

**Item No:** 5.3  
**Application No:** 15/01097/OUT  
**Date valid:** 2 July 2015  
**Target decision date:** 1 October 2015  
**Author:** Jane Tuck  
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**Ward:** Riverside

Application type: full planning application

**Location: Land Forming Part Of Smiths Dock, Duke Street, North Shields, Tyne And Wear,**

**Proposal: Variation of condition 3 (approved plans) - variation to new building heights of phase 2 and removal of condition 41 (energy strategy) of planning approval 11/02390/OUT**

Applicant: Smiths Dock LLP C/O Agent, Cheapside London EC2U 6EE

Agent: Urban Splash, FAO: David Lynch Timber Wharf 16-22 Wrsley Street Castlefield Manchester M15 LD

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

## **INFORMATION**

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

#### Summary of Key Issues and Considerations

1.1 This application made under s73 of the Town and Country Planning Act has been submitted to vary the building height parameters that were approved at outline stage in planning application 11/02390/OUT for Smith's Dock, in the area of the site adjacent to the New Quay Conservation Area and for the removal of a condition that required the submission of an energy strategy.

1.2 Outline consent was granted in April 2013 for 775 residential units, hotel 460sqm and 1400sqm of commercial development A1, A3 and B1 (Option A) or 815 residential units and 1400sqm of commercial development A1, A3 and B1 (Option B).

1.3 The main issues for Members to consider are whether:

- there have been any significant changes to national or local policies or other material considerations since the original decision was made.
- the proposed height changes would have any significant visual impact and impact on the adjacent New Quay Conservation Area and listed buildings;
- the proposed development would have an adverse impact on the amenities of residents of Brewery Bond in terms of privacy, outlook and light
- the energy efficiency and low carbon options can adequately be controlled through other control regimes/legislation.

## 2.0 Description of the Proposal

2.1 This application is for the variation of condition 3 (approved plans) of planning approval 11/02390/OUT for the Smith's Dock site to vary the building heights of part of the Dock area of the site by varying the approved Parameter Plan 4: Maximum Building Height and Envelope MP-A-F900-P-PP4 Rev 2.

2.2 This application also seeks the removal of condition 41 which relates to the submission of an energy strategy from the same planning approval.

## 3.0 Description of the Site

3.1 The former shipyards site lying between Dock Road and Duke Street has undergone extensive remediation. The site has been re-profiled and a distributor road constructed linking Dock Road to Duke Street. A road around the docks and an estate road from the docks up to the distributor road on the western edge of the site have been constructed.

3.2 The variation of the height parameters relate to the buildings within the Dock area adjacent to the Brewery Bond Building and the New Quay Conservation Area. The variation of the energy strategy condition relates to the whole site.

## 4.0 Relevant Planning History

11/02390/OUT 775 residential units, hotel 4605sqm and 1400sqm of commercial development A1, A3 and B1 (Option A) or 815 residential units and 1400sqm of commercial development A1, A3 and B1 (Option B). Approved 24 April 2013.

14/01624/REM Phase 1 application for reserved matters for part of the site to form 34no dwellings. Approved 9 January 2015

An application for reserved matters for phase 2 to form 80 dwellings in two buildings with commercial property on the ground floor 15/01099/REM has been submitted and will also be reported to this planning committee.

## 5.0 Government Policy

5.1 National Planning Policy Framework March 2012

## 6.0 Development Plan

6.1 North Tyneside Unitary Development Plan (2002).

Direction from Secretary of State under paragraph 1(3) of Schedule 8 of Town and Country Planning and Compulsory Purchase Act 2004 in respect of policies in the North Tyneside UDP (August 2007).

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

## **PLANNING OFFICERS REPORT**

### 7.0 Detailed Planning Considerations

7.0.1 This application is made under s.73 of the Town & Country Planning Act (as amended) to vary a condition of an existing planning consent. In making decisions to vary a planning condition, LPAs are advised to focus their attention on national or local policies or other material considerations which may have changed significantly since the original grant of permission, as well as the changes sought.

7.0.2 The main issues are whether:

- there have been any significant changes to national or local policies or other material considerations since the original decision.
- the proposed height changes would have any significant visual impact and impact on the adjacent New Quay Conservation Area and listed buildings.
- the proposed development would have an adverse impact on the amenities of residents of Brewery Bond in terms of privacy, outlook and light
- energy efficiency and low carbon options can adequately be controlled through other control regimes/legislation.

7.0.3 Responses from consultees and local residents are set out in the appendix to this report.

### 7.1 Significance of any changes to national and local policy and principle of development

7.1.1 The principle of the proposed development was accepted when planning application 11/02390/OUT was approved. The Local Plan Pre- submission Draft was published in November 2015 to which some weight should be given. This identifies the site as a site having existing planning permission. There have been no significant changes to national or local policies or other material considerations since the original decision. The outcome of the application would be the same, as the variation is only a small part of the scheme.

### 7.2 Variation of Height Parameters

7.2.1 The Maximum Building Height and Envelope Plan MP-A-F900-P-PP4 Rev 2 gave an indication of upper and lower limits of buildings in terms of the number of storeys of buildings and heights Above Ordnance Datum (AOD).

7.2.2 The variation of the height parameters relates to the building within the Dock area of the site adjacent to Brewery Bond. At outline stage it was indicated that there would be a gateway landmark building on the river edge at the northern end of the site adjacent to Brewery Bond having proposed elements up to 4, 5, 6 and 12 storeys. The Maximum Building Height and Envelope Plan indicated that the 10-12 storey element would be located approximately 57m from the Brewery Bond. The height of the building along the river then dropped to 4-5 storeys and then 3-4 storeys approximately 25m from Brewery Bond. This was approved at outline and the distance considered satisfactory for privacy, outlook and light for Brewery Bond.

7.2.3 The scheme now proposed comprises two separate buildings. This is due to ground conditions on the site of 5m lengths of tie rods along the river edge and the location of the former dry dock which constrain the location of foundations. The applicant has advised that the cost of building into the buried concrete dry dock and within the metal tie rods there would make the development of this plot of land unviable so that it would not be built.

7.2.4 The applicant has advised that the proposed scheme has drawn inspiration from existing buildings on the fish quay and has progressed to the idea of replicating a fish 'smokehouse' which would create the landmark function outlined in the existing consent with views of the river between the buildings. In order to limit the impact on the heritage buildings and views experienced from properties behind, the development has been split into two buildings, each with a nautical pitched roof ridge.

7.2.5 In proposing these buildings to avoid the ground obstructions, the footprint and height of some elements of the proposed buildings are outside the approved parameters.

7.2.6 It is now proposed that Building 1 adjacent to the Brewery Bond will be 6 storeys high with a maximum height of approximately 22.6m. In the approved parameter plan the height was predominantly 3-4 storeys with a maximum height of approximately 12m so the revised height is above the approved parameter. The northern boundary of the footprint of the revised parameter is very similar except that the building has been rotated slightly so that instead of a building being approximately 25m away from the Brewery Bond it is now proposed approximately 23m from the Brewery Bond towards the river and approximately 28m to its rear adjacent to the access road.

7.2.7 Building 2 adjacent to the retained dry dock will be 9 storeys high with a maximum height of approximately 31m. In the approved parameter plan the height was 10-12 storeys with a maximum height of approximately 36m at the riverside and 5-6 storeys with a maximum height of approximately 18m adjacent to the access to the dockside road, so in part the revised height is below the approved parameter and in part above the approved parameter. The southern boundary of the footprint of the revised parameter is very similar to that approved except that the building has been rotated slightly so that instead of a building being approximately 57m away from the Brewery Bond it is now proposed approximately 62m from the Brewery Bond towards the river and approximately 67m to its rear adjacent to the access road.

#### 7.2.8 Visual impact and impact on the adjacent Conservation Area

NPPF states that it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

7.2.9 The NPPF states that in determining planning applications, LPA's should take account of the desirability of enhancing the significance of heritage assets and that significance can be harmed or lost through development within its

setting. The degree of harm has to be considered and the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits, including securing its optimum viable use.

7.2.10 Relevant policies in the North Tyneside UDP, H5 Windfall sites, H11 and DCPS14 relating to Design Standards, state that proposals should be acceptable in terms of their impact on their site, local amenity, the environment and adjoining land uses. Policies E16/2 and E17/4 of the UDP relate to whether development will adversely affect the setting of a conservation area and listed buildings. The proposed buildings are adjacent to the New Quay Conservation Area where there are listed buildings (the former Northumbrian Arms Hotel and the former Port Hole Public House).

7.2.11 The most important consideration relating to the change in height parameters is the relationship of the buildings to the Brewery Bond and the Conservation Area. The approved scheme proposed a building of one mass with a maximum height of 3-4 storeys closest to the Brewery Bond rising though 4-5 storeys to 10-12 storeys at its tallest. The revised scheme under consideration proposes two buildings with a break in between which gives views of the river and reduces the massing of the previously approved scheme. In the revised scheme, Building 1 is higher than indicated at outline stage. The maximum height currently proposed is approximately 22.6m (6 storeys) and approximately 6m higher than Brewery Bond with different eaves levels on the north and south elevations. The eaves height closest to the Brewery Bond on the north elevation is approximately 5.2m higher than the eaves of the Brewery Bond. Building 2 rises to 9 storeys with a maximum height of approximately 31m which in part is lower than the 10-12 storeys and in part is higher than the 5-6 storeys proposed within the approved height parameters at outline stage.

7.2.12 Drawings 7339-A-G100-E-E-S73-001 Elevation East and 7339-A-G100-E-W-S73-001 Elevation West show the relationship of the proposed buildings to Brewery Bond and buildings in the Conservation Area.

7.2.13 One letter has been received from a resident in Brewery Bond objecting to the proposed 6 storey building as the proposed height is greater than previously approved at outline stage namely the outline scheme approved a maximum height equal to the eaves height of the Brewery Bond and 4.47m below the ridge height of the Brewery Bond whilst the reserved matters scheme proposes a maximum height of approximately 6m above the ridge height of Brewery Bond and 10m above the eaves height and the proposed building will 'over-top' the adjacent buildings in the New Quay Conservation Area including the Brewery Bond causing unacceptable intrusion into the appearance of the area from street level and from the River. One letter of support has also been received with concerns about the height. FISH –Folks Interested in Shields Harbour and the Northumberland and Newcastle Society support the proposed scheme.

7.2.14 It is officer opinion that the progression in height of the proposed buildings from the existing buildings in the Conservation Area and their massing is

acceptable in visual terms and will provide an attractive collection of waterfront buildings.

7.2.15 In relation to the Conservation Area, the Historic Buildings Officer and the Conservation Officer have advised that the proposed development will impact on the views south out of the Conservation Area and will be seen rising above the existing skyline. They have considered the impact of the development on the significance of designated heritage assets including the Conservation Area, listed buildings and Brewery Bond which is on the local register and concluded that the impact of the revised heights of the two proposed buildings do not represent substantial harm to the significance of the adjacent designated heritage assets.

7.2.16 Members must decide whether the visual impact and impact on the adjacent New Quay Conservation Area and listed buildings resulting from the change in parameter heights to the buildings adjacent to the Brewery Bond are acceptable.

### 7.3 Impact on the amenities of residents of Brewery Bond

7.3.1 Building 1 is proposed higher than the parameters approved at outline stage as set out above and, due to the ground conditions, has been rotated slightly so that the elevation of the proposed building adjacent to Brewery Bond is approximately 23m away nearest the river and 28m away nearest the access road. In the approved scheme the proposed building was indicated as being 25m from the Brewery Bond.

7.3.2 The Brewery Bond has been converted to 25 loft apartments. It is four and a half storeys high and the south elevation facing the Smith's Dock site has ten narrow windows on each floor. From floor plans of the Brewery Bond, it would appear that six of the apartments only have windows in the south elevation. The north elevation of the proposed development has windows to bedrooms and living areas facing the south elevation of the Brewery Bond.

7.3.3 It is officer opinion that the separation distance between Building 1 and Brewery Bond of between approximately 23m and 28m is acceptable and that the revisions will not have a significant detrimental impact on the amenities of the occupiers of Brewery Bond in terms of privacy and outlook.

7.3.4 Building 2 which in part will be lower than the height parameter approved at outline stage and in part will be higher is located approximately 62- 67m away from Brewery Bond which is further away than the parameter approved at outline. It is officer opinion that Building 2 will not impact on the amenities of occupiers of Brewery Bond.

7.3.5 Two letters of objection have been received from one apartment in Brewery Bond suggesting initially that the proposed development will be seriously detrimental to the daylight to the flats on the lower floors of Brewery Bond as they only have windows on the south elevation and following the submission of the Daylight and Overshadowing Assessment raising concerns about the accuracy of the information in the Assessment and stating that whilst the proposed



development would only cause limited loss of daylight and direct sunlight to some apartments, the height of the scheme indicated at outline would cause virtually no loss at all.

7.3.6 The applicant has submitted a Daylight and Overshadowing Assessment to assess sunlight, daylight and overshadowing. This has used the British Research Establishment (BRE) guidelines 'Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice, to assess whether overshadowing will have a significant impact on the Brewery Bond. The report advises that 'the Brewery Bond will experience a degree of overshadowing in winter months which will reduce the amount of direct sunlight experience' and concludes that 'Analysis suggests that despite overshadowing, the existing Brewery Bond building will not experience a significant degree of detriment to daylight as defined in BRE guidelines 'Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice' as a result of the construction of the proposed Smoke Houses development.'

7.3.7 The applicant has also addressed the additional points raised by the objector from Brewery Bond. Officers agree with the analysis and conclusions in the daylight and overshadowing assessment and advise that it is officer opinion that the proposed development will not have a significant impact on the amenities of occupiers of apartments in the south elevation of the Brewery Bond Building in terms of daylight and overshadowing.

7.3.8 Members need to decide whether the impact of the proposed development on the amenities of some of the occupiers of Brewery Bond facing the new development is acceptable in terms of privacy, outlook and light.

#### 7.4 Control of Energy Efficiency

7.4.1 In the introduction to the NPPF the government states that the planning system is to contribute to the achievement of sustainable development which includes the mitigation and adaptation to climate change by moving to a low carbon economy.

7.4.2 To support the move to a low carbon economy local planning authorities should ensure when setting any local requirements for building sustainability that it is consistent with the governments zero carbon buildings policy and adopt nationally described standards.

7.4.3 Policy E2 of the UDP states that the local planning authority will encourage the efficient use of energy in building form and design, the use of combined heat and power and the generation of power from waste and the development of renewable forms of energy. Policy H11 (X) of the UDP also states that proposals for residential development should take into account the provision made to secure energy efficiency.

7.4.4 Condition 41 of outline planning consent 11/02390/OUT states:

*Prior to commencement of development on each phase, an Energy Strategy for residential and commercial properties on that phase shall be submitted to and agreed in writing by the Local Planning Authority. This shall include details of a) how energy use will be minimised through efficient building fabric specification and the incorporation of other energy efficiency measures and b) a renewable energy feasibility study to explore a range of appropriate renewable and low carbon options to achieve as a minimum, Level 3 of the Code for Sustainable Homes and as a minimum BREEAM `Very Good'. The energy efficiency measures set out in the Energy Strategy shall be implemented prior to occupation of the buildings hereby approved and shall be retained thereafter. Reason: In order to achieve high energy efficiency and minimise consumption having regard to Policy E2 of the North Tyneside Unitary Development Plan 2002.*

7.4.5 The applicant has applied for the removal of this condition as both planning policy and the referenced assessment methods have been updated since planning permission was granted in April 2013.

7.4.6 National planning policy is directed to remove unnecessary hurdles to commencing development and delivering homes. The applicant has advised that the Code for Sustainable Homes scheme is no longer accepting new applications, however where building is underway using the Code, or there is a legal requirement to apply the Code eg for houses provided through the National Affordable Housing Programme or where planning permission has been granted prior to 25 March 2015 with a requirement to build to the Code it can still be used. However a developer can apply to have the condition varied or removed to enable compliance with the new approach to setting technical housing standards outlined in the Planning Written Ministerial Statement dated 25 March 2015. Building construction should now meet Part L (conservation of fuel and power) of the Building Regulations.

7.4.7 The applicant has advised that the proposed development will now have to comply with Part L of the Building Regulations and Smiths Dock LLP are committed to 'developing long term high quality homes that rely less on fossil fuels and are economical to run'.

7.4.8 It is officer opinion that the removal of this condition is acceptable and energy efficiency and low carbon options can adequately be controlled through the Building Regulations and the proposal accords with the NPPF and policies E2 and H11 of the North Tyneside Unitary Development Plan. Members must determine whether they agree with this approach.

#### 7.5 Section 106 agreement and Planning Contributions

7.5.1 The original application was subject to a s106 legal agreement to provide 30 affordable housing units, 38 apprenticeships, to endeavour to ensure labour employed in the development is local labour, £125,000 towards recreation facilities, to open up the riverside link road to traffic within 18 months of the first disposal of any dwelling, a scheme to ensure rights of way along the riverside frontage, restrictions for construction traffic and reappraisal of viability of the



development at agreed intervals. The applicant wishes to proceed with this application with the same contributions and terms as the original legal agreement.

7.5.2 Policy DC4 of the UDP states that where it can be demonstrated that it is a necessary requirement for the grant of planning permission, agreement will be sought with a developer to enter into a planning obligation /agreement or to make a financial contribution towards infrastructure or other essential elements including, amongst other things, affordable housing, access roads, open space and community facilities. The extent of a contribution must fairly and reasonably be related to the scale of the proposed development, as well as being reasonable in all other respects.

7.5.3 The Council's Supplementary Planning Document LDD 8 on Planning Obligations was adopted in October 2009 following public consultation, and is considered a material consideration with substantial weight. Planning obligations are considered an appropriate tool to ensure that the environment is safeguarded and that necessary infrastructure and facilities are provided to mitigate impacts, ensure enhancements and achieve high quality environment where people choose to live, work, learn and play, and should comply with local and national planning policies.

7.5.4 Regulation 122 Community Infrastructure Levy Regulations 2010 came into force in April 2010 and 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 of whether an obligation is:

- a) necessary to make the development acceptable in planning terms
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

7.5.5 The applicant provided a viability report with the outline application that advised that the development could not support any affordable housing requirement or section 106 contributions other than the £125,000 recreation contribution. At the time the outline planning application was approved the applicant had agreed to 30 affordable units and 38 apprenticeships as well as the £125,000 recreation contribution and that the viability of the development should be reviewed at agreed intervals so that, should the market conditions improve, additional affordable housing units and/or contributions could potentially be provided.

7.5.6 As this application is for the variation of height parameters for part of the site and the removal of the condition relating to an energy strategy and the development in the outline application was acceptable and there has been no significant changes to national or local policies or other material considerations since the original decision, it is not appropriate to reconsider the principle of the development and there is no basis to revisit the s106 contributions particularly as there are ongoing viability issues.

7.5.7 It is officer opinion that as the site has ongoing viability issues, that in order for development to commence on site in the near future, the requirements of the s106 agreement attached to the outline application 11/02390/OUT should be re-imposed including the requirement that the viability of the development should be reviewed at agreed intervals.

## 8.0 Conclusion

8.1 It is officer advice that as there have been no significant changes to national and local policies or other material considerations, the principle of development on this site is still acceptable. It is officer opinion that the proposed revision to the height parameters for the buildings adjacent to the Brewery Bond will not have a significant visual impact or significant impact on the adjacent New Quay Conservation Area or listed buildings; and will not have a significant impact the amenities of occupiers of apartments in Brewery Bond in terms of privacy, outlook and light. It is officer advice that the energy efficiency and low carbon options can adequately be controlled through other control regimes/legislation. The proposal accords with local and national planning policies including H11, E16/2, E17/4, E2 and DCPS 14 of the UDP, supplementary planning guidance in LDD11 and policies in the NPPF.

It is officer recommendation that the application to vary condition 3 approved plans and to remove condition 41 relating to energy efficiency should be approved. Conditions attached to the previous outline consent should be re-imposed.

8.2 Members need to decide whether they agree with the officer recommendation.

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

**It is recommended that Members indicate that they are minded to grant permission to vary condition 3 and remove condition 41 of outline planning consent 11/02390/OUT subject to the applicant entering into a legal agreement under section 106 of the Town and Country Planning Act 1990 (as amended) and to the addition, omission or amendment of any of the conditions set out in the main report considered necessary, and grant plenary powers to the Head of Environment, Housing and Leisure to determine the application following the completion of the section 106 agreement to secure the following:**

- a) the provision of not less than 30 affordable housing units on the site;**
- b) the provision of 38 apprenticeships;**
- c) the review of the viability of the development at agreed intervals so that, should market conditions improve, additional affordable housing units and/or contributions in accordance with the Council's LDD8 "Planning Obligations" could potentially be provided and secured through a subsequent legal agreement;**
- d) the opening of the Riverside Link Road to traffic within 18 months of the first legal disposal of any dwelling;**

- e) Payment of £125,000 towards the provision and upgrading of recreation facilities within specified distance of the site (to be spent within 10 yrs);
- f) Restricting construction traffic to agreed routes;
- g) Developer to use reasonable endeavours to ensure that labour employed during development will be local labour;
- h) A scheme for the creation of rights of way for traffic, pedestrian and cyclists as appropriate along routes which link with existing routes at the boundaries of the land and along the riverside frontage of the land.

### Conditions/Reasons

1. Approval of the details of the layout, scale, appearance and landscaping hereafter called the "reserved matters" shall be obtained from the Local Planning Authority for each phase before any development of that phase is commenced.

Reason: That your application is expressed to be an outline application only.

2. Reserved matters for the first phase of development has been approved by the Local Planning Authority. Applications for reserved matters for subsequent phases shall be made to the Local Planning Authority before 24 April 2025.

Each phase of the development hereby permitted shall be begun not later than the expiration of two years from the date of final approval of the last of the reserved matters to be approved on that phase.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

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

- a) Application Boundary Plan MP-A-F100-P-AL
- b) Parameter Plan 1a: Land Uses Option A MP-A-F900-P-PP1a
- c) Parameter Plan 1b: Land Uses Option B MP-A-F900-P-PP1b
- d) Parameter Plan 2: Access and Movement MP-A-F900-P-PP2
- e) Parameter Plan 3: Density MP-A-F900-P-PP3
- f) Parameter Plan 4: Maximum Building Height and Envelope MP-A-F900-P-PP4 Rev 3 with reference to drawing 7339-A-G100-E-E-S73-001 Rev2  
Smokehouses S73 Elevation East and 7339-A-G100-E-W-S73-001 Rev 1  
Smokehouses S73 Elevation West

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

4. This permission is for works as detailed on the approved plans and subject to the other conditions listed, including either a hotel as shown on Parameter Plan 1a Land Uses Option A MP-A-F900-P-PP1a or residential development as shown on Parameter Plan 1b Land Uses Option B MP-A-F900-P-PP1b. If the hotel development Option A proceeds then the residential development Option B shall not be implemented under this consent.

Reason: In the interests of clarity.

5. Each application for reserved matters shall be accompanied by the following:
- a) A schedule providing details of the amount of housing units and floorspace for each other use included within that reserved matters application; and
  - b) A Compliance Statement which explains how the reserved matters meet the principles and parameters provided in the Design and Access Statement (December 2011), Design and Access Statement Addendum (July 2012) and the approved Parameter Plans listed in Condition 3.

Reason: To ensure a satisfactory standard of development having regard to policies H5, H11, DCPS14 of the North Tyneside Unitary Development Plan 2002.

6. No development on any phase shall take place until a phasing programme for the rest of the development of the site has been submitted to and agreed in writing with the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain control over the phasing of the development having regard to policy DC5 of the North Tyneside Unitary Development Plan 2002.

7. Within the total development hereby approved the maximum amount of commercial floorspace and residential uses shall not exceed the following:

Commercial

Hotel (Class C1) not more than 4,605sqm; and

Retail, Food and Drink and Business (Class A1,A3 and B1) not more than 1,401sqm in total and 467sqm A1, 467sqm A3 and 467sqm B1

(as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order revoking and re-enacting that Order))

Residential Uses

If Option A is implemented not more than 775 residential units (Class C3) and if Option B is implemented not more than 815 residential units (Class C3)

Reason: In order to define the consent and to control the total amount of floorspace within the development and in the interests of highway safety, in accordance with Policies T9, S3 and H11 of the UDP.

8. Prior to any development taking place on each phase, a Construction Method Statement for the duration of the construction period shall be submitted to and approved in writing by the Local Planning Authority. The approved statement shall: identify the access to the site for all site operatives (including those delivering materials) and visitors, provide for the parking of vehicles of site operatives and visitors; builders and contractors compounds; storage of plant and materials used in constructing the development; provide a scheme indicating the route for heavy construction vehicles to and from the site; a turning area within the site for delivery vehicles; a detailed scheme to prevent the deposit of mud and debris onto the highway and a dust suppression scheme (such measures shall include mechanical street cleaning, provision of water bowsers and wheel washing and/or road cleaning facilities). The approved statement shall be

implemented and complied with during and for the life of the works associated with the development, unless otherwise is approved in writing by the Local Planning Authority.

Reason: This information is required at the outset of the development to ensure that the site set up does not impact on highway safety, pedestrian safety and residential amenity having regard to Policy T7 of the North Tyneside Council Unitary Development Plan 2002.

9. The construction site subject of this approval shall not be operational and there shall be no construction, deliveries to, from or vehicle movements within the site outside the hours of 0800-1800 Monday - Friday and 0800-1400 Saturdays with no working on Sundays or Bank Holidays except in specified circumstances where alternative hours have first been agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenity of nearby residents having regard to policy E3 of the North Tyneside Unitary Development Plan 2002 and National Planning Policy Framework.

10. Prior to any construction commencing on any phase of the development a detailed scheme which specifies the provisions to be made for the control of noise emanating from the site during construction on that phase shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include:

(a) details of the number and type and sound power levels where known of plant and machinery;

(b) details of the type and acoustic performance of any enclosures and screens;

(c) the proposed hours of use and location of plant and machinery; and

(d) details of any other means to be employed to minimise noise emissions from that phase during construction shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter construction shall only be carried out in accordance with the agreed scheme of noise control unless otherwise agreed in writing with the Local Planning Authority

Reason: To enable the Local Planning Authority to ensure from the outset of the development, the implementation of controls on the impact of noise during construction works in order to protect the occupiers of surrounding land and properties from noise disturbance having regard to policy E3 of the North Tyneside Unitary Development Plan 2002.

11. Each phase of the development hereby permitted shall be landscaped and planted in accordance with a fully detailed scheme which shall include measures for habitat creation, which shall be submitted as part of the details of the proposed development pursuant to condition 1.

Reason: In the interests of amenity and to ensure a satisfactory standard of landscaping and in the interests of nature conservation having regard to policy H11 and E12/6 of the North Tyneside Unitary Development Plan 2002.

12. All planting, seeding or turfing comprised in the approved details of landscaping for each phase shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of development on each phase, whichever is the sooner, and any trees or plants which, within a period of five years from the completion of the development, die are removed or become seriously damaged or diseased, shall be replaced in the current or first planting season following their removal or failure with others of similar size and species, unless the Local Planning Authority first gives written consent to any variation.

Reason: In the interests of amenity and to ensure a satisfactory standard of landscaping having regard to policies H11 and E12/6 of the North Tyneside Unitary Development Plan 2002.

13. The details to be submitted pursuant to Condition 1 above shall provide full information on the means of dealing with the disposal of surface water for each phase from the roads, footways and other hard surfaces and shall include oil interceptors in drainage from parking areas where required.

Reason: To provide a satisfactory means of surface water drainage having regard to policy H5 and H11 of the North Tyneside Unitary Development Plan 2002.

14. The development shall be carried out in accordance with the Flood Risk Assessment D/I/D/79775/002 dated 4 May 2012 and the finished floor levels of dwellings shall be set at or above 5.50m Above Ordnance Datum.

Reason: To ensure the proposed development is carried out at suitable levels to protect the development from flooding having regard to the NPPF.

15. Prior to development commencing on any phase, details of the proposed finished site topography and levels for that phase, showing that phase in the context of proposed final levels for any adjoining phase, shall be submitted to and agreed in writing by the Local Planning Authority. Such details shall include details of existing site levels and details of the quantity and nature of any material to be brought onto that phase for deposit to create the agreed final levels as well as the finished floor levels of dwellings and any other buildings to be constructed on that phase. Thereafter development shall only be carried out in accordance with the agreed details.

Reason: To enable the Local Planning Authority, from the outset of the development, to retain control over the development in the interests of visual amenity having regard to policy H11 of the North Tyneside Unitary Development Plan 2002.

16. Prior to occupation of any dwellings in the Riverside plot (as identified on Character Area drawing in the Design and Access Statement and formerly identified as Plots F and G in the previously approved Earthworks and Remediation Method Statement), a clean cover within the garden areas shall be implemented in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority.



Once the clean cover has been implemented, then a Validation Report for these areas is required confirming exactly what remediation has been carried out and that the objectives of the Earthworks and Remediation Method Statement have been met. This report should also include verification of the type, source, depth, location and suitability of the imported materials for their use on site. This should include cross sectional diagrams for the site and detailed plans of the site. This report should be submitted prior to occupation of the site.

Reason: To ensure that the implications for the development from contamination are fully taken into account and the land remediated to an acceptable standard having regard to policy E3 of the North Tyneside Unitary Development Plan.

17. On completion of the reclamation and prior to commencement of development on each phase of the site, a programme of gas monitoring shall be undertaken, and any measures required to safeguard against gas emissions having an adverse effect upon the development and/or future users and occupiers shall be submitted to and agreed with the Local Planning Authority and implemented thereafter.

Reason: In order, from the outset, to safeguard the development and/or occupants from possible gas emissions from underground having regard to policy E3 of the North Tyneside Unitary Development Plan 2002.

18. For each phase, before the construction above ground level of any building commences on that phase, a schedule and/or samples of all external finishing and surfacing materials shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details or other such details as may be approved in writing by the local planning authority.

Reason: To secure a satisfactory appearance having regard to policy H11 of the North Tyneside Unitary Development Plan 2002.

19. For each phase, prior to the erection of any means of enclosure for that phase, details of all screen and boundary walls, fences and any other means of enclosure for the buildings on that phase shall be submitted to and approved in writing by the Local Planning Authority. Boundary treatments for each building shall be implemented prior to occupation in accordance with the approved details for that phase.

Reason: To ensure that the proposed development does not adversely effect the privacy and visual amenities at present enjoyed by the occupiers of neighbouring properties, and to ensure a satisfactory environment within the development having regard to policy H11 of the North Tyneside Unitary Development Plan 2002.

20. For each phase, before construction of any dwelling commences on that phase, the details of facilities to be provided for the storage of refuse bins for each residential property must be submitted to and agreed in writing by the local planning authority. The facilities which shall include the provision of wheeled refuse bins shall be provided in accordance with the approved details, prior to the

occupation of any residential unit on that phase and thereafter permanently retained.

Reason: To protect the visual and residential amenity of the surrounding area in accordance with policies H11 and DCPS9 of the North Tyneside Unitary Development Plan 2002.

21. For each phase, before the construction of any dwelling commences within that phase, a noise survey shall be carried out to determine the background noise levels for that phase of the site. The locations at which measurements are to be carried out shall be submitted to and approved by the Local Planning Authority prior to the survey being carried out and should also take into account noise from the Riverside Link Road. Following completion of the survey a fully detailed scheme for protecting the proposed dwellings in that phase from external noise sources including traffic noise shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall comprise such works as are necessary to ensure compliance with BS8233:2014 or any subsequent revisions. The approved scheme shall be carried out in full prior to the use and occupation of each dwelling on that phase hereby permitted unless the Local Planning Authority otherwise agrees in writing.

Reason: To protect the occupants of the new development from noise disturbance having regard to policy H11 and DCPS 14 of the North Tyneside Unitary Development Plan 2002.

22. For each phase, before the occupation of any dwelling on that phase, the new means of access shall be sited and laid out in accordance with the details to be submitted to and agreed in writing by the Local Planning Authority.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and of the access having regard to policy H11 and T6 of the North Tyneside Unitary Development Plan 2002.

23. For each phase, before visibility splays are laid out for that phase, details of visibility splays shall be submitted to and approved in writing by the Local Planning Authority and implemented and retained thereafter in accordance with the approved details. The area contained within the splays shall thereafter be kept permanently free of any obstruction exceeding 0.6 metres in height above the nearside channel level of the carriageway.

Reason: To provide adequate intervisibility between the access and the existing public highway for the safety and convenience of users of the highway and of the access having regard to policy H11 and T6 of the North Tyneside Unitary Development Plan 2002.

24. No development on any phase shall be occupied until areas within that phase have been laid out for refuse and delivery vehicles to turn in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. These areas shall not thereafter be used for any other purpose.

Reason: To enable vehicles to draw off and turn clear of the highway thereby avoiding the need to reverse onto the public highway having regard to policy H11 and T6 of the North Tyneside Unitary Development Plan 2002.

25. No construction of any dwelling on any phase shall take place until a detailed parking layout designed in accordance with LDD12 or the current adopted parking standards by North Tyneside Council for both private and visitor parking bays within that phase has been submitted to and approved in writing by the Local Planning Authority. Thereafter, this scheme shall be implemented in accordance with the approved details in that phase before the development is occupied.

Reason: In the interests of highway safety having regard to policy H11 of the North Tyneside Unitary Development Plan 2002 and LDD12.

26. Prior to occupation of any phase of the development the applicant shall provide details of a car park management strategy for that phase. The details shall also indicate how management on each phase will relate to the management strategy on adjoining phases. The strategy shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the management of the car parking shall be carried out in accordance with the agreed details.

Reason: To ensure adequate parking facilities for the development and in the interests of highway safety having regard to policy H11 of the North Tyneside Unitary Development Plan 2002.

27. Prior to construction works commencing on any dwelling in any phase, a scheme for the provision of secure undercover cycle parking to be provided on that phase shall be submitted to and approved by in writing the Local Planning Authority. Thereafter, this scheme shall be implemented in accordance with the approved details in that phase before the development is occupied.

Reason: In the interests of highway safety having regard to policy H11 of the North Tyneside Unitary Development Plan 2002.

28. No buildings shall be occupied on any phase until a revised Travel Plan taking into account the new development has been submitted to and approved by in writing the Local Planning Authority. This will include an undertaking to conduct travel surveys to monitor whether or not the Travel Plan targets are being met.

Reason: To accord with Central Government and Council Policy concerning sustainable transport having regard to the NPPF and LLD12.

29. No vehicular access shall be formed giving access to or from any individual dwelling house directly onto the proposed Link Road between Duke Street and Dock Road.

Reason: In the interests of highway and pedestrian safety having regard to policy H11 of the North Tyneside Unitary Development Plan 2002.

30. For each phase, before construction works on any dwelling commences, details of adoptable estate roads and footways providing access to that phase shall be submitted to and approved in writing by the Local Planning Authority. No dwelling on each phase shall be occupied until the estate roads which provide access to it from the adopted highway have been laid out and constructed in accordance with the approved details.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highways and of the development having regard to policy H11 of the North Tyneside Unitary Development Plan 2002.

31. No construction work shall take place on any building containing uses that fall within Use Classes C1 and A3 (as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order revoking and re-enacting that Order)) until details of measures to suppress noise from the premises and odour from any cooking or ventilation equipment provided at such premises have been submitted to and approved in writing by the Local Planning Authority. Such details shall include a scheme of sound insulation for the premises and any plant or machinery to be installed, the provision of any sound reproduction equipment, the height, position, design and materials of any chimney or extraction vent to be provided, air ventilation systems, odour suppression system for the arrestment of cooking odours and details of any refrigeration plant to be installed in connection with such development. Thereafter, development shall not take place other than in full accordance with the approved details prior to the development being brought into use and thereafter shall be retained at all times.

Reason: In the interests of the amenity of the occupiers of neighbouring premises, and to ensure adequate living conditions for future occupiers in accordance with saved Policies H5 and H11 of the North Tyneside Unitary Development Plan 2002.

32. No development falling within Classes A1, A3, B1 or C1 of the Town and Country Planning (Use Classes) Order 1987 (as amended) or any subsequent order shall be brought into use until details of facilities to be provided for the storage of refuse at such premises have been submitted to and approved in writing by the Local Planning Authority. The facilities shall be provided in accordance with the approved details, prior to the occupation of any part of the commercial premises and thereafter permanently retained.

Reason: In order to safeguard the amenities of the area having regard to policy E3 and H13 of the North Tyneside Unitary Development Plan 2002.

33. Any discharge points to the drainage system from any area where food is prepared in a building constructed for the purposes of a use falling within Class A3 or C1 of the Town and Country Planning (Use Classes) Order 1987 (as amended) or any subsequent order shall be provided with grease trap filters which shall be retained whilst the building remains in A3 or C1 use.

Reason: To safeguard the correct and proper functioning of the sewer system having regard to policy E3 of the North Tyneside Unitary Development Plan 2002.

34. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) or any subsequent order, no building constructed on the application site for a purpose falling within Class A3 shall be used for any other purpose including any other purpose within Use Class A1 or A2 without prior planning permission.

Reason: To enable the Local Planning Authority to retain control over the use in the interests of protecting the vitality and viability of North Shields town

centre having regard to policy S3 of the North Tyneside Unitary Development Plan 2002.

35. Prior to the occupation of any C1, A1, A3 and B1 uses (as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order revoking and re-enacting that Order)) for the uses proposed opening and delivery hours shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the use shall operate within the hours approved, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of amenity, having regard to policies H5 and H11 of the North Tyneside Unitary Development Plan 2002.

36. No floodlighting or other form of external lighting, with the exception of construction lighting, shall be installed on any phase of the site unless it is in accordance with details which have previously been submitted to and approved in writing by the Local Planning Authority. Such details shall include location, height, type and direction of light sources and intensity of illumination. Any lighting which is so installed shall not thereafter be altered without the prior consent in writing of the Local Planning Authority other than for routine maintenance which does not change its details.

Reason: In the interest of visual amenity and highway and river safety having regard to policy H12 and DCPS No.14 of the North Tyneside Unitary Development Plan 2002.

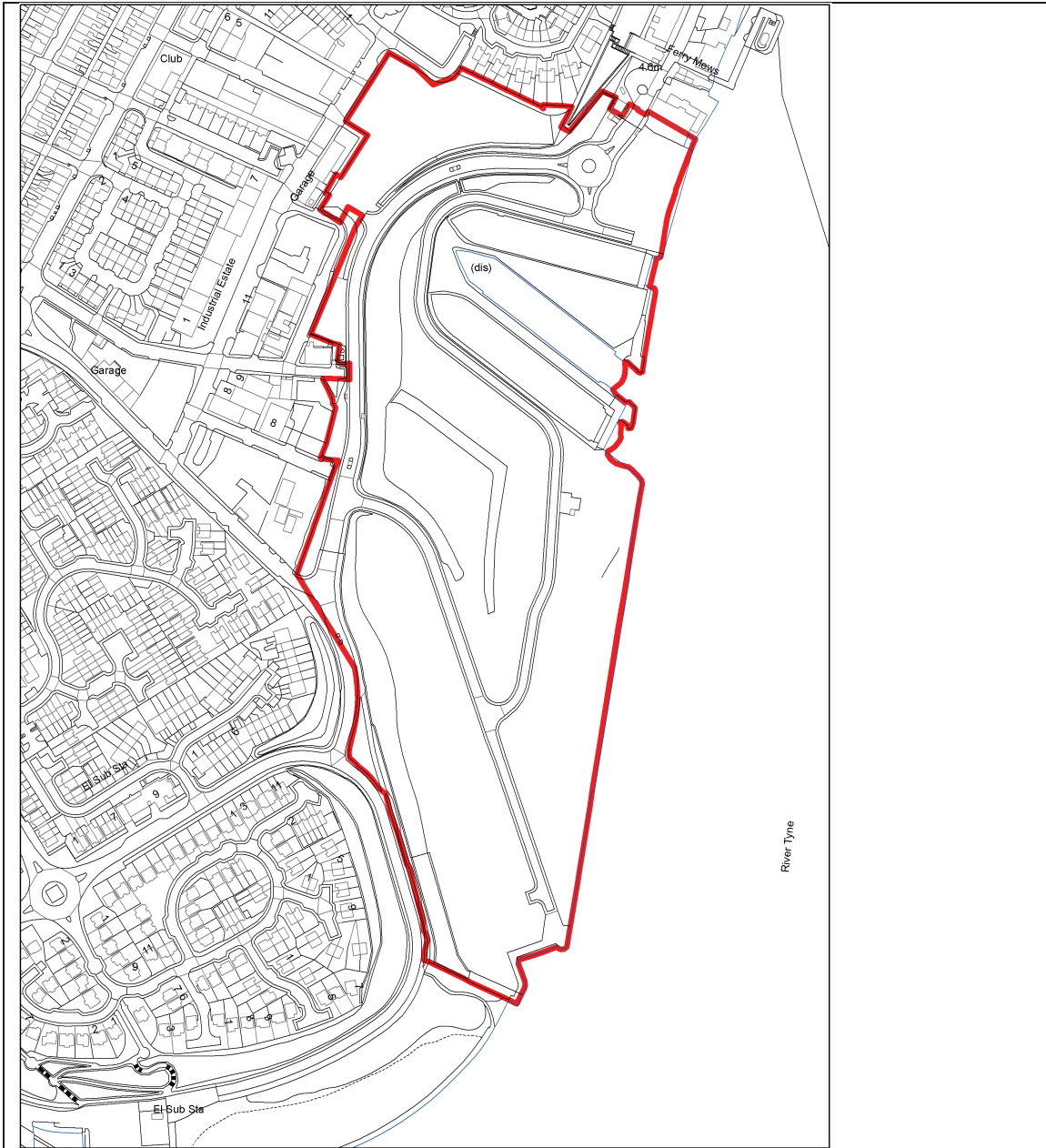
37. No building within the defined phase which contains the three docks shall be occupied or brought into use until a detailed scheme for the management of the water areas to be retained within this phase have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall not be implemented other than in accordance with the submitted details.

Reason: In the interests of securing a satisfactory form of development and to protect local amenities having regard to policy E3 and H13 of the North Tyneside Unitary Development Plan 2002.

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

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirements in Paragraphs 186-187 of the National Planning Policy Framework.

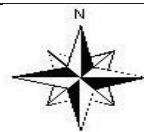




**Application reference: 15/01097/OUT**  
**Location: Land Forming Part Of Smiths Dock, Duke Street, North Shields, Tyne And Wear**  
**Proposal: Variation of condition 3 (approved plans) - variation to new building heights of phase 2 and removal of condition 41 (energy strategy) of planning approval 11/02390/OUT**

Not to scale  
 Date: 18.01.2016

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## **Item 5.3**

### **Appendix 1 – 15/01097/OUT**

#### **Consultations/representations**

##### 1.0 Internal Consultees

##### 1.1 Road Network Manager

1.2 No objections in principle.

##### 1.3 Historic Buildings officer

1.4 The agent advises that it is not possible to build on the infilled dock areas within the site as this would make the proposed development unviable. The scheme comprises two blocks of flats with a gap between each block in the location of the former dock. As the mass of the building is missing from the dock area, the heights of the proposed development are proposed to be adjusted to cater for this alteration. The southern block reduces from 12 storeys to 9/10 storeys and the northern block closest to Brewery Bond increases in height to 6/7 storeys. The shapes of each block have a faceted roof profile.

1.5 My remit is to consider the impact of this on the adjacent Conservation Area. The proposed development will impact on the views out of New Quay when looking upstream ie south. The profile of the new development will be seen rising above the skyline. With reference to the NPPF- is the harm substantial? I believe the impact does not represent substantial harm to the overall character of New Quay Conservation Area. Therefore I do not oppose the principle of the added height to the northern block and the change in height of the southern block.

##### 1.6 Conservation Officer

1.7 With reference to the Historic Buildings Officer's comments I would have referred to adjacent heritage assets so as to refer to the conservation area, listed buildings and local register buildings of which Brewery Bond is the closest.

##### 2.0 Representations

2.1 Two letters from one address with the following objections

- affect character of conservation area
- will result in visual intrusion
- impact on daylight

2.2 The scheme given outline planning approval envisaged a 4 storey building adjacent to Brewery Bond, increasing to 12 storeys further south adjacent to the former docks. Although concerned about the 12 storey block we were content with the restriction of the nearest building to 4 storeys. The new proposal is for a 6 storey building adjacent to Brewery Bond and a 9 storey building further to the south.

2.3 While the reduction in height of the southern block is welcomed, we are strongly opposed to the proposed 6 storey building within 28m of the Brewery Bond. The proposals approved in 11/02390/OUT would have resulted in a

building of maximum height 17.77m AOD or equal to eaves height and 4.47m below the ridge height of Brewery Bond. At a total height six metres above the ridge height and ten metres above the eaves height of Brewery Bond, the building now proposed will over-top all the adjacent buildings within the New Quay Conservation Area – the Chain Locker, Collingwood Mansions and the Porthole as well as Brewery Bond. This will cause an unacceptable intrusion into the appearance of the area from both street level and from the River, and will be seriously detrimental to the daylight to the flats on the lower floors of Brewery Bond having windows (only) on the south elevation.

2.4 We recognise the problems that the developers have encountered in the design of the taller block, but there are other ways to address the resulting loss of density in Phase 2 by increasing the density in the following stages much of which is still envisaged as 2-3 storeys.

2.5 There are a number of minor inconsistencies and errors in the Daylight and Overshadowing Assessment which although no doubt are insignificant in themselves, call into question the degree of care and assiduity with which it was compiled, including reference to a railway bridge and figures relating the VSC reduction to windows 7 and 8 on the third floor of zero compared with 9% and 10% on the fourth floor.

2.6 The main issue is that even though the building at the height now proposed would only cause a limited loss of direct sunlight to some apartments in Brewery Bond, the building at the height approved in the outline planning approval, 11/2390/OUT would arguably cause virtually no loss at all, at least in terms of the BRE Guidelines.

2.7 One letter from one address in support of the application with concerns about the height, increased traffic, additional noise from increased traffic and parking, pedestrian safety and lack of information about retail units.

2.8 One letter of support.

### 3.0 External Consultees

#### 3.1 Northumbrian Water Ltd

3.2 No comments

#### 3.3 Environment Agency

3.4 No objection to the variation of condition 3 of planning approval 11/02390/OUT. However no objection was raised to the outline application provided a condition was attached to any planning permission that works would be carried out in accordance with the submitted Flood Risk Assessment and finished floor levels should be set no lower than 5.49 above Ordnance Datum.

#### 3.5 South Tyneside Council

3.6 No objections

### 3.7 Folks Interested in Shields Harbour

3.8 FISH support the proposed development. No objection to the request for a change in the building heights. FISH members are sympathetic to the objections of neighbouring residents, but the majority feel that to further delay development of the site would not serve the best interests of the area or the community.

### 3.9 Historic England

3.10 Historic England do not wish to comment on this occasion and advise that the application should be determined in accordance with national and local policy guidance and on the basis of the Council's specialist conservation advice.

### 3.11 Northumberland and Newcastle Society

3.12 The Tyneside committee welcome the changes brought about by the re-appraisal of the site conditions here and the move away from a "substantial monolith" of the previous scheme. The result is much more sympathetic to its neighbour the Brewery Bond and respectful of the character of the New Quay conservation area. Reservations were however expressed about the cladding material. The car parking arrangements also seemed undesirably obtrusive and it is hoped this can be improved with a stronger landscaping scheme.