



Appeal Decision

Inquiry opened 8 March 2016

Unaccompanied site visits made on 8 and 17 March 2016

by D R Cullingford BA MPhil MRTPI

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

Decision date: 09 June 2016

Appeal Ref: APP/H0738/W/15/3063793

Land at Harrowgate Lane, Bishopsgarth, Stockton-on-Tees, TS19 8TF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is by Tithebarn Land against the decision of the Stockton-on-Tees Borough Council.
- The application (ref: 14/2291/EIS and dated 22 August 2014) was refused by notice dated 29 July 2015.
- The development is described as an outline application for 'residential development for up to 340 dwellings'.

Summary of Decision: ~ The appeal is allowed, subject to conditions.

Procedural matters

1. This 'urban development project' falls within the descriptions set out at paragraph 10b of Schedule 2 and exceeds the thresholds in column 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011, and it has been deemed to constitute EIA development. An Environmental Statement has been submitted dated July 2014 and updated in November and December 2015 addressing potential impacts in relation to:
 - The ecology of the site
 - A Travel Plan
 - A Travel assessment
 - A geophysical survey
 - Flooding and surface water
 - Air quality
 - An Archaeological Evaluation
 - A Heritage assessment
 - Landscape character
 - NoiseIn addition there is:
 - A Planning statement
 - A Statement of Community Involvement and
 - A Design and Access Statement.

Reasons

The site and surroundings

2. The appeal site is largely a flat expanse of arable land just beyond the western edge of Stockton-on-Tees. It extends over some 13.4ha, incorporating 2 or 3 fields demarcated by hedgerows, in parts luxuriant and in parts intermittent. The bulk of
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the site is a rectangular block of land immediately to the south of Bishopsgarth Secondary School: a smaller area extends northwards behind the western boundary of the school playing fields and in front of a thick hedgerow that follows the course of an old stream. The site lies beside Harrowgate Lane, a well-used local distributor road with a carriageway 7.3m wide that, with Darlington Back Lane and Yarm Back Lane (both to the south) provides a link around the western estates of the town between the A177 (to the north) and the A66(T) (to the south). In the vicinity of the appeal site, the road also demarcates a clear distinction between the closes and culs-de-sac of the burgeoning suburban estates (to the east) and the surrounding fields and farmland (to the west); apart from the buildings and grounds of the school, the appeal site is seen beyond the estates amongst fields and farmland.

3. The course of a further stream, now largely culverted, runs across the south eastern portion of the site providing a modest variation in the flat landscape. The culvert runs beneath Harrowgate Lane and discharges water into the stream beside the landscaped Bothal Walk and thence into the Hardwick Dene and Elm Tree Woods Nature Reserve, all providing an attractive area of open space between the suburban estates. There are some mature trees and sections of hedgerow on the site, mostly associated with a central drainage ditch and the course of the old stream along the western boundary. The eastern boundary beside grass verges on Harrowgate Lane is more open, but this too supports some sections of trimmed hedgerow and hedgerow trees: the boundaries around the school are enclosed by 2m high metal fencing.
4. The site is about 2.7 miles from the railway station and a little further from the High Street. But there are bus stops beside the site and at least 4 buses an hour throughout the working day to local shopping centres, supermarkets, the main hospital and the town centre; a less frequent service continues late into the evening. A local centre in Marske Lane is well within walking distance (barely 250m distant) offering a wide range of goods and services, including a post office, a pharmacy and a variety of convenience outlets: a secondary school is adjacent to the site and primary schools are within easy reach: and, there are social clubs and public houses along Harrowgate Lane.

The proposal

5. The proposal is made in outline with all matters except the means of access reserved for subsequent approval. The 340 dwellings proposed are envisaged as part of a Strategic Urban Extension immediately to the west of the town (of which more later) intended to accommodate almost 2,000 homes before 2032 (though about 2,150 ultimately, excluding the 350 dwellings already permitted at Summerville Farm, to the north). This level of provision would require additional infrastructure, largely all identified, and could potentially be increased, subject to further major improvements to the A66(T).
6. The access arrangements entail the initial provision of a signalised junction at what would become a cross-roads at the entrance to the appeal site on Harrowgate Lane at its junction with Leam Lane. Subsequently there is the intention to create a roundabout as development proceeds on the rest of the Strategic Urban Extension, as shown on the latest version of the Harrowgate Lane and Yarm Back Lane Masterplan.
7. An indicative plan (No.1323.2.2.200 Rev.A) shows how the site might be developed with 6 'neighbourhoods' (or home zones) around accesses taken from the main link roads through the site incorporating green areas, landscaping and screen planting beside the adjacent school. Links are shown to the rest of the development outlined in the Masterplan both to the north and south of the appeal site. Provision is made for 'sustainable drainage' and a surface water pond is incorporated into the landscaping.

A mix of dwelling types and sizes is intended and 15-20% of the units are proposed to be offered as 'affordable homes', in line with policy 8 of the adopted Core Strategy.

8. A phasing condition is suggested which would also prevent the erection of more than 250 dwellings on the appeal site until further improvements (additional to those envisaged in the Masterplan) to the Elton Interchange and the A66(T) are carried out. The initial 'cap' of 250 dwellings is derived from traffic modelling and on the basis that housing density is equalised across each parcel of land separately owned within the Strategic Urban Extension. This latter measure is part of a chosen device to achieve a fair distribution of the costs and benefits between each landowner involved in the development, thereby fostering the cooperation and coordination essential to deliver the scheme as a collaborative effort between the Council and the private sector.
9. Other conditions would ensure that the scheme would be implemented as intended and that the reserved matters and other details (including landscaping, green infrastructure and connections for pedestrians and cyclists) would be submitted to the Local Planning Authority for approval: that the affordable housing would be secured: that foul and surface water drainage systems would be installed and controlled: that a Construction Management Plan (including hours of operation) would be devised and implemented: that ecological measures would be undertaken in accordance with the submitted assessment: that the dwellings would be protected from traffic noise and from any low frequency noise emanating from the Letch Lane sub-station: and, that any unexpected contamination could be addressed.
10. A signed and dated section 106 Agreement also incorporates measures to achieve a fair distribution of the costs and benefits between each landowner essential for the delivery of the scheme. The basis for this builds on the notional equalisation of the housing density across each parcel of separately owned land and apportions the currently estimated infrastructure costs of the whole scheme (entailing all 2,150 dwellings currently envisaged) as a 'roof-tax' on each property to be built across the Strategic Urban Extension. As I understand it, that 'roof tax' would also be levied on any dwelling built in addition to the currently envisaged total, should circumstances eventually accommodate such a possibility.
11. The Agreement sets out the 'maximum' contribution required to deliver the whole extension and the amount apportioned to the appeal scheme in relation to the first 250 dwellings. In relation to the latter, contributions are required towards improving highways, cycle links, crossing points and green infrastructure (£232,558.14), providing new community facilities (£69,767.44), undertaking highway junction improvements (£1,059,781.16), providing additional primary school places (£655,822.67), providing additional secondary school facilities (£512,686.04), purchasing land for the highway improvements (£197,325.57), upgrading water mains in the vicinity of the site (£44,186.05) and enhancing sustainable transport facilities (£25,000). I estimate that the resulting 'roof tax', including a 10% contingency allowance, would be just under £11,500 per dwelling. The Agreement also limits the number of dwellings to be occupied until specified proportions of the relevant contributions have been paid.
12. The estimate of the 'roof tax' set out above is over 20% above the figure given at the Inquiry, including in the relevant Statement of Common Ground. This is almost wholly due to the substantial increase in the contribution now required towards additional secondary school facilities. Essentially, the figure used in previous calculations, although provided by the Council, had incorporated 'snap-shot' estimates of spare capacity in local secondary schools rather than forecast estimates; the

current figure is agreed and incorporates forecast estimates of the capacity likely to be available.

Planning policy and the main issues

13. The Development Plan currently consists of the 'saved' policies from the Stockton-on-Tees Local Plan 1997, the Stockton-on-Tees Local Plan Alteration No.1 2006 and the adopted Stockton-on-Tees Core Strategy 2010.
14. There is also an emerging Regeneration and Environment LDD, the current 'draft' document having been the subject of consultation in February 2015. It is the result of much previous effort involving a decision to review of the Core Strategy in December 2010, the publication of the issues and options available in June 2011, a comprehensive search for sites identified in the SHLAA, and the results of the consultation responses to the publication of a 'preferred options' version of the Regeneration and Environment LDD in the summer of 2012. The Document had originally been intended mainly to allocate sites for development in accordance with the Core Strategy. That may yet remain its main function. However, the Council have embarked on a review of the relevance of the evidence base, not least because the housing required and the spatial vision pursued in the Core Strategy reflect the provisions of the now revoked North East of England Regional Spatial Strategy and because the resources originally available to support the regeneration envisaged as central in both those documents no longer exist. As a result, a 5-year supply of housing land cannot be identified (the latest estimate is 4.5 years, with a 20% buffer) and the Regeneration and Environment LDD may become a new Local Plan both updating the Core Strategy and identifying specific sites for development.
15. The draft Regeneration and Environment LDD addresses, amongst other things, the provision of sites necessary to meet the currently identified housing requirements. Those requirements may change, probably upwards, as work on the 'objectively assessed need' progresses as part of the review of the evidence base. Nevertheless, the 'West of Stockton Strategic Urban Extension' has been included as a proposal in all stages of the emerging Plan. It is fundamental to the delivery of the dwellings required over the Plan period, providing almost 70% of the currently estimated 'outstanding' requirement and about 13% of the total requirement currently identified. It is re-affirmed as a proposal in the draft Plan (policy H1) and specific policies set out the elements of infrastructure that should be shared (policy H17) together with the more detailed requirements for green infrastructure, links, landscaping, drainage and design in relation to Harrowgate Lane (policy H18a for 1,250 units and policy H18b land safeguarded for 400 units), Yarm Back Lane (policy H19 for 900 units) and Summerville Farm (policy H20, now granted planning permission for 350 units).
16. The scale of this development, the requirements for shared infrastructure and the numerous land ownerships led the Council to seek help from the Government's Advisory Team for Large Applications (ATLAS) in pursuing a collaborative approach to the scheme. As a result, much effort and numerous meetings (over 30) between December 2013 and September 2015 has led to the preparation of a Concept Plan in January 2014, a Strategic Framework Plan in September 2014 and the appointment of consultants to prepare a Development Framework Document in December 2014, that document being finalised in December 2015. The latter includes an itemised list of the infrastructure required and an assessment of when, and over what period, it should be delivered in order to implement the Strategic Urban Extension. In addition, the Council have prepared a Harrowgate Lane and Yarm Back Lane Masterplan (approved in January 2016) intended to aid the determination of planning applications and as part of the evidence base for the Regeneration and Environment LDD.

17. In spite of all that effort and commitment the emerging Regeneration and Environment LDD remains as a draft document. And, it is uncertain not just how long its path to adoption might be, but also the scale and nature of the evidence review that might be necessary to get it there. Hence, as things now stand, the proposal would conflict with 'saved' policy EN13 of the Local Plan, which seeks to restrict development within the countryside to certain prescribed forms, none of which would encompass the appeal scheme. It would also conflict with policy CS7 of the Core Strategy in focusing development beyond the confines of the town rather than on the redevelopment of previously developed land within the 'core area' and on sites that would support regeneration. However, as a 5-year supply of deliverable housing sites cannot be demonstrated, the Framework (NPPF) advises, that relevant policies for the supply of housing cannot be considered to be up-to-date. And, it is now clear (from the recent Court of Appeal judgement in *Suffolk Coastal District Council v Hopkins Homes Limited and SoS and Richborough Estates Partnership LLP v Cheshire East Borough Council and SoS*) that 'relevant policies for the supply of housing' should be interpreted in the 'broad' sense as any 'relevant policies affecting the supply of housing' or, indeed, 'restricting' the supply of deliverable housing sites. That must encompass 'saved' policy EN13 and policy CS7 of the adopted Core Strategy.
18. The judgement also clarifies that 'not being up-to-date' is a reason for policies being 'out-of-date' for the purposes of applying the decision-making mantra set out in paragraph 14 of the Framework. Hence, in the context of this appeal, the presumption in favour of sustainable development means that permission for this scheme should be granted unless either any consequent adverse impact would significantly and demonstrably outweigh the benefits (assessed against the advice in the Framework as a whole) or specific policies in the Framework indicate that development should be restricted. However, that does not provide carte blanche to necessarily disregard or discard a policy which is deemed to be 'out-of-date'. The statutory requirements, both to have regard to the Development Plan and to make decisions in accordance with it unless material considerations indicate otherwise, remain. The task is to set those statutory requirements against the other material considerations that apply in order to arrive at an appropriate balance in favour or against the scheme, always bearing in mind that the advice in the Framework is itself an important material consideration.
19. In this case, 3 severe impediments are alleged in the reasons for refusal. First, in coming forward in advance of a comprehensive permission for the Strategic Urban Extension as a whole, that the appeal scheme would jeopardise the implementation of the Masterplan and impair the proper planning so carefully designed to coordinate the delivery of the development envisaged. Second, that in 'jumping the gun', the proposal could risk the provision of the necessary infrastructure and, thereby, render some parcels of land unviable. Third, that the information submitted failed to demonstrate that the impact of the traffic likely to be generated by the appeal scheme would be appropriately mitigated, contrary to policy CS2 of the Core Strategy.
20. In those circumstances, and from all that I have heard, read and seen, I consider that this case turns on whether:
- i) this 'Strategic Urban Extension' would be warranted,
 - ii) the arrangements devised would properly secure the necessary infrastructure in compliance with the CIL Regulations, and
 - iii) severe traffic impacts would be avoided.

21. As indicated above, the draft Regeneration and Environment LDD addresses the allocation of sites needed to make up the identified shortfall in the housing requirements currently identified over the Plan period; the 'west of Stockton Strategic Urban Extension' is fundamental to that aim, providing almost 70% of the 'outstanding' requirement currently estimated. However, as a proposal, that 'extension' would conflict with 'saved' policy EN13 and directly contravene policy CS7 of the adopted Core Strategy. Moreover, this is an area where the Stockton-on-Tees Landscape Capacity Assessment (2011) indicates that the landscape has a low capacity to accommodate change without a significant impact on the character and appearance of the place. And, as Mr. Wright submitted, the substitution of new estates, however well designed, for the fields and farmland now enjoyed, would radically alter the prospect from, as well as the perception and appeal of, these peripheral estates. Why is such a transformation in the operative planning strategy necessary?
22. It is not just that a 5-year supply of housing land cannot be identified. Rather, it is that a thorough review of the housing sites allocated in the Core Strategy indicated the prospect of never being able to provide sufficient housing land, there being a dearth of some 2,800 dwellings (nearly 20%) in the likely provision over the whole Plan period. The reasons advanced, barely 9 months after the adoption of the Core Strategy, entailed the malaise in the development industry and the uncertainties of Government funding.
23. The malaise in the development industry clearly contributed to a fall in completed dwellings and applications to start new homes, the latter falling by almost 50% in 2008 from the previous year. Moreover, limitations on lending led builders and developers to seek higher returns on capital (typically 25% rather than the 15-20% previously) and to eschew 'riskier' or more difficult sites. As the Core Strategy prioritises the redevelopment of previously developed land in the 'core area', with a target to achieve 75% of new dwellings on such land, and aims to favour sites that might support the regeneration of the town, its portfolio of allocations include several risky or difficult sites that have been, and are likely to remain, unattractive to the market.
24. However, the Core Strategy was adopted after the malaise in the development industry had become apparent. And, although the examining Inspector acknowledged that the allocations within it entailed difficult sites requiring the investment of public money, he nevertheless found the Strategy sound and worth supporting, not least because it offered the opportunity to 'upgrade the bleak environment of large parts of the river corridor and make the most of what is potentially the Borough's greatest urban asset'. He had good reason for such optimism for regeneration initiatives had begun to achieve just that. The coordination of the Stockton-Middlesbrough Initiative and the backing of the Tees Valley Regeneration had already transformed areas of previously developed land along the River Tees corridor, promoting regeneration of the North Shore and Stockton Riverside, and instigating imaginative projects for sport and leisure through the Green Blue Heart programme. The success of these projects and their catalytic effect on others is now clearly evident in the open riverside, the new houses and apartments, the Infinity Bridge, the colleges, the International White Water Centre, the parks, landscaping and the transformed High Street.
25. However, just as the Core Strategy was adopted the Government altered the basis of the financial support for urban regeneration here. Tees Valley Regeneration was wound up in March 2010, having attracted more than £1bn of investment, and the funds to foster the development of the risky or difficult sites allocated for development

in the 'core area' were either insufficient or unavailable. Hence, the possibility of building over 1,000 dwellings on the old Tees Marshalling Yards within the Plan period effectively vanished due to the high remediation costs and the substantial infrastructure likely to be required, currently expected to entail an additional river crossing. And, the 300 or so dwellings anticipated from redeveloping the site of the existing University Hospital of North Tees were effectively removed as the funds to build a new modern hospital at Wynyard were withdrawn. A careful assessment of the sites in the SHLAA (2015) now confirms that the sites relied on in the Core Strategy to deliver housing remain either undeliverable or likely to accommodate far fewer dwellings than originally anticipated, given current market conditions and Government funding arrangements. It is thus necessary to pursue sites capable of development without significant public subsidy and reasonably attractive to the market in order to achieve the housing required. The proposed greenfield 'West of Stockton Strategic Urban Extension' would fulfil that requirement.

26. As indicated above, the 'West of Stockton Strategic Urban Extension' is the result of much previous effort involving a thorough review of the Core Strategy, a search for sites identified in the SHLAA, the publication and consultation on the options available and consultation on a 'preferred options' version of the Regeneration and Environment LDD. The current configuration of the 'extension' is the result of all that effort and it is the preferred option to meet the identified housing requirements. It is thus about as 'plan-led' as a proposal might be in the context of, as yet, only an emerging Plan. It performs well in the 'Sustainability Appraisal', being identified as one of the most sustainable sites. Indeed, the Harrowgate Lane site (including the appeal site) scored positively against all the relevant objectives save one, and that exception was merely neutral. The site is in a sustainable location, enhanced through the requirements of the Masterplan to secure provisions for primary school places, a community centre, a neighbourhood centre and linkages to services and facilities in the existing built-up area. The Strategic Urban Extension is a logical addition to the town, well related to a main bus route and to existing services and facilities. And, in current market conditions and under current funding arrangements, it appears to be the only reasonable prospect of providing the homes likely to be needed in the Borough. It thus serves an important economic and social role in offering a currently feasible means to provide the homes likely to be needed within the Borough and it does so in a way that has been assessed to be 'sustainable' and is in accordance with a carefully planned proposal to extend the town. In the terms set out in the Framework, this scheme would constitute 'sustainable development'.
27. Taking all those matters into account, I consider that this 'Strategic Urban Extension' would be warranted.

Properly providing infrastructure

28. The Harrowgate Lane and Yarm Back Lane Masterplan was intended to serve as the basis of an outline planning permission for the whole Strategic Urban Extension with associated documents, including the Development Framework Document, controlling the progress of the scheme and the provision of the necessary infrastructure. There are obvious practical advantages in such an approach. And procedurally, since all the contributions for the necessary infrastructure would relate to a single project, compliance with CIL Regulations 122 and 123 might have been easily demonstrated.
29. Fortuitously, it now appears that applications for the housing development envisaged in the Yarm Back Lane part of the Strategic Urban Extension are likely to be made shortly. Hence, in practice progress is likely to be made in a more coordinated and collaborative manner than had first been feared. Nevertheless, arrangements to link

the appeal scheme to the Masterplan and the orderly development it seeks to guide are crucial.

30. The fundamental importance of pursuing a coordinated approach to the implementation of the development envisaged within the Strategic Urban Extension stems from the results of highway modelling undertaken by the Council. This was done using the AIMSUN model, validated by Highways England, which demonstrated that a 'cap' of 2,500 units was likely to be necessary to avoid forecast traffic increases exceeding the predicted highway capacity at the 'improved' Elton Interchange on the A66(T). (The permission for 350 units at Summerville Farm means that 2,150 dwellings remain to be accommodated within the rest of the Strategic Urban Extension). Those improvements, envisaged as part of the infrastructure requirements in the Masterplan, entail amendments to the east facing slip roads on and off the A66(T) and the signalisation of the dumb bell interchange that serves the slip roads. The modelling also demonstrated that construction of more than 2,500 dwellings would require significant additional improvements both at the Elton Interchange and on the A66(T) itself. The precise nature and cost of such improvements has not been established and would require a business case to be demonstrated to Highways England.
31. The Masterplan distributes the number of dwellings on each parcel of separately owned land on the basis that housing density is equalised across land ownerships. So, if a landowner owns about 12% of the land within the Strategic Urban Extension, a proposal for some 250 dwellings on that land would accord with the Masterplan. That is the basis for the initial 'cap' on the development proposed at the appeal site. As it happens, that results in an overall density of about 18.7dph and compares with recent permissions on greenfield sites at Summerville Farm and Morley Car Farm of 20.2dph and 15.8dph, respectively. But, of course, physically, densities could be higher and the possibility of accommodating 340 dwellings on the appeal site acknowledges that possibility. However, contributions towards the infrastructure required are also based on the (now agreed) estimates of the costs for the whole scheme, limited by the highway modelling to the remaining 2,150 dwellings, apportioned as an equalised 'roof-tax' on each property to be built across the Strategic Urban Extension; the latest agreed figures suggest that this is likely to be about £11,500 per dwelling.
32. The potential problems of proceeding in a piecemeal fashion could jeopardise the entire Strategic Urban Extension. First, the infrastructure necessary to implement the early schemes would not meet the requirements of subsequent proposals, thereby saddling later projects with additional infrastructure costs that could render development unviable. Second, initial development at densities above the 'equalised' level could result in subsequent proposals having to accommodate lower densities (due to the highway capacity 'cap') that, again, could jeopardise their viability. Third, a piecemeal process could result in the necessity for several separate planning approvals to cover the whole of the Strategic Urban Extension with the result that the necessary pooling of contributions could fall foul of the provisions in CIL Regulation 123. Fourth, the provisions of CIL Regulation 122 would prevent contributions towards infrastructure elements not directly attributable to the requirements of an individual project, even though they might be essential for delivering the Strategic Urban Extension as a whole.
33. However, much discussion has now led to agreements that would avoid those potential difficulties. A phasing condition would prevent the erection of more than 250 dwellings on the appeal site in advance of further improvements to the Elton Interchange and to the A66(T). That would also ensure that the appeal proposal

would conform to the equalised density set out in the Masterplan. In addition, the signed and dated section 106 Agreement incorporates the agreed costs of the necessary infrastructure and provides a mechanism to coordinate development with the provision of infrastructure elements, as required. Essentially, this limits the number of dwellings to be occupied until specified proportions of the relevant contributions have been paid to the Council. Those contributions are to be paid as a 'roof-tax' on each property based on the average overall cost per dwelling, limited in accordance with the Masterplan. Those contributions would then be held until sufficient, and until required, to undertake the necessary works, any unexpended monies being repaid. In this way a fair distribution of the necessary costs and accruing benefits between each landowner would be achieved. Achieving such fairness is essential to foster the collaboration and cooperation fundamental for the delivery of the scheme.

34. The potential problem in having to pool more contributions than permitted by the provisions of CIL Regulation 123, is now to be overcome by dividing the Strategic Urban Extension into 5 character zones and only accepting applications relating to a specific zone. A residual difficulty relating to improvements at the 'Horse and Jockey' roundabout at Summerville Farm, where a contribution towards necessary road improvements has already been accepted, is to be overcome by invoking provisions under a section 278 Agreement in relation to the sixth or subsequent applications.
35. CIL Regulation 122 requires that contributions must be necessary to render the development acceptable and both directly, and fairly and reasonably, related to the development in order to constitute a reason for granting planning permission. There can be no doubt that the contributions proffered here meet those provisions in relation to the Strategic Urban Extension as a whole. But, it is not immediately obvious that they would do so in relation to each of the 5 separate applications now envisaged, not least because the 'roof tax' includes 'up-front' costs for infrastructure that might be required in a different place, at a different time and mainly in connection with a different part of the Strategic Urban Extension.
36. However, the Courts have found that contributions secured in respect of an individual application can be used to fund off-site infrastructure necessary to support a wider development to which the application may relate (*Persimmon Homes North Midlands Limited v SoS [2011] EWHC 3931 (Admin)*). And, in the cited case, that it is legitimate for a planning obligation to take account of the wider requirements of an identified strategic urban extension, in the context of which, it may be inappropriate to treat the individual application in isolation. That is the case here. As my colleague has observed (2229269), this appeal site has not been allocated in isolation. Indeed, in isolation the considerations that would then apply would be quite different. Rather, the appeal site is envisaged as appropriate to accommodate housing only as part of the Strategic Urban Extension, so that it should legitimately contribute to the infrastructure necessary to deliver the Strategic Urban Extension as a whole.
37. The section 106 Agreement and the phasing condition now provide the mechanism to enable the appeal scheme to make the fair, reasonable and proportionate contributions required to provide the infrastructure necessary, in accordance with the Masterplan provisions. The provisions would satisfy the requirements of CIL Regulations 122 and 123. Hence, I consider that the arrangements devised would properly secure the necessary infrastructure, in compliance with the CIL Regulations.

Traffic

38. Initial concerns that the impact of the traffic from the appeal scheme would not be appropriately mitigated are addressed in the Highway Statement of Common Ground.

The impact of the scheme on 19 junctions in the study area is assessed in relation to the existing traffic, traffic from committed developments and traffic from all 340 dwellings in the appeal scheme, allowing for growth up to 2025.

39. The proposal entails an upgrade to the access into the appeal site at the junction of Harrowgate Lane and Leam Lane (denoted as junction 1) devised as a 4-arm signal controlled junction. It is agreed that this arrangement would operate satisfactorily with practical reserve capacity in both the morning and evening peak hours. However, the Masterplan envisages a further upgrade to a roundabout here. A preliminary design for a roundabout demonstrates that such a junction could be accommodated and traffic modelling indicates that it would provide an acceptable solution to be delivered as part of the shared infrastructure requirement.
40. The priority junction at Darlington Back Lane and Yarm Back Lane (junction 9) was found to be operating over its theoretical capacity in both peak hours with significant queuing on both the Yarm Back Lane approaches. The proposal would exacerbate those conditions and add to the queues likely to be experienced. The solution and mitigation devised in the Masterplan would involve a double set of signals to provide a new signalised junction at this location and also at the nearby Bishopton Road west junction (junction 8).
41. An alternative scheme (shown on drawing No.NEA1416/001 in appendix L to the Supplementary Transport Assessment) shows the widening of Yarm Back Lane to provide a 2-lane approach to the existing priority junction. The results show that although queues would increase significantly, they would reflect improved conditions when compared to the 2025 base scenario (without the development) and thus provide a measure of mitigation to the traffic conditions actually forecast.
42. The Supplementary Transport Assessment demonstrates that the appeal scheme would not have an adverse impact on 9 of the junctions included in the study area, so that no mitigation measure would be required. That is agreed by all parties. It is also agreed that, of the few outstanding matters still subject to further discussion at the start of the Inquiry, 2 now require no further mitigation, while a minor improvement to the Mile House junction on the A177 (junction 19) would provide satisfactory mitigation and could be achieved with the contributions made to fund 'additional infrastructure works'.
43. An assessment has also been made of the impact of the appeal scheme in the event that the remaining sites within the Strategic Urban Extension fail to attract development and the necessary infrastructure envisaged in the Masterplan thus fails to materialise. The results indicate that traffic from the appeal scheme could still be accommodated on the highway network with alternative and more limited mitigation measures than those envisaged in the Masterplan. However, in practice such a possibility is now very unlikely. Moreover, the appeal scheme is predicated on the basis that appropriate contributions to the 'shared' infrastructure necessary to support the whole Strategic Urban Extension would be made.
44. In those circumstances, I consider that appropriate provision has been made to implement the road improvements necessary to satisfactorily mitigate the potential impact of the traffic likely to be generated by the appeal scheme. The proposal would thus accord with policy CS2 of the Core Strategy.

The Undertaking and conditions

45. The provisions of the signed and dated section 106 Agreement are outlined above, as well as the compliance of the Agreement with the tests set out in CIL Regulations 122 and 123. I do not repeat that here.
46. The purpose and nature of the suggested conditions are also outlined above. I need only add that a reference to 'design' would be necessary in preparing a Masterplan for the appeal site and that the surface water run-off from the impermeable areas of the development should be limited to $5/s^{-1}$ rather than $64.4/s^{-1}$, the latter being the flow of water in the stream through the culvert beneath Harrowgate Lane. Other small amendments are made for clarity.

Conclusion

47. I have found that this 'Strategic Urban Extension' would be warranted, not just to contribute to the 5-year supply of housing land, but also to address the substantial dearth anticipated in the housing needed over the entire plan period. In the current market conditions and under current funding arrangements, I consider that it would offer the only reasonable prospect of providing the homes likely to be needed in the Borough, being both a logical and sustainable extension to the town. The arrangements set out in the signed and dated section 106 Agreement, together with the phasing condition, now provide the mechanism to enable the appeal scheme to make the fair, reasonable and proportionate contributions required to provide the infrastructure necessary to achieve the Sustainable Urban Extension envisaged, both in accordance with the Masterplan and the requirements of CIL Regulations 122 and 123. And, the road improvements devised would satisfactorily mitigate the potential impact of the traffic likely to be generated by the appeal scheme. Hence, the initial impediments quite reasonably anticipated in connection with this scheme have now, with considerable discussion and cooperation, been properly overcome.
48. Given all of the above, the presumption in favour of sustainable development should operate to indicate that this scheme should be granted unless any consequent adverse impact would significantly and demonstrably outweigh the benefits (assessed against the advice in the Framework as a whole). For the reasons outlined above, and having considered all the other matters raised, I find no such adverse impact to exist. Hence, I conclude that this appeal should succeed in accordance with the advice in the Framework, subject to the conditions listed in the attached schedule.

Decision

49. The appeal is allowed and outline planning permission is granted for residential development for up to 340 dwellings' on land at Harrowgate Lane, Bishopsgarth, Stockton-on-Tees in accordance with the terms of the application ref:- 14/2291/EIS (dated 22 August 2014) and the plans submitted therewith, subject to the conditions listed in the attached schedule.

David Cullingford
INSPECTOR

APPEARANCES

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Richard Wald of Counsel		Essex Chambers, London Instructed by: Julie Butcher, Principal Solicitor, Stockton-on-Tees Borough Council
He called John Dixon	BA DipTP MRTPI	Senior Planning Officer, Stockton-on-Tees Borough Council
<i>He would have called, but matters agreed</i> Stephen Miles	MRICS MRTPI	Director, Cushman & Wakefield Limited

FOR THE RULE 6 PARTIES

PERSIMMON HOMES (TEESSIDE) LTD & TAYLOR WIMPEY (NORTH YORKSHIRE) LTD:

Andrew Williamson	BA DipTP MRTPI	Partner, Walker Morris LLP, Kings Court, King Street, Leeds, LS1 2HL Instructed by: Peter Jordan, Group Planning Director, Persimmon PLC
He called Peter Jordan	MRTPI	Group Planning Director, Persimmon PLC, 2 Esh Plaza, Sir Bobby Robson Way, Newcastle upon Tyne, NE13 9BA
James Hall	BA MCD MRTPI	Planning Partner, Barton Willmore LLP, Rotterdam House, 116 Quayside, Newcastle upon Tyne, NE1 3DY
<i>He would have called, but matters agreed</i> Philip Owen	BEng CEng MICE MIHT	Optima Highways & Transportation, Atlas House, 31 King Street, Leeds, LS1 2HL

INTERESTED PERSONS:

Peter Wright	Local resident
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DOCUMENTS

Document 1	Lists of persons present at the Inquiry
Document 2	The Case for the Appellant
	1 Summary, proof ~ David Rollinson
	2 Proof~ David Rollinson
	3 Appendices 1-6 ~ David Rollinson
	4 Summary, proof ~ Richard Ellam
	5 Proof~ Richard Ellam
	6 Appendices A-G ~ Richard Ellam
	7 Statement of Common Ground – Appellants and Council
	8 Statement of Common Ground – Appellants and Rule 6 parties
Document 3	Summary and proof ~ John Dixon
Document 4	Summary and addendum proof ~ John Dixon
Document 5	Supplementary evidence ~ John Dixon et al
Document 6	Proof and appendices 1-4 ~ Stephen Miles
Document 7	Proof and appendices 1-8 ~ Peter Jordan
Document 8	Proof and appendices 1-4 ~ James Hall
	5 Statement ~ Phil Owen
Document 9	Note on Objectively Assessed Housing Need ~ Barton Willmore
Document 10	Closing submissions ~ Andrew Williamson
Document 11	Persimmon Homes North Midland PLC v SoS [2011] EWHC 3931 (Admin)
Document 12	British Railways Board v SoS and others [1993]
Document 13	R v Lichfield District Council and Christopher J N Williams [2001] EWCA Civ 304
Document 14	Signed and dated section 106 Agreement
Document 15	Drafts versions (1-4) of the section 106 Agreement
Document 16	Suggested conditions
Document 17	Agreed approach to supplementary evidence
Document 18	Schedule of comprehensive development costs
Document 19	Schedule of site assessments
Document 20	Plans submitted in support of the application
Document 21	Environmental Statement ~ Non-technical summary
Document 22	Environmental Impact Assessment ~ Part 1
Document 23	Environmental Impact Assessment ~ Further information
Document 24	Environmental Impact Assessment & Documents submitted with the application
Document 25	Inspectors index of written representations to the appeal
Document 26	Written representations to the appeal
Document 27	Questionnaire and associated documents
Document 28	List of core documents

CORE DOCUMENTS

Folder A – Application Documents

CDA.1	Location Plan - SK101
CDA.2	Location Plan – SK102
CDA.3	Indicative Masterplan - 1323.2.2.200 Rev A
CDA.4	Application Form

- CDA.5 Planning Statement
- CDA.6 Environmental Statement
- CDA.7 Environmental Statement Non-Technical Summary
- CDA.8 ES Appendix 1 - Ecological Appraisal
- CDA.9 ES Appendix 2 - Travel Plan - TSC212-02
- CDA.10 ES Appendix 3 - Flood Risk Assessment - 4030/FRA1
- CDA.11 ES Appendix 4 - Geophysical Survey – LRD 133
- CDA.12 ES Appendix 5 - Archaeological Evaluation
- CDA.13 ES Appendix 6 - Noise Survey and Suitability Assessment – 3930.1 Rev A
- CDA.14 Transport Assessment – TSC212-01
- CDA.15 Design and Access Statement
- CDA.16 Statement of Community Involvement

Folder B - Decision

- CDB.1 Report to the Planning Committee
- CDB.2 Update Report to the Planning Committee
- CDB.3 Planning Committee Minutes
- CDB.4 Notice of Decision, dated 3rd December 2014

Folder C – Summerville Farm

- CDC.1 Report to the Planning Committee on Summerville Farm, 2014
- CDC.2 Minutes of the Planning Committee on Summerville Farm, 2014
- CDC.3 Summerville Farm Notice of Decision, dated 2015
- CDC.4 Summerville Farm Section 106 Agreement
- CDC.5 Location Plan – R-01-001

Folder D – Appeal Documents

- CDD.1 Appellant's Full Statement of Case
- CDD.2 Appellant's Full Statement of Case Appendices
- CDD.3 Draft Statement of Common Ground submitted with Appeal
- CDD.4 Council's Statement of Case
- CDD.5 Application for Rule 6 Status
- CDD.6 Rule 6 Party Statement of Case
- CDD.7 Statement of Common Ground with Council
- CDD.8 Statement of Common Ground with Rule 6 Party
- CDD.9 Statement of Common Ground with Council (Highways Matters)
- CDD.10 Correspondence from Highways England during Appeal
- CDD.11 Correspondence from local residents during Appeal

Folder E – Development Plan Documents and Evidence Base

- CDE.1 Stockton-on-Tees Local Plan (1997)

- CDE.1.1 Stockton-on-Tees Local Plan Proposals Map (1997)
- CDE.2 Direction under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004 policies contained in Stockton-on-Tees Local Plan (1997)
- CDE.3 Core Strategy Development Plan Document (2010)
- CDE.4 Infrastructure Strategy (March 2010)
- CDE.5 Supplementary Planning Document 6: Planning Obligations (May 2008)
- CDE.6 Open space, recreation and landscaping SPD (2009)
- CDE.7 Sustainable Design Guide SPD (2011)
- CDE.8 Parking Provision for Developments SPD (2011)
- CDE.9 Affordable housing SPD (2014)

Folder F – Emerging Local Plan and Evidence Base

- CDF.1 Core Strategy Development Plan Document Review - Issues and Options Consultation (Summer 2011)
- CDF.2 Regeneration and Environment Local Development Document – Preferred Options (Summer 2012) consultation
- CDF.2.1 Regeneration and Environment Local Development Document – Preferred Options Policies Map (Summer 2012) consultation
- CDF.3 Regeneration and Environment Local Plan Publication Draft (February 2015)
- CDF.3.1 Regeneration and Environment Local Plan Publication Draft Policies Map (February 2015)
- CDF.4 Stockton-on-Tees Regeneration and Environment Local Plan Sustainability Appraisal, Publication Draft (February 2015)
- CDF.5 Report to Cabinet on 3rd December 2015 on the Regeneration and Environment Local Plan (RELP) Evidence Base Review
- CDF.6 2012 Tees Valley Strategic Housing Market Assessment
- CDF.7 Five Year Deliverable Housing Supply Final Assessment: 1st April 2015 to 31st March 2020
- CDF.8 Strategic Housing Land Availability Assessment (2015)

Folder G – Collaborative Working/DFD/Masterplan

- CDG.1 Yarm Back Lane and Harrowgate Lane Masterplan, December 2015
- CDG.2 Strategic Framework Plan, December 2015
- CDG.3 Report to Cabinet on Yarm Back Lane and Harrowgate Lane Masterplan, 14th January 2016
- CDG.4 Minutes of the Cabinet meeting on Yarm Back Lane and Harrowgate Lane Masterplan, 14th January 2016
- CDG.5 Report to Council on Yarm Back Lane and Harrowgate Lane Masterplan, 20th January 2016
- CDG.6 Minutes of the Council meeting on Yarm Back Lane and Harrowgate Lane Masterplan, 20th January 2016
- CDG.7 Harrowgate Lane and Yarm Back Lane Collaborative Working- Minutes of all Meetings

- CDG.8 Harrowgate Lane and Yarm Back Lane Concept Plan (January 2014)
- CDG.9 Harrowgate Lane and Yarm Back Lane Strategic Framework Plan (September 2014)
- CDG.10 Harrowgate Lane and Yarm Back Lane, Development Framework Document (December 2015)
- CDG.11 Correspondence on behalf of the Appellant regarding DFD (10th November 2015)
- CDG.12 Correspondence from the Appellant regarding DFD (3rd December 2015)
- CDG.13 Persimmon Homes - Draft equalisation agreement (December 2015)
- CDG.14 Correspondence on behalf of the Appellant regard draft equalisation agreement (8th December 2015)

Folder H – National Policy and Guidance

- CDH.1 National Planning Policy Framework
- CDH.2 National Planning Practice Guidance
- CDH.3 Localism Act 2011
- CDH.4 WMS – New Homes Bonus – 4th April 2011
- CDH.5 WMS – Housing and Growth – 6th September 2012
- CDH.6 WMS – Making the planning system work more efficiently and effectively – 6th March 2014
- CDH.7 Laying the Foundations: A Housing Strategy for England
- CDH.8 Guidance on Transport Assessment 2007
- CDH.9 Building for Life 12: Third Edition (January 2015)

Folder J – Relevant Appeals

- CDJ.1 Winsford, Cheshire (APP/A0665/A/14/2229269)
- CDJ.2 Benton, Newcastle (APP/W4515/A/12/2186878)
- CDJ.3 Daux Avenue, Billingham (APP/Z3825/A/12/2183078)
- CDJ.4 Mitton Road, Whalley (PP/T2350/A/12/2188887)
- CDJ.5 Shutterton Lane, Dawlish (APP/P1133/A/12/2188938)
- CDJ.6 Moira Road, Ashby-de-la-Zouch (APP/G2435/A/13/2192131)
- CDJ.7 Leys Lane, Meriden (APP/Q4625/A/12/2169840);
- CDJ.8 Bishops Cleve, Gloucester (2013 WL 552349)
- CDJ.9 Northwich, Cheshire (APP/A0665/A/12/2179410 & APP/A0665/A/12/2179374)
- CDJ.10 Spennymoor, County Durham (APP/X1355/W/15/3005376)

Folder K – EIA Further Information

- CDK.1 EIA Further Information Part 1
- CDK.2 EIA Further Information Part 2 – Traffic and Transportation Technical Paper
- CDK.3 EIA Further Information Part 2 – Noise Technical Paper
- CDK.4 EIA Further Information Part 2 – Air Quality Technical Paper
- CDK.5 EIA Further Information – Non-Technical Summary

Folder L – Traffic and Transportation

- CDL.1 JMP Supplementary Transport Assessment (December 2015) – NEA1416/001
- CDL.2 Arup Local Model Validation Report (February 2014) - 224125-19
- CDL.3 Arup Forecasting Report (April 2014) – 224125-19

PLANS

- Plans A 1 Site location plan SK01
- 2 Site access arrangements NEA1416-002, 8 December 2015
- Plan B Parameters plan 1323.2.2.200.A

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Schedule of Conditions

Details, time limits and phasing

- 1) The development hereby approved shall be in accordance with the following approved plan(s); plan no.SK101, dated 26 August 2014 and plan no.NEA1416-002, dated 8 December 2015.
- 2) Details of the appearance, landscaping, layout, and scale of each phase of the development (hereinafter called the reserved matters) shall be submitted to and approved in writing by the Local Planning Authority before development of the phase concerned begins, and the development shall be carried out as approved.
- 3) Application for the approval of the reserved matters shall be made to the Local Planning Authority not later than five years from the date of this permission.
- 4) The development hereby permitted shall begin no later than two years from the date of the approval of the last of the reserved matters to be approved.
- 5) Prior to the commencement of each phase of development, details of the existing and proposed levels of the site including the finished floor levels of the buildings to be erected and any earth retention measures (including calculations where such features support the adopted highway) for that phase shall be submitted to and approved in writing by the Local Planning Authority. That phase of development shall be carried out only in accordance with the approved details.
- 6) Prior to the submission of any details in pursuance of any of the 'reserved matters', a detailed 'design code and phasing programme' shall be submitted to and agreed in writing by the Local Planning Authority. The 'design code and phasing programme' shall include;
 - A) a site Masterplan which identifies the area of the site which shall be developed for up to 250 dwellings and:
 - i. the location and design of strategic place-making features within that area;
 - ii. the location and extent and design of landscaping, open space and other 'green infrastructure' within that area;
 - iii. the location, design and extent of drainage infrastructure and other 'blue infrastructure' within that area;
 - iv. the location and design of vehicular, pedestrian and cycle routes and connections and within that area; and
 - v. a parameters plan to show the principles to guide the development of the rest of the site for up to 90 further dwellings to secure comprehensive development with adjoining sites forming part of the West Stockton Strategic Urban Extension.
 - B) A Phasing diagram which shows the sequential manner in which development will take place and the delivery of:
 - i. all land uses located within the site;
 - ii. landscaping, open space and other 'green infrastructure',
 - iii. drainage infrastructure and other 'blue infrastructure', and
 - iv. vehicular, pedestrian and cycle routes and connections.

Affordable housing

- 7) Development within any phase shall not begin until a scheme for the provision of affordable housing as part of the development within that phase has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall deliver the maximum level of affordable housing consistent with viability and the optimum mix of provision within a range of 15-20% of affordable housing provision within the relevant phase of development. Where the level of affordable housing provision proposed by any affordable housing scheme is below 15%, the scheme shall be supported by relevant viability evidence. The affordable housing shall be provided in accordance with the approved scheme(s), which shall include:
 - i. the numbers, type, tenure, mix and location on the site of the affordable housing provision to be made within the relevant phase;
 - ii. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - iii. the arrangements for the transfer of the affordable housing to an affordable housing provider or to ensure that the affordable housing is affordable to both first and subsequent occupants; ; and
 - iv. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing, and the means by which such occupancy criteria will be enforced.

Open space

- 8) No Development shall be commenced within any phase until the Local Planning Authority has approved in writing the details of arrangements for the setting out of the Public Open Space and play facilities required by the development in accordance with the Open Space, Sport and Recreation Supplementary Planning Document and the Phasing Programme and Masterplan submitted and agreed in pursuance of condition 5, above). Such a scheme may consider interim arrangements for Open Space being provided on-site, until the wider network of Open Space is agreed and provided across the wider Strategic Urban Extension.
 - a The delineation and siting of the proposed public open space;
 - b The type and nature of the facilities to be provided within the public open space;
 - c The arrangements to ensure that the Public Open Space is laid out and completed during the course of the development;
 - d The arrangements for future maintenance of the public open space;

- e The open space shall be completed in accordance with the approved scheme and phasing arrangements.

Renewable energy

- 9) No housing development shall take place on any phase of housing until a detailed scheme has been submitted to and approved in writing by the Local Planning Authority to show how the housing in that phase will meet at least 10% of its predicted energy requirements on site from renewable energy sources, subject to the viability of that phase of the scheme. Development shall be carried out in accordance with the approved details.

Flood risks and drainage

- 10) The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) 4030/FRA1 and the following mitigation measures detailed within the FRA:
- Surface water run-off generated by the impermeable areas of the development shall not exceed a discharge rate of $5/s^{-1}$ across all storms up to and including the 100 year critical storm
 - A scheme of flood mitigation measures (including confirmation of whether culverts across the site are to be opened) shall be submitted to and agreed in writing by the Local Planning Authority.
- All identified mitigation measures shall be fully implemented prior to occupation and shall be carried out in accordance with an agreed phasing programme for development and delivery of the site.
- 11) Development shall not commence on any phase of the development until a detailed scheme for the disposal of foul and surface water from that phase has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include management of surface water during the construction phase and thereafter, including sustainable drainage measures. The development shall take place in accordance with the approved details.

Ecology

- 12) The development hereby approved shall be carried out in accordance with the findings and recommendations set out within the submitted Ecological Assessment and Habitat framework of the Environmental Statement.

Noise

- 13) No development shall take place in any phase of the development including dwellings within 50m of the site boundary with Harrowgate Lane until a scheme for the protection of the habitable rooms from the effects of road traffic noise within the dwellings to be delivered in that phase has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 14) Prior to the commencement of development, a scheme for the protection of the proposed dwellings from low frequency noise from the National Grid Norton Sub Station on Letch Lane (hereafter called the noise mitigation scheme) shall be submitted to, and approved in writing by, the local Planning Authority. The noise mitigation scheme shall be informed by a Noise Assessment carried out by a suitably qualified person and it shall identify all properties affected by the low frequency noise. All works, which form part of the noise mitigation scheme, shall be completed prior to any of the effected dwellings being occupied.

Construction and construction method statement

- 15) No waste products derived as a result of the development hereby approved shall be burned on the site except in an appliance first approved in writing by the Local Planning Authority.
- 16) Construction works pursuant to this permission shall not take place other than between the hours 08.00hrs and 18.00hrs Monday to Fridays and between 09.00hrs and 13.00hrs on Saturdays. No works shall take place on Sundays or on Bank or Public Holidays.
- 17) No development shall take place on any phase of the development until a Construction Method Statement in relation to that phase has been submitted to, and approved in writing by, the Local Planning Authority relevant to that element of the development hereby approved. The approved Construction Method Statement shall be adhered to throughout the construction period relating to that element of the development and shall provide details of:
- i. The construction and position of an access and parking arrangements for vehicles of site personnel, 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 and monitor the emission of dust and dirt during construction;
 - vii. A Site Waste Management Plan;
 - viii. Details of the routing of associated HGVs;
 - ix. Measures to protect existing footpaths and verges;
 - x. A means of communication with local residents.

Contamination

- 18) If during the course of development of any particular phase of the development, contamination not previously identified is found to be present, then no further development on that phase shall be carried out until the

developer has submitted to, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unexpected contamination shall be dealt with. The remediation strategy shall be carried out as approved.

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