incidental to the residential use of the remainder of the building (ground and upper floors) as a single family dwelling	50A Derwent Street, Chopwell,	Granted;	Chopwell And Rowlands Gill
DC/19/00163/HHA	Provision of 1800 mm high close boarded timber fence fixed to rear of property (description amended 14/03/2019) (amended plan).	1 Roseworth Terrace, Whickham,	Granted;	Whickham North
DC/19/00171/FUL	Continued siting of steel container in south east corner of school site (amended 12/03/19 and 13/03/19).	St Mary And St Thomas Aquinas RC Primary School, Stella Lane,	Granted;	Ryton Crookhill And Stella

DC/19/00115/HHA	Conservatory to rear elevation	42 Addison View, Blaydon,	Granted;	Ryton Crookhill And Stella
DC/19/00147/HHA	Proposed single storey front extension (amended 28/03/19).	17 Kellsway, Leam Lane Estate,	Granted;	Windy Nook and Whitehills
DC/19/00066/HHA	Remove existing side garage, proposed two storey side extension and single storey rear extension, and widen existing access arrangement	Angara 70 Shibdon Road,	Granted;	Blaydon
DC/19/00223/HHA	Proposed single storey extensions to rear, side and front elevations (amended 29/03/19).	26 Green Lane Gardens, Felling,	Granted;	Felling

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**TITLE OF REPORT:** Enforcement Team Activity

**REPORT OF:** Anneliese Hutchinson, Service Director, Development, Transport and Public Protection

**Purpose of the Report**

1. To advise the Committee of the activity of the Enforcement Team since the last Committee meeting.

**Background**

2. The Enforcement team deal with proactive and reactive investigations in relation to Planning, Highway and Waste related matters.

**Recommendations**

3. It is recommended that the Committee note the report.

Within the date range commencing 21.03.19 and ending 10.04.19, the enforcement team has received **120** new service requests:

Type of complaint	Cases under investigation	New complaints received	Cases allocated to officer	Cases resolved	Pending prosecutions
PLANNING	394	37	12	30	1
HIGHWAYS	221	23	10	22	0
WASTE	524	60	42	42	56
<b>TOTALS</b>	1139	120	64	94	57

**COURT HEARINGS**

The Enforcement Team attended **eight** Court Hearings, **six** of which were finalised, resulting in **£607** fines and **£360** costs

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**REPORT TO PLANNING AND  
DEVELOPMENT COMMITTEE**

**24th April 2019**

**TITLE OF REPORT: Enforcement Action**

**REPORT OF: Anneliese Hutchinson, Service Director,  
Development, Transport and Public Protection**

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**Purpose of the Report**

1. To advise the Committee of the progress of enforcement action previously authorised by the Committee.

**Background**

2. The properties, which are the subject of enforcement action and their current status, are set out in Appendix 2.

**Recommendations**

3. It is recommended that the Committee note the report.

**1. FINANCIAL IMPLICATIONS**

Nil.

**2. RISK MANAGEMENT IMPLICATIONS**

Nil.

**3. HUMAN RESOURCES IMPLICATIONS**

Nil.

**4. EQUALITY AND DIVERSITY IMPLICATIONS**

Nil

**5. CRIME AND DISORDER IMPLICATIONS**

Nil.

**6. SUSTAINABILITY IMPLICATIONS**

Nil.

**7. HUMAN RIGHTS IMPLICATIONS**

The Human Rights Act states a person is entitled to the peaceful enjoyment of his possessions. However this does not impair the right of the state to enforce such laws, as it deems necessary to control the use of property and land in accordance with the general interest.

**8. WARD IMPLICATIONS**

Birtley, Bridges, Blaydon, Pelaw & Heworth, Chowdene, Crawcrook & Greenside, Ryton, Crookhill and Stella, Chopwell and Rowlands Gill, Wardley & Leam Lane, Windy Nook And Whitehills, Winlaton and High Spen, Whickham North, Whickham South and Sunnyside, Lobley Hill and Bensham. Lamesley, Dunston Hill and Whickham East and Low Fell.

**9. BACKGROUND INFORMATION**

Nil.

## APPENDIX 2

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Current Status
1.	Land adjacent Ricklees Farm, Spen Lane, High Spen, Gateshead	Winlaton and High Spen	Change of use from agricultural to mixed use for keeping of horses, breaking, dismantling of vehicles, storage and burning of waste and the storage of caravans and vehicle bodies.	25 March 2013	25 March 2013	29 April 2013	29 June 2013	Complaints have been received over a considerable period regarding the inappropriate use of an area of green belt adjacent to B6315 During investigation it was established that the land was being used for a range of inappropriate uses. Despite attempts to negotiate with the land owner to reach a satisfactory conclusion no sustained improvement was secured. Therefore, an enforcement notice has been issued requiring the removal of the inappropriate material from the site together with the cessation of the unauthorised use. No appeal has been received and the notice has taken effect.
2.	Land adjacent Ricklees Farm, Spen Lane, High Spen, Gateshead	Winlaton and High Spen	Erection of a breeze block building	25 March 2013	25 March 2013	29 April 2013	29 June 2013	Complaints have been received over a considerable period regarding the inappropriate use of an area of green belt adjacent to B6315 During investigations, it was established that a building had been erected without consent.  The building is considered to be unacceptable and therefore the council have issued an enforcement notice requiring the removal of the unauthorised building No appeal has been received and the notice has taken effect.  The new owner of the site has been contacted and works are well underway to tidy the site with the demolition of the breeze block structure taking place in the near future  A site visit has been arranged for the week commencing the 29 <sup>th</sup> October to look at the costs of carrying out work in default.
3.	Land at Woodhouse Lane, Swalwell (Known as South West Farm Site One)  Known as South West Farm Site Two)	Swalwell  Swalwell	Without planning permission the change of use of the land from agriculture to a mixed use for agriculture, storage of vehicles, agricultural equipment and scrap metal and vehicle dismantling and repair  Without planning permission the change of use of the land from agriculture and reception, composting and transfer of green waste to a mixed	11 January 2016  11 January 2016	12 January 2016  12 January 2016	15 February 2016  15 February 2016	14 March and 4 July 2016  14 March and 4 July 2016	Notices were issued in September 2015 in respect of an unauthorised scrap being stored. Due to the scale of the breach of planning control an additional Notice was required in relation to the potential Environmental Impact of the Development.  As such the original Notices (which were all being appealed) were withdrawn and further Notices have now been issued including those in respect of the requirement to carry out an Environmental Impact Assessment and provide an Environmental Statement with an subsequent appeals.  The Notices requires firstly, the cessation of the unauthorised use and secondly, the removal from the land of the scrap.  Both defendants pleaded guilty at Newcastle Crown Court and both received a fine of £750. Each defendant was ordered to pay costs of £422.50 and a victim surcharge of £75. The site has to be cleared in 6 months.  The site has recently been revisited and it is likely further action will be required.

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Current Status
	(Known as South West Farm Site Three)	Swalwell	use for agriculture and the storage of vehicles, agricultural equipment and parts, repair and restoration of vehicles and machinery and the reception, composting and transfer of green waste.  Without planning permission the change of use of the land from agriculture to a mixed use for agriculture and the storage of vehicles, agricultural equipment and scrap metal and vehicle dismantling and repair	11 January 2016	12 January 2016	15 February 2016	14 March and 4 July 2016  29 <sup>th</sup> Sep 2018	A site visit was undertaken in October where it was evident that the land has not been cleared and additional scrap had been brought on to the site. A further prosecution file is currently with the Council's legal department.  <b>A court date has been issued for the 26<sup>th</sup> April 2019 at Gateshead Magistrates Court.</b>
4.	Gleeson's housing site, formally grazing land between Portobello Road Birtley	Birtley	Breach of Planning Conditions	29 <sup>th</sup> November 2017	29 <sup>th</sup> November 2017	29 <sup>th</sup> November 2017	26 <sup>th</sup> December 2017	Despite communication with the developer, pre-commencement conditions have not been discharged and engineering operations and building operations have commenced on site. Conditions have now been submitted and discharged. The Council are awaiting confirmation from the Developer to confirm when they are due to recommence works on site. A site visit was undertaken on the 26 <sup>th</sup> September to see if work had recommenced on site. Although there were no builders on site at the time of the visit, it appears that development has recommenced since the Temporary Stop Notice was served as the most recent unit constructed has now had its roof erected.  A letter has been sent to the developer, from the Council's Legal Department asking them to consider erecting a secure hoarding to prevent continued visual impact on the amenity of the area and to protect the site from unauthorised access.  A written response dated 22 <sup>nd</sup> November 2018 has been received from Gleesons.
5.A	44 Ponthaugh Rowlands Gill NE39 1AD	Chopwell and Rolwands Gill	Unauthorised change of use	12 <sup>th</sup> January 2018	12 <sup>th</sup> January 2018	16 <sup>th</sup> February 2018	16 <sup>th</sup> March 2018	Complaints have been received regarding the erection of fencing enclosing public open space and incorporating it into the private garden. An enforcement notice has been issued requiring the use of the land as private garden to cease and the fence removed. The notice has not been fully complied with. Prosecution files are now being prepared.

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Current Status
6.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28 <sup>th</sup> April 2018	<p>Despite communication with the occupiers and owners of the site, conditions relating to planning permission DC/12/01266/MIWAS have not been discharged.</p> <p>Notice served in relation to breach of condition 12 to require submission of a noise monitoring scheme for all restoration activities. A Consultant has been employed by the owner and occupiers of the site to address the issues contained within each of the Notices. The Consultant is currently working with the Council to secure compliance.</p> <p>Details for each breach of condition notice were submitted on 15.05.18, Officers are currently reviewing the information submitted.</p> <p><b>The discharge of condition application has been refused, albeit not discharged the notice has been complied with. Permission is sought to remove this item from the report. Further advice is being received from the legal department exploring all enforcement options that are available to the Council</b></p>
7.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28th April 2018	<p>Notice served in relation to breach of condition 13 to require submission of a vibration monitoring scheme for all restoration activities. This condition has not been discharged Details for each breach of condition notice were submitted on 15.05.18, Officers are currently reviewing the information submitted</p> <p><b>The discharge of condition application has been refused, albeit not discharged the notice has been complied with. Permission is sought to remove this item from the report. Further advice is being received from the legal department exploring all enforcement options that are available to the Council</b></p>
8.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28th April 2018	<p>Notice served in relation to Breach of condition 14 to require Submission of a scheme for the management and minimisation of dust from restoration activities. This condition has not been discharged Details for each breach of condition notice were submitted on 15.05.18, Officers are currently reviewing the information submitted</p> <p><b>The discharge of condition application has been refused, albeit not discharged the notice has been complied with. Permission is sought to remove this item from the report. Further advice is being received from the legal department exploring all enforcement options that are available to the Council</b></p>
9.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28th April 2018	<p>Notice served in relation to breach of condition 18 to require the Submission of a report to the Council recording the operations carried out on the land during the previous 12 months. This condition has not been discharged Details for each breach of condition notice were submitted on 15.05.18, Officers are currently reviewing the information submitted</p> <p><b>The discharge of condition application has been refused, albeit not discharged the notice has been complied with. Permission is sought to</b></p>

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Current Status
								<b>remove this item from the report. Further advice is being received from the legal department exploring all enforcement options that are available to the Council</b>
10.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28th April 2018	<p>Notice served in relation to breach condition 23 to require Submission of details of a drainage system to deal with surface water drainage, and implementation of agreed scheme. This condition has not been discharged Details for each breach of condition notice were submitted on 15.05.18, Officers are currently reviewing the information submitted</p> <p><b>The discharge of condition application has been refused, albeit not discharged the notice has been complied with. Permission is sought to remove this item from the report. Further advice is being received from the legal department exploring all enforcement options that are available to the Council</b></p>
11.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28th April 2018	<p>Notice served in relation to breach condition 24 to require submission of a timetable and a maintenance scheme to the Council for the installation and maintenance of the drainage system. This condition has not been discharged Details for each breach of condition notice were submitted on 15.05.18, Officers are currently reviewing the information submitted</p> <p><b>The discharge of condition application has been refused, albeit not discharged the notice has been complied with. Permission is sought to remove this item from the report. Further advice is being received from the legal department exploring all enforcement options that are available to the Council</b></p>
12.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28th April 2018	<p>Notice served in relation to breach of condition 25 to require the Submission of an up to date survey of Cell 2 in relation to clearance heights beneath the electricity power lines. This condition has not been discharged Details for each breach of condition notice were submitted on 15.05.18, Officers are currently reviewing the information submitted</p> <p><b>The discharge of condition application has been refused, albeit not discharged the notice has been complied with. Permission is sought to remove this item from the report. Further advice is being received from the legal department exploring all enforcement options that are available to the Council</b></p>
13.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28th April 2018	<p>Notice served in relation to breach condition 26 to require the submission of details for the illuminate activities on site. This condition has not been discharged Details for each breach of condition notice were submitted on 15.05.18, Officers are currently reviewing the information submitted</p> <p><b>The details submitted have been approved, permission is sought to remove this item from the report.</b></p>



Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Current Status
14.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28th April 2018	Notice served in relation to Breach of condition 27 to require the submission of details as requested in condition 27 of permission DC/12/01266/MIWAS. This condition has not been discharged Details for each breach of condition notice were submitted on 15.05.18, Officers are currently reviewing the information submitted
15.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28th April 2018	Notice served in relation to breach of condition 28. To require submission of details for alternative provision for Sand Martin nesting and other bat and bird boxes and a timetable for implementation. This condition has not been discharged Details for each breach of condition notice were submitted on 15.05.18, Officers are currently reviewing the information submitted  <b>The discharge of condition application has been refused, albeit not discharged the notice has been complied with. Permission is sought to remove this item from the report. Further advice is being received from the legal department exploring all enforcement options that are available to the Council</b>
16.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28th April 2018	Notice served in relation to breach of condition 31. To require the submission of details for reflective road marking scheme adjacent to the site access on Lead Road. This condition has not been discharged Details for each breach of condition notice were submitted on 15.05.18, Officers are currently reviewing the information submitted  <b>The discharge of condition application has been refused, albeit not discharged the notice has been complied with. Permission is sought to remove this item from the report. Further advice is being received from the legal department exploring all enforcement options that are available to the Council</b>
17.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28th April 2018	Notice served in relation to breach of condition 32 to require the Submission of a timetable for the early restoration of the north east corner of the site. This condition has not been discharged Details for each breach of condition notice were submitted on 15.05.18, Officers are currently reviewing the information submitted  <b>The discharge of condition application has been refused, albeit not discharged the notice has been complied with. Permission is sought to remove this item from the report. Further advice is being received from the legal department exploring all enforcement options that are available to the Council</b>
18.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28th April 2018	Complaints have been received that the site has been open outside the approved hours, following further investigation this has been confirmed, therefore a notice has been served in relation to breach of condition 51 to ensure no HGV'S enter of leave the site before 06.30 or after 18.00 hours on Monday to Friday nor after 13.00 hours on Saturdays and no times on Sunday and Bank and Public holidays. A site visit was undertaken on the 20 <sup>th</sup> June in conjunction with the Environment Agency, to monitor the hours of operation. At the time of the

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Current Status
								visit no tipping was taking place, however activity on site will continue to be monitored.
19.	25 Sundridge Drive Felling Gateshead NE10 8JF	Wardley And Leam Lane	Unauthorised change of use	10 <sup>th</sup> August 2018	10 <sup>th</sup> August 2018	14 <sup>th</sup> September 2018	12 <sup>th</sup> October 2018	Complaints have been received regarding the erection of fencing enclosing public open space and incorporating it into the private garden. The loss of open space is unacceptable; therefore an enforcement notice has been issued requiring the use of the land as private garden to cease and the fence removed. An appeal start date has been received
20.	27 Sundridge Drive Felling Gateshead NE10 8JF	Wardley And Leam Lane	Unauthorised change of use	10 <sup>th</sup> August 2018	10 <sup>th</sup> August 2018	14 <sup>th</sup> September 2018	12 <sup>th</sup> October 2018	Complaints have been received regarding the erection of fencing enclosing public open space. The loss of open space is unacceptable; therefore an enforcement notice has been issued requiring the use of the land as private garden to cease and the fence removed. An appeal start date has been received
21.	Blaydon and District Club and Institute, Garden Street	Blaydon	Untidy Land	03 <sup>rd</sup> September 2018	03 <sup>rd</sup> September 2018	5 <sup>th</sup> October 2018	30 <sup>th</sup> November 2018	Complaints have been received regarding the condition of the building and land. A Notice has been issued pursuant to section 215 of the Town and Country Planning Act requiring the building to be demolished  Given the potential bat roost, Natural England will not issue a licence for the roost to be destroyed until after the hibernation period which is November to March.
22.	Three Ts Bar, Longrigg Gateshead	Whickham North	Untidy Land	05 <sup>th</sup> September 2018	05 <sup>th</sup> September 2018	5 <sup>th</sup> October 2018	30 <sup>th</sup> November 2018	Complaints have been received regarding the condition of the building and land. A Notice has been issued pursuant to section 215 of the Town and Country Planning Act requiring the building to be demolished and a hoarding erected. The owner has been in contact and will submit a scope of works with timescales to make this building safe and in part to be brought back into use, rather than demolish property.  Following a site visit on the 19 <sup>th</sup> November, a scope of works should be submitted by the developer no later than the 30 <sup>th</sup> November. Quotes however are being sought for the demolition of the property in preparation that the information is not forthcoming.  Scaffolding has been erected and works are commencing to bring the building back into use. The windows have been inserted in the rear part of the building and works have commenced on the roof.  Officers are visiting the site on the 21.03.19 to confirm that the proposed roof tiles are appropriate, once this is agreed works will re commence, it is anticipated that the works to the roof will take approximately 6-8 weeks.

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Current Status
23.	321 And 323 Rectory Road Bensham Gateshead NE8 4RS	Saltwell	Unauthorised change of use	7 <sup>th</sup> November 2018	7 <sup>th</sup> November 2018	11 <sup>th</sup> December 2018	8 <sup>th</sup> January 2019	Complaints have been received regarding the use of a dwelling as a House of Multiple Occupation (HMO). A previous planning application was refused for the change of use and the subsequent appeal dismissed; therefore, an Enforcement Notice has been issued requiring the use of the property as an HMO to cease. An appeal has been received but no start date has been given yet.
24.	21 Beacon Street Gateshead NE9 5XN	Low Fell	Unauthorised development	07 <sup>th</sup> January 2019	08 <sup>th</sup> January 2019	12 <sup>th</sup> February 2019	12 <sup>th</sup> March 2019	Complaints have been received regarding the erection of a fence to the front of the property. Planning permission was submitted and subsequently refused as the fence had a detrimental impact on the visual amenity of the area. An Enforcement notice has been served seeking the removal of the fence. An appeal has been received but no start date has been given yet.  <b>The Notice has been complied with in full, permission is sought to remove this item from the report.</b>
25.	114 Coatsworth Road Bensham Gateshead Tyne And Wear NE8 1QQ	Saltwell	Untidy Land	18 <sup>th</sup> January 2019	18 <sup>th</sup> January 2019	21 <sup>st</sup> February 2019	11 <sup>th</sup> July 2019	Complaints have been received regarding the condition of the property within the Coatsworth Road Conservation Area. A Notice has been issued pursuant to section 215 of the Town and Country Planning Act requiring the building be demolished and necessary support provided to the adjacent buildings to ensure they are wind and watertight. Following demolition, the land needs to be levelled, graded and compacted to match the contours of the surrounding land.  <b>The Notice has been withdrawn, a new notice is to be issued soon, permission is sought to remove this item from the report.</b>
26.	2 Wythburn Place Gateshead NE9 6YT	High Fell	Unauthorised development	12 <sup>th</sup> February 2019	12 <sup>th</sup> February 2019	19 <sup>th</sup> March 2019	19 <sup>th</sup> July 2019	Complaints had been received regarding the erection of an extension to the property, the extension has a detrimental impact on the visual amenity of the area and thus an enforcement notice has been served seeking the extension be demolished and remove in its entirety.
27.	Brockburn 32A Barlow Lane Winlaton Blaydon On Tyne	Winlaton and High Spen	Unauthorised change of use	06 <sup>th</sup> March 2019	06 <sup>th</sup> March 2019	10 <sup>th</sup> April 2019	5 <sup>th</sup> June 2019	Complaints have been received regarding the unauthorised use of a dwelling to a mixed-use house and dog boarding business. Retrospective planning permission was submitted and subsequently refused as the use resulted in harm to the living conditions of the neighbouring residents. An enforcement notice has been served requiring the mixed use of the property cease.

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**TITLE OF REPORT:** Planning Appeals

**REPORT OF:** Anneliese Hutchinson, Service Director, Development,  
Transport and Public Protection

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## **Purpose of the Report**

1. To advise the Committee of new appeals received and to report the decisions of the Secretary of State received during the report period.

## **New Appeals**

2. There have been **two** new appeals lodged since the last committee:

DC/18/00727/OUT - Grazing Land At Beda Hills West Of, Woodside Walk, Rowlands Gill

Erection of four bedroom house.

This application was a committee decision refused on 1 November 2018

DC/18/00822/FUL - The Dairy, South Farm NE11 0ET

Erection of animal shelter (revised application).

This application was a delegated decision refused on 3 October 2018

## **Appeal Decisions**

3. There has been **one** new appeal decision received since the last Committee:

DC/18/00614/COU - Land Adjacent Rose Cottage, High Street, Wrekenton, Gateshead

Change of use from former petrol filling station to hand car wash and car valeting facility (Sui Generis Use).

This application was a delegated decision refused on 15 August 2018

Appeal dismissed 25 March 2019

Details of the decision can be found in **Appendix 2**.

## **Appeal Costs**

4. There has been **one** appeal cost decision:

DC/18/00614/COU - Land Adjacent Rose Cottage, High Street, Wrekenton, Gateshead

Change of use from former petrol filling station to hand car wash and car valeting facility (Sui Generis Use).

Partial costs have been awarded and are to be confirmed.

Details of the decision can be found in **Appendix 2**.

### **Outstanding Appeals**

5. Details of outstanding appeals can be found in **Appendix 3**.

### **Recommendation**

6. It is recommended that the Committee note the report

**Contact: Emma Lucas Ext: 3747**

**FINANCIAL IMPLICATIONS**

Nil

**RISK MANAGEMENT IMPLICATIONS**

Nil

**HUMAN RESOURCES IMPLICATIONS**

Nil

**EQUALITY AND DIVERSITY IMPLICATIONS**

Nil

**CRIME AND DISORDER IMPLICATIONS**

Nil

**SUSTAINABILITY IMPLICATIONS**

Nil

**HUMAN RIGHTS IMPLICATIONS**

The subject matter of the report touches upon two human rights issues:

The right of an individual to a fair trial; and  
The right to peaceful enjoyment of property

As far as the first issue is concerned the planning appeal regime is outside of the Council's control being administered by the First Secretary of State. The Committee will have addressed the second issue as part of the development control process.

**WARD IMPLICATIONS**

Various wards have decisions affecting them in Appendix 3.

**BACKGROUND INFORMATION**

Start letters and decision letters from the Planning Inspectorate



The Planning Inspectorate

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## Appeal Decision

Site visit made on 26 February 2019

by **John Dowsett MA DipURP DipUD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25<sup>th</sup> March 2019

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**Appeal Ref: APP/H4505/W/18/3216472**

**Land adjacent Rose Cottage, High Street, Wrekenton, Gateshead NE9 7JS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Sukhwinder Dhillon of Dhillon Property Group against the decision of Gateshead Council.
  - The application Ref: DC/18/00614/COU, dated 18 June 2018, was refused by notice dated 15 August 2018.
  - The development proposed is change of use from former petrol filling station to hand car wash and car valeting facility.
- 

### Decision

1. The appeal is dismissed.

### Procedural matters

2. The description of the development on the planning application form describes the proposal as 'Temporary Change of use from Class C3 (dwelling) to Class Sui Generis (Car wash facility) on site of bungalow and former petrol filling station', whereas the decision notice issued by the Council uses 'Change of use from former petrol filling station to hand car wash and car valeting facility'. Although it is stated that this alteration to the description was not formally agreed, the appellant has stated on the appeal form that the description from the decision notice is clearer and more accurate, and that he would prefer to use that description. There is no mention in any of the evidence to the proposed use being temporary and I would agree that this is a clearer description of the proposal. I have, therefore, used that for the purposes of the appeal.
3. The appellant has submitted with their appeal documents an amended plan, Drawing Number: WRKTN 418-101-Revision A, and additional assessments in the form of an Acoustic Report and an appeal statement on highways matters, which incorporates a detailed assessment of the effects of the proposal on the highway in the vicinity of the appeal site. This information was not before Council at time that the application was determined. The Council argue that this additional information represents an evolution of the scheme, that the appeal process should not be used to evolve a scheme, and what is considered by the Inspector at appeal should be essentially what was considered by the local planning authority and on which interested people's views were sought. I would agree that the appeal process is not the place to present substantive amendments to a proposal.

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4. The question is, therefore, whether the amended plan and the evidence on noise and highways matters represents a substantial change to the proposal that means that it is now significantly different from that which was considered by the Council. The proposed development was described as a change of use of the site to a car wash and considered on that basis by the Council. Regardless of the amended plan and the evidence submitted that remains the case. There is little physical or operational development required as part of the proposal and the amended plan does not fundamentally alter this. Whilst the appellant has submitted information relating to noise and highways issues with the appeal, nothing in this substantively alters the proposal. It is to be expected that an appellant would submit evidence in support of their case to address the reasons for refusal that have been set out by the Council.
5. The Council have had the opportunity to comment on this evidence as part of the appeal process. The Council's Environmental Health Department and Development, Transport and Public Protection Department raised concerns in respect of the planning application. However, the Council had the opportunity to seek further views from these internal consultees between receipt of the appellant's evidence and submission of its appeal statement. I also note from the evidence that no third party representations were received during the consultation process on the planning application or as a result of the notification in respect of the appeal.
6. I do not consider that the amended site layout plan or the evidence submitted by the appellant alters the proposal to the extent that it is not the same as that which was considered by the Council i.e. the use of the land as a car wash, or that interested parties have not had the opportunity to comment on the evidence submitted, such that their interests would be prejudiced.
7. I have, therefore, considered the appeal on the basis of the details shown on Drawing Number: WRKTN 418-101-Revision A and the evidence that has been submitted by both parties in respect of the appeal.

#### **Application for costs**

8. An application for costs was made by Mr Sukhwinder Dhillon of Dhillon Property Group against Gateshead Council.

#### **Main Issues**

9. The main issues in this appeal are:
  - The effect of the proposed development on the operation of the highway in the vicinity of the appeal site;
  - The effect of the proposed development on the living condition of occupiers of nearby/neighbouring residential properties, with particular regard to noise; and
  - The effect of the proposed development on the operation of the drainage system in the vicinity of the appeal site.

## Reasons

### *The effect of the proposed development on the operation of the highway*

10. Policy CS13 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle Upon Tyne 2015 (the CSUCP) expects new development to connect safely to, and mitigate the effects of, the development on the existing transport networks. The National Planning Policy Framework (the Framework) seeks to ensure that safe and suitable access to the site can be achieved for all users and sets out that development should only be prevented or refused on highways grounds if there would be either an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
11. The appeal site is a former petrol filling station that has been decommissioned and has been used as informal parking for several years. At the time of my site visit the site was being used as a contractor's compound in connection with work that was being undertaken on an area of land to the south. The site presently has two access points from Old Durham Road. The proposed car wash facility would operate a one-way system through the site using the southern junction for access and the northern for egress.
12. Old Durham Road is a busy main road with a 30mph speed limit. Whilst there is a wide carriageway in the vicinity of the appeal site, this is marked out to provide a protected right turning lane into a supermarket located to the north of the appeal site on the opposite side of the road and a combined bus and cycle lane on the southbound carriageway. This results in a single northbound and southbound carriageway being available for general vehicle use. The bus lane terminates opposite the southern access to the site where the southbound carriageway then splits into two lanes for left turning and right turning onto Springwell Road.
13. The scheme has been assessed on the basis that there will be 60 two-way vehicle movements at the site during each of the morning and evening peak times. These are split on the basis that 50% of the vehicle movements would be in each direction both entering and leaving the site. The conclusion of the appellants' highways evidence is that the use of the site as a car wash would not result in a significant delays or queuing of vehicles on Old Durham Road as the junctions would work within capacity. I saw when I visited the site that visibility from the access points is adequate and meets the requirements for a 30mph road.
14. The operation of the junctions is, however, contingent on the site operating as shown on the amended drawing submitted with the appeal and the free movement of vehicles through the junctions. The amended drawing shows a capacity for 8 vehicles to queue behind the wash bays plus additional capacity, which the appellant states would allow for a maximum of 17 vehicles to be accommodated at the site including those being washed or valeted.
15. Whilst this plan represents an idealised layout, due to the size of the site it would require careful management or supervision to operate as shown and, because the drawing does not show vehicle tracking or swept paths, it is not clear how vehicles could be manoeuvred into or out of the additional bays shown even if there were only one queue of vehicles behind the wash bays. In addition, due to the proximity of the washing and valeting bays to each other,

- adjacent to the site egress, the working area for personnel between the bays would be very constrained if neighbouring vehicles were being washed and/or valeted simultaneously. If the valeting bays adjacent to the egress were in use these would prevent vehicles from leaving the wash bays located behind them from egressing the site.
16. The practicality of the close spacing of the vehicle queues, particularly at the proposed access to the site, are not demonstrated by swept paths for vehicles entering the site from the main carriageway and the proposed 1.8 metre high close boarded fence on the southern boundary of the site would limit advance visibility of conditions within the site for drivers approaching from the south.
  17. As such the layout appears as a contrived solution to demonstrate that an unrealistic number of vehicles could be accommodated, rather than a practical approach to using the site. The constraints imposed by the proposed layout would, in my view, lead to the internal arrangements of the site being altered on an ad hoc basis to overcome the practical shortcomings.
  18. Although a condition could require that the site be developed in accordance with this layout, I do not consider that, in practical terms, it would be possible to enforce the operation of the site in this manner as it would require a significant and regular amount of monitoring which it would be impractical for the Council to maintain.
  19. Whilst I accept that the highways assessment has been based on a larger number of vehicles movements than is likely to occur, there is no substantive evidence in respect of the actual anticipated number of vehicle movements that would be generated by the site or when the peak times for the operation of the facility might be.
  20. I have had regard to the previous use of the site as a petrol filling station, the more recent use as an informal parking area, and the fact that there has only been one recorded personal injury accident near the site since 1974. From the evidence, it is common ground that the appeal site has not operated as a petrol filling station for at least 17 years and that only a small number of vehicles use the accesses to the site at present. Road conditions and traffic flows will have altered since the site was last regularly in a formal use and it is not in dispute that the proposal will increase the use of the junctions with Old Durham Road over that resulting from the present use as informal parking. There is also no evidence before me in respect of accidents which did not result in personal injury. As such I can give only little weight to the suggestion that these factors indicate that the accesses would continue to operate safely were the development to proceed.
  21. Because of the above, I cannot be certain that the site would operate in the manner proposed by the appellant, due to the practical constraints imposed by the proposed layout, or that vehicles would be able to freely enter the site without obstruction. Similarly, I cannot be certain that, despite the appellant's assertion, the proposal would not lead to vehicles obstructing the flow of traffic on Old Durham Road.
  22. In the absence of such certainly, it has not been demonstrated that there would be a safe and suitable access to the site or that there would not be an unacceptable impact on highway safety.

23. I therefore conclude that the proposed development would cause harm to the operation of the highway in the vicinity of the appeal site. It would not comply with the relevant requirements of Policy CS13 of the CSUCP or the Framework.

*Living conditions*

24. Taken together, Policy CS14 of the CSUCP and Saved Policy DC2 of the Gateshead Unitary Development Plan 2007 (the UDP) seek to ensure that, among other matters, new development does not have an adverse effect on existing residential properties as a result of additional noise and disturbance. Saved Policy ENV61 of the UDP sets out that development that results in noise levels that exceed the pre-existing background noise level by 10dB will not be permitted and expects developers to demonstrate that acceptable noise levels can be achieved.
25. The appeal site is located in an area that is in mixed use, although it is primarily commercial in character. The closest residential property to the appeal site is Rose Cottage itself, which is directly adjacent to the appeal site and within the ownership of the appellant. At the time of my site visit Rose Cottage was unoccupied. To the south west of the appeal site, on the opposite side of Old Durham Road, there are commercial properties with residential accommodation above.
26. No information was submitted with the application in respect of the type of equipment that would be used in connection with the proposed development, nor were the opening hours of the facility given on the planning application form. The submitted noise assessment accepts that the Council were unable to support the proposal due to the lack of information.
27. Some further detail has been submitted with the appeal and it is stated that it is expected that the car wash would not operate longer than 08:00 to 20:00 each day. Information has also been provided in respect of the anticipated noise levels from the type of equipment proposed to be used at the site.
28. Although I accept that this information was not before the Council when it made its decision on the application, the Council had the opportunity to comment on it as part of their appeal submissions. The Council have not, however, challenged the findings of the noise assessment which concludes that the noise levels that would be generated using jet washing equipment and vacuum cleaners on the site are likely to be largely masked by other noise in the area, primarily generated by traffic on Old Durham Road.
29. The noise assessment uses a best case scenario and assesses the proposal using the quietest equipment cited in it. It does recognise that noise levels for vacuum cleaners vary significantly depending upon the model chosen and it is clear that, if equipment at the higher end of the noise range as set out the assessment were to be used, the increase over the background noise level would exceed the 5dB difference that the appellant states is largely undetectable. Nonetheless, there is no evidence that the resulting noise levels would exceed the 10dB increase above existing background level set out in Saved UDP Policy ENV61.
30. I do not consider that it would be possible to control the make or model of equipment used at the site using a planning condition, due to the practical realities of enforcing such a condition. That said, when I visited the site in the

early afternoon on a typical weekday, I observed that background noise levels in the area were high and the site is in a busy urban location primarily consisting of commercial properties and backing onto allotment gardens. The small number of residential properties in this area would not have the same expectation of a quieter living environment as those within a solely, or primarily, residential area.

31. I note that the application proposes that Rose Cottage, the closest residential property would be used to provide staff facilities for employees of the car wash facility. In the event that it was to be used for residential purposes the noise assessment concludes that the proposed 1.8 metre boundary fence on the northern site boundary, to which the Council have raised no objection, would provide sufficient attenuation.
32. In this context, even if there were to be an increase in noise levels in excess of 5dB above the prevailing background noise level, I do not find that this would either be materially detrimental to the living conditions of the occupiers of residential accommodation near to the site, or breach the thresholds set out in Saved Policy ENV61 of the UDP.
33. I conclude that the proposed development would not cause harm to the living conditions of occupiers of nearby/neighbouring residential properties, with particular regard to noise. It would not conflict with the relevant requirements of CSUCP Policy CS14 and Saved Policies DC2 and ENV61 of the UDP. It would also be consistent with the Framework which seeks to ensure that new development creates places with a high standard of amenity for existing and future users.

#### *Drainage*

34. No details of drainage were submitted with the application and little additional evidence was submitted with the appeal. Although I agree with the Council that the proposal will result in additional waste water arising from the use of the site, there is also force in the appellant's argument that this matter does not go to the heart of the proposal and could be addressed by way of a planning condition.
35. There is no evidence that the surrounding area is at risk from flooding or that there is not capacity in the existing drainage system to accommodate additional waste water flows. Similarly, there is no evidence that the water authority has objected to the proposal or that the drainage implications of the scheme could not be addressed.
36. I conclude that surface water and drainage matters could be adequately controlled using a suitably worded planning condition and that the proposal would not cause harm to the operation of the drainage system in the vicinity of the appeal site. It would not conflict with the relevant requirements of CSUCP Policy CS17, Policy DC1(h) of the UDP, or the Framework which expect, among other matters, that development should take full account of flood risk, that surface water infrastructure with adequate capacity is provided, and that development does not significantly pollute the environment.

#### **Other matters**

37. I accept that the proposal would be a re-use of a previously developed site in the built up area and that there would be an economic benefit from the

establishment of a new business and job creation. I also note that the Council have not raised any concerns in respect of the visual appearance of the proposed development. Nevertheless, due to the small number of jobs that would be created the economic benefits of the proposal would be modest and none of these factors, either singly or collectively, would outweigh the harm that I have found.

38. My attention has also been drawn to a planning permission granted for a similar facility elsewhere in the Council's area. I do not have the full details of this scheme or the circumstances that lead to it being accepted, and so I cannot be certain that these were directly comparable to the appeal proposal. In any event I have determined this appeal on its own merits.

### **Conclusion**

39. I have found that the proposed development would cause harm to the operation of the highway in the vicinity of the appeal site and would not comply with the relevant requirements of the development plan or the Framework. Although, I have found that the proposal would not cause harm to the living conditions of the occupiers of nearby residential properties and that drainage matters could be addressed using an appropriately worded planning condition, neither of these factors would outweigh the harm that I have found, or the conflict with the development plan.
40. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*John Dowsett*

INSPECTOR



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## Costs Decision

Site visit made on 26 February 2019

by **John Dowsett MA DipURP DipUD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25<sup>th</sup> March 2019

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### **Costs application in relation to Appeal Ref: APP/H4505/W/18/3216472 Land Adjacent to Rose Cottage, High Street, Wrekenton, Gateshead NE9 7JS**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Sukhwinder Dhillon of Dhillon Property Group for a full award of costs against Gateshead Council.
  - The appeal was against the refusal of the Council to grant planning permission for change of use from former petrol filling station to hand car wash and car valeting facility.
- 

### **Decision**

1. The application for an award of costs is allowed in the terms set out below.

### **Reasons**

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and, thereby, caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The appellant's application for costs is on the substantive grounds that the Council prevented or delayed development which should clearly be permitted; relied on vague, generalised or inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis; refused planning permission on a planning ground capable of being dealt with by conditions; and has not determined similar cases in a consistent manner.
4. The planning application was accompanied by very little information regarding the operation of the site in terms of highways or noise. Detailed information was only made available after the Council had made its decision as part of the appeal submissions. As a consequence of this, both the Highway Authority and the Council's Environmental Health Departments raised objections to the planning application, with the latter specifically citing the lack of information as the reason for raising concerns. It is entirely reasonable for the Council to rely on comments made by its expert advisors.
5. The Council's officer produced a detailed report that assessed the proposal based on the information that was submitted. Whilst I have found taking account of the more detailed information submitted with the appeal that the reasons for refusal relating to noise could not be upheld, it was not unreasonable for the Council to conclude that it could not support the proposal

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<https://www.gov.uk/planning-inspectorate>

- as originally submitted, due to the paucity of the information originally provided.
6. As I have found that even taking into account the additional highways evidence, that it has not been demonstrated that the site could operate in such a manner that there would be no harm to the operation of the highway, it was not unreasonable for the Council to refuse permission based on less information and the advice of the Highway Authority.
  7. Although there is evidence that the Council has granted planning permission for a similar facility elsewhere in their administrative area, it is clear from the officer's report that more information about the operation of the facility was available as part of the consideration of this proposal. This is different from the appeal proposal, which contained very little information. I also note that another similar proposal was both refused planning permission and a subsequent appeal dismissed. Because of this I do not see any inconsistency in the Council's approach as the various proposals have clearly been considered on their own merits.
  8. The appellant also refers to the Council ignoring national policy, citing provisions in the now withdrawn Circular 03/2009<sup>1</sup>. This point notwithstanding, although the Council officer's report does not make specific mention of national policies in respect of employment generating developments, it is clear on its findings in respect of the substantive issues relating to the proposed use and the reasons for refusal make reference to the provisions of the National Planning Policy Framework. The relevant policies in the development plan cited in the reasons for refusal have not been superseded by national policy which advocates an entirely different approach to these matters and there is, therefore, nothing which would indicate that national policy has been blatantly disregarded by the Council.
  9. Drawing the above strands together, the Council has not prevented or delayed development which should clearly have been permitted and has not acted unreasonably in respect of the matters referred to in the first and second reasons for refusal, even though I have ultimately found against the Council in respect of reason for refusal number 2.
  10. In respect of drainage arrangements for the site, whilst no specific information was submitted with the planning application, the site is within an existing urban area where a mains drainage system exists. There is nothing in the evidence that suggests there is an existing capacity issue in this system or that suitable oil/petrol interceptors could not be installed at the site. The Council made no submissions on this matter in their statement of case and elsewhere there is no evidence that drainage matters are so fundamental that they go to the heart of the proposal, and so could not be addressed through a planning condition.
  11. Whilst I accept that the Council were looking at the proposal as a whole, I conclude that it was unreasonable to have refused planning permission on this ground and that the appellant has incurred unnecessary expense in having to pursue this reason for refusal as part of the appeal.

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<sup>1</sup> DCLG Circular 03/2009 - Costs Awards In Appeals And Other Planning Proceedings, April 2009



**Conclusion**

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated in respect of the third reason for refusal and that a partial award of costs is justified.

**Costs Order**

13. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Gateshead Council shall pay to Mr Sukhwinder Dhillon of Dhillon Property Group, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in preparing and presenting the case in respect of drainage matters; such costs to be assessed in the Senior Courts Costs Office if not agreed.
14. The applicant is now invited to submit to Gateshead Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*John Dowsett*

INSPECTOR

**APPENDIX 3**

**OUTSTANDING APPEALS**

<b>Planning Application No</b>	<b>Appeal Site (Ward)</b>	<b>Subject</b>	<b>Appeal Type</b>	<b>Appeal Status</b>
DC/18/00440/TPO	9 Axwell Park Road Axwell Park Blaydon NE21 5NR	Felling of one Sycamore tree in garden of 9 Axwell Park Road.	Written	Appeal in Progress
DC/18/00486/FUL	Site At Rear Of Garage And Substation Adj Meadow View, Woodside, Ryton	Erection of two bedroom dormer sustainable eco home	Written	Appeal in Progress
DC/18/00614/COU	<b>Land Adjacent Rose Cottage High Street Wrekenton Gateshead NE9 7JS</b>	<b>Change of use from former petrol filling station to hand car wash and car valeting facility (Sui Generis Use)</b>	Written	<b>Appeal Dismissed</b>
DC/18/00727/OUT	<b>Grazing Land At Beda Hills West Of Woodside Walk Rowlands Gill</b>	<b>Erection of four bedroom house</b>	Written	<b>Appeal in Progress</b>
DC/18/00822/FUL	<b>The Dairy South Farm NE11 0ET</b>	<b>Erection of animal shelter (revised application).</b>	Written	<b>Appeal in Progress</b>
DC/18/00958/TPO	Woodlands Derwent Avenue Rowlands Gill NE39 1BZ	Tree works at Woodlands, Derwent Avenue, Rowlands Gill	Written	Appeal in Progress



**REPORT TO PLANNING AND DEVELOPMENT COMMITTEE**

24 April 2019

**TITLE OF REPORT:** Planning Obligations

**REPORT OF:** Anneliese Hutchinson, Service Director, Development,  
Transport and Public Protection

**Purpose of the Report**

1. To advise the Committee of the completion of Planning Obligations which have previously been authorised.

**Background**

2. To comply with the report of the District Auditor "Probity in Planning" it was agreed that a progress report should be put before the Committee to enable the provision of planning obligations to be monitored more closely.
3. Since the last Committee meeting there have been **no** new planning obligations.
4. Since the last Committee there have been **no** new payments received in respect of planning obligations.
5. Details of all the planning obligations with outstanding covenants on behalf of developers and those currently being monitored, can be found at Appendix 2 on the Planning Obligations report on the online papers for Planning and Development Committee for 24 April 2019.

**Recommendations**

6. It is recommended that the Committee note the report.

Contact: Emma Lucas Ext: 3747

**1. FINANCIAL IMPLICATIONS**

Some Section 106 Agreements require a financial payment when a certain trigger is reached and there is a duty on the Council to utilise the financial payments for the purposes stated and within the timescale stated in the agreement.

**2. RISK MANAGEMENT IMPLICATIONS**

Nil

**3. HUMAN RESOURCES IMPLICATIONS**

Nil

**4. EQUALITY AND DIVERSITY IMPLICATIONS**

Nil

**5. CRIME AND DISORDER IMPLICATIONS**

Nil

**6. SUSTAINABILITY IMPLICATIONS**

Nil

**7. HUMAN RIGHTS IMPLICATIONS**

Nil

**8. WARD IMPLICATIONS**

Monitoring: Various wards

**9. BACKGROUND INFORMATION**

The completed Planning Obligations