



Department for  
Communities and  
Local Government

Mr Peter Jordan  
Persimmon Homes  
2 ESH Plaza  
Sir Bobby Robson Way  
Newcastle upon Tyne  
NE13 9BA

Our Ref: APP/W4515/A/13/2210012

15 December 2014

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL BY PERSIMMON HOMES  
LAND TO THE EAST OF STATION ROAD, WALLSEND, NORTH TYNESIDE, NE28  
9YT APPLICATION REF: 12/02025/FUL**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Richard Clegg BA (Hons) DMS MRTPI, who held a public local inquiry from 24 to 27 June 2014 into your appeal against a decision of North Tyneside Council (“the Council”) to refuse planning permission for the development of 18.976ha for residential use capable of accommodating approximately 425 dwellings, approximately 400m<sup>2</sup> of A1 retail use, and 318m<sup>2</sup> of D1 health centre use, with associated car parking (proposal for outline planning permission), and the erection of 225 dwellings, construction of a three arm roundabout at the A186 (Station Road), and the provision of associated open space, landscaping, sustainable urban drainage system, and strategic open space (proposal for full planning permission), in accordance with application ref:12/02025/FUL, dated 12 December 2012.
2. On 13 January 2014 the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves proposals for residential development of over 150 units or on sites of over 5 hectares which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable mixed, and inclusive communities.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal be allowed and planning permission be granted subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and recommendation. He has decided to allow the appeal and grant planning permission subject to conditions. A copy of the

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Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

### **Procedural Matters**

4. The application for costs made by your clients (IR1) is the subject of a decision letter which is also being issued today.
5. The Secretary of State has taken into account the Environmental Statement (ES) which was submitted (IR6). Like the Inspector he is satisfied that the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 have been met (IR6) and he considers that sufficient information has been provided for him to assess the environmental impact of the proposals.

### **Policy considerations**

6. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the saved policies of the North Tyneside Unitary Development Plan (UDP), adopted in 2002. The Secretary of State considers that the UDP policies most relevant to this case are those identified at IR14-15.
7. Material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework, March 2012) and the associated guidance issued in March 2014. He has also taken into account the Community Infrastructure Levy (CIL) Regulations 2010 as amended.
8. The Secretary of State has taken into account the emerging North Tyneside Local Plan and agrees with the Inspector that as it is at a relatively early stage in its preparation its draft policies carry only limited weight (IR17).
9. The Secretary of State has also taken into consideration the following local policy documents: the supplementary planning documents Planning Obligations (Local Development Document 8 – LDD8 – CD22) and Transport and Highways (LDD12), the North Tyneside Greenspace Strategy (Document L11), and the Allotment Strategy 2009-2015 (Document L12).

### **Main issues**

10. The Secretary of State agrees with the Inspector that the main issues are those listed at IR68.

### The principle of development

11. The Secretary of State agrees with the Inspector's reasoning and conclusions at IR69-76. He agrees with the Inspector that, although the appeal site is designated as safeguarded land in the UDP, the plan period ended in 2006, and accordingly the absolute requirement to retain safeguarded land as open no longer applies (IR69). The Secretary of State, like the Inspector (IR76), considers that the development of the appeal site would not be unacceptable in principle.

## Character and Appearance

12. For the reasons given at IR77-88, the Secretary of State agrees with the Inspector's conclusions at IR89 that the proposed development would have certain adverse effects on the character and appearance of the area, with the only significant adverse effect being on the setting of Rising Sun Hill. He agrees that, although in consequence there would be a conflict with Policy E21/1 of the UDP, this policy is out-of-date and therefore carries limited weight (IR89). He also agrees that, as the effect will be localised, the proposed development would not give rise to a material conflict with the core planning principles in paragraph 17 of the NPPF.

## **Other considerations**

### Housing land supply

13. For the reasons given at IR90-92, the Secretary of State agrees with the Inspector and the main parties that there is not a five year supply of housing land (IR93). He also agrees with the Inspector's conclusion at IR93 that the contribution of the appeal site towards the provision of a five years supply of housing land carries significant weight in support of the appeal proposal.

### Affordable housing

14. The Secretary of State has given careful consideration to the Inspector's reasoning and conclusions at IR94. He notes that there is an overall target that 25% of the housing will be affordable. However, for the reasons set out at paragraph 22 below he does not consider that the terms of the planning obligation guarantee this level of provision, other than for phase A. The absence of such a guarantee limits the weight that he attaches to benefit of affordable housing for these later phases.

### Economic Implications

15. The Secretary of State agrees with the Inspector's reasoning and conclusions at IR95 that the economic implications identified are important benefits.

### Parks

16. The Secretary of State agrees with the Inspector's reasoning and conclusions at IR96 in respect of the financial contributions outlined with regard to the Country Park and Benton Quarry Park and agrees that moderate weight should be attached to these benefits.

### Flood risk and drainage

17. The Secretary of State has considered the Inspector's reasoning and conclusions at IR97-98 concerning flood risk and, like the Inspector, is satisfied that discharge from the site would be controlled. He also agrees that the detailed design of drainage schemes could be subject to the approval of the local planning authority.

### Traffic movement

18. The Secretary of State agrees with the Inspector's reasoning and conclusions at IR99. He agrees that the proposed development would not have an adverse effect on traffic movement in the locality.

## Wildlife

19. The Secretary of State agrees with the Inspector's reasoning and conclusions at IR100-102 regarding wildlife. Like the Inspector he does not consider that the development with the additional safeguards in place would have a material effect on wildlife in the area (IR102).

## Ground conditions

20. The Secretary of State agrees with the Inspector's reasoning and conclusions at IR103 and notes that a site investigation undertaken on behalf of the appellant concluded that the site is not at risk from shallow mine workings and that there is no substantive contrary evidence.

## **Conditions**

21. The Secretary of State has considered the Inspector's comments at IR66-67 on the proposed planning conditions. He is satisfied that those conditions set out in the Annex to the IR and reproduced in Annex A to this letter are reasonable and necessary and meet the tests of the Framework and the guidance.

## **The Planning Obligation**

22. The Secretary of State has considered the Inspector's comments at IR104-107 and the submitted planning obligation. In respect of affordable housing, he is satisfied that the planning obligation guarantees that 25% of the 225 dwellings of phase A would be affordable. However, for subsequent phases of the scheme, which would provide the remaining 425 dwellings, the planning obligation requires only that a scheme for the delivery of affordable housing, including the level of provision, is submitted to the Council. No level of provision is guaranteed for these phases. The Secretary of State has set out at paragraph 14 above the weight he attaches to the benefit of affordable housing in this case. In other respects he agrees with the Inspector's reasoning and conclusions at IR104-107 and agrees that the statutory tests in Regulation 122 of the CIL regulations 2010 are met.

## **Overall conclusions**

23. The Secretary of State has carefully considered the Inspector's conclusions at IR108-110. He concludes, like the Inspector, that the proposal would represent a sustainable form of development (IR108). He also agrees that the Local Plan policies concerning housing land are out-of-date and that in this situation paragraph 14 of the Framework explains that the presumption in favour of sustainable development means granting permission unless any adverse impacts would significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate that development should be restricted (IR109). The Secretary of State agrees that there are no specific policies in the Framework which indicate that the development proposed should be restricted (IR109).

24. The Secretary of State agrees that there would be certain adverse effects to the character and appearance of the area, including the significant effect on the setting of Rising Sun Hill and conflict with UDP policies H11 and E21/1 (IR110). He also shares the Inspector's conclusion that the conflict with the UDP policies concerning safeguarded land and housing carries little weight (IR110). The Secretary of State agrees that the provision of additional housing to contribute to land supply is a matter

that merits significant weight (IR110) but considers that the weight merited by the provision of affordable housing is limited for the reasons set out at paragraph 14 above. In addition to this, he agrees that the development would provide important economic benefits and improvements to Rising Sun Country Park and Benton Quarry Park which merits moderate weight (IR110). Accordingly, like the Inspector (IR110) the Secretary of State considers that the adverse effects of the proposal would not significantly and demonstrably outweigh the benefits and, hence, in accordance with paragraph 14 of the NPPF, the presumption in favour of sustainable development indicates that permission should be granted.

### **Formal Decision**

25. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission for the development of 18.976ha for residential use capable of accommodating approximately 425 dwellings, approximately 400m<sup>2</sup> of A1 retail use, and 318m<sup>2</sup> of D1 health centre use, with associated car parking (proposal for outline planning permission), and the erection of 225 dwellings, construction of a three arm roundabout at the A186 (Station Road), and the provision of associated open space, landscaping, sustainable urban drainage system, and strategic open space (proposal for full planning permission), in accordance with application ref:12/02025/FUL, dated 12 December 2012, subject to the conditions set out at Annex A.
26. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
27. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.
28. This letter serves as the Secretary of State's statement under regulation 24(2) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

### **Right to challenge the decision**

29. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
30. A copy of this letter has been sent to North Tyneside Council. A notification e-mail or letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

**Richard Watson**

Authorised by Secretary of State to sign in that behalf

## **Annex A – schedule of conditions**

### ***General***

- 1) The residential development of phase A hereby permitted shall begin not later than three years from the date of this decision.
- 2) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") for phases B, C and D shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved. The reserved matters shall be consistent with the design and access statement.
- 3) Application for approval of the reserved matters for each phase shall be made to the local planning authority not later than seven years from the date of this permission, and shall begin not later than two years from the date of approval of the last reserved matters to be approved.
- 4) The development relating to the outline planning permission shall be carried out in accordance with plans OF/A-OF/C and the development relating to the full planning permission shall be carried out in accordance with plans OF/A-OF/C, F/A and F/C1-F/E.
- 5) The development shall be built only in accordance with the sequence set out in the phasing plan 175/A/GA/101B. The A1 and D1 development shall not take place without implementation of the residential development.
- 6) The development hereby permitted shall include no more than 650 dwellings.
- 7) No construction work shall be carried out or deliveries made to the site outside the following times: 0800 to 1800 hours from Monday to Friday, and 0800 to 1400 on Saturdays. No construction work shall be carried out or deliveries made to the site at any time on Sundays or public holidays.
- 8) The hours of operation of the A1 and D1 units and the use of the adjacent car park shall be restricted to the following times: 0730 to 2200 hours. No deliveries shall be made or collections taken from the A1 and D1 units outside the following times: 0730 to 2200 hours.

### ***Site investigation and ground works***

- 9) No ground works or development shall take place within the site until a programme of archaeological fieldwork has been carried out in accordance with a scheme which has been submitted to and approved in writing by the local planning authority. The programme shall be carried out in accordance with the approved scheme.
- 10) No ground works or development shall take place within the site until an archaeologist has been appointed to undertake a programme of observations, including the recording of finds, in accordance with a scheme which has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme and programme.

- 11) The results of the archaeological fieldwork and observations undertaken in accordance with conditions Nos 9 and 10 shall be submitted to and approved by the local planning authority within six months of the completion of those investigations.
- 12) Prior to the commencement of each phase, a scheme showing how the development is to be protected against the possibility of landfill gas migration from the nearby former landfill site shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.
- 13) No development shall take place until an investigation to test for the presence of gas emissions from underground has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any gas emissions are encountered, a report specifying the measures to be taken to render the site suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. These measures shall be undertaken before development begins, and upon their completion a validation report shall be submitted to and approved by the local planning authority confirming that the site is suitable for the development hereby permitted.
- 14) No development shall take place until a contamination investigation has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins. Upon completion of remediation, a validation report shall be submitted to and approved by the local planning authority confirming that the site has been remediated in accordance with the approved measures and that the site is suitable for the development hereby permitted.

If, during the course of development, any contamination is found which has not been identified in the site investigation, then additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

### **Noise**

- 15) No development of phase A or phase C shall take place until a scheme of mitigation relating to traffic noise on the A186 has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.
- 16) No external plant shall be installed on the A1 and D1 units until an acoustic scheme has been submitted to and approved in writing by the local planning authority. The acoustic scheme should demonstrate that the rating level would be

no greater than 5dB above the background noise level, measured in accordance with British Standard BS 4142. The development shall be carried out in accordance with the approved scheme and thereafter retained.

### ***Design and layout***

- 17) In each phase, no development shall take place until details of the existing and proposed ground levels and the proposed finished floor levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 18) No development shall take place in phase A until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 19) No development shall take place in phase A until a scheme of boundary treatment, including a programme for implementation, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and programme.
- 20) In each phase, no development shall take place until a scheme for the storage of refuse, providing for the use of wheeled refuse bins, has been submitted to and approved in writing by the local planning authority. No building shall be occupied until the refuse storage facility for that building has been provided in accordance with the approved scheme, and the facility shall be retained thereafter.

### ***Landscaping and ecology***

- 21) No development of phase A shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, which shall include full details of the area identified as L1a on the phasing plan ref 175/A/GA/101B. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the commencement of phase A; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current or next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 22) The landscaping schemes submitted in respect of conditions Nos 21 and 2 shall incorporate the birdstrike mitigation recommendations contained in the Birdstrike Risk Assessment Report for Persimmon Homes, Station Road by the Animal Health and Veterinary Laboratories Agency dated 3 May 2013 (Document A16).
- 23) Prior to the implementation of the landscaping schemes submitted in respect of conditions Nos 21 and 2, a management plan for the landscaped areas shall have been submitted to and approved in writing by the local planning authority. The landscaped areas shall thereafter be maintained in accordance with the approved plan.
- 24) No clearance of vegetation shall take place during the bird nesting season (1 March – 31 August inclusive) unless a survey by a qualified ecologist undertaken immediately before such works confirms the absence of nesting birds.

- 25) In each phase, no development shall take place until a detailed lighting scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include details of the location and type of lighting to be installed in that phase, shall demonstrate how light spillage will be avoided in and adjacent to areas of sensitive habitat, and include a programme for implementation. The development shall be carried out in accordance with the approved scheme, which shall be retained thereafter.
- 26) In each phase, no development shall take place until a scheme detailing pollution prevention measures to prevent contamination of watercourses or land, including a programme for implementation, has been submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved scheme, which shall be retained thereafter.
- 27) No development shall take place until full details of and a management plan for the wetland areas and the sustainable urban drainage system have been submitted to and approved by the local planning authority. The details shall include the size, depth, profile and planting of the ponds and a programme for implementation. The wetlands and sustainable urban drainage system shall be implemented and maintained in accordance with the approved details and management plan.
- 28) Prior to the implementation of the footway and cycleway along Whitley Road in accordance with condition No 34, details of a watching brief, including an arboricultural survey and a method statement for surfacing and edging work close to the retained hedgerow and trees, shall be submitted to and approved in writing by the local planning authority. As part of the watching brief, no vegetation shall be removed without the prior approval of the local planning authority. The footway and cycleway shall be implemented in accordance with the approved watching brief.

### **Highways**

- 29) No development shall take place until a construction method statement has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:
- i) the parking of vehicles of site operatives and visitors
  - ii) loading and unloading of plant and materials
  - iii) storage of plant and materials used in constructing the development
  - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - v) wheel washing facilities
  - vi) measures to control the emission of dust and dirt during construction
  - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works
  - viii) the route for heavy construction vehicles to use travelling to and from the site
  - ix) a turning area for delivery vehicles
  - x) identification of the site access.

30) Notwithstanding the details on plans refs F/B and H/A-H/C, no development shall take place until schemes for the following works have been submitted to, and approved in writing by, the local planning authority:

- i) Temporary site accesses, which shall not be constructed until approved in writing by the local planning authority.
- ii) A roundabout access from Station Road towards the southern end of the site frontage, to be implemented within 12 months of the commencement of development.
- iii) A secondary T junction access from Station Road towards the northern end of the site frontage, to be implemented prior to the occupation of the 200th dwelling.
- iv) A scheme for the removal of the mini-roundabout and the installation of traffic signals with pedestrian/ cycle phases and MOVA at the junction of Station Road and Hotspur Road, to be implemented prior to the occupation of the 350th dwelling.
- v) A scheme for the widening of approaches and enhancement of pedestrian crossing facilities at the roundabout junction of Station Road/ Mullen Road/ Wiltshire Drive, to be implemented prior to the occupation of the 100th dwelling.
- vi) A scheme for improvements to the junctions of Station Road with Coast Road and Wiltshire Gardens, to be implemented prior to the occupation of the 175th dwelling. The scheme shall include the removal of the mini-roundabout at the junction of Station Road and Wiltshire Gardens with restricted vehicular movements, the widening of the Coast Road off-slip road, construction of an exit from Wiltshire Gardens onto the Coast Road off-slip road with restricted vehicular movements, improved pedestrian and cycle crossing facilities, a swept path analysis of all junction layouts, and a stage 1 road safety audit.

The highway works shall be implemented in accordance with the approved schemes and the timescales at (i) – (vi) above.

31) No later than six months from the roundabout access from Station Road to the site being brought into use, all existing accesses not incorporated into the development shall be permanently closed in accordance with a scheme submitted to, and approved in writing by, the local planning authority.

32) Prior to the construction of the T junction of the secondary access with Station Road, visibility splays between a point 4.5m along the centre line of the access measured from the edge of the carriageway of Station Road and points 90m along the edge of the carriageway of Station Road measured from the intersection of the centre line of the access. The area contained within the splays shall thereafter be kept free of any obstruction exceeding 0.6m in height above the nearside channel level of the carriageway.

33) Notwithstanding the details on plan ref F/B, no development shall take place until schemes for the following works, including a programme for their implementation, have been submitted to, and approved in writing by, the local planning authority:

- i) The upgrading of the northbound bus stop on Station Road (north of the secondary access), including a bus cage and a three bay shelter.

- ii) Two bus lay-bys with three bay shelters on Station Road between the site accesses.
- iii) A pedestrian refuge on Station Road to the north of the secondary access.
- iv) A toucan crossing on Station Road between the site accesses.
- v) A pegasus crossing on Station Road at the southern end of the site.

The above works shall be implemented in accordance with the approved schemes and programmes.

- 34) Notwithstanding the details on plan ref H/D, no development shall take place until a scheme for the construction of an adoptable 2-3m shared use footway/ cycleway with street lighting from the southern boundary of the site on Station Road to the Asda store on Whitley Road has been submitted to, and approved in writing by, the local planning authority. The footway/ cycleway shall be implemented in accordance with the approved scheme within 12 months of the commencement of the development.
- 35) Prior to the construction of each phase, details of the adoptable roads and footways for that phase and a programme for their implementation shall be submitted to and approved by the local planning authority. The roads and footways shall be implemented in accordance with the approved details and programme.
- 36) Prior to the construction of each residential phase, a scheme of bus stops and associated lining and signage for that phase and a programme for their implementation shall be submitted to and approved by the local planning authority. The bus stops and associated works shall be implemented in accordance with the approved scheme and programme.
- 37) No dwelling in phase A shall be occupied until space for the parking of vehicles for that dwelling has been laid out in accordance with the approved site plan ref 157/A/GA/001C. This space shall be retained for the passage and parking of vehicles.
- 38) In each phase, no building shall be occupied until secure undercover cycle parking has been provided in accordance with a scheme to be submitted to, and approved in writing by, the local planning authority.
- 39) Prior to the construction of each phase, a scheme of multi-user links and footpaths to the surrounding public rights of way network and Rising Sun Country Park, including details of routing, construction and signage, and a programme for implementation shall be submitted to and approved by the local planning authority. The links and footpaths shall be implemented in accordance with the approved scheme and programme.
- 40) No dwelling in phase A shall be occupied until space for the turning of refuse vehicles has been laid out in accordance with the approved site plan ref 157/A/GA/001C. This space shall be retained for the passage of vehicles.
- 41) Prior to the construction of each phase, details of traffic calming measures for that phase and a programme for their implementation shall be submitted to and approved by the local planning authority. The traffic calming measures shall be implemented in accordance with the approved details and programme.

## ***Drainage***

- 42) In each phase, no development shall take place until a scheme for the management and disposal of surface water has been submitted to and approved in writing by the local planning authority. The scheme shall include the means of drainage of overland flows through the site and a programme for implementation in relation to different parts of that phase. The surface water management and disposal works shall be implemented in accordance with the approved scheme and programme.
- 43) In each phase, no development shall take place until a scheme for the disposal of foul sewage has been submitted to and approved in writing by the local planning authority. The scheme shall include a programme for implementation in relation to different parts of that phase. The foul drainage works shall be implemented in accordance with the approved scheme and programme.



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# **Report to the Secretary of State for Communities and Local Government**

**by Richard Clegg BA(Hons) DMS MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Date 17 September 2014**

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**TOWN AND COUNTRY PLANNING ACT 1990**  
**NORTH TYNESIDE COUNCIL**  
**APPEAL BY**  
**PERSIMMON HOMES**

Inquiry opened on 24 June 2014

Land to the east of Station Road Wallsend, North Tyneside, NE28 9YT

Appeal Ref: APP/W4515/A/13/2210012

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**File Ref: APP/W4515/A/13/2210012**

**Land to the east of Station Road, Wallsend, North Tyneside, NE28 9YT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline and full planning permission.
- The appeal is made by Persimmon Homes against the decision of North Tyneside Council.
- The application Ref 12/02025/FUL, dated 12 December 2012, was refused by notice dated 24 October 2013.
- The development proposed is the development of 18.976ha for residential use capable of accommodating approximately 425 dwellings, approximately 400m<sup>2</sup> of A1 retail use, and 318m<sup>2</sup> of D1 health centre use, with associated car parking (proposal for outline planning permission), and the erection of 225 dwellings, construction of a three arm roundabout at the A186 (Station Road), and the provision of associated open space, landscaping, sustainable urban drainage system, and strategic open space (proposal for full planning permission).
- The inquiry sat for four days, 24-27 June 2014.
- Site visits were made on 27 June 2014.

**Summary of Recommendation: The appeal be allowed, and planning permission granted subject to conditions.**

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**Procedural Matters**

1. At the Inquiry an application for costs was made by Persimmon Homes against North Tyneside Council. This application is the subject of a separate report.
2. The appeal was recovered for decision by the Secretary of State for Communities and Local Government by letters dated 13 January 2014, as it involves proposals for residential development of over 150 units or on sites of over 5ha, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable mixed, and inclusive communities.
3. The proposal for full planning permission covers the housing on the south-western part of the site, and areas proposed for perimeter landscaping along the eastern, southern and part of the western sides of the land. The retail and health centre development would take place in the south-western part of the appeal site, but it is excluded from the proposal for full permission. This area, together with the remainder of the appeal site, is the subject of the outline proposal. Plan OF/B identifies the extent of the areas covered by the full and outline proposals. Approval is not sought for any matters of detail as part of the outline component of the scheme. Illustrative landscaping plans have been submitted in respect of the proposals for both outline and full permission<sup>1</sup>.
4. Planning permission was refused for the following reasons:
  1. *The proposal would lead to the loss of a natural buffer which provides an open break between the established residential areas of Wallsend and Benton contrary to Policy E21/1 of the North Tyneside Unitary Development Plan 2002.*

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<sup>1</sup> Plans Nos OF/E1-E2 and F/F1-F2.

- 2. The proposal would have a detrimental visual impact on the character of the area, including the Rising Sun Country Park, contrary to Policy H11 and E21/1 of the North Tyneside Unitary Development Plan 2002.*
  - 3. The proposal would result in the loss of an agricultural field contrary to Policy E21/1 of the North Tyneside Unitary Development Plan 2002.*
  - 4. The proposal will increase flood risk to the surrounding area contrary to advice set out in (the) NPPF.*
  - 5. The development will lead to traffic generation on the road network where there is insufficient capacity which would not be adequately mitigated, and would be contrary to advice set out in (the) NPPF and Policy H5, Policy H11 of the North Tyneside Unitary Development Plan 2002.*
  - 6. The proposal would have an unacceptable adverse impact upon the biodiversity of the site and the Rising Sun Country Park which is not adequately mitigated for contrary to Policy E12/3 and E12/7 of the North Tyneside Unitary Development Plan 2002.*
  - 7. The proposal would result in an unacceptable level of noise affecting properties fronting Station Road contrary to Policies E3 and H11 of the North Tyneside Unitary Development Plan 2002.*
5. In a letter dated 10 February 2014, the Council advised the Appellant that it would not be pursuing reason for refusal No 7 concerning noise (Core Document 16 – CD16). Subsequently, in a letter dated 1 April 2014, the Council advised that it would not be pursuing reasons Nos 1, 3, 4, 5 and 6, which concern the loss of an open break, the loss of agricultural land, flood risk, traffic generation and biodiversity respectively (CD17).
  6. An environmental statement accompanied the planning application (Documents A7-A9). The adequacy of the information contained in the environmental statement was not disputed by the Council, and I am satisfied that the requirements of The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 have been met. I have taken the environmental statement into account in considering this proposal.
  7. A planning obligation in the form of an agreement between Beazer Homes Ltd and the Council was submitted at the inquiry (Document G3). Its provisions concern contributions towards allotments, open space and recreation facilities, rights of way, health, education and highways; commitments to an ecological management plan, a training framework, and a travel plan; and arrangements for affordable housing. The Council submitted a statement (Document L7) which sets out its view on compliance of the obligations with Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (CILR).
  8. This report contains a description of the site and its surroundings, an explanation of the proposal, identification of relevant planning policies, details of agreed matters, and the gist of the submissions made at the inquiry and in writing, followed by my conclusions and recommendation. Lists of appearances and inquiry documents are appended. The written closing submissions on behalf of the Council and the Appellant are included as inquiry documents: in delivery they were subject to a number of detailed alterations.

## **The Site and Surroundings<sup>2</sup>**

9. The appeal site is situated at the northern edge of the built-up area of Wallsend, about 2.4km from the town centre. Station Road (the A186), which runs past the western side of the site, is a main route into and out of the town. Immediately to the south of the site is an area of contemporary residential development, comprising a variety of two-storey properties. There is similar residential development on the other side of Station Road, to the south of the footpath to East Benton Farm. To the north of the footpath and on the opposite side of Station Road to the appeal site a tract of agricultural land extends westwards. Rising Sun Country Park lies to the north and east of the site<sup>3</sup>: on the eastern side footpaths ascend a low hill from the top of which there are extensive views over the surrounding area. By the north-west corner of the site, is the junction of Station Road with Whitey Road (the A191). On the east side of the junction is a car sales business, and on the far side of the A191 is North Tyne Industrial Estate.
10. The appeal site itself is a single large field, amounting to about 28.8ha, which slopes gradually down to the south. Electricity transmission lines are carried on pylons across the northern end of the site. In terms of agricultural land classification, the majority of the site is grade 3b, with the remainder being grade 4 (CD7). There is tree and hedgerow cover along the northern boundary, between the site and a bridleway<sup>4</sup>. A ditch and bridleway run alongside the eastern boundary of the site: this side is more open, although there is an area of scrub and bushes towards the south-east corner. Both the southern and western boundaries of the field are generally open, and a public footpath runs alongside the southern boundary, between the site and the nearby housing.

## **Planning History**

11. There is no relevant planning history prior to the appeal proposal.

## **The Proposal**

12. It is proposed to construct approximately 650 dwellings on the appeal site, 25% of which would be affordable housing. In phase A (covered by the proposal for full permission), there would be 225 dwellings, including 56 affordable units. Three phases of residential development are proposed, with a separate phase covering the retail and health facilities<sup>5</sup>. Most of the dwellings would be two-storey houses, but the scheme also includes a number of bungalows and flats in two and three-storey blocks. It is intended that the retail units and health centre would be constructed together, to the south of the roundabout junction of the estate road with the A186. Areas of landscaping are proposed around the perimeter of the site (Plan OF/E2 – landscape masterplan). The line of pylons would lie within a substantial belt of landscaping which would increase in depth to over 100m in the north-west corner<sup>6</sup>. On the east side of the site, the belt of landscaping would vary in depth between about 35m and 104m, and the south-

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<sup>2</sup> Photographs of the site and its surroundings are included in Document L5 (Volume 2) and Document A20.

<sup>3</sup> Plan O/D1 shows the extent of the country park.

<sup>4</sup> Public rights of way in the vicinity of the site are shown on figure 05 in Document A20.

<sup>5</sup> Plan OF/C shows the intended phasing of the development.

<sup>6</sup> Dimensions of perimeter landscaping are given on Plan O/E.

east corner would include ponds as part of the sustainable urban drainage system.

13. The two vehicular accesses to the site form part of the proposal for full planning permission. Towards the southern end of the Station Road frontage, a roundabout junction would be constructed, with a priority junction further north. Certain off-site highway works are also proposed. These involve alterations to the junctions of Station Road with Hotspur Road, Wiltshire Drive/ Mullen Road, and Coast Road, all to the south of the appeal site<sup>7</sup>. In addition it is intended that a footway/ cycle way would be constructed along the south-east side of Whitley Road (the A191) from the junction with Station Road to the existing footway just to the south-west of the junction with Chollerton Drive and the access to the Asda store<sup>8</sup>. The contribution towards highway works in the planning obligation concerns funding for improvements to the A191 corridor between Four Lane Ends and Holystone. In addition crossing facilities, two bus lay-bys and an upgraded bus stop would be provided on Station Road in the vicinity of the appeal site<sup>9</sup>.

### **Planning Policy**

14. The Development Plan comprises the saved policies of the North Tyneside Unitary Development Plan (UDP)<sup>10</sup>. In the UDP, the appeal site comprises an area of safeguarded land under Policy E21. The policy explains that such land is defined between the Green Belt and the urban area, and that it should be maintained in its open state for at least the plan period, which extended up to 2006. Policy E21/1 lists criteria which should be satisfied for the development of safeguarded land to be permitted. Amongst other matters the proposal should not cause significant visual intrusion, and no alternative site should be reasonably available. The determination of proposals for residential development should take account of a range of factors, including the impact on the site, local amenity, the environment and adjoining land uses (Policy H11). Proposals for affordable housing are encouraged on the basis of site suitability and an assessment of local needs (Policy H8): this policy refers to the provision of affordable housing on developments of 25 or more dwellings or on sites of 1ha or more in size. The 2011 Strategic Housing Market Assessment (SHMA) Update identifies a need for an additional 479 affordable dwellings annually in North Tyneside
15. Under Policy S10 of the UDP, the provision of small-scale convenience shopping facilities outside established centres and within residential areas will be supported subject, amongst other requirements, to an identified local need being met and there being no effect on the vitality and viability of any established centre. Rising Sun Hill and Swallow Pond (to the north-east of the site and also within the country park) are local wildlife sites<sup>11</sup>. These were formerly known as sites of nature conservation importance to which Policy E12/3 of the UDP refers. Development which would adversely affect such a site should not be permitted unless no alternative site is reasonably available and the benefits would outweigh

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<sup>7</sup> Plans H/A-C.

<sup>8</sup> Plan H/D.

<sup>9</sup> Plan 025/01/01A in Appendix C to the Highways Statement of Common Ground (Appendix 1 to Document G2)

<sup>10</sup> The saved policies direction and the accompanying schedule are part of Document G4. Extracts from the UDP are at CD1 and Documents L7 and L14.

<sup>11</sup> The extent of local environmental designations is shown on plan ref CS/06871\_E\_PLAN 007 01 in Document L5 (Volume 2).

the importance of the site, or appropriate measures of mitigation or compensation are secured. Much of the rest of the country park is the greater part of a site of local conservation interest. Policy E12/4 explains that the effect of proposals on such sites should be taken into account and the extent to which any adverse effects may be mitigated or compensated. Policies E12/6 and E12/7 concern wildlife corridors and wildlife links respectively. A wildlife corridor runs to the north and east of the site, beyond Rising Sun Hill. Both policies make it clear that development which would adversely affect the contribution to biodiversity should not be permitted unless no alternative site is reasonably available, or appropriate measures of mitigation or compensation are secured.

16. In 2010, the Council published its Core Strategy Preferred Options (CD3). The Core Strategy was subsequently abandoned in favour of the preparation of a Local Plan, but the appeal site had been identified as a key housing site under Option 16 with a capacity of 650 dwellings. The site had the second highest sustainability appraisal score of preferred sites, and the accompanying commentary stated that there were few on-site constraints, that the site was capable of integration and was accessible, and that the provision of community facilities would benefit the wider area.
17. The Consultation Draft of the North Tyneside Local Plan was published in 2013 (CD4). Policy S/7.2 sets out housing figures: the Borough's objectively-assessed requirement for net housing delivery between 2013 and 2030 is estimated to be 16,272 additional homes, but it is anticipated that, through working in partnership with neighbouring local authorities, the requirement could be reduced to between 10,500 and 12,000 dwellings. The distribution of potential housing sites is the subject of Policy S/7.3. A range of potential locations has been identified, with an estimated capacity of 12,900 homes. The appeal site is included in the emerging Local Plan as a potential development site, suitable for residential and community infrastructure and/ or employment uses. A capacity of 650 dwellings is given for residential development. It is intended that the Local Plan will be published for formal public engagement in November 2014, submitted to the Secretary of State in early 2015, with adoption following at the end of that year. As such, the Local Plan is at a relatively early stage in its preparation, and its draft policies carry only limited weight.
18. Several local policy documents are of relevance, including the supplementary planning documents Planning Obligations (Local Development Document 8 – LDD8 – CD22) and Transport and Highways (LDD12)<sup>12</sup>, the North Tyneside Greenspace Strategy (Document L11), and the Allotment Strategy 2009-2015 (Document L12).
19. I have had regard to national planning policy and guidance, in particular that contained in the National Planning Policy Framework (NPPF), and the Planning Practice Guidance (PPG).

### **Landscape Character Areas**

20. The appeal site lies at the interface between national landscape character areas 13 – South-East Northumberland Coastal Plain and 14 - Tyne and Wear

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<sup>12</sup> Appendix 2 to Document L7.

Lowlands. Plans submitted by the Council's landscape witness show the greater part of the site within area 13<sup>13</sup>.

### **Agreed Matters**

21. A statement of common ground (Document G2) covers the following matters:

- A description of the site and its surroundings.
- A description of the proposed development.
- National planning policy.
- The UDP is an old-style plan and is out-of-date.
- The development would not lead to the loss of a natural buffer which provides an open break between residential areas.
- The agricultural land classification of the majority of the site is grade 3b, with the remainder being grade 4. The proposal would not result in the significant development of agricultural land.
- Identification of the appeal site as a potential housing site in the former Core Strategy and the emerging Local Plan.
- North Tyneside does not have a five years supply of housing land, and the former Regional Strategy housing target is no longer considered to be suitable.
- The purpose of allocating safeguarded land was not to preclude such sites from coming forward for development in perpetuity. UDP Policies E21 and E21/1 should not be given significant weight in the light of an appeal decision concerning safeguarded land at Whitehouse Farm, West Moor<sup>14</sup>. The UDP being out of date, and the emerging Local Plan being some way from adoption were arguments in favour of allowing safeguarded land to come forward for development.
- The development is not considered to be substantial enough to predetermine future local development documents, and it would not therefore, be premature.
- The commercial element of the development would be acceptable in principle.
- The off-site mitigation at Murton would compensate for the loss of habitat for golden plovers and lapwings at the appeal site. The development would not have an unacceptable effect on biodiversity and Rising Sun Country Park.
- The development would not have severe transport impacts and the effect of the traffic generated can be appropriately mitigated.
- The development would not increase flood risk to the surrounding area and details of drainage matters can be addressed by means of conditions.
- The Council does not object to the design and layout of the development.

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<sup>13</sup> Plans CS/069871\_E\_PLAN 005 01 and 004 01 in Document L5 (Volume 2).

<sup>14</sup> Appendix 8 to Document A4.

- There would be no adverse effect on air quality or from noise on future occupants.
  - The planning obligation and suggested conditions.
22. A separate highways statement of common ground<sup>15</sup> covers the following matters:
- The proposed development would generate 906 person trips during the morning peak hour and 973 person trips during the afternoon peak hour. Of these, 481 and 538 respectively would involve driving a car<sup>16</sup>.
  - Trip distribution on the surrounding highway network.
  - A financial contribution in the planning obligation would enable mitigation measures to be implemented for the A191 corridor.
  - Details of highway measures forming part of the overall proposal.
  - A travel plan<sup>17</sup> would aim to secure a 10% reduction in the proportion of journeys made as a vehicle driver.

### **The Case for the Appellant** (Documents A1-A5)

*The material points are:*

#### ***The need for housing in North Tyneside***

23. The requirements of Government policy are to significantly boost the supply of housing and for the local planning authority (LPA) to have a five year housing land supply. However this LPA has not been able to produce a development plan since 2002. There have been no allocations for housing since 2002, and the development plan has been out of date for some years since its formal end date is 2006. Since then the market alone has had to bring forward housing sites, and there is no planned provision for housing
24. The Appellant has considered a range of scenarios in assessing the housing land position in North Tyneside. Having regard to recent legal judgements it is no longer appropriate to rely on the targets from the former Regional Strategy<sup>18</sup>, and insofar as the housing figures from the emerging Local Plan are concerned, it is not clear that a shortfall in need would be met by other local authorities. The Office of National Statistics (ONS) sub-national household projections are preferred as the basis for establishing the housing requirement. Reference is made to the 2008-based and the 2011-based interim projections, which predict 1,029 and 841 households per year respectively<sup>19</sup>. The lower figure in the interim 2011-based projections derives from recessionary trends in household formation, which are not expected to continue over a full plan period as the

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<sup>15</sup> Appendix 1 to Document G2.

<sup>16</sup> Table 3.12, Appendix 1 to Document G2

<sup>17</sup> The travel plan is incorporated into the planning obligation at schedule 7.

<sup>18</sup> Hunston Properties Ltd v Secretary of State for Communities & Local Government and St Albans City & District Council, St Albans City & District Council v Hunston Properties Ltd and Secretary of State for Communities & Local Government, South Northamptonshire Council v Secretary of State for Communities & Local Government and Barwood Land & Estates Ltd (Appendices 3 and 4 in Document A5).

<sup>19</sup> Table 3.4, Appendix 2 in Document A5. The emerging Local Plan figures and ONS projections are addressed in Annex B to Appendix 2.

economy recovers. As completions have not met targets for the five years 2008/09 – 2012/13<sup>20</sup>, it is considered that there has been a persistent under-delivery of housing, and a 20% buffer should be applied in the calculation of the requirement. On this basis there is a five year requirement for land to accommodate 5,045 dwellings using the ONS 2011 based interim projections or 6,175 dwellings using the ONS 2008 based projections<sup>21</sup>. Alternatively, a 5% buffer would lead to requirements for land for 4,415 or 5,400 dwellings.

25. The Appellant disputes the number of dwellings included in most of the categories in the Council's assessment, and calculates that there is a supply of land which would accommodate 1,528 dwellings<sup>22</sup>. Referring to the ONS projections there would be sufficient land for between 1.2 and 1.7 years, although even if the calculation were made on the basis of the Regional Strategy target and a 5% buffer, the level of supply would only extend to 2.9 years<sup>23</sup>. Greenfield sites are required to meet this compelling need. Greenfield sites were included in 2002 in the UDP, proposed in 2010 in the former Core Strategy and are now proposed in 2013 in the emerging Local Plan.
26. The consequences of dismissal of the appeal are that 650 new housing units will need to be found elsewhere. The likelihood is that they will need to be found on another greenfield site with almost certainly a less sustainable location, bearing in mind the high score that this site achieved in both the 2009 and 2013 sustainability appraisals.

***The approach to Section 38(6) of the Planning & Compulsory Purchase Act 2004***

27. The UDP is from 2002, and it is out of date. That conclusion is supported by:
- The plan itself which was intended only to run to 2006.
  - The finding of the Inspector in the Whitehouse Farm appeal in respect of Policy E21/1 (above, para 21).
  - The UDP was not prepared in accordance with the Planning & Compulsory Purchase Act.
  - Acceptance in the statement of common ground that the UDP is out of date (above, para 21).

Therefore this is an appeal that should be determined in accordance with other material considerations which start with the NPPF.

28. There is reliance on Policies H11 and E21/1 of the UDP. Policy H11 is a housing policy and it is out of date. In any event the policy is predicated on requiring developers to take matters into account. Policy E21/1 should be given very little weight because safeguarding land was a mechanism only for the plan period. The policy cannot have relevance in 2014, and when the position on housing has changed so materially. In any event only one criterion in each policy is

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<sup>20</sup> Table 3.3, Appendix 2 in Document A5.

<sup>21</sup> Table 3.4, Appendix 2 in Document A5.

<sup>22</sup> Table 5.7, Appendix 2 in Document A5.

<sup>23</sup> Table 6.1, Appendix 2 in Document A5.

considered to be breached and there is compliance with other elements. Therefore an overall judgment should be reached as to whether any breach of an individual criterion amounts to a conflict with the policy concerned.

### ***Arguments of other parties***

29. It is acknowledged that many other parties do not want development, and that residents like their existing environment which is understandable. However about 850 houses per year at least need to be provided in North Tyneside (taking the lowest ONS projection without a buffer). The likelihood is that all the sites chosen will meet opposition. The application was accompanied by technical reports which dealt with the issues raised by other parties, such as highways, noise, contamination and flooding. Confidence can be placed on the views of those professional consultants whose work has been reviewed by officers of the LPA.
30. The flood risk assessment (Document A19) acknowledges that at present there is a possible risk of flooding to properties to the south from overland flows in periods of heavy rainfall. However storm water would be contained by the development, and the discharge rate from the site would be restricted.
31. Person trips by mode of travel have been calculated for the overall development. The number of car drivers during the morning and afternoon peak hours would be 481 and 538 respectively<sup>24</sup>. A range of off-site works, include alterations to several junctions on Station Road to the south of the site, would provide appropriate mitigation (above, para 13).
32. A site investigation concluded that the site is not at risk from shallow mine workings (Document A21).

### ***Impact on visual amenity***

33. The view of the Appellant is that the overall effect of the development will be neutral. This is a site without any landscape designations, without any tree preservation orders, and without any material vegetation on the site. It has no additional status which deems it worthy of preservation or protection. It is inevitable that there will be significant change from a large scheme of 650 dwellings and related infrastructure. However that does not mean that the change would be harmful. The proposal will bring about a use which accords with the predominant residential character in proximity to the site. In essence, apart from the Country Park, what is proposed is more housing within a residential area. The scheme would have extensive and significant areas devoted to landscaping. In some locations they would extend to about 100m and the minimum depth would be about 10m. That level of landscaping would have a significant mitigating effect. Moreover the judgment of the officers has been that the reason for refusal relating to visual amenity should not be pursued.
34. Moreover there is the analysis which forms the evidence base of the former Core Strategy and the emerging Local Plan. The Core Strategy Preferred Options found that this site was acceptable for the amount of housing that is now proposed. The same view is taken in the emerging Local Plan. The site is included in the Strategic Housing Land Availability Assessments (SHLAA) of 2009 and 2013, and

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<sup>24</sup> Table 3.12, Highways statement of common ground (Appendix 1 to Document G2).

it also forms part of the supply in the Council's five year housing land supply assessment of 2013<sup>25</sup>.

### ***Sustainability***

35. Since the site was considered in the SHLAA in 2009, it has not been suggested that development there would not be sustainable. The proposal would have significant economic benefits arising from the construction of a large development. There would be social benefits from 650 new dwellings, of which 163 would be affordable homes. There would be a local shop which would serve the proposed development. The site is in a sustainable location, with good accessibility to alternative forms of transport and services. In terms of environmental sustainability, it is contended that the proposal would have a detrimental visual impact on the character of the area. That contention is not supported by the evidence from the Appellant's landscape witness. Moreover non-compliance with one factor should not lead to a conclusion that the development is not sustainable. An overall judgment should be reached based on consideration of all the factors.

### ***The balancing exercise***

36. There are two matters which the LPA rely on: the visual impact of the development and that it would not be sustainable. However the effect of the development in terms of visual amenity would be neutral, and this would be a highly sustainable development. In support of the proposal are the following:

- The need for about 850 dwellings per year to be provided in North Tyneside (above, para 29).
- The need for 479 affordable housing units a year to be provided in North Tyneside.
- The provision of 650 dwellings, of which 163 would be affordable homes.
- The high quality design of the proposal.
- Economic benefits would include the provision of jobs, particularly during the construction period, and there would be a package of improvements to the country park and funding for improvements to Benton Quarry Park.
- The development would be acceptable in respect of access, highway safety, highway capacity, air quality, noise, residential amenity, the effect on agricultural land, flooding and drainage, ecology and biodiversity, contamination, commercial floorspace, and archaeology.

It is considered that clear benefits would be brought about by the development.

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<sup>25</sup> The appeal site is included in the housing sites schedule of the Council's Five Year Housing Land Assessment (in Document L8).

## **The Case for the Council** (Documents L1-L5)

*The material points are:*

### ***Sustainable development***

37. The correct legal approach to the application of the NPPF is set out in the *William Davis* judgement<sup>26</sup>. It is first necessary to determine whether a scheme is sustainable in the broad sense within the meaning of the NPPF: if a development is not sustainable then the presumption in paragraph 14 of the NPPF cannot apply. Whilst the assessment requires an holistic judgment to be made, it is critical that economic, social and environmental gains should be sought jointly and simultaneously through the planning system in accordance with paragraph 8 of the NPPF.
38. It could be concluded that the appeal scheme was environmentally unsustainable if it was found that the development caused a significant visual intrusion, since a development which caused this level of impact would not protect or enhance the natural environment, be well designed or recognize the intrinsic character and beauty of the countryside.

### ***Housing land supply***

39. The agreed position is set out in the statement of common ground. It is not necessary for the Inspector or the Secretary of State to make any findings on the precise level of deliverable housing land, since there is agreement that the Council cannot demonstrate a five year supply of land; that paragraph 49 of the NPPF is engaged such that relevant policies for the supply of housing are out of date; and that substantial weight should be given in the planning balance to the delivery of housing. The Council's latest formal position is set out in the 2013 SHLAA<sup>27</sup>. However it is agreed in the statement of common ground that the target in the former Regional Strategy, from which the requirement in the SHLAA is derived, is no longer suitable (above, para 21). The use of a 5% buffer is considered appropriate, since North Tyneside does not suffer from persistent under-performance. Modest shortfalls in delivery since 2008/09 are considered to be a consequence of market conditions, and from 2004/05 to 2012/13 the net delivery of 4,342 dwellings has exceeded the target of 3,800 units for that period<sup>28</sup>. Total supply from a range of sites amounts to 2,614 dwellings, although there are only 1,379 units covered by deliverable planning permissions<sup>29</sup>.

### ***Failure to have an up-to-date plan***

40. Whilst the absence of a five year supply of housing land is material to the grant of planning permission, the absence of an up to date plan does not constitute an added reason why permission should be given.

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<sup>26</sup> *William Davis Ltd, Jelson Ltd v Secretary of State for Communities & Local Government*, North West Leicestershire DC (Document L3).

<sup>27</sup> Table 7 in CD6: the five year housing land supply assessment is set out in detail in Appendix 5 to the SHLAA (Document L8).

<sup>28</sup> Table 3, Five Year Housing Land Supply Assessment (Document L8).

<sup>29</sup> Table 6, Five Year Housing Land Supply Assessment (Document L8).

### ***The Development Plan***

41. The starting point for any decision-taker is section 38(6) of the Planning and Compulsory Purchase Act 2004. Whatever view is taken about the weight to be attached to policies H11 and E21/1 of the UDP, it is still necessary to test the appeal proposal against these policies, which are part of the adopted Development Plan.

#### *Policy H11*

42. The purpose of this policy is to ensure the high quality design of residential schemes. A proposal which fails to achieve this aim will fail to comply with Policy H11. It would not be right to simply take account of local amenity and the environment under criterion (iii), yet produce a scheme that was wholly inappropriate. Policy H11 is a relevant policy for the supply of housing and, given the housing supply position, it should be deemed to be out of date. However, that state of affairs is unlikely to make any material difference since the matters set out in criterion (iii) are matters that must be considered in respect of any development and are consistent with the design and environmental policies of the NPPF.

#### *Policy E21/1*

43. Whilst significant weight cannot be given to Policy E21/1, it remains part of the Development Plan, and was saved by the Secretary of State, even though the plan period had expired. The requirement that proposals do not cause significant visual intrusion is consistent with policies in the NPPF.

### ***Policy conclusions***

44. If the appeal proposal would cause an adverse visual impact on the character of the area and on the Rising Sun Country Park, the second reason for refusal is substantiated, the proposal would not comply with the Development Plan since Policies H11 and E21/1 would be breached, the scheme would not be environmentally sustainable, the development would not be able to benefit from the presumption in favour of sustainable development in paragraph 14 of the NPPF, and it will be for the Appellant to show that there are countervailing benefits which should allow the development to proceed.

### ***Historical attitude to the site***

45. The site has never been allocated for anything other than as safeguarded land. Although it was identified as a potential strategic allocation in the Core Strategy, the Core Strategy did not get beyond the Preferred Options stage and was subsequently withdrawn. No weight should be attached to this former emerging policy document. The appeal site received favourable consideration in the SHLAA but a positive entry in a SHLAA does not indicate that a site should be allocated or that it will receive planning permission. Although the appeal site does appear in the consultation draft of the emerging Local Plan, it is only put forward as a potential housing site for consultation and not as a firm proposal. More land has been put forward than is required in order to test the competing sites and choose the most sustainable overall. The sustainability appraisals in 2010 and 2013 were necessarily done at a high level, and were not supported by the detailed technical information before the inquiry. Only limited weight should be attached to these other matters.

### **Visual impact**

46. Local landscape character areas have been identified by the Council<sup>30</sup>. The site lies within the agricultural character area, and is adjacent to the country park and residential character areas. Users of the public rights of way surrounding the site (especially to the south and east) currently enjoy open vistas, which are aesthetically pleasing. Users of the country park experience panoramic views, including an open and pleasant view over the site and the open farmland to the west of the A186. Travellers on the A186 enjoy open and largely uninterrupted views across the site to the country park.
47. There would be a dramatic change in the short term and most viewpoints would experience an impact of major significance. The view to the west would be occupied almost entirely by the development, representing visual intrusion. The impact will be only marginally softened by perimeter planting and incidental open space. This view of an agricultural and open landscape will be replaced with an urban landscape. A number of other viewpoints would experience a large or very large adverse impact. The introduction of substantial tree planting belts would also serve to close off views. The assumption that greenfield land will be required to accommodate North Tyneside's housing needs should not affect the judgement on visual impact.

### **Interim conclusion**

48. The appeal proposal would breach Policies H11 and E21/1 of the UDP. It is not environmentally sustainable in the sense meant by the NPPF, and the presumption in favour of sustainable development in paragraph 14 thereof does not apply.

### **Benefits**

49. There are a number of important benefits associated with the proposed development, and it is common ground that substantial weight should be given to the delivery of housing in the absence of a five year supply of land.

### **The planning balance**

50. The thrust of national policy is to boost significantly the supply of housing and to ensure a five year supply of deliverable residential development. These policy imperatives must be given substantial weight. However, the NPPF also makes it abundantly clear that the delivery of housing must not be at all costs. In the present case, the price for the delivery of housing is one that is simply too high.

### **The Cases for Interested Parties**

*The material points are:*

#### **i) Councillor Michael J Huscroft (Document O5)**

51. The site is an important natural buffer between Wallsend and Benton. Over the last 20 years or so, many open green spaces have been lost in Wallsend. This site was included in the UDP as safeguarded land: the proposal would be contrary to this policy, and it would result in urban sprawl. The proposal would be

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<sup>30</sup> Plan ref CS/069871\_E\_PLAN 003 01 in Volume 2 of Document L5.

detrimental to visual amenity and it would have an adverse effect on the Rising Sun Country Park, which provides significant environmental value to the area. The site functions as a wildlife corridor: it is doubtful that the land at Murton would provide a satisfactory alternative.

52. Rising Sun Hill was previously a colliery pit heap. It soon becomes waterlogged after rainfall, and water runs off towards the culvert and drainage ditches on the site. Ditches are not kept clear, and there have been flooding incidents in nearby housing areas. Development of the site would increase pressure on the drainage system.
53. The construction of 650 homes would considerably increase traffic on the road network, and there will be additional traffic from other proposed developments. Station Road has not been widened in the past 50-60 years, although the traffic volumes have increased dramatically over that time. It is not considered that the works proposed to a number of junctions would materially increase capacity. Indeed, the alterations at Wiltshire Gardens / Coast Road would exacerbate difficulties at these junctions. The claim that the site has good public transport links is queried.
54. Wage levels in Wallsend are considerably lower than other parts of the country, and people would find it difficult to obtain mortgages for the new dwellings. Many of the schools are at full capacity, yet there would be children living in the proposed family homes. Additional numbers would also worsen problems of congestion when children are dropped off and picked up at school.

**ii) Councillor Ord** (Document O3)

55. The lack of a five year supply of housing land is disputed, given the number of outstanding planning permissions in North Tyneside. Safeguarded land should not be built on when there is a reasonable alternative. The Appellant has the land which it is proposed to use for wildlife mitigation, and it would be better to use this for housing. There are mine workings under the site, and there is concern that ground may give way. Water runs off the former pit heap into the stream alongside existing housing. Flooding occurs, and the situation would be exacerbated by development of the site for housing. The sustainable drainage ponds would require regular maintenance because of deposition from the former pit heap and this is not a sustainable solution. Evidence has been found of Iron Age activity, which should be explored.
56. No adequate mitigation has been proposed for parts of the highway network further from the site. The health authorities recently declined to support a centre in this area, and it is unlikely that the health centre proposed would come forward. The length of the construction period would detract from the living conditions of initial occupiers. The development would harm the visual amenity of the area: the proposal does not provide sufficient material benefits to outweigh the harm which would be caused.

**iii) Holystone Action Group** (Documents O6-O8)

57. There would be a detrimental effect on wildlife and biodiversity, contrary to Policies E12/3 and E12/7 of the UDP. The site is of significant wildlife interest, particularly because of the presence of the golden plover. It cannot be assumed that the golden plovers would move to Murton, and this land could be developed

in the future. Fauna in the country park include hares, rabbits, hedgehogs, stoats, weasels, foxes, mice, voles and water voles, and there have been reported sightings of red squirrels. Following the loss of Scaffold Hill<sup>31</sup>, the appeal site is particularly important as a wildlife corridor serving the country park, and the proposed mitigation would not compensate for its loss. The development would result in the loss of the open break between Wallsend and Benton, and the visual impact would have a detrimental effect on the character of the area, contrary to Policies H11 and E21/1. The development would spoil the view of Rising Sun Hill from Station Road, and the view from the top of the hill. More agricultural land would be lost.

58. The area suffers from flooding. In June 2012, many houses adjacent to the site were seriously flooded. The mitigation proposed is inadequate, and the development would increase flood risk. Traffic would be increased at the junctions of Station Road with Whitley Road and Coast Road. Counts recorded 1,037 vehicles on Station Road leading to the Coast Road roundabout between 0745 and 0845 hours on a weekday, with 853 vehicles on Station Road leading to the Whitley Road roundabout at the same time of the day. These figures could increase respectively by 14% to 1,178 vehicles and by 17% to 973 vehicles.
59. The Appellant owns land at Murton which could be used to provide housing, and there are a number of brownfield sites in the Borough which would benefit from being developed, including land at Norham Road, Chirton.

#### **iv) Northumberland Ward Branch of the Labour Party**

60. There are traffic problems at peak times, and there is doubt as to whether the infrastructure would be capable of dealing with the increase. Similarly schools are under pressure from numbers. Many people use the country park: if the site is built on this would have a negative impact. There are better areas for development, including brownfield land.

#### **v) Local residents** (Documents O2, O9, O10)

61. Seven local residents spoke against the proposal at the inquiry. The site is associated with the country park, and is important for the wellbeing of the community. Doubt is cast on the need for housing on this site, since there are brownfield sites in North Tyneside which have not been developed. Given existing facilities there is no need for additional retail space or a health centre. The development would exacerbate congestion on local roads.
62. There is concern about flood risk. One resident spoke in detail about flooding, referring to flood events which had affected local residents in 2004, 2010 and 2012. Flooding had also affected traffic on Station Road. The flood risk assessment (Document A19) was criticised: it was claimed that it did not take into account all the properties in the locality which had been affected by flooding.

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<sup>31</sup> Planning permission was granted on appeal in 2013 for 450 houses, local community facilities, an extension to the country park and works to the highway infrastructure at Scaffold Hill Farm, Whitley Road, Benton (Appendix 7 n Document A5).

## Written Representations

*The material points are:*

### **i) Councillor Marian Huscroft** (in Document O1)

63. The coal mine closed in 1969, but the shafts were not backfilled, so there is concern about the implications of building on the land. The drainage system cannot cope with the existing number of properties, as many houses have been flooded in the area. Development would pose a threat to wildlife, and it would result in a loss of agricultural land. Many open spaces have been built on: this is one of those left, and it forms a natural break between Wallsend and Benton. There is concern about congestion and traffic noise. A lengthy construction period would adversely affect local residents.

### **ii) Councillor Nigel Huscroft** (in Document O1)

64. There is a persistent flooding problem in the area: the drainage system was not constructed for this level of housing development. Some residents have complained about subsidence. There are historic mine workings in the area, and further development could encounter problems. Whilst one local school has some spare places, others are full, and the additional need for places would not be met. Traffic generated by the development would exacerbate existing problems of congestion.

### **iii) Other representations** (in Document O1, O4)

65. Objections were submitted at appeal stage by 16 local residents. The main concerns raised are: the loss of open land which is related to the country park, the effect on the character and appearance of the area, the impact on wildlife, that there is no need for the proposed housing and in any event brownfield land could be used instead, flood risk, ground conditions due to past mining, the loss of agricultural land, congestion, and pressure on local schools. At application stage, over 200 individual objections were made to the proposal, in which similar concerns were expressed. In addition there was one expression of support, welcoming new housing and the opportunity it could provide for first time buyers.

## Conditions

66. A list of suggested conditions is included in the statement of common ground with accompanying reasons<sup>32</sup>. I have considered these in the light of the advice in the PPG and the discussion on conditions at the inquiry. At the inquiry the main parties agreed that certain conditions on the list should not be put forward. Condition No 18 is concerned with addressing noise disturbance from Station Road which is covered by condition No 19. If an odour suppression system is required in connection with the A1 or D1 uses, this is more appropriately dealt with at reserved matters stage. Conditions Nos 31 and 32 refer to the wildlife and habitat management plan for Murton, and condition No 49 refers to the travel plan. These are covered by the planning obligation and conditions would, therefore, be unnecessary. Condition No 57 concerning the avoidance of increased flood risk is covered by condition No 56 which refers to overland flows and conditions Nos 52 and 53 concerning surface water drainage. I agree that

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<sup>32</sup> Appendix 2 in Document G2.

none of these conditions is necessary. Conditions concerning materials (23), boundary treatment (24), landscaping (26 and 27), provision of parking spaces (46 and 50) and turning space (51) would only be needed in connection with the proposal for full planning permission in respect of phase A. In addition I do not consider that it would be appropriate to impose a condition requiring checking surveys for badgers and otters (No 33) in this case (below, para 102).

67. I have combined other conditions and amended the wording where appropriate. Suggested conditions are set out in full in the Annex to this report: the numbering differs from that in the statement of common ground due to the changes referred to above.

## **Conclusions**

*References are made, where appropriate, to sources of material in earlier parts of the report by indicating the relevant paragraph number thus [8].*

### **Main Considerations**

68. I have identified the following main considerations in this case:

- (i) The effect of the proposed development on the character and appearance of the area.
- (ii) The effect of other considerations on the overall planning balance.

### **The principle of development**

69. The appeal site is designated as safeguarded land in the UDP [14]. Policy E21 required that such land was to be maintained in its open state for at least the plan period. That ended in 2006, and accordingly the absolute requirement to retain safeguarded land as open no longer applies. The justification to Policy E21 explains that areas of open land may be required for development beyond the Plan period. Although only parts of the safeguarded land were considered as likely to be required for this purpose, it is clear that these areas were intended as a means of ensuring that post-2006 development needs could be met.
70. In an appeal decision in 2013 which granted planning permission for housing and commercial development at Whitehouse Farm, West Moor in North Tyneside, the Secretary of State endorsed the Inspector's conclusion that the fact that the UDP was six years beyond its end-date, and the timescale for adoption of the Local Plan, were arguments in favour of allowing development on safeguarded land. In the light of the appeal decision, it is common ground between the main parties that Policies E21 and E21/1 should not be given significant weight [21], and I share that view.
71. Policy E21/1 sets out circumstances in which development may be acceptable on safeguarded land. The first criterion is that the development should preserve the open nature of the area, especially where this forms an important open break between or within built-up areas. Reason for refusal No 1 alleged the loss of an open break between Wallsend and Benton [4]: whilst this objection was not pursued by the Council; local councillors, the Holystone Action Group and local residents all argued that the development would be unacceptable for this reason [51, 57, 63, 65]. However, as the purpose of Policy E21 was primarily to protect safeguarded land during the plan period, it follows that Policy E21/1 was similarly of most relevance during that time up to 2006.
72. In any event, development of the appeal site would not result in the loss of the open break to the north of Wallsend. I note that the area of open land on the west side of Station Road [9] is included as a potential development site in the emerging Local Plan. Even if this area is disregarded, a sizeable block of open land lies to the north and east of the appeal site. The greater part of this land comprises the Rising Sun Country Park [9], and it can be reasonably expected to continue to define the extent of the built-up area of the nearby part of Wallsend.
73. Criterion (vi) of Policy E21/1 requires that no alternative site should be reasonably available. Although suggestions about other sites have been

advanced by the local community [55, 59-61, 65], no specific evidence about alternative sites which could make a comparable contribution to housing land supply has been submitted. Fundamentally, following the end of the plan period Policy E21/1 no longer carries significant weight, and I do not find an objection to the proposal in respect of criterion (vi).

74. Each of the potential development sites included in the emerging Local Plan has been subject to a sustainability appraisal. A similar approach has been used to that employed in the former Core Strategy when the score of 18 for the appeal site was the second highest of the key housing sites then identified. For residential development, a score of 18 in the short term rising to 23 in the long term is recorded in the Sustainability Appraisal Report for the emerging Local Plan, which considers the economic, social and environmental dimensions of sustainability (Document A18). Taking account of mitigation, the only negative scores against the 20 sustainability objectives concern waste management in the short term and the loss of agricultural land. The land is grade 3b and 4 [10]: as such it is not the best and most versatile land, the benefits of which paragraph 112 of the NPPF requires to be taken into account. There is nothing arising from the sustainability appraisal which indicates that residential development on the appeal site would be inappropriate in principle.
75. I have also considered the appropriateness of the retail and health centre uses included within the overall development. There is a suggestion from a local councillor that the proposed health centre would not come forward [56], although the CILR compliance statement indicates that there is a need for some additional surgery capacity (Document L7). The provision of local community facilities as proposed would be consistent with Policy S10 of the UDP and paragraph 38 of the NPPF which encourages a mix of uses for larger scale residential developments.
76. The land east of Station Road has been considered a potential development site in both the former Core Strategy Preferred Options and the emerging Local Plan [16, 17]. I note that the Council is not proposing the development of all the sites identified in the emerging Local Plan. However, the Consultation Draft also explains that all of the sites identified are within highly accessible locations, and the assessments undertaken as part of the plan-making process do not lead to any reason to preclude the appeal site from the prospect of development. I do not consider that development of the appeal site would be unacceptable in principle.

### ***Character and Appearance***

77. The appeal site lies at the interface between national landscape character areas 13 – South-East Northumberland Coastal Plain and 14 - Tyne and Wear Lowlands. Plans submitted by the Council's landscape witness show the greater part of the site within area 13 [20]. However the description of the Tyne and Wear Lowlands in the National Character Map includes reference to a landscape with a long history of coal mining, revealed by open-cast extraction, spoil heaps and recently restored sites, and large fields of arable crops with urban fringe effects of pony grazing and miscellaneous activities around settlements. These features are characteristic of the landscape to the north of Wallsend which includes the appeal site. Of greater relevance in this case are the local landscape character areas identified by the Council [46]. The site lies within the agricultural

character area, and is adjacent to the country park and residential character areas.

78. The agricultural area abuts established residential development in Wallsend to the south and industrial/ commercial development to the north. It is crossed by the A186 and, further to the west, by the East Coast main railway line, and I consider that it is an area of moderate sensitivity. Although the Council's landscape witness refers to it as an area of high sensitivity, I note that he also takes the view that the majority of the landscape is unremarkable. The proposed development of some 650 dwellings and retail and health facilities, resulting in the loss of the field, would represent a substantial change to this part of the character area. However, other than vegetation along the northern and eastern boundaries, the existing field is virtually devoid of features of interest, and it is simply a relatively large uniform area of open land. The landscape strategy envisages not only the introduction of trees along the western and southern boundaries, but also the establishment of substantial planted areas on the two other sides of the site [12]. As the planting matures, it would not only lessen the effect of the built development, but it would complement the cover on Rising Sun Hill, and add an element of variety to the local environment. During the initial period of development there would inevitably be a major adverse effect from ongoing construction activity, but with the establishment of landscaping scheme, I consider that the completed scheme would have at most a moderate adverse effect on the agricultural area.
79. The country park already abuts residential development to the south and east and a part extends up to the industrial/ commercial area along Whitley Road to the north-west. This is an attractive and pleasant area, and it is clear from the representations made by local residents that it is a well-used and greatly appreciated amenity [51, 57, 60, 61, 65]: I agree with the Council that its sensitivity is high. Rising Sun Hill is a distinctive and prominent feature in the locality [9], and it would separate lower land in the country park to the east from development on the appeal site. To the north, there is already tree and hedgerow cover which would be strengthened as part of the development. The development of the field would alter the open setting of Rising Sun Hill from the west. Although planting would have a beneficial effect, the extent and proximity of the buildings would detract from the attractive aspect of the hill across farmland. To this extent, there would be a significant adverse effect on the country park.
80. Development of the appeal site would represent an extension to the adjacent built-up area of Wallsend. On the southern side of the footpath along the site boundary, the existing housing is set back behind a narrow strip of rough grass and bushes. Some housing has screen fencing to back gardens, and further to the west several terraces are positioned with gables facing towards the site. This arrangement presents an unprepossessing edge to the built-up area<sup>33</sup>, and the landscape strategy for the site offers the opportunity to improve this relationship. I consider that there would be a moderate beneficial effect over time as a result.
81. The industrial/ commercial area along Whitley Road comprises a variety of built development and is the source of much activity, particularly associated with the

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<sup>33</sup> See photographs 29-32 of Document A20.

Asda supermarket. The appeal site extends up to this area at the junction of the A186 and the A191, but, given its existing nature, the introduction of housing and retail and health facilities would have no adverse effect. A sport/ recreation area lies to the west, beyond the agricultural land and housing on the west side of Station Road. Much of this character area is also on the far side of the main railway line. Given its distance and separation from the appeal site, there would be no adverse effect from the proposed development.

82. I turn now to consider the visual effects of the proposed development. There is a clear view over the appeal site from Rising Sun Hill. However this is just a part of a wide panorama of views from this elevated position which extend in different directions across North Tyneside. Over time, with the end of the construction period and the maturing of landscaping which would soften the built form, I do not consider that the extension of development onto the appeal site would materially alter the overall balance of the built-up area and open space visible from this vantage point. I have taken into account the other developments referred to by the Council. The site proposed for residential development at Billy's Pit is some distance to the west in the vicinity of the sport/recreation character area. A larger development of 450 dwellings has received planning permission at Scaffold Hill to the north-east. This scheme also involves an extension to the country park and the additional housing would be on the far side of the extended country park from Rising Sun Hill. The prospect of these developments being implemented does not alter my view that that there would be no materially harmful effect to visual amenity from here.
83. There are public rights of way around the appeal site. The tree and hedgerow cover alongside the bridleway on the northern boundary filters views of the site, and this cover would be strengthened by the landscaping scheme. In any event the presence of the built-up area is apparent across the site, as it is in views from the bridleway to the east and the footway on Station Road for people heading south. Whilst the built-up area would become more immediate, the proposal would not introduce a new element into these views. I am satisfied that the depth of the perimeter landscaping would enable the development to be assimilated into its surroundings without involving a density of plant cover which would itself be oppressive and unduly enclose the paths.
84. The southern boundary of the site is open. Users of the path here have an unencumbered view across the field, and can see Rising Sun Hill above the site. The main feature to the north is a block of woodland, and from this direction, I consider that the presence of the proposed development would appear intrusive. I have reached a similar view in respect of people heading north on the footway and bridleway on the west and east sides of the site. From these positions I consider that there would be an adverse effect of moderate significance.
85. Station Road is well-used by vehicular traffic. Whilst drivers and passengers would be able to see the site, these views would be of short duration, and in south-bound vehicles the existing housing is already a feature on this stretch of road. The sensitivity of the users of main roads, who are travelling to a destination elsewhere, is low, and I do not consider that there would be a harmful effect to visual amenity in this respect.
86. Views towards the appeal site are available from the A191 to the north-west, the path running westwards from Station Road and locations in the country park to

the north-east of the hill. The effect of the development from these positions would be lessened by distance and also in places by intervening vegetation, and the impact would be negligible.

87. I have also considered the effect of the development on the views from nearby dwellings. A number of houses would have direct views from first floor windows towards the site. Given their proximity to the appeal site, I consider that there would be a moderate adverse effect from these properties. The main elevations of other houses at the northern edge of the existing residential area would be at right angles to the site boundary, and as there would not be direct views towards the proposed development, the effect here would be negligible. I have reached a similar view in respect of the dwellings on the west side of Station Road. They would be further from the site, and the grassed mound on the frontage of Station Road would restrict views. From within the existing housing areas, the visibility of the appeal site is restricted by existing buildings: the continuation of the built form, softened by the landscaping proposed along the southern boundary would not represent a harmful change in these views.
88. The extent of the change to the appeal site and the disruptive nature of construction activity would cause short-term harm to the landscape and visual amenity. In the longer term there would be a significant adverse effect on the setting of the Rising Sun Hill, although this would be localised in extent, and a moderate adverse effect on the landscape of the agricultural area within which the site lies. However the proposal would also offer a moderate beneficial effect in respect of the existing residential development. Insofar as visual amenity is concerned, there would be moderate adverse effects from the adjacent footway and paths, except that to the north, and from several dwellings immediately to the south.
89. I conclude that the proposed development would have certain adverse effects on the character and appearance of the area. In consequence there would be conflict with Policy H11 of the UDP. The only significant adverse effect would be to the setting of Rising Sun Hill, and in consequence there would be a conflict with criterion (ii) in Policy E21/1. However Policy E21/1 is out-of-date and therefore carries limited weight. Moreover, given the localised extent of this effect, I do not consider that the proposed development would give rise to a material conflict with the core planning principle in paragraph 17 of the National Planning Policy Framework (NPPF) to recognise the intrinsic character and beauty of the countryside.

### ***Other considerations***

#### *Housing land supply*

90. It is common ground between the main parties that there is not a five years supply of housing land in North Tyneside [21]. The Appellant had considered a range of scenarios, favouring reliance on the ONS sub-national household projections as the basis for establishing the requirement and arguing a case for a 20% buffer. For its part, the Council did not prepare specific evidence on housing land supply for the inquiry, but it advised that its formal position is as set out in the SHLAA. The assessment appended to the SHLAA uses the housing requirement from the former Regional Strategy, but it is agreed by the main parties that it is no longer appropriate to use these figures [21], and I have no reason to take a different view. As the emerging Local Plan is at a relatively

early stage in its preparation, the housing figures contained therein may change, and I note that the present figures are subject to the outcome of joint working with neighbouring authorities [17]. It would be inappropriate to place reliance on these housing figures, and in the present situation ONS projections provide a means of assessing the housing land requirement. The information before me is that the 2008 projections produce an annual requirement of 1,029 dwellings, and the 2011 interim projections a lower figure of 841 dwellings [24]. Insofar as the buffer required by paragraph 47 of the NPPF is concerned, I agree with the approach of the Council [39]. From 2004 to 2013, delivery exceeded the Regional Strategy (which remained part of the Development Plan until April 2013) requirement by 542 dwellings, and the record is not one of a persistent under-delivery of housing. Application of a 5% buffer is appropriate, and using the two sets of ONS data would lead to requirements for land for 4,415 or 5,400 dwellings [24].

91. Paragraph 47 of the NPPF requires the identification of a supply of specific deliverable sites, sufficient to provide five years worth of housing. The Council calculates that it has a deliverable supply of land for 2,614 dwellings [39]. Several components of supply are disputed by the Appellant [25], but, even if all of the supply identified by the Council were to come forward, this would only be sufficient for about three years, using the lower requirement of 4,415 from the ONS 2011-based interim projections. I agree with the main parties that North Tyneside does not have a five year supply of housing land.
92. Local residents questioned the need for housing land, and suggested that there were opportunities for the re-use of brownfield land [55, 59-61, 65]. However there is no specific evidence to indicate that there are omissions from the detailed assessment of potential housing sites put forward by the Council.
93. I agree with the main parties that there is not a five years supply of housing land. Paragraph 47 of the NPPF refers to the importance of identifying a five years supply of sites to assist in significantly boosting the supply of housing. The contribution of the appeal site towards the provision of a five years supply of housing land carries significant weight in support of the appeal proposal.

#### *Affordable housing*

94. The 2011 SHMA Update identifies a need for an additional 479 affordable dwellings annually in North Tyneside [14]. The overall target for provision is 25%, and a mix of accommodation is sought. It is intended that the level of affordable housing on the appeal site would be in line with the current target, with 56 of the 225 dwellings in phase A identified as affordable [12]. The provision of the affordable dwellings would be secured by means of the planning obligation. The proposed development would make a significant contribution to North Tyneside's need for affordable housing.

#### *Economic implications*

95. The Ministerial statement *Planning for Growth* makes it clear that the economic benefits of proposals should be taken into account. The proposed housing at Station Road would bring several economic benefits, including employment and training opportunities. Jobs would be provided in the retail and health components of the scheme, and in the construction of the development. The training framework, which is incorporated in the planning obligation, provides

that labour, sales and administrative jobs will be advertised initially in the locality, and that a total of two apprentices would be employed at any one time over the next 15 years. These are important benefits of the scheme.

### *Parks*

96. The planning obligation provides for financial contributions towards improvements to public rights of way in and around the country park and for other works to the country park. Given the proximity of the country park to the site and the intention to provide footpath links for future residents, it is to be expected that usage of this amenity would increase following the development of up to about 650 new homes. The primary purpose of the programmes of work would be to mitigate the effect of additional usage, although improvements would provide a benefit to existing residents. Similarly there would be a benefit to existing residents arising from the contribution of £40,000 towards improvements at Benton Quarry Park. I attach moderate weight to these benefits.

### *Flood risk and drainage*

97. Considerable concern has been raised by the local community about flood risk and the adequacy of existing drainage systems [52, 55, 58, 62-65]. There were references at the inquiry to properties in the residential development to the south being affected by flooding in recent years, and video footage was shown of flooding on Station Road, close to the south-west corner of the appeal site. The site is in flood zone 1, defined in the PPG as comprising areas with a low probability of flooding. A flood risk assessment has been prepared. Revision C has been the subject of consultation with the Environment Agency, and further revisions deal with the progression of the detailed design and have been prepared in consultation with the Council.

98. The flood risk assessment acknowledges that at present there is a possible risk of flooding to properties to the south [30]. However it explains that the development, which would incorporate sustainable drainage ponds at the south-east corner, would contain storm water which may otherwise flow overland to the south. Discharge from the site would be controlled, and the detailed design of drainage schemes could be subject to the approval of the local planning authority.

### *Traffic movement*

99. It is calculated that the number of car drivers generated by the proposed development during the morning and afternoon peak hours would be 481 and 538 respectively [22]. The implications of this level of traffic generation for the local highway network have been subject to detailed analysis and modelling. It is common ground between the main parties that a range of off-site works would provide appropriate mitigation. These include specific proposals for alterations to several junctions on Station Road to the south of the site [13]. In addition, the planning obligation would provide a contribution to make up the shortfall in funding for improvements required on the A191 corridor. With these measures in place, I do not consider that the proposed development would have an adverse effect on traffic movement in the locality.

### *Wildlife*

100. Members of the local community referred to the appeal site as a wildlife corridor providing a link to Rising Sun Country Park [51, 57]. Locally designated wildlife corridors are shown on a plan submitted by the Council's landscape witness. None include the appeal site: and that which includes the country park lies to the north and east, beyond Rising Sun Hill [15]. Wildlife links are identified in the explanation to Policy E12/7 of the UDP as narrow linear features such as pathways, disused wagonways, existing Metro and railway lines, highway verges, hedgerows and streams. At the appeal site, only the hedgerows along the northern boundary and the plant cover on the eastern boundary are this type of feature. Built development would be set back from these boundaries [12], and the adjacent footpath and bridleway [10] would remain available to serve as wildlife links. I do not consider that the proposal would adversely affect the contribution to biodiversity of either a wildlife corridor or link, and there would be no conflict with Policies E12/6 and E12/7 of the UDP.
101. The land east of Station Road has been identified as a wintering site for golden plovers and lapwings. To compensate for the loss of this land an area of grassland at Murton would be provided as a replacement overwintering opportunity [21], and this provision would be secured through the planning obligation. Having regard to the provision of appropriate landscaping on the site, which could be subject to a condition, and the package of measures proposed through the planning obligation for the country park, there is no detailed evidence to indicate that the development would have a harmful effect on the local wildlife sites (Rising Sun Hill and Swallow Pond) or the site of local conservation interest (the country park). Accordingly I find no conflict with Policies 12/3 and 12/4 of the UDP.
102. Conditions are proposed to control external lighting and to prevent the clearance of vegetation during the bird nesting season. With these additional safeguards in place, I do not consider that the development would have a material effect on wildlife in the area. A condition requiring checking surveys for badgers and otters was also suggested by the main parties. However the survey undertaken for the Appellant found no badger setts or evidence of movement on the site and no evidence of otter activity. The presence of protected species should be established before planning permission is granted, and I do not consider that it would be appropriate to require further survey work in this case.

### *Ground conditions*

103. The site is adjacent to a former mine [52], and local residents expressed concern about the suitability of the site for built development due to the presence of underground workings [55, 63-65]. A site investigation undertaken on behalf of the Appellant concluded that the site is not at risk from shallow mine workings [32], and there is no substantive contrary evidence.

### ***The Planning Obligation***

104. The proposed residential development would give rise to increased pressure on and demand for a range of local facilities and services. The impact on local schools and the highway network were points made by the local community. Accordingly the planning obligation provides for contributions towards allotments,

open space and recreation facilities, rights of way, health and education provision, and highway works by way of mitigation.

105. A contribution of £56,700 would be provided towards 21 new allotments at Wiltshire Drive. The Council's CILR compliance statement (Document L7) explains that there are 120 people on the waiting list for this allotments site and the other allotments site in this part of North Tyneside at West Street has a waiting list of 142. A specific deficiency in skate park provision has been identified, and the play space contribution of £200,000 would be used towards such a facility at Richardson Dees Park in Wallsend. Similarly the active sports contribution of £362,350 is intended to be used for improvements and maintenance at St Peters Road Playing Fields in Wallsend, the Lakeside Centre in Killingworth, and The Parks Sports Centre in North Shields. The development would increase demand above capacity at Wallsend Jubilee and Redesdale Primary Schools, and a contribution of £350,000 would be directed towards addressing the additional demand at both schools. A contribution of £320,000 would be provided for improvements to address pressures at Rising Sun Country Park and Benton Quarry Park. A further sum of £323,000 would be used on works to rights of way in and close to the country park (above, para 96). The compliance statement indicates that there is a requirement for additional surgery capacity. The planning obligation would provide a contribution of £314,600 for increased clinical space as an alternative to the provision of the D1 use on the appeal site.
106. The mitigation measures agreed to address the additional traffic generated by the proposal include a contribution of £423,000 towards improvements on the A191 corridor (above, para 99). To lessen the impact on existing junctions, the planning obligation incorporates a travel plan. Targets aimed at securing a move from single occupancy car trips include the achievement of a 10% reduction in the proportion of trips by vehicle drivers within the first five years [22]. The ecological management plan would secure the land at Murton to provide an overwintering site for the golden plovers and lapwings displaced from the land at Station Road (above, para 101). There is an identified need for affordable housing in North Tyneside (above, para 94), and the planning obligation would provide for such accommodation in the residential phases of the scheme. Finally, the commitment to a training framework is consistent with the objectives of the employment and training section of LDD8 –Planning Objectives (CD22), which aims to address the skills gap within the local workforce.
107. I am satisfied that all of the provisions of the planning obligation would be necessary to make the development acceptable in planning terms, would be directly related to the development, and would be fairly and reasonably related in scale and kind to the development. The statutory tests in Regulation 122 of the CILR are, therefore, met and the planning obligation is a material consideration in the appeal decision.

### **Overall Conclusions**

108. The NPPF sets out three dimensions to sustainable development: economic, social and environmental. The provision of employment and training opportunities are important economic benefits, and the scheme would represent a significant investment in the local economy. In addition the proposal would provide the funding for necessary associated infrastructure. The provision of

additional housing, including affordable homes, to meet local needs, is a significant social benefit. Insofar as environmental considerations are concerned, there would be certain adverse effects on the character and appearance of the area, including a significant localised effect on the setting of Rising Sun Hill. However, there would be a benefit to the character of the existing residential development, improvements to the country park and the development would make provision for wildlife. I have already found that there would be no objection to the principle of the proposed development. Overall I am satisfied that the proposal would represent a sustainable form of development.

109. Policies in the Local Plan concerning housing land are out-of-date. In this situation, paragraph 14 of the NPPF explains that the presumption in favour of sustainable development means granting permission unless any adverse impacts would significantly and demonstrably outweigh the benefits, or policies in the NPPF indicate that development should be resisted. There are no specific policies in the NPPF which indicate that the development proposed should be restricted. It is therefore necessary to assess the balance of any adverse impacts and benefits.

110. There would be certain adverse effects to the character and appearance of the area, but other than the significant effect on the setting of Rising Sun Hill, there would only be moderate harm beyond the construction period. There is conflict with policies H11 and E21/1 in consequence. As policies in the UDP concerning safeguarded land and housing are out-of-date, this conflict should carry little weight. The provision of additional housing to contribute to the land supply and of affordable homes are both matters of significant weight. In addition the development would provide important economic benefits and moderate weight attaches to the improvements to Rising Sun Country Park and Benton Quarry Park. The benefits of the proposal would not be significantly and demonstrably outweighed by the adverse effects. Indeed I conclude that other considerations clearly outweigh the harm I have identified. Accordingly the proposal would comply with the approach to sustainable development set out in paragraph 14 of the NPPF.

### **Recommendation**

111. I recommend that the appeal be allowed and that planning permission be granted subject to the conditions in the Annex to this report.

*Richard Clegg*

INSPECTOR

## **ANNEX - SCHEDULE OF SUGGESTED CONDITIONS**

### ***General***

- 1) The residential development of phase A hereby permitted shall begin not later than three years from the date of this decision.
- 2) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") for phases B, C and D shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved. The reserved matters shall be consistent with the design and access statement.
- 3) Application for approval of the reserved matters for each phase shall be made to the local planning authority not later than seven years from the date of this permission, and shall begin not later than two years from the date of approval of the last reserved matters to be approved.
- 4) The development relating to the outline planning permission shall be carried out in accordance with plans OF/A-OF/C and the development relating to the full planning permission shall be carried out in accordance with plans OF/A-OF/C, F/A and F/C1-F/E.
- 5) The development shall be built only in accordance with the sequence set out in the phasing plan 175/A/GA/101B. The A1 and D1 development shall not take place without implementation of the residential development.
- 6) The development hereby permitted shall include no more than 650 dwellings.
- 7) No construction work shall be carried out or deliveries made to the site outside the following times: 0800 to 1800 hours from Monday to Friday, and 0800 to 1400 on Saturdays. No construction work shall be carried out or deliveries made to the site at any time on Sundays or public holidays.
- 8) The hours of operation of the A1 and D1 units and the use of the adjacent car park shall be restricted to the following times: 0730 to 2200 hours. No deliveries shall be made or collections taken from the A1 and D1 units outside the following times: 0730 to 2200 hours.

### ***Site investigation and ground works***

- 9) No ground works or development shall take place within the site until a programme of archaeological fieldwork has been carried out in accordance with a scheme which has been submitted to and approved in writing by the local planning authority. The programme shall be carried out in accordance with the approved scheme.
- 10) No ground works or development shall take place within the site until an archaeologist has been appointed to undertake a programme of observations, including the recording of finds, in accordance with a scheme which has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme and programme.
- 11) The results of the archaeological fieldwork and observations undertaken in accordance with conditions Nos 9 and 10 shall be submitted to and

approved by the local planning authority within six months of the completion of those investigations.

- 12) Prior to the commencement of each phase, a scheme showing how the development is to be protected against the possibility of landfill gas migration from the nearby former landfill site shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.
- 13) No development shall take place until an investigation to test for the presence of gas emissions from underground has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any gas emissions are encountered, a report specifying the measures to be taken to render the site suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. These measures shall be undertaken before development begins, and upon their completion a validation report shall be submitted to and approved by the local planning authority confirming that the site is suitable for the development hereby permitted.
- 14) No development shall take place until a contamination investigation has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins. Upon completion of remediation, a validation report shall be submitted to and approved by the local planning authority confirming that the site has been remediated in accordance with the approved measures and that the site is suitable for the development hereby permitted.

If, during the course of development, any contamination is found which has not been identified in the site investigation, then additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

### **Noise**

- 15) No development of phase A or phase C shall take place until a scheme of mitigation relating to traffic noise on the A186 has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.
- 16) No external plant shall be installed on the A1 and D1 units until an acoustic scheme has been submitted to and approved in writing by the local planning authority. The acoustic scheme should demonstrate that the rating level would be no greater than 5dB above the background noise level, measured in accordance with British Standard BS 4142. The

development shall be carried out in accordance with the approved scheme and thereafter retained.

### ***Design and layout***

- 17) In each phase, no development shall take place until details of the existing and proposed ground levels and the proposed finished floor levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 18) No development shall take place in phase A until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 19) No development shall take place in phase A until a scheme of boundary treatment, including a programme for implementation, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and programme.
- 20) In each phase, no development shall take place until a scheme for the storage of refuse, providing for the use of wheeled refuse bins, has been submitted to and approved in writing by the local planning authority. No building shall be occupied until the refuse storage facility for that building has been provided in accordance with the approved scheme, and the facility shall be retained thereafter.

### ***Landscaping and ecology***

- 21) No development of phase A shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, which shall include full details of the area identified as L1a on the phasing plan ref 175/A/GA/101B. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the commencement of phase A; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current or next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 22) The landscaping schemes submitted in respect of conditions Nos 21 and 2 shall incorporate the birdstrike mitigation recommendations contained in the Birdstrike Risk Assessment Report for Persimmon Homes, Station Road by the Animal Health and Veterinary Laboratories Agency dated 3 May 2013 (Document A16).
- 23) Prior to the implementation of the landscaping schemes submitted in respect of conditions Nos 21 and 2, a management plan for the landscaped areas shall have been submitted to and approved in writing by the local planning authority. The landscaped areas shall thereafter be maintained in accordance with the approved plan.

- 24) No clearance of vegetation shall take place during the bird nesting season (1 March – 31 August inclusive) unless a survey by a qualified ecologist undertaken immediately before such works confirms the absence of nesting birds.
- 25) In each phase, no development shall take place until a detailed lighting scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include details of the location and type of lighting to be installed in that phase, shall demonstrate how light spillage will be avoided in and adjacent to areas of sensitive habitat, and include a programme for implementation. The development shall be carried out in accordance with the approved scheme, which shall be retained thereafter.
- 26) In each phase, no development shall take place until a scheme detailing pollution prevention measures to prevent contamination of watercourses or land, including a programme for implementation, has been submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved scheme, which shall be retained thereafter.
- 27) No development shall take place until full details of and a management plan for the wetland areas and the sustainable urban drainage system have been submitted to and approved by the local planning authority. The details shall include the size, depth, profile and planting of the ponds and a programme for implementation. The wetlands and sustainable urban drainage system shall be implemented and maintained in accordance with the approved details and management plan.
- 28) Prior to the implementation of the footway and cycleway along Whitley Road in accordance with condition No 34, details of a watching brief, including an arboricultural survey and a method statement for surfacing and edging work close to the retained hedgerow and trees, shall be submitted to and approved in writing by the local planning authority. As part of the watching brief, no vegetation shall be removed without the prior approval of the local planning authority. The footway and cycleway shall be implemented in accordance with the approved watching brief.

### **Highways**

- 29) No development shall take place until a construction method statement has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:
  - i) the parking of vehicles of site operatives and visitors
  - ii) loading and unloading of plant and materials
  - iii) storage of plant and materials used in constructing the development
  - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - v) wheel washing facilities
  - vi) measures to control the emission of dust and dirt during construction
  - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works

- viii) the route for heavy construction vehicles to use travelling to and from the site
  - ix) a turning area for delivery vehicles
  - x) identification of the site access.
- 30) Notwithstanding the details on plans refs F/B and H/A-H/C, no development shall take place until schemes for the following works have been submitted to, and approved in writing by, the local planning authority:
- i) Temporary site accesses, which shall not be constructed until approved in writing by the local planning authority.
  - ii) A roundabout access from Station Road towards the southern end of the site frontage, to be implemented within 12 months of the commencement of development.
  - iii) A secondary T junction access from Station Road towards the northern end of the site frontage, to be implemented prior to the occupation of the 200<sup>th</sup> dwelling.
  - iv) A scheme for the removal of the mini-roundabout and the installation of traffic signals with pedestrian/ cycle phases and MOVA at the junction of Station Road and Hotspur Road, to be implemented prior to the occupation of the 350<sup>th</sup> dwelling.
  - v) A scheme for the widening of approaches and enhancement of pedestrian crossing facilities at the roundabout junction of Station Road/ Mullen Road/ Wiltshire Drive, to be implemented prior to the occupation of the 100<sup>th</sup> dwelling.
  - vi) A scheme for improvements to the junctions of Station Road with Coast Road and Wiltshire Gardens, to be implemented prior to the occupation of the 175<sup>th</sup> dwelling. The scheme shall include the removal of the mini-roundabout at the junction of Station Road and Wiltshire Gardens with restricted vehicular movements, the widening of the Coast Road off-slip road, construction of an exit from Wiltshire Gardens onto the Coast Road off-slip road with restricted vehicular movements, improved pedestrian and cycle crossing facilities, a swept path analysis of all junction layouts, and a stage 1 road safety audit.

The highway works shall be implemented in accordance with the approved schemes and the timescales at (i) – (vi) above.

- 31) No later than six months from the roundabout access from Station Road to the site being brought into use, all existing accesses not incorporated into the development shall be permanently closed in accordance with a scheme submitted to, and approved in writing by, the local planning authority.
- 32) Prior to the construction of the T junction of the secondary access with Station Road, visibility splays between a point 4.5m along the centre line of the access measured from the edge of the carriageway of Station Road and points 90m along the edge of the carriageway of Station Road measured from the intersection of the centre line of the access. The area contained within the splays shall thereafter be kept free of any obstruction exceeding 0.6m in height above the nearside channel level of the carriageway.

- 33) Notwithstanding the details on plan ref F/B, no development shall take place until schemes for the following works, including a programme for their implementation, have been submitted to, and approved in writing by, the local planning authority:
- i) The upgrading of the northbound bus stop on Station Road (north of the secondary access), including a bus cage and a three bay shelter.
  - ii) Two bus lay-bys with three bay shelters on Station Road between the site accesses.
  - iii) A pedestrian refuge on Station Road to the north of the secondary access.
  - iv) A toucan crossing on Station Road between the site accesses.
  - v) A pegasus crossing on Station Road at the southern end of the site.

The above works shall be implemented in accordance with the approved schemes and programmes.

- 34) Notwithstanding the details on plan ref H/D, no development shall take place until a scheme for the construction of an adoptable 2-3m shared use footway/ cycleway with street lighting from the southern boundary of the site on Station Road to the Asda store on Whitley Road has been submitted to, and approved in writing by, the local planning authority. The footway/ cycleway shall be implemented in accordance with the approved scheme within 12 months of the commencement of the development.
- 35) Prior to the construction of each phase, details of the adoptable roads and footways for that phase and a programme for their implementation shall be submitted to and approved by the local planning authority. The roads and footways shall be implemented in accordance with the approved details and programme.
- 36) Prior to the construction of each residential phase, a scheme of bus stops and associated lining and signage for that phase and a programme for their implementation shall be submitted to and approved by the local planning authority. The bus stops and associated works shall be implemented in accordance with the approved scheme and programme.
- 37) No dwelling in phase A shall be occupied until space for the parking of vehicles for that dwelling has been laid out in accordance with the approved site plan ref 157/A/GA/001C. This space shall be retained for the passage and parking of vehicles.
- 38) In each phase, no building shall be occupied until secure undercover cycle parking has been provided in accordance with a scheme to be submitted to, and approved in writing by, the local planning authority.
- 39) Prior to the construction of each phase, a scheme of multi-user links and footpaths to the surrounding public rights of way network and Rising Sun Country Park, including details of routing, construction and signage, and a programme for implementation shall be submitted to and approved by the local planning authority. The links and footpaths shall be implemented in accordance with the approved scheme and programme.
- 40) No dwelling in phase A shall be occupied until space for the turning of refuse vehicles has been laid out in accordance with the approved site plan

ref 157/A/GA/001C. This space shall be retained for the passage of vehicles.

- 41) Prior to the construction of each phase, details of traffic calming measures for that phase and a programme for their implementation shall be submitted to and approved by the local planning authority. The traffic calming measures shall be implemented in accordance with the approved details and programme.

**Drainage**

- 42) In each phase, no development shall take place until a scheme for the management and disposal of surface water has been submitted to and approved in writing by the local planning authority. The scheme shall include the means of drainage of overland flows through the site and a programme for implementation in relation to different parts of that phase. The surface water management and disposal works shall be implemented in accordance with the approved scheme and programme.
- 43) In each phase, no development shall take place until a scheme for the disposal of foul sewage has been submitted to and approved in writing by the local planning authority. The scheme shall include a programme for implementation in relation to different parts of that phase. The foul drainage works shall be implemented in accordance with the approved scheme and programme.

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr J Easton of Counsel	Instructed by the Legal Department, North Tyneside Council.
He called	
Mr S Wood BA(Hons)	Regional Planning and Building Control Manager, Urban Vision.
MRTPI	
Mr S Kyle MA(Hons)	Senior Landscape Architect, Capita Property & Infrastructure.
CMLI	
Miss M Ingram <sup>34</sup>	Planning Officer, North Tyneside Council.

### FOR THE APPELLANT:

Mr S White QC	Instructed by Persimmon Homes.
He called	
Mr T Robinson BPhil	Director, Robinson Landscape Design.
CMLI	
Mr J E Hall BA(Hons)	Planning Partner, Barton Willmore LLP.
MCD MRTPI	
Mr D Smith <sup>35</sup>	Development Planner, Persimmon Homes Ltd.

### INTERESTED PERSONS:

Councillor M J Huscroft	Member of the Council for Northumberland Ward.
Councillor D Ord	Member of the Council for Northumberland Ward.
Mr K Page	Holystone Action Group.
Ms V F Webber	Holystone Action Group.
Mr A Newman	Northumberland Ward Branch of the Labour Party.
Mr M Bernard	Local resident.
Mr J Courtney	Local resident.
Mrs C Gourdie	Local resident.
Mrs L Henry	Local resident.
Mrs V Kenny	Local resident.
Mr T Partridge	Local resident.
Mrs J Seaman	Local resident.

## CORE DOCUMENTS

CD1	Extracts from the UDP.
CD2	National Planning Policy Framework.
CD3	Core Strategy Preferred Options.
CD4	Local Plan Consultation Draft.
CD5	Five Year Housing and Supply Assessment of North Tyneside 2012-13 to

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<sup>34</sup> Miss Ingram did not give evidence in support of the Council's case, but contributed to the sessions on the planning obligation and conditions.

<sup>35</sup> Mr Smith did not give evidence in support of the Appellant's case, but contributed to the sessions on the planning obligation and conditions.

- 2016-17; Barton Willmore; December 2012.
- CD6 North Tyneside Strategic Housing Land Availability Assessment Report; October 2013.
- CD7 Land Classification Report – Land at Sunholme Farm, Wallsend; H&H Land and Property Ltd; 2014.
- CD8 North Tyneside Strategic Housing Market Assessment 2009.
- CD9 North Tyneside Strategic Housing Market Assessment Key Elements Update, Final Report; 2011.
- CD10 Statement of community involvement relating to residential development on the appeal site.
- CD11 Scoping opinion for an environmental statement in respect of the appeal proposal.
- CD12 Committee report on the appeal proposal.
- CD13 Notice of refusal of planning permission.
- CD14 Written Ministerial Statement – Planning for Growth; 2011.
- CD15 Extracts from the Core Strategy Preferred Options Sustainability Appraisal.
- CD16 Letter dated 10 February 2014 from the Council to the Appellant concerning reason for refusal No 7.
- CD17 Letter dated 1 April 2014 from the Council to the Appellant concerning reasons for refusal Nos 1 and 3-6.
- CD18 Speech by the Minister for Planning; January 2013.
- CD19 Design and access statement for the appeal proposal.
- CD20 Planning statement for the appeal proposal.
- CD21 Planning Practice Guidance.
- CD22 Supplementary Planning Document LDD8 – Planning Obligations.
- CD23 Supplementary Planning Document – Design Quality.
- CD24 Extract from the UDP Inspector’s Report.
- CD25 North Tyneside Local Investment Plan 2010-2030.

## **THE LPA’S DOCUMENTS**

- L1 Mr Easton’s closing submissions.
- L2 Mr Wood’s proof of evidence.
- L3 Appendix to Document L2.
- L4 Mr Kyle’s proof of evidence.
- L5 Appendices to Document L4.
- L6 The Council’s list of plans.
- L7 CIL Regulations compliance statement.
- L8 Appendices 1 and 5 of Document CD6.
- L9 Note concerning Document A19.
- L10 Response to the Appellant’s costs application.
- L11 Extract from North Tyneside Greenspace Strategy.
- L12 Allotment Strategy 2009-2015, North Tyneside Council.
- L13 Extract from North Tyneside Council Infrastructure Delivery Plan, 2013.
- L14 Extracts from the UDP.

## **THE APPELLANT’S DOCUMENTS**

- A1 Mr White’s closing submissions.
- A2 Mr Robinson’s proof of evidence.
- A3 Appendices to Document A2.
- A4 Mr Hall’s proof of evidence.

- A5 Appendices to Document A4.
- A6 The Appellant's list of plans.
- A7 Environmental statement.
- A8 Volume of appendices to Document A7.
- A9 Non-technical summary to Document A7.
- A10 Transport assessment, November 2012.
- A11 Addendum transport assessment, September 2013.
- A12 Addendum transport assessment – sensitivity test, October 2013.
- A13 Geotechnical and environmental desk study.
- A14 Addendum to air quality impact assessment.
- A15 Stage 1 road safety audit.
- A16 Birdstrike risk assessment.
- A17 Court of appeal judgement in City and District Council of St Albans v The Queen (oao Hunston Properties Ltd) and others. (Part of Appendix 3 in Document A5.)
- A18 Extracts from the Consultation Draft Local Plan – Sustainability Appraisal Report.
- A19 Flood Risk Assessment and Surface Water Management Plan.
- A20 Bundle of figures relating to Mr Robinson's landscape and visual impact assessment (Chapter 11 of Document A7).
- A21 Note of findings of site investigation.
- A22 Email dated 27 June 2014 from Queensberry Design Ltd to the Appellant concerning the flood risk assessment.
- A23 Costs application.

#### **OTHER PARTIES' DOCUMENTS**

- O1 Correspondence received in response to Document G1.
- O2 Mrs Gourdie's statement.
- O3 Councillor Ord's statement.
- O4 Statement from Mr C Armstrong, local resident.
- O5 Councillor Huscroft's statement and bundle of photographs.
- O6 Mr Page's statement.
- O7 Ms Webber's statement.
- O8 Appendices to Documents O6 and O7.
- O9 Mrs Henry's statement.
- O10 Mr Courtney's note and appendices.

#### **GENERAL DOCUMENTS**

- G1 Notification of the appeal and inquiry.
- G2 Statement of common ground.
- G3 Planning obligation.
- G4 Letter dated 31 August 2007 from the Government Office for the North East to the Council concerning the saving of UDP policies, saved policies directions and schedule.
- G5 Review of Local Sites (Sites of Nature Conservation Importance) in North Tyneside 2007-2009.
- G6 Extract from planning obligation relating to residential development at Scaffold Hill.
- G7 Note from Beazer Homes and the Council concerning a deed of variation to the planning obligation.

G8 Deed of variation concerning the planning obligation.

## **PLANS – PROPOSALS FOR OUTLINE AND FULL PERMISSION**

OF/A Location plan ref 157/A/LP/001  
OF/B Outline/ detailed plan ref 175/A/GA/102A  
OF/C Phasing plan ref 175/A/GA/101B  
OF/D Overall site plan ref 157/A/OSP/001  
OF/E1 Landscape strategy ref 5534-99-004B  
OF/E2 Overall landscape masterplan ref 5534-99-004E

## **PLANS - PROPOSAL FOR FULL PERMISSION**

F/A Site plan ref 157/A/GA/001C  
F/B Access arrangements ref 025/01/01/A2  
F/C1 Aidan apartments details ref 157/A/AID/001  
F/C2 Dunston apartment details ref 157/A/DUN/001  
F/C3 Dunston apartment details option B ref 157/A/DUN/001  
F/C4 Maddison housetype details ref 157/A/650/001  
F/C5 Swale housetype details ref 157/A/SWA/001  
F/C6 Chedworth housetype details ref 157/A/CHE/001  
F/C7 Cherryburn housetype details ref 157/A/CHR/001  
F/C8 Cheviot flat details ref 157/A/CHEV/001  
F/C9 Hatfield housetype details ref 157/A/HAT/001  
F/C10 Lumley housetype details ref 157/A/LUM/001  
F/C11 Roseberry housetype details ref 157/A/ROS/001  
F/C12 Rufford housetype details ref 157/A/RUF/001  
F/C13 Winster housetype details ref 157/A/WIN/001  
F/C14 Woodchester housetype details ref 157/A/WOO/001  
F/D1 Single garage details ref 2004/A/GAR/001  
F/D2 Increased single garage details ref 157/A/ISG/004  
F/D3 Double garage details ref 2004/A/GAR/002  
F/E Surface finishes  
F/F1 Landscaping masterplan ref 5534-99-002C  
F/F2 Masterplan of local open space ref 5534-99-003D  
F/G Affordable housing plan ref RH/A/GA/001

## **PLANS – OFF-SITE HIGHWAY WORKS**

H/A Station Road/ Hotspur Road ref 025/03/02C  
H/B Station Road North/ Wiltshire Drive ref 025/05/04C  
H/C Station Road/ Coast Road ref 025/05/01D  
H/D Whitley road footway/ cycleway ref 025/SK01

## **OTHER PLANS**

O/A Local Plan Consultation Draft Policies Map. Submitted by Mr White.  
O/B Extracts from plans of mine workings in the locality of the appeal site. Submitted by Mrs Seaman.  
O/C1-3 Plans of local wildlife sites and sites of local conservation interest in the locality of the appeal site. Submitted by Miss Ingram.  
O/D1-2 Rising Sun Country Park and proposed extension to the country park.  
O/E Landscape strategy annotated with depth of perimeter landscaping.

## **PHOTOGRAPHS**

- 1-3 The appeal site and surrounding area. Submitted by Mr Partridge.
- 4-32 The appeal site and surrounding area. Submitted by Mr Courtney.
- 33-38 Flooding on Station Road. Submitted by Mr Courtney.
- 39 CD containing video files of flooding on Station Road. Submitted by Mr Courtney.



## Department for Communities and Local Government

### **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

#### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;**

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### **Challenges under Section 288 of the TCP Act**

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

#### **SECTION 2: AWARDS OF COSTS**

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

#### **SECTION 3: INSPECTION OF DOCUMENTS**

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.