



**North Tyneside Council**

# Planning Committee

30 May 2019

To be held on **11 June 2019** in room 0.02, Ground Floor, Quadrant East, The Silverlink North, Cobalt Business Park, North Tyneside, NE27 0BY **commencing at 10.00am.**

<b>Agenda Item</b>	<b>Page</b>
<b>1. Apologies for absence</b>  To receive apologies for absence from the meeting.	
<b>2. Appointment of substitutes</b>  To be informed of the appointment of any substitute members for the meeting.	
<b>3. To receive any declarations of interest</b>  You are invited to declare any registerable and/or non-registerable interests in matters appearing on the agenda, and the nature of that interest.  You are also requested to complete the Declarations of Interests card available at the meeting and return it to the Democratic Services Officer before leaving the meeting.  You are also invited to disclose any dispensation from the requirement to declare any registerable and/or non-registerable interests that have been granted to you in respect of any matters appearing on the agenda.	
<b>4. Minutes</b>  To confirm the minutes of the meeting held on 16 April 2019.	<b>3</b>

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5.	<b>Planning officer reports</b>	6
	To give consideration to the planning applications contained in the above report relating to:	
5.1	19/00575/FUL Land at Former Beaumont Public House, Park Lane, Shiremoor (Valley Ward)	11
6.	<b>Parkside House, Backworth Tree Preservation Order 2019</b> (Valley Ward)	40

#### **Members of the Planning Committee:**

Councillor Ken Barrie  
Councillor Trish Brady (Deputy Chair)  
Councillor Brian Burdis  
Councillor Linda Darke  
Councillor Sandra Graham  
Councillor Muriel Green

Councillor Carl Johnson  
Councillor Frank Lott (Chair)  
Councillor Paul Richardson  
Councillor Willie Samuel  
Councillor Frances Weetman

## **Planning Committee**

**16 April 2019**

Present: Councillor T Brady (in the Chair)  
Councillors J M Allan, S Graham,  
M A Green, John Hunter, G Madden,  
P Mason and L Spillard.

### **PQ58/04/19 Appointment of Chair**

**Resolved** that Councillor T Brady be appointed Chair for the duration of this meeting.

### **PQ59/04/19 Apologies**

Apologies for absence were received from Councillors F Lott and M Reynolds.

### **PQ60/04/19 Substitute Members**

There were no substitute members appointed.

### **PQ61/04/19 Declarations of Interest and Dispensations**

There were no declarations of interest or dispensations reported.

Councillor J M Allan stated that he was a councillor for the Camperdown Ward and a resident of Sharon Close, West Moor, but he had no prior knowledge of application 19/00227/FUL, Planet House, Northumbrian Way, Killingworth, and he had not predetermined the application.

### **PQ62/04/19 Minutes**

**Resolved** that the minutes of the meeting held on 19 February 2019 be confirmed as a correct record and signed by the Chair.

### **PQ63/04/19 Planning Officer's Reports**

**Resolved** that (1) permission to develop pursuant to the General Development Provisions of the Town and Country Planning Act 1990 and the Orders made thereunder, be granted for such class or classes of development or for such limited purpose or purposes as are specified, or not granted as the case may be, in accordance with the decisions indicated below; and  
(2) any approval granted for a limited period be subject to the usual conditions relating to the restoration of land, removal of buildings and discontinuance of temporary use.

Application No: 18/01408/FUL Ward: Valley  
Application Type: Full planning application  
Location: Land at former Beaumont Public House, Park Lane, Shiremoor  
Proposal: Erection of 11no three bed houses and 2no two bed houses, Class C3  
Applicant: SHN Homes Ltd

The Committee gave consideration to a report of the planning officer in relation to the application. A planning officer presented details of the application with the aid of various maps, plans and photographs.

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

- a) the internal layout of the proposed houses, the gross internal areas, amount of storage space and the size of the bedrooms, how they compared with the Government's Nationally Described Space Standards and if they complied with Policy DM4.9 of the Local Plan;
- b) legal advice that the Committee were required to consider the application in accordance with the policies contained within the Local Plan, unless material planning considerations indicated otherwise;
- c) the likely impact on landscaping and the overall layout of the development if larger houses were constructed on the site;
- d) the applicant's viability assessment which had demonstrated that the development would not be viable if the applicant was required to make financial contributions under a Section 106 Agreement requested by the Authority;
- e) the proposed bin storage facilities and access by refuse vehicles;
- f) the local lead flood officer's opinion that the surface water drainage proposals were acceptable in principle but that a proposed condition would require a detailed scheme to be submitted to, and approved by, the Authority prior to construction beginning; and
- g) the proposed condition restricting the hours of construction to 8am to 6pm on Mondays to Fridays, 8am to 2pm on Saturdays and no working on Sundays or Bank Holidays.

### Decision

Application refused on the grounds that the proposed house types 1, 2 and 3 do not meet the Government's Nationally Described Space Standards therefore those dwellings would not provide an acceptable standard of accommodation for future occupiers, contrary to Policy DM4.9 of the North Tyneside Local Plan 2017.

Application No: 19/00227/FUL Ward: Camperdown  
Application Type: Full planning application  
Location: Planet House, Northumbrian Way, Killingworth, NE12 6EH  
Proposal: Change of use from business offices and computer repairs (Use Class B1) to a mixed use community hub comprising place of worship, community services venue and training/conference centre (Use Class D1), community sports activities space (Use Class D2), cafe (Use Class A3), business offices (Use Class B1) and storage/distribution in respect of community based charitable activities (Use Class B8), alterations to existing building elevations comprising new exterior cladding, additional doors and downlighting, front entrance extension to building, removal of earth mound to front of building and the provision of associated hard and soft landscaping.  
Applicant: Community Church Killingworth

(Councillor J M Allan stated that he was a councillor for the Camperdown Ward and a resident of Sharon Close, West Moor, but he had no prior knowledge of the application and he had not predetermined the matter.)

The Committee gave consideration to a report of the planning officer in relation to the application, together with two addendums that had been circulated to members prior to the meeting. A planning officer presented details of the application with the aid of various maps, plans and photographs.

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

- a) the proposed amendments to the conditions set out in the planning officer's report;
- b) the proposed alterations to the exterior cladding of the building; and
- c) the locality of the building in relation to neighbouring industrial uses.

### **Decision**

Application permitted, subject to the conditions set out in the planning officer's report, and incorporating the amendments to the conditions as set out in the addendums to the report, as the development was considered to be acceptable in terms of the principle of development and its impact on amenity, the character and appearance of the area and highway safety in accordance with the relevant policies contained within the National Planning Policy Framework and the Council's Local Plan 2017.

## **PLANNING COMMITTEE**

**Date: 11 June 2019**

### **PLANNING APPLICATION REPORTS**

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

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

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

##### **Interests of the whole community**

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

All applications should be determined on their respective planning merits.

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

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

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

## Planning Considerations

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

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

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

Briefly, material planning considerations include:-

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

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

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

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

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

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

### Officers' Advice

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

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

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

When refusing permission:

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

When granting permission:

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

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

### Lobbying of Planning Committee Members

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



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

#### Lobbying of Other Members

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

#### Lobbying

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

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

**PLANNING APPLICATION REPORTS  
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<b>5.1</b>	<b>19/00575/FUL</b>	<b>Valley</b>
	<b>Land At Former Beaumont Public House Park Lane Shiremoor NEWCASTLE UPON TYNE</b>	

**Item No:** 5.1  
**Application No:** 19/00575/FUL  
**Date valid:** 25 April 2019  
**Target decision date:** 25 July 2019  
**Author:** Julie Lawson  
**☎:** 0191 643 6337  
**Ward:** Valley

Application type: full planning application

**Location:** Land at Former Beaumont Public House, Park Lane, Shiremoor, NEWCASTLE UPON TYNE

**Proposal:** Erection of 10no. three bed and 3no. two bed houses, Class C3 (resubmission)

Applicant: SHN Homes Ltd, Mr Shaun Dunn 62 Cauldwell Avenue Whitley Bay NE25 9RW

Agent: AJ Walton Architecture & Surveying, Mr Alan Walton 38 Linskill Terrace North Shields NE30 2EN

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

## **INFORMATION**

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

#### 1.0 Main Issues

1.1 The main issues for Members to consider are:

- Whether the principle of residential development is acceptable on this site;
- The impact of the proposal on the character and appearance of the surrounding area;
- The impact upon neighbours living conditions with particular regard to outlook and privacy;
- Whether sufficient parking and access would be provided; and
- The impact on trees and ecology.

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

#### 2.0 Description of the Site

2.1 The application relates to the site of the former Beaumont Public House on Park Lane in Shiremoor. The site is approximately 0.27 hectares in area and is vacant since the demolition of the former public house in 2010.

2.2 The site is bounded to the north by two storey properties at 59 Park Lane and at 15 Park Road. To the east it is bounded by 17 Park Road and the rear gardens of properties which front onto Horsley Avenue. To the south is a bungalow at 63 Park Lane and to the west are bungalows fronting Park Lane.

2.3 The proposal is a resubmission of a previously refused application.

### 3.0 Description of the Proposed Development

3.1 Planning permission is sought for 13 dwellings. 10 of the dwelling are 3 bed properties and 3 are 2 bed. 8 properties are proposed to the north of the site with their frontages facing south and 5 are proposed to the southern part of the site with their frontages facing west. The properties proposed are two storey and the materials proposed are Ibstock Morpeth Blend Red multi brickwork with grey roof tiles.

3.2 The access is proposed from Park Lane. Two car parking spaces are proposed for each 3 bedroom property and 1 parking space is proposed for each 2 bedroom property. Garages are proposed for plots 4, 5 and 12.

### 4.0 Relevant Planning History

18/01408/FUL: Erection of 11no three bed houses and 2no two bed houses, Class C3 – refused 16.04.19 for the following reason:

*The proposed house types 1, 2 and 3 do not meet the Government's Nationally Described Space Standards therefore those dwellings would not provide an acceptable standard of accommodation for future occupiers, contrary to Policy DM4.9 of the North Tyneside Local plan 2017.*

13/00136/FUL: Proposed new two storey residential and nursing care home at the site of former Beaumont P.H on Park Lane, Shiremoor - approved 11.04.2013

### 5.0 Development Plan

5.1 North Tyneside Local Plan 2017

### 6.0 Government Policy

6.1 National Planning Policy Framework (February 2019)

6.2 Planning Practice Guidance (As amended)

6.3 Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in the determination of all applications. It requires LPAs to apply a presumption in favour of sustainable development in determining development proposals. Due weight should still be attached to Development Plan policies according to the degree to which any policy is consistent with the NPPF.

## **PLANNING OFFICERS REPORT**

### 7.0 Main Issues

7.1 The main issues for Members to consider are:

- Whether the principle of residential development is acceptable on this site;

- The impact of the proposal on the character and appearance of the surrounding area;
- The impact upon neighbours living conditions with particular regard to outlook and privacy;
- Whether sufficient parking and access would be provided; and
- The impact on trees and ecology.

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

## 8.0 Principle of the Proposed Development

8.1 The NPPF confirms that local authorities should attach significant weight to the benefits of economic and housing growth and enable the delivery of sustainable developments. It states that achieving sustainable development means that the planning system has three overarching objectives, namely an economic objective, a social objective and an environmental objective.

8.2 In relation to housing, NPPF states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

8.3 The NPPF states that substantial weight should be given to the value of using suitable brownfield land within settlements for homes and other identified needs.

8.4 Policy DM1.3 of the Local Plan states that the Council will work pro-actively with applicants to jointly find solutions that mean proposals can be approved wherever possible that improve the economic, social and environmental conditions in the area through the Development Management process and application of the policies of the Local Plan. Where there are no policies relevant to the application, or relevant policies are out of date at the time of making the decision, then the Council will grant permission unless material considerations indicate otherwise.

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

8.6 Policy S4.1 states that the full objectively assessed housing needs of North Tyneside will be met through the provision of sufficient specific deliverable housing sites, including the positive identification of brownfield land and sustainable Greenfield sites that do not fall within the Borough's Green Belt, whilst also making best use of the existing housing stock.

8.7 The Local Plan specifically allocates sites to meet the overall housing needs. Members are advised that the site, subject of this application, is not allocated for housing in the Local Plan.

8.8 Policy DM4.5 states that proposals for residential development on sites not identified on the Policies Map will be considered positively where they can:

- a. Make a positive contribution to the identified housing needs of the Borough; and,
- b. Create a, or contribute to an existing, sustainable residential community; and
- c. Be accessible to a range of sustainable transport modes; and
- d. Make the best and most efficient use of available land, whilst incorporating appropriate green infrastructure provision within development; and
- e. Be accommodated by, and make best use of, existing infrastructure, and where further infrastructure requirements arise, make appropriate contribution to its provision; and
- f. Make a positive contribution towards creating healthy, safe, attractive and diverse communities; and,
- g. Demonstrate that they accord with the policies within this Local Plan.

8.9 The development is proposed on a previously developed site and it would contribute to meeting the housing needs of the borough and is therefore considered to accord with the aims of the NPPF to increase the delivery of new homes, and point (a) of Policy DM4.5. A letter of support has been received to the proposal. Issues relating to the impact of this scheme upon local amenities and the character of the area are discussed later in this report.

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

#### 9.0 North Tyneside Council Housing Land Supply

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

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

9.3 The potential housing land supply from this proposal is not included in the assessment that North Tyneside has a 6.1 year supply of housing land. Although the Council can demonstrate a five year supply of deliverable housing sites, this figure is a minimum rather than a maximum. Further planning permissions that add to the supply of housing can be granted which add to the choice and range of housing.

#### 10.0 Impact of the proposal on the character and appearance of the area

10.1 The National Planning Policy Framework states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. It states that developments should be

visually attractive as a result of good architecture, layout and appropriate and effective landscaping; be sympathetic to local character and history, including the surrounding built environment and landscape setting; and establish or maintain a strong sense of place.

10.2 Planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents (para.130). In determining applications, great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

10.3 Policy DM6.1 of the Local Plan states that applications will only be permitted where they demonstrate high and consistent design standards. Designs should be specific to the place, based on a clear analysis the characteristics of the site, its wider context and the surrounding area.

10.4 The Council has produced an SPD on Design Quality, it states that the Council will encourage innovation in the design and layout, and that contemporary and bespoke architecture is encouraged. The chosen design approach should respect and enhance the quality and character of the area and contribute towards creating local distinctiveness.

10.5 The proposal is for terraced and semi-detached houses set in two main areas. One of the blocks would face towards Park Lane and the other in a north/south direction. The properties are two storeys in height. The elevations indicate that the eaves height of the property on plot 1 would be approximately 0.26m above that of No. 59 Park Lane.

10.6 The Design Officer has advised that the site incorporates a well-designed landscape plan to compliment the frontages of units and car parking. Unit 1 faces out onto Park Lane and incorporates 3 windows which provides natural surveillance and supports the street scene. Overall, the Design Officer supports the design and layout.

10.7 Members need to consider whether the proposal would have a detrimental impact on the character and appearance of the area. It is considered that the proposal would enhance the appearance of the site and the character of the area in accordance with the NPPF, policy DM6.1 and the Design Quality SPD.

#### 11.0 Impact on Residential Amenity

11.1 NPPF paragraph 180 states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.

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

11.3 Policy DM5.19 states that development proposals that may cause pollution either individually or cumulatively of water, air or soil through noise, smell, smoke, fumes, gases, steam, dust, vibration, light, and other pollutants will be required to incorporate measures to prevent or reduce their pollution so as not to cause nuisance or unacceptable impacts on the environment, to people and to biodiversity. Development that may be sensitive (such as housing, schools and hospitals) to existing or potentially polluting sources will not be sited in proximity to such sources. Potentially polluting development will not be sited near to sensitive areas unless satisfactory mitigation measures can be demonstrated.

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

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

11.6 The impact of the development on the amenity of adjacent residents is an important material planning consideration. Whilst no objections have been received to date for this application, an objection was received on grounds of overlooking from the occupier of No. 15 Park Road to the previous application reference 18/01408/FUL. The properties proposed to the north of the site will have their rear elevations facing north. To the north of the site immediately adjacent to the site are No. 59 Park Lane and No.15 Park Road. No. 59 Park Lane is a two storey semi detached property facing west with a garage and rear garden nearest the boundary. No. 15 Park Road is a semi detached property facing east with its rear garden adjacent to the boundary.

11.7 The main impact on the properties to the north would be overlooking to the gardens from the properties on plots 1 to 8. These properties are set 4.47m away from the boundary. It is acknowledged that this is close to the boundary and will result in overlooking to the gardens to the north of the site. However given the siting and orientation of the existing dwellings, the impact on the dwellings themselves in terms of loss of light, outlook and privacy is considered to be acceptable. Whilst the gardens will be overlooked it is not considered to be significantly detrimental.

11.8 The proposed dwellings are considered to be a satisfactory separation distance from the other near-by dwellings to ensure the residential amenity of the occupiers of other dwellings will not be adversely affected.



11.9 Policy DM4.9 of the Local Plan states that to ensure that new homes provide quality living environments for residents both now and in the future and to help deliver sustainable communities, standards will apply, subject to site viability regarding accessibility of homes and internal space standards. The previous application was refused due to not meeting the national internal space standards.

11.10 The previous application was refused because some of the properties did not meet the internal space standards. The applicant has amended the scheme so that the proposed dwellings meet the internal space standards. This has been achieved by reducing the number of three bedroom units by one and including one more two bedroom unit, by reducing the size of the two bedroom units but keeping them to the standards required under Policy DM4.9 and by removing a garage from one of the plots whilst also retaining the required parking requirements. The applicant has confirmed that the development would be designed to meet building regulation M4(2) – ‘Category 2 -accessible and adaptable dwellings’.

11.11 Environmental Health have advised that they have concerns about potential noise from road traffic using Park Lane affecting the development. They recommend conditions to require a noise scheme to be provided to ensure habitable rooms are provided with appropriate glazing and a ventilation scheme to achieve acceptable levels of internal noise in accordance with BS8233. Plot 1 is located gable end onto the road with the garden having line of sight to the road, however it is to be provided with a combined brick wall and fencing to a height of 1.8m that will screen the garden from road traffic noise. The boundary treatment is set back from the road so will not have a detrimental visual impact.

11.12 Members need to consider whether the potential impact on residential amenity is acceptable. In officer opinion the development is acceptable in terms of the impact on the living conditions of existing and proposed occupiers.

## 12.0 Car Parking and Access

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

12.2 All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

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

12.4 Local Plan Policy DM7.4 New Development and Transport states that the Council and its partners will ensure that the transport requirements of new development, commensurate to the scale and type of development, are taken

into account and seek to promote sustainable travel to minimise environmental impacts and support residents health and well-being.

12.5 The Council's adopted parking standards are set out in LDD12 'Transport and Highways'.

12.6 The site is accessed from Park Lane and parking has been provided in accordance with the standards set out in the Transport and Highways SPD. The Highway Network Manager has been consulted and recommends conditional approval.

12.7 Members need to consider whether the proposal would accord with the advice in NPPF, Policy DM7.4 and LDD12. It is officer advice that the development is acceptable in terms of its impact on highway safety.

### 13.0 Trees and Biodiversity

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

13.2 Para.175 of the NPPF states that when determining planning applications, local planning authorities should apply the following principles:

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

b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and

d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

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

13.4 Policy DM5.5 of the Local Plan states that all development proposals should:

a. Protect the biodiversity and geodiversity value of land, protected and priority species and buildings and minimise fragmentation of habitats and wildlife links; and,

- b. Maximise opportunities for creation, restoration, enhancement, management and connection of natural habitats; and,
- c. Incorporate beneficial biodiversity and geodiversity conservation features providing net gains to biodiversity, unless otherwise shown to be inappropriate.

13.5 Policy DM5.6 of the Local Plan states that proposals that are likely to have significant effects on features of internationally designated sites, either alone or in-combination with other plans and projects, will require an appropriate assessment. Proposals that adversely affect a site's integrity can only proceed where there are no alternatives, imperative reasons of overriding interest are proven and the effects are compensated. If necessary, developer contributions or conditions secured to implement measures to ensure avoidance or mitigation of, or compensation for, adverse effects. Such measures would involve working in partnership with the Council (and potentially other bodies) and could include a combination of mitigation measures.

13.6 Policy DM5.9 (Trees, Woodland and Hedgerows) supports the protection and management of existing woodland, trees, hedgerows and landscape features. It seeks to secure new tree planting and landscaping schemes for new development and, where appropriate, promote and encourage new woodland, tree and hedgerow planting schemes and encouraging native species of local provenance.

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

13.8 The Landscape Architect has been consulted. She has advised that there are no significant landscape elements or planting on the site at present, other than a strip of grassed land along the frontage with Park Lane, which still has several of the original access points laid out through it. The proposed layout incorporates landscaped areas to the property frontages. A condition is recommended to secure details of the planting scheme.

13.9 A Shadow Habitat Regulations Assessment (sHRA) has been submitted in order to allow the impacts of the scheme on the Northumbria Coast SPA (Special Protection Area) to be appropriately assessed under the Habitats Directive and to determine if there is the potential for a Likely Significant Effect on the SPA. The Shadow Habitat Regulations Assessment concludes that the development alone is unlikely to impact on coastal sites; however, cumulative effects of recreational disturbance from additional visitors could have an impact.

13.10 The Council's Biodiversity Officer has advised that the report concludes that there is the potential for a Likely Significant Effect on the Northumbria Coast SPA due to in-combination impacts resulting from an increase in recreational use. The report recommends mitigation in accordance with Local Plan Policy and therefore, a financial contribution towards a coastal mitigation service should

be agreed between the developer and the Local Planning Authority to address the impacts of the scheme on the Northumbria Coast SPA.

13.11 Natural England have been consulted and they advised that this development falls within the 'zone of influence' for coastal sites designated at a national and international level as Sites of Special Scientific Interest and Special Protection Areas/ Special Areas of Conservation/ Ramsar sites. Since this application will result in a net increase in residential accommodation, impacts to the designated sites may result from increased recreational disturbance. They advised that subject to appropriate mitigation being secured in line with a coastal mitigation service, Natural England is satisfied there will be no damage or disturbance to the interest features of these sites. They recommended that an Appropriate Assessment in accordance with the Conservation of Habitats and Species Regulations 2017 be undertaken by the Local Authority.

13.12 The applicant has agreed to pay £4,381 towards a coastal mitigation scheme in accordance with the requirements of Natural England. An appropriate assessment has been undertaken and Natural England has been notified of this.

13.13 It is officer advice that subject to conditions and a financial contribution towards the Coastal Mitigation Service, the proposal is acceptable in terms of its impact on biodiversity.

#### 14.0 Other Issues

##### 15.0 Flooding

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

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

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

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

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

15.4 Policy DM5.14 states that applicants will be required to show, with evidence, they comply with the Defra technical standards for sustainable drainage systems (unless otherwise updated and/or superseded). A reduction in surface water run

off rates will be sought for all new development. On brownfield sites, surface water run off rates post development should be limited to a maximum of 50% of the flows discharged immediately prior to development where appropriate and achievable. For greenfield sites, surface water run off post development must meet or exceed the infiltration capacity of the greenfield prior to development incorporating an allowance for climate change.

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

15.6 The applicant has submitted information in respect of drainage and the Local Lead Flood Officer has advised that the applicant will be attenuating the surface water within the site via the use of permeable paving carriageway/footway (which allows for the infiltration of surface water into the road construction layer) and then is carried within a subsurface drain which will discharge into the local NWL network at a restricted discharge rate. He has no objections to the proposal.

15.7 Northumbrian Water has no objections subject to a condition relating to foul and surface water drainage.

15.8 It is officer advice that that subject to the above conditions the proposed development would not have an adverse impact on flooding and would accord with the advice in NPPF and policies DM5.12 and DM5.14 of the Local Plan.

#### 16.0 Contamination

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

16.2 Policy DM5.18 of the Local Plan states that where the future users or occupiers of a development would be affected by contamination or stability issues, or where contamination may present a risk to the water environment, proposals must be accompanied by a report which shows that investigations have been carried out and that detailed measures to allow the development to go ahead safely without adverse effect.

16.3 The Coal Authority have advised that the proposal falls within the defined High Risk Area. A Coal Mining Investigation and Risk Assessment have been submitted by the applicant. The Coal Authority has no objections subject to a condition.

16.4 The Contaminated Land Officer advises no objections subject to conditions.

16.5 It is therefore officer advice that the proposal is acceptable in terms of ground conditions.

#### 17.0 Archaeology

17.1 The Tyne and Wear Archaeology Officer has advised no objections to the proposal.

## 18.0 S106 Contributions

18.1 NPPF states local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage.

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

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

18.3 The Council's adopted SPD on Planning Obligations LDD8 states that a Section 106 Agreement, is a formal commitment undertaken by a developer to mitigate site specific impacts caused by new development. They must be necessary and used directly to make a development acceptable.

18.4 The SPD also states that the Council is concerned that planning obligations should not place unreasonable demands upon developers, particularly in relation to the impact upon economic viability of development and sets out appropriate procedure to address this. However, the SPD also states that the Council will take a robust stance in relation to the requirements for new development to mitigate its impact on the physical, social, economic and green infrastructure of North Tyneside.

18.5 This application is a resubmission of a previous application for the same number of units. Under the previous application the Council requested the following S106 contributions:

25% affordable housing  
£3,000 for employment and training  
£750.00 – 1 litter/dog fouling bin  
£4,680 for equipped area for play/multi use games  
£37,500 for primary education

18.6 The applicant submitted a viability appraisal with the previous application to demonstrate that the scheme would not be viable with the requested contributions. This was assessed and it was agreed that the above contributions would make the development unviable. The applicant has updated their viability appraisal. This proposal is for the same number of units as previously proposed with only a minor change to the number of bedrooms proposed, therefore the position is, as with the previous application, that the above contributions would make the development unviable.

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

#### 19.0 Local Financial Considerations

19.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to local finance considerations as far as it is material. Section 70(4) of the 1990 Act (as amended) defines a local financial consideration as a grant or other financial assistance that has been, that will or could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments).

19.2 The proposal involves the creation of 13 new dwellings. Granting planning permission for new dwellings therefore increases the amount of New Homes Bonus, which the Council will potentially receive. The New Homes Bonus is a government grant for each home built equivalent in value to the average Band D Council Tax charge in England in the preceding year. New Homes Bonus is paid to the Authority each year for new homes completed for a period of four years from the completion of each new home. An additional sum is paid for each empty home brought back in to use and for each affordable home delivered.

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

#### 20.0 Conclusion

20.1 Members need to consider whether the proposal will impact on existing land uses, whether the occupants of the proposed dwellings will have a suitable level of residential amenity, whether the development would have an acceptable impact on the character of the area, trees, ecology and the highway network.

20.2 The proposed development would bring significant benefits to the streetscene and the character of the area, would secure the future use of a vacant site and provide additional homes. It is officer advice that the proposed development is acceptable in terms of its impact on residential amenity, trees, ecology and the highway network. The applicant has addressed the previous reason for refusal.

20.3 The development is considered to comply with relevant national and local plan policy and is therefore recommended for conditional approval subject to a S106 agreement to secure a financial contribution for Coastal SPA.

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

**It is recommended that members indicate that they are minded to grant this application following the expiry of the consultation on 14<sup>th</sup> June 2019 subject to the receipt of any additional comments received which raise issues not previously considered which justify reconsideration by the Committee and subject to conditions set out (or any subsequent amendments, omissions or additional conditions) and to grant plenary powers to the Head of Environment, Housing and Leisure to determine the application following the completion of a S106 Agreement to secure the following:**

**- £4381 towards a Coastal Mitigation Strategy**

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

**- the closure of the disused access and provision of the new access, upgrading of the footpath abutting the site, provision of associated highway drainage, street lighting, road markings and signage.**

**Conditions/Reasons**

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

Site Location and Block Plan JA454a-A0.05  
Proposed Site Plan Revision JA454a-A0.10 Rev. A  
Proposed Site Elevations JA454a-A2.20 Rev. A  
Proposed House Type 1 JA454a-A1.12 Rev. A  
Proposed House Type 1a JA454a-A1.13  
Proposed House Type 2 JA454a-A1.15  
Permeable Surfaces ParkLane/02/004 Rev. O  
Proposed Permeable Paving Private Areas Construction Detail Park Lane 02/003 Rev. O  
Drainage Layout ParkLane/02/001 Rev. O

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

- |    |                                       |        |   |
|----|---------------------------------------|--------|---|
| 2. | Standard Time Limit 3 Years FUL       | MAN02  | * |
| 3. | Restrict Hours No Construction Sun BH | HOU004 | * |
| 4. | Construction Method Statement - Major | SIT007 | * |

5. The materials and finishes for the development and surfaces shall be in accordance with the details set out in the submitted plans. Any variation from these materials must be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details.

Reason: To secure a satisfactory external appearance having regard to policy DM6.2 of the North Tyneside Council Local Plan 2017.

- |    |                                     |        |   |
|----|-------------------------------------|--------|---|
| 6. | Exist Access Closure Misc Points By | ACC017 | * |
| 7. | Turning Areas Before Occ            | ACC025 | * |

8. The scheme for parking, garaging and manoeuvring indicated on the approved plans shall be laid out prior to the initial occupation of the development



hereby permitted and these areas shall not thereafter be used for any other purpose.

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

9. Refuse Storage Detail Provide Before Occ REF001 \*

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

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

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

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

12. Wheel Wash SIT008 \*

13. No construction above ground level shall take place, until the following details and a timescale for their implementation have been submitted to and approved in writing by the Local Planning Authority:

- New access
- Closure of disused access
- Upgrade of footpaths abutting the site
- Associated street lighting
- Associated drainage
- Associated road markings
- Associated signage

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

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

14. No development shall take place until plans of the site showing the existing and proposed ground levels and levels of thresholds and floor levels of all proposed buildings has been submitted to and approved in writing by the Local Planning Authority. Such levels shall be shown in relation to a fixed and known datum point. Thereafter, the development shall not be carried out other than in accordance with the approved details.

Reason: This needs to be pre-commencement condition to ensure that the work is carried out at suitable levels in relation to adjoining properties and highways, having regard to amenity, access, highway and drainage requirements having regard to policy DM6.1 of the North Tyneside Local Plan (2017).

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

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

16. Prior to the construction of the dwellings hereby approved above damp proof course level, a fully detailed scheme for the landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall include details and proposed timing of all new tree, shrub and hedgerow planting and ground preparation noting the species and sizes for all new plant species (trees to be a minimum 12-14cm girth). The scheme shall include a schedule of landscape maintenance for a minimum period of five years including details of the arrangements for its implementation. The landscaping scheme shall be implemented in accordance with the approved details within the first available planting season following the approval of details.

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

17. All hard and soft landscape works shall be carried out in accordance with the approved details and to a standard in accordance with the relevant recommendations of British Standard [4428: 1989]. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season thereafter.

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

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

Reason: To safeguard important habitats and species of nature conservation value having regard to policy DM5.5 of the North Tyneside Local Plan (2017).

19. Gas Investigate no Development                      GAS006                      \*

20. Contaminated Land Investigation Housing                      CON001                      \*

21. Prior to the commencement of development a scheme of remedial works shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Coal Authority. The approved measures and requirements

shall be implemented in full prior to the occupation of the development hereby approved.

Reason: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework.

22. Prior to construction above damp proof course level, a detailed scheme for the disposal of foul and surface water from the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and the Lead Local Flood Authority. The approved drainage and drainage maintenance scheme shall be implemented in accordance with the approved details and retained thereafter.

Reason: To prevent the increased risk of flooding from any sources having regard to policy DM5.12 of the North Tyneside Local Plan (2017).

23. Prior to construction of any dwelling above damp proof course level, a scheme for acoustic glazing to address the external road traffic noise arising from Park Road shall be submitted to and approved in writing by the local Planning Authority. The details shall be in accordance with BS8233 and the World Health Organisation community noise guidelines to show that all habitable rooms are provided with sound attenuation measures to give a resultant noise level of below 30 dB LAeq and maximum noise level of 45dB for bedrooms and 35 dB LAeq for living rooms is achieved. The approved details shall be implemented in accordance with the approved scheme prior to the occupation of any dwellings and retained thereafter.

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

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

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

25. Notwithstanding the details submitted, 50% of the dwellings shall meet building regulation M4(2) - 'Category 2 -accessible and adaptable dwellings'.

Reason: To ensure compliance with Policy DM4.9 of the North Tyneside Local Plan (2017).

26. Altered Access Access Alt Prior to Occ ACC015 \*

27. Details of all screen and boundary walls, fences and any other means of enclosure shall be submitted to and approved in writing by the Local Authority prior to the occupation of the first residential dwelling. Thereafter the development must be carried out in accordance with the agreed details.

Reason: In order to ensure a satisfactory environment within the development having regard to the NPPF and Policy DM6.2 of the North Tyneside Local Plan.

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

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

**Informatives**

Building Regulations Required (I03)

Contact ERH Construct Highway Access (I05)

Contact ERH Works to Footway (I08)

No Doors Gates to Project Over Highways (I10)

Contact ERH Erect Scaffolding on Rd (I12)

Do Not Obstruct Highway Build Materials (I13)

Street Naming and numbering (I45)

Highway Inspection before dvlpt (I46)

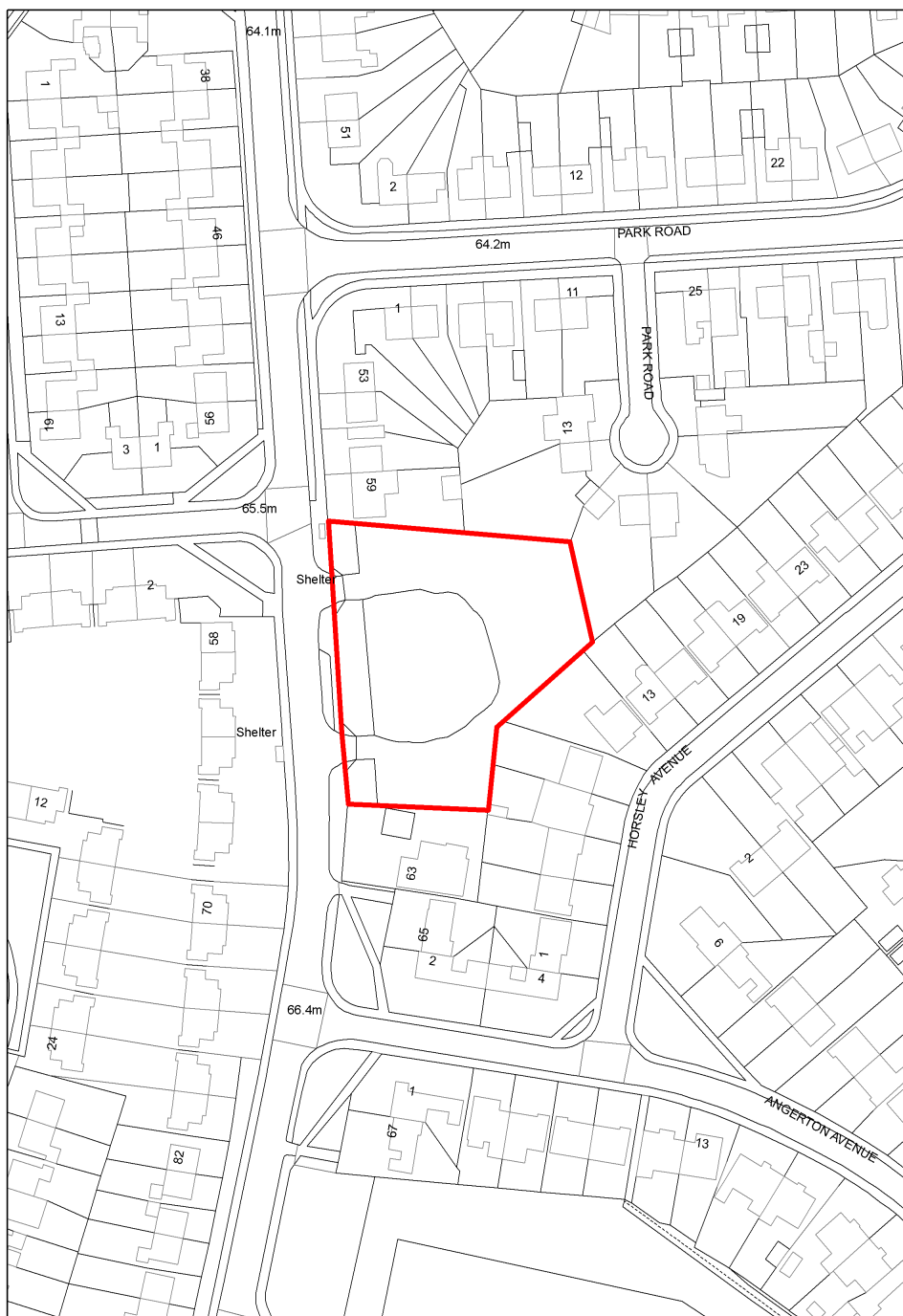
Coal Mining Referral Area , (FULH) (I43)

Explanation of removal of PD rights (I31)

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

Asbestos testing should be carried out for the site. Any imported material must be tested to ensure it is suitable for end use; this must include testing for Human Health.

Northumbrian Water have advised that a public sewer crosses the site and may be affected by the proposed development. They have advised that they do not permit a building over or close to their apparatus and they will work with the developer to establish the exact location of their assets and ensure any necessary diversion, relocation or protection measures required prior to the commencement of the development. For further information is available at <https://www.nwl.co.uk/developers.aspx>.



**Application reference: 19/00575/FUL**

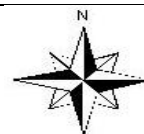
**Location: Land At Former Beaumont Public House, Park Lane, Shiremoor, NEWCASTLE UPON TYNE**

**Proposal: Erection of 10no. three bed and 3no. two bed houses, Class C3 (resubmission)**

Not to scale

Date: 30.05.2019

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0100016801



**Consultations/representations**

1.0 Internal Consultees

2.0 Highway Network Manager

2.1 The site is accessed from Park Lane and parking has been provided in accordance with current standards. The site has reasonable links with public transport and each dwelling has cycle parking. Conditional approval is recommended.

**Recommendation - Conditional Approval**

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

New access

Closure of disused access

Upgrade of footpath abutting the site

Associated highway drainage

Associated street lighting

Associated road markings

Associated signage

**Conditions:**

ACC15 - Altered Access Access Alt Prior to Occ

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

ACC25 - Turning Areas: Before Occ [refuse vehicle]

PAR04 - Veh: Parking, Garaging before Occ

REF01 - Refuse Storage: Detail, Provide Before Occ

SIT07 - Construction Method Statement (Major)

SIT08 - Wheel wash

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

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

**Informatives:**

I05 - Contact ERH: Construct Highway Access

I08 - Contact ERH: Works to footway.

I10 - No Doors/Gates to Project over Highways

I12 - Contact ERH Erect Scaffolding on Rd

I13 - Don't obstruct Highway, Build Materials

I45 - Street Naming & Numbering

I46 - Highway Inspection before dvlp

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

### 3.0 Local Lead Flood Authority

3.1 The applicant will be attenuating the surface water within the site via the use of permeable paving carriageway & footway, which allows for the infiltration of surface water into the road construction layer. The water is then carried within a subsurface drain which will discharge into the local NWL network via a hydro-brake at a restricted discharge rate of 4.2 litres per second. Approval is recommended.

### 4.0 Design Officer

4.1 This site proposes 3 blocks of short terraced houses and 2 semi-detached houses. The site incorporates a well-designed landscape plan to compliment the frontages of units and car parking. Bins are located to the front of units, however they will be kept within bin stores to help improve the design of the development. Boundary treatments are also well designed. Unit 1 faces out onto Park Lane and incorporates 3 windows which provides natural surveillance and supports the street scene. Overall, the design and layout is supported.

### 5.0 Biodiversity Officer

5.1 A shadow HRA has been submitted for the above application to allow the impacts of the scheme on the Northumbria Coast SPA (Special Protection Area) to be appropriately assessed under the Habitats Directive and to determine if there is the potential for a Likely Significant Effect (LSE) on the SPA.

5.2 The report concludes that there is the potential for a Likely Significant Effect (LSE) on the Northumbria Coast SPA due to in-combination impacts resulting from an increase in recreational use.

5.3 The report recommends mitigation in accordance with Local Plan Policy and therefore, a financial contribution towards a coastal mitigation service should be agreed between the developer and the Local Planning Authority to address the impacts of the scheme on the Northumbria Coast SPA. This contribution must be agreed prior to the determination of the application and should be in line with the North Tyneside Draft Coastal Mitigation SPD.

5.4 In addition, the following conditions should be attached to the application:-

- Within one month of completion of site security fencing, a fully detailed scheme for the landscaping of the site has been submitted to and approved in writing by the Local Planning Authority.
- No development shall take place until a schedule of landscape maintenance for a minimum period of five years including details of the arrangements for its implementation has been submitted to and approved in writing by the Local



Planning Authority. The development shall be carried out in accordance with the approved schedule

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

## 6.0 Landscape Architect

6.1 The application refers to land that was formerly occupied by the Beaumont Public House, which was located on and accessed through several entrances on the East side of Park Lane. The site is currently cleared of all buildings and is contained on all three sides, excluding the West (Park Lane) by the residential properties and gardens of Park Road, Horsley Avenue and Angerton Avenue. There are no significant landscape elements or planting on the site at present, other than a strip of grassed land along the frontage with Park Lane, which still has several of the original access points laid out through it. Most of the external areas to the original (PH) building were hard landscaped, consisting principally of tarmac surfacing, with the topography of the site generally flat.

6.2 A soft landscaping strategy has been submitted (located on the proposed site plan). In relation to the landscape scheme the layout and density of the built form development can often make any meaningful landscape design difficult to achieve and therefore, making a more significant impact on the development frontages or perimeter areas, is sometimes the best alternative approach. In the context of the landscape design submitted, the landscape scheme will need to make a meaningful impact to showcase the development in its current form. This is due largely in terms of the planting design and sizes of the proposed trees put forward.

6.3 A landscape condition will ensure a fully detailed landscape scheme is submitted. However, prior to this submission, the following advisory information should be considered.

6.4 The tree sizes are too small for an urban housing development with 12-14cm (girth) trees recommended. The landscape scheme should be supported by a specification including a method of support (stakes and ties) and an appropriate tree-pit specification. The species type chosen are *Prunus 'Kiku-shidare-zakura'*, which is a small arching tree head which may be the wrong choice in terms of its eventual habit for its location. An alternative native tree species (fastigate in habit) should be considered within the context of the position and space available. The tree numbers (4no.) along the frontage are also very low and considering there are 2no. other trees for the entire remaining development these numbers should be increased along the frontage, either as pairs of trees and/or as an avenue effect. The Beech (*Fagus Sylvatica*) hedgerow design should also have a specification with regard to hedgerow formation and planting layout, i.e. *double row staggered planting every 30cm and supported by canes and/or tubes for protection* and again the (NLS) should be attached to the works.

6.5 The proposal is subject to the following conditions:

### Landscape Plan

A fully detailed landscape plan shall be submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall include details and

proposed timing of all new tree, shrub and hedgerow planting and ground preparation noting the species and sizes for all new plant species (trees to be a minimum 12-14cm girth). The landscaping scheme shall be implemented in accordance with the approved details within the first available planting season following the approval of details

#### Landscape Implementation

All hard and soft landscape works shall be carried out in accordance with the approved details and to a standard in accordance with the relevant recommendations of British Standard [4428 : 1989]. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season thereafter.

#### Landscape Maintenance

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

#### 7.0 Environmental Health (Pollution) – advised that their comments in respect of 18/01408/FUL still apply:

7.1 I have concerns about potential noise from road traffic using Park Lane affecting the development. I would recommend conditions to require a noise scheme to be provided to ensure habitable rooms are provided with appropriate glazing and ventilation scheme to achieve acceptable levels of internal noise in accordance with BS8233. It is noted that garden areas are located to the rear of the properties. Plot 1 is located gable end onto the road with the garden having line of sight to the road, however it is to be provided with a combined brick wall and fencing to a height of 1.8m that will screen the garden from road traffic noise.

7.2 If planning consent is to be given I would recommend the following:

Prior to occupation, submit and implement on approval of the local Planning Authority a noise scheme for the acoustic glazing scheme to address the external road traffic noise arising from Park Road. Details of the acoustic glazing to be provided must be in accordance with BS8233 and the World Health Organisation community noise guidelines must be provided to show that all habitable rooms are provided with sound attenuation measures to give a resultant noise level of below 30 dB LAeq and maximum noise level of 45dB for bedrooms and 35 dB LAeq for living rooms is achieved.

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

reduce the need to open windows. The alternative ventilation system must not compromise the facade insulation or the resulting internal noise levels.

HOU04

SIT03

8.0 Environmental Health (Contaminated Land) – advised that their comments in respect of 18/01408/FUL still apply:

8.1 I have read the Third Party Review and Updated Environmental Assessment (by REL) and I note the following:

“The site has recently been cleared of a large detached former public house and at the time comprised a large surface depression 2.0m deep, noted as probably corresponding with the partially infilled pub cellar. It is understood this depression has since been infilled with materials of an unknown nature.

In summary, their results suggest that the site may be underlain by a shallower horizon of coal and /or abandoned mine workings/collapsed ground with voids occurring in horizon between 6.1m and 10.66m. A deeper horizon of mine workings and therefore coal may also occur, although Geoinvestigate considered this would be considered too deep to cause significant influence at the surface, which REL consider to be a reasonable conclusion.

Geoinvestigate recommended that further investigation be undertaken to identify the requirements for potential remedial works if required. This would also allow for the correct foundation design for the scheme to be clarified by an engineer.

Future residents may be exposed to residual contamination via the direct contact, ingestion and inhalation pathways within areas of soft landscaping and garden areas. A clean imported topsoil may be required to provide a suitable growing medium in areas of future soft landscaping and to provide further reassurance to future site users.

However, it should be noted, the client has agreed to install a basic level of gas protection in line with CS2 in order to provide further reassurance to future site users and the Local Authority. This is consistent with the findings of the Geoinvestigate report, who also recommended gas protection in line with CS2. Remedial works maybe required with regard shallow worked coal seams identified beneath the site. Further investigation may allow for the requirements for any remedial works (if required) to be determined with greater certainty. Ground gas protection measures in accordance with Characteristic Situation 2 as defined in CIRIA C665, should be installed in future residential properties.

Further enquiries should be made regarding the nature of the infill materials within the former basement depression.”

8.2 Although the updated assessment has stated that the client will be installing gas protection measures the installation must be verified and a verification report produced. As there may be grouting works required and the installation of gas protection measures the following must be applied:

Gas 006

8.3 As there is a recommendation for further enquiries regarding the nature of the fill material the following must be applied:

Con001

8.4 I note no asbestos testing was carried out; asbestos testing should be carried out for the site. Any imported material must be tested to ensure it is suitable for end use; this must include testing for Human Health.

8.5 Furthermore to those comments, the chemical testing results (within the Coal Mining Investigation and Risk Assessment Report dated 5th December 2018) cannot be accepted as part of the site assessment as the data is almost 10 years old and therefore may not be reflective of current site conditions.

#### 9.0 Representations

1 letter from resident of 63 Park Lane: I am writing to confirm what I said in my previous letter that I have no objections whatsoever to the application. It is quite a few years since the Beaumont was pulled down and the site is a mess. The fencing around the site is an eyesore. It is a good job I do not want to move as I do not think that I would be able to sell my bungalow. I am sorry that the last application was turned down but I hope that the modifications made by them will be accepted and their application will be approved.

#### 10.0 External Consultees

##### 11.0 Crime Architectural Liaison Officer

11.1 After considering the application from a crime prevention point of view I have no objections to it progressing. However I would recommend that the houses are constructed in line with the advice contained in the police approved security scheme Secured by Design (SBD). If done this will provide safe and secure housing and will assist in the developers obligations under Approved Document Q.

#### 12.0 Northumbrian Water

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

Condition: Prior to construction above ground floor level, a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and the Lead Local Flood Authority. Thereafter the development shall take place in accordance with the approved details.

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

How to Satisfy the Condition:

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

- Soakaway
- Watercourse, and finally
- Sewer

If sewer is the only option the developer should contact Northumbrian Water to agree allowable discharge rates and points into the public sewer network. This can be done by submitting a point of connection enquiry directly to us.

Please note that the planning permission with the above condition is not considered implementable until the condition has been discharged. Only then can an application be made for a new sewer connection under Section 106 of the Water Industry Act 1991.

For information only:

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

### 13.0 Tyne and Wear Archaeology Officer

13.1 No comments.

### 14.0 Natural England

14.1 International and nationally designated sites – no objection subject to appropriate mitigation.

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

14.2 Northumberland and North Tyneside Councils operate a Coastal Mitigation Service to mitigate for potential impacts from increased recreational disturbance resulting from increased residential development and tourism activities within this zone. Subject to appropriate mitigation being secured in line with the details of this Service, Natural England is satisfied there will be no damage or disturbance to the interest features of these sites.

14.3 Although your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound, Natural England's advice is that this proposed development,

and the application of these measures to avoid or reduce the likely harmful effects from it, may need to be formally checked and confirmed by your Authority, as the competent authority, via an appropriate assessment in view of the European Site's conservation objectives and in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended).

14.4 This is because Natural England notes that the recent *People Over Wind* Ruling by the Court of Justice of the European Union concluded that, when interpreting article 6(3) of the Habitats Directive, it is not appropriate when determining whether or not a plan or project is likely to have a significant effect on a site and requires an appropriate assessment, to take account of measures intended to avoid or reduce the harmful effects of the plan or project on that site. The ruling also concluded that such measures can, however, be considered during an appropriate assessment to determine whether a plan or project will have an adverse effect on the integrity of the European site. Your Authority should have regard to this and may wish to seek its own legal advice to fully understand the implications of this ruling in this context.

Natural England advises that it is a matter for your Authority to decide whether an appropriate assessment of this proposal is necessary in light of this ruling. In accordance with the Conservation of Habitats and Species Regulations 2017 (as amended), Natural England must be consulted on any appropriate assessment your Authority may decide to make.

#### 14.5 Other advice

Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w).

14.6 General standard advice offered on landscape impact, agricultural soils, protected species, priority habitats and species, ancient woodland, environmental enhancement, access and recreation and rights of way.

#### 15.0 The Coal Authority

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

15.2 The Coal Authority records indicate that the site is in an area of recorded coal mine workings at shallow depth.

15.3 The planning application is supported by a Coal Mining Investigation and Risk Assessment, dated 5 December 2018 and prepared by Roberts Environmental Ltd. This report is informed by an appropriate range of geological and coal mining information, including previous Site Investigations by Geoinvestigate dated January 2010.

15.4 The report author has reviewed the previous investigation report and further investigations undertaken and has concluded that there is a risk posed by

shallow workings beneath the site. Remedial measures should therefore be carried out in order to ensure the safety and stability of the development.

15.5 The remedial works should be designed by a competent person and should ensure that they are adequate to ensure the safety and stability of the development as a whole. The nature and extent of the remedial works should be agreed with the Permitting Section of the Coal Authority as part of the permissions process.

15.6 The Coal Authority Recommendation to the LPA:

15.7 The Coal Authority concurs with the recommendations of the Coal Mining Investigation and Risk Assessment; that coal mining legacy potentially poses a risk to the proposed development.

15.8 A condition should therefore require prior to the commencement of development:

- The submission of a scheme of remedial works for approval; and
- Implementation of those remedial works.

15.9 The Coal Authority therefore has no objection to the proposed development subject to the imposition of a condition or conditions to secure the above,

15.10 The following statement provides the justification why the Coal Authority considers that a pre-commencement condition is required in this instance:

15.11 The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the NPPF.

# North Tyneside Council

## Report to Planning Committee

### 11 June 2019

#### ITEM 6

Title: Parkside House,  
Station Road, Backworth,  
Newcastle upon Tyne  
Tree Preservation Order  
2019

**Report from Directorate:** Environment, Housing and Leisure

**Report Author:** Phil Scott Head of Environment, Housing and Leisure (Tel: 643 7295 )

**Wards affected:** Valley

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#### 1.1 Purpose:

To consider the above Tree Preservation Order for 13 trees taking into account any representations received in respect of the Order.

#### 1.2 Recommendation(s)

The Committee is recommended to confirm the Parkside House, Station Road, Backworth, Newcastle upon Tyne, Tree Preservation Order 2019 with no modifications.

#### 1.3 Information

- 1.3.1 Trees in a conservation area that are not protected by an Order are protected by the provisions in section 211 of the Town and Country Planning Act 1990. These provisions require people to notify the local Council, using a 'section 211 notice', 6 weeks before carrying out certain work on such trees, unless an exception applies. The work may go ahead before the end of the 6 week period if the local planning authority gives consent. This notice period gives the Council an opportunity to consider whether to make an Order on the tree.
- 1.3.2 Notice was served on North Tyneside Council to fell three ash trees and replace them with 4 ash tree saplings (submitted under reference 18/01775/TREECA) in Backworth Conservation Area. This was assessed and the Council decided to make a Tree Preservation Order (TPO) for the trees. The Order was served in February 2019.
- 1.3.3 One letter of objection has been received following the Council's decision to serve a TPO on the trees from the owners of the land covered by the TPO. A copy of the representation is included as Appendix 4 to this report. A further email was received from the owner on 21.02.2019 (Appendix 5) with additional photographs submitted of fungal brackets on the trees (Appendix 6 and 7).
- 1.3.4 Objections from the owner, Parkside House, Backworth can be summarised as follows:
- The trees marked in G1 should be felled because of a safety risk to pupils and staff.
  - Recent shedding of limbs lead to an investigation of a tree surgeon who concluded the trees were showing signs of 'black fungus bracket'.
  - The trees in G1 have minimal impact on visual amenity as the other trees listed in the TPO T1 and G2 are far more visible from the main road.



- 1.3.5 Follow up email from the owner, Parkside House, Backworth can be summarised as follows:
- Surprised there was no evidence of fungus in the planning officers report.
  - No photographs were supplied of the fungus in the original application and two photographs of the fungus were attached to the email.
  - One photograph is of a lower fungal bracket from November last year (Appendix 6).
  - The other photograph was taken 20.02.2019 of a higher bracket on a separate tree (Appendix 7).
- 1.3.6 A summary of the objections are listed below. The Council has responded, in consultation with the landscape architect (who has provided a full response in Appendix 8), to each of the objections:
- a) Concern of the health of the trees and therefore the safety risk they pose to people in the vicinity of the school.
  - b) The trees within group G1 do not provide a high level of amenity and therefore should not be considered worthy of protection by a TPO
- a) Concern of the health of the trees and therefore the safety risk they pose to people in the vicinity of the school**
- 1.3.7 Prior to the application being determined, a site visit was made, and a ground-based inspection was undertaken by the Council. No evidence of the fungus was visible to any of the individual trees in group G1.
- 1.3.8 The inspection took place in the winter (dormant period), with no active leaf growth yet the trees appeared in good health and vitality, with reasonably well developed canopies for their age. Small amounts of deadwood were present within the canopy areas and there is evidence of smaller branches shedding on the ground beneath the trees. However, this is limited to branch leaders of no significant size and consistent with what would be expected for larger forest type trees of this age. No supporting photographic evidence and limited information was provided in the application to clearly identify and verify the presence of the fungus on the trees.
- 1.3.9 After the TPO was served, the school submitted photographic evidence which was examined. From the photographs, two trees evidenced a number of small to medium sized wounds with one tree presenting a post-fruiting fungi in a state of decay on the lower main trunk area. However, this was not seen at the first site visit. Furthermore, no detail as provided as to which tree the fruiting body was present on and no broader photographic detail was made available. It was deemed that the photographic evidence was inconclusive, and a further site inspection would be required.
- 1.3.10 A second inspection was undertaken by the Council in relation to the 3no trees in group G1. All three trees were inspected where it was claimed to have, or have had, fungal infestations.
- 1.3.11 A summary of the findings were:
- 1.3.12 **Tree 1 (west):** there is a small brown coloured area on the trunk of the most western tree in the group of 3no trees, which is located just below a fissure/defect in the tree trunk possibly as the result of a shed branch in the past. The dark brown discolouration/residue seems to contain some remains of bracket ribbing, although hardened onto the tree, the resultant area resembling a residue. If there was a bracket present it has since become detached.

- 1.3.13 **Tree 2 (central):** The central tree has a dark brown/black bracket on a scaffold limb higher up the tree structure at about half its height from ground level but at the site visit it was difficult to get a good a clear visual identification owing to the tree being in shadow. It is possible that this bracket may have hardened-off intact and continued to stick to the tree over the winter period, or possibly for longer.
- 1.3.14 **Tree 3 (east):** In terms of the third tree, nearest the house, there is no visual evidence of disease evident from the ground-based inspection. A darkened area in a branch fork was highlighted but it was not conclusive from ground-level, resembling a build up of lichen in a branch fork.
- 1.3.15 The tree surgeon has identified *Inonotus Hispidus* (*shaggy bracket*) as the likely identification of the fungus. However, if present, it may be only evident in the two of the three trees. Further investigative works need to be undertaken as the fungus can persist on main stems/branches for many years without failure. However, this depends partly on the vitality of the tree and what sort of forces (e.g from overextended branches/sudden increased exposure from nearby tree loss) the infected sections are loaded with. As the target area (if branches /stem were to fail) is a school, the school should look to undertaking further investigative work, and at the very least, a further inspection once the canopy is in full leaf. Consideration could be given to an alternative course of action by pruning the tree to reduce the target area by a crown reduction but only after a more detailed investigation has been carried out.
- 1.3.16 Decay in trees needs to be taken seriously and can eventually weaken stems, branches or roots enough to increase the chance of mechanical failure. However, decay is a natural process and commonly occurs in trees without causing structural weakness. It is therefore inappropriate to regard a tree as hazardous merely because decay has been identified and it important to be able to evaluate the tree further to determine the extent of the decay so that informed management decisions can be made. This will ensure that relatively safe trees are not removed or unsuitably pruned. A technique using a Picus Sonic Tomograph is a virtually non-invasive detection system that gives information, by sound wave, about the presence of decay, cavities, faults or cracks in the tree. Features such as remaining wall thickness, opening angle of cavities and percentage of solid, decayed or altered wood can be measured by the computer. This equipment is becoming more readily available with arboriculturalists.

**b) The trees within group G1 do not provide a high level of amenity and therefore should not be considered worthy of protection by a TPO**

- 1.3.17 The tree group occupies a prominent position, immediately to the western elevation of Parkside House. The trees are mature in scale and due to their collective nature, the grouping is very prominent and visible within the Station Road and adjacent road corridor(s) running through the conservation area. The trees are also visible in the wider local setting in and around the immediate and wider built form of the village and the open countryside beyond.
- 1.3.18 It was considered that the removal of this tree group would likely have a significant negative adverse effect on the essential amenity value of the immediate and wider area of the Conservation Area.
- 1.3.19 The trees are important components, forming part of the wider historical and architecture context of Backworth and contribute to the integral character of the Conservation Area.

- 1.3.20 On this basis a TPO was served in response to the application. The decision to determine whether the tree is worthy of protection by a Tree Preservation Order has been made which assess the amenity value of the tree(s) concerned. In serving a TPO, the tree must be able to show that protection would bring a reasonable degree of public benefit in the present or future. The TEMPO assessment (Tree Evaluation Method for Evaluating Preservation Orders) is a widely recognised and respected method of assessing the suitability of a tree for a TPO. The TEMPO evaluation method takes into account factors such as a tree's visibility to the public, its condition, age and remaining life-expectancy, its function within the landscape (such as screening development or industry), its wildlife or historic value and ultimately its importance to the local environment. Following this assessment, the trees were considered to be worthy of protection.
- 1.3.21 By virtue of the trees within the property affording public amenity in the landscape, and that the objections are not considered to outweigh the amenity value that the trees provide, it is considered expedient in the interests of amenity to it is considered that the trees including the three trees identified for removal, should be protected by means of a Tree Preservation Order indefinitely.

### **Additional Guidance**

- 1.3.22 Confirming the TPO will not prevent any necessary tree work from being carried out but will ensure the regulation of any tree work to prevent unnecessary or damaging work from taking place that would have a detrimental impact on the amenity value, health and long term retention of the trees. If the owners/occupiers were concerned about the condition of the trees and require pruning works to be carried out, an application to the Council can be submitted as required by the TPO.
- 1.3.23 In order to maintain the setting of the conservation area, which is considered a designated heritage asset in the NPPF (2019), and recognised in Policy S6.5 and DM6.6 of the Local Plan (2017) it is important that the trees are protected.

### *S6.5 Heritage Assets*

*North Tyneside Council aims to pro-actively preserve, promote and enhance its heritage assets, and will do so by:*

- a. Respecting the significance of assets.*
- b. Maximising opportunities to sustain and enhance the significance of heritage assets and their settings.*
- c. Targeting for improvements those heritage assets identified as at risk or vulnerable to risk.*
- d. Seeking and encouraging opportunities for heritage-led regeneration, including public realm schemes.*
- e. Supporting appropriate interpretation and promotion of the heritage assets.*
- f. Adding to and keeping up-to-date the Borough's heritage asset evidence base and guidance. Examples include conservation area character appraisals, conservation area boundary reviews, conservation area management strategies, conservation statements/plans, registers of listed and locally registered buildings, the historic environment record and buildings at risk registers.*
- g. Using the evidence it has gathered, implement the available tools to conserve heritage assets, such as Article 4 Directions and Building Preservation Notices.*

### *'DM6.6 Protection, Preservation and Enhancement of Heritage Assets*

*Proposals that affect heritage assets or their settings, will be permitted where they sustain, conserve and, where appropriate, enhance the significance, appearance, character and setting of heritage assets in an appropriate manner.*

*Any development proposal that would detrimentally impact upon a heritage asset will be refused permission, unless it is necessary for it to achieve wider public benefits that outweigh the harm or loss to the historic environment, and cannot be met in any other way.'*

- 1.3.24 Protecting the trees with a TPO would be in accordance with the Councils adopted Local Plan policy DM5.9 Trees, Woodland and hedgerows, which states;

*'DM5.9 Trees, Woodland and Hedgerows: Where it would not degrade other important habitats the Council will support strategies and proposals that protect and enhance the overall condition and extent of trees, woodland and hedgerows in the borough and:  
a) Protect and manage existing woodlands, trees, hedgerows and landscape features'*

- 1.3.25 In accordance with the Town and Country Planning Act 1990 (as amended) the Authority considers it necessary to issue a Tree Preservation Order to maintain and safeguard the contribution made by these trees to the landscape and visual amenity of the area. The Tree Preservation Order was served on the owners and other relevant parties on 1<sup>st</sup> February 2019. A copy of this original Order is attached as Appendix 1, a copy of the TPO schedule (Appendix 3) and a map of the TPO (Appendix 4) is included in the Appendices.

- 1.3.26 The Order must be confirmed by 31 July 2019 otherwise the Order will lapse and there will be nothing to prevent the removal of this tree which is currently protected.

**1.4 Decision options:**

1. To confirm the Tree Preservation Order with no modifications.
2. To confirm the Tree Preservation Order with modifications.
3. To not confirm the Tree Preservation Order.

**1.5 Reasons for recommended option:**

Option 1 is recommended. A Tree Preservation Order does not prevent the felling of trees, but it gives the Council control in order to protect trees which contribute to the general amenity of the surrounding area.

**1.6 Appendices:**

Appendix 1 – Initial letter served of the TPO for Parkside House, Station Road, Backworth, Newcastle upon Tyne, Tree Preservation Order 2019  
Appendix 2 – Schedule of TPO for Parkside House, Station Road, Backworth, Newcastle upon Tyne, Tree Preservation Order 2019  
Appendix 3 – Map of TPO for Parkside House, Station Road, Backworth, Newcastle upon Tyne, Tree Preservation Order 2019  
Appendix 4 – Letter of objection.  
Appendix 5 – Additional Information submitted by the applicant  
Appendix 6 – Picture 1 of fungal bracket – to be displayed at the meeting  
Appendix 7 – Picture 2 of fungal bracket – to be displayed at the meeting  
Appendix 8 – Response from the Council landscape architect to the objection of the TPO

**1.7 Contact officers:**

Peter Slegg (Tel: 643 6308)

**1.8 Background information:**

The following background papers have been used in the compilation of this report and are available for inspection at the offices of the author:

1. Town and Country Planning Act 1990.
2. Planning Practice Guidance (As amended)
3. The Town and Country Planning (Tree Preservation) (England) Regulations 2012

**Report author**      Peter Slegg

# TREE PRESERVATION ORDER 2019

## PARKSIDE HOUSE, STATION ROAD, BACKWORTH, TYNE AND WEAR

### SCHEDULE

The map referred to is at a scale of 1:500 and is based on an enlargement of the O.S. edition of sheet numbered NZ 3071. The area covered by the Order is on land at Parkside House, Station Road, Backworth.

The area is wholly within the Metropolitan Borough of North Tyneside in the County of Tyne and Wear.

### Specification of trees

#### TREES SPECIFIED INDIVIDUALLY

(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Sycamore (Acer sp)	Located approximately 11.0m in a south easterly direction from the south west corner of Parkside House School and approximately 20.0m in a south westerly direction from the southeast corner of Parkside House School.

#### TREES SPECIFIED BY REFERENCE TO AN AREA

(within a dotted black line on the map)

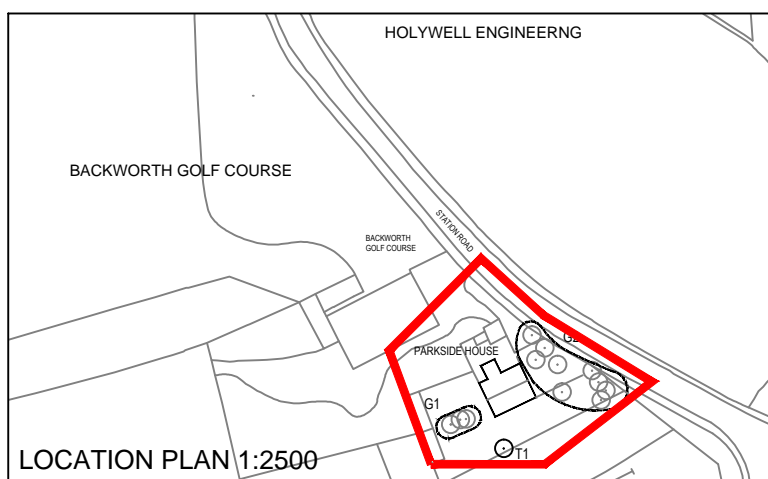
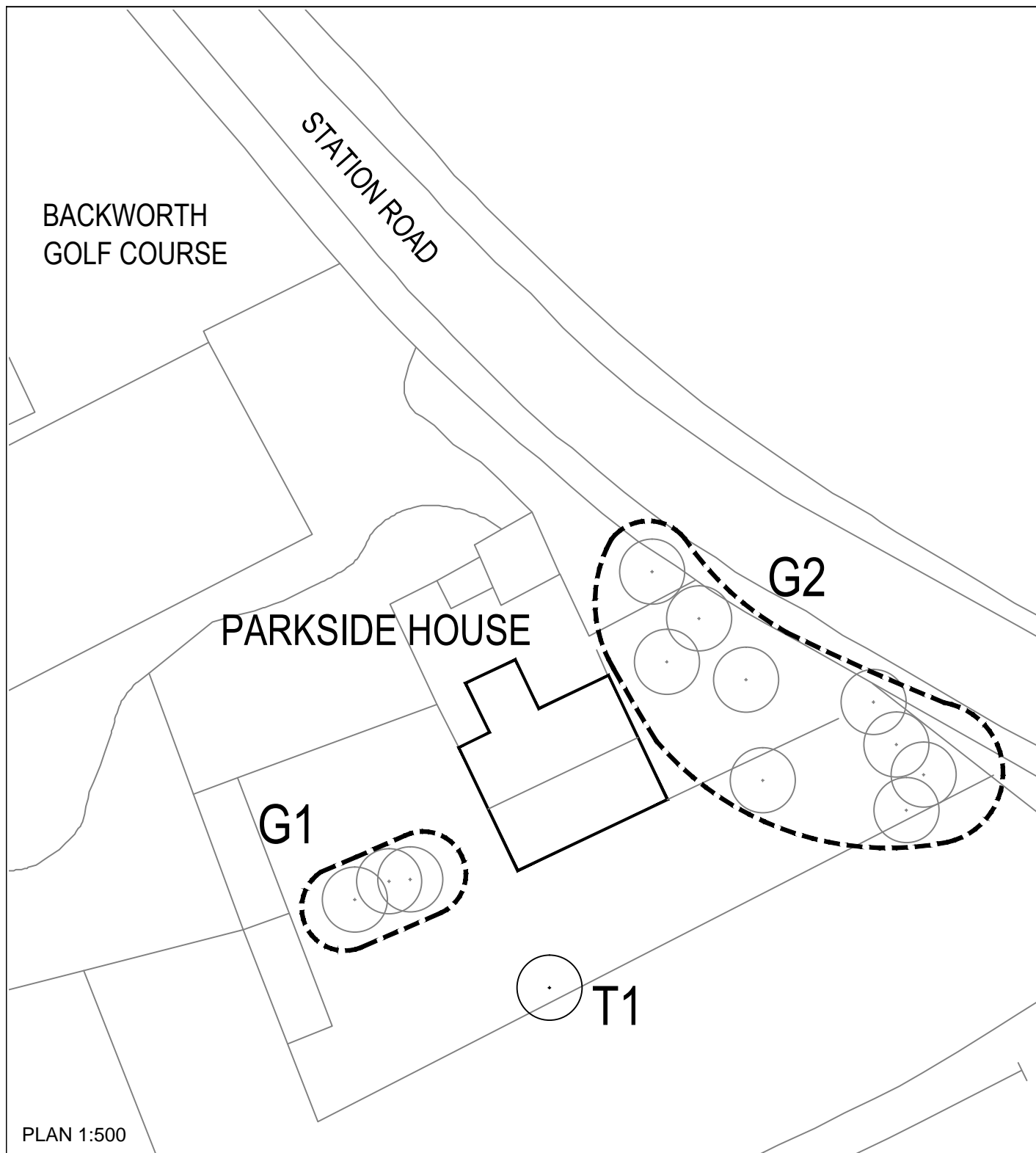
<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
None		

#### GROUPS OF TREES

(within a broken black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
G1	Group comprising of: 3no. Fraxinus sp.	Located in garden space on land located to the south west of Parkside House School
G2	Group comprising of: 7no. Acer sp. 2no. Fraxinus sp.	Located in garden space on land located to the east of Parkside House School and to the west of Station Road.

<b>WOODLANDS</b> (within a continuous black line on the map)		
<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
None		



## NORTH TYNESIDE COUNCIL

### PARKSIDE HOUSE TREE PRESERVATION ORDER 2019

Phil Scott  
Head of Environment, Housing and Leisure  
Quadrant East  
The Silverlink  
Cobalt Business Park  
North Tyneside  
NE27 0BY  
Scale 1:500



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# PARKSIDE HOUSE SCHOOL

Station Road, Backworth Tyne & Wear, NE27 0AB

Tel: 0191 2161051 Fax: 0191 216 1051

email: [admin@parksidehouseschool.co.uk](mailto:admin@parksidehouseschool.co.uk)

Democratic Support  
North Tyneside Council  
Quadrant  
The Silverlink North  
Cobalt Business Park  
North Tyneside  
NE27 0BY

13<sup>th</sup> February, 2019

Ref: Tree Preservation Order 2019

Dear Sir or Madam,

Further to your letter dated 1<sup>st</sup> February, 2019, regarding the trees at Parkside House School, I would like to make the following comments:

The trees to the south west of the main building, identified as group G1, are roughly parallel in line to the footpath that connects the main school building with another building used as a classroom. We have noted that branches from these trees have at times detached themselves and fallen to the ground on and around the footpath. We therefore felt it prudent to seek an informed opinion as to why this should occur and engaged the services of a qualified Tree Surgeon as part of a risk analysis.

The report from the Tree Surgeon informed us that there were outward signs on the trees of "black fungus bracket". The conclusion was that this infection is progressive and likely to lead to an increasing instability of the trees. Removal of the trees was therefore recommended for safety purposes and permission to do so was applied for. However it has been refused on the grounds of maintaining visual amenity.

Our insurance company have been informed of this situation and I must stress my concern that this order puts pupils and staff at risk. I therefore request that you acknowledge and accept the liability of your decision.

The TPO 2019 covers two further areas of trees at the premises, they are identified as G2 and T1 and refer to nine other trees. These trees are not only more numerous than those in G1, but far more visible from the main road. I would therefore strongly ask that the trees in G1 are removed from the TPO as they have minimal impact on the "visual amenity" and pose a real risk to safety.

Yours faithfully,

K Thompson  
Chairman of School Governors

cc: Ms EA Kerr



**From:** Kenneth Thompson  
**Sent:** 21 February 2019 15:26  
**To:** Elizabeth Kerr  
**Subject:** RE: Tree Preservation Order 2019 for Parkside House School [Scanned]

\*EXTRNL\*

Dear Ms Kerr,

Many thanks for your reply of the 19<sup>th</sup> February. Having read the report you attached I was surprised to see that no evidence of fungus was found on the trees. Something that I'm at a loss to understand. I also noted that comment was made that no photographs were supplied as evidence. I've therefore attached two photographs; one taken of a lower bracket in November last year and one taken yesterday of a higher bracket on a separate tree. As fungus can clearly be seen it would be appreciated if you could add these photographs to my request that the three Ash trees, identified as G1, be removed from the Tree Preservation Order 2019.

If you require any further information, or you require anything in a different format please let me know.

Yours sincerely,

Ken Thompson  
Chairman of the Governors  
Parkside House School

## **OBJECTION TO TPO AT PARKSIDE SCHOOL HOUSE BACKWORTH**

The trees subject to this TPO are located on land at Parkside School House, Backworth. An objection has been received from the school to this order that has been served at the above address. The order was served as three trees had been identified for removal due to the presence of a fungal growth on the trees.

The trees are located within Backworth Conservation Area. As required by the Town & Country Planning (Tree Preservation) (England) Regulations 2012, when a notice is received for works to trees in a conservation area, the council has 6 weeks in which to determine the application unless an exemption applies. This notice period gives the Local Authority an opportunity to consider whether the trees to make a TPO on the trees. The trees in the conservation area were assessed and based on the evidence and findings of the assessment, a TPO was served to include these three trees and other trees located on school land.

The objection relates to the three trees identified in the application as being dangerous due to the presence of a fungal growth (potentially *Inonotus Hispidus*) and should be removed.

The tree group occupies a prominent position, immediately to the western elevation of Parkside House. The trees are mature in scale and due to their collective nature, the grouping is very prominent and visible within the Station Road and adjacent road corridor(s) running through the conservation area. The trees are also visible in the wider local setting in and around the immediate and wider built form of the village and the open countryside beyond. Prior to the application being determined, a site visit was made, and a ground-based inspection was undertaken. No evidence of the fungus was visible to any of the individual trees in the group. The inspection took place in the winter (dormant period), with no active leaf growth yet the trees appeared in good health and vitality, with reasonably well developed canopies for their age. Small amounts of deadwood were present within the canopy areas and there is evidence of smaller branches shedding on the ground beneath the trees. However, this is limited to branch leaders of no significant size and consistent with what would be expected for larger forest type trees of this age. No supporting photographic evidence and limited information was provided in the application to clearly identify and verify the presence of the fungus on the trees.

It was considered that the removal of this tree group would likely have a significant negative adverse effect on the essential amenity value of the immediate and wider area of the Conservation Area. The trees are important components, forming part of the wider historical and architecture context of Backworth and contribute to the integral character of the Conservation Area. On this basis a TPO was served in response to the application. The decision to determine whether the tree is worthy of protection by a Tree Preservation Order has been made which assess the amenity value of the tree(s) concerned. In serving a TPO, the tree must be able to show that protection would bring a reasonable degree of public benefit in the present or future. The TEMPO assessment (Tree Evaluation Method for Evaluating Preservation Orders) is a widely recognised and respected method of assessing the suitability of a tree for a TPO. The TEMPO evaluation method takes into account factors such as a tree's visibility to the public, its condition, age and remaining life-expectancy, its function within the landscape (such as screening development or industry), its wildlife or historic value and ultimately its importance to the local environment. Following this assessment, the trees were considered to be worthy of protection.

After the TPO was served, the school submitted photographic evidence which was examined. From the photographs, two trees evidenced a number of small to medium sized wounds with one tree presenting a post-fruiting fungi in a state of decay on the lower main trunk area. However, this was not seen at the first site visit. Furthermore, no detail was provided as to which tree the fruiting body was present on and no broader photographic detail was made available. It was deemed that the photographic evidence was inconclusive, and a further site inspection would be required.

A second inspection was undertaken in relation to the 3no trees. All three trees were inspected where it is being claimed to have, or have had, fungal infestations.

A summary of the findings is below:

**Tree 1 (west):** there is a small brown coloured area on the trunk of the most western tree in the group of 3 trees, which is located just below a fissure/defect in the tree trunk possibly as the result of a shed branch in the past. The dark brown discolouration/residue seems to contain some remains of bracket ribbing, although hardened onto the tree, the resultant area resembling a residue. If there was a bracket present it has since become detached.

**Tree 2 (central):** The central tree has a dark brown/black bracket on a scaffold limb higher up the tree structure at about half its height from ground level but at the site visit it was difficult to get a good clear visual identification owing to the tree being in shadow. It is possible that this bracket may have hardened-off intact and continued to stick to the tree over the winter period, or possibly for longer.

**Tree 3 (east):** In terms of the third tree, nearest the house, there is no visual evidence of disease evident from the ground-based inspection. A darkened area in a branch fork was highlighted but it was not conclusive from ground-level, resembling a build up of lichen in a branch fork.

The tree surgeon has identified *Inonotus Hispidus* (*shaggy bracket*) as the likely identification of the fungus. However, if present, it may be only evident in the two of the three trees. Further investigative works need to be undertaken as the fungus can persist on main stems/branches for many years without failure. However, this depends partly on the vitality of the tree and what sort of forces (e.g. from overextended branches/sudden increased exposure from nearby tree loss) the infected sections are loaded with. As the target area (if branches /stem were to fail) is a school, the school should look to undertaking further investigative work, and at the very least, a further inspection once the canopy is in full leaf. Consideration could be given to an alternative course of action by pruning the tree to reduce the target area by a crown reduction but only after a more detailed investigation has been carried out.

Decay in trees needs to be taken seriously and can eventually weaken stems, branches or roots enough to increase the chance of mechanical failure. However, decay is a natural process and commonly occurs in trees without causing structural weakness. It is therefore inappropriate to regard a tree as hazardous merely because decay has been identified and it important to be able to evaluate the tree further to determine the extent of the decay so that informed management decisions can be made. This will ensure that relatively safe trees are not removed or unsuitably pruned. A technique using a Picus Sonic Tomograph is a virtually non-invasive detection system that gives information, by sound wave, about the presence of decay, cavities, faults or cracks in the tree. Features such as remaining wall thickness, opening angle of cavities and percentage of solid, decayed or altered wood can be measured by the computer. This equipment is becoming more readily available with arboriculturalists.

By virtue of the trees within the property affording public amenity in the landscape, and that the objections are not considered to outweigh the amenity value that the trees provide, it is considered expedient in the interests of amenity to it is considered that the trees including the three trees identified for removal, should be protected by means of a Tree Preservation Order indefinitely.