

Dated 8th December 2017

THE COUNCIL OF THE BOROUGH OF SOUTH TYNESIDE

and

KARBON HOMES LIMITED

Agreement

pursuant to Section 106 of the Town and Country Planning Act 1990 relating to land at Gordon House and land adjoining, Gordon Street, South Shields, Tyne & Wear NE33 4JP

Mike Harding
Head of Legal Services
South Tyneside Council
Town Hall and Civic offices
Westoe Road
South Shields
Tyne and Wear
Ref: BB/L/15089

This Agreement is made the *5th* day of *December* 2017

By

1. **The Council of the Borough of South Tyneside** of Town Hall and Civil Offices, Westoe Road, South Shields, Tyne and Wear, NE33 2RL ("**the Council**"); and
2. **Karbon Homes Limited** (a Registered Society under the Co-Operative and Community Benefit Societies Act 2014 under Number: 31208R7529) whose Registered Number is Five Gosforth Park Avenue Gosforth Business Park Newcastle Upon Tyne NE12 8EG ("**the Developer**")

Whereas

- A. The Council is the local planning authority for the purposes of the Act for the area in which the Site is situated and is the authority by whom the obligations hereby created are enforceable.
- B. The Developer has entered into a contract with the Council to acquire the Site.
- C. The Council's Planning Committee resolved on the 29 August 2017 that it was minded to grant the Planning Permission subject to completion of this Deed.
- D. The Developer and the Council have agreed to enter into this Deed with the intention that the obligations contained in this Deed may be enforced by the Council against the Developer (subject to it acquiring an interest in the Site) and its successors in title to the Site.

Now this Deed witnesses as follows:

1. **Definitions**

For the purposes of this Deed the following expressions shall have the following meanings:

- | | |
|----------------------|---|
| "Act" | the Town and Country Planning Act 1990; |
| "Application" | the application for full planning permission dated 30 March 2017 submitted to the |



South Tyneside Council

Business and Resources

John Hewitt - Corporate Director
 Town Hall & Civic Offices, Westoe Road, South Shields, NE33 2RL
 Telephone: (0191) 427 1717

Project

Sale

Drawing Title

Land & Building's at
 Gordon Street,
 South Shields.

Project Code

Dwg. No

Drawn By D+1

Date 17/10/17

Checked By

Date

Scale 1: 1250

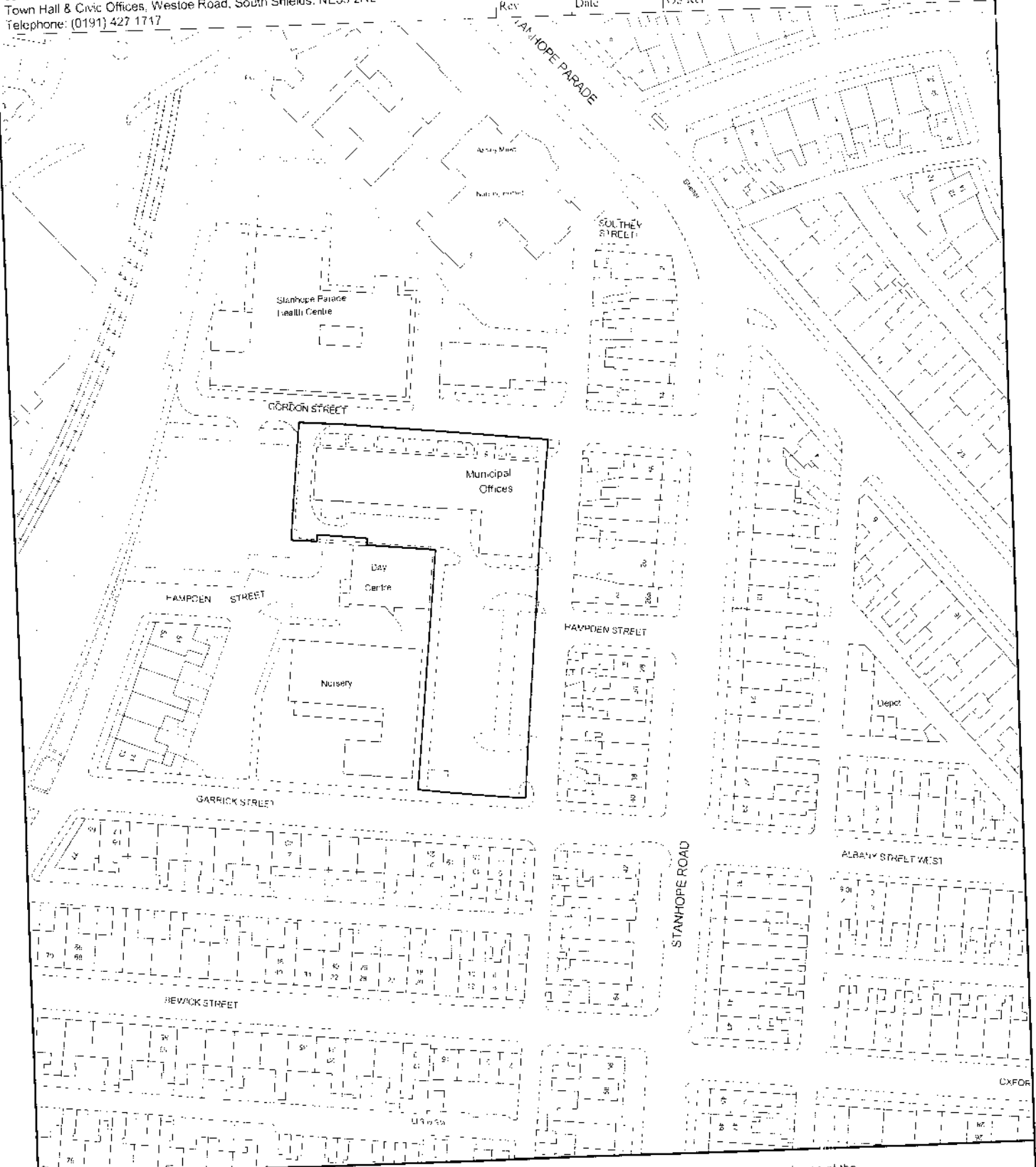
Size A4

Rev

Date

OS Ref

Chkd



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Council for the Development and allocated reference number ST/0274/17/FUL;

“Commencement of Development”

the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and “Commence Development” shall be construed accordingly;

“Development”

the development of the Site comprising construction of 18 dwellinghouses with associated parking and landscaping;

“Dwelling”

a unit of residential accommodation to be constructed pursuant to the Planning Permission;

“Information Pack”

documentation to be supplied to each Occupier within the Development in a suitable form and language for individuals containing particulars of the following:

(a) details of the Northumbria Coast Special Protection Area designated under Directive 2009/147/EC and the Durham Special Area of Conservation designated under Directive

92/43/EEC (the "Natura 2000 Sites") and their importance; (b) potential impacts on the Natura 2000 Sites from the Development and other development within the local area; (c) identification of alternative green infrastructure within the local area and outside of the Natura 2000 sites suitable for recreational user;

and where the format and content of the documentation has been submitted to and approved in writing by the Council prior to Occupation of any Dwelling within the Development;

"Occupation"

occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and "Occupy, Occupier and Occupied" shall be construed accordingly;

"Plan"

the plan attached to this Deed;

"Planning Permission"

the full planning permission that may be granted pursuant to the Application in the form of the draft annexed at the Third Schedule hereto;

"Shadow HRA Assessment"

the shadow habitats regulation assessment document annexed at the Fourth Schedule

"Site"

the land against which this Deed may be enforced shown for illustrative purposes edged in red on the Plan and more particularly described in the First Schedule;

2. Construction of this Deed

- 2.1. Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed (unless the context otherwise requires).
- 2.2. Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3. Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
- 2.4. Where two or more people form a party to this Deed, the obligations they undertake may be enforced against them all jointly, or against each of them individually unless there is express provision otherwise.
- 2.5. Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.6. References to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Council the successors to their respective statutory functions.
- 2.7. The headings and contents list are for reference only and shall not affect construction.
- 2.8. Except where indicated otherwise, references to the Site include any part of it.
- 2.9. Any covenant by the Developer not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing.
- 2.10. Where two or more people form a party to this Deed, the obligations they undertake may be enforced against them all jointly or each of them individually.

2.11. Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.

3. **Legal Basis**

3.1. This Deed is made pursuant to section 106 of the Act. To the extent that they fall within the terms of section 106 of the Act, the obligations contained in this Deed are planning obligations for the purposes of section 106 of the Act and are enforceable by the Council as local planning authority against the Developer.

3.2. To the extent that any of the obligations contained in this Deed are not planning obligations within the meaning of the Act, they are entered into pursuant to powers contained in section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and all other enabling powers.

4. **Conditionality**

4.1. This Deed is conditional upon:

4.1.1. the grant of the Planning Permission; and

4.1.2. the Commencement of Development

save for the provisions of Clauses 6 to 17 which shall come into effect immediately upon the completion of this Deed.

5. **The Developer Covenants**

5.1. The Developer covenants with the Council (so as to bind the Site) to fully observe and perform the obligations in this Deed including those obligations set out in the Second Schedule and hereby agrees that the Site shall be subject to the obligations, restrictions and covenants herein, such obligations being planning obligations for the purposes of section 106 of the Act as set out in the Second Schedule.

6. **Fees**

- 6.1. The Developer shall pay to the Council on completion of this Deed the sum of £425.00 incurred in the negotiation, preparation and execution of this Deed.

7. **Local Land Charge**

- 7.1. This Deed shall be registrable as a local land charge by the Council.
- 7.2. Following the performance and satisfaction of all the obligations contained in this Deed the Council shall upon written request by the Developer effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.

8. **Termination of this Deed**

- 8.1. This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn (without the consent of the Developer) or it is modified by any statutory procedure or expires prior to the Commencement of Development.

9. **The Contracts (Rights of Third Parties) Act 1999**

- 9.1. Save as provided in respect of successors in title to the Site or any successor to the relevant statutory function of the Council this Deed shall not be enforceable by any third party pursuant to the Contracts (Rights of Third Parties) Act 1999 and no third party shall acquire any benefit, rights or claims whatsoever thereto.

10. **Liabilities**

- 10.1. No person shall be liable for any breach, non-performance and non-observance of any covenant, obligation or restriction or other provision of this Deed after it shall have parted with all of its interest in the Site or the part of the Site where the breach occurs but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

10.2. The obligations restrictions and covenants contained in this Deed shall not be enforceable against a statutory undertaker after the transfer of statutory apparatus by the Developer to the statutory undertaker.

10.3. Nothing in this Deed shall prohibit or limit the right to develop any apart of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.

11. **Council's Powers**

11.1. Nothing contained or implied in this Deed shall prejudice or affect the rights discretions powers duties and obligations of the Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.

12. **Waiver**

12.1. No waiver (whether expressed or implied) by the Council of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default.

13. **Change in Ownership**

13.1. The Developer agrees with the Council to give the Council immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site purchased by reference to a plan (save that this clause shall not relate to the sale of a Dwelling constructed pursuant to the Planning Permission).

14. **VAT**

14.1. All consideration given in accordance with the terms of this Deed shall be inclusive of any value added tax properly payable.

15. **Dispute Provisions**

- 15.1. In the event of any dispute or difference arising between the parties to this Deed in respect of any matter contained in this Deed such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.
- 15.2. In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 15.1 or as to the appropriateness of the professional body then such question may be referred by either part to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.
- 15.3. Any expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-eight working days after the conclusion of any hearing that takes place or twenty-eight working days after he has received any file or written representation.
- 15.4. The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten working days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further ten working days.

15.5. The provisions of this clause shall not affect the ability of the Council to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages, any other means of enforcing this Deed and consequential and interim orders and relief.

16. **Jurisdiction**

16.1. This Deed is governed by and interpreted in accordance with the law of England and Wales.

17. **Delivery**

17.1. The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written.

First Schedule

Details of Title and description of the Site

The freehold property known as the former Gordon House and land adjoining, Gordon Street, South Shields, Tyne & Wear NE33 4JP forming part of the land registered at the Land Registry under Title Number TY417454

Second Schedule

The Developer's Covenants with the Council

The Developer covenants with the Council as follows:

1. Prior to any Occupation of the Development, to pay the Council:
 - 1.1. £2,250.00 towards the Council's costs in installing, maintaining and servicing dog waste bins in accordance with the Shadow HRA Assessment, including the locations specified therein or in such other location as may be agreed with the Developer in writing; and
 - 1.2. £3,200.00 towards the Council's costs in installing maintaining and where necessary renewing or replacing an interpretation or notice board detailing the Natura 2000 Sites and their importance in accordance with the Shadow HRA Assessment and at the location specified therein or in such other location as may be agreed with the Developer in writing.
2. Not to permit Occupation of each Dwelling within the Development until the first Occupier of the Dwelling is provided with a copy of the Information Pack.

Third Schedule

Draft Planning Permission



South Tyneside Council

[DRAFT] NOTICE OF GRANT OF PLANNING PERMISSION

Town and Country Planning Act 1990
Town and Country Planning (Development Management Procedure)
(England) Order 2015

Contact Name and Address:

NORR Consulting
FAO Miss M. Etheridge
8th Floor Percy House
Percy Street
Newcastle upon Tyne
NE1 4PW

Application No: ST/0274/17/FUL

Date of Issue: xx/xx/xxxx

In pursuance of their powers under the above mentioned Acts, South Tyneside Council as Local Planning Authority hereby **GRANT** planning permission for the following:

PROPOSAL: Existing site and associated hard standing is to be redeveloped to provide 18no. dwellinghouses with associated parking and landscaping.
LOCATION: Gordon House, Gordon Street, South Shields, NE33 4JP

In accordance with your application dated 30 March 2017

SUBJECT TO THE FOLLOWING CONDITION(S) AND REASON(S):

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

As required by Section 91 of the Town and Country Planning Act 1990 and to ensure that the development is carried out within a reasonable time.

- 2 The development shall be carried out in accordance with the approved plans as detailed below

(00)311 Rev. F received 15/06/2017
(00)330 Rev. E received 30/03/2017
(00)334 Rev. A received 30/03/2017
(00)332 Rev. D received 30/03/2017
(00)331 Rev. D received 30/03/2017

Any minor material changes to the approved plans will require a formal planning application under S73 of the Town and Country Planning Act 1990 to vary this condition and substitute alternative plans.

In order to provide a procedure to seek approval of proposed minor material change which is not substantially different from that which has been approved.

- 3 Contamination - Investigation and Risk Assessment

Notwithstanding the submitted Phase 2 ground investigation report and addendum gas risk assessment, post demolition sampling is required within the footprint of the office

building. An investigation and risk assessment must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include (i) a survey of the extent, scale and nature of contamination; (ii) an assessment of the potential risks to human health (including ground gas), property (existing or proposed) and (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

To ensure that risks from land contamination or ground gas to the future users of the development site and neighbouring land are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off site receptors, in accordance with Policies DM1 and EA5 of the South Tyneside Local Development Framework.

4 Contamination - Remediation Strategy

A Detailed Remediation Strategy for the proposed remedial works shall be submitted to, and approved by the Local Planning Authority prior to commencing remedial works. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. Where remediation of gas has been identified as necessary by the site investigation a verification plan shall be submitted for the proposed gas protection measures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Development shall be carried out in accordance with the approved details.

To ensure that risks from land contamination to the future users of the development site and neighbouring land are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off site receptors, in accordance with Policies DM1 and EA5 of the South Tyneside Local Development Framework.

5 Contamination - Verification Report

Following completion of measures identified in the approved Remediation Strategy, a Verification Report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority prior to any part of the site being first occupied.

To ensure that risks from land contamination to the future users of the development site and neighbouring have been addressed in accordance with Policies DM1 and EA5 of the South Tyneside Local Development Framework.

6 Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. Sufficient detail should be provided identifying how the unexpected contamination will be dealt with.

Development shall be carried out in accordance with the approved details.

To ensure that risks from land contamination to the future users of the development site and neighbouring land are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off site receptors, in accordance with Policies DM1 and EA5 of the South Tyneside Local Development Framework.

7 Drainage Scheme - Design and Implementation

Development shall be carried out in accordance with the drainage scheme contained within the submitted Drainage Statement (by Portland Consulting Engineers dated March 2017), received 30/03/2017; which shall ensure that foul and surface water flows discharge to the combined sewer at manhole 4702 and with surface water discharge being restricted to 5l/sec.

To ensure the discharge of surface/foul water from the site does not increase the risk of flooding in accordance with Policies DM1 and ST2 of the South Tyneside Local Development Framework.

8 Drainage Scheme - Maintenance and Management

Before the first occupation of any dwelling, a detailed management and maintenance plan for the drainage scheme for the lifetime of the development, including the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its life; shall be submitted to and approved in writing by the Local Planning Authority.

Development shall be carried out in accordance with the approved details.

To ensure the drainage scheme is adequately maintained and managed so that it does not increase the risk of flooding in accordance with Policies DM1 and ST2 of the South Tyneside Local Development Framework.

9 Soft Landscaping

Notwithstanding the indicative details shown on drawing number (00)320 Rev. D received 28/06/2017 and before the first occupation of any dwelling hereby permitted, a detailed soft landscaping planting plan/specification shall be submitted to and approved in writing by the Local Planning Authority. The plan/specification shall include details of the phasing of the landscaping on a phase by phase basis, before respective dwellings are occupied.

Development shall be carried out in accordance with the approved details.

Any trees or plants, which within a period of 5 years of planting, die, are removed, or become seriously damaged or diseased, shall be replaced with others of similar size and species not later than the next planting season after the loss or damage has occurred (unless otherwise agreed in writing by the Local Planning Authority).

To ensure a satisfactory standard of development in the interests of visual amenity and ecology in accordance with Policy DM1, DM7 and EA3 of the South Tyneside Local Development Framework.

10 External lighting

Before the first occupation of any dwelling hereby permitted, full details (including samples, drawings and/or specifications) of the proposed external lighting to serve the entire development including a phasing plan to secure its completion, shall be submitted to and approved in writing by the Local Planning Authority.

Development shall be carried out in accordance with the approved details.

To ensure a satisfactory standard of development in the interests of both visual and residential amenity in accordance with Policy DM1 of the South Tyneside Local Development Framework.

11 Construction working hours

No construction or associated works or deliveries of materials shall take place outside the hours of 8am - 6pm Monday to Friday and 9am - 1pm Saturdays and no such works or deliveries shall be carried out at any time on Sundays or Public Holidays.

To safeguard the amenity of the nearby residents in accordance Policy DM1 of the South Tyneside Local Development Framework.

12 Finished floor levels

The finished floor levels of the dwellings shall be carried out in accordance with the details included on drawing number (00)0350 Rev. C, received 27/06/2017. Unless alternatives have been previously submitted to and agreed in writing by the Local Planning Authority pursuant to this condition and development is then carried out accordance with them.

To ensure a satisfactory standard of development in the interests of both visual and residential amenity in accordance with Policy DM1 of the South Tyneside Local Development Framework.

13 Materials

The external materials to be used in the construction of the dwellings and hard surface treatments shall be carried out in accordance with the details included on the following drawings

(00)360 Rev. C received 27/06/2017
(00)330 Rev. E received 30/03/2017
(00)334 Rev. A received 30/03/2017
(00)332 Rev. D received 30/03/2017
(00)331 Rev. D received 30/03/2017

unless alternatives have been previously submitted to and agreed in writing by the Local Planning Authority pursuant to this condition and development is then carried out accordance with them.

To ensure a satisfactory standard of development and in the interests of visual amenity in accordance with Policy DM1 of the South Tyneside Local Development Framework.

14 Boundary treatments

Prior to the first occupation of each dwelling, the boundary treatments for the development hereby approved shall be completed on-site in accordance with the details included on the following drawings

(00)0325 Rev. C received 15/06/2017
(00)600 Rev. A received 15/06/2017
(00)700 Rev. A received 15/06/2017
(00)710 Rev. A received 15/06/2017
(00)720 Rev. A received 15/06/2017

unless alternatives have been previously submitted to and agreed in writing by the Local Planning Authority pursuant to this condition and development is then carried out in accordance with them.

To ensure a satisfactory standard of development and in the interests of visual amenity in accordance with Policy DM1 of the South Tyneside Local Development Framework.

NOTES TO APPLICANT:

- 1 In dealing with this application the Council has implemented the requirements of the National Planning Policy Framework (paragraphs 186 & 187) to seek to approve applications for sustainable development where possible.
- 2 The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

UNIQUE NOTES TO APPLICANT

- 3 The Council requires the developer to provide to each unit before first occupation a 240l refuse bin and a 240l recycling bin to the Council's specification in order that the council can fulfil its obligation to collect and dispose of household waste. Details of the Council's specifications can be obtained from Waste Services at South Tyneside Council.

- 4 Highways alterations

Alterations to the existing adopted highway or creation of new highway proposed for adoption will require the separate approval of the Highway Authority under the provisions of the Highways Act 1980 (as amended). Please contact Highway Engineering Services, Adoptions and Projects Team, for further information on 0191 424 7507.

- 5 On-site ecology mitigation during development phase

It is advisable that any soft landscape removal, site clearance works or demolition is carried out in accordance with the recommendations set out in the Preliminary Ecological Appraisal and Bat Survey, version R02; produced by E3 Ecology Limited.

- 6 Planning obligations - TO BE COMPLETED PRIOR TO ANY DECISION BEING ISSUED

This notice of grant of planning permission should be read in conjunction with the connected planning obligations [s106 agreement] between (1) The Council of the Borough of South Tyneside and dated xx/xx/xxxx.

[insert signature here]

George Mansbridge
Head of Development Services

Your attention is drawn to the attached schedule of notes which form part of this notice

NOTES

- 1 This certificate is issued under the Town and Country Planning Acts, Regulations and Orders and does not constitute a permission, approval or consent by South Tyneside Council for any other purpose whatsoever. Applications must therefore be made to the appropriate Departments of the Council for any other permission, approval or consent (including Building Regulations approval or approval of South Tyneside Council as ground landlord where appropriate) which may be necessary in connection with the proposed development or anything incidental thereto, or the use to be made of the premises which form the subject of such development.
- 2 You may also require permissions, approvals or consents under other legislation, or from bodies other than South Tyneside Council. This could include works affecting a public sewer, gas main, or electricity line, works within the adopted highway, works affecting a public right of way, property covenants, legislation relating to disabled persons, land drainage consent, waste management consent, scheduled monument consent or works affecting protected habitats of species.
3. Any non-material change to the approved plan(s) that form part of this permission would require the submission of an application for a non-material change under section 96A of the Town and Country Planning Act 1990. Whether changes to a proposed development are considered non-material is a matter for Planning Authority discretion.
- 4 The approved development should be implemented in strict compliance with all of the planning conditions, and in particular any which require details to be approved prior to the commencement of the development. Failure to do so may result in any commencement of development being unauthorised, which could be liable to enforcement action.
- 5 If you wish to change, or not comply with, any of the planning conditions attached to the permission, then you will need to submit a new application for planning permission under section 73 of the Town and Country Planning Act 1990. This does not affect your statutory rights of appeal against any of the planning conditions. This includes if you wish to not comply with a condition attached to a permission which details the approved plan(s), so as to make a minor material change to the approved plan(s). A minor material change is defined as one whose scale and nature results in a development that is not substantially different from that which has been approved.
- 6 Your attention is drawn to your responsibilities under the Chronically Sick and Disabled Persons Act 1970 and the Disability Discrimination Act 1995 relating to disabled persons, to ensure that adequate attention has been paid to their needs. If the proposed development involves new or existing buildings to which the public are to be admitted, or offices, shops, railway premises, factories or educational buildings, provision should be made for the means of access, parking and sanitary conveniences to meet the needs of disabled people. In addition, appropriate signposting of the facilities should be provided. In carrying out these statutory obligations your attention is drawn to the "Code of Practice for Access for the Disabled to Buildings" (BS5810:1979). You are advised to seek professional advice to ensure that you meet your legal obligations under the Disability Discrimination Act 1995, especially with regard to Part III thereof.

APPEALS TO THE SECRETARY OF STATE

7 Only the applicant possesses the right of appeal

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice unless:

- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice [reference no. if applicable], if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice; or
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of service of the enforcement notice, or within 6 months of the date of this notice, whichever period expires earlier.

Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at <https://acp.planninginspectorate.gov.uk>

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

PURCHASE NOTICES

- 8 If permission to develop land is granted subject to conditions, whether by South Tyneside Council as local planning authority or by the Secretary of State for Communities and Local Government, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances the owner may serve a purchase notice on the Council, requiring the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Fourth Schedule

Shadow Habitats Regulation Assessment dated July 2017

SHADOW HABITATS REGULATIONS ASSESSMENT

DEVELOPMENT OF LAND AT GORDON HOUSE, SOUTH SHIELDS

JULY
2017
DRAFT



CLIENT Gus Robinson Developments Ltd.
PROJECT NAME Gordon House, South Shields
PROJECT NUMBER 4977

LEAD AUTHOR Becky White
POSITION Senior Ecologist
CONTACT DETAILS Becky.White@e3ecology.co.uk

APPROVED BY Mark Osborne
POSITION Associate Director
CONTACT DETAILS Mark.Osborne@e3ecology.co.uk

REPORT VERSION	STATUS	DATE	CHANGES	AUTHOR	PROOF READ	APPROVED
R01	Draft	June 2017	-	RJW	-	MO
R02	Draft	July 2017	-	MO	-	RJW

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A. SUMMARY

E3 Ecology Ltd was commissioned by Gus Robinson Developments Ltd to produce a shadow Habitats Regulations Assessment (HRA) in relation to the proposed development of land at Gordon House, South Shields and the potential effects on Natura 2000¹ sites in the local area.

It is proposed to demolish the existing building on site and re-develop the site with approximately 18 residential units and associated infrastructure.

The aim of this shadow Habitats Regulations Assessment (sHRA) is to assist the planning authority, as the competent authority, to determine whether the development may have a "likely significant effect"² on the Natura 2000 sites, which lie within the zone of influence³ of the proposed development site.

The Natura 2000 sites to which this report pertains, are:

- Northumbria Coast Special Protection Area (SPA) & Ramsar site (approximately 2km to the north east at the closest point).
- Durham Coast Special Area of Conservation (SAC) (approximately 1.9km to the north east at the closest point)

If the Screening Opinion determines there is a likely significant effect on the qualifying features and/or conservation objectives of the sites, under the Conservation of Habitats and Species Regulations (2010) an Appropriate Assessment will be required for the development.

The proposed development site currently comprises Gordon House and adjacent hard standing (car parking) and amenity grassland with a small area of introduced scrub.

This screening opinion considers two elements of the proposals, firstly the potential direct effect of the development on the Natura 2000 sites and qualifying features through mechanisms or pathways such as habitat loss and constructional disturbance, and secondly the potential indirect effects of the development on these receptors. Potential indirect effects are considered to comprise primarily of recreational effects, particularly through increased numbers of people and their dogs walking within the protected sites.

Phase 1 habitat survey has identified that the site is dominated by built development and hard standing with very limited areas of amenity grassland and introduced shrub planting. As such it does not support any of the habitats for which the Durham Coast SAC is designated. The habitats present within the site are not suitable for use by the qualifying species of the Northumbria Coast SPA, namely purple sandpiper, turnstone, little tern and Arctic tern.

The development will not result in any loss of habitat from the Natura 2000 sites; or loss of habitats considered to have a functional link with the identified protected sites. Furthermore

1 A network of nature protection areas within the European Union comprising Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) designated respectively under the Habitats Directive (92/43/EEC) and Birds Directive (2009/147/EC) respectively, designed to protect the most seriously threatened habitats and species across Europe.

2 "A likely effect is one that cannot be ruled out on the basis of objective information. The test is a 'likelihood' of effects rather than a 'certainty' of effects. So, 'likely', in this context, is not 'probable' or 'more likely than not', but rather whether there is a risk or possibility of an effect being significant. A significant effect is one that would undermine the site's conservation objectives". – DTA Publications.co.uk

3 The area within which a particular type, or any type, of change has the potential to affect a European site, this will differ depending on the site and the changes.



given the distance from the development to the Natura 2000 sites no direct impacts are envisaged.

Assessment has identified that there is a potential pathway for a likely significant effect on the Northumbria Coast SPA and/or the Durham Coast SAC, due to an increase in recreational use, and in particular dog walking.

The proposed development has the potential to result in an increase of 7 dogs⁴ in the local area. Recent guidance produced by Hampshire County Council⁵ on alternative natural greenspace indicates that dog owners travel up to an average distance of 400-500m to reach greenspace for regular daily dog-walking, where a suitable space is available. Assessment has identified that West Park, an 11ha area of public open space, lies approximately 300m to the south of the proposed development site and is a likely regular dog walking destination. Further public open space is also present approximately 500m to the north east.

The most likely destination for visitors is the South Shields sea front where car parking and associated recreational infrastructure is present, approximately 2.8km from the development site by road. The section of beach adjacent to the sea front and most likely to be accessed is not part of the SPA or SAC although it is accepted that people will at times take longer walks southward along the coast, which would include entering the SAC and potentially the SPA, although this section of the SPA is primarily steep cliffs and rocky shore and therefore less likely to be accessed.

Given the above, there is considered to be a low risk of proposals having an adverse effect on the SPA or SAC through a slight increase in recreational activity, without appropriate mitigation.

The following mitigation measures are proposed:

- Provision of a house pack to new residents providing information on Natura 2000 sites in the local area. This pack should detail the potential impacts on the Natura 2000 sites and identify suitable alternative green infrastructure in the local area.
- Local walking routes that take residents away from the coast and provide circular amenity routes will be highlighted to the new residents, particularly those utilising West Park approximately 400m to the south.
- Dog waste bins to be provided on the route to and within West Park to encourage dog walkers.
- An interpretation panel to be erected at the South Shields seafront parking area, the most likely point of the coast for additional visitors, to highlight the importance of the designated sites.

Overall, with the mitigation recommended, and taking into account the distance to the Natura 2000 sites, no likely significant effects on the Natura 2000 sites are anticipated.

If you are assessing this report for a local planning authority and have any difficulties interpreting plans and figures from a scanned version of the report, E3 Ecology Ltd would be happy to email a PDF copy to you. Please contact us on 01434 230982.

⁴ <http://www.pfma.org.uk/pet-population-2017>

⁵ Hampshire County Council (2013). Planning for Dog Ownership in New Developments: Reducing Conflict – Adding Value. Hampshire County Council.



B. INTRODUCTION

E3 Ecology Ltd was commissioned by Gus Robinson Developments Ltd to produce a "shadow" Habitats Regulations Assessment (sHRA) in relation to the proposed development of land Gordon House, South Shields and the potential effects on Natura 2000⁶ sites in the local area.

The Habitats Directive⁷ applies a precautionary principle to developments that may affect Natura 2000 sites. Proposals can only be permitted once it has been ascertained that there will be no likely significant effects on the integrity of the sites in question, *unless* there are no alternatives and the development is of over-riding public interest.

Habitats Regulations Assessment (HRA) seeks to assess proposals in order to determine whether they are likely to have significant effects on a Natura 2000 site. HRA comprises a four-stage process: Screening, Appropriate Assessment, identifying alternative solutions and identifying compensation measures where imperative reasons of overriding public interest are proven.

The first screening stage sets out to identify development proposals, which can be screened out of the need for further assessment i.e. they are determined as not likely to have a significant effect on the relevant Natura 2000 sites.

In order to produce this shadow HRA Report in relation to the proposed development the following steps were taken:

1. Identify a reasonable zone of influence around the development area and identify any Natura 2000 sites are within this area;
2. Assess whether there is any possible mechanism by which the proposed development can affect any Natura 2000 sites, focusing on those sites within the identified buffer or zone of influence;
3. Assess the qualifying features and conservation objectives of any Natura 2000 sites within this zone;
4. Determine whether the possible mechanisms identified in Point 2 are likely to have a significant impact on the qualifying features and conservation objectives assessed in Point 3; and
5. Determine whether the proposed development would be likely to have a significant effect on the Natura 2000 sites identified in Point 1 in combination with other plans or projects.

This shadow HRA report will assist the planning authority, as the Competent Authority, to determine whether the development may have a likely significant effect on the interest features of any Natura 2000 sites (Stage 1 of the HRA process). If a likely significant effect is anticipated then under the Conservation of Habitats and Species Regulations (2010) an Appropriate Assessment will be required in relation to the proposed development (Stage 2 of the HRA process).

The site is located off the B1298, Stanhope Road, Chichester, South Shields at an approximate central grid reference of NZ364657. The site location is illustrated below in Figure 1.

⁶A network of nature protection areas within the European Union comprising Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) designated respectively under the Habitats Directive (92/43/EEC) and Birds Directive (2009/147/EC) respectively, designed to protect the most seriously threatened habitats and species across Europe.

⁷ EU Habitats Directive (92/43/EEC)

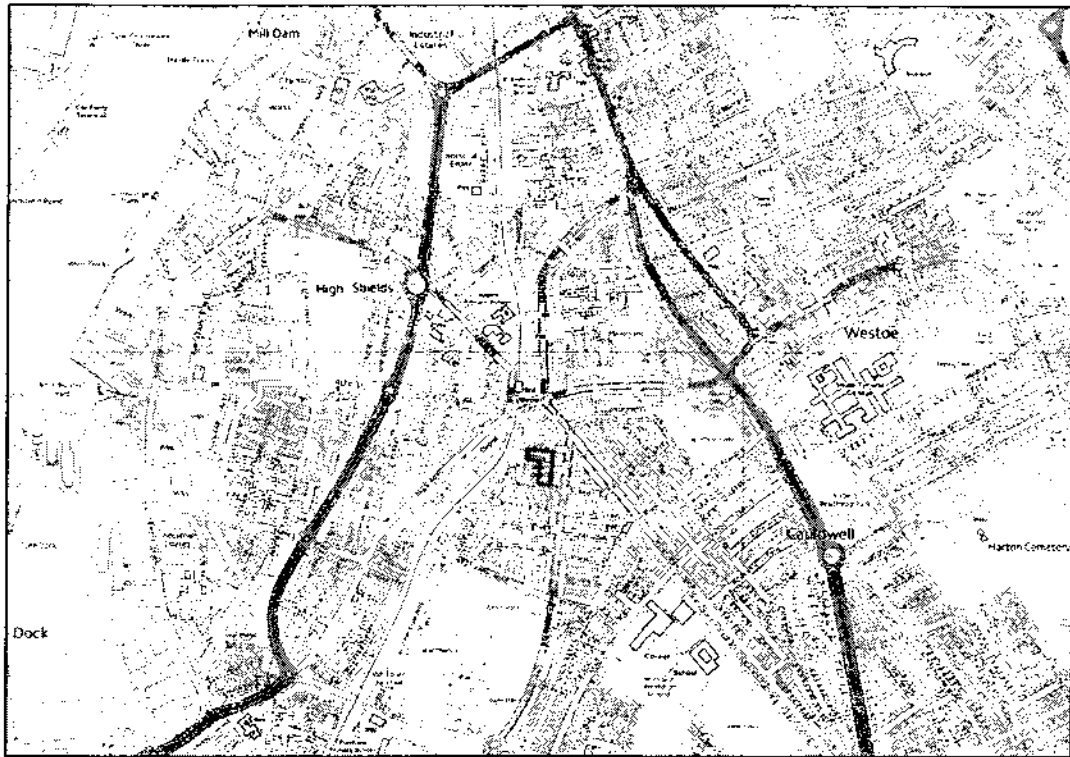


FIGURE 1: SITE LOCATION
(REPRODUCED FROM ORDNANCE SURVEY UNDER LICENCE)

The development proposal comprises demolition of the existing building and infrastructure and rebuilding with 18 residential units and associated gardens.



C. RELEVANT LEGISLATION AND PLANNING CONTEXT

C.1 THE BIRDS DIRECTIVE

The Birds Directive (1979) as amended in 2009 (Directive 2009/147/EC) allows for the designation of Special Protection Areas to aid the survival of particularly threatened species and all migratory bird species.

The Article of the Directive relevant to this report is Article 4 which, in summary, requires:

- The identification and classification of Special Protection Areas (SPAs) for rare or vulnerable species listed in Annex I of the Directive, as well as for all regularly occurring migratory species, paying particular attention to the protection of wetlands of international importance.
- In respect of the protection areas, Member States shall take appropriate steps to avoid pollution or deterioration of habitats or any disturbance affecting the birds in so far as these would be significant, having regard to the objective of this Article.

Together with Special Areas of Conservation designated under the Habitats Directive, SPAs form a network of European protected areas known as Natura 2000.

C.2 THE HABITATS DIRECTIVE

The Habitats Directive (1992) (Directive 92/43/EEC) is European legislation which governs the designation of Special Areas of Conservation (SACs) and the management of Natura 2000 sites.

The Articles of the Directive relevant to this report are Articles 3 and 6 which, in summary, require:

- A coherent European ecological network of Special Areas of Conservation shall be set up under the title Nature 2000, composed of sites hosting the habitat types listed in Annex I and habitats of the species listed in Annex II, enabling the habitats and species' habitats concerned to be maintained or, where appropriate, restored at a favourable conservation status in their natural range.
- Member States shall take appropriate steps to avoid, in the Special Areas of Conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated in so far as such disturbance could be significant in relation to the objectives of the Directive.
- Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4 (see below), the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.¹
- Paragraph 4: If in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Nature 2000 is protected

C.3 THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS

The Conservation of Habitats and Species Regulations (2010) (as amended) transpose the Birds Directive and the Habitats Directive into English and Welsh law.



The aspect of the Conservation of Habitats and Species Regulations 2010 (as amended) which is of particular relevance to this report is Regulation 61 which states:

1. A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which —
 - a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
 - b) is not directly connected with or necessary to the management of that site,must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.
2. A person applying for any such consent, permission or other authorisation, must provide such information as the competent authority may reasonably require for the purposes of the assessment or to enable them to determine whether an appropriate assessment is required.
3. In considering whether a plan or project will adversely affect the integrity of the site, the authority must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which they propose that the consent, permission or other authorisation should be given.



D. METHODOLOGY

D.1 ZONE OF INFLUENCE

The assessment area for direct effects is considered to comprise the area within the development boundary termed 'the site' and a 400m buffer⁸, around it where there may be effects, for example from changes in hydrology or direct disturbance during construction and use of the site.

For indirect effects, principally relating to additional recreational pressure through increased visitor numbers at the coast, a 6km buffer from the site has been identified as the zone of influence. This 6km buffer, identified through visitor surveys undertaken, has been used throughout the region by Durham County Council for their Habitat Regulations Assessment of their draft Local Plan on the Northumbria Coast SPA and Durham Coast SAC⁹.

D.2 DESKTOP STUDY

The Multi Agency Geographic Information for the Countryside website¹⁰ was searched for all Natura 2000 sites that lie within a 6km buffer from the site, which has been identified as the zone of influence.

The site and surroundings were assessed from aerial photography and 1:25,000 Ordnance Survey plans.

D.3 FIELD SURVEY

D.3.1 HABITAT SURVEY METHODS

The initial field survey of the proposed site was conducted using the methodology of the Joint Nature Conservation Committee's Phase 1 Habitat Survey, as outlined in their habitat-mapping manual¹¹. Each parcel of land was assessed by a trained surveyor and classified as one of approximately ninety habitat types. These were then mapped and the habitat information supplemented by dominant and indicator species codes and target notes where appropriate. Where areas within the study area do not fall into the Phase 1 Habitat Survey classification, alternative methods of classification have been used.

D.3.2 PERSONNEL

The table below details the personnel who undertook the survey work and reporting.

Name	Position	Professional Qualifications
Mark Wilson	Field Ecologist	BSc MSc
Becky White	Senior Ecologist	MA MSc

Further details of experience and qualifications are available at www.e3ecology.co.uk.

D.3.3 CONSTRAINTS

The initial habitat survey was undertaken at a suboptimal time of year for the detection and identification of certain plant species. However, subsequent site visits have been completed during the spring and early summer allowing confirmation of the value of the habitats present.

⁸ The 400m distance has been used by other competent authorities with regards to direct effects on Natura 2000 sites.

⁹ Durham County Council (2013) The County Durham Plan Pre-Submission Draft Local Plan Habitat Regulations Assessment Report.

¹⁰ www.magic.gov.uk

¹¹ Handbook for Phase 1 habitat survey, A Technique For Environmental Audit, JNCC, 2010



E. RESULTS

E.1 DESKTOP STUDY

E.1.1 NATURA 2000 SITES

Consultation with the MAGIC website¹² indicated that the following Natura 2000 sites lie within a 6km buffer of the proposed development site:

- Northumbria Coast Special Protection Area (SPA) & Ramsar site (~2km distant).
- Durham Coast Special Area of Conservation (SAC) (~1.9km distant)

The site also lies within a Site of Special Scientific Interest risk zone for the Durham Coast SSSI, a constituent part of the Durham Coast SAC and the Northumbria Coast SPA, and it is noted that residential developments greater than 10 units have the potential to have an adverse impact on the site.

The locations of the Special Protection Areas and Special Areas of Conservation identified above in relation to the proposed development site are illustrated within the following figure.

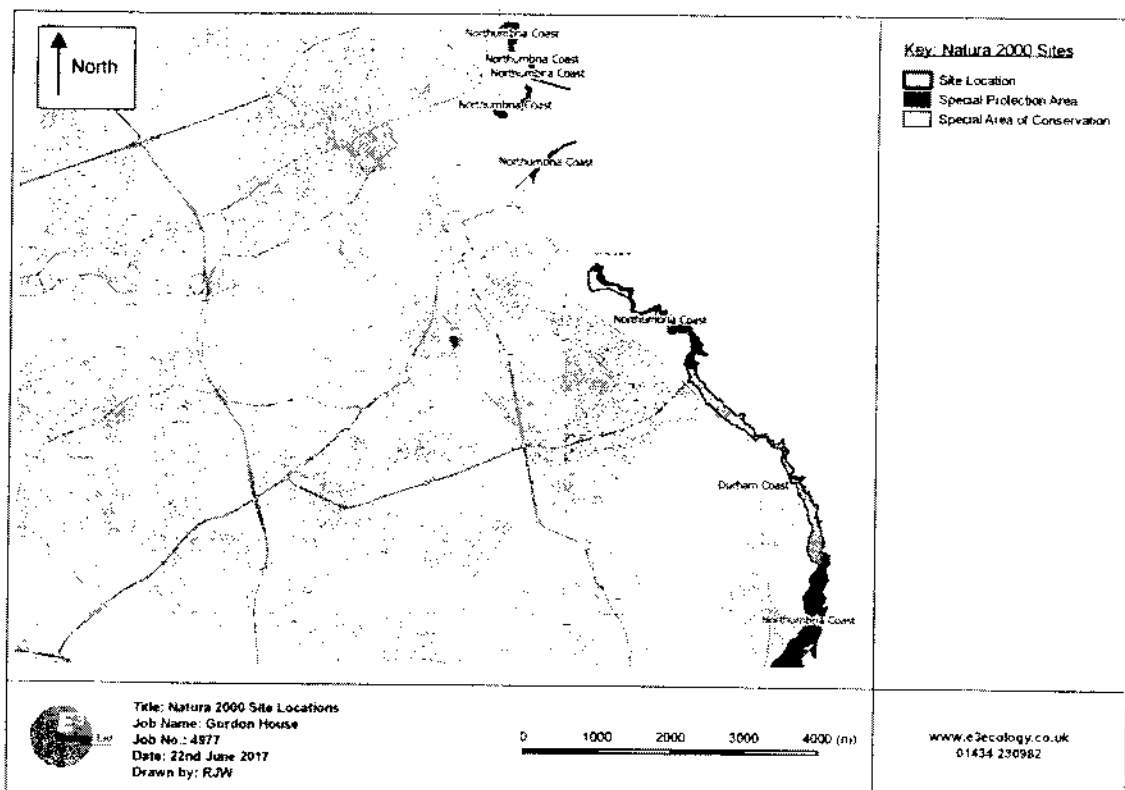


FIGURE 2: LOCATION OF NATURA 2000 SITES IN RELATION TO PROPOSED DEVELOPMENT SITE

The tables below detail the qualifying species and conservation objectives for each Natura 2000 site.

TABLE 2: NATURA 2000 SITES: SPECIAL PROTECTION AREAS			
Background	Qualifying Species	Conservation Objectives	Current Status

¹² www.magic.gov.uk



TABLE 2: NATURA 2000 SITES: SPECIAL PROTECTION AREAS			
Background	Qualifying Species	Conservation Objectives	Current Status
Northumbria Coast Special Protection Area			
<p>This area of coastline was designated in 2004 and comprises sections of coastline between north Northumberland and the south of County Durham.</p> <p>The SPA comprises areas of rocky shore supporting a food resource for wading birds which are cited on the designation.</p>	<p>There are three species listed on the citation for the protected area, these are purple sandpiper (<i>Calidris maritima</i>); ruddy turnstone (<i>Arenaria interpres</i>) and little tern (<i>Sterna albifrons</i>). The site is designated for the non-breeding use of the site by the first two species listed and for breeding use by the latter species.</p> <p>In addition, Arctic tern* is proposed to be added to the list of qualifying species as the colony at the Long Nanny comprises 2.92% of the GB population.</p> <p><small>*Government has initiated public consultation on the scientific case for the classification of this feature as part of this Special Protection Area (SPA).</small></p>	<p>The avoidance of the deterioration of the habitats of the qualifying features, and the significant disturbance of the qualifying features, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving the aims of the Birds Directive.</p> <p>Subject to natural change, to maintain or restore:</p> <ul style="list-style-type: none"> • The extent and distribution of the habitats of the qualifying features; • The structure and function of the habitats of the qualifying features; • The supporting processes on which the habitats of the qualifying features rely; • The populations of the qualifying features; • The distribution of the qualifying features within the site. 	<p>There are a number of SSSI units within the SPA which are components of the larger designated site.</p> <p>The most recent assessment of these components found that around 63% was classed as in favourable condition, with the remaining 37% being unfavourable recovering.</p>

TABLE 3: NATURA 2000 SITES: SPECIAL AREAS OF CONSERVATION			
Background	Qualifying Habitats/Species	Conservation Objectives	Current Status
Durham Special Area of Conservation			
<p>The Durham Coast SAC was designated in April 2002 and stretches, in distinct units, from South Shields to the south of County Durham. These units are designated for the maritime vegetation that they support on magnesian limestone which creates rare and species-rich communities.</p>	<p>The qualifying features of the site are stated as being vegetated sea cliffs of the Atlantic and Baltic coasts.</p> <p>The Natura 2000 standard data form for the site states that vegetated sea cliffs range from vertical cliffs in the north with scattered vegetated ledges, to the magnesian limestone grassland slopes of the south. Parts of the site are managed as a National Nature Reserve, and plans provide for the non-interventionist management of the vegetated cliffs. The majority of the site is in public ownership and an agreed management plan is being developed</p>	<p>To avoid the deterioration of the qualifying natural habitats and the habitats of qualifying species and the significant disturbance of those qualifying species, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving Favourable Conservation Status of each of the qualifying features.</p> <p>Subject to natural change, to maintain or restore:</p> <ul style="list-style-type: none"> • The extent and distribution of the habitats of the qualifying features; • The structure and function (including typical species) of qualifying natural habitats and habitats of qualifying species • The supporting processes on which qualifying natural habitats and habitats of qualifying species rely; • The populations of the 	<p>The Durham Coast SAC was designated in April 2002 and stretches, in distinct units, from South Shields to the south of County Durham. These units are designated for the maritime vegetation that they support on magnesian limestone which creates rare and species-rich communities.</p>



Background	Qualifying Species	Habitats/	Conservation Objectives	Current Status
	to protect nature conservation interests.		qualifying species; • The distribution of the qualifying species within the site.	

Table 4 provides information on the ecology of each of the qualifying species associated with the Northumbria Coast SPA.

Natura 2000 Site	Species	Ecology
Northumbria Coast SPA	Purple Sandpiper	The purple sandpiper is a medium-sized wading bird that is larger, stockier and darker than a dunlin. This species is mainly a winter visitor to almost any rocky coast in the UK. Most are found in Orkney, Shetland and along the east coast of Scotland and northern England – the species is scarce south of Yorkshire, other than in Devon and Cornwall. Wintering numbers in the UK are approximately 13,000 birds (October-March) ¹³ .
	Ruddy Turnstone	Smaller than a redshank, turnstones have a mottled appearance with brown or chestnut and black upperparts and brown and white or black and white head pattern, whilst their underparts are white and legs orange. Wintering numbers in the UK are approximately 51,000 birds (October-March) ¹³ .
	Little Tern	Little tern is the smallest species of tern breeding in the UK, nesting exclusively on beaches, spits or inshore islets. Colonies are found around much of the coastline, but the main concentration is in south and east England.
	Arctic Tern	Slightly smaller than a common tern, the adult Arctic tern has a dark red bill and legs, and long tail streamers. In Britain and Ireland, the Arctic Tern is almost exclusively a coastal breeder, usually nesting on the immediate shoreline and virtually never more than 10 km from the coast. Nearly 90% of the Arctic Terns breeding in Britain and Ireland are found in Scotland, Orkney and Shetland and throughout the Outer and Inner Hebrides. There are also some colonies on the east and north coasts. In England, they are found mainly in the north-east and the northwest, with very small numbers in north Norfolk and along the south coast.

E.1.2 PROPOSED DEVELOPMENT SITE

The proposed development site lies within a built up part of South Shields. The surrounding area predominantly comprises residential housing with a linear area of trees and shrubs associated with the Metro line ~50m to the west and parkland associated with West Park ~350m to the south. Amenity grassland areas and parkland are also present to the east associated with Wawn Street ~270m to the north east, rugby fields ~310m to the east and Harton Cemetery ~620m to the east.

E.2 FIELD SURVEY

E.2.1 HABITATS

Habitats on site predominantly comprise the building of Gordon House with hard standing and amenity grassland associated with a car parking area to the south. Small areas of introduced shrubs are found to the south of the car parking area and to the north of Gordon House.

The habitats present within the survey area are illustrated within Figure 3. Full details of the habitats on site are provided within the separate ecological impact assessment report.

¹³ <http://rspb.org.uk>

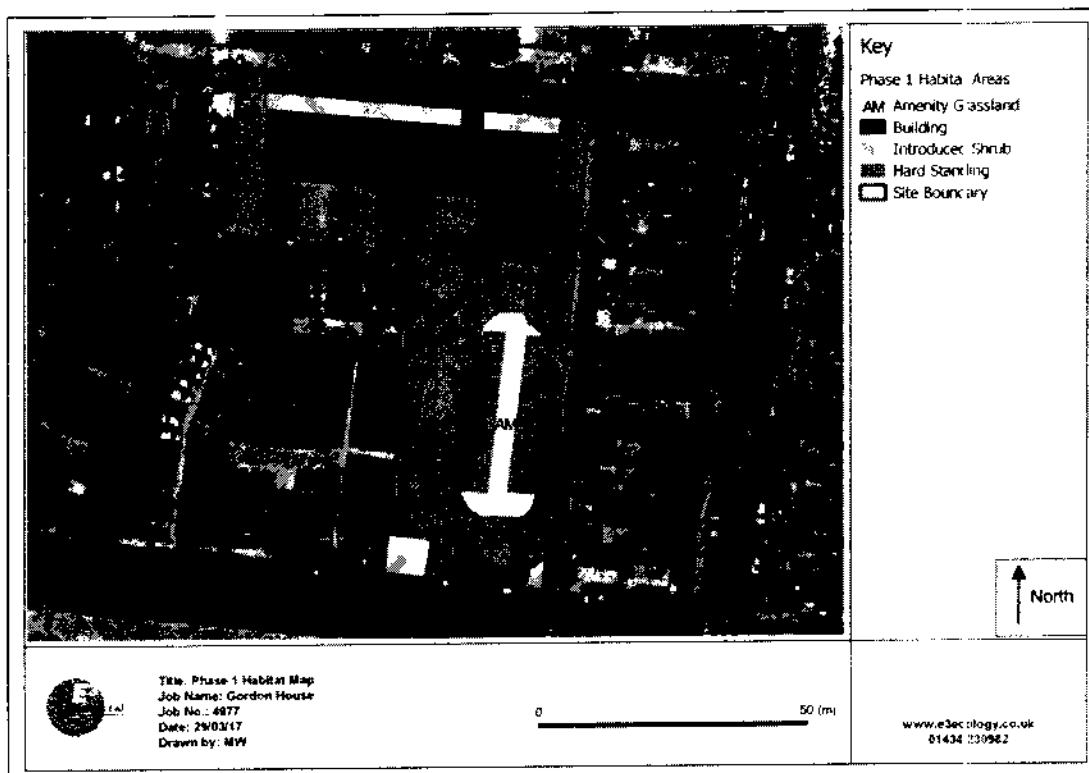


Figure 3: Habitat Map
(Reproduced from the Ordnance Survey map under licence)

E.2.2 ORNITHOLOGICAL ASSESSMENT

A small number of garden bird species may use areas of introduced shrub for nesting however this habitat, being limited in size and also exposed is considered to be of low value to them. An adult male dunnock was recorded perching on top of introduced shrubs to the south of the site, behaviour indicative of establishing a breeding territory. Such species have potential to nest within the shrubbery present on site. Herring gull were recorded over flying the site. The roof of Gordon House, being pitched in nature, is not considered suitable for this species to nest. No evidence was recorded of birds nesting within the fabric of Gordon House.

Due to the habitats present, the site is considered to be of negligible suitability for the qualifying species of the Northumbria Coast SPA, namely turnstone, purple sandpiper and little tern, and is therefore not considered to have a functional link to the SPA.



F. ASSESSMENT

F.1 POTENTIAL MECHANISMS OF EFFECT

F.1.1 DIRECT EFFECTS

Direct effects on Natura 2000 sites are only likely to result from direct habitat loss within the designated sites or loss of habitats suitable for use by qualifying species and which have a functional link to the designated sites. There may also be effects through disturbance during construction or changes in hydrology and air quality as a result of construction work to land within the designated sites or to land which has a functional link to the designated site.

F.1.2 INDIRECT EFFECTS

It is considered that there are only limited "pathways" that could contribute to indirect effects on the Natura 2000 sites; principally, this is disturbance associated with increased recreational activity, primarily dog walking, due to the increase in residents associated with any completed residential development.

F.2 SCREENING ASSESSMENT OF POTENTIAL IMPACTS AND SUBSEQUENT LIKELY SIGNIFICANT EFFECTS

TABLE 5: SCREENING ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS ON THE DURHAM COAST SAC						
Mechanism of Effect	Description of Activity	Impact/Effect	Likely Significant Effect (without mitigation)	Mitigation	Likely Significant Effect (with mitigation)	Further action required
Construction Phase (Direct)						
Direct Habitat Loss	No loss of Natura 2000 habitat					No
Storage of potential pollutants/spillages	Due to the distance from the Natura 2000 site and the nature of the proposals (small residential) no effects are envisaged					No
Degradation in Air Quality	Due to the distance from the Natura 2000 site no effects are envisaged					No
Degradation in Water Quality	Due to the distance from the Natura 2000 site and that no invasive species were recorded within the site no effects are envisaged					No
Spread of Invasive Species	No loss of Natura 2000 habitat					No
Operational Phase (Indirect)						
Increased recreational pressure associated with an increase in activity at the coast, in particular dog walking.	Potential increase in disturbance of habitats on site and introduction of additional nutrients to habitats through dog fouling.	Potential increase in disturbance and changes to ground flora as a result of nutrient enrichment.	Potential for impact	Homeowner packs to be provided, highlighting the importance of the designated sites and how to minimise effects. This will include information on local walking routes and potential alternative destinations. Local walking routes that take residents away from the coast and provide circular amenity routes will be highlighted to the new residents, particularly those utilising West Park approximately 400m to the south. Dog waste bins to be provided on the route to and within West Park to encourage dog walkers An interpretation panel to be erected at the seafront parking area, the most likely point of the coast for additional visitors to highlight the importance of the designated sites.	No	No



TABLE 6: SCREENING ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS ON THE NORTUMBRIA COAST SPA

Mechanism of Effect	Description of Activity	Impact/Effect	Likely Significant Effect (without mitigation)	Mitigation	Likely Significant Effect (with mitigation)	Further action required
Construction Phase (Direct)						
Direct Habitat Loss	No loss of Natura 2000 habitat					No
Loss of Functional Land	No loss of land utilised by wintering Qualifying Species with the site being unsuitable for the SPA qualifying species					No
Noise associated with construction	Due to the distance from the Natura 2000 site no effects associated with increased noise disturbance are envisaged					No
Increased light levels	Due to the distance from the Natura 2000 site no effects associated with increased light disturbance are envisaged					No
Storage of potential pollutants/spillages	Due to the distance from the Natura 2000 site no effects are envisaged					No
Degradation in Air Quality	Due to the distance from the Natura 2000 site and the nature of the proposals (residential) no effects are envisaged					No
Degradation in Water Quality	Due to the distance from the Natura 2000 site no effects are envisaged					No
Spread of Invasive Species	Due to the distance from the Natura 2000 site and the nature of the habitats within the SPA no effects are envisaged					No
Operational Phase (Indirect)						
Increased noise/light disturbance associated with the new development	Due to the distance from the Natura 2000 site no effects are envisaged					No
Cat ownership	Due to the distance from the Natura 2000 site no effects are envisaged					No
Increased recreational pressure associated with an increase in activity at the coast, in particular dog walking.	Potential increase in disturbance to qualifying species.	Potential displacement from foraging areas as a result of increased disturbance of qualifying species.	Potential for impact	Homeowner packs to be provided, highlighting the importance of the designated sites and how to minimise effects. This will include information on local walking routes and potential alternative destinations. Local walking routes that take residents away from the coast and provide circular amenity routes will be highlighted to the new residents, particularly those	No	No

TABLE 6: SCREENING ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS ON THE NORTHUMBRIA COAST SPA

Mechanism of Effect	Description of Activity	Impact/Effect	Likely Significant Effect (without mitigation)	Mitigation	Likely Significant Effect (with mitigation)	Further action required
				utilising West Park approximately 400m to the south. Dog waste bins to be provided on the route to and within West Park to encourage dog walkers An interpretation panel to be erected at the seafront parking area, the most likely point of the coast for additional visitors to highlight the importance of the designated sites.		

F.3 FURTHER DISCUSSION

F.3.1 DIRECT IMPACTS

Phase 1 habitat survey has identified that the site is dominated by built development and hard standing with very limited areas of amenity grassland and introduced shrub planting.

As such it does not support any of the habitats for which the Durham Coast SAC is designated. The site is also considered unsuitable to support any of the qualifying species of the Northumbria Coast SPA and Ramsar. Purple sandpiper and turnstone largely rely on rocky shore habitats, whilst little tern and arctic tern breed exclusively on sandy/shingle beaches or onshore inlets.

As can be seen from tables 4 and 5, due to the distance, approximately 2km, and the size of development (18 units), it is considered that the development will not result in any direct impacts.

F.3.2 INDIRECT MECHANISMS

Development proposals comprise the construction of 18 residential units, resulting in a potential increase in the local population, and therefore an assumed increase in numbers of domestic dogs and cats. Using the average household size of West Park, South Tyneside of two people¹⁴, a potential increase of 36 people is expected as a result of the development, although it is considered likely that not all will be from outside the area such that the actual increase in population size is likely to be less.

The 2017 Pet Population Report¹⁵ indicates that in the north east of England 31% of households own dogs, with an average of 1.2 dogs per household. For the new development, this would equate to ~6 households with dogs, totalling an additional 7 dogs. All figures are rounded to the nearest whole number and as above it is unlikely that all additional dogs are from outwith the existing area.

Due to the distance from the SPA, ~2km away, and the nature of the land use between, no impacts with regards to cat predation are envisaged as their likely range is considerably less than this.

Recent guidance on providing for dog ownership within new developments produced by Hampshire County Council¹⁶ suggests that dog owner's walk up to an average distance of 400-500m from their homes to reach greenspace for dog-walking, where a suitable space is available. Dog walking is typically carried out twice a day, year round, with an average walk length of 2.7km. West Park, an 11ha area of public open space, lies approximately 300m to the south of the proposed development site and is a likely regular dog walking destination. Further public open space is also present approximately 500m to the north east. This area will be highlighted to the new residents.

The South Tyneside, Sunderland and Durham Coastal Visitor Winter Survey¹⁷ found that 30% of those interviewed walk their dog at the coast as there is nowhere suitable / no green space close to home – of those people over half (54%) would use green space some or most of the

¹⁴<http://www.ukcensusdata.com/cleadon-and-east-boldon-e00043768/usual-resident-population-s101ew#sthash.gNa0aftp.dpbs>

¹⁵ <http://www.pfma.org.uk/pet-population-2017>

¹⁶ Jenkinson, S (2013) Planning for Dog Ownership in New Developments: Reducing Conflict – Adding Value. Hampshire County Council.

¹⁷ Bluegrass (2016) South Tyneside, Sunderland and Durham Coastal Visitor Winter Survey 2016

time if available close to home. The survey found that those visiting the coast at South Tyneside are less likely to drive and more likely to walk to the coast compared to the wider, combined Local Authority region. Furthermore dog walkers at the coast are more likely to be coming from within a half mile radius.

The survey does however highlight that people will travel up to 31 miles to visit the coast but that South Tyneside has a significantly higher proportion of visitors travelling ½ mile or less.

This therefore means that both the Northumbria Coast SPA and Durham Coast SAC are well within this range for people to travel in order to walk their dogs.

If travelling by car the most likely destination for visitors is considered to be the South Shields sea front where car parking and associated recreational infrastructure is present, approximately 2.8km from the development site by road. The section of beach adjacent to the sea front and most likely to be accessed is not part of the SPA or SAC although it is accepted that people will at times take longer walks southward along the coast, which would include entering the SAC and potentially the SPA, although this section of the SPA is primarily steep cliffs and rocky shore and therefore less likely to be accessed.

Given the above, there is considered to be a low risk of proposals having an adverse effect on the SPA or SAC through a slight increase in recreational activity, without appropriate mitigation.

F.4 MITIGATION

F.4.1 PROPOSED MITIGATION

To address the potential adverse effect of a potential slight increase in recreational pressure at the coast, with the MAGIC website¹⁸ highlighting that the site lies within a designated Impact Risk Zone for the coastal SSSIs, with potential impacts arising from residential development comprising greater than 10 units, the following suite of mitigation is recommended:

- Provision of a house pack to new residents providing information on Natura 2000 sites in the local area. This pack should detail the potential impacts on the Natura 2000 sites and identify suitable alternative green infrastructure in the local area.
- Local walking routes that take residents away from the coast and provide circular amenity routes will be highlighted to the new residents, particularly those utilising West Park approximately 400m to the south.
- Dog waste bins to be provided on the route to and within West Park to encourage dog walkers
- An interpretation panel to be erected at the seafront parking area, the most likely point of the coast for additional visitors to highlight the importance of the designated sites.

¹⁸ <http://www.natureonthemap.naturalengland.org.uk/>

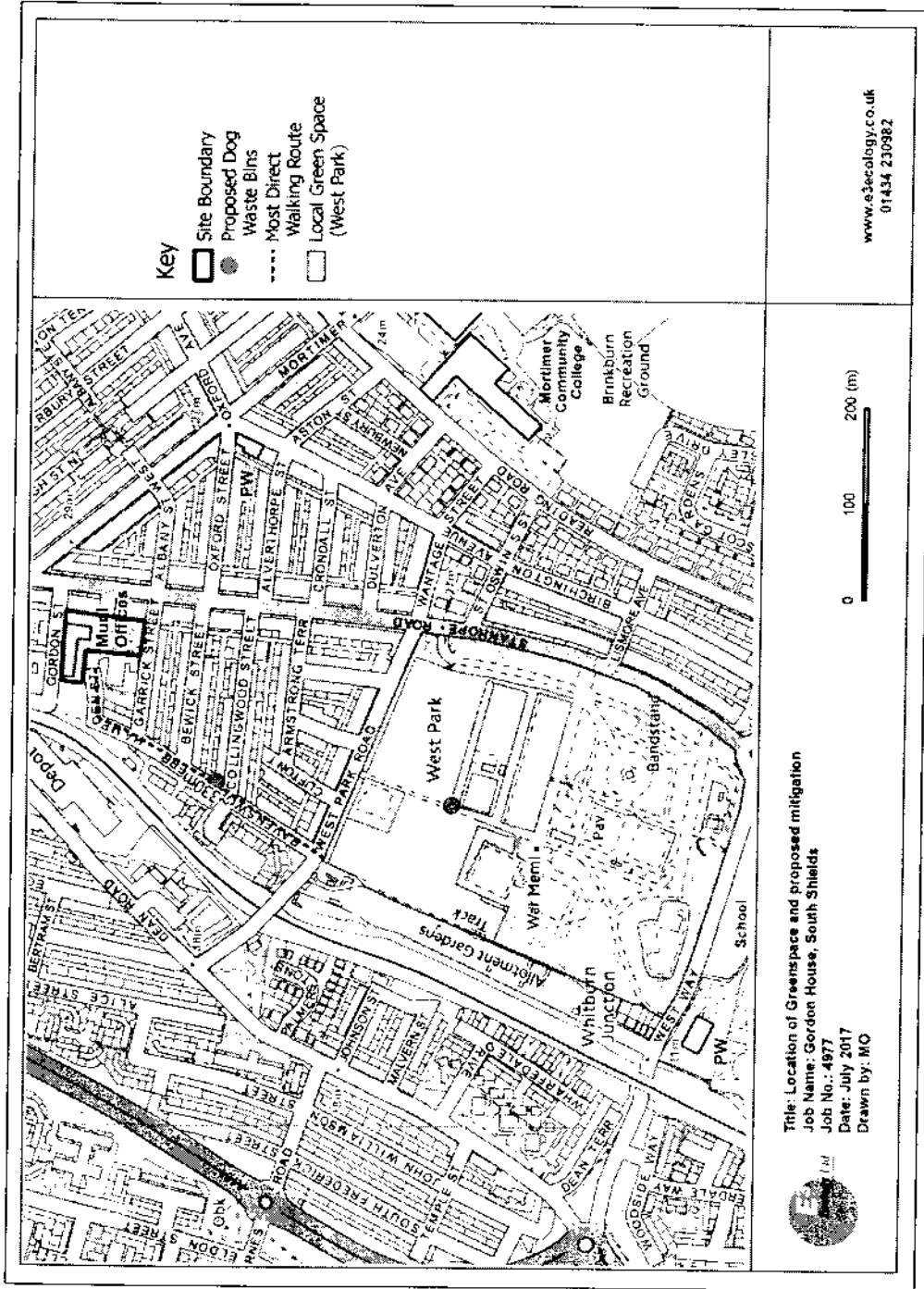


Figure 4: West Park and Potential Mitigation Locations
 (Reproduced from the Ordnance Survey map under licence)

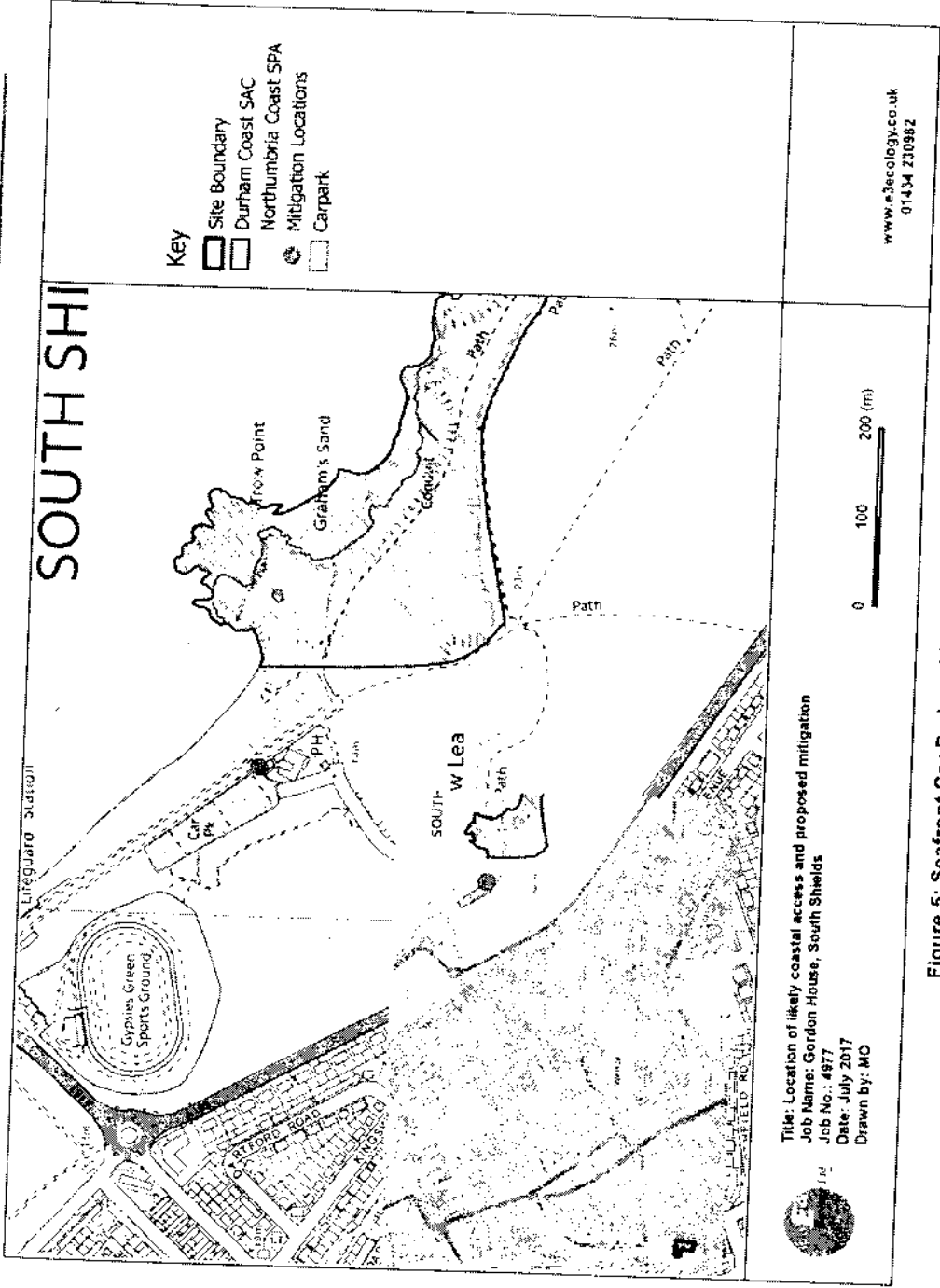


Figure 5: Seafont Car Park and Proposed Mitigation Locations
 (Reproduced from the Ordnance Survey map under licence)

G. CONCLUSIONS

No direct habitat loss from any of the Natura 2000 sites, or loss of habitat suitable to support qualifying features will occur and given the distance, no effects associated with the construction of the site are envisaged.

There is considered to be a low risk of proposals having a significant effect on the Northumbria Coast SPA and/or Durham Coast SAC through a slight increase in visitor numbers as a result of the development, however with the targeted mitigation no likely significant effects are predicted.

It is therefore concluded that with the proposed mitigation no likely significant effects on the qualifying features and conservation objectives of Natura 2000 sites are anticipated.

Executed as a Deed by affixing

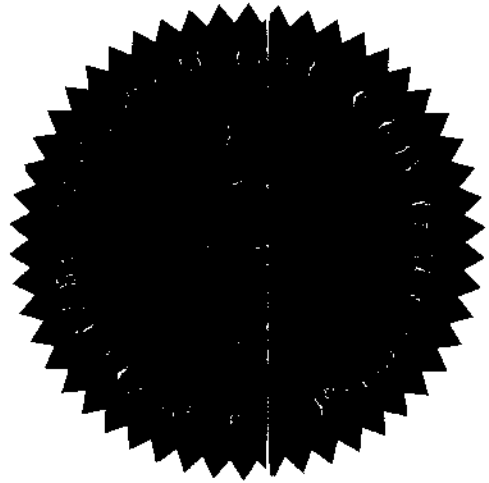
The Common Seal of

THE COUNCIL OF THE BOROUGH OF SOUTH TYNESIDE

in the presence of:

[Redacted]
Mayor/Authorised Signatory

[Redacted]
Head of Legal Services/Authorised Signatory



Executed as a Deed by

KARBON HOMES LIMITED

Acting by:

[Redacted] Director

[Redacted] Director / Secretary

