



Department for  
Communities and  
Local Government

3 July 2013

Mr Philip Barnes  
Nathaniel Lichfield & Partners  
Generator Studios  
Trafalgar Street  
Newcastle upon Tyne  
NE1 2LA

Our Ref: APP/W4515/A/12/2186878

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)  
APPEAL BY NORTHUMBERLAND ESTATES  
LAND AT SCAFFOLD HILL FARM, BENTON, NEWCASTLE UPON TYNE  
APPLICATION REF: 11/01600/FUL**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, P J Asquith MA(Hons) MA MRTPI, who held a public local inquiry on 26 and 27 February 2013, into your client's appeal under section 78 of the Town and Country Planning Act 1990 against a refusal by North Tyneside Council ('the Council') to grant planning permission for residential development (450 houses including affordable housing), local community facilities including shop (A1) and surgery (D1), extension to the Rising Sun Country Park with associated habitat, landscape and recreational improvements, and works to the surrounding highways infrastructure (application ref. 11/01600/FUL, dated 1 August 2011).
2. The appeal was recovered for the Secretary of State's determination on 8 November 2012, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves a proposal for residential development of over 150 units on a site 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 granted subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and recommendations. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to the IR.

### **Procedural Matters**

4. The Secretary of State notes that the Council's position in relation to this planning application has changed and that its position now is that planning permission should be granted subject to agreed conditions and the concluded S106 agreement (IR3-7). He also notes that in light of this the Council, the appellant and Holystone Action Group (HAG) decided that they would not call their witnesses at the inquiry (IR8 and 281); and that the Inspector closed the inquiry in writing on 11 March (IR9).
5. The Secretary of State notes that the appellant submitted a request to the Council for a Screening Opinion as to whether the proposal required the preparation of an Environmental Impact Assessment (EIA) and that following consultations the Council concluded that an EIA was not required. The Secretary of State's subsequent screening confirmed this (IR10). He considers that sufficient information has been provided for him to assess the environmental impact of the proposal.

### **Policy considerations**

6. In determining the appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, following the revocation of the Regional Spatial Strategy for the North East (RSS) on 15 April 2013, the development plan comprises the saved policies of the North Tyneside Unitary Development Plan 2002 (UDP). The Secretary of State gives no weight to the policies in the revoked RSS. He notes that the views of the main parties on the implications of the revocation were sought and their responses briefly summarised in their respective cases (IR11).
7. The Secretary of State has had regard to the fact that the UDP was not prepared in accordance with the Planning and Compulsory Purchase Act 2004 (IR16). Paragraph 215 of the Framework indicates that in such circumstances due weight should be given to relevant policies according to their degree of consistency with the Framework. He considers that the development plan policies most relevant to this case include those set out in IR15 and 19-21.
8. Material considerations which the Secretary of State has taken into account include: The National Planning Policy Framework ("the Framework"); The Planning System: *General Principles*; Circular 11/95: *The Use of Conditions in Planning Permission*; the Community Infrastructure Levy (CIL) Regulations (2010 and 2011); and, the Ministerial Statement "Planning for Growth" (2011).

9. The emerging Core Strategy (IR17-18) is a material consideration, but as it has yet to be adopted and is still subject to change, the Secretary of State affords it little weight.

### **Main issues**

#### **Impact of the development on the character and appearance of the area, including the loss of open space**

10. For the reasons set out IR284-288, the Secretary of State agrees with the Inspector that there are no reasons to reject the proposal on grounds of adverse impact on the appearance and character of the area; that the scheme would not conflict with the thrust of UDP Policies R2/1 or R2/2 in relation to loss of open space; and that there would not be conflict with UDP Policy H11 in relation to design, layout and impact on local amenity and adjoining land uses (IR289). For the reasons in IR288, the Secretary of State agrees with the Inspector that the scheme would bring benefits in the form of an attractive, well-conceived mixed-use development (IR325). He also agrees with the Inspector that, in the sense that the scheme would result in more land being made publically accessible through the proposed extension to the country park, there would be no conflict with the intent of paragraph 74 of the Framework (IR289).

#### **Ecology/biodiversity**

11. For the reasons set out in IR290 and 291, the Secretary of State agrees with the Inspector that the proposal would result in enhancements to biodiversity (IR325), and that there is no substantive evidence to support HAG's concern about the wildlife impact of the proposal (IR290). He agrees with the Inspector that the operation of the wildlife corridor within the south-eastern section of the site would be maintained and there would be no conflict with UDP Policy E12/6 in this regard or in respect of wildlife links protected under UDP Policy E12/7; and that the scheme would be compliant with UDP Policy E1 which seeks to monitor, protect and enhance biodiversity (IR291).

#### **Employment land**

12. For the reasons set out in IR292, the Secretary of State agrees with the Inspector that the proposal would not be contrary to UDP policy in relation to employment land, and would be likely to create some jobs (IR292).

#### **Prematurity**

13. For the reasons in 293-295, the Secretary of State agrees with the Inspector that there is no strong argument for rejecting the proposals on prematurity grounds (IR295).

#### **Hosing provision and supply**

14. The Secretary of State notes that appellant and the Council agree that the UDP housing policies are out-of-date and that the Council cannot demonstrate a 5-year supply of deliverable housing sites (IR297), although the degree of shortfall is disputed for the reasons set out in IR298 and 299. He has also had regard to HAG's position that there is no demonstrable housing land shortage, and has carefully considered HAG's detailed evidence on this matter (IR301-302). He notes that there was no opportunity for the parties' respective evidence on housing land supply to be tested at the Inquiry (IR303).

15. Having carefully considered all the evidence on this matter, the Secretary of State concludes, in agreement with the Inspector that, even acknowledging that there appear to be some inaccuracies in the Council's latest Strategic Housing Land Availability Assessment, it provides a reasoned and up to date analysis (IR303). He also agrees with the Inspector that the RSS figures remain the most appropriate indication of the borough's necessary provision (R298); and he notes that there is agreement between the appellant and the Council on an absence of a 5-year supply when assessed against the RSS requirement (IR303).
16. The Secretary of State agrees with the Inspector that, in the sense that the acknowledged shortfall in 5-year supply triggers the approach in paragraph 49 of the Framework, the quantum differences between the Council and the appellant are not material (IR300). He also notes that the Council accepts that in order to meet its 5-year requirement 'greenfield' sites will be needed; and that it is not disputed that the proposal would deliver a considerable number of affordable homes when there is a serious and demonstrable need for such provision within the borough in the face of significant under-delivery (IR300).
17. The Secretary of State agrees with the Inspector that even if the assessment of an absence of a 5-year supply was incorrect, this would not preclude the favourable consideration of the proposal providing it represented sustainable development; and that this also needs to be seen in the context of avowed Government policy encapsulated in the Ministerial Statement that the housing market should deliver new homes to create a stimulus to the economy and address an immediate housing need (IR304).

#### Is the proposal sustainable development?

18. For the reasons set out in IR305-308, the Secretary of State agrees with the Inspector that there is no fundamental reason to disagree with the assessment of the appellant and the Council that the proposal would represent sustainable development (IR309).

#### Highways impact and safety

19. For the reasons in IR310-319, the Secretary of State agrees with the Inspector that, although the proposal would generate additional traffic on the local highway network, it would provide mitigation in the form of highway works and the provision of a residential Travel Plan; and that these would be secured by condition and the proffered S106 agreement such that any residual cumulative impacts of the development would not be severe (IR327). He therefore agrees with the Inspector that in this regard the proposal would be compliant with paragraph 32 of the Framework.

#### Drainage and flooding

20. For the reasons in IR321-322, the Secretary of State agrees with the Inspector that the proposal would be acceptable in terms of mitigating flood risk (IR322).

#### Planning conditions and planning obligation

21. The Secretary of State has had regard to the proposed conditions set out at Annex 1 of the Inspector's Report and to the planning obligation. He has also taken account of the Inspector's comments in IR276-278 and 323-324 on conditions and on the obligation, and to Circular 11/95 and the CIL Regulations 2010 as amended. He is satisfied that the conditions are reasonable and necessary, and meet the

tests of Circular 11/95. He is also satisfied that the planning obligation is directly related to the development and is fairly and reasonably related to it in scale and kind, and is CIL-compliant.

### **Overall Conclusion**

22. The Secretary of State concludes that the scheme would bring benefits in the form of an attractive, well-conceived mixed-use development that would deliver a substantial quantum of residential development including much-needed affordable dwellings, positively contributing to boosting the borough's supply of housing. He considers that it would not conflict with the relevant but now out-of-date UDP housing policy relating to 'greenfield' development. He also considers that the scheme would not have a demonstrably negative impact on the appearance or character of the area, and that it would secure a sizeable extension to the valued resource of the Rising Sun Country Park and enhancements to biodiversity. The Secretary of State also considers that the proposal would bring economic benefits in the form of jobs. He also considers that it is a sustainable development which should carry a presumption in favour of the grant of planning permission. Although the scheme would generate additional traffic on the local highway network, he considers that it would also provide mitigation in the form of highway works and the provision of a residential Travel Plan such that any residual cumulative impacts of the development would not be severe.
23. The Secretary of State concludes that the benefits of the scheme are not significantly or demonstrably outweighed by any adverse impacts, and that therefore the planning balance should be in favour of the scheme such that planning permission should be granted.

### **Formal Decision**

24. 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 residential development (450 houses including affordable housing), local community facilities including shop (A1) and surgery (D1), extension to the Rising Sun Country Park with associated habitat, landscape and recreational improvements, and works to the surrounding highways infrastructure on land at Scaffold Hill Farm, Whitley Road, Benton, Newcastle upon Tyne, NE12 9ST, subject to the conditions listed in the Annex of this letter.
25. 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.
26. 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.

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

27. 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.
28. A copy of this letter has been sent to the Council and HAG.

Yours faithfully

**Lindsay Speed**

Authorised by the Secretary of State to sign in that behalf

Richborough Estates

## CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development to which the permission relates shall be carried out in complete accordance with the approved plans and specifications set out below.

Landscape Masterplan: Country Park (86072/8011 G)  
Landscape Masterplan: Residential (86072/8012 E)  
Character Area: Main Gateway Entrance (86072/8013 E)  
Character Area: Hedgerow Crossing – The Crescent (86072/8014 D)  
Character Area: The Orchard (86072/8015 D)  
Character Area: Country Park View (86072/8016 D)  
Habitat Plan: Country Park (86072/8017 E)  
Habitat Plan: Residential (86072/8018 E)  
Site Context (86072/8019 A)  
Pill Box Interpretation Area (86072/8020 A)  
Proposed Site Layout - Sheet 1 (SL001G)  
Proposed Site Layout - Sheet 2 (SL002 G)  
Proposed Site Layout – Overall (SL003 H)  
Proposed Site Layout – Overall (SL004 H)  
Site Location Plan (N81/2091 SL005A)  
Existing Site Plan (N81/2091 SL006A)  
Affordable Housing Plan (SL005 A)  
Affordable Housing Plan (SL006 A)  
Proposed Streetscapes (SS001 A)  
Proposed Streetscapes in Colour (SS002 A)  
Conceptual Image of Gateway and Village Centre (IMG01 A)  
Conceptual Image of Gateway and Village Centre (IMG02)  
Conceptual Image of Gateway and Village Centre (IMG03 A)  
Conceptual Image of Gateway and Village Centre (IMG04)  
House Type and Health Centre Booklet (all house type, health centre and retail unit plans) (revised December 2011)  
Site Context: Pedestrian, Cycle and Public Transport (86072/1006)  
Accessibility on Foot, Cycle and Public Transport (86072/1007)  
Proposed Vehicular Access Arrangements for Country Park (Preliminary Design) (86072/1009)  
Wheatsheaf Roundabout Improvement (86072/1010)  
Swept Path Analysis; Wheatsheaf Roundabout (86072/1013 A)  
Preliminary Layout of Proposed Surface Water Drainage Strategy (86072/2002 A)  
Proposed Site Layout with Indicative Landscape Sections through Bunding (N81/2091 SL0100)  
Rising Sun Site Section through Plot 43

Rising Sun Site Section through Plot 178  
Hadrian Hedge Design Sketch Proposals (86072/SK0001)  
Boundary Treatment Details (N81/2091 BT-01)  
Revised Transport Proposals (Annex C2A)  
Health Centre Elevations Sheet 1 (N81/2091/HC/ELE1C)  
Health Centre Elevations Sheet 2 (N81/2091/HC/ELE1C)  
Health Centre Ground Floor Plan (N81/2091 HC/PLA1C)  
Health Centre First Floor Plan & Roof Plan (N81/2091/HC/PLA2B)  
Retail Unit Plans & Elevations (N81/2091 RU/PLAb)  
Triple Garage Detail Elevations and Plans (N81/2091/RS-GAR/PLA)  
Rising Sun – Community Play Area: Play Area Elements & Park Layout  
Revised House Type P Plans, including extract of parking requirements for House Type P (RS-HTP/PLA Rev A)  
Station Road/Whitley Road Roundabout – Proposed Roadmarking and Splitter Island Alterations (WHITSTAT: 001)  
Phasing Plan (N81:2091 PH-P/01)

- 3 Prior to the commencement of development details of the phasing of the scheme shall be submitted to and agreed in writing by the Local Planning Authority. This shall include the phasing of the provision of the retail units, the landscaping and habitat works and the recreation facilities. The development shall be carried out in accordance with the agreed phasing.
- 4 Notwithstanding any indication of materials which may have been given in the application, no development shall take place within each phase until a schedule and/or samples of the materials and finishes for buildings within that phase of the development has/have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details.
- 5 No development of each phase shall take place until a schedule, and/or samples, of all surfacing materials for that phase has/have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details.
- 6 The construction site subject of this approval shall not be operational and there shall be no construction, deliveries to, from or vehicle movements within the site outside the hours of 0800-1800 Monday-Friday and 0800-1400 Saturdays with no working on Sundays or Bank Holidays.
- 7 No development of each phase shall take place until plans of the site showing the existing and proposed ground levels and levels of thresholds and floor levels of all proposed buildings for that phase have been submitted to and approved in writing by the Local Planning Authority. Such levels shall be shown in relation to a fixed and known datum point. Thereafter, the development shall not be carried out other than in accordance with the approved details.
- 8 Prior to the commencement of development a surface water drainage scheme for the site and details of the timing of its implementation, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, shall be submitted to and



approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details. The scheme shall also include details of how the scheme shall be maintained and managed after completion and the management shall be undertaken in accordance with that scheme.

- 9 Prior to the commencement of development a scheme for the provision and management of a buffer zone alongside the watercourse along the south-eastern boundary of the site shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out and managed in accordance with the approved details and any subsequent amendments shall be agreed in writing with the Local Planning Authority. The scheme shall include:
  - Plans showing the extent and layout of the buffer zone
  - Details of the planting scheme
  - Details showing how the buffer zone will be protected during development and managed/maintained over the longer term
  - Details of any footpaths, fencing and lighting
- 10 Prior to the commencement of development details of the eco hides and the timing of their implementation shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 11 Any development on-site and vegetation clearance shall not take place during the bird breeding season (March to August inclusive), unless a checking survey by an appropriately qualified ecologist has confirmed that no active nests are present immediately prior to works.
- 12 Prior to the commencement of development details of bird and bat boxes and the timing of their installation shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 13 A method statement shall be submitted to and agreed in writing by the Local Planning Authority for the protection of badgers during construction. This shall ensure that deep excavations are fenced off or escape ramps provided. The development shall be carried out in accordance with the agreed scheme.
- 14 Prior to the commencement of the development, details of the protection, enhancement and management of existing ponds and details of all new ponds and scrapes, including cross-sections to show depths and profiles, shall be submitted to and agreed in writing by the Local Planning Authority. These shall include hydrological surveys to be carried out to ensure the success of these wetlands. The development shall be carried out in accordance with the approved details and maintained thereafter.
- 15 Prior to commencement of development details of the relocation of the orchids from the northern part of the application site to the Rising Sun Country Park extension area shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in

accordance with the approved details.

- 16 Prior to the commencement of development, the location and details of amphibian tunnels beneath the new estate roads shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 17 Prior to the commencement of development, a management plan for the long-term management of the landscaping, ponds and wetland areas on the site shall be submitted to and approved in writing by the Local Planning Authority. This shall also include a 5-year ecological monitoring strategy to ensure the management of the Rising Sun Country Park extension is having a positive ecological benefit. The development shall be carried out in accordance with the approved details and managed thereafter.
- 18 Prior to the commencement of development, details of habitat management including vegetation management and biodiversity enhancements along the Hadrian Pond watercourse shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and managed thereafter in accordance with the approved details.
- 19 Prior to the commencement of development, a checking survey for water voles along the Hadrian Pond watercourse shall be carried out and details including any proposed appropriate mitigation shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 20 Prior to the commencement of development a revised plan showing the designation of footpaths and bridleways on the site shall be submitted to and approved in writing by the Local Planning Authority. This shall include the provision of only informal grassed paths around the existing ponds. It shall also include a timescale for the implementation of the routes. The development shall be carried out in accordance with the approved details.
- 21 Prior to the commencement of development, details of the new access route from the Rising Sun Countryside Centre to the new roundabout on the A191 Holystone Way shall be submitted to and agreed in writing by the Local Planning Authority. The details shall include its location and construction. The development shall be carried out in accordance with the approved details and timescale.
- 22 All existing hedges or hedgerows shall be retained, unless shown on the approved drawings as being removed. All hedges and hedgerows on and immediately adjoining the site shall be protected from damage for the duration of works on the site in accordance with British Standard BS 5837:2012. Any parts of hedges or hedgerows removed without the Local Planning Authority's prior approval or which die or become, in the opinion of the Local Planning Authority, seriously diseased or otherwise damaged within five years following contractual practical completion of the approved development shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions as may be agreed in writing by the Local Planning Authority. Such hedges shall be retained and maintained thereafter.

- 23 Notwithstanding details shown on the plans hereby approved, the windows and any other glazing to be inserted in the side elevation of house types A, B, D, E, F, G, K, M, N, O, P, 1st floor to en-suite and bedroom 1 gable window of Q, gable window to bedroom 2 of R, 1st floor gable windows to S and 1st floor gable windows to T shall, up to a minimum height of 1.7 metres above finished floor level, be fixed shut (without any opening mechanism) and glazed in obscure glass. The windows shall thereafter be retained as such.
- 24 No groundworks or development shall commence until a programme of archaeological fieldwork (to include a survey of ridge and furrow earthworks, fieldwalking of arable fields, evaluation trial trenching and where appropriate mitigation excavation) has been completed. This shall be carried out in accordance with a specification to be agreed in writing by the Local Planning Authority. No buildings/dwellings shall be occupied/brought into use until the final report of the results of the archaeological fieldwork undertaken has been:
- a) Produced in a form suitable for publication in a suitable and agreed journal; and
  - b) Submitted to and approved in writing by the Local Planning Authority prior to submission to the editor of the journal.
- 25 The World War 2 pillbox as shown on the approved plans shall be retained. Prior to the commencement of the development details for the maintenance of the pillbox and for the installation of an interpretation panel shall be submitted to and agreed in writing by the Local Planning Authority. The approved interpretation panel shall be installed on site to an agreed timescale and thereafter retained. The pillbox shall thereafter be maintained in accordance with the approved details.
- 26 The retail units and surgery shall not be developed prior to the completion of at least one unit of residential development.
- 27 The dwellings shall achieve a minimum of Code Level 3 in accordance with the requirements of the Code for Sustainable Homes: Technical Guide (or such national measure of sustainability for house design that replaces that scheme). No dwelling shall be occupied until a Final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.
- 28 Prior to the commencement of development, details of a renewable energy generation system for the scheme shall be submitted to and approved in writing by the Local Planning Authority. The developer shall use best practicable demonstrable means to ensure that a viable percentage of the overall predicted energy requirement of the development shall be from a renewable source. This shall be informed by an energy assessment. Each system shall be suitably installed and operational in accordance with the approved details prior to the occupation of the development. Such systems shall be retained and maintained thereafter.
- 29 Prior to the commencement of any site clearance works or development

there shall be submitted to the Local Planning Authority for its approval in writing a scheme showing the type, height and position of protective fencing to be erected around each tree or hedge to be retained. Unless otherwise agreed in writing by the Local Planning Authority the protective fencing shall comprise a vertical and horizontal framework of scaffolding or post and rail fencing, to a height of 1.5 metres, well braced to resist impacts and supporting either cleft chestnut pale or chain link fencing and, in relation to trees, sited at a minimum distance from the tree equivalent to the crown spread. The development hereby permitted shall only be carried out in accordance with the approved scheme. The area surrounding each tree/hedge within the approved protective fencing shall remain undisturbed during the course of the works and, in particular, in these areas: there shall be no changes in ground levels; no materials or plant shall be stored; no buildings or temporary buildings shall be erected or stationed; no materials or waste shall be burnt; and no drain runs or other trenches shall be dug or otherwise created, without the prior written approval of the Local Planning Authority. In carrying out the development, the developer shall conform to the recommendations in BS 5837:2012 in relation to the protection of trees during construction.

- 30 Notwithstanding the details indicated on DWG No. SL004H (Site Layout Overall), the development hereby permitted shall be landscaped and planted in accordance with a fully detailed scheme which shall be submitted to and approved in writing by the Local Planning Authority before the development of the site commences. The scheme shall include details which indicate the necessary highway verge/land required to enable any future highway widening proposals. The development shall be carried out in accordance with the approved scheme.
- 31 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 occupation of the buildings/dwellings in each phase or the completion of the development in each phase, whichever is the sooner, and any trees or plants which, within a period of five years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced in the current or first planting season following their removal or failure with others of similar size and species, unless the Local Planning Authority first gives written approval to any variation.
- 32 No development shall be commenced until:
  - a) A detailed site investigation has been carried out to establish:
    - i) If the site is contaminated;
    - ii) To assess the degree and nature of the contamination present, and whether significant risk is likely to arise to the residential and public use of land;
    - iii) To determine the potential for the pollution of the water environment by contaminants and;
    - iv) The implications for residential development of the site and the quality of the residential environment for future occupiers.

Such detailed site investigation shall accord with a statement of method and extent which shall previously have been agreed in writing by the Local Planning Authority and

b) The results and conclusions of the detailed site investigations referred to in a) above have been submitted to and the conclusions approved in writing by the Local Planning Authority; and

c) A scheme showing appropriate measures to prevent the pollution of the water environment, to ensure the integrity of the residential development hereby approved and to ensure an adequate quality of residential environment for future occupiers in the light of such results and approved conclusions has been submitted to and approved in writing by the Local Planning Authority.

Thereafter the development shall not be implemented otherwise than in accordance with the scheme referred to in c) above.

- 33 Prior to the commencement of development, details of the location and design of an acoustic fence to be installed to the gardens of dwellings adjacent to the A191 (plots 1, 15-21, 399-411 and 315-352) shall be submitted to and approved in writing by the Local Planning Authority. No properties adjacent to the A191 shall be occupied until the fence has been installed to the relevant boundary of that property. The fence shall thereafter be retained.
- 34 Prior to the commencement of development, details of a noise mitigation scheme to be provided to the gardens of housing adjacent to the A19 shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the location, design and height of the mounding and acoustic fence to be installed and the predicted noise contours provided by the mitigation measures. The overall benefit of the attenuation shall ensure compliance with the World Health Organisation outside amenity level of 55dB(A). No properties adjacent to the A19 shall be occupied until the approved mounding and fence have been installed. The mounding and fence shall thereafter be retained.
- 35 Prior to the commencement of the development, details of acoustic triple glazing incorporating a laminated glazing panel and mechanical ventilation to give a Rw rating of greater than or equal to 40dB to be installed to the windows to the eastern elevations of properties to the eastern boundary of the site shall be submitted to and approved in writing by the Local Planning Authority. The details shall include both the glazing and mechanical ventilation prior to fitting to demonstrate their acoustic properties to ensure a good internal noise level of 30db in accordance with BS5228. The approved details shall be implemented prior to the occupation of the dwelling to which the details relate and retained thereafter.
- 36 Prior to the commencement of the development, details of the acoustic glazing and ventilation system to living rooms and bedroom windows facing the A191 to give a good internal noise level in accordance with BS8233:1999 of 30 dB(A) shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be

implemented prior to the occupation of the dwelling to which the details relate and retained thereafter.

- 37 No development shall take place until a scheme showing how the development hereby approved is to be protected against the possibility of landfill gas migrating from the nearby former landfill site, has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall not take place otherwise than in accordance with the details shown in such approved scheme, and those measures incorporated into the development shall thereafter be retained unless the Local Planning Authority otherwise agrees in writing.
- 38 The details of a scheme of site investigation and assessment to test for the presence and likelihood of gas emissions from underground, including methane gas, shall be submitted to and agreed in writing by the Local Planning Authority.
- 39 The detailed design and construction of the development shall take account of the results of the site investigation and assessment agreed pursuant to condition 37 and also of the possibility of future gas emissions from underground, including methane gas, pursuant to condition 38. The method of construction shall reflect this possibility and incorporate all the measures shown in the assessment to be necessary so as to guard against such emissions having an adverse effect upon the development and/or the future users and occupiers thereof.
- 40 If external plant is to be installed at the retail units or surgery premises, prior to its installation details of this plant and a noise scheme shall be submitted to and approved in writing by the Local Planning Authority. The details shall ensure that the rating level of the noise emitted from the site at the closest residential property does not exceed the existing background noise level in accordance with BS4142:1997.
- 41 The retail units and surgery premises shall not be open for business and no deliveries shall take place outside the hours of 07:00 and 23:00 on any day.
- 42 Prior to the commencement of the development, a noise scheme shall be submitted to and approved in writing by the Local Planning Authority to ensure appropriate mitigation measures for any plant noise arising from the hotel to the north of the site. The measures outlined in the approved scheme shall be implemented prior to the occupation of the dwellings to which the measures relate and shall be retained thereafter.
- 43 No development shall take place of each phase until details of all screen and boundary walls, fences and any other means of enclosure for that phase have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved details and the buildings hereby approved shall not be occupied until the details have been fully implemented.
- 44 No development of each phase shall take place until details of facilities to be provided for the storage of refuse at that phase have been submitted to and approved in writing by the Local Planning Authority. The facilities, which

should also include the provision of wheeled refuse bins, shall be provided in accordance with the approved details prior to the occupation of any part of the development of that phase and shall thereafter be permanently retained.

- 45 All builders' and contractors' compounds, site huts, and storage of plant and materials shall be located in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority prior to any development taking place.
- 46 Access to the site for all builders' and contractors' vehicles, including those delivering materials, shall be in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority prior to any development taking place.
- 47 Prior to the commencement of development a detailed scheme to prevent the deposit of mud and other debris onto the highway and to suppress dust arising from construction activities shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include details of a) mechanical street cleaning brushes and b) the provision of water bowsers to be made available to spray working areas during dry conditions. Thereafter development shall not be carried out other than in accordance with the approved details and the approved measures shall be retained on site for the duration of the works and used on all occasions when visible dust emissions are likely to be carried from the site e.g. during dry, windy conditions.
- 48 Prior to occupation of any dwelling on-site ground investigation works shall be undertaken to confirm coal mining conditions and these results, including any remediation works to treat any areas of shallow coal mine works, and/or any other mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved plans and any remediation works/mitigation measures shall be retained at all times.
- 49 Notwithstanding the submitted plans, prior to the commencement of any works to the field to the north of the Rising Sun Countryside Centre, details of these works including the play area, informal grassed area, play equipment, new footpaths and means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the timing for the installation of the play area. The scheme shall be carried out in accordance with the approved details.
- 50 The development of each phase shall not begin until details of the adoptable estate roads, footways and cycleways have been submitted to and approved in writing by the Local Planning Authority. The details shall include a scheme for a shared-use footway-cycleway with associated street lighting from Francis Way to Holystone Roundabout. The approved details shall be carried out within a timescale to be agreed in writing by the Local Planning Authority and no dwelling shall be occupied until the estate roads which provide access to it from the existing highway have been laid out and constructed in accordance with the approved details.
- 51 Within six months of the new/altered accesses being brought into use all

other existing access points not incorporated in the development hereby permitted shall be stopped up by raising the existing dropped kerb/removing the existing bell mouth and reinstating the footway verge and highway boundary to the same line, level and detail as the adjoining footway verge and highway boundary.

- 52 No development shall take place until details of traffic calming measures to 20mph have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details.
- 53 The development shall not begin until details of the disposal of surface water from the highway, footpaths and other hard surfaces have been submitted to and approved in writing by the Local Planning Authority and no dwelling shall be occupied until the works for the disposal of surface water have been constructed in accordance with the approved details.
- 54 No development shall take place until a detailed scheme for the disposal of foul sewage from the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority. Development shall take place in accordance with the approved details.
- 55 Notwithstanding the submitted details, prior to the commencement of each phase of the development a scheme for parking, garaging and manoeuvring for that phase based on the standards set out in Supplementary Planning Document LDD12 shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be laid out prior to the initial occupation of that phase of the development hereby permitted and these areas shall not thereafter be used for any other purpose.
- 56 Prior to any construction activities commencing a scheme indicating the proposed routing of heavy construction vehicles to and from the site and including details of signage to be provided at the site access and at locations along the specified route shall be submitted to and agreed in writing by the Local Planning Authority. No development shall take place until signage has been provided in accordance with the agreed scheme and thereafter such signage shall be retained until construction works are completed.
- 57 Prior to the commencement of development, notwithstanding the details indicated on Dwg No SL004H (Site Layout Overall), a scheme indicating storage sheds to all properties shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, this scheme shall be implemented in accordance with the approved details.
- 58 The Framework Residential Travel Plan of July 2011 as submitted shall be carried out as agreed with the Local Planning Authority. This shall include the conducting of travel surveys to monitor whether or not the Travel Plan targets are being met details of which shall be submitted to and agreed in writing before the occupation of any dwelling on the site.
- 59 Prior to the commencement of development of the allotments and notwithstanding the details submitted on Drawing Nos. SL002 G (Site Layout Sheet 2) and 86072/1009 (Rising Sun), details of the proposed



allotments and their phasing shall be submitted to and agreed in writing by the Local Planning Authority. The details shall include a revised scheme indicating parking/dropping-off areas for the proposed allotments. The allotments shall be carried out in accordance with the approved details prior to the completion of the development hereby approved.

- 60 Prior to the commencement of development, notwithstanding the details submitted on Drawing No. 86072/1009 (Rising Sun), a revised traffic calming scheme at the junction of the proposed exit road/public footpath (LB9) shall be submitted to and approved in writing by the Local Planning Authority prior to development commencing on site. The approved scheme shall be implemented and made available for use in accordance with timescales to be agreed in writing by the Local Planning Authority.
- 61 Prior to the commencement of development, notwithstanding the details submitted on Drawing No. SL004H (Site Layout Overall), a scheme indicating locations/provision of bus stops and associated lining and signage within the development shall be submitted to and approved in writing by the Local Planning Authority prior to works commencing on site. The approved scheme shall be implemented and made available for use in accordance with timescales to be agreed in writing by the Local Planning Authority.
- 62 No development shall commence until a scheme for the highways improvements at the new roundabout site access has been submitted to and agreed in writing by the Local Planning Authority. The submitted scheme shall be based on Drawing No. SL004 H (Site Layout Overall). The approved highways improvement works shall be carried out within a timescale to be agreed in writing by the Local Planning Authority.
- 63 No development shall commence until a scheme for the additional westbound lane on the A191 Holystone Way from the new roundabout to the Wheatsheaf Roundabout has been submitted to and agreed in writing by the Local Planning Authority. The approved highways improvement works shall be carried out within a timescale to be agreed in writing by the Local Planning Authority.
- 64 No development shall commence until a scheme for the highways improvements at the Wheatsheaf Roundabout has been submitted to and agreed in writing by the Local Planning Authority. The left-turn filter lane from the Wheatsheaf Roundabout shall tie-in with the scheme for the improvements at the A191 Whitley Road/Chollerton Drive/Asda Roundabout (which is the subject of Condition 65) so that two continuous westbound lanes are provided from the Wheatsheaf Roundabout to the improved Asda access junction. The submitted scheme shall be based on Drawing No. 86072 11002C. The approved highways improvement works shall be carried out within a timescale to be agreed in writing by the Local Planning Authority.
- 65 No development shall commence until a scheme for the highways improvements at the A191 Whitley Road/Chollerton Drive/Asda Roundabout has been submitted to and agreed in writing by the Local Planning Authority. The submitted scheme shall be based on Drawing Nos. 5073897/100/TP & M0008. The approved highways improvement

- works shall be carried out within a timescale to be agreed in writing by the Local Planning Authority.
- 66 No development shall commence until a scheme for the highways improvements at the A191 Whitley Road/A186 Station Road Roundabout has been submitted to and agreed in writing by the Local Planning Authority. The submitted scheme shall be based on Drawing No. WHITSTAT 001. The approved highways improvement works shall be carried out within a timescale to be agreed in writing by the Local Planning Authority.
- 67 No development shall commence until a scheme for the highways alterations to Rising Sun Country Park access road has been submitted to and agreed in writing by the Local Planning Authority. The submitted scheme shall be based on Drawing No. 86072/1009. The approved highways improvement works shall be carried out within a timescale to be agreed in writing by the Local Planning Authority.
- 68 Notwithstanding the details submitted on Drawing No. SL001 G (Site Layout Sheet 1) a scheme indicating vehicle and secure undercover cycle parking in accordance with Supplementary Planning Document LDD12 for the A1 use and D1 use shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out within a timescale to be agreed in writing by the Local Planning Authority.
- 69 Notwithstanding the details submitted on Drawing No. SL004 H the development shall not commence until full details of the proposed alterations (i.e. closure and diversions) to the existing public rights of way network have been submitted to and approved in writing by the Local Planning Authority.
- 70 Notwithstanding the details submitted on Drawing No. SL004 H no development shall commence until full details of the adoptable construction and associated signage for the proposed upgrading and diversions of the existing public rights of way network, including a timetable for implementation, have been submitted to and approved in writing by the Local Planning Authority. The approved highways improvement/diversion works shall be carried out in accordance with the agreed details and timetable.
- 71 Notwithstanding the details submitted on Drawing No. SL004 H no development shall commence until full details (i.e. line, construction and associated signage) of the proposed new routes within the site (i.e. footpaths, multi-user routes etc) and a timetable for implementation have been submitted to and agreed in writing by the Local Planning Authority. The approved new routes shall be carried out in accordance with the approved details and timetable.
- 72 No development shall commence until details, including a timetable for implementation, of a highway mitigation scheme for signal phasing at A19 Holystone Interchange has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in

accordance with the agreed timetable.

- 73 No development shall commence until a Bird Management Plan for the Rising Sun Country Park extension area has been submitted to and approved in writing by the Local Planning Authority. The Bird Management Plan shall include the recommendations set out within the Food and Environment Research Agency report 'Birdstrike Risk Assessment for Rising Sun, Scaffold Hill', and shall include a proposal for continued bird monitoring following the completion of the country park extension. The Bird Management Plan shall be implemented as approved.
- 74 Prior to the commencement of development, a scheme for the provision of public art shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide details of the design, timing of provision and maintenance of the artworks. The public art shall thereafter be implemented and maintained in accordance with the approved details.

Richborough Estates



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

by P J Asquith MA(Hons) MA MRTPI

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

Date: 9 May 2013

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**TOWN AND COUNTRY PLANNING ACT 1990**

**APPEAL BY NORTHUMBERLAND ESTATES**

**REGARDING THE REFUSAL OF PLANNING PERMISSION FOR RESIDENTIAL  
DEVELOPMENT (450 HOUSES INCLUDING AFFORDABLE HOUSING), LOCAL  
COMMUNITY FACILITIES INCLUDING SHOP (A1) AND SURGERY (D1),  
EXTENSION TO THE RISING SUN COUNTRY PARK WITH ASSOCIATED  
LANDSCAPE AND RECREATIONAL IMPROVEMENTS, AND WORKS TO  
SURROUNDING HIGHWAYS INFRASTRUCTURE**

**AT**

**LAND AT SCAFFOLD HILL FARM, BENTON, NEWCASTLE UPON TYNE**

**NORTH TYNESIDE COUNCIL**

Inquiry held on 26 and 27 February 2013

Land at Scaffold Hill Farm, Whitley Road, Benton, Newcastle upon Tyne, NE12 9ST

File Ref: APP/W4515/A/12/2186878

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**Abbreviations used in this Report**

AM	Morning
NE	Northumberland Estates
CIL	Community Infrastructure Levy
CSPO	Core Strategy Preferred Options
DP	Development Plan
EA	Environment Agency
HAG	Holystone Action Group
Ha	Hectare
The Framework	National Planning Policy Framework
NTC	North Tyneside Council
p	Paragraph
pa	Per annum
PCU	Passenger Car Unit
PM	Afternoon
RSS	Regional Spatial Strategy
SHLAA	Strategic Housing Land Availability Assessment
SuDS	Sustainable Urban Drainage System
SoS	Secretary of State
TCPA	Town and Country Planning Act 1990
UDP	North Tyneside Unitary Development Plan

Richborough Estates

**File Ref: APP/W4515/A/12/2186878****Land at Scaffold Hill Farm, Whitley Road, Benton, Newcastle upon Tyne, NE12 9ST**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Northumberland Estates against the decision of North Tyneside Council.
- The application Ref. 11/01600/FUL, dated 1 August 2011, was refused by notice dated 28 August 2012.
- The development proposed is described as residential development (450 houses including affordable housing), local community facilities including shop (A1) and surgery (D1), extension to the Rising Sun Country Park with associated habitat, landscape and recreational improvements, and works to the surrounding highways infrastructure.

**Summary of Recommendation: That the appeal be allowed and planning permission granted subject to conditions.****Procedural Matters**

1. The Secretary of State (SoS)<sup>1</sup> directed by letter dated 8 November 2012 that he shall determine this appeal. The reason for this is that the appeal involves a proposal for residential development of over 150 units on a site of over five hectares (ha) 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.
2. The Inquiry spread over 1½ days with adjournments. I undertook an unaccompanied site visit prior to the opening of the Inquiry to familiarize myself with the site, the adjacent Rising Sun Country Park and the locality in general. In addition, I carried out an accompanied site visit with representatives of the appellant Northumberland Estates (NE), North Tyneside Council (NTC), and the Holystone Action Group (HAG) (who appeared at the Inquiry as a Rule 6<sup>2</sup> party opposing the proposal) on the afternoon of 27 February 2013.
3. The Council resolved to refuse planning permission for the following six reasons:
  1. *The proposal would lead to the loss of open space and have a detrimental impact on the ecology and habitat of the site and the Country Park contrary to NPPF<sup>3</sup> and Policies R2/1, R2/2 and E12/6 of the North Tyneside Unitary Development Plan.*
  2. *The proposal would lead to the loss of high quality employment land in proximity to the A19 contrary to Policies LE1/3 and LE1/4 of the North Tyneside Unitary Development Plan.*
  3. *The proposal would result in the development of a greenfield site for housing therefore the principle of residential development on this site is*

<sup>1</sup> Abbreviations used in the Report are listed on the preceding page.

<sup>2</sup> Rule 6(6) of the Town and Country Planning (Inquiries Procedure)(England) Rules 2000

<sup>3</sup> National Planning Policy Framework, referred to within this report as the Framework

*contrary to Policy H5 of the North Tyneside Unitary Development Plan 2002.*

4. *The proposal would lead to severe traffic impacts on the road network and would therefore be contrary to advice set out in NPPF and Policy H11 of the North Tyneside Unitary Development Plan 2002.*
  5. *Insufficient information has been submitted to demonstrate that the proposed sustainable urban drainage system will be implemented and managed to a satisfactory standard to prevent the risk of flooding, contrary to NPPF and Policy H11 of the North Tyneside Unitary Development Plan 2002.*
  6. *The proposal would have a detrimental visual impact on the character of the area, including the Rising Sun Country Park, contrary to Policy H11 of the North Tyneside Unitary Development Plan.*
4. With the lodging of the appeal the Council, in accordance with best practice contained in Circular 3/09 *Costs Awards in Appeals and Other Planning Proceedings*, undertook an independent audit of the strength of the reasons for refusal. In light of this it resolved to withdraw reasons 2 and 3 relating to employment land and development on 'greenfield' land, and that part of reason 1 relating to ecology<sup>4</sup>.
  5. Meetings between the appellant and the Council took place to try to resolve issues relating to flooding, with the appellant producing a Sustainable Urban Drainage (SuDS) Design in January 2013. The level of detail within this was sufficient to allow the Council to conclude that the flooding issue could be addressed adequately by a condition. The Council accordingly informed the appellant that refusal reason 5 had been withdrawn<sup>5</sup>.
  6. At the opening of the Inquiry the Council's resolved position (as amended) was:
    1. *The proposal would lead to a loss of open space contrary to the National Planning Policy Framework and Policies R2/1 and R2/2 of the North Tyneside Unitary Development Plan.*
    4. *The proposal would lead to severe traffic impacts on the road network and would therefore be contrary to advice set out in the National Planning Policy Framework and Policy H11 of the North Tyneside Unitary Development Plan.*
    6. *The proposal would have a detrimental visual impact on the character and appearance of the area, including the Rising Sun Country Park, contrary to Policy H11 of the North Tyneside Unitary Development Plan.*
  7. Following a meeting between highway consultants acting on behalf of the appellant and the Council an error was identified in the calculation of traffic flows. This led to the conclusion that there was no evidential basis to support

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<sup>4</sup> NTC7

<sup>5</sup> Ibid



refusal reason 4<sup>6</sup>. The error was identified on the day before the Inquiry opened. As a consequence, the Council withdrew this reason for refusal at the opening of the Inquiry. In light of this, the Council further considered its case and concluded that, having regard to the planning balance (within the context of the Framework), the adverse impacts of the development on open space and the character and appearance of the area did not significantly and demonstrably outweigh the benefits of the development. Accordingly, the Council indicated at the opening of the Inquiry that the remaining reasons for refusal (1 and 6) should be withdrawn. Its position was therefore that planning permission should be granted subject to agreed conditions and the concluded Section 106 (S106) agreement<sup>7</sup>. On this basis it called no witnesses<sup>8</sup>.

8. In light of the Council's position adopted at the Inquiry the appellant decided that it would not call its witnesses. After a short adjournment during which its position was considered, HAG indicated that it too would not call its witnesses, whilst expressing disappointment at the Council's position.
9. A short Inquiry session was held to discuss the S106 agreement and suggested conditions that would be appropriate in the event of planning permission being granted. Following this, and in light of a request by HAG to have time in which to prepare and take advice on a closing statement<sup>9</sup>, I agreed to accept closing statements from the three parties in writing subject to adherence to a specified agreed timetable. Following receipt of these submissions the Inquiry was closed in writing on 11 March 2013.
10. The appellant submitted a request to NTC for a Screening Opinion as to whether the proposal required the preparation of an Environmental Impact Assessment (EIA)<sup>10</sup>. Following consultations NTC concluded that an EIA was not required. The SoS subsequent screening confirmed this.
11. An Order to revoke the Regional Spatial Strategy for the North East (RSS) was laid before Parliament on 22 March and came into effect on 15 April 2013. The views of the main parties<sup>11</sup> on the implications of the revocation were sought and their responses have been briefly summarised within their respective cases.

## The Site and Surroundings

12. The appeal site comprises just over 64ha of mostly open agricultural land made up of fields intersected by hedgerows lying some 7km to the north-east

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<sup>6</sup> This is more fully covered in the summary of the Council's case in paragraphs 103-109 below

<sup>7</sup> NE/NTC4 & NE/NTC5

<sup>8</sup> Hence, despite produced written evidence there are no witnesses recorded in the list of appearances towards the end of this report, this being applicable also to the appellant and HAG.

<sup>9</sup> HAG17

<sup>10</sup> NE/NTC2, p3.9

<sup>11</sup> Docs 2-6

of central Newcastle<sup>12</sup>. It lies between the suburban settlements of Benton to the west and Shiremoor to the north-east and is beyond the southern extent of the Tyneside Green Belt. The site is bounded to its north-eastern side by the dualled A19 trunk road and beyond this the Cobalt Business Park and residential development at West Allotment. To its south-eastern side is further open land and the Hadrian Park residential estate whilst to the southern side is the Rising Sun Country Park, currently covering an area of some 162ha<sup>13</sup>. Southern parts of the appeal site encompass elements of the country park.

13. To the west the site is largely bounded by Holystone Way (part of the A191) immediately beyond which is modern residential development, referred to as the Holystone Grange Estate. Beyond the shorter northern boundary of the site are a Premier Inn motel and the Stonebrook public house which in turn are adjacent to the roundabout interchange with the A19. The site is crossed by two public rights of way running from west to east and then to the south-east through the Hadrian Park residential estate, and by a further path linking to the south into the country park. High voltage power lines roughly bisect the site running west to east to the north of Scaffold Hill Farm, which operates as a riding school.

### Planning Policy

14. At the time of the Inquiry the Development Plan comprised the Regional Spatial Strategy for the North East<sup>14</sup> (RSS, 2008) and the saved policies of the North Tyneside Unitary Development Plan<sup>15</sup> (UDP, 2002). With the subsequent revocation of the RSS the Development Plan now comprises the saved policies of the UDP.
15. When the UDP was originally prepared its functions in providing a framework for development, development control and conservation were intended to operate until 2006. However, by direction in 2007 the SoS has 'saved' various UDP policies<sup>16</sup>. Those considered relevant by the appellant and NTC include:
- Policy R2/1 – retention of land as open space
  - Policy R2/2 – presumption against development of allocated open space
  - Policy H5 – criteria for approval of non-allocated housing sites
  - Policy H11 – criteria for determining applications for residential development
16. The UDP was not prepared in accordance with the Planning and Compulsory Purchase Act 2004. Paragraph 215 of the Framework which is

<sup>12</sup> A general description is contained within the main Statement of Common Ground (SoCG), Section 2 (NE/NTC2) and the relationship of the site to surrounding features is illustrated in the Design and Access Statement, pg15 (APP7)

<sup>13</sup> NTC4, p14

<sup>14</sup> CD5.1

<sup>15</sup> CD5.2

<sup>16</sup> CD5.3

now relevant indicates that in such circumstances due weight should be given to relevant policies according to their degree of consistency with the Framework.

17. NTC is in the process of preparing a Core Strategy development plan document which has reached the preferred options stage. It has not reached the formal publication stage and has not been subject to examination<sup>17</sup>.
18. The Core Strategy Preferred Options<sup>18</sup> (CSPO) was published for consultation in 2010. It identified part of the appeal site as a preferred housing allocation for the delivery of 450 dwellings. A further consultation on the Core Strategy Growth Options was undertaken in October 2011. The Council's Local Development Scheme of November 2012<sup>19</sup> indicates the projected adoption of the Core Strategy as being September 2015.
19. In terms of specific allocations within the UDP some 0.47ha of land at the north end of the site is allocated as employment land for B1 use (business development) under Policy LE1/3. The remainder of the site is allocated as open space to which Policies R2/1 and R2/2 are applicable, whilst a south-eastern portion of the site is identified as a wildlife corridor to which Policy E12/6 relates<sup>20</sup>.
20. Policy R2/1 indicates that land shown on the Proposals Map for open space use will be retained in its present use. Policy R2/2 prevents development on such land when, amongst other matters, this would result in a reduction in the open nature of the land which causes a significant loss of local amenity and would adversely affect the environment or adjoining land uses. These follow from Policies R1 and R2 which seek to ensure a comprehensive range of facilities for active and passive recreation available and accessible to all.
21. Under Policy E12/6 development which would adversely affect the contribution to biodiversity of identified wildlife corridors will not be permitted unless, amongst other matters, appropriate measures of mitigation of, or compensation for, all the adverse effects are secured, where appropriate through planning conditions or obligations.

### Planning History

22. The main SoCG<sup>21</sup> makes no reference to any immediately relevant past planning history on the site.

### The Proposal

23. Of the total 64.29ha of the appeal site some 21.62ha of the northern portion of the site relates to mixed-use development comprising principally residential development<sup>22</sup>. This would be made up of:

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<sup>17</sup> NE/NTC2, p4.15

<sup>18</sup> CD5.4

<sup>19</sup> CD5.6, p4.2

<sup>20</sup> NTC4, p26

<sup>21</sup> NE/NTC2

<sup>22</sup> See NE/NTC2, Section 3, NE6, p4.6-4.7 & APP7

- 450 dwellings, 113 (c25%) of which would be affordable homes, 25% being intermediate tenure and 75% social rented
  - Two retail units each of which would be some 92m<sup>2</sup>
  - A medical centre of some 560m<sup>2</sup>
  - Open space and landscaping amounting to some 5.3ha
24. The southern portion of the site, amounting to some 42.67ha, would be provided as an extension to the adjacent Rising Sun Country Park.
25. The overall housing density would be 21 dwellings per hectare, with a mix of dwellings ranging from 2-bed bungalows to 2 to 5 bed family housing. Different character zones would be created and access through the mixed-use element would be via a series of linear green corridors. Vehicular access to the site would be from Holystone Way. This would be via the existing Holystone Way/Holystone Grange/Francis Way roundabout towards the northern portion of the site and via a new roundabout towards the southern end of Holystone Way. Also included in the scheme would be an altered vehicular access to the Rising Sun Country Park from Whitely Road (part of the A191) to remove a present right-angled bend.
26. A new road from the Rising Sun Centre within the country park would be created to the proposed new roundabout on Holystone Way to become the vehicular egress from the country park. Various alterations and improvements to the immediate highway network would be provided as mitigation for the increased traffic that would be generated. As well as the new roundabout junction on Holystone Way these would include the reconfiguring of the existing Wheatsheaf roundabout at the southern end of Holystone Way. There would be the introduction of additional lanes and the provision of traffic signals with pedestrian/cycle crossing facilities at the existing Whitely Road/Chollerton Drive/Asda roundabout to the south of the existing vehicular access to the country park<sup>23</sup>.
27. Public footpaths within the site would be retained. A linear arrangement of 101 allotments would be created following the line of the overhead power cables crossing the site. These would form a buffer zone between the housing element of the scheme and the extended country park to the south. The scheme would result in the expansion of the existing country park and this extension would be used for habitat creation, local amenity and recreation and the provision of SuDS connected with the mixed-use element of the scheme. The land to create this extension would be transferred to the Council. Elements to be created within the country park would include new footpaths and bridleways, play areas, ponds and seasonal water features, eco hides and new planting<sup>24</sup>.
28. The mixed-use element of the scheme would link to the country park with footpaths. Wildlife corridors would be established and there would be a linear park, community play area and open spaces within the housing development.

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<sup>23</sup> NE1, Section 3

<sup>24</sup> NE3A, p6.52

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## Other Agreed Matters

29. In addition to facts agreed between the appellant and NTC as outlined above, the following are some of the additional pertinent agreed matters as set out in the SoCGs.
30. The Council's Strategic Housing Land Availability Assessment (SHLAA) of 2011<sup>25</sup> included an assessment of the housing potential of the site. This indicated that whilst there are possible constraints because of designations within the UDP (including open space and being part of a wildlife corridor) it may have housing potential, with the site being deliverable in years 1 to 5. On this basis the site was included in the Council's draft 5-year Housing Land Supply: 2012/13 to 2016/17<sup>26</sup>. However, the site was excluded from NTC's final 5-year Housing Land Supply: 2012/13 to 2016/17<sup>27</sup>.
31. The Council's 5-year Housing Land Supply: 2012/13 to 2016/17 of September 2012 provides the up-to-date position regarding the land supply position. This demonstrates a shortfall between the previous RSS requirement and supply (assuming the addition of a 5% buffer in accordance with the Framework) of some 266 units. It is agreed that NTC is not able to demonstrate a supply of specific deliverable sites sufficient to provide five years' worth of housing against the previous RSS requirement either with or without the delivery proposed at the site. As such, there is agreement that, in accordance with paragraph 49 of the Framework, relevant UDP policies for the supply of housing, including Policy H5(I) are out-of-date; the appeal proposal should thus be determined in accordance with paragraph 14 of the Framework, which sets out a presumption in favour of sustainable development.
32. The 0.47ha of designated employment land at the north of the appeal site has been actively marketed on a continuous basis since 1999 with no result. The Council's Employment Land Review of September 2009<sup>28</sup> identifies a surplus of employment land of about 23ha within the borough. There is agreement that there is no reasonable prospect of the land within the appeal site being delivered for employment uses and in accordance with paragraph 22 of the Framework in such circumstances applications for alternative uses should be considered on their merits. UDP Policy LE1/4 also states that alternative uses for such sites will not be refused where there is no reasonable prospect of a site being used for the purpose allocated. On this basis, and as noted in paragraph 4 above, NTC has formally withdrawn the reason for refusal relating to the loss of employment land.
33. The site for the mixed-use development is open land in private ownership accessible to the public only via the public footpaths which cross it. This element of the proposals would result in the development of arable and pasture habitats that have been assessed as being of low biodiversity value. When considered as a whole the proposals would not have a negative impact on ecology. There would be an expansion and enhancement of the country

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<sup>25</sup> CD6.3

<sup>26</sup> CD6.4

<sup>27</sup> CD6.5

<sup>28</sup> CD7.1

park, there would be no adverse impact on it in terms of biodiversity<sup>29</sup>, which would be adequately mitigated, and there would be no development plan conflict in this regard. On this basis and as referred to in paragraph 7 above, NTC has formally withdrawn its reason for refusal in respect of this issue.

34. A Transport Assessment accompanied the application and following consultation this has been supplemented by additional notes and addendums. There is agreement that the scheme satisfies the Framework and the Council's Supplementary Planning Document LDD12 (Transport & Highways)<sup>30</sup> in terms of promoting sustainable transport in the form of journeys by public transport, cycle and on foot. A residential Travel Plan has been provided to encourage trips by sustainable modes and to minimise single-occupancy car trips. As noted in paragraph 7 above there is no evidential basis to support a reason for refusal on the grounds of impact on the local highway network. Accordingly, the Council's reason for refusal in this regard has been withdrawn.
35. A Flood Risk Assessment was prepared in association with the proposals to which the Environment Agency and Northumbrian Water raised no objections. Further details regarding the provision of SuDS have satisfied the Council that the scheme would be acceptable in terms of mitigating flood risk subject to the imposition of appropriate conditions<sup>31</sup>. As a consequence and as noted in paragraph 5 above, the reason for refusal in respect of this matter has been formally withdrawn.
36. Subject to the imposition of appropriate conditions there is no reason to reject the scheme on the basis of design and layout. A Building for Life Assessment by the Council provided the scheme with a 'very good' rating.
37. Given that the Core Strategy is unlikely to be adopted until September 2015 there is no reason for the scheme to be rejected on prematurity grounds.
38. The level of affordable housing (25%) is in line with the Strategic Housing Market Assessment (SHMA) and the SHMA Key Elements Update<sup>32</sup>.
39. The loss of agricultural land resulting from the proposal does not justify refusal; the commercial and medical elements of the scheme would not have any adverse impacts on other designated centres identified in the UDP and would meet the needs of the residents of the proposed development; there would be no adverse impacts in terms of pollution and contamination; and there are no reasons to reject the scheme on the basis of archaeological, conservation or heritage matters.

### Main Issues

40. At the opening the Inquiry and based on the Council's original reasons for refusal and the cases presented, I identified the following two main issues:

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<sup>29</sup> APP9

<sup>30</sup> CD11.3

<sup>31</sup> NE6, p14.11 – 14.17, NE10, Appx 22, NE11

<sup>32</sup> CDs 6.1 & 6.2

- The impact of the development on the character and appearance of the area, including the loss of open space;
- The impact of the development on the free flow of traffic and highway safety.

## THE CASE FOR THE APPELLANT (NORTHUMBERLAND ESTATES)

41. The proposals seek to bring forward a major housing scheme of 450 houses in a sustainable location on land identified by the Council in the emerging Core Strategy as a key site for housing. Put simply, it is a fantastic scheme that ticks all the boxes the Government is seeking from housing development in the current policy context<sup>33</sup>.
42. The key overarching submission is that this application could not be more compliant with the guidance contained within the Framework because:
- a) It brings forward housing when the Council cannot show a 5-year housing land supply and, just as worryingly, is completely at sea in bringing forward an up-to-date Development Plan.
  - b) It brings forward affordable housing when the Council has an urgent and pressing need for more such housing.
  - c) It is located in a highly sustainable location, which is accepted by both principal parties.
  - d) There is no highway objection to this development.
  - e) There is no site-specific objection to this development.
  - f) The scheme of landscaping is an exemplar one which would transform the site with extensive planting and enhancement.
  - g) The development would come forward if planning permission is granted.
43. The development would provide a huge benefit to the Rising Sun Country Park through the unprecedented transfer of 42ha of land to the Council for additional green space available to the general public.
44. It is now the Council's formal position that it has no objection to the grant of planning permission. That is extremely material and therefore the SoS can take comfort that both principal parties are of the view that there is no reason why planning permission cannot be granted.
45. This is an planning appeal into a proposal which has four elements:
- a) 450 dwellings of which 25% are affordable housing units<sup>34</sup>.
  - b) A local centre comprising two retail units and a medical centre.
  - c) 5.3ha of open space and landscaping within the development area.
  - d) The addition of a 42.67ha extension to the Rising Sun Country

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<sup>33</sup> CD1.4, Ministerial Statement

<sup>34</sup> 113 affordable housing units

Park, which includes 101 allotments between the park and the built development.

46. The proposed development is completely in accordance with the provisions of the Framework, being a sustainable housing development in which the presumption is in favour of the grant of permission. That is now a matter of common ground between the appellant and Council. Therefore, the sole remaining issue in light of paragraph 14 of the Framework is whether there are any impacts which significantly and demonstrably outweigh the benefits of the proposal. It is the position of the Council having reconsidered its position on the first morning of the Inquiry that there are no such impacts, a view shared by the appellant.

47. It is contended that:

- a) There are manifest and material benefits to this proposal, which are so significant that the balancing exercise is overwhelmingly in favour of the grant of permission.
- b) The impacts alleged by HAG do not even come close to justifying refusal let alone are so significant and demonstrable that they outweigh the benefits.
- c) The impacts alleged by HAG have all been considered at length by the Council and found to be without any justification for refusal.
- d) The need for future housing in North Tyneside is compelling, which strongly indicates that planning permission should be granted.

48. The following propositions are advanced:

- 1) The Development Plan is out-of-date and should be given little weight.
- 2) There is a need for further housing within North Tyneside to comply with the Council's requirement to have a 5-year supply of housing as set out in the Framework.
- 3) There is a need for further affordable housing within North Tyneside.
- 4) The Framework states that planning permission should be granted for sustainable development.
- 5) There is no allegation that this proposal is not sustainable.
- 6) Significant weight should be given to the views of officers and external consultants who concluded that planning permission should be granted.
- 7) The remaining concerns expressed by HAG are not justified in the terms of the Framework where impacts must significantly and demonstrably outweigh the benefits of the proposal to warrant refusal.
- 8) There are numerous and material benefits from granting planning permission for the proposal.
- 9) The proposal complies with the emerging Development Plan.
- 10) No weight should be given to the concerns of HAG.

*Proposition 1 - The Development Plan is out-of-date and should be given little weight*

49. In the light of paragraphs 12 and 14 of the Framework the first key question is whether the Development Plan is out-of-date or not.



50. The Development Plan comprises:

- a) The North Tyneside UDP (March 2002), which was adopted over ten years ago.
- b) The intention of this plan was to consider policies and proposals until 2006<sup>35</sup>.
- c) Some of the policies have been saved<sup>36</sup>.

51. Consequently, it is strongly submitted that the UDP is out-of-date. The Council through the written evidence of Mr Jeremiah accepts that housing policies are now out-of-date and not applicable to the consideration of this appeal<sup>37</sup>. This applies to criterion (1) of Policy H5 to the extent that this requires housing proposals to be delivered on previously-developed sites.

52. It is also material to look at the guidance of paragraph 49 of the Framework which makes clear that if the Council is unable to show a 5-year housing land supply then the policies for housing must be considered out-of-date. This guidance is not discretionary but mandatory. Therefore, in the light of the Framework the starting point for determination of this appeal is that the development plan is out-of-date within the terms of the guidance. It appears that this submission is uncontentious in relation to the housing parts of the UDP.

53. That then activates the content of paragraph 14 of the Framework which requires that in decision-taking planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

*Proposition 2 - There is a need for further housing within North Tyneside to comply with the Council's requirement to have a 5-year supply of housing as set out in the Framework.*

54. The Government is committed to boosting significantly the supply of housing<sup>38</sup>. That is to be done by identifying specific deliverable sites sufficient to provide 5-years' worth of housing against local planning authorities' existing housing requirements<sup>39</sup>. Therefore NTC is required by policy to provide and identify a 5-year supply of housing land. The Council contends that the housing requirement for the relevant 5-year period is 2,623 dwellings.

55. NTC currently does not comply with that policy requirement because it accepts that it only has 2,357 dwellings in the pipeline. The Council accepts that there is not a current 5-year housing land supply. That is of critical importance. The revocation of the RSS has no effect on this assessment. It is also material that NTC accepts that in order to meet that 5-year

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<sup>35</sup> CD5.2, p2.2

<sup>36</sup> CD5.3

<sup>37</sup> NTC4, p29-32

<sup>38</sup> See CD1.4

<sup>39</sup> Framework, p47

requirement it will be necessary to develop greenfield sites. The SHLAA suggests that delivery on CSPO sites is expected to be focussed on greenfield sites<sup>40</sup>. That conclusion led to the third reason of refusal being withdrawn. In order to meet its requirement, greenfield sites will be needed and this site has fantastic sustainability credentials when compared to other sites as shown in the SHLAA.

56. Therefore, there is a need for further releases of land in order to comply with the guidance that the Council must have such a supply of housing. That view has been consistently reinforced by Inspectors since the publication of the Framework.
57. The next issue is; how compelling is the need that exists? There is a disagreement between the parties as to the extent of that shortfall.
58. NTC insists the current supply is 4.49 years<sup>41</sup>. The appellant's consultants take the view that there is actually only a 0.6-year supply of housing. This difference is explained simply because NTC has not adhered to the guidance in the Framework regarding which sites are permitted to be considered available.
59. The Council has actually underestimated the requirement for the next five years for various reasons; the requirement is clearly higher than set out in the Council's latest work.
60. For example, the Council has Growth Point status, which alone requires more houses and which has not been taken into account in the housing requirement. This is simply inexplicable<sup>42</sup>. In terms of supply, the Council has also failed to accurately set out the actual supply of housing sites which will be available to meet the need because of the failure to rationally consider which sites are actually available; it should be subject to the 20% Framework buffer, as opposed to 5% used by the NTC; it should not be adjusted to reflect cumulative past performance; and it should be adjusted to reflect demolitions.
61. What actual number of dwellings does the Council have? It contests that it has 2,357 dwellings. It is the appellant's view that the figure is actually 447 dwellings<sup>43</sup> as one needs to:
- Exclude sites which are unavailable and do not have planning permission.
  - Exclude sites which are unachievable.
  - Exclude sites from windfalls and other SHLAA sites.
  - Take account of demolitions.
62. The simple point is that a precautionary principle needs to be taken in relation to supply and a robust position in terms of demand because of three factors. First, it is critical that NTC starts meeting its housing land supply requirement and not just saying that it will. This is affecting people's lives.

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<sup>40</sup> CD6.5, p6.2

<sup>41</sup> CD6.5

<sup>42</sup> See NE6, Section 11

<sup>43</sup> Ibid

Secondly, the recent performance in the past five years has been woeful, with NTC completely failing to meet its requirement. It is not right as a matter of approach to hark back to 2006 and 2007 when the past five years are ones where the Council has simply failed to deliver enough housing. Lastly, this is an authority which appears incapable of bringing forward a Development Plan. The record is catastrophic. The Core Strategy process commenced in 2006 and the latest estimate is that the document will come forward in 2015.

63. Therefore, for the past seven years there has been no up-to-date development plan. The SHLAA reinforces the need to be precautionary and realistic because delivery has simply not matched forecasts for a number of years. This is a need which requires to be met and this site would make a fantastic contribution to such a requirement in absolute numbers.
64. The guidance in the Framework needs to be met. One of the strong frustrations of the Government has been the reality that local planning authorities have consistently failed to deliver on housing numbers. Positive noises are made about meeting such numbers without delivery. The only thing that actually matters is delivery. The grant of permission on this site would result in delivery: this site is owned by the appellant; it will come forward; and it would deliver housing if planning permission is granted.

*Proposition 3 - There is a need for further affordable housing within North Tyneside*

65. North Tyneside has a compelling need for further affordable housing. This is really serious. The failure to provide enough affordable housing impacts on the most vulnerable and needy in our society and in the Council's area. The Council again has a simply woeful record of meeting the required affordable housing provision.
66. The proposal would provide 113 affordable housing units (25% of the total units) and completely complies with the policy requirement. It could not be more policy-compliant.
67. This number of units should be considered in the context of the following:
- The Framework seeks to ensure an adequate supply of such houses.
  - There is a clear demonstrable need for further affordable housing in the borough. The Council's Strategic Housing Market Assessment<sup>44</sup> identifies a need to deliver 479 new affordable housing units per annum to meet the shortfall for such properties.
  - The policy framework of NTC establishes a baseline requirement of 25% for affordable housing for the Council.
  - This proposal was welcomed by the manager for housing strategy.
68. The provision of 113 units which would be delivered is a material consideration in favour of the proposal of significant weight.

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<sup>44</sup> CDs 6.1 & 6.2

*Proposition 4 - There is no allegation that this proposal is not sustainable*

69. The key test in the Framework is whether the proposal properly can be considered as sustainable development.
70. The officers who considered this application were completely satisfied that the proposal was a sustainable one and did not allege to members at any stage that the proposal could not, or should not, amount to sustainable development. That view is endorsed by the SoCG<sup>45</sup> when there is no contention by the Council that the proposal is not sustainable, or in either of its proofs of evidence. That is not surprising when one considers what a superbly situated site this is.
71. The proposal is located in an area of high accessibility by all modes of transport as well as the private car. There is no allegation that any future resident would struggle to have access to the site. The site is well located in relation to employment sites, local facilities and public transport. The site is within walking distance of numerous local facilities of importance to residents. It is also only 1km from Palmersville Metro station and 900 metres from Northumberland Park Metro station. There is also a bus interchange at Northumberland Park which is served by seven frequent services and two infrequent services. The appeal proposals also would include the provision of a new bus service along Holystone Way which would directly serve the site and the Holystone Estate. Additionally, there is no allegation that a grant of planning permission would lead to a greater use of the motor car. The ambit of the residential Travel Plan to reduce the number and length of car trips is also agreed, together with a penalty in the S106 agreement for non-compliance.
72. In terms of social sustainability NTC accepts that the proposal would provide a mixed-use development with numerous housing types and tenures. The scheme has been subject to a Building for Life Assessment which rated it as 'very good'<sup>46</sup>. In terms of economic sustainability the proposal would deliver numerous economic benefits in the form of jobs, investment and a substantial New Homes Bonus from the Government<sup>47</sup>.

*Proposition 5 – The Framework states that planning permission should be granted to sustainable development*

73. At the heart of the Framework is that there is a presumption in favour of sustainable development<sup>48</sup>. That is a material change in Government planning policy.
74. Why is there such a presumption? Plainly the Government understands the critical failure on the ground and within the planning system to bring forward enough housing in the recent past. The presumption is a clear statement of intent that permissions should be granted if sustainable. The

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<sup>45</sup> NE/NTC2

<sup>46</sup> NE/NTC2, p5.29

<sup>47</sup> Identified as around £3,375,000 (SoCG, p5.30 (NE/NTC2)) and £4.6m within NE6, p21.1

<sup>48</sup> Framework, p14

threshold by which permissions can be refused has been raised to *significant and demonstrable* impacts. That is a high hurdle on any reckoning.

75. Therefore, once a conclusion has been reached that the proposal is sustainable, planning permission ought to be granted unless there are:

- a) adverse impacts;
- b) those adverse impacts are significant and demonstrable;
- c) adverse impacts outweigh the benefits identified.

76. The overwhelming desire of the Government is to get development built particularly when it meets a housing need.

77. Finally, within central Government there is acceptance and recognition of the harm that is being caused by the long-term failure of the planning system to provide enough houses, as expressed by the Planning Minister in his January 2013 speech<sup>49</sup>.

*Proposition 6 – The application was considered for many months by officers who concluded that it should be granted planning permission and that view is now endorsed by the Council*

78. In considering the three-stage approach set out in paragraph 14 of the Framework and whether the alleged impacts are so substantial, one must give significant weight to the views of officers who considered at great length this application. The officers considered the application over many months and reached the view that the proposal was acceptable. They did not identify any adverse impacts which justified refusal of planning permission. It must follow that they did not identify any adverse impacts which outweighed the identified benefits. That was not a judgement reached in haste but a carefully considered and professional response to the information which was before them. It should be given significant weight.

79. That view is now the formal position of the Council and therefore it is now noteworthy that the Council officers, three independent consultants (two highways and one planning) have all concluded that there are not impacts identified in this development that justify refusal.

*Proposition 7 – Are there any impacts which significantly and demonstrably outweigh the benefits of the proposal?*

80. The Council's members resolved to refuse permission based on six reasons for refusal. As a result of negotiations since the refusal there are now no matters which the Council alleges justify refusal. That is very important. Through negotiations and reconsideration of the application by officers and the external consultants employed by the Council a position has been reached where the Council accepts that there are no detrimental impacts arising from the development and there is no basis for opposing the grant of planning permission.

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<sup>49</sup> NE8, Appx 4

*Proposition 8 – There are numerous and material benefits from granting planning permission for the proposal*

81. The benefits of this proposal are enormous and in undertaking the balancing exercise the impacts would need to be very, very harmful to come close to justifying refusal:
- a) There would be additional extensive habitat enhancements which include 800 new trees and 1.4km of new hedgerows and new wetland provision.
  - b) The provision of 450 new houses to the housing land supply-need position.
  - c) The provision of 113 affordable houses of which 80% would be social rented and 20% intermediate housing.
  - d) The gift of 42 hectares of land to the Rising Sun Country Park.
  - e) The provision of improvements to public transport services and improvements to pedestrian and cycleway provision.
  - f) The provision of 101 new allotments.
  - g) The actual delivery of these benefits.
  - h) No harm to interests of ecology. Indeed, there would be significant enhancement to biodiversity and ecological interests, with the wildlife corridor being maintained<sup>50</sup>. The Northumberland Wildlife Trust acknowledges that the proposal includes measures which, if properly implemented and managed, would increase biodiversity in the area<sup>51</sup>.
  - i) No harm in terms of flooding with no objections from the Environment Agency or Northumbrian Water<sup>52</sup>. The proposed SuDS would more than attenuate greenfield runoff that currently exists.
  - j) No harm in terms of noise or air quality to existing or proposed residents.
  - k) Significant economic benefits (including New Homes Bonus and construction jobs<sup>53</sup>).
  - l) The significant improvement in numerous junctions in close proximity to the site. The appellant would spend £3 million of private money carrying out improvements to four of the existing junctions which would assist in the free movement of traffic over the coming years. The development would add only 1.5 to 3 vehicles per minute at junctions in the area and additional traffic at the A19 Holystone roundabout would only rise by some 2.1%.
  - m) There are extensive S106 benefits including contributions to education, sports, employment and training, and public transport.
  - n) A housing development of high quality which is supported by the Council's design officers.

*Proposition 9 – The proposal fully complies with the emerging Development Plan*

82. There is also a need to consider the emerging Development Plan, which is being considered by the Council. NTC has recently published its fourth Core

<sup>50</sup> NE/NTC2, p5.17-5.21

<sup>51</sup> Ibid, p5.21

<sup>52</sup> NE/NTC2, p5.25

<sup>53</sup> NE6, p21.1 suggests 430 full time equivalent (FTE) person-years of direct employment in the construction industry, 50 FTE jobs in the supply chain and related services and 20 net additional FTE jobs resulting from employment-generating uses on the site

Strategy document which it accepts will not be adopted until at least September 2015, examination being predicted for earlier that year<sup>54</sup>.

83. This emerging Development Plan document accepts:
- a) That greenfield sites will be needed to meet housing need.
  - b) That the appeal proposal is located on a key housing site as identified in the CSPO document of July 2010.
  - c) The SHLAA identified the site as a possible housing site with an expectation that it would provide 450 units over 15 years construction life.
84. Throughout the recent past it is correct to characterise the approach of officers on the policy or development control side of the Council as accepting the principle of the development of this site for housing. It is also noteworthy that there is no allegation of prematurity against the proposal.

*Proposition 10 – No weight should be given to the objections of HAG*

85. There are two matters to deal with in the light of the HAG position.
86. The first is procedural and concerns the events of the first day of the Inquiry. HAG made a decision not to present oral evidence in the light of discussions with both the Council and the appellant. HAG was informed that if it insisted on presenting oral evidence instructions would need to be taken as to whether the appellant would pursue a costs application against it for a day of Inquiry time. It was made clear that the appellant would consider such an application. HAG told the Inquiry on the second day that the Council's advocate had made it aware of the contents of the relevant costs circular, 3/09, which indicated such costs awards would only be made in exceptional circumstances. HAG made a decision not to present evidence orally. That was its decision alone after discussions with both principal parties. HAG made a decision which is not open to review or retrospective consideration. It was open to it to present its case in whatever way it wanted.
87. HAG chose not to present evidence orally in the light of the first day's events and the withdrawal of the Council. That has no bearing on the consideration of their case by the Secretary of State. Its evidence is before the Secretary of State.
88. In any event, no weight should be placed on the objections of HAG because:
- a) HAG comprises residents who live in the Holystone Grange development, which is a very recent housing development, completed in the last ten years.
  - b) HAG is opposed to all greenfield housing within North Tyneside as shown by its objection to the CSPO.

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<sup>54</sup> CD5.6

- c) It seeks to object to new housing notwithstanding that many members of HAG live on the next door housing development which was completed in 2000. It is completely unattractive of local residents to object to others having the same standard of accommodation that they benefit from currently. They have lived in their development for a few years and yet seek to stop anyone else benefitting from modern housing.
- d) The concerns of HAG have all been considered at enormous length and detail by the Council, the relevant statutory consultees and other consultees and have been found to have absolutely no basis. Every single concern of HAG has been investigated by NTC and has been found to have no basis.
- e) There is no justification to prefer the evidence of local residents on such matters as highways, drainage and housing land supply to the considered, objective and professional judgements of the relevant officers of both the Council and consultees.
- f) There is simply nothing in any of the objections however fervently argued by HAG. The planning system depends on scrutiny but by the Council and not by self-interested local residents who appear unable to be objective about this proposal.
- g) It is also material that the appellant has carried out extensive consultation throughout this process and canvassed the views of local residents. The clear evidence is that many of the local residents support this proposal.
- h) HAG appears incapable of carrying out a balancing exercise which objectively evaluates the benefits of the proposal. Open space is an example of where absolutely no weight has been given to the extraordinary gift that arises from the extension to the country park. That gift would add to and enhance the country park to a very significant extent and yet in the HAG evidence the only issue referred to is the loss of the existing open space.

### *Summary and Conclusion*

89. The Government is intent on getting more houses built in the right places because of the chronic failure in the recent past to build enough houses in the UK. The Framework is the main vehicle for doing that.
90. This proposal could not be more compliant with that policy, bringing forward a sustainable development in the right location on a site which has been identified in the CSPO document and the SHLAA as a site suitable for housing. It is being promoted by an organisation with a track record of excellence and delivery.
91. The development would bring forward material and significant benefits and on the other side of the balancing exercise is a proposal which has no impacts that justify refusal according to the Council.
92. The proposal has been subject to immense and detailed scrutiny and has passed with flying colours over the past four years of that scrutiny. It is an



exemplar development in line with the Framework guidance and permission should be granted for it.

## THE CASE FOR THE COUNCIL

93. On 21 August 2012, the Council resolved to refuse planning permission for six reasons<sup>55</sup>.
94. In accordance with best practice contained in Circular 3/09, on receipt of the appeal, the Council undertook an independent audit of the strength of the reasons for refusal (RFR). In the light of that independent audit, on 4 December 2012, it resolved to withdraw: that part of RFR 1 which related to ecology; RFR 2 (employment land); and RFR 3 (development on greenfield land).
95. The change in position was notified to the appellant on 5 December 2012. It was the Council's resolved position to present a case addressing:
- (i) RFR 1 - loss of open space;
  - (ii) RFR 4 - impact to the local highway network;
  - (iii) RFR 5 - insufficient evidence on flooding issues;
  - (iv) RFR 6 - impact to the character and appearance of the area.
96. Meetings between the Council and the appellant took place after 5 December 2012 to try and resolve RFR 5, through the submission of further details on flooding. In January 2013, the appellant produced a SuDS Drainage Design. The level of detail contained in this document was sufficient to allow the Council to conclude that the flooding issue could be adequately addressed by a condition. Accordingly, on 30 January 2012, the appellant was informed that RFR 5 had been withdrawn and a proof of evidence on this issue was not produced.
97. At the opening of the Inquiry, therefore, the Council's resolved position (as amended) was:
- i. The proposal would lead to a loss of open space contrary to NPPF and Policies R2/1, R2/2 of the UDP;*
  - ii. The proposal would lead to severe traffic impacts on the road network and would therefore be contrary to advice set out in the NPPF and Policy H11 of the UDP;*
  - iii. The proposal would have a detrimental visual impact on the character and appearance of the area, including the Rising Sun Country Park, contrary to Policy H11 of the UDP.*
98. Applying section 38(6) of the Planning & Compulsory Purchase Act 2004 (P&CPA), the appeal falls to be determined in accordance with the

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<sup>55</sup> NE/NTC2 (SoCG), p3.13

Development Plan, unless material considerations indicate otherwise. The Framework does not purport to alter the statutory test.

*Planning policy background*

99. The UDP was adopted in 2002. It is an 'old style plan' adopted under the Town & Country Planning Act 1990 (TCPA). It is not a Development Plan Document adopted under the P&CPA 2004. Accordingly, paragraph 215 of the Framework applies. Weight can be attached to the policies in the UDP, depending on the degree of consistency with the Framework.

100. So far as material, paragraph 14 states:

*At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development**, which should be seen as a golden thread running through both plan-making and decision-taking.*

...

*For **decision-taking** this means:*

*approving development proposals that accord with the development plan without delay; and*

*where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless*

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
- specific policies in this Framework indicate development should be restricted.*

101. It is common ground<sup>56</sup> that the Council cannot demonstrate a 5-year supply of 'deliverable' (in the terms of Framework paragraph 47) housing sites. Even though the RSS has been revoked, until a revised housing requirement is further advanced the RSS and the evidence on which it is based remains the best available indication of the borough's housing requirement. The absence of a 5-year supply is not changed by the revocation. Accordingly, paragraph 49 of the Framework applies. The relevant policies of the UDP concerning the supply of housing should not be considered up-to-date. In such circumstances, the 'default position' of paragraph 14 applies. The Development Plan (so far as the policies concerning the supply of housing are concerned) is out-of-date.

102. Paragraph 32 of the Framework provides that development should only be prevented or refused on transport grounds where the residual cumulative impacts are 'severe'.

<sup>56</sup> NE/NTC2 (SoCG, p5.7 et seq)

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*Impact on the local highways network*

103. At a meeting held between the consultants for NTC and the appellant on 14 February 2013, the assessment methodology on behalf of the Council was criticised. It was suggested that:
- (i) the level of committed development traffic included in the assessment scenarios developed by Capita was incorrect;
  - (ii) the traffic generated by the permitted office development on the appeal site was not removed when determining the 'with development' traffic.
104. The review of the methodology on behalf of the Council demonstrated that this was not the case.
105. However, following further assessment, it became clear to Council's consultants that there had been an error in determining the 2021 Base traffic flows, which had included both Committed Residential and Committed Office trips. This traffic flow matrix was subsequently used incorrectly as the '2021 Base' reference case to which the 'netted off' development traffic flows and committed development traffic flows were added.
106. The effect of double counting the committed residential and committed office trips is to add an additional 170 trips (95 Committed Development Residential and 75 Committed Development Office) to the traffic matrices. This results in a significant over-estimation of the queue lengths on the majority of junctions within the model in the 'with-development' scenario.
107. The error in determining the impact of development trips has been corrected (for assessment purposes) and this demonstrates that the development will actually reduce the volume of trips at the A19 Holystone Roundabout junction in the PM peak period, when the previous work on behalf of the Council had suggested that the main impact on queue lengths would be experienced here. Clearly this would mean that the proposed development has no significant impact in the PM peak at the A19 Holystone Roundabout.
108. This error was identified on the afternoon before the opening of the Inquiry with legal advice only being available during that evening. The Council's position is, therefore, that there is no evidential basis to support RFR 4. The evidence produced on behalf of the Council (once corrected) did not support the contention that the residual highway impact would be 'severe' in the terms of the Framework.
109. At the opening of the Inquiry, NTC therefore withdrew the reason for refusal. Its position is that planning permission can be granted but subject to the agreed mitigation measures contained in the S106 agreement and suggested conditions<sup>57</sup>.

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*Impact on character and appearance and open space*

110. Having determined to withdraw RFR 4, it was appropriate for the Council to reconsider its case, in the light of section 38(6) of P&CPA 2004.
111. In particular, it was necessary for the Council (and the professional witness instructed to give evidence on its behalf) to reconsider the planning balance in the context of paragraph 14 of the Framework. This required a consideration whether (now that the Council had conceded that the highway impact would not be 'severe') the adverse impacts of the development would 'significantly and demonstrably outweigh the benefits' of the development.
112. Having reconsidered the planning balance (in the context of paragraph 14 of the Framework), the Council concluded that the adverse impacts of the development on the open space and character and appearance of the area would not significantly and demonstrably outweigh the benefits of the development.
113. Accordingly, applying section 38(6), the Council concluded that RFR 1 and 6 should be withdrawn. Its position is, therefore, that planning permission should be granted, subject to the agreed conditions and S106 obligation.
114. In reaching this conclusion, the Council was mindful of the potential for an adverse cost award being made against it. This factor did not influence the application of the relevant planning balance in accordance with paragraph 14 of the Framework. It was, however, a relevant background consideration for the Council to consider as a responsible Local Planning Authority, with a fiscal responsibility to the local residents and a statutory duty to regulate the use of land in the public interest. The appellant has undertaken not to make an application for the costs of (and occasioned by) the Council's change in position.
115. On this basis, the Council did not call any witnesses and has not presented any evidence to contest the grant of full planning permission, subject to the conditions and S106 obligation.

*Response to the submissions of HAG*

116. In the light of the above submissions, there are only three points requiring a response to the submissions of HAG.
117. HAG asserts that they believe the Council's barrister may well share some of HAG's disappointment and frustration. That submission is neither admitted nor denied because the 'feelings' of an advocate are totally irrelevant in the determination of this appeal.
118. HAG draws attention to the position of NTC which is to treat highways' impacts (such as the bypass congestion obstructing both site accesses) as a sufficient basis to refuse the application.

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<sup>57</sup> NE/NTC6 is a SoCG on highways issues which records the agreement

119. In the light of the latest position of the Council and the agreed SoCGs, the NTC's position is that any congestion is not unacceptable (in the terms of the Framework).
120. HAG draws attention to differences between the two highways consultants. The Council considers that any such differences in the written evidence should now be read in the light of the agreed SoCGs.

## **CASE FOR HOLYSTONE ACTION GROUP (HAG)**

### *Introduction*

121. H.A.G. is particularly frustrated and disappointed with the direction the Inquiry took following admissions that consultants on behalf of NTC had seemingly failed in their duties to present robust data concerning traffic to the Inquiry. It is believed the Council's barrister may well share some of that disappointment and frustration.
122. The direction the Inquiry took following the inevitable withdrawal of the traffic objection by the Council meant HAG lost the opportunity to robustly present its evidence to the Inquiry and to challenge much of the evidence as presented by the appellant. The discrepancies which still prevail between the Council's and appellant's traffic data should be examined; discrepancies between two experts where, clearly, both experts cannot be right. When the Council then withdrew all objections, seemingly on balance, but clearly also due to cost implications, this put HAG in a very difficult position.
123. Discussions with the appellant's barrister made it clear that, if HAG still wished to cross-examine NE's witnesses, the appellant would seek an award of costs against it. HAG is a residents' group and does not have the kind of funds to support that potential pecuniary disadvantage. Although HAG believes its case is robust and that a strong cross-examination of NE's witnesses could have been carried out, thus obviating the need for any award of costs against it, HAG is simply not in a financial position to take that chance. HAG also wants to place on record that due to lack of financial resources it had no legal representation at the Inquiry. Both the other principal parties were represented by a solicitor and a barrister, both of whom are specialists in planning law. Further, HAG had no planning consultant to provide it with advice. It felt enormously disadvantaged in the proceedings and considered it had little option but to agree to the cessation of the Inquiry.
124. HAG believes it has presented a robust case to challenge the proposal on many issues concerning both the content and emphasis of the evidence the appellant has presented. It is of note, therefore, that the appellant has chosen not to directly address, refute or rebut HAG's claims in respect of traffic congestion, impact on the Rising Sun Country Park, wildlife, pedestrian safety and local schools. Correctly applying Framework guidance to these issues shows this development proposal is not sustainable.
125. The Framework requires a net benefit to nature; the saved UDP policy protects the land surrounding/supporting the wildlife corridor; the appellant has questioned the accuracy of the wildlife corridor designation, but, insofar as this aspect of the case is concerned the appeal should be determined in

accordance with the UDP. It is a high bar to cross to dismiss the effort put into protecting this land by the UDP. Indeed, evidence submitted to the Inquiry on behalf of NTC shows that the UDP Inquiry Inspector went to some length to protect this site from future development, including evidence that the Inspector considered it inappropriate to designate it as safeguarded as this tended to indicate its suitability for development after the expiry of the UDP plan period<sup>58</sup>.

126. The CSPO provides little assistance in this regard; it is silent on matters of Wildlife Corridors, Stepping Stones and the Scaffold Hill site in acting as a valuable buffer for biodiversity and the 40 years it has thrived. The CSPO is silent in terms of biodiversity and core sustainability issues and has attracted significant criticism during its consultation both from residents and statutory bodies. In considering the sustainability issues contained in the CSPO – it is after all a document for discussion and consultation only – it is thus premature to place any significant weight on it.
127. Little weight can be attached to the 'preferred' housing site status as claimed by the appellant. The evidence shows the appellant submitted the appeal site to the 2009 SHLAA and indicated it could deliver 100 homes within five years. It is for this reason and this reason alone that the appeal site appears as a CSPO preferred site.
128. Evidence presented to the Inquiry shows the appellant has more sustainable land it could develop and that some of this land is designated by the UDP as safeguarded and thus recognised as more appropriate land for housing development today. Evidence has also been submitted that the appellant has stated in the SHLAA that it could develop some of this land within five years. Alternative sites are available and more suitable for development.
129. Transport evidence presented by the appellant and NTC leaves important questions as to the accuracy of the traffic models used by the appellant. Evidence submitted by NTC calls into question the validity of the transport model offered by the appellant relating to inappropriate use of 2001 census data, which does not account for the development of 1,110 homes at Northumberland Park; 530,000m<sup>2</sup> gross floor area (GFA) of new employment land at Cobalt Business Park; changes to the highway network at A19 Silverlink, Holystone; Moor Farm; Seaton Burn Interchanges; Shiremoor Bypass and Tyne Tunnel 2.
130. Following the amended SoCG on transport matters,<sup>59</sup> it seems accepted between NE and NTC that removing an 'extant' office planning permission from the proposed development will lead to an increase in queues on the Holystone Bypass<sup>60</sup> A19 approach of 32 passenger car units (pcus) in the PM peak. The Council position is that this is not a severe impact. However, increasing congestion is a sustainability impact which in this case is incapable of being mitigated. Below are considered matters concerning the incorrect

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<sup>58</sup> See NTC4, p104-113, NTC5, Appx 5 & Doc 6

<sup>59</sup> NE/NTC6

<sup>60</sup> Inspector's note; HAG refers to Holystone Way as the Holystone Bypass. I have used Holystone Way in this report

approach taken by both the NE and NTC in netting off the 75 'extant' committed office trips from the 95 committed development trips in terms of the Guidance on Transport Assessment<sup>61</sup> and the fact that there is no extant office planning permission.

131. As it stands, there is no accurate transport assessment in place for the proposed development. Notwithstanding the congestion caused by the development, any inaccuracy in the extent of the increased PM peak queue additions on Holystone Bypass A19 approach (32 pcus) caused by this proposal raises the risk of queues extending across the Holystone Grange roundabout and impacts on the circulation of proposed development traffic, thus contravening UDP and Framework policy.
132. There is evidence before the Inquiry that the transport models do not reflect present-day conditions in that PM peak queues already extend past the Holystone Grange roundabout. There are also photographs submitted by HAG which show the queues from the Holystone Grange roundabout approach to the A19 roundabout. Added to this is the fact that the appellant has not factored in the development at the Stanley Miller/Lime Gardens site<sup>62</sup> in its committed development figures.
133. The early cessation of this Inquiry prevented a robust inspection of the discrepancies between the appellant and NTC.

#### *Determination*

134. The appeal must be determined in accordance with the law. The fact that NTC felt obliged to withdraw from the appeal does not change this fundamental principle. At the risk of stating what should already be known, all planning applications should be determined in accordance with s70(2) of the TCPA 1990 and S38 (6) of the PCPA 2004. Section 70(2) requires the decision-maker to have regard to the provisions of the development plan so far as is material to the application, and to any other material considerations. S.38(6) requires the decision-maker to make their determination in accordance with the Development Plan unless material considerations support a different decision being taken.
135. The latest statutory Development Plan for North Tyneside is the UDP. Some UDP policies have lapsed and some were saved by the Secretary of State. Notwithstanding the status of saved and/or lapsed policies there is a clear intention in the UDP to: construct the Holystone Bypass to remove traffic from the Holystone Estate; protect wildlife habitats, habitat connectivity and wildlife buffer zones including the Rising Sun Country Park from development; and from the Inquiry Inspector's report, protect Scaffold Hill from development beyond the expected life of the UDP<sup>63</sup>.
136. The impact of the proposed development upon the surrounding area must be evaluated. Regard must be had to the desirability of preserving or enhancing the setting of a listed building, and of preserving or enhancing the

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<sup>61</sup> HAG13

<sup>62</sup> HAG11

<sup>63</sup> See NTC5, Appx 5

character and appearance of a conservation area or national scenic area. Any general loss of amenity or privacy, increases in noise level and volume of traffic, questions of safety and other potential social costs must be considered (*Esdell Caravan Parks Ltd v Hemel Hempstead Rural DC [1965] 3 All E.R. 737, per Lord Denning at 743F*). The impact of the development on private individuals must also be considered; for example, loss of privacy, sunlight or amenity suffered by neighbouring proprietors, whether or not said proprietors are notifiable neighbours. Thus material considerations may be either the public or private interests of both the applicant and the objectors. This reflects the rights both the applicant and the objectors have under the European Convention on Human Rights.

#### *Other Relevant Considerations For Determination*

137. The North Tyneside Planning Committee rejected the appealed application on 21 August 2012, the decision being issued on 28 August 2012. Office development Planning Application (07/03680/FUL) granted on 8 June 2009 expired before the committee decision to refuse permission. NE used the trips expected from this development to show a reduced impact from the appeal proposal – resulting, *inter alia*, in modelling only half of the PM peak departures which resulted in an incorrect impact of 32 pcu's on the Holystone Way approach to the Holystone A19 roundabout being modelled. The real impact is double this.
138. There are no applications or consents of reserved matters, as defined by Article 1 of The Town and Country Planning (General Development Procedure) Order 1995 (as amended), or decisions capable of extending the expiry of this application. The S106 expired with the application.
139. Planning application 11/01307/OUT (Stanley Miller<sup>64</sup>) was granted on 13 March 2012. Development traffic from this site was not included in the appellant's Transport Assessment 'committed development' figures at the time the Planning Committee rejected the appeal proposal.
140. Potentially, pending planning application 12/00536/EIASCO (made on 19 December 2012) for 450 houses at Station Road (the other side of the Rising Sun Country Park) could be material, as could the planning application 12/02039/FUL for 61 houses at Forest Gate. The outcome of the appeal relating to 11/02337/FUL for 366 units at White House Farm, West Moor may be material.

#### *Development Plan Issues – housing land supply*

141. It is the position of HAG that there is no demonstrable shortage of housing land in North Tyneside when compared against the 5-year policy requirement. It is HAG's position that there is around – and possibly more than – five years' supply of housing land within North Tyneside. Moreover, whilst HAG contests NTC's stated position of there being 'around four years' supply of housing land'<sup>65</sup> it also notes that even if this level of shortage was accepted it would still not be anywhere near significant enough to justify

<sup>64</sup> This site lies just to the west of the Wheatsheaf roundabout, off Great Lime Road

<sup>65</sup> HAG5, Section 4



approving permission for development on what is a greenfield non-allocated site.

142. HAG disputes NTC's stated housing land supply on the following grounds:

- a) *Inappropriately low build-out rates* – NTC's 5-year land supply identifies those sites which contribute towards the achievement of a 5-year land supply. HAG notes that the 'build-out rates' for three of the sites is considerably below the level agreed by the Panel<sup>66</sup>. The methodology for the calculation of the 5-year housing land supply is provided in NTC's SHLAA of February 2011<sup>67</sup>. It is stated at paragraph 2.49: 'Based on discussions with house builders, especially in relation to the 5-year land supply, the build-out rates used were 30 units per annum on small/medium sites and 50 units per annum for larger sites'. HAG notes that the build-out rates used for three sites - Land north of Shiremoor, Wide Open UDP allocation and Shiremoor West (South), Shiremoor – is 30 units per annum. The stated total capacity of these sites is, respectively, 499 units, 330 units and 372 units. HAG contends that sites of this size should be regarded as falling within the category defined as 'larger' (paragraph 2.49) and thus be built-out at around 50 units per annum. If build-out rates of 50 units per annum were used then the combined yield from these three sites would be around *230 units* more than is assumed in the relevant schedule of NTC's 5-year land supply. Such an addition would on its own go some considerable way to making up any shortfall claimed by NTC and NE. It should be emphasised again that the build-out rates of 50 units per annum for 'larger sites' is a position agreed by NTC in consultation with housebuilders.
- b) *Failure to include some sites in the 5-year land supply* – The 5-year housing land supply does not include the Stanley Miller site. This site has planning permission for *99 units*. Construction has started and three or four are available. There is a show-home on site. All of the units on the site are being actively marketed. HAG does not understand why this site has been omitted from NTC's 5-year supply. It is self-evident that this site will be built-out well within the 5-year time period.
- c) *Failure to take sufficient account of windfall site contributions* – HAG notes that windfall sites have consistently made a significant contribution to housing construction yields in North Tyneside. It notes that the 5-year supply makes provision for only 24 units per annum from such sources. The Stanley Miller site is a windfall site which, on its own, will contribute 99 units over a period of around two to three years (i.e. the equivalent of an annual yield of circa 33-50 units). Actual windfall housing yields have been in excess of *300 per annum*. 620 units windfall yield over 2 year (2010-2012) is quoted from the 2012 SHLAA 5-Year Housing Supply<sup>68</sup>. In any

<sup>66</sup> HAG5, p4.49-4.52

<sup>67</sup> CD6.3

<sup>68</sup> CD6.5, p7.11. Inspector's Note; Some 60 dwellings have been built on sites over 10 units in two years. It would appear that HAG's (correct) reference to 620 units may be a typographical error in the SHLAA document, particularly as p7.11 of the SHLAA goes onto state that over two years the rate of building has been an average of 30 new homes per year. It would seem to be unrealistic to assume that in the region of 560 dwellings have come

case, windfall yield expectation should be based on all sites and not just those of over 10 units. This should not be surprising given the nature of North Tyneside and its history of industrialisation. These former industrial units now provide many opportunities for house builders. Further, such windfall housing developments are in line with the Government's emphasis on sustainable economic growth. Over a 5-year period it is quite possible that around 1,000-1,500 units will come forward from windfall sites, equivalent to around 2-3 years of housing land supply.

- d) There are several errors in the NTC's actual demolition records between the 2009 and 2010 SHLAA<sup>69</sup>. The Council has also over-counted Private Finance Initiative (PFI) Sheltered Housing programme demolitions - 80% demolitions are PFI sheltered housing scheme rebuild demolitions. Four hundred and eighty units (80%) are added to the housing requirement, however, only 244 units are shown as PFI rebuilds in the 5-year supply. Clearly 236 of these PFI rebuilds have erroneously been excluded from the 5-year supply. This point proceeds on the assumption that demolition/rebuild would be a package<sup>70</sup>.

143. On the basis of the above it can be seen that, even without making any allowance for windfall sites, the actual housing land yield is likely to be around at least 400 units more than is assumed by NTC. This corresponds to around four-fifths of one year's target output which - to all intents and purposes taking NTC's stated four-year position - would bring North Tyneside up to its five-year housing land supply requirement. If an allowance of around *200-300 units per annum* is made for windfall sites, which HAG contests should be the case, then there is an equivalent of around *7-8 years supply* of housing land.

144. The omission of the Stanley Miller site from the 5-year supply plainly demonstrates an error in NTC's assessment of 5-year supply and this thus opens the assessment up to scrutiny. Given the significant balance shift in the context of the absence of a 5-year supply, prudence dictates a more than mere cursory examination of the evidence pertaining to the 5-year supply and not just where it favours the appellant. With the revocation of the RSS there now follows an absence of an objectively-assessed 5-year housing supply need. This reinforces HAG's contention that the real figure of housing supply availability may be as high as 7 or even 8 years. The effect of revocation is to require a robust reassessment of available supply and in the absence of such data the appeal should be dismissed.

#### *Development Plan Issues – Core Strategy Prematurity*

145. Planning permission may be refused on grounds of prematurity where the Development Plan is in preparation or under review. This would be relevant only in respect of development proposals which are individually so substantial

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forward from sites smaller than 10 units as this would surely have warranted a far more detailed consideration in the SHLAA. It calls into question HAG's subsequent assessment, based on the 620 figure, that around 1,000-1,500 units are likely to come forward from windfall sites.

<sup>69</sup> HAG5, p4.42-4.43

<sup>70</sup> Ibid, p4.38 et seq

or likely to be so significant cumulatively as to predetermine decisions about the scale, location or phasing of new development which ought properly to be taken in the development plan context (*Arlington Securities Ltd v Secretary of State for the Environment [1989] JPL 166*)<sup>71</sup>.

146. The appeal site is one of six CSPO housing sites located in close proximity to each other. If fully built-out, these six combined sites would add 2,340 homes to the local A191 route. The sites are Station Road East (650 units), Station Road West (560 units), East Benton Farm (50 Units), Scaffold Hill (450 Units), Shiremoor West – North (260 Units), Shiremoor West – South (370 Units).
147. The CSPO selection of Preferred Key Housing sites is an objective exercise based on taking the SHLAA and developer assessment sites which the Council or developer considers capable of delivering at least 100 homes in five years. The appeal site is included on this basis.
148. The CSPO is silent in terms of protection of buffers surrounding country parks, such as the Rising Sun Country Park – thus there is incompatibility with the requirements outlined in the Framework. It is also silent on the protection of wildlife habitat connectivity routes (Wildlife Corridors/Stepping Stones) – thus being incompatible with the requirements outlined in the Framework.
149. The CSPO Sustainability Appraisals and CSPO proposed policies do not consider the cumulative impacts of Key Housing sites on one another, in terms of traffic, transport, facilities and schools. The CSPO Sustainability Appraisals are silent on key sustainability indicators (detailed below) and are thus incompatible with the requirements outlined in the Framework.
150. The Core Strategy draft is proposed for statutory consultation in June 2013 and examination in 2015. There is a distinct possibility that any element of it may be revised, removed or that the entire strategy could be found unsound.
151. HAG's position in terms of *any* development of Scaffold Hill can be summarised as follows:
- The approved development plan is the North Tyneside UDP.
  - That plan does not allocate Scaffold Hill for any development.
  - The plan specifically protects the site as 'Open Space' and wildlife corridors.
  - Any development proposal has to be supported by 'other material considerations'.
  - In order to justify development there has to be a demonstrable shortage of housing land.
  - There is no demonstrable shortage of housing land as per the 5-year land supply test.
  - The emerging Core Strategy for the new Local Development Framework has not yet been prepared.
  - Public consultation on this document is not expected until later in 2013.
  - An Examination of the proposals is scheduled for 2015.

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<sup>71</sup> Inspector's Note: Advice now within *The Planning System: General Principles*, p17

- Any determination in favour of the development now would be premature and would prejudice the rights of other landowners and developers.
- The appeal should be refused.

152. The Framework states at paragraph 165:

*'Planning policies and decisions should be based on up-to-date information about the natural environment and other characteristics of the area including drawing, for example, from River Basin Management Plans. Working with Local Nature Partnerships where appropriate, this should include an assessment of existing and potential components of ecological networks. A sustainability appraisal which meets the requirements of the European Directive on strategic environmental assessment should be an integral part of the plan preparation process, and should consider all the likely significant effects on the environment, economic and social factors'.*

The CSPO and any decisions attributed to it fail this policy requirement.

#### 5-Year Supply

153. NE's contention that there is only a 0.6-year supply of housing land is noted. It is HAG's understanding that the 5-year land supply assessment is made by a Panel which includes both representatives of the local authority and representatives of the house-building, property-consulting and construction sectors<sup>72</sup>. In passing, it is noted that one of the members of the Panel is an employee of Nathaniel Lichfield and Partners who are acting for NE.
154. It is stated in the 2011 SHLAA that the housing land supply for North Tyneside is around 4.7 years. This is not markedly different from the figure presented by NTC at the Inquiry. It is HAG's view that NE is now seeking to depart radically from a position that was only quite recently agreed between the Council, landowners, developers and commercial land agents. NE's new position is simply not credible given the relatively limited changes in circumstances that have taken place in the area over the past 12-18 months due to the general adverse economic climate.
155. HAG has submitted substantial evidence to demonstrate that the Council has demonstrated a 5-year supply of housing and that, in any case, any shortage is insufficient to warrant the release of the appeal site for housing. The evidence submitted by Mr Tovey<sup>73</sup> has not been challenged directly by the appellants.
156. RSS Net Dwelling Provision targets for North Tyneside have been static since 2004/05 at 400 units per annum. Going forward from 2011/12, RSS targets have increased by 25% for North Tyneside to 500 units per annum (2011-16 and 2016-21). In any case, over the RSS plan period the overall housing target is 460 units. In light of the current economic climate, whether

<sup>72</sup> CD6.3, p2.6 and membership at Appx 1

<sup>73</sup> HAG5

the increase of an additional 500 homes to the 5-year supply is sustainable or indeed needed at all, is questioned. Further, the RSS housing targets already include an effective buffer sufficient to meet the aims of the Framework in ensuring competition in housing land.

157. The Framework states that the purpose of the 5% buffer is to ‘...to ensure choice and competition in the market for land.’ It is not to build more houses - it is simply to ensure choice and competition. North Tyneside is ahead of the RSS build targets (by 592 units) and given that the RSS annual targets already have an effective buffer for the 2011-16 period (500 units pa) is over the overall RSS target for 2004-2021 (460 units pa). It is questionable if an additional 5% buffer is needed at all; because the aim of the Framework 5% buffer has been already, albeit indirectly, addressed by the RSS<sup>74</sup>.
158. Moreover, North Tyneside has already provided a buffer or margin of safety in SHLAA housing allocations by only allowing for 542 potential housing allocations from a total of 4,900 units in the CSPO and Area Action Plans<sup>75</sup>. The number of units expected to be delivered in five years from these housing allocations is just 11% of the 15-year total, this effectively providing a 22% buffer (33% less 11%). An additional 5% buffer should not be applied<sup>76</sup>.
159. NTC has only factored in 49% of the existing 2,986 planning permissions contributing to the 5-year supply. This is despite existing trends of a 60% planning permission-to-completion rate.
160. The Council’s stated position of residual housing requirement is 2,523 units with an estimated supply of 2,357 units (including a 5% buffer) representing a shortfall of 266 units (53.5pa). Estimates of 5-year supply without an additional buffer are 2,498 units with a shortfall of 141 units (28 units per year). Factoring in the Stanley Miller site gives a shortfall of just 42 units (10 units per year).
161. The approach adopted by the appellant’s consultant to deduce a 0.6-year supply of housing land is glaringly and obviously flawed and is disputed. His approach is to exclude sites without planning permission, exclude some with permission on account of an estate agent appraisal, and increase housing above the Framework needs-based target by adding Growth Point funding status.
162. If an examination of the 5-year supply of housing land is appropriate within the context of the appeal, all the arguments of the parties should be considered and not just the appellant’s argument which seeks to establish a lower supply of housing land.
163. The Framework seeks to increase the choice in housing land and not an increase in housing with the application of the 5% or 20% buffer. NTC’s calculation of 5-year supply is substantially robust in that it allows a considerable margin of safety by underestimating SHLAA build-out rates and

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<sup>74</sup> HAG5, p4.6

<sup>75</sup> CD6.5, p3.12-3.15

<sup>76</sup> HAG5, p4.56

percentage of planning permissions-to-completion expectations. Evidence before the Inquiry shows that NTC had underestimated build-out rates by 130% on some sites from the earlier 5-year supply.

164. It is a simple question of mathematics to correctly apply the SHLAA policy build-out rates to existing sites with planning permission. This exercise yields a greater than 5-year supply with or without factoring in the erroneous exclusion of the 99 unit contribution expected from the Stanley Miller/Lime Gardens site. NTC 5-year calculations are robust but it is HAG's position that the Council clearly has a 5-year supply of land sufficient to meet the 5-year supply requirement. In any case, it is contended that any shortfall in the supply of housing land would be small and, as such, insufficient to justify allowing the appeal.
165. At the time of the Inquiry it was understood that the decision on the White House Farm, West Moor planning appeal relating to 366 dwellings was imminent (see paragraph 140 above). Whilst not moving from its opinion that there is already at least 5-year's supply of housing land in the area, it is nevertheless the view of HAG that if the West Moor appeal is allowed then there is even less argument in support of any development at Scaffold Hill. The West Moor appeal decision is a material consideration relevant to the determination of this appeal.

#### *Open Space & the Rising Sun Country Park*

166. The proposed development is located on a designated wildlife corridor, thus saved UDP Policy E12/6 applies:

*Development which would adversely affect the contribution to biodiversity of a wildlife corridor identified on the proposals map will not be permitted unless: (i) no alternative site is reasonably available; or, (ii) appropriate measures of mitigation of, or compensation for, all the adverse effects are secured, where appropriate through planning conditions or obligations. In all cases any adverse effects of development shall be minimized. In addition the positive effect of a proposed development on the contribution to biodiversity of a wildlife corridor will be taken into account in determining planning applications.*

167. Wildlife links are within the proposed development and are detailed in the representations before the Inquiry. In particular, sightings of the Rising Sun stag at Scaffold Hill and adjacent to the Stonebrook public house are noted. The appellant originally denied the resident Rising Sun stag existed although this was observed on the site visit. Thus, saved UDP Policy E12/7 applies:

*Development which would adversely affect the contribution to biodiversity of wildlife links will not be permitted unless: (i) no alternative site is reasonably available; or, (ii) appropriate measures of mitigation of, or compensation for, all the adverse effects are secured, where appropriate through planning conditions or obligations. In all cases any adverse effects of development shall be minimized. In addition the positive effect of a proposed development on the contribution to biodiversity of a wildlife link, will be taken into account in determining planning applications.*

168. UDP Policy E1 is also relevant. The site including the extension to the Rising Sun Country Park is incompatible with its present use of protecting biodiversity by allowing it to thrive in relative isolation, Policy E1 states:

*The local planning authority will seek to monitor, protect and enhance the biodiversity and quality of the borough's environment. In considering applications for planning permission it will ensure that the potential effects of development on and in the environment are fully taken into account.*

169. UDP Policies E12/6 and E12/7 are not incompatible with the Framework; achieving sustainable development requires a 'net gain to nature'<sup>77</sup>.

170. The appellant has alternative sites to develop. It has moved the nearby Shiremoor West (SHLAA) into the 5-year supply with a clear intention to develop it. NE has not demonstrated measures, mitigation or compensation for the adverse effects of the development on the wildlife corridor. The short-term lease of the Rising Sun Country Park extension land is in any case inadequate compensation in terms of biodiversity. Opening up Scaffold Hill and the proposed Rising Sun extension to increased human contact would inevitably impair the ability of species to flourish in the way they have done thus far in the relative isolation and sanctuary of land with limited human contact.

171. In the context of the extensive availability of developable sites designated by the UDP as safeguarded and implicitly more suitable for housing, along with sites proposed by the appellant and shown by HAG's evidence as capable of meeting any five-year-supply shortfall, the UDP policies should be given considerable weight where they seek to protect the Rising Sun Country Park, wildlife corridors and biodiversity of Scaffold Hill in general. These saved UDP policies are not incompatible with the Framework and, as such, should not be considered out-of-date on account of the position on the 5-year supply.

172. It is of note that the appellant has not sought to challenge the evidence presented by HAG of alternative sites in terms of the availability and suitability in the context of both the 5-year supply and suitability for housing.

173. Much of the content of the appellant's evidence has focussed on whether or not the 2002 UDP and its policies are out-of-date and thus should be given little weight. This is a crucial consideration for the Open Space designation of the appeal site. The appellant repeatedly talks of the Open Space being fenced and of limited public access. A late document showed few people walking across an isolated public footpath during a working week day, during the school term time, in the winter<sup>78</sup>. This was perhaps symptomatic of many of the documents presented by NE which showed a glass half-empty in the part of the site it wishes to develop whilst showing a very similar glass to be half-full in the part of the site which is either currently or 'proposed' country park.

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<sup>77</sup> Framework, p9

<sup>78</sup> NE13

174. The footfall on a cold winter's weekday, in term-time, is actually not relevant to the designation of Open Space. Open Space is not about the amount of footfall on a particular day but it is about providing a living lung to the community. On a map it may show a few fields, but for all drivers passing, the country feel comes into their cars, despite being on the 'urban-fringe'. For those crossing the fields – whether it be the few on a cold winter's day or the many on a summer weekend or during holiday periods – one only has to walk a few yards from the road to be 'in the country'. The immediate views are agricultural and the Open Space designation was clearly agreed, following the previous UDP Inquiry in 2000, for that purpose.
175. The appellant's landscape witness considers the site to be 'open land' rather than 'open space'<sup>79</sup>. This is a clear arbitrary re-designation without any justifiable legal reason. Essentially it is on a whim. He then re-designates part of the site which would be developed as housing under the development proposal as Open Space - a new Open Space within the development - <sup>80</sup> again, with no apparent legal basis for that re-designation.
176. The appellant's witness describes the site as offering '... no formal amenity open space...'.<sup>81</sup> But the fact it is open is, in itself, an amenity. He also considers any perceived effects to be 'minimal'. HAG disagrees as it is quite strange to consider replacing open agricultural fields with housing as having a minimal effect. In addition, the appellant's witness states 'the intensification of equestrian use and lack of management more recently has contributed further to the deterioration of the grazing land around Scaffold Hill Farm which is now in moderate/poor condition.'<sup>82</sup>
177. The appellant suggests that the poor management of the land and its features such as hedgerows has been instrumental in its deterioration as a biodiversity resource. HAG submits that any deterioration of the land or its features – such as hedgerows – caused by the management, mismanagement, under-management, or over-management of the land should not be considered as a reason to then replace that use with housing. Further, the appellant should undertake land-management which would not reduce its quality. The appellant's evidence reinforces the lack of satisfactory management, as well as adding lack of 'committed investment'<sup>83</sup>. Thus, this may indicate a deliberate and prolonged lack of land-management in order to secure this application.
178. The appellant describes the visual amenity as 'urban/semi-rural'<sup>84</sup> a description with which HAG agrees. HAG contends that that is exactly why it is a really important visual amenity to the local community. From the information concerning building and stabling occupancy, it must be recorded that all agricultural buildings on the site are occupied and in full use, including all outbuildings, despite the appellant's landscape witness description of derelict and redundant agricultural and historical

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<sup>79</sup> NE3A, p1.15

<sup>80</sup> Ibid, p6.5

<sup>81</sup> Ibid, p1.15

<sup>82</sup> Ibid, p2.20

<sup>83</sup> Ibid, p6.26

<sup>84</sup> Ibid, p2.24



buildings/structures<sup>85</sup>. The only structure to which this description could be accurately attached is the World War 2 pill-box. The appellant states that ‘...an assessment has been undertaken by NTC which clearly shows that the Open Space is surplus to requirements....’<sup>86</sup>. HAG suggests that no such assessment has been made.

179. The appellant considers that the residential development and country park proposals for the development site reflect high quality design principles and are sensitive to the existing landscape and visual context.<sup>87</sup> HAG submits that they are not sensitive to the existing landscape and nor are they sensitive to the visual context.

180. Whilst the Council’s Landscape Officer outlined support for the proposed inclusion of allotments<sup>88</sup> it is suggested that he is not an expert in the potential dangers to human health of high-level electro-magnetic fields. The community concerns on this issue should be given significant weight and the Landscape Officer may not be aware of the health implications of his support, or potential resultant legal implications for himself.

181. The appellant’s landscape witness states ‘the remainder of the land within the development site (in which residential development is proposed) has not been assessed, as it is currently in agricultural use.’<sup>89</sup> However, the site is also described as ‘the existing low quality and value of the land being affected by the development...’<sup>90</sup>. This confusion of description suggests a potential for inaccuracy of designation and other data throughout this evidence.

182. There are no views from the proposed development site which could in any way, shape or form, be considered as ‘...key views towards the Tyne’<sup>91</sup> since the river cannot be seen – even indicatively – from the development site. Whilst it is claimed that the proposal is in keeping with its surroundings<sup>92</sup>, it is suggested that, as the surroundings are patently rural, this cannot be correct.

183. The appellant’s landscape witness states ‘the submitted design incorporates habitat provision which looks to maximise value and strengthen the existing wildlife corridor within the site.’<sup>93</sup> The arbitrary movement south of the wildlife corridor is without serious historic scientific basis and is, again, whimsical on the part of the author of that report so cannot possibly strengthen the existing corridor. Further, as evidenced by Mr. Palmer’s spoken evidence to the Inquiry referencing his personally-witnessed road-kill, the wildlife corridor has spread north rather than contracting south.

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<sup>85</sup> Ibid, p2.25

<sup>86</sup> Ibid, p3.11

<sup>87</sup> Ibid, p4.8

<sup>88</sup> Ibid, p5.4

<sup>89</sup> Ibid, p6.3

<sup>90</sup> Ibid, p1.15

<sup>91</sup> Ibid, p6.12

<sup>92</sup> Ibid, p6.14

<sup>93</sup> NE3A, p6.16

184. The appellant's landscape witness considers that the 'nature of the area in which the appeal site sits has changed since the UDP Inquiry as development both commercial and residential now surrounds the site...'<sup>94</sup>. The addition of the Stonelea estate in Holystone and the addition of the Stonebrook public house/Premier Inn cannot be considered to be surrounding the site, although it is accepted that these developments have encroached upon the site and that is an excellent reason why further encroachment should be – absolutely – prevented.
185. Reference is made to office units, the planning permission for which has long-expired<sup>95</sup>. Further, the appellant's witness states 'looking towards the edge of Holystone from the footpath within the northern area of the site, it has a more urban character...'. However, if, at the same location, one simply turns round, the situation is completely reversed.
186. It is further stated that 'there will not be a significant impact on land-use as a result of the residential development'<sup>96</sup>. This is nonsense – a change from agricultural crops to housing must have a significant impact. Further, it is stated 'there will be a moderate beneficial impact on views east along Holystone Way...'<sup>97</sup>. This too is nonsense as the change would be from fields to housing, thus built-up environment.
187. The appellant's witness's summary<sup>98</sup> includes some 30 personal opinions. An 'expert' witness should be able to submit objective evidence to an Inquiry, rather than have to resort to such a large number of personal opinions to justify the contents of his proof. This evidence should be given little weight as it is clearly based personal opinion rather than hard, objective evidence.
188. Under the guidance of the Framework, 'existing Open Space ... should not be built on unless it is surplus to requirements'<sup>99</sup>. It is believed that HAG could have demonstrated under the Framework that the Open Space designation should be used as 'the green area is demonstrably special to a local community and holds a particular local significance, for example because of its ... recreational value, tranquillity or richness of wildlife.'<sup>100</sup> Richness of wildlife is not an objective measure but is subjective to the perceptions of the person(s) making the judgement. There is a richness of wildlife and is not restricted to focal species.
189. Notwithstanding the Framework, which is guidance only and not a requirement, attention should be paid to the current legal document, which is the UDP and thus should be viewed as the senior document.
190. The evidence of Mr Betts<sup>101</sup>, appended to the evidence of the appellant's planning witness is mostly his opinion and does not have robust scientific

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<sup>94</sup> Ibid, p6.24

<sup>95</sup> Ibid, p6.25

<sup>96</sup> Ibid, p6.30

<sup>97</sup> Ibid, p6.45

<sup>98</sup> Ibid, Section 7

<sup>99</sup> CD1.1, p74

<sup>100</sup> Ibid, p77

<sup>101</sup> NE9, Appx 17

evidence to support it. He claims that the wildlife corridor in the UDP was an arbitrary designation<sup>102</sup>. However, it is suggested that he arbitrarily 'moved' a wildlife corridor with the resultant effect (but not causal) that it suited the planning appeal. He has no legal basis to arbitrarily move this wildlife corridor. This is another example of empty-glass/full-glass as he considers there to be little biodiversity value in the land proposed for development yet major biodiversity adjacently south. Wildlife clearly does not migrate within 280 metre boundaries and, as previously mentioned, a local resident (Mr. Palmer) identified deer being road-killed on the UDP-identified wildlife corridor.

191. This confirms inaccuracies in Mr. Bett's assessments. Had there been the opportunity to cross-examine him, it would have been possible to demonstrate that his views would have been shown to have been difficult to apply to the proposed development site and may well have been shown to be wholly inaccurate. His decision to regard just two focal species was flawed and ignored the genuine and real extent of the wildlife living on the site - that which is transient or using the land for foraging.
192. HAG could have provided compelling evidence, both directly and by cross-examination, which would have shown whether the glass was actually half-full or half-empty, and where. Further, from evidence within Core Documentation and elsewhere it appears that the Council's Biodiversity Officer was not allowed to submit a report on the site, merely allowed to make notes which were then 'edited' or 'omitted' by the officers of the planning department.
193. Framework guidance<sup>103</sup> confirms that land designated as 'Open Space' should not be allocated for development; unless there has been an assessment undertaken which clearly shows the open space to be surplus to requirements. The Council is still going through the process of preparing its new Core Strategy. The Policies in relation to land designated as 'Open Space' have not been reviewed or consulted on. The development of the site is therefore contrary to guidance in the Framework, which is a significant material consideration.

### *Traffic*

194. It is a relevant matter to consider that the Council's planning committee rejected the proposed development on traffic/safety grounds without the benefit of the latest North Tyneside Capita traffic model. It is submitted that the planning committee did this based on their local knowledge of the severe congestion of Holystone Way. It follows, therefore, that it simply did not accept the traffic models as submitted by the appellant.
195. The planning committee report refers to 'Relevant Planning History' and a 3-year planning permission '07/03680/FUL: Erection of 9 no two storey office units, associated parking and landscaping (resubmission): Permitted 08.06.09'. This lapsed permission is relevant in so far as the appellant's TA used the trip estimates from this lapsed permission to offset and reduce the

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<sup>102</sup> Ibid, p6.13

<sup>103</sup> CD1.1, p74

trips from the present appealed application, thus reducing the number of trips used to predict the traffic impact<sup>104</sup>. The lapsed permission trips were subtracted from the proposed development trips to arrive at net development trips<sup>105</sup>. The Council's original, and correct, position was to model traffic without factoring in the lapsed office development planning permission. However, it appears to be the Council's position now that the lapsed permission should be included.

- Applying simple mathematics to the TA tables<sup>106</sup> shows the appellant has underestimated total AM/PM peak trip rates by a total of 130 vehicles.
- The amended SoCG<sup>107</sup> gives an increase of queues on the A19 Holystone Way approach of 32 vehicles (based on the TA split of east/west distribution of departures). The 32 extra vehicles queuing is clearly based on the appellant's estimate of 50 PM vehicle departures<sup>108</sup>. However, the correct PM departure figure<sup>109</sup> is actually double this number (103 PM departures). It follows therefore that the addition to vehicle queues specified in the amended SoCG would at least double from 32 to 64 vehicles, and this additional queue length would obstruct both site accesses during the PM peak.
- Factoring in the correct number of PM departures (103 as opposed to 50), the extra queuing would actually be 64 vehicles on the Holystone Way A19 approach. The Council's highways witness originally considered queues of 42 vehicles to be a severe impact sufficient to suggest that the development did not comply with the Framework<sup>110</sup>.
- The appellant's base traffic flows approach is flawed because the 'committed offices' were incorrectly included with the base traffic flows<sup>111</sup>. At best, this is actually a replacement planning permission and, as such, it is inappropriate to add it to base flows. Applying the Guidance on Transport Assessment<sup>112</sup>, committed development should only include development likely to come forward alongside the presently appealed planning application.
- The appellant's TA acknowledges the observed traffic distribution to the A19 as being 'somewhat higher' than that derived from the census data<sup>113</sup>, and attributes this to local trips, school run or the

<sup>104</sup> APP16, p7.18

<sup>105</sup> Ibid, p7.19-7.20

<sup>106</sup> Ibid

<sup>107</sup> NE/NTC6, p1.4

<sup>108</sup> App16, p7.20

<sup>109</sup> Ibid, p7.5

<sup>110</sup> NTC1, Table 7.2, p7.5

<sup>111</sup> App16, p7.21

<sup>112</sup> HAG13

<sup>113</sup> Ibid, p7.12

'substantial recent development' at the Cobalt Business Park<sup>114</sup>. As would appear, the appellant's highways witness has changed position insofar as he now dismisses the impact of out-of-date census data on the distribution<sup>115</sup>.

- In any case, it can only be concluded that the TA produced by the appellant has not accurately included all of the proposed development's traffic impacts.

196. From a review of the appellant's TA and models the following observations and errors are noted:

- TA incorrectly deducts the lapsed office development planning permission traffic from development traffic<sup>116</sup>.
- Committed development does not include the Stanley Miller/Lime Gardens site residential site. The TA<sup>117</sup> shows committed development only included 300 future units from the Moor Edge Farm site in Shiremoor<sup>118</sup>.
- Committed development does not include adjacent Local Development Framework (LDF) sites (TA Guidance requires modelling of LDF sites).
- Holystone Way capacity was not validated. Automated traffic flows were used but the route is already congested so these are not representative of the peak capacity of this link.
- No consideration of a pedestrian crossing on the school/Metro route at the Holystone/A19 roundabout and consequent traffic impacts (UDP Policy T9). The appellant proposes giving additional 'green time' to mitigate the effects of development traffic on the A191 approach to Holystone A19 roundabout. However, the appellant has not factored in the with-development case of additional 'red time' due to school and general pedestrian demand.
- No impacts have been assessed from increased use of the Wheatsheaf approach signalised pedestrian crossing (the appellant concedes the TA is optimistic in this regard). However, the appellant now says<sup>119</sup> that the Highway Authority can control how often traffic is stopped to allow pedestrians to cross and that the Highway Authority has a duty to strike a balance between pedestrian amenity and the wish for drivers to reach their destination with minimal

<sup>114</sup> Ibid

<sup>115</sup> NE/NTC1, Section 3

<sup>116</sup> Ibid, p7.18

<sup>117</sup> Ibid, p8.14

<sup>118</sup> Inspector's note; Despite this, traffic growth forecasts have been issued since the TA was prepared with significantly lower traffic growth predicted up to the assessment years considered in the TA. (APP17, p1.4)

<sup>119</sup> NE/NTC6, p2.7

delay). The appellant clearly has a view that this crossing will have an impact on traffic flows. It is within its capabilities to model its impact but it has failed to do so.

- The two-lane revised plans for the Asda roundabout do not factor in the fact that both lanes of traffic will merge back to a single and already congested westbound lane.
- Two lane revisions for Whitley Road do not provide for adequate Rising Sun access (now crossing two lanes with one the filter from the bypass).
- Holystone Grange roundabout does not include incoming trips to the retail/medical units from Holystone Way or Holystone Grange Estate<sup>120</sup>.
- Holystone Grange roundabout does not include outgoing and return trips for the school run during the AM peak.
- The new proposed roundabout does not show any trips resulting from the new Rising Sun one-way exit<sup>121</sup>.
- There is no allowance for any increase in traffic generation on account of the expansion of the Rising Sun Country Park.
- There is no account of traffic distributions arising from the nearby Cobalt Business Park expansion or over 1,100 nearby new homes since 2000.
- AM peak hour pedestrian out trips<sup>122</sup> of 18 in and 79 out trips has not included 125 primary and 53 secondary school children, or parent/supervised return trips.
- Revised plans for the signal control at ASDA roundabout show the existing pedestrian signal controlled crossing removed.
- TA Transport Note 2<sup>123</sup> shows that severe capacity adjustments of between 58% and 90% were required at the Wheatsheaf roundabout to make the appellant's model match observed 2010 queues. This was arbitrarily attributed to slow-moving convoys and therefore the adjustments were not applied to the model<sup>124</sup>. HAG contends that it is a fundamental requirement to ensure any traffic model replicates the observed conditions particularly with queuing, especially where the model is at odds with the observations of local residents and councillors.

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<sup>120</sup> App16, p7.15

<sup>121</sup> Ibid, p7.16

<sup>122</sup> Ibid, p5.9

<sup>123</sup> App19, p11

<sup>124</sup> Ibid, p12, 13

197. The appellant's TA is inadequate, it does not accurately model the conditions experienced today nor does it correctly factor in some of the actual impacts of the development. It is unsuitable to base any substantial conclusions on it.
198. The Council acknowledges that the A19 Holystone roundabout will be beyond capacity without development traffic and that there is no realistic scope to increase green time for the approach<sup>125</sup>. Even if the removal of the 'extant' office permission traffic is the correct approach, and it is not, the amended SoCG on highways sees an increase in PM peak queuing on the Holystone Way approach to the A19 roundabout by 32 vehicles<sup>126</sup>. There are no adequate proposals to mitigate or improve the A19 roundabout junction.
199. Paragraph 32 of the Framework is clearly a three-pronged approach<sup>127</sup>. The amended SoCG states 'it is accepted by Mr Green that this level of increase in queuing on the Holystone Way approach to the A19 Holystone roundabout is not severe in terms of paragraph 32 of NPPF...'<sup>128</sup>. This would appear to rely on the second point of the third bullet in paragraph 32 'development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe'. The appellant has not addressed paragraph 32 bullet 2 which states that planning decisions should take account of whether 'safe and suitable access to the site can be achieved for all people'.
200. The Holystone Way approach to the A19/Holystone roundabout is problematic in that the appellant's Travel Plan/desire lines show a pedestrian crossing at this junction and facilities do not exist nor have they been proposed. In the context of 'safe and suitable' pedestrian access, it is noted that this route is the school route that would be used by approx 125 primary school children<sup>129</sup> with some unsupervised. Clearly the junction as it stands is unsuitable and the proposed development does not comply with the guidance as set out in the paragraph 32 of the Framework. Pedestrian facilities at the A19/Holystone roundabout are integrated with the traffic control signals – it is not a standalone crossing – thus any new pedestrian crossing would generate additional traffic queues. It is open to the appellant to assess the additional 'red time' at this crossing and incorporate it in its TA but there has been a failure to do so.
201. The Council's highways witness explains the differences between modelled and observed queues on Holystone Way and states 'during the AM peak Holystone School generates a significant pedestrian demand which calls the crossing stage on the circulatory upstream of Holystone Way and therefore reduces the green time/extends the delay between the Holystone Way approach arm being called'<sup>130</sup>. Even if the appellant opted to make this pedestrian access safe, as required by paragraph 32 bullet 2, it would result in a severe residual traffic impact.

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<sup>125</sup> NTC1, p6.22

<sup>126</sup> NE/NTC6, p1.4

<sup>127</sup> CD1.1

<sup>128</sup> Ibid, p1.5

<sup>129</sup> Officer's report to the planning committee, within the questionnaire documents, p27.2

<sup>130</sup> NTC1, p6.18

202. Evidence from residents demonstrates the acute congestion issues on the Holystone Way and Holystone village. This evidence simply does not square with the evidence presented by the appellant. On closer examination the evidence actually demonstrates that it is closer to the Capita traffic models provided by NTC. Many residents in submission to the Council and in the context of the appeal have reported PM traffic queues already extending beyond and blocking the Holystone Grange roundabout. Some representations from residents report these queues already extending the entire length of Holystone Way. The appellant's model does not replicate the existing traffic conditions.
203. Reference has been made to inaccuracies in the traffic models used by NTC based on 'double-counting' of the extant planning permission for office units. By applying the Guidance for Transport Assessments<sup>131</sup> the office development planning permission, which in any case has expired, ought not to be included in the appellant's TA at all. As such, the TA cannot be relied upon to adequately assess the transport/traffic impacts of the development.
204. The Council's transport witness raised several concerns relating to the transport model put forward by the appellant. These related to: inappropriate use of 2001 census data; development of 1,110 homes at Northumberland Park; 530,000m<sup>2</sup> GFA of new employment land at Cobalt Business Park; changes to the highway network at A19 Silverlink, Holystone, Moor Farm, Seaton Burn interchanges, Shiremoor bypass and Tyne Tunnel 2. These points have not been significantly opposed by the appellant and are therefore still relevant. The TA supports his concerns, but Mr Dmoch then changes the appellant's position by disagreeing with this premise in the disagreements outlined in the Joint Statement<sup>132</sup>.
205. Following concerns expressed by HAG relating to the integrated (i.e. not stand-alone) pedestrian crossing at the A19/Holystone roundabout, in the Joint Statement<sup>133</sup> the appellant says that it is not common practice to model a stand-alone pedestrian crossing (Wheatsheaf roundabout crossing). However, the appellant states in the original TA that the results are 'slightly optimistic' for any periods when the crossing is called regularly<sup>134</sup>. Clearly, the experts for the Council and the appellant have a view on the potential pedestrian impact on Holystone Way traffic flows but it is telling that the appellant has elected not to assess those impacts.
206. From the Joint Statement there seems to be considerable disagreement in the model and methodology to use. However, according to the appellant's witness<sup>135</sup> where he is suggesting the removal of the 'permitted office development' he is clear in saying that the net impact of development traffic is significantly less when allowance is made for the permitted office development. He should not have excluded the office development from the

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<sup>131</sup> HAG13, p47

<sup>132</sup> NE/NTC1, Section 3

<sup>133</sup> NE/NTC1, p4.15

<sup>134</sup> App16, p9.23

<sup>135</sup> NE/NTC1, p3.16



proposed development; the office development planning permission is lapsed and in any case ought not to be counted at all.

207. The Guidance on Transport Assessment covers this issue. Paragraph 4.7 (also 4.50) under the section 'Baseline Transport Data' details the methodology for establishing the baseline conditions; 'the quantification of the person trips generated from the existing site and their model distribution, or, where the site is vacant or partially vacant, the person trips which might realistically be generated by any extant planning permission or permitted uses'.
208. Paragraph 8.16 of the TA describes how the *Base* (or without development) and *Base + Dev* (with development) values are calculated. The difference between *Base* and *Base + Dev* is intended to show the net development traffic. For the avoidance of doubt, the TA describes the formula as follows:
- *Base* = Observed Traffic + Growth + Committed Housing at Shiremoor + Committed Offices on the development site
  - *Base + Dev* = Observed Traffic + Growth + Committed Housing at Shiremoor + Proposed Development
209. Because *Base* includes the 'committed offices on the development site' and *Base + Dev* does not, any comparison between *Base* and *Base + Dev* only compares the proposed development traffic less traffic from 'committed offices on the development site'. In this instance the correct approach is to remove 'committed offices on the development site' from *Base*. Given the development of the Stanley Miller site then this should also be added to *Base*. This allows for future highways impacts to be properly assessed when those extant/committed developments are actually built out. In any case, applying simple mathematics *Base* should never mean something different when used in *Base* and *Base + Dev*.
210. *Base + Dev* correctly shows the total development expected trips. *Base* incorrectly adds the office permission trips - adding the office permission trips to *Base* would only be correct if it was an extant permission and the trips would be capable of coming forward alongside the proposed development. In any case, this is a replacement permission and it would be impossible for both permissions to realistically come forward. In terms of the appellant's model of highways impacts, the difference between *Base* and *Base + Dev*, the Holystone Way approach to the A19 Holystone Roundabout difference is considerable in that the model only takes account of half of the PM departures from the proposed development. All other PM/AM trips are under-counted but are not as significant as the PM departures. The appellant's approach is only suitable for demonstrating a net impact in terms of permissions already granted against permissions sought.
211. The Guidance is clearly demonstrating the method of establishing the baseline. It says nothing of removing an extant planning permission from either the baseline or development estimates to achieve a net development figure in the way that the appellant's witness has and as the Council's witness has conceded. The intention of this Guidance is clearly to factor into the proposed development's TA any extant planning permissions which are realistically expected to come forward alongside the proposed development.

212. As a matter of simple logic, the appellant is clearly wrong in its methodology. By way of example, by replacing a one-car development with a two-car development the Appellant's approach would yield a net impact of just one car. Taking this to its absurd conclusion a 450-car development would also yield a one-car development after deducting the previous 449 cars. This approach makes no sense at all.
213. Even if discounting the Capita traffic model provided by NTC, the expert transport evidence from the appellant and NTC does not square with each other - clearly both experts can't be right.
214. There have been a considerable number of representations to NTC and evidence before the Inquiry that the appellant's estimation of current congestion does not square with what residents observe every day. This includes: congestion levels along the A191 route and the local estate giving tailbacks on the route and the difficulty of the mid-bypass crossing which the appellant proposes to widen; there is the practice of cars using the Holystone Village route to avoid queues on Holystone Way; additional traffic arising from the massive expansion of the nearby Cobalt Business Park and Northumbria Police HQ and other developments within a 3km radius since late 1990 contributing significantly to the traffic burden; and gridlock on Holystone Way between 07:15 to 09:15; and a recent trend of the bypass becoming gridlocked from 16.15.
215. Evidence in the form of Department for Transport traffic count data from the Holystone Way and Asda counting stations, which ought to exhibit similar trends on account of their close proximity on the A191 route, actually show a trend of reducing flows on Holystone Way and an increasing trend at Asda. This is clear evidence of the congestion on Holystone Way and backs residents' evidence of traffic diverting through Holystone Village in the face of queuing and congestion on the bypass. The appellant has offered no evidence or rebuttal to refute this.
216. Evidence shows that the appellant places some reliance on the inclusion of the appeal site in the CSPO Preferred Housing sites but the Guidance on Transport Assessments<sup>136</sup> shows that the appellant should factor in traffic from adjacent LDF sites, which it fails to do. The CSPO preferred key housing sites<sup>137</sup> in close proximity to the proposed development amount to an additional 1,840 houses (Station Road and Shiremoor) all contributing additional traffic to the busy A191 route. If any reliance is placed on the CSPO status of the appeal site, adjacent CSPO sites should be included in the base model.
217. The evidence of the appellant's planning witness is somewhat selective, if not cherry-picking, when it is suggested 'the Council's Highways Officers have assessed the impact of the proposed development and recommend that the application is approved'<sup>138</sup>. What the evidence shows is that the officer considered the impact and recommended approval subject to agreements.

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<sup>136</sup> HAG13, p4.50

<sup>137</sup> CD5.4, Table 14

<sup>138</sup> NE6, p4.23

The officer then went on to say that 'members need to determine whether the proposal will have a severe residual impact on the highway network'<sup>139</sup>.

218. It is submitted that, in the absence of the Capita model, the councillors applied their own local knowledge of the present congestion of Holystone Way and correctly rejected the proposal. Considerable weight should be given to the views of local residents and councillors who actually experience the congestion of the Holystone Way and, evidently, find it to be considerable greater than that portrayed in the appellant's TA.

### *Core Strategy Preferred Options*

219. The CSPO is explicit in outlining the clear and intended purposes of the CSPO Consultation Document<sup>140</sup>; 'the preferred options and rejected alternatives presented here are for consultation and discussion only. They do represent Council preferences but nothing has yet been decided. They have been chosen to include those areas which would benefit from wide public debate and comments, suggestions and alternatives are most welcome. In this way the intention is to involve stakeholders and the community in general at an early stage in the preparation of the Core Strategy. This is encouraged by the Council's Statement of Community Involvement.' (Emphasis added).

220. The appellant's planning witness is plainly wrong when he describes the inclusion of the appeal site in the CSPO as a planning milestone. It is also somewhat inaccurate and misleading that his evidence fails to add '...nothing has yet been decided' where his evidence talks of and quotes the Council's preferences for housing sites.

221. The appellant places some reliance on the CSPO Sustainability Appraisals<sup>141</sup>. However, these should not be relied on to rank or rate a site's sustainability. This is particularly so as whilst the Sustainability Appraisals include an objective which promotes more efficient and wider choices of transport, there is no objective covering other critical transport and infrastructure issues, such as promoting a reduction in traffic generation and congestion, reducing the need to travel particularly by private car, and increasing sustainable connectivity.

222. Given the omission of these critical transport and infrastructure sustainability objectives, little reliance can be placed on the CSPO Sustainability Appraisals.

223. Further, it is claimed that the appeal site was rated joint 7<sup>th</sup> most sustainable. This is plainly wrong – a simple mathematical exercise with the Key Sites Sustainability Appraisal shows it to be joint 10<sup>th</sup>.<sup>142</sup>

224. The appellant claims 'the proposal would be in accordance with the emerging Core Strategy'<sup>143</sup>. However, an examination of the CSPO site map

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<sup>139</sup> Officer's report to the planning committee, within the questionnaire documents, p17.3

<sup>140</sup> CD5.4, p2.0.2

<sup>141</sup> CD11.1

<sup>142</sup> CD5.4, Table 14

clearly shows this site to be larger than the CSPO site plan in that the proposed development extends north of Francis Way and the CSPO site does not. The difference may be immaterial, but the proposal certainly does not accord with the Core Strategy as the appellant's witness would have the Inquiry believe. In any case, it is inappropriate to give significant weight to the CSPO Preferred Housing Sites on account of the omission of congestion as a sustainability objective. Moreover, the purpose of the CSPO clearly states it is for consultation and discussion only.

225. The evidence shows that the CSPO<sup>144</sup> identified sites which can deliver, amongst other things, in excess of 100 new homes. The CSPO document also shows that this was informed by the 2009 SHLAA. The evidence from the SHLAA shows that NE submitted this site for inclusion in the SHLAA with a build-out rate of at least 100 units (90 units in the 2012 5-year supply document). It is wholly wrong for the appellant's planning witness to suggest any of these events were planning milestones or indications of any sort that NTC supported the proposal. This sequence of events occurred simply because the appellant submitted the site and at some point agreed it could deliver 100 homes in five years.

226. The evidence shows the Core Strategy Sustainability Appraisal to be seriously flawed and at best inconsistent. Simply comparing the appeal site to the nearby Shiremoor West site<sup>145</sup> shows:

- Sustainability point 5 – Scaffold Hill<sup>146</sup> scores +1 whereas Shiremoor scores neutral – similar distances to schools and capacity at Shiremoor school. Scaffold Hill should not score better because of the proximity of the Rising Sun Country Park.
- Sustainability point 7 – Scaffold Hill scores +2 whereas Shiremoor scores neutral – there are similar levels of isolation from existing communities at both of these sites and there is no reason why Scaffold Hill should be more sustainable.
- Sustainability point 8 – Scaffold Hill scores +2 whereas Shiremoor scores +1 – Scaffold Hill scores as being more sustainable as an 'extension of the Rising Sun'. This is clearly not testing the sustainability of the housing site.
- Sustainability point 10 – Scaffold Hill scores neutral whereas Shiremoor scores less sustainable at minus 1, on account of loss of openness. The loss of openness ought to be scored the same for both sites.
- Sustainability point 12 – Scaffold Hill scores neutral whereas Shiremoor scores as less sustainable at minus 1. Scaffold Hill is actually closer to the A19 roundabout and more likely to have a traffic impact on it. Shiremoor is closer to the Northumberland Park Metro station and inherently more sustainable.

<sup>143</sup> NE6, p4.23

<sup>144</sup> CD5.4, p10.2.2

<sup>145</sup> CD11.1, Site S10

<sup>146</sup> Ibid, Site 107

- Sustainability point 15 – both sites score minus one, Scaffold Hill for loss of designated Open Space and Shiremoor for the loss of A19 buffer land. The evidence shows Scaffold Hill is both a ‘buffer’ and designated Open Space. It should score worse than Shiremoor on this point.

227. This evidence shows that the appeal site was scored higher than it should. The evidence also shows that the Sustainability Appraisal does not include the critical transport and infrastructure issues.

228. Even if the individual sustainability appraisals are taken as they stand, the evidence shows that if the entire short, medium and long term mitigation measures for Scaffold Hill were successful, and there is no evidence they would be, Scaffold Hill still scores zero on the environmental indicators. The Framework requires a net benefit to nature. The evidence therefore does not support the sustainability of this site. It should be further noted that the Sustainability Appraisal was a document put together by Officers of the Planning Department without the involvement of the Council’s own Sustainability Officer.

### Safety

229. Saved UDP Policy T9<sup>147</sup> states:

*The needs of pedestrians, including people with disabilities and special needs, will be given a high priority when considering transport and development issues.*

230. This UDP policy is not incompatible with the Framework.

231. One of the UDP safety intentions of the Holystone Way was that of removing traffic from the built-up area of Holystone Village and the proposed Bede Close/ Holystone Grange housing estate. However, if approved, the scheme would effectively see the Holystone Way running through the heart of the resulting community.

232. Applying paragraph 32 of the Framework it is clear that the proposal does not demonstrate ‘safe and suitable access to the site that can be achieved for all people’. From the evidence it appears the appellant has not taken account of this.

233. Similarly, applying paragraph 35 it is clear the proposed development does not give priority to pedestrian and cycle movements and, from the evidence, it is practical for the appellant to do so. It is clear the proposed development does not create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians and, from the evidence, it is practical for the appellant to do so (Framework paragraph 35).

234. The proposal does not therefore accord with UDP policies and Framework guidance.

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<sup>147</sup> CD5.2

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### *Schools*

235. Evidence shows that the local primary school, Holystone Primary, is already oversubscribed and is already the largest primary school in North Tyneside. To cater for education demand a new school was proposed in the UDP to the east of the A19. This school was never built<sup>148</sup>.
236. Holystone Primary School has created an additional 'rolling' class owing to acute demand and this class will move up each year from Reception until Year 6 in 2018/19. The school has already lost educational facilities including part of the music room to accommodate increasing pupil numbers.
237. There are representations from Holystone Primary School confirming the size, capacity and inability of the school to expand further because of the footfall of such large pupil numbers.
238. The Stanley Miller/Lime Gardens residential site of 100 units (excluded from the 5-year supply) is currently under development and will impose an additional demand on Holystone Primary School.
239. The appellant intends to accelerate development of the site using two volume house builders and build-out within five years – this will place an unsustainable demand on Holystone Primary School. It will not be until the academic year 2019/2020 that the 'rolling' class would have rolled up past Year 6.
240. Alternative primary schools are not within a reasonable walking distance. Therefore, should this development be permitted, whatever method the education authority chooses to address this issue, primary education needs would be non-sustainable on account of the travel distance to alternative schools. The appellant contends that the appeal site school children can be accommodated at Holystone Primary School; this is simply not possible.
241. As envisaged by the UDP, the east of the A19 would be the most sustainable and sensible location for a new primary school. This would allow a rebalance of pupils from east-A19 areas. However, it is clear that any significant movement of existing Holystone Estate pupils or allocation of proposed development pupils to a school to the east of the A19 gives rise to non-sustainable modes of transport – the proposed development cannot be described as sustainable.
242. The appellant owns land to the east of the A19 (Shiremoor West) and has indicated a willingness to develop it for housing. NE was eager to develop more appropriate UDP safeguarded and Growth Point sites and moreover to develop those sites within five years. There are clearly more suitable, available and alternative locations for housing development open to the appellant.

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<sup>148</sup> HAG5, Section 7

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### *Flood Risk*

243. There are many areas of the flood risk documentation which HAG believes to be flawed and which it could have demonstrated through evidence and also through cross-examination.

### *Sustainability*

244. The appellant has included a pedestrian route on the development side of the Holystone Way adjacent to the Stonebrook public house which is shown to use an existing pedestrian crossing. This A19 roundabout does not have a signalised crossing across both carriageways. This route will need a suitable and safe signalised crossing for primary and secondary school children and others but any crossing here will lead to increased congestion particularly during the AM peak school run.
245. There would be impact on the A19 roundabout caused by school run pedestrian demand of a pedestrian crossing network and this would result in longer-than-modelled observed queues on Holystone Way. It should go without saying that a red traffic light stops traffic and significant stopped traffic results in increased congestion. The appellant has not factored in a single signalised crossing on Holystone Way and the congestion such crossings will cause – the proposal would clearly be non-sustainable simply on account of increased congestion. This issue has been outlined to the appellant on many occasions and it has offered no evidence against this nor has it been factored into its traffic models for the A19 Holystone roundabout.
246. The pedestrian crossing the developer claims to be an ‘existing’ one does not actually fully cross Holystone Way at the A19. The amended SoCG on highways matters states it was agreed that the highway authority can control how often the traffic is stopped, both erroneously referring to the ‘improved controlled crossing’<sup>149</sup>
247. This is plainly absurd on two points. Firstly, the Holystone A19 roundabout traffic control system is connected and tied in with the roundabout pedestrian crossing network. The Council’s highways witness covers this in his evidence where he talks of extended red time due to crossing demand caused by Holystone Primary School pupils on the morning school run. Secondly, apart from a short all-red sequence the Holystone Way exit arm from the A19 is free-flowing from the roundabout circulating traffic. It follows that any pedestrian crossing here involves a significant change to traffic flows particularly resulting from AM school children. The appellant has not submitted plans for a crossing here; the appellant simply claims – incorrectly – that there is one already.
248. The Guidance on Transport Assessments states: ‘another key issue in assessing the sustainability of a development’s location will be its accessibility for those walking and cycling.’<sup>150</sup> The appellant has done a poor job of addressing this point. As it stands the proposed development is isolated and unsustainable.

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<sup>149</sup> NE/NTC6, p2.7

<sup>150</sup> HAG13, p4.14

249. Even if discounting the signalised crossings issue on Holystone Way such as the unsustainable school-run route, the development would be likely to result in pedestrians taking the car and less sustainable modes of transport particularly when faced with unsafe crossings on Holystone Way.
250. Walking and pedestrian needs are a primary consideration in the Transport Assessment of new developments. Manual for Streets<sup>151</sup> shows that well-designed crossings are of vital importance to the ability of pedestrians and cyclists to move around safely and easily – this has simply been ignored by the appellant.
251. The appellant has ignored the only signalised pedestrian crossing on Holystone Way on account of it being too close to the Wheatsheaf roundabout and little used<sup>152</sup>. It is admitted its results could be 'slightly optimistic' for any periods when the crossing is called regularly. The proposed development would provide such periods of regular use both by the expansion of the Rising Sun Country Park and by the proposed development's residents using the route. Once again, heavy use of this crossing because of this development would lead to congestion and, as such, calls into question the sustainability of the appeal site.
252. The proposed development is effectively an island, more or less isolated from schools, Metro links and existing employment areas by both the A191 and A19. In failing to provide for safe pedestrian access to and from the site, the proposal is not sustainable.
253. The appellant's evidence that the appeal site 'lies in a sustainable location'<sup>153</sup> is plainly wishful thinking. The need to get pedestrians, including school children, over Holystone Way to school, work or Metro links, coupled with the excessive demand on the local primary school, raises substantial sustainability issues, particularly congestion and the need to take journeys by unsustainable modes, for example, to more distant schools.
254. It is not enough for the appellant to draw a line on a map, call it a pedestrian route and that is the end of the matter. It has to be a suitable and safe route for pedestrians. Moreover, if significant use of such a route results in the presentation of a red traffic light to highway traffic sufficient to cause congestion, particularly on the existing free flowing A19-Holystone Way exit arm, then those impacts need to be assessed and properly addressed.
255. These issues have simply been ignored as inconvenient, and this shows this proposal is not sustainable. The proposals are unsustainable simply on account of the severe impact they would have in terms of traffic and pedestrian movements on Holystone Way.

#### *Appellant's Claims of Community Support*

256. The Appellant has come forward with claims of letters of community support. Evidence submitted by HAG clearly shows that these letters

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<sup>151</sup> CD2.1, 6.3.7 et seq

<sup>152</sup> APP16

<sup>153</sup> NE6, p8.1



comprised 459 identical Northumberland Estates headed and pre-printed support letters containing a signature and mostly postcodes. The evidence shows these were circulated by canvassers instructed by NE. Despite its claims of support from the Holystone housing estate adjacent to the site, the evidence shows that not a single letter of support actually came from there. There has been no response that these claims of support are incorrect.

257. It was further demonstrated at the planning committee hearing that the appellant could not substantiate the claims of support at the public events, even with particular reference to the basic consideration as to whether people attending the events were from the area.

258. The appellant's claims of community support for its proposal are primarily based on its 'letters of support' and a questionnaire. The letters of support did not advise signatories on matters such as location and amount of housing proposed; no signatories came from neighbours notified of the proposals<sup>154</sup>. Moreover, the statistics presented on NE's questionnaire results provide no details of the actual numbers partaking and start with the premise that the land is already allocated for housing. In any case, the claim by the appellant does not square with over 6,400 opposing petition signatures, substantial local opposition to the planning application and over 80% rejecting the CSPO housing site.

### *Summary*

259. Throughout the preparation of the application and appeal NE has shown scant regard for the health, opinions and feelings of local people. Equally, it has shown the same lack of regard for the safety of local children and also for the proven wildlife. It is a proposed development which appears motivated not by a moral desire to provide housing to address a housing need or to help keep housing prices at an affordable level but instead in a very opportunistic manner to maximise financial reward.

260. The appeal should be dismissed:

- The proposal is clearly contrary to the adopted North Tyneside UDP which identifies the site for 'Open Space' and Wildlife corridors;
- There is no demonstrable shortage of housing land in North Tyneside; indeed, HAG contends that there is almost certainly more than five years' supply if proper account is taken of future windfall sites, current windfall sites (e.g. Stanley Miller) and build-out rates on larger sites.
- Highway pedestrian safety and severe impact on Holystone Way and Holystone Village route.
- Severe impact on local primary school provision.
- The appellant's failure to demonstrate how the development traffic would be accommodated on Holystone Way, particularly, but not limited to, the failure to satisfactorily model the present and with-development traffic and congestion.

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<sup>154</sup> HAG4

- There remain serious concerns about traffic safety because of inadequate attention to crossing provision.
- The loss of the site would result in the loss of an area of important Open Space which provides visual separation between a number of local communities.
- The proposal would cause irreversible loss of important Wildlife Corridors.
- The site is not well-suited in terms of sustainability.
- The consultative Core Strategy has not yet been prepared.
- The content of that consultative Core Strategy in respect of the Scaffold Hill site is not yet known.
- The consultative Core Strategy has still to be approved by the Council.
- Public consultation on the Core Strategy is not expected until summer 2013.
- The Examination of the Core Strategy is not scheduled until March 2015.
- Approval of the current appeal would, by virtue of its very large size, be premature to the proper consideration of the future of the site within the context of a wider strategic overview of the Council's planning priorities.
- Approval of the current appeal would unfairly prejudice the legitimate interests of other developers and landowners.

In support of the above the Inspector to the UDP Inquiry concluded that the site was not suitable for development and should be protected for open space. It is HAG's view that 13 years later this imperative is even more important given the increased extent of general urbanisation in the area. Including Cobalt Business Park (530,000m<sup>2</sup> GFA) and substantial housing developments at Holyfields, Shiremoor and Northumberland Park (1,110 units) the need for open space is far more important now than it was in 2000.

261. HAG considers it has been severely disadvantaged by factors not of its choosing or within its control and would ask for the spirit of true localism to prevail with the recommendation to the Secretary of State that he accepts the proper and genuine local perspective.
262. Attention is drawn to the HAG Statement of Case which clearly put the appellant on notice of the case to be met. Attention is also drawn to the decision by the appellant to not call witnesses, submit rebuttal or direct evidence against HAG's case. Further, attention is drawn to the fact that the late changes to the proposals, including the Wheatsheaf roundabout, Whitley Road lane changes and Asda junction changes have not had the benefit of resident or statutory consultation and opportunity for comments.
263. Attention is drawn to the considerable number of public and councillor representations evidencing the degree of existing congestion on Holystone Way and that this can extend the length of the bypass; observations which are not reflected by the appellant's TA. Attention is also drawn to the position of NTC which was to treat highways impacts such as the bypass congestion obstructing both site accesses as a sufficient basis to refuse the application.
264. There are differences between the two transport expert witnesses' evidence where they disagree on matters such as, but not limited to, use of

census data, queue lengths, signal times, incorrect lane designations, unvalidated models and traffic impacts from sites such as Cobalt Business Park. HAG is disappointed that neither NE nor NTC has brought forward those experts to help explain to the Inquiry those discrepancies. It is in the interest of openness, justice and best evidence that the Inquiry should have been able to examine those witnesses and the discrepancies. Moreover, there is scant correlation between the appellant's traffic model and residents' observations of traffic conditions on Holystone Way. As such, limited weight should be given to the areas where those experts disagree, fail to reflect actual conditions and where those experts have failed to stand up and offer themselves for examination.

## ORAL SUBMISSIONS TO THE INQUIRY

*Mr Palmer – local resident*

265. There has been a seeming lack of talk about how the proposal would affect wildlife; it would be devastated. Four young deer have been slaughtered on nearby roads. There is no passage for them under the A19. If building takes place there will be nothing left for animals. The scale of the residential proposal is large and those using the footpaths crossing the site would feel fenced in.

*Bob Brownlees – speaking as a local resident*

266. As a resident of Hadrian Park he was speaking for those residents who suffered flooding on 28 June 2012. The Strategic Flood Risk Assessment shows a flood risk diagram and indicates an area of Hadrian Park susceptible to surface water flooding. It is proposed that the SuDS would restrict runoff to greenfield levels to Wallsend Dene but this is a watercourse that is already struggling to cope. A culvert carries surface water to Wallsend and is made up of two concrete pipes of 600mm diameter. He is not confident that these can carry current surface water or any additional flow that might result from the development. The proposed level of flow from the SuDS into the present watercourse is similar to the position when flooding occurred in June 2012. If there was a similar storm of 1½ - 2 hours duration then it is likely that the SuDS would overflow with a high risk of flooding along Wallsend Dene. If permission is to be granted there should be imposed conditions to ensure a full hydraulic and hydrological modelling of the Wallsend Dene to confirm its capability of handling what is proposed. The Flood Risk Assessment should be updated to reflect the experience of flooding in 2012.

## WRITTEN REPRESENTATIONS<sup>155</sup>

267. Most of the written representations in respect of the appeal cover points already referred to above. The gist of the representations all of which, except two, oppose the proposal is set out below.

268. *Flooding.* The proposal would put neighbouring residential estates at severe risk of flooding. NE's water management plans make no provision for

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<sup>155</sup> Doc 1 & HAG7

climate change and there is little faith in the proposal given NE's track record of managing surface water elsewhere. Flooding occurred to properties within Hadrian Park on 28 June 2012 and the proposal causes concern as to further possible flooding events, with little faith in the ability of proposed systems to cope.

269. *Congestion.* Holystone Way and its junction with the A19 are already full to capacity with no way to adapt these roads for the traffic that would be generated by the proposal. There has been a steady but increasing burden on the road network. Traffic uses the road through the village in an attempt to avoid the bypass. The increase in traffic, which with other development in the area has been under-estimated, would lead to greater levels of air and noise pollution, potentially affecting the health and well-being of existing residents. There would be issues of safety in crossing Holystone Way.
270. *Adverse impact on the Rising Sun Country Park.* There would be a dramatic reduction in open space with development proposed on the wildlife corridor linking the park to areas beyond and having an adverse impact on wildlife and biodiversity there. The present open land acts as a buffer to the park. The footpaths which cross the site are a public amenity. There are health concerns about the positioning of allotments beneath electricity lines.
271. *Impact on the visual character of the area.* The green space at Scaffold Hill would be reduced and is the main area of open space adjacent to many homes in Holystone. Loss of this open character and 'country feel' would adversely impact on the general well-being of existing residents. Brownfield sites should be utilised in preference to greenfield ones. The site is not the most sustainable site available.
272. *School capacity.* Holystone Primary School is already full to capacity. Pressures on the school building and infrastructure are such that this limits admission numbers in future years with data suggesting a catchment bulge in 2014. Children would have to travel further to attend school.
273. *Claims of a housing shortage are misleading.*
274. *The development would result in the loss of employment land.*
275. *Support.* The North East Chamber of Commerce supports the scheme: it would go some way towards meeting locally identified demand for both private and affordable housing; the area around the A19 is of regional importance and an area towards which investment in new business and homes should be directed; there would be significant economic benefits through the provision of new infrastructure in addition to direct and indirect jobs created during the construction period; and North Tyneside has capacity to support developments such as this which represent a major commitment from developers in a time of economic uncertainty.

## CONDITIONS

276. A list of agreed conditions that should be imposed if planning permission is to be granted, and reasons for them, was produced following discussion

between NE and NTC<sup>156</sup>. This list was discussed at the Inquiry when a series of amendments and deletions was suggested. This has resulted in a revised list of suggested conditions<sup>157</sup> being agreed between NE and NTC which was submitted before the formal closing in writing of the Inquiry. I have considered the conditions in light of advice within Circular 11/95, *The Use of Conditions in Planning Permissions* and have made some minor changes in wording for consistency and clarity. Suggested condition No. 63 has not been included as its provisions duplicate those of condition No. 50. For the avoidance of doubt the scheme plans are listed within condition No. 2.

## SECTION 106 OBLIGATION

277. A signed and sealed planning obligation deed, dated 22 February 2013, between NTC and NE was presented. It provides the following:

- Development shall not be started until a scheme has been agreed by the Council for the provision of affordable housing and that this housing be provided in phases in conjunction with the provision of open market housing.
- Prior to the construction of the 100<sup>th</sup> dwelling to have completed the works to create the extension to the Rising Sun Country Park and on completion to transfer this extension to the Council. In the event of the Council not accepting the offer to transfer the extension it would be maintained by NE.
- Various financial contributions to provide an extension to existing bus services, increased clinical space, primary and secondary school education facilities within the locality, the provision of employment and training opportunities, the monitoring of air quality, the upgrading of indoor bowls facilities and the improvement for pedestrian/cycle crossing facilities and associated links on Holystone Way.
- Payment into an account of a Travel Plan Mitigation Sum to be used towards meeting defined targets within the Travel Plan in the event that agreed targets are not achieved.
- The maintenance, management and retention of responsibility for the existing and proposed SuDS that would be part of the proposed country park extension.

278. The parties are content that all aspects of the deed would accord with the principles of the Community Infrastructure Levy Regulations 2010 (CIL). Detailed justification for the various obligations is set out in NTC's CIL compliance statement<sup>158</sup>.

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<sup>156</sup> NE/NTC3

<sup>157</sup> NE/NTC4

<sup>158</sup> NTC6

## CONCLUSIONS

279. The references in square brackets refer to earlier paragraph numbers in the report of relevance to these conclusions.

### *General background*

280. These conclusions are set against the background of the position adopted by the Council (NTC) at the opening of the Inquiry that all its reasons for refusal of the application, now the subject of the appeal, were withdrawn.

Accordingly, the Council took the view that planning permission should be granted subject to the imposition of the suggested conditions agreed between it and the appellant, Northumberland Estates (NE), and subject to the provisions contained within the concluded Section 106 agreement (S106).

Nevertheless, the proposal still has to be considered against remaining extant objections which were in large measure represented at the Inquiry by the Holystone Action Group (HAG). [6, 7, 113-115]

281. In light of the Council's adopted position it decided not to call its witnesses. As a result, NE decided likewise and HAG, of its own volition and despite its disappointment with the Council's position, decided the same. [8, 121-123, 86, 87]

282. I have structured these conclusions around the two main issues identified at the opening of the Inquiry together with the other main areas of concern represented by HAG and others.

283. With the revocation of the North East Regional Spatial Strategy (RSS) the Development Plan for the area now comprises the saved policies of the North Tyneside Unitary Development Plan (UDP), adopted in 2002. This is therefore not a Development Plan Document adopted under the Planning and Compulsory Purchase Act 2004. Accordingly, paragraph 215 of the Framework applies and weight can be attached to the policies in the UDP depending on the degree of consistency with the Framework. [14, 16, 99]

### *The impact of the development on the character and appearance of the area, including the loss of open space*

284. The built element of the proposal would occupy what is currently open grassland and farmland designated as open space within the UDP. There is no public access to this save for the public footpaths which cross it and which are to be retained within the development. The land occupies an urban fringe or what might be described as an urban/semi-rural location. It is seen principally in relation to surrounding features of existing residential development at Holystone and the adjacent Holystone Way (part of the A191) to the west, Premier Inn and Stonebrook public house to the north, the embanked line of the A19 to the east, and beyond this the Cobalt Business Park. High voltage overhead power lines define what would be the southern edge of the residential element of the scheme. [12, 13, 27, 125, 178, 184]

285. Development of the Holystone estate and the Premier Inn/Stonebrook public house have undoubtedly altered the previous setting of this land when designated as open space within the UDP following consideration at the UDP Inquiry some 13 years ago. In its own right the site has no particular overriding landscape quality. There would be loss of the current open aspect, and views over the land are clearly valued by local residents. The land might

impart a 'country feeling' for those passing by or through it although its contribution and value in this sense is tempered by its immediate surrounding land uses and those in the wider setting. Nonetheless, there would be no loss of publically accessible open space and, as such, its recreational value is limited. [7,181, 182, 186-188, 271]

286. There would continue to be access along the public footpaths with enhanced links to the Rising Sun Country Park albeit that the surroundings for those using the rights of way would be altered. There would in fact be an effective net gain in accessible open space with the proposed 42ha extension of the country park. This land is already designated as open space but its development with a range of features and facilities would increase accessibility, improve recreational opportunities and enhance its landscape value. [24, 27, 33, 43, 81, 270]
287. The proposed linear arrangement of allotments would provide a partial buffer between the country park and the built elements of the proposal. Together with the landscape mitigation of proposed open areas and boundary landscaping this would establish an acceptable transition between the built development and the country park<sup>159</sup>. As a consequence, there would be no significantly adverse encroachment into the setting of the country park or its functioning. [27, 270]
288. The design and layout of the development, in respect of which there is no material criticism, would be interesting and characterful, incorporating a generous landscape mitigation strategy and a strong green network. The quality of the scheme's layout and design and matters of scale, density landscaping and materials are acceptable, subject to the imposition of appropriate conditions. There would be compatibility with existing nearby residential development and no material loss of residential amenity for occupants there. [36, 42, 81, 179]
289. Overall, I concur with the assessment of NE and NTC that there are no reasons to reject the proposal on grounds of any adverse impact on the appearance and character of the area. The scheme would not conflict with the thrust of UDP Policies R2/1 or R2/2 in relation to loss of open space. Nor would there be conflict with UDP Policy H11 in relation to matters to be taken into account in respect of design, layout and impact on local amenity and adjoining land uses. In the sense that the scheme would result in more land being made publically accessible through the proposed extension to the country park, there would be no conflict with the intent of paragraph 74 of the Framework. This indicates that existing open space should not be built on unless the resulting loss would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location. [20, 36, 112, 167-169, 173-176]

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<sup>159</sup> There is no substantive evidence to suggest that the location of the allotments in close proximity to the overhead power lines would have any significant adverse health implications for those using them; the housing elements of the proposal are not directly sited beneath the power lines. [180, 270]

### *Ecology/biodiversity*

290. The proposal would result in the permanent loss of arable and pasture farmland but these are habitats of low ecological importance. There would be considerable habitat creation both within the built element and also in terms of habitat retention and creation through the country park extension. The scale and scope of the proposed habitat creation and enhancement would have no significant adverse residual impacts on ecological receptors within the site. Although HAG and others have expressed concern about impact on wildlife, there is no substantive evidence to support this concern. [33, 39, 166-169, 265]
291. Consultees such as Natural England have raised no objections and the Northumberland Wildlife Trust considers that the measures included within the scheme, if properly implemented and managed, would increase the biodiversity capacity of the area. I have no reason to come to a contrary conclusion given the raft of suggested conditions that would secure this. It is an agreed position between NE and NTC that there would be no adverse impacts on the country park in terms of biodiversity. The operation of the wildlife corridor within the south-eastern section of the site would be maintained and there would be no conflict with UDP Policy E12/6 in this regard or in respect of wildlife links protected under UDP Policy E12/7. The scheme would be compliant with UDP Policy E1 which seeks to monitor, protect and enhance biodiversity. [21, 33, 81, 125, 180-192]

### *Employment land*

292. A small (0.47ha) northern portion of the site is designated as employment land for B1 use under UDP Policy LE1/3. It has been actively marketed on a continuous basis for some 14 years with no result. There is no shortage of allocated employment land within the borough and the Council accepts that there is no realistic prospect of the land being delivered for employment uses. Paragraph 22 of the Framework indicates that in such circumstances applications for alternative uses should be considered on their merits. UDP Policy LE1/4 also states that alternative uses will not be refused where there is no reasonable prospect of a site being used for the purpose allocated. In any event, the scheme would be likely to result in some employment generation through the provision of the retail units and a medical centre; in the region of 20 full-time equivalent jobs has been suggested. As a result, the proposal would not be contrary to UDP policy in this regard. [19, 32, 81, 274]

### *Prematurity*

293. The proposal would provide a considerable number of dwellings and cover a sizeable area. The Council has never maintained that consideration of the proposal should be rejected on the grounds of prematurity though this is suggested by HAG. Refusal on this basis would only be justified if the proposal was individually so substantial or likely to be so significant cumulatively that this would pre-determine decisions about the scale, location or phasing of new development which ought properly to be taken in the Development Plan context. [23, 37, 145-151]
294. The UDP is now somewhat aged and is well past its end-date of 2006. Its locational housing policies are out-of-date. Although the majority of the site



has been identified as a residential site in the Council's Core Strategy Preferred Options document, it is one of several such sites and it is clear that this document has been produced for discussion and consultation to feed into the production of a Local Plan for the borough. Little weight should attach to this document at this stage given its status and the facts that it has not been subject to scrutiny or challenge and there have been objections to it. [17, 18, 126, 146-150, 219-220]

295. The Council's Core Strategy is still at an early stage. It is currently under preparation with a consultation draft scheduled for summer 2013. Examination is unlikely until 2015 and expected adoption not until the autumn of that year, thus a considerable time off. *The Planning System: General Principles* advises that when a Development Plan Document is at the consultation stage, with no early prospect of submission for examination, refusal on prematurity grounds would seldom be justified because of the delay which this would impose in determining the future use of the land in question. On this basis there is no strong argument for rejecting the proposal on this ground. [18, 37, 82]

#### *Housing provision and supply*

296. Paragraph 14 of the Framework states that at its heart is a presumption in favour of sustainable development and this should be seen as a golden thread running through both plan-making and decision-taking. In terms of decision-taking, where a development plan is absent, silent or relevant policies are out-of-date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. [31, 100]
297. It is agreed between NE and NTC that housing policies within the UDP, adopted over ten years ago and applicable to 2006, are out-of-date and not germane to the consideration of this proposal. It is further agreed that in light of the above, the approach to decision-taking is that set out in paragraph 14 of the Framework. Furthermore, it is common ground between them that the Council cannot demonstrate a 5-year supply of deliverable housing sites. This is disputed by HAG and I return to its contentions below. However, assuming the absence of a 5-year supply of deliverable housing sites, paragraph 49 of the Framework is engaged. This requires that housing applications should be considered in the context of the presumption in favour of sustainable development. Further, if a 5-year supply of deliverable housing sites cannot be demonstrated, the Development Plan (so far as the policies concerning the supply of housing are concerned) should be considered as out-of-date. [31, 51-55, 63, 101]
298. Whilst it is common ground between NE and NTC that there is an absence of a 5-year deliverable housing land supply when assessed against the RSS apportioned requirement for the borough, the degree of shortfall is disputed; NE suggesting that there is only a 0.6-year supply (447 units) whilst NTC suggests the current supply is about 4.49 years with a 5% buffer (2,357) - a shortfall between requirement and supply of 266 units. Revocation of the RSS does not result in a decrease in this housing requirement for the borough. Until a revised housing requirement, independently scrutinised and evidence-based, is further advanced I consider the RSS figures remain the most appropriate indication of the borough's necessary provision. [14, 31, 58, 101]

299. The differences arise from the various assumptions made as to what should be included and excluded in the calculation of supply, and what degree of additional buffer should be applied to ensure choice and competition in accordance with paragraph 47 of the Framework. For example, NE considers that Growth Point status should have been taken into account, the figures should be subject to a 20% buffer to reflect recent under-delivery, and should not be adjusted to reflect the projected number of demolitions as this is already a net requirement in the RSS. [60, 61]
300. In one sense the quantum differences are immaterial given the acknowledged shortfall in 5-year supply which triggers the necessary approach of paragraph 49 of the Framework. Furthermore, NTC accepts that in order to meet its 5-year requirement 'greenfield' sites will be needed. Also, what is not in dispute is the fact that the proposal would deliver a considerable number of affordable homes when there is serious and demonstrable need for such provision within the borough in the face of significant under-delivery. This would be achieved through the mechanism of the proffered S106 agreement. The scheme would deliver 113 such homes (c25%) of the proposal's total (and of which 80% would be social rented and 20% intermediate) when the Council's Strategic Housing Market Assessment identifies a borough-wide need to deliver 479 new affordable units each year. [38, 65-68]
301. However, counter to this, HAG maintains that there is no demonstrable housing land shortage in the borough when compared against the 5-year requirement and it disputes NTC's figures. It has provided detailed evidence to cast doubt on the conclusions of the housing land supply position set out in the Council's latest Strategic Housing Land Availability Assessment (SHLAA). This includes querying the assumed build-out rates of some housing sites, when actual build-out rates have been higher, and the failure to include some sites within the 5-year land supply. The latter includes the nearby Stanley Miller/Lime Gardens site, close to the appeal site, which was not shown within the table of deliverable sites but where construction is currently well underway. [141, 142, 144, 153-165]
302. Further queries relate to how much account should be taken of windfall site contributions, with HAG suggesting that the allowance from this contribution should be considerably higher than that put forward in the SHLAA. Additionally, HAG queries the figures relating to demolitions and assumed replacements for these. [142]
303. Because the parties decided that they would not be calling their witnesses at the Inquiry there was no opportunity for the respective evidence on housing land supply to be tested in this forum. Housing land supply calculation is not an exact science as the three contrasting positions of the parties would seem to clearly bear witness. Nonetheless, even acknowledging that there would appear to be some inaccuracies within the SHLAA, which forms the Council's assessment of deliverable housing supply, this document provides a reasoned and up-to-date analysis. There is agreement between NE and NTC on an absence of a 5-year supply when assessed against the RSS requirement which, as noted above, I consider is the most appropriate figure to assess supply against at present.
304. Even if such an assessment and acknowledgment of an absence of a 5-year supply was incorrect, this would not preclude the favourable

consideration of the proposal providing it represented sustainable development; paragraph 49 of the Framework indicates that housing applications should be considered in the context of the presumption in favour of sustainable development. This also needs to be seen in the context of avowed Government policy encapsulated in the Ministerial Statement that the housing market should deliver new homes to create a stimulus to the economy and address an immediate housing need. [41, 64]

*Is the proposal sustainable development?*

305. There is agreement between the appellant and NTC that the proposal would represent sustainable development. Locationally it is readily accessible by a range of modes of transport other than the car (for example the Metro, bus services and cycle) and the residential Travel Plan and S106 agreement would provide for an extended bus service through the site. The site is generally well located in relation to employment areas and local facilities. As already noted above in paragraphs 289 and 291, there would be no negative impact on the appearance and character of the locality or on ecology. [34, 48, 70, 71]
306. The scheme would result in a high quality built environment providing a mix of housing types and tenures and the distinct benefits of improved access and recreational facilities arising from the extension to the country park. I address the highway access issues related to the site in more detail below, particularly given HAG's criticisms, and conclude that the scheme would not have severe impacts on the local highway network. There would be additional economic benefits in the form of job creation both during the construction phase and on-site when completed. [81, 275]
307. HAG has suggested that potential difficulties in accommodating pupils from the development at the Holystone Primary School because of capacity problems there would point to children having to travel further afield, thereby undermining the site's sustainability credentials. However, even if there were to be future capacity problems at this nearest primary school, the S106 agreement provides a financial contribution acceptable to the Local Education Authority for the necessary educational provision for the children likely to be resident at Scaffold Hill. Attendance at Holystone Primary (being the nearest and most convenient school to the proposal) would undoubtedly be the most advantageous for many. Nevertheless, when the other beneficial factors of the scheme are taken in the round, the possible need to travel further afield would not in its own right be sufficient to seriously undermine the overall sustainability characteristics of the proposal. [81, 235-241, 277]
308. It is also claimed by HAG that the emerging Core Strategy Sustainability Appraisal is flawed and, at best, inconsistent in the scoring of the site in comparison with others. However, the Framework is clear that housing proposals should be considered favourably where there is an absence of a 5-year housing land supply, taking into account other policies within it. If a site is assessed as suitable for housing, including its environmental sustainability, it is not a requirement that it be compared with other sites that some may suggest would be preferable for housing. [170, 171, 221-228, 242, 244-255]
309. Therefore, in terms of the three dimensions of sustainable development set out in the Framework - economic, social and environmental - there is no fundamental reason to disagree with the common assessment of the

appellant and the Council that the proposal would represent sustainable development.

### *Highways impact and safety*

310. Paragraph 32 of the Framework indicates that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Safe and suitable access to the site should be achievable for for all people. Dialogue between the consultants for NE and the Council has resulted in proposed highway modifications and improvements along the A191 to cater for the additional traffic that would be generated by the proposal. [7, 103-107]
311. Because of an acknowledged error in the traffic flow matrix used to assess the likely impact of traffic generation on the local highway network, the Council concluded that, coupled with the proposed mitigation measures, there was no evidential basis to support its reason for refusal on traffic grounds; any residual highway impact would not be 'severe' in Framework terms. However, considerable concerns have been expressed by HAG and local residents about congestion along the A191 and the highway/pedestrian safety implications of the proposal. [7, 107, 127, 194-218, 269]
312. Specifically, one concern is the likely impact on queuing traffic back along the Holystone Way from the A19 interchange and how this would impact on the circulation of the proposed development traffic. The agreed position between the Council's and NE's highway consultants is that in the Council's assessment of the 2021 base traffic flows there had been an element of double counting (that from the proposed development and also that from an office development on the site which had previously received planning permission, but which has now expired). This had resulted in an over-estimation of queue lengths at the majority of junctions in the modelling of the 'with development' scenario during peak hours such that the proposal should not be rejected on the basis of unacceptable impact on highway conditions. [105-109, 195]
313. The concerns of local residents are appreciated in respect of what they perceive and experience as congestion. Nevertheless, traffic queuing at junctions on urban roads is an everyday occurrence. It can vary from day-to-day depending on many factors including weather, traffic incidents and roadworks. To put the proposal in context, the predicted additional traffic resulting from the development would add only 1.5 to 3 vehicles per minute at junctions within the immediate area; additional traffic at the A19 Holystone roundabout would rise by some 2.1% and these increases need to be seen anyway within the context of the significant day-to-day fluctuations on the urban highway network<sup>160</sup>. [81, 269]
314. HAG criticises the appellant's Transport Assessment on the basis that it does not take account of growth in traffic as a result of recent development within the area, such as the growth of the Cobalt Business Park and the

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<sup>160</sup> As a consequence of this limited increase there would be unlikely to be a material increase in air or noise pollution. The S106 agreement includes provision for ongoing air quality monitoring. [39, 269]

current residential development at the Stanley Miller/Lime Gardens site. On the other hand, within the appellant's assessment of impact there has been the application of more recent Department for Transport (DfT) vehicular growth rates. These DfT figures have been revised substantially downwards to produce a reduction in base traffic flows. The originally adopted traffic growth rates within the Transport Assessment, which are significantly above the current predictions, should therefore be considered robust and are likely to accommodate recent traffic-generating schemes. [195, 196, 214]

315. HAG draws attention to the fact that the impact of the controlled pedestrian crossing on Holystone Way has not been modelled in terms of its likely impact on traffic capacity and queuing. This applies also to the crossing of this road at the A19 Holystone roundabout where there are lights to control traffic flow but no pedestrian-activated lights. However, it is an agreed position between the appellant and NTC that it is for the highway authority to control how often traffic is stopped to allow pedestrians to cross and it has a duty to strike a balance between pedestrian amenity and the wishes of drivers to endure minimal delay. [196]
316. Undoubtedly the operation of the pedestrian crossing close to the Wheatsheaf Roundabout (which is activated by pedestrians), because of the probable greater use that would be generated by the proposal, is likely to have some impact on traffic flow. Whilst there has been no modelling of this, neither NE nor NTC have concluded that, when taken with the proposed highway mitigation measures secured by condition and the terms of the S106 agreement, this would contribute to a severe residual impact on the operation of the highway network. [196, 199-201, 229-234]
317. The internal design of the proposal is such that it clearly addresses pedestrian and road user safety. Overall, I do not consider there to be any substantive evidence to suggest that in terms of the development's links beyond the site it fails to provide safe and suitable access for all people as required by paragraph 32 of the Framework.
318. HAG's detailed criticism of the undertaken traffic assessment is acknowledged. Nonetheless, despite the concerns raised by this group and others it is clear that there has been considerable iterative scrutiny of the traffic implications of the scheme over an extensive period by specialist consultants acting for both NE and NTC. This has resulted in detailed proposals for modifications to the immediate highway network to mitigate the impact of the proposal. [88]
319. Further, the scheme includes a mechanism to promote more sustainable transport choice through a proposed residential Travel Plan. The discussions between consultants acting on behalf of the Council and NE have culminated in the Council withdrawing its reason for refusal on highway grounds. On the other hand, whilst acknowledging the reported experience of local residents, there is no detailed empirical assessment by HAG and others in relation to the appraisal of congestion to counter the consensus position of NE and NTC. As such, I have no basis to conclude other than the proposal would not result in a severe residual traffic impact and there would be compliance with Framework guidance and the intent of UDP Policy H11 in this regard. [78, 79]

*Drainage and flooding*

320. Concerns have been raised, in particular by a number of local residents within the Hadrian Park residential estate, about the surface water drainage implications of the proposal. This largely follows the flooding of the Wallsend Dene, flowing to the western side of the estate, after a storm event in June 2012 and anxiety as to whether such situations could be exacerbated by the proposal. [243, 266, 268]
321. Drainage of the surface water from the scheme would be by a Sustainable Urban Drainage System (SuDS), with ponds created within the country park extension. A Flood Risk Assessment was submitted as part of the proposal. Both the Environment Agency and Northumbrian Water, which are statutory consultees in respect of flooding and drainage matters, have reviewed the proposal and have raised no objections. The Council withdrew its original reason for refusal in respect of drainage on the basis of further information supplied by NE. [5, 35, 81]
322. The proposed SuDS would replicate existing discharge regimes from the site by maintaining current runoff rates and betterment would be provided by attenuating any increases in runoff volume resulting from climate change. A suggested condition (No. 8) would require the submission and approval of a detailed SuDS. This would include details as to how this would be maintained and managed. The S106 agreement contains an obligation on the part of NE to maintain, manage and retain responsibility for the SuDS whether or not the country park extension is transferred to the Council. On this basis the proposal would be acceptable in terms of mitigating flood risk. [81, 277]

*Planning conditions and planning obligation*

323. The planning conditions suggested by NTC and agreed with NE, and in respect of which, where necessary, I have made minor alterations for clarity, consistency and more ready compliance with advice in Circular 11/95, are set out in Annex A. They have been referred to in paragraph 276 above. These are relevant, necessary to make the development acceptable and otherwise comply with the tests in the Circular. They are recommended should the SoS decide that planning permission should be granted. [276]
324. There is a S106 planning obligation in the form of an agreement. It includes a variety of provisions and these are set out in paragraph 277. Some of these have been referred to in previous sections of these conclusions. They are required to mitigate adverse impacts, meet the needs of the proposal and allow the scheme to go ahead. I have had regard to the obligation in the light of the statutory tests within Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010. These state that a planning obligation may only constitute a reason for granting planning permission if it is necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind to the development. There is no disagreement between NTC and NE that the obligation is CIL-compliant. From the evidence provided I concur. [278]

*Overall conclusion*

325. The scheme would bring benefits in the form of an attractive, well-conceived mixed-use development that would deliver a substantial quantum

of residential development including much-needed affordable dwellings, positively contributing to boosting the borough's supply of housing. It would secure a sizeable extension to the valued resource of the Rising Sun Country Park and enhancements to biodiversity. There would be economic benefits in the form of employment creation. It is a sustainable development which should carry a presumption in favour of the grant of planning permission. This is now a matter of common ground between the appellant and the Council, the latter having withdrawn all its previous reasons for refusing the scheme.

326. Having regards to paragraph 14 of the Framework and the presumption in favour of sustainable development, the outstanding matter is whether any adverse impact of approving the proposal would so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole as to warrant the withholding of planning permission. Despite the concerns of HAG and other objectors, I do not consider that this high hurdle necessary to reject the proposal has been passed.

327. The scheme would not have a demonstrably negative impact on the appearance or character of the area. It would not conflict with the thrust of UDP policies relating to open space protection, wildlife corridors and employment land nor would there be conflict with relevant but now out-of-date housing policy relating to 'greenfield' development. The proposal would not be premature in advance of progress on the nascent Core Strategy. It would generate additional traffic on the local highway network but would provide mitigation in the form of highway works and the provision of a residential Travel Plan. These would be secured by condition and the proffered S106 agreement such that any residual cumulative impacts of the development would not be severe. In this regard the proposal would be compliant therefore with paragraph 32 of the Framework.

328. In light of paragraph 14 of the Framework the benefits of the scheme are not significantly or demonstrably outweighed by any adverse impacts. Accordingly, the planning balance should be in favour of the scheme such that planning permission should be granted.

#### **RECOMMENDATION**

329. I recommend that the appeal be allowed and planning permission granted subject to the conditions set out in Annex A.

*P J Asquith*

INSPECTOR

**APPEARANCES**

## FOR THE APPELLANT

Sasha White QC

instructed by Colin Barnes, Nathaniel Lichfield and Partners

## FOR THE LOCAL PLANNING AUTHORITY

Giles Cannock, of Counsel

instructed by Zoë Atkinson, Principal Solicitor, North Tyneside Council

## FOR HOLYSTONE ACTION GROUP

Keith Page, Mark Tovey &amp; Vivien Fenn-Webber

## INTERESTED PERSONS

Edward Michael Palmer

Local resident

Bob Brownlees

Local resident

**DOCUMENTS****Appellant (Northumberland Estates)**

NE1	Andrew Dmoch proof of evidence
NE2	Andrew Dmoch summary proof of evidence
NE3	Andrew Dmoch appendices
NE3A	Stephen Goodchild proof of evidence
NE4	Stephen Goodchild summary proof of evidence
NE5	Stephen Goodchild appendices
NE6	Philip Barnes proof of evidence
NE7	Philip Barnes summary proof of evidence
NE8	Philip Barnes appendices 1-10
NE9	Philip Barnes appendices 11-21
NE10	Philip Barnes appendix 22
NE11	Edward Connon points of clarification - drainage and flood risk
NE12	Extract from Evening Chronicle news, 16 January 2013
NE13	Scaffold Hill Farm - footpath and country park patronage briefing note



NE14	Rising Sun, Scaffold Hill Evaluation of Habitat Connectivity
NE15	Scaffold Hill/Rising Sun Wetland Assessment Technical Note
NE16	Copy of letter from Northumberland Wildlife Trust, 15 March 2012
NE17	Edward Connon comments to the response received from K Page, J Moat and B Brownlees of 25 February 2013 on drainage and flood risk
NE18	List of application drawings
NE19	Closing statement

### **Local Planning Authority – North Tyneside Council**

NTC1	Andy Green proof of evidence
NTC2	Andy Green summary proof of evidence
NTC3	Andy Green appendices
NTC4	Thomas Jeremiah proof of evidence
NTC4A	Thomas Jeremiah summary proof of evidence
NTC5	Thomas Jeremiah appendices
NTC6	Community Infrastructure Levy Regulations 2010 Compliance Statement
NTC7	Opening statement
NTC8	Closing statement

### **Joint documents – Northumberland Estates/North Tyneside Council**

NE/NTC1	Joint statement on transport matters by Andrew Dmoch and Andy Green
NE/NTC2	Statement of Common Ground
NE/NTC3	Statement of Common Ground Addendum: Agreed conditions
NE/NTC4	Statement of Common Ground Addendum 2: Agreed conditions
NE/NTC5	Section 106 Agreement
NE/NTC6	Amended Statement of Common Ground by Andrew Dmoch and Andy Green

### **Holystone Action Group**

HAG1	Keith Page proof of evidence
HAG2	Keith Page summary proof of evidence
HAG3	Keith Page appendices
HAG4	Keith Page rebuttal of evidence of Philip Barnes on the issue of community support
HAG5	Mark Tovey proof of evidence
HAG6	Mark Tovey summary proof of evidence

HAG7	Mark Tovey appendices
HAG8	Mark Tovey rebuttal of evidence of Philip Barnes on the issue of community support
HAG9	Vivien Fenn-Webber proof of evidence
HAG10	Rising Sun Country Park A Brief History (compact disk)
HAG11	Drawing showing the Taylor Wimpey development at Lime Gardens, Palmersville
HAG12	Advice from DCLG: Demonstrating a 5-year supply of deliverable sites
HAG13	DCLG/DfT Guidance on Transport Assessment
HAG14	Response to Fairhurst points of Clarification – Drainage and flood risk (25 February 2013, by K Page, J Moat and B Brownlees)
HAG15	Response to comments to document received on 27 February 2013 in response to clarification on drainage and flood risk
HAG16	Bundles of letters of objection from local residents
HAG17	Comments by HAG on the withdrawal of objections by NTC
HAG18	Opening submissions
HAG19	Closing statement

### **Core Documents (CD)**

- 1.1 National Planning Policy Framework (2012)
- 1.2 Ministerial Statement – Planning for Growth (2011)
- 1.3 Laying the Foundations: A Housing Strategy for England (2011)
- 1.4 Ministerial Statement – Housing and Growth (2012)
- 2.1 Manual for Streets
- 2.2 Manual for Streets 2: Wider Application of the Principles
- 2.3 Design Manual for Roads and Bridges
- 3.1 PPG17 Companion Guide: Assessing needs and opportunities (2002)
- 4.1 The SUDS Manual (2007)
- 5.1 The North East Regional Spatial Strategy (2008)
- 5.2 North Tyneside Council Unitary Development Plan (2002)
- 5.3 The Secretary of State's Saving Direction regarding UDP Policies (2007)
- 5.4 North Tyneside Council Core Strategy Preferred Options (2010)
- 5.5 North Tyneside Council Core Strategy Preferred Options: Further Consultation on Growth Options (2011)
- 5.6 Local Development Scheme (2012)

- 6.1 Strategic Housing Market Assessment (2009)
- 6.2 Strategic Housing Market Assessment Key Elements Update (2011)
- 6.3 Strategic Housing Land Availability Assessment (2011)
- 6.4 Consultation Draft, 5-year Housing Land Supply: 2012/13 to 2016/176 (2012)
- 6.5 5-year Housing Land Supply: 2012/13 to 2016/17 (2012)
- 7.1 Employment Land Review (2009)
- 8.1 Green Space Strategy (2008)
- 8.2 Rising Sun Masterplan and North Tyneside City Challenge (2000)
- 9.1 The Rising Sun Country Park Management Plan 2011-2016 (2010)
- 10.1 North Tyneside Strategic Flood Risk Assessment (2010)
- 11.1 Core Strategy Preferred Options Sustainability Appraisal (2010)
- 11.2 Local Development Document 8: Planning Obligations Supplementary Planning Document (2009)
- 11.3 Local Development Document 12: Transport and Highways Supplementary Planning Document (2010)

#### **Documents supporting the application**

- APP1 Air Quality Impact Assessment
- APP2 Arboricultural Implication Assessment
- APP3 Arboricultural Method Statement
- APP4 Archaeological Desk-based Assessment
- APP5 Badger Report
- APP6 Breeding Bird Survey Report
- APP7 Design and Access Statement
- APP8 Rising Sun Masterplan – Building for Life Summary
- APP9 Extended Phase 1 Survey Report
- APP10 Great Crested Newt Report
- APP11 Landscape and Visual Appraisal
- APP12 Planning Obligation – draft heads of terms
- APP13 Road Traffic Noise Impact Assessment
- APP14 Site Waste Management Plan
- APP15 Supporting Statement
- APP16 Transport Assessment

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APP17	Transport Addendum No. 1
APP18	Transport Addendum No. 2 – review of revised Masterplan proposals December 2011
APP19	Transport Note 2 – review of ARCADY analysis and observed queue lengths at Station Road roundabout and Wheatsheaf roundabout
APP20	Transport Note 3 – updated capacity assessment of Holystone Way
APP21	Transport Note 4 – entry lane and revised geometry analysis
APP22	Proposed road-marking and splitter island alterations plan 001, August 2012
APP23	Framework Residential Travel Plan
APP24	Note on ASDA roundabout following discussions with North Tyneside Council
APP25	Flood Risk Assessment
APP26	Statement of Community Involvement
APP27	Landscape Management Plan
APP28	Geophysical Survey
APP29	Foul Sewage and Utilities Assessment
APP30	Geo-Environmental Desk Study Report
APP31	Birdstrike Risk Assessment
APP32	Housetype and Health Centre Booklet

**Other Documents (Doc)**

1. Bundle of letters of representation
2. Council's note on the effect of revocation of the North East Regional Strategy
3. Appellant's note on the revocation of the North East Regional Strategy
4. Holystone Action Group's response on the revocation of the North East Regional Strategy
5. Council's response to the appellant's and Holystone Action Group's comments on the revocation of the North East Regional Strategy
6. Holystone Action Group's response to the appellant's and the Council's submissions on the revocation of the North East Regional Strategy
7. Letter of notification of the Inquiry with list of persons notified

## ANNEX 1

### SUGGESTED CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

*Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.*

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

Landscape Masterplan: Country Park (86072/8011 G)

Landscape Masterplan: Residential (86072/8012 E)

Character Area: Main Gateway Entrance (86072/8013 E)

Character Area: Hedgerow Crossing – The Crescent (86072/8014 D)

Character Area: The Orchard (86072/8015 D)

Character Area: Country Park View (86072/8016 D)

Habitat Plan: Country Park (86072/8017 E)

Habitat Plan: Residential (86072/8018 E)

Site Context (86072/8019 A)

Pill Box Interpretation Area (86072/8020 A)

Proposed Site Layout - Sheet 1 (SL001G)

Proposed Site Layout - Sheet 2 (SL002 G)

Proposed Site Layout – Overall (SL003 H)

Proposed Site Layout – Overall (SL004 H)

Site Location Plan (N81/2091 SL005A)

Existing Site Plan (N81/2091 SL006A)

Affordable Housing Plan (SL005 A)

Affordable Housing Plan (SL006 A)

Proposed Streetscapes (SS001 A)

Proposed Streetscapes in Colour (SS002 A)

Conceptual Image of Gateway and Village Centre (IMG01 A)

Conceptual Image of Gateway and Village Centre (IMG02)

Conceptual Image of Gateway and Village Centre (IMG03 A)

Conceptual Image of Gateway and Village Centre (IMG04)

House Type and Health Centre Booklet (all house type, health centre and retail unit plans) (revised December 2011)

Site Context: Pedestrian, Cycle and Public Transport (86072/1006)

Accessibility on Foot, Cycle and Public Transport (86072/1007)

Proposed Vehicular Access Arrangements for Country Park (Preliminary Design) (86072/1009)

Wheatsheaf Roundabout Improvement (86072/1010)

Swept Path Analysis; Wheatsheaf Roundabout (86072/1013 A)

Preliminary Layout of Proposed Surface Water Drainage Strategy (86072/2002 A)

Proposed Site Layout with Indicative Landscape Sections through Bunding (N81/2091 SL0100)

Rising Sun Site Section through Plot 43

Rising Sun Site Section through Plot 178

Hadrian Hedge Design Sketch Proposals (86072/SK0001)

Boundary Treatment Details (N81/2091 BT-01)

Revised Transport Proposals (Annex C2A)  
 Health Centre Elevations Sheet 1 (N81/2091/HC/ELE1C)  
 Health Centre Elevations Sheet 2 (N81/2091/HC/ELE1C)  
 Health Centre Ground Floor Plan (N81/2091 HC/PLA1C)  
 Health Centre First Floor Plan & Roof Plan (N81/2091/HC/PLA2B)  
 Retail Unit Plans & Elevations (N81/2091 RU/PLAb)  
 Triple Garage Detail Elevations and Plans (N81/2091/RS-GAR/PLA)  
 Rising Sun – Community Play Area: Play Area Elements & Park Layout  
 Revised House Type P Plans, including extract of parking requirements for House Type P (RS-HTP/PLA Rev A)  
 Station Road/Whitley Road Roundabout – Proposed Roadmarking and Splitter Island Alterations (WHITSTAT: 001)  
 Phasing Plan (N81: 2091 PH-P/01)

*Reason: For the avoidance of doubt and in the interests of proper planning.*

- 3 Prior to the commencement of development details of the phasing of the scheme shall be submitted to and agreed in writing by the Local Planning Authority. This shall include the phasing of the provision of the retail units, the landscaping and habitat works and the recreation facilities. The development shall be carried out in accordance with the agreed phasing.

*Reason: To ensure the approved works and planting are undertaken at an appropriate time having regard to policy H11 and DCPS 6 of the North Tyneside Unitary Development Plan 2002.*

- 4 Notwithstanding any indication of materials which may have been given in the application, no development shall take place within each phase until a schedule and/or samples of the materials and finishes for buildings within that phase of the development has/have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details.

*Reason: To secure a satisfactory appearance having regard to policy H11 and DCPS 14 of the North Tyneside Unitary Development Plan 2002.*

- 5 No development of each phase shall take place until a schedule, and/or samples, of all surfacing materials for that phase has/have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details.

*Reason: To secure a satisfactory appearance having regard to policy H11 and DCPS 14 of the North Tyneside Unitary Development Plan 2002.*

- 6 The construction site subject of this approval shall not be operational and there shall be no construction, deliveries to, from or vehicle movements within the site outside the hours of 0800-1800 Monday-Friday and 0800-1400 Saturdays with no working on Sundays or Bank Holidays.

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

- 7 No development of each phase shall take place until plans of the site showing the existing and proposed ground levels and levels of thresholds and floor levels of all proposed buildings for that phase have been submitted to and approved in writing

by the Local Planning Authority. Such levels shall be shown in relation to a fixed and known datum point. Thereafter, the development shall not be carried out other than in accordance with the approved details.

*Reason: To ensure that the work is carried out at suitable levels in relation to adjoining properties and highways, having regard to amenity, access, highway and drainage requirements and having regard to policy H11 and DCPS 14 of the North Tyneside Unitary Development Plan 2002.*

- 8 Prior to the commencement of development a surface water drainage scheme for the site and details of the timing of its implementation, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details. The scheme shall also include details of how the scheme shall be maintained and managed after completion and the management shall be undertaken in accordance with that scheme.

*Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system, having regard to the Framework.*

- 9 Prior to the commencement of development a scheme for the provision and management of a buffer zone alongside the watercourse along the south-eastern boundary of the site shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out and managed in accordance with the approved details and any subsequent amendments shall be agreed in writing with the Local Planning Authority. The scheme shall include:

- Plans showing the extent and layout of the buffer zone
- Details of the planting scheme
- Details showing how the buffer zone will be protected during development and managed/maintained over the longer term
- Details of any footpaths, fencing and lighting

*Reason: Development that encroaches on watercourses has a potentially severe impact on their ecological value and land alongside is valuable for wildlife and it is essential that it is protected. Article 10 of the Habitats Directive also stresses the importance of natural networks of linked corridors to allow movement of species between suitable habitats and promote expansion of biodiversity and help wildlife adapt to climate change.*

- 10 Prior to the commencement of development details of the eco hides and the timing of their implementation shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

*Reason: To encourage biodiversity and having regard to policy E12/6 of the North Tyneside Unitary Development Plan 2002.*

- 11 Any development on-site and vegetation clearance shall not take place during the bird breeding season (March to August inclusive), unless a checking survey

by an appropriately qualified ecologist has confirmed that no active nests are present immediately prior to works.

*Reason: To encourage biodiversity and having regard to policy E12/6 of the North Tyneside Unitary Development Plan 2002.*

- 12 Prior to the commencement of development details of bird and bat boxes and the timing of their installation shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

*Reason: To encourage and protect biodiversity and having regard to policy E12/6 of the North Tyneside Unitary Development Plan 2002.*

- 13 A method statement shall be submitted to and agreed in writing by the Local Planning Authority for the protection of badgers during construction. This shall ensure that deep excavations are fenced off or escape ramps provided. The development shall be carried out in accordance with the agreed scheme.

*Reason: To encourage and protect biodiversity and having regard to policy E12/6 of the North Tyneside Unitary Development Plan 2002.*

- 14 Prior to the commencement of the development, details of the protection, enhancement and management of existing ponds and details of all new ponds and scrapes, including cross-sections to show depths and profiles, shall be submitted to and agreed in writing by the Local Planning Authority. These shall include hydrological surveys to be carried out to ensure the success of these wetlands. The development shall be carried out in accordance with the approved details and maintained thereafter.

*Reason: To encourage and protect biodiversity and having regard to policy E12/6 of the North Tyneside Unitary Development Plan 2002.*

- 15 Prior to commencement of development details of the relocation of the orchids from the northern part of the application site to the Rising Sun Country Park extension area shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

*Reason: To encourage and protect biodiversity and having regard to policy E12/6 of the North Tyneside Unitary Development Plan 2002.*

- 16 Prior to the commencement of development, the location and details of amphibian tunnels beneath the new estate roads shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

*Reason: To encourage and protect biodiversity and having regard to policy E12/6 of the North Tyneside Unitary Development Plan 2002.*

- 17 Prior to the commencement of development, a management plan for the long-term management of the landscaping, ponds and wetland areas on the site shall be submitted to and approved in writing by the Local Planning Authority. This shall also include a 5-year ecological monitoring strategy to ensure the management of the Rising Sun Country Park extension is having a positive ecological benefit. The development shall be carried out in accordance with the approved details and managed thereafter.



*Reason: To encourage and protect biodiversity and having regard to policy E12/6 of the North Tyneside Unitary Development Plan 2002.*

- 18 Prior to the commencement of development, details of habitat management including vegetation management and biodiversity enhancements along the Hadrian Pond watercourse shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and managed thereafter in accordance with the approved details.

*Reason: To encourage and protect biodiversity and having regard to policy E12/6 of the North Tyneside Unitary Development Plan 2002.*

- 19 Prior to the commencement of development, a checking survey for water voles along the Hadrian Pond watercourse shall be carried out and details including any proposed appropriate mitigation shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

*Reason: To encourage and protect biodiversity and having regard to policy E12/6 of the North Tyneside Unitary Development Plan 2002.*

- 20 Prior to the commencement of development a revised plan showing the designation of footpaths and bridleways on the site shall be submitted to and approved in writing by the Local Planning Authority. This shall include the provision of only informal grassed paths around the existing ponds. It shall also include a timescale for the implementation of the routes. The development shall be carried out in accordance with the approved details.

*Reason: In the interests of biodiversity and recreation, having regard to policy E12/6 of the North Tyneside Unitary Development Plan 2002.*

- 21 Prior to the commencement of development, details of the new access route from the Rising Sun Countryside Centre to the new roundabout on the A191 Holystone Way shall be submitted to and agreed in writing by the Local Planning Authority. The details shall include its location and construction. The development shall be carried out in accordance with the approved details and timescale.

*Reason: In the interests of highway safety, biodiversity and visual amenity, having regard to DCPS 6 and E12/6 of the North Tyneside Unitary Development Plan 2002.*

- 22 All existing hedges or hedgerows shall be retained, unless shown on the approved drawings as being removed. All hedges and hedgerows on and immediately adjoining the site shall be protected from damage for the duration of works on the site in accordance with British Standard BS 5837:2012. Any parts of hedges or hedgerows removed without the Local Planning Authority's prior approval or which die or become, in the opinion of the Local Planning Authority, seriously diseased or otherwise damaged within five years following contractual practical completion of the approved development shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions as may be agreed in writing by the Local Planning Authority. Such hedges shall be retained and maintained thereafter.

*Reason: In the interest of visual amenity and biodiversity and having regard to policies H11 and DCPS 6 of the North Tyneside Unitary Development Plan*

2002.

- 23 Notwithstanding details shown on the plans hereby approved, the windows and any other glazing to be inserted in the side elevation of house types A, B, D, E, F, G, K, M, N, O, P, 1st floor to en-suite and bedroom 1 gable window of Q, gable window to bedroom 2 of R, 1st floor gable windows to S and 1st floor gable windows to T shall, up to a minimum height of 1.7 metres above finished floor level, be fixed shut (without any opening mechanism) and glazed in obscure glass. The windows shall thereafter be retained as such.

*Reason: In the interests of the amenity of neighbouring residential occupiers having regard to policy H11 of the North Tyneside Unitary Development Plan 2002.*

- 24 No groundworks or development shall commence until a programme of archaeological fieldwork (to include a survey of ridge and furrow earthworks, fieldwalking of arable fields, evaluation trial trenching and where appropriate mitigation excavation) has been completed. This shall be carried out in accordance with a specification to be agreed in writing by the Local Planning Authority. No buildings/dwellings shall be occupied/brought into use until the final report of the results of the archaeological fieldwork undertaken has been:

- a) Produced in a form suitable for publication in a suitable and agreed journal; and
- b) Submitted to and approved in writing by the Local Planning Authority prior to submission to the editor of the journal.

*Reason: The site is located within an area identified as being of potential archaeological interest. The investigation is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded, in accordance with Unitary Development Plan Policy E19/6.*

- 25 The World War 2 pillbox as shown on the approved plans shall be retained. Prior to the commencement of the development details for the maintenance of the pillbox and for the installation of an interpretation panel shall be submitted to and agreed in writing by the Local Planning Authority. The approved interpretation panel shall be installed on site to an agreed timescale and thereafter retained. The pillbox shall thereafter be maintained in accordance with the approved details.

*Reason: In the interests of archaeological preservation, having regard to Policy E19/6 of the North Tyneside Unitary Development Plan.*

- 26 The retail units and surgery shall not be developed prior to the completion of at least one unit of residential development.

*Reason: The commercial element on its own would represent an isolated development out of character within the surrounding area and would be contrary to UDP policy S10 and LE1/4 of the North Tyneside Unitary Development Plan 2002.*

- 27 The dwellings shall achieve a minimum of Code Level 3 in accordance with the requirements of the Code for Sustainable Homes: Technical Guide (or such national measure of sustainability for house design that replaces that scheme). No dwelling shall be occupied until a Final Code Certificate has been issued for it

certifying that Code Level 3 has been achieved.

*Reason: In order to achieve high energy efficiency and minimise consumption having regard to policy E2 of the North Tyneside Unitary Development Plan 2002 and the Framework.*

- 28 Prior to the commencement of development, details of a renewable energy generation system for the scheme shall be submitted to and approved in writing by the Local Planning Authority. The developer shall use best practicable demonstrable means to ensure that a viable percentage of the overall predicted energy requirement of the development shall be from a renewable source. This shall be informed by an energy assessment. Each system shall be suitably installed and operational in accordance with the approved details prior to the occupation of the development. Such systems shall be retained and maintained thereafter.

*Reason: In the interest of energy conservation and having regard to policy E2 of the North Tyneside Unitary Development Plan 2002 and the Framework.*

- 29 Prior to the commencement of any site clearance works or development there shall be submitted to the Local Planning Authority for its approval in writing a scheme showing the type, height and position of protective fencing to be erected around each tree or hedge to be retained. Unless otherwise agreed in writing by the Local Planning Authority the protective fencing shall comprise a vertical and horizontal framework of scaffolding or post and rail fencing, to a height of 1.5 metres, well braced to resist impacts and supporting either cleft chestnut pale or chain link fencing and, in relation to trees, sited at a minimum distance from the tree equivalent to the crown spread. The development hereby permitted shall only be carried out in accordance with the approved scheme. The area surrounding each tree/hedge within the approved protective fencing shall remain undisturbed during the course of the works and, in particular, in these areas: there shall be no changes in ground levels; no materials or plant shall be stored; no buildings or temporary buildings shall be erected or stationed; no materials or waste shall be burnt; and no drain runs or other trenches shall be dug or otherwise created, without the prior written approval of the Local Planning Authority. In carrying out the development, the developer shall conform to the recommendations in BS 5837:2012 in relation to the protection of trees during construction.

*Reason: To ensure trees and hedges to be retained are adequately protected from damage during the execution of the works hereby permitted, in the interests of visual amenity having regard to policy E14 of the North Tyneside Unitary Development Plan 2002.*

- 30 Notwithstanding the details indicated on DWG No. SL004H (Site Layout Overall), the development hereby permitted shall be landscaped and planted in accordance with a fully detailed scheme which shall be submitted to and approved in writing by the Local Planning Authority before the development of the site commences. The scheme shall include details which indicate the necessary highway verge/land required to enable any future highway widening proposals. The development shall be carried out in accordance with the approved scheme.

*Reason: In the interests of amenity and to ensure a satisfactory standard of landscaping having regard to policy E14 of the North Tyneside Unitary*

*Development Plan 2002.*

- 31 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 occupation of the buildings/dwellings in each phase or the completion of the development in each phase, whichever is the sooner, and any trees or plants which, within a period of five years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced in the current or first planting season following their removal or failure with others of similar size and species, unless the Local Planning Authority first gives written approval to any variation.

*Reason: In the interests of amenity and to ensure a satisfactory standard of landscaping having regard to policy E14 of the North Tyneside Unitary Development Plan 2002.*

- 32 No development shall be commenced until:

- a) A detailed site investigation has been carried out to establish:
- i) If the site is contaminated;
  - ii) To assess the degree and nature of the contamination present, and whether significant risk is likely to arise to the residential and public use of land;
  - iii) To determine the potential for the pollution of the water environment by contaminants and;
  - iv) The implications for residential development of the site and the quality of the residential environment for future occupiers.

Such detailed site investigation shall accord with a statement of method and extent which shall previously have been agreed in writing by the Local Planning Authority and

- b) The results and conclusions of the detailed site investigations referred to in a) above have been submitted to and the conclusions approved in writing by the Local Planning Authority; and
- c) A scheme showing appropriate measures to prevent the pollution of the water environment, to ensure the integrity of the residential development hereby approved and to ensure an adequate quality of residential environment for future occupiers in the light of such results and approved conclusions has been submitted to and approved in writing by the Local Planning Authority.

Thereafter the development shall not be implemented otherwise than in accordance with the scheme referred to in c) above.

*Reason: To ensure that the potential contamination of the site is properly investigated and its implication for the approved development fully taken into account.*

- 33 Prior to the commencement of development, details of the location and design of an acoustic fence to be installed to the gardens of dwellings adjacent to the A191 (plots 1, 15-21, 399-411 and 315-352) shall be submitted to and approved in writing by the Local Planning Authority. No properties adjacent to the A191 shall be occupied until the fence has been installed to the relevant boundary of that

property. The fence shall thereafter be retained.

*Reason: In the interests of protecting the amenity of the occupiers of the properties, having regard to policy E3 of the North Tyneside Unitary Development Plan and the Framework.*

- 34 Prior to the commencement of development, details of a noise mitigation scheme to be provided to the gardens of housing adjacent to the A19 shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the location, design and height of the mounding and acoustic fence to be installed and the predicted noise contours provided by the mitigation measures. The overall benefit of the attenuation shall ensure compliance with the World Health Organisation outside amenity level of 55dB(A). No properties adjacent to the A19 shall be occupied until the approved mounding and fence have been installed. The mounding and fence shall thereafter be retained.

*Reason: In the interests of protecting the amenity of the occupiers of the properties, having regard to policy E3 of the North Tyneside Unitary Development Plan and the Framework.*

- 35 Prior to the commencement of the development, details of acoustic triple glazing incorporating a laminated glazing panel and mechanical ventilation to give a Rw rating of greater than or equal to 40dB to be installed to the windows to the eastern elevations of properties to the eastern boundary of the site shall be submitted to and approved in writing by the Local Planning Authority. The details shall include both the glazing and mechanical ventilation prior to fitting to demonstrate their acoustic properties to ensure a good internal noise level of 30db in accordance with BS5228. The approved details shall be implemented prior to the occupation of the dwelling to which the details relate and retained thereafter.

*Reason: In the interests of protecting the amenity of the occupiers of the properties, having regard to policy E3 of the North Tyneside Unitary Development Plan and the Framework.*

- 36 Prior to the commencement of the development, details of the acoustic glazing and ventilation system to living rooms and bedroom windows facing the A191 to give a good internal noise level in accordance with BS8233:1999 of 30 dB(A) shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the occupation of the dwelling to which the details relate and retained thereafter.

*Reason: In the interests of protecting the amenity of the occupiers of the properties, having regard to policy E3 of the North Tyneside Unitary Development Plan and the Framework.*

- 37 No development shall take place until a scheme showing how the development hereby approved is to be protected against the possibility of landfill gas migrating from the nearby former landfill site, has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall not take place otherwise than in accordance with the details shown in such approved scheme, and those measures incorporated into the development shall thereafter be retained unless the Local Planning Authority otherwise agrees in writing.

*Reason: To ensure that the details of the development are satisfactory to prevent the adverse effects of landfill gas that may migrate from a former landfill site.*

- 38 The details of a scheme of site investigation and assessment to test for the presence and likelihood of gas emissions from underground, including methane gas, shall be submitted to and agreed in writing by the Local Planning Authority.
- Reason: To check for gas emissions from underground sources and to ensure that the details of the development are satisfactory to prevent the adverse effects of underground gas emissions.*
- 39 The detailed design and construction of the development shall take account of the results of the site investigation and assessment agreed pursuant to condition 37 and also of the possibility of future gas emissions from underground, including methane gas, pursuant to condition 38. The method of construction shall reflect this possibility and incorporate all the measures shown in the assessment to be necessary so as to guard against such emissions having an adverse effect upon the development and/or the future users and occupiers thereof.
- Reason: In order to safeguard the development and/or the occupants thereof from possible future gas emissions from underground having regard to policy E3 of the North Tyneside Unitary Development Plan 2002.*
- 40 If external plant is to be installed at the retail units or surgery premises, prior to its installation details of this plant and a noise scheme shall be submitted to and approved in writing by the Local Planning Authority. The details shall ensure that the rating level of the noise emitted from the site at the closest residential property does not exceed the existing background noise level in accordance with BS4142: 1997.
- Reason: In the interests of residential amenity, having regard to policy H13 of the North Tyneside Unitary Development Plan.*
- 41 The retail units and surgery premises shall not be open for business and no deliveries shall take place outside the hours of 07:00 and 23:00 on any day.
- Reason: To safeguard the occupiers of adjacent properties from undue noise or other associated disturbance having regard to policies E3 and H13 of the North Tyneside Unitary Development Plan 2002.*
- 42 Prior to the commencement of the development, a noise scheme shall be submitted to and approved in writing by the Local Planning Authority to ensure appropriate mitigation measures for any plant noise arising from the hotel to the north of the site. The measures outlined in the approved scheme shall be implemented prior to the occupation of the dwellings to which the measures relate and shall be retained thereafter.
- Reason: In the interests of protecting the amenity of the occupiers of the properties, having regard to policies E3 and H13 of the North Tyneside Unitary Development Plan.*
- 43 No development shall take place of each phase until details of all screen and boundary walls, fences and any other means of enclosure for that phase have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved details and the buildings hereby approved shall not be occupied until the details have been fully implemented.

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

- 44 No development of each phase shall take place until details of facilities to be provided for the storage of refuse at that phase have been submitted to and approved in writing by the Local Planning Authority. The facilities, which should also include the provision of wheeled refuse bins, shall be provided in accordance with the approved details prior to the occupation of any part of the development of that phase and shall thereafter be permanently retained.

*Reason: In order to safeguard the amenities of the area having regards to policy H11 of the North Tyneside Unitary Development Plan 2002.*

- 45 All builders' and contractors' compounds, site huts, and storage of plant and materials shall be located in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority prior to any development taking place.

*Reason: In the interests of the amenity of neighbouring residents having regard to policy H11 of the North Tyneside Unitary Development Plan 2002.*

- 46 Access to the site for all builders' and contractors' vehicles, including those delivering materials, shall be in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority prior to any development taking place.

*Reason: In the interests of the amenity of neighbouring residents and road traffic and pedestrian safety having regard to policy H11 of the North Tyneside Unitary Development Plan 2002.*

- 47 Prior to the commencement of development a detailed scheme to prevent the deposit of mud and other debris onto the highway and to suppress dust arising from construction activities shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include details of a) mechanical street cleaning brushes and b) the provision of water bowsers to be made available to spray working areas during dry conditions. Thereafter development shall not be carried out other than in accordance with the approved details and the approved measures shall be retained on site for the duration of the works and used on all occasions when visible dust emissions are likely to be carried from the site e.g. during dry, windy conditions.

*Reason: To safeguard the occupiers of surrounding properties and users of the public highway from any discomfort or loss of amenity arising from construction activities on the site.*

- 48 Prior to occupation of any dwelling on-site ground investigation works shall be undertaken to confirm coal mining conditions and these results, including any remediation works to treat any areas of shallow coal mine works, and/or any other mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved plans and any remediation works/mitigation

measures shall be retained at all times.

*Reason: To ensure the safety and stability of the development having regard to policy E3 of the North Tyneside Unitary Development Plan 2002.*

- 49 Notwithstanding the submitted plans, prior to the commencement of any works to the field to the north of the Rising Sun Countryside Centre, details of these works including the play area, informal grassed area, play equipment, new footpaths and means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the timing for the installation of the play area. The scheme shall be carried out in accordance with the approved details.

*Reason: In the interests of visual and residential amenity, having regard to policy R5 of the North Tyneside Unitary Development Plan 2002.*

- 50 The development of each phase shall not begin until details of the adoptable estate roads, footways and cycleways have been submitted to and approved in writing by the Local Planning Authority. The details shall include a scheme for a shared-use footway-cycleway with associated street lighting from Francis Way to Holystone Roundabout. The approved details shall be carried out within a timescale to be agreed in writing by the Local Planning Authority and no dwelling shall be occupied until the estate roads which provide access to it from the existing highway have been laid out and constructed in accordance with the approved details.

*Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and of the development having regard to policies H11 and T8 of the North Tyneside Unitary Development Plan 2002.*

- 51 Within six months of the new/ altered accesses being brought into use all other existing access points not incorporated in the development hereby permitted shall be stopped up by raising the existing dropped kerb/removing the existing bell mouth and reinstating the footway verge and highway boundary to the same line, level and detail as the adjoining footway verge and highway boundary.

*Reason: To limit the number of access points along the site boundary for the safety and convenience of highway users having regard to policy H11 of the North Tyneside Unitary Development Plan 2002.*

- 52 No development shall take place until details of traffic calming measures to 20mph have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details.

*Reason: To secure a satisfactory standard of development and in the interests of highway and pedestrian safety having regard to policy H11 of the North Tyneside Unitary Development Plan 2002.*

- 53 The development shall not begin until details of the disposal of surface water from the highway, footpaths and other hard surfaces have been submitted to and approved in writing by the Local Planning Authority and no dwelling shall be occupied until the works for the disposal of surface water have been constructed in accordance with the approved details.

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



- 54 No development shall take place until a detailed scheme for the disposal of foul sewage from the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority. Development shall take place in accordance with the approved details.

*Reason: To ensure a satisfactory means of drainage in the interests of minimising environmental pollution having regard to policy H11 of the North Tyneside Unitary Development Plan 2002.*

- 55 Notwithstanding the submitted details, prior to the commencement of each phase of the development a scheme for parking, garaging and manoeuvring for that phase based on the standards set out in Supplementary Planning Document LDD12 shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be laid out prior to the initial occupation of that phase of the development hereby permitted and these areas shall not thereafter be used for any other purpose.

*Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway having regard to policy H11 of the North Tyneside Unitary Development Plan 2002 and LDD 12.*

- 56 Prior to any construction activities commencing a scheme indicating the proposed routing of heavy construction vehicles to and from the site and including details of signage to be provided at the site access and at locations along the specified route shall be submitted to and agreed in writing by the Local Planning Authority. No development shall take place until signage has been provided in accordance with the agreed scheme and thereafter such signage shall be retained until construction works are completed.

*Reason: In the interests of safeguarding the amenities of local residents and to minimise danger and inconvenience to highway users having regard to policy H11 of the North Tyneside Unitary Development Plan 2002.*

- 57 Prior to the commencement of development, notwithstanding the details indicated on Dwg No SL004H (Site Layout Overall), a scheme indicating storage sheds to all properties shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, this scheme shall be implemented in accordance with the approved details.

*Reason: To comply with the Local Planning Authority's policy on cycle storage relating to residential dwellings having regard to policy H11 of the North Tyneside Unitary Development Plan 2002 and LDD12.*

- 58 The Framework Residential Travel Plan of July 2011 as submitted shall be carried out as agreed with the Local Planning Authority. This shall include the conducting of travel surveys to monitor whether or not the Travel Plan targets are being met details of which shall be submitted to and agreed in writing before the occupation of any dwelling on the site.

*Reason: To accord with Framework guidance concerning sustainable transport and having regard to policy T9 of the North Tyneside Unitary Development Plan 2002.*

- 59 Prior to the commencement of development of the allotments and notwithstanding the details submitted on Drawing Nos. SL002 G (Site Layout Sheet 2) and 86072/1009 (Rising Sun), details of the proposed allotments and their phasing shall be submitted to and agreed in writing by the Local Planning Authority. The details shall include a revised scheme indicating parking/dropping-off areas for the proposed allotments. The allotments shall be carried out in accordance with the approved details prior to the completion of the development hereby approved.

*Reason: In the interests of highway and pedestrian safety having regard to policy T11 of the North Tyneside Unitary Development Plan 2002.*

- 60 Prior to the commencement of development, notwithstanding the details submitted on Drawing No. 86072/1009 (Rising Sun), a revised traffic calming scheme at the junction of the proposed exit road/public footpath (LB9) shall be submitted to and approved in writing by the Local Planning Authority prior to development commencing on site. The approved scheme shall be implemented and made available for use in accordance with timescales to be agreed in writing by the Local Planning Authority.

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

- 61 Prior to the commencement of development, notwithstanding the details submitted on Drawing No. SL004H (Site Layout Overall), a scheme indicating locations/provision of bus stops and associated lining and signage within the development shall be submitted to and approved in writing by the Local Planning Authority prior to works commencing on site. The approved scheme shall be implemented and made available for use in accordance with timescales to be agreed in writing by the Local Planning Authority.

*Reason: In the interests of highway safety and the promotion of sustainable transport having regard to policy T4/3 of the North Tyneside Unitary Development Plan 2002.*

- 62 No development shall commence until a scheme for the highways improvements at the new roundabout site access has been submitted to and agreed in writing by the Local Planning Authority. The submitted scheme shall be based on Drawing No. SL004 H (Site Layout Overall). The approved highways improvement works shall be carried out within a timescale to be agreed in writing by the Local Planning Authority.

*Reason: In the interests of highway and pedestrian safety having regard to policies H11 and T6 of the North Tyneside Unitary Development Plan 2002.*

- 63 No development shall commence until a scheme for the additional westbound lane on the A191 Holystone Way from the new roundabout to the Wheatsheaf Roundabout has been submitted to and agreed in writing by the Local Planning Authority. The approved highways improvement works shall be carried out within a timescale to be agreed in writing by the Local Planning Authority.

*Reason: In the interests of highway safety having regard to policy T7 of the North Tyneside Unitary Development Plan 2002.*

- 64 No development shall commence until a scheme for the highways improvements at the Wheatsheaf Roundabout has been submitted to and agreed in writing by the Local Planning Authority. The left-turn filter lane from the Wheatsheaf Roundabout shall tie-in with the scheme for the improvements at the A191 Whitley Road/Chollerton Drive/Asda Roundabout (which is the subject of Condition 65) so that two continuous westbound lanes are provided from the Wheatsheaf Roundabout to the improved Asda access junction. The submitted scheme shall be based on Drawing No. 86072 11002C. The approved highways improvement works shall be carried out within a timescale to be agreed in writing by the Local Planning Authority.

*Reason: In the interests of highway safety having regard to policy T7 of the North Tyneside Unitary Development Plan 2002.*

- 65 No development shall commence until a scheme for the highways improvements at the A191 Whitley Road/Chollerton Drive/Asda Roundabout has been submitted to and agreed in writing by the Local Planning Authority. The submitted scheme shall be based on Drawing Nos. 5073897/100/TP & M0008. The approved highways improvement works shall be carried out within a timescale to be agreed in writing by the Local Planning Authority.

*Reason: In the interests of highway safety having regard to policy T7 of the North Tyneside Unitary Development Plan 2002.*

- 66 No development shall commence until a scheme for the highways improvements at the A191 Whitley Road/A186 Station Road Roundabout has been submitted to and agreed in writing by the Local Planning Authority. The submitted scheme shall be based on Drawing No. WHITSTAT 001. The approved highways improvement works shall be carried out within a timescale to be agreed in writing by the Local Planning Authority.

*Reason: In the interests of highway safety having regard to policy T7 of the North Tyneside Unitary Development Plan 2002.*

- 67 No development shall commence until a scheme for the highways alterations to Rising Sun Country Park access road has been submitted to and agreed in writing by the Local Planning Authority. The submitted scheme shall be based on Drawing No. 86072/1009. The approved highways improvement works shall be carried out within a timescale to be agreed in writing by the Local Planning Authority.

*Reason: In the interests of highway safety having regard to policy T7 of the North Tyneside Unitary Development Plan 2002.*

- 68 Notwithstanding the details submitted on Drawing No. SL001 G (Site Layout Sheet 1) a scheme indicating vehicle and secure undercover cycle parking in accordance with Supplementary Planning Document LDD12 for the A1 use and D1 use shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out within a timescale to be agreed in writing by the Local Planning Authority.

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

- 69 Notwithstanding the details submitted on Drawing No. SL004 H the development shall not commence until full details of the proposed alterations (i.e. closure and diversions) to the existing public rights of way network have been submitted to and approved in writing by the Local Planning Authority.

*Reason: In order to minimise danger, obstruction and inconvenience to users of the public rights of way network having regard to policy T6 of the North Tyneside Unitary Development Plan 2002.*

- 70 Notwithstanding the details submitted on Drawing No. SL004 H no development shall commence until full details of the adoptable construction and associated signage for the proposed upgrading and diversions of the existing public rights of way network, including a timetable for implementation, have been submitted to and approved in writing by the Local Planning Authority. The approved highways improvement/diversion works shall be carried out in accordance with the agreed details and timetable.

*Reason: In order to minimise danger, obstruction and inconvenience to users of the public rights of way network having regard to policy T6 of the North Tyneside Unitary Development Plan 2002.*

- 71 Notwithstanding the details submitted on Drawing No. SL004 H no development shall commence until full details (i.e. line, construction and associated signage) of the proposed new routes within the site (i.e. footpaths, multi-user routes etc) and a timetable for implementation have been submitted to and agreed in writing by the Local Planning Authority. The approved new routes shall be carried out in accordance with the approved details and timetable.

*Reason: To improve accessibility to the Rising Sun Country Park and the adjacent highway network having regard to policy T6 of the North Tyneside Unitary Development Plan 2002.*

- 72 No development shall commence until details, including a timetable for implementation, of a highway mitigation scheme for signal phasing at A19 Holystone Interchange has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the agreed timetable.

*Reason: In the interests of highway safety having regard to policy T7 of the North Tyneside Unitary Development Plan 2002.*

- 73 No development shall commence until a Bird Management Plan for the Rising Sun Country Park extension area has been submitted to and approved in writing by the Local Planning Authority. The Bird Management Plan shall include the recommendations set out within the Food and Environment Research Agency report 'Birdstrike Risk Assessment for Rising Sun, Scaffold Hill', and shall include a proposal for continued bird monitoring following the completion of the country park extension. The Bird Management Plan shall be implemented as approved.

*Reason: To ensure that there is no harm to the operation of Newcastle International Airport by mitigating any birdstrike risk arising from the approved development, having regard to the Framework and DCPS 6 and 14 of the North Tyneside Unitary Development Plan 2002.*

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- 74 Prior to the commencement of development, a scheme for the provision of public art shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide details of the design, timing of provision and maintenance of the artworks. The public art shall thereafter be implemented and maintained in accordance with the approved details.

*Reason: In the interests of visual amenity, having regard to policy E9 of the North Tyneside Unitary Development Plan 2002.*

Richborough Estates



## 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.