



Appeal Decision

Site visit made on 22 July 2025

by **Katie McDonald MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13th August 2025

Appeal Ref: APP/A4520/W/25/3365110

Former Whitburn Lodge Public House, Mill Lane, Whitburn SR6 7BF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Phil Jones (Lovell) against the decision of South Tyneside Council.
 - The application Ref is ST/0712/23/FUL.
 - The development proposed is the demolition of existing Whitburn Lodge Public House, vacant structures and associated car park and erection of up to 32 dwellings including vehicular access from Mill Lane, associated infrastructure and landscaping.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing Whitburn Lodge Public House, vacant structures and associated car park and erection of up to 32 dwellings including vehicular access from Mill Lane, associated infrastructure and landscaping at Former Whitburn Lodge Public House, Mill Lane, Whitburn SR6 7BF in accordance with the terms of the application, Ref ST/0712/23/FUL, subject to the conditions in the attached schedule.

Applications for Costs

2. An application for costs was made by the appellant. This is the subject of a separate decision.

Preliminary Matters

3. The Secretary of State has considered the appeal in accordance with Regulation 14 (1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 ('The EIA Regulations'). The development falls within the description at 10 (b) of Schedule 2 of the Regulations. In the opinion of the Secretary of State, having considered the criteria in Schedule 3 to the above Regulations, the proposal would not be likely to have significant effect on the environment. Accordingly, the development is not Environmental Impact Assessment development.
4. The emerging South Tyneside Local Plan (STLP) has been submitted for examination in March 2025, and is at a fairly advanced stage. However, the weight to be given to the policies is dependent upon the extent to which there are unresolved objections, and the degree of consistency with the National Planning Policy Framework (the Framework).
5. A planning obligation was submitted with the appeal, and executed and signed on 30 July 2025. I have had regard to this below.

Main Issues

6. The site is in the Green Belt. Therefore, the main issues are:
 - a) Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies.
 - b) The effect of the proposal on water quality.
 - c) Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Site and proposal

7. Located to the east of Mill Lane, the site is a former public house, incorporating a beer garden to the south and car park to the north, along with a paddock to the east. The site is bounded to the east by horse grazing paddocks and Whitburn Coastal Park (including pedestrian / bridleway access), which also runs along the northern boundary. The site entrance currently includes 2 historic gate posts and plaques that formed part of the former entrance to Whitburn Colliery. The gateposts are listed in the Whitburn Neighbourhood Plan (September 2022) (WNP) as non-designated heritage assets based on the historic association with the former mine.
8. Most of the site is previously developed land, and in a derelict condition. The pub caught fire in January 2023 and significant damage was caused. The proposal is for 32 dwellings including a range of 2, 3 and 4 bedroom properties, of which 8 dwellings would be affordable housing, comprising 2 First Homes, 3 Discounted Market Sale (sold at 70% of market value in perpetuity) and 3 Affordable Rent. The development would front onto Mill Lane, with properties slightly set back from the main highway. Further properties would be located perpendicular to Mill Lane.

Green Belt

9. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Development in the Green Belt is inappropriate unless certain exceptions are met. There would be no harm to the purposes of the Green Belt.
10. The development would introduce 32 dwellings into an existing open area of land, which whilst hard surfaced for car parking is largely devoid of any large amounts of built development (aside from the fire damaged public house). Spatially, the footprint of the dwellings, road infrastructure and overall development would be substantial. The development would also be visible from several public viewpoints and the composition of dwellings across the site, overall mass and height would be visible from public vantage points. Thus, whilst the site is previously developed, the proposal would cause substantial harm to the openness of the Green Belt. There are no exceptions in Framework paragraph 154 that would apply.
11. However, Framework paragraph 155 sets out that the development of homes, commercial and other development in the Green Belt should not be regarded as inappropriate where certain criteria apply. Both the Council and appellant consider that the development would utilise grey belt land and would not fundamentally

undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. I agree.

12. Owing to a severe shortage of housing in the area¹, there is a demonstrable unmet need for the type of development proposed, and both the Council and appellant agree that the development would be in a sustainable location. I also agree.
13. As the site is major development involving the provision of housing, contributions in Framework paragraph 156, the 'Golden Rules', are also necessary to meet the criteria in Framework paragraph 155. Whilst rules b) and c) would be met, the proposal would include affordable housing at a policy compliant contribution rate of 25%.
14. The Council's development plan policies relating to affordable housing do not accord with paragraphs 67-68 of the Framework and thus paragraph 157 states that to satisfy the 'Golden Rules', affordable housing contribution should be 15% above the highest existing affordable housing requirement which would otherwise apply to the development, subject to a cap of 50%. The proposed development would therefore need to provide 40% affordable units to satisfy the 'Golden Rules'. No viability information is before me to consider if 40% would be unviable, and thus the proposal would not accord with all the 'Golden Rules'.
15. Consequently, the proposal would be inappropriate development in the Green Belt. This would conflict with Policy EA1 of the South Tyneside Core Strategy (CS) (June 2007), which seeks to protect and enhance the openness of the Green Belt. There would also be conflict with the Framework.

Water quality

16. As with all new residential proposals, the development would result in foul drainage discharges into the sewerage system. However, these would be around 14.7 cubic metres per day, a fraction of the amount that sewage works process. Statutory consultation responses to the planning application from the relevant bodies concerned with water quality and land use, being the Council's Lead Local Flood Authority (LLFA) and Northumbrian Water (NW) raised no objections to the proposal.
17. Indeed, the Council's LLFA detailed that the proposed sustainable drainage systems (SuDS) and discharge control overall would provide a certainty as to what is entering the combined sewer and would ensure improvements locally, when compared with the existing situation at the site. This would provide a betterment to the network, protecting the local capacity as discharge rates would be controlled and no longer affected by local rainfall. There would also be water quality improvements prior to any surface water leaving the proposal and protection from flooding to the development and communities downstream.
18. The LLFA advised that with a maximum discharge of 3.2 l/s surface water plus 1.4 l/s foul water (totalling 4.6 l/s), there is a reduction when considered against both the LLFA and the appellant's estimates of discharge from the site. The LLFA estimated the proposal would provide a betterment of up to 15%, including foul flows from the proposal. This betterment only increases with heavier rainfall.

¹ The Council's housing delivery test result is at 60%, and the Council's most recent five-year housing land supply position (published in the Strategic Housing Land Availability Assessment (February 2023)) (SHLAA) concluded that the Council could only demonstrate a 3.2-year housing land supply.

19. NW suggested planning conditions, and were content that the existing sewerage network has the capacity to provide foul treatment for 32 new dwellings. They also confirmed that the proposed restriction of surface water runoff at 3.2l/s (no matter the rainfall event) provides betterment on site and will have no detrimental impact upon the existing capacity of the combined sewer network, even with the inclusion of foul flows. They also detail that the redevelopment of this site would see a reduction in the volume of flows entering the existing public sewerage system, therefore having a positive impact on matters of concern relating to drainage, both surface and foul. The proposal falls outside of the Environment Agency's statutory consultation remit and it provided no comments.
20. The Council's assertions that there would be increased discharges from the development in the moderate 5mm per hour rainfall event are incorrect, because surface water discharge would never be greater than 3.2 l/s regardless of rainfall intensity, and this is enforced by way of a condition. In any event, the difference between the asserted 4 l/s and the existing 3.77 l/s is nominal and it does not account for any existing discharge from the car park. Moreover, this 'increase' would occur only during moderate 5mm per hour rainfall event, and even if the Council were correct, it would have a negligible effect overall.
21. Therefore, on the basis of the evidence before me, and the consultation responses from statutory consultees, the development would be an acceptable use of the land and the effect of the proposal on water quality arising from the site would be acceptable. Indeed, the SuDs measures provided show a betterment, thereby contributing to, and enhancing, the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution.
22. I have seen and had regard to the vast amount of evidence submitted by the Council and objectors. I also recognise that the regulator for waste water, Ofwat, has issued a notice² (following its draft notice) that describes the findings from their investigation in relation to NW's failings and how these have occurred. However, the failings relate to the management, operation, maintenance and performance of its wastewater treatment works (WWTW) and the collecting systems (sewer networks) that flow to them including WWTWs near to the site. This does not relate to the land use of development proposed.
23. Additionally, the Ofwat notice recognises that NW has acknowledged its failings and that it has provided formal undertakings that will see it investing money to minimise spills beyond compliance and improve the natural environment in its operating area. Ofwat concludes that they are satisfied that in implementing these undertakings, NW will be taking all the steps to bring itself into compliance. I also note the whilst the Office for Environmental Protection (OEP) has concluded that there have been failures to comply with environmental law by Ofwat following an investigation into the regulation of network combined sewer overflows (CSOs), Ofwat are also putting measures in place to deal with this.
24. It is clear in the Framework that the focus of planning decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions. Planning decisions should assume that these regimes will operate effectively. Indeed, the response from Ofwat to the Council prior to the issuing of the final notice set out that "*At this stage we would encourage*

² Notice of Ofwat's decision to accept section 19 undertakings from Northumbrian Water (June 2025)

the Council to engage directly with Northumbrian Water with regards to any site specific concerns to understand any relevant constraints or solutions they are developing to ensure they meet their own legal obligations regarding sewerage services. This may help to inform your decision making process in terms of available capacity for the developments applied for and that might relate to the suitability of any section 106 agreement conditions you were considering.”

25. Although the Council considers that it cannot be assumed that the pollution control regime governing the handling of wastewater is operating effectively, this is a separate regime governed by separate legislation to bring in line failings of NW (and Ofwat). Based on the Ofwat notice, NW are implementing the necessary regimes to ensure pollution controls are operating effectively and outside the realms of planning decisions.
26. Notwithstanding this, even if Ofwat were not implementing the necessary regimes, this is still a separate regime and not subject to the focus of planning decisions, which are concerned with land use. If the Council's approach is correct, all housing development that would be served by NW would be unacceptable. This simply cannot be the case, especially when considering the severe housing shortage in the area. Furthermore, the investigation by OEP demonstrates that there are measures in place for when the separate regime may have its own failings.
27. Therefore, there would be no conflict with Policies WNP1, WNP5 and WNP12 of the WNP, Policies EA3 and EA5 of the CS, and Policy DM7 of the South Tyneside Development Management Policies (December 2011), which together seek to ensure that development reduces levels of pollution, sewage and drainage infrastructure is either available or can be provided, and is carefully considered in new developments, along with protection and enhancement of the important environmental assets of the borough, optimising conditions for wildlife and tackle habitat fragmentation.
28. There would also be no conflict with Policies 1, 3, 11, 21 and 34 of the emerging STLP, which together seek sustainable development that would promote healthy communities, prevent or reduce pollutants and hazards detrimental to public health, protecting surface and groundwater bodies, and conserving or enhancing the natural environment. There would also be no conflict with Paragraph 187 of the NPPF, which seeks to prevent new development from contributing to unacceptable levels of pollution.

Other considerations

Housing need

29. There is, and has been, a consistent shortage of housing in the area, currently at 3.2 years supply. There is also a shortage of affordable homes. Whilst the emerging local plan is aimed at remedying issue, this site is proposed to be allocated for housing and removed from the Green Belt. Indeed, the allocation has been forthcoming for some time, being identified in the SHLAA 2023. This reports the redevelopment of the site as suitable for residential development and recorded as a developable site for approximately 30 dwellings within the next 6-10 years, forming an important part of the housing requirement for the Whitburn area. The proposal would make an important contribution to both the delivery of market and affordable homes, delivering 25% affordable on site in a range of affordable housing types.

30. Additionally, this site is previously developed, is of a derelict nature and the former public house is a public safety risk. It is also an eyesore to the local area, and in this prominent location, is noticeable. The proposal would regenerate the site at a gateway into Whitburn and would significantly improve the area.
31. The proposal would be delivered at pace, with the appellant offering to reduce the time limit for commencement to 2 years [condition 1]. This follows the Framework's acknowledgement that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly.
32. The overall benefits of quickly delivering much needed housing on this brownfield derelict site, which is identified for housing in the emerging local plan, are of very substantial weight.

Environmental benefits

33. There would also be environmental improvements, such as overall betterments in the current drainage flow rate from the site. Biodiversity net gain (BNG) is also secured via on-site and off-site enhancements, through the Section 106 Agreement. There would also be on site public open space, and the benefits are of moderate weight.

Economic benefits

34. The development would create construction jobs, which have acknowledged economic benefits, future supply chain jobs and contracts. The Government is committed to securing economic growth to create jobs and confirms that significant weight should be placed on the need to support economic growth through the planning system. Given most economic benefits would take place during construction, I afford this moderate weight in favour. There would also be benefits to the economy through increased local spending and services and this is of limited weight.

Other Matters

Local residents

35. Objections from residents cover a variety of topics. However, based on the substantive evidence before me, the proposal would have an acceptable effect upon the highway network, causing no severe residual cumulative effect or any highway safety concerns. The effect of the proposal on the character and appearance of the area would be positive, incorporating high quality landscaping and open space and a mixture of well designed dwellings. There are no ecological concerns arising, subject to suitable planning conditions. Contaminated land concerns would also be dealt with by planning conditions to ensure that the site is remediated and safe. Existing and proposed living conditions would be acceptable.
36. The proposal would relocate and retain the locally listed mining gate posts and associated commemorative plaques of the former entrance to Whitworth Colliery, enabling the gate posts to remain as a visible reminder of the past use of the site. As such, there would be no harm to the non-designated heritage assets. The existing building on site is not locally listed, and whilst its loss may be felt by many in the community, there are no compelling reasons for its retention.

Habitats Regulations Assessment & Appropriate Assessment

37. The site is located within the 6km buffer zone of the Durham Coast Special Area of Conservation (SAC) and the Northumbria Coast Special Protection Area (SPA). These areas are also part of the Northumbria Coast Ramsar Site and are notified at national level as the Durham Coast Site of Special Scientific Interest (SSSI). European designated sites are afforded protection under the Conservation of Habitat and Species Regulations 2010.
38. The qualifying features of the Durham Coast SAC are the Annex I Habitat of vegetated sea cliffs of the Atlantic and Baltic coasts, with the conservation objectives being to ensure the integrity of the site is maintained or restored, to ensure favourable conservation status of the qualifying features. The qualifying features of the Northumbria Coast SPA are use by Little Tern, Purple Sandpiper and Ruddy Turnstone. The site also supports nationally important populations of Sanderling, Ringed Plover, Redshank, Arctic Tern and Golden Plover, with conservation objectives being to ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive.
39. The Northumbria Coast Ramsar site comprises several discrete sections of rocky foreshore between Spittal, in the north of Northumberland, and an area just south of Blackhall Rocks in County Durham. These stretches of coast regularly support nationally important numbers of Purple Sandpiper and high concentrations of Turnstone. The Ramsar site also includes an area of sandy beach at Low Newton, which supports a nationally important breeding colony of Little Tern, and parts of 3 artificial pier structures which form important roost sites for Purple Sandpiper. The site consists mainly of areas of rocky shore with associated boulder and cobble beaches. These support a rich algal flora and associated fauna and form an important feeding area for wading birds. The areas of sandy beach within the site support a flora which includes marram and sea sandwort.
40. The proposal alone would not result in any Likely Significant Effects (LSE). However, in combination LSE through disturbance, in particular arising from the presence of people and dogs, through increased recreational activity would affect the protected sites. Disturbance arises from a range of recreational activities, such as walking, dog-walking, rockpooling and sea angling. Disturbance reduces foraging time and increases energy expenditure because birds have to spend more time engaging in vigilance and escape activities. Reduced food intake combined with increased energy expenditure decreases fitness, which in turn increases mortality at the wintering grounds or on migration, or results in birds arriving at their breeding grounds in poorer condition, reducing their productivity. Disturbance effects on the Durham Coast SAC could lead to the trampling of vegetation. Trampling can lead to physical damage to plants – reducing their ability to flower, soil compaction and nutrient loss which can affect the soils ability to support the species richness of the area. Furthermore, nutrient enrichment caused by dog fouling can also affect the natural fauna of the area by changing the mineral content of naturally low nutrient rich soils and can promote the introduction of invasive species.
41. However, the effects can be avoided by implementation of the South Tyneside Council's Mitigation Strategy for European Sites. This sets out the Council's strategic approach to mitigating effects due to development pressure arising from

residential developments within 6 kilometres of the site. In line with that strategy, the appellant proposes a financial contribution of £403.00 per dwelling to fund coastal access management and monitoring measures. The contribution would be secured via the planning obligation.

42. The proposed mitigation would be necessary and ensures that the proposal would not have an adverse effect on the integrity of the Durham Coast SAC and the Northumbria Coast SPA & Ramsar Site/SSSI.

Green Belt Balance

43. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight is given to the harm to the Green Belt by reason of the proposal being inappropriate development and the impact upon openness of the Green Belt.
44. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
45. Having considered all matters raised in support of the proposal, being the quick delivery of much needed housing on a brownfield derelict site, which is identified for housing in the emerging local plan, drainage betterments and economic benefits; they would collectively clearly outweigh the totality of Green Belt harm so as to amount to the very special circumstances required to justify the proposal. Therefore, very special circumstances exist and the proposal is compliant with the development plan and the Framework.

Planning obligation

46. As detailed above, the obligation provides for affordable housing, BNG and coastal access management and monitoring measures. Based on the evidence before me, all the obligations would be necessary to make the development acceptable; directly related to the development; and fairly and reasonably related in scale and kind to the development. This would be compliant with the tests in the Framework and the CIL Regulations.
47. Additional infrastructure, such as contributions towards doctors' and dentists' surgeries was raised by interested parties. However, there is no evidence before me that seeking obligations would comply with the Framework and CIL tests. Additionally, the Local Education Authority did not require any contributions towards secondary or primary education places.

Conditions

48. The drawings and ground levels are listed for certainty [conditions 2 and 26]. To ensure that the heritage assets are accurately recorded, a condition for building recording is necessary [condition 3]. To ensure the development does not harm habitats and encourages biodiversity, a species method statement, pre-commencement badger survey, amphibian friendly kerb and gully pot details are necessary [conditions 4 and 18]. To protect existing living conditions during construction and demolition, a Demolition/Construction Method Statement and a restriction on the hours of construction and deliveries is necessary [conditions 5 and 25]. To ensure that risks from land contamination to the future users of the land are minimised, conditions relating to further investigation, risk assessment,

remediation, verification and unexpected contamination are necessary [conditions 6, 7 and 28]. To ensure that the discharge of surface and foul water from the site does not increase the risk of flooding, a condition for drainage details is necessary along with a verification report [conditions 8 and 14].

49. Conditions 2-8 are pre-commencement conditions as it is fundamental to have these details agreed before development commences on site. Agreement of the appellant has been obtained.
50. Materials are required to be submitted, boundary treatments, along with details of solar panels, hard and soft landscaping and biodiversity enhancements, provision of a stone wall to Mill Lane, external lighting and bin storage to ensure a satisfactory external appearance and suitable biodiversity impact [conditions 9, 10, 15, 16, 19, 21 and 27]. Off site highway works, the provision of internal vehicle and pedestrian access and car parking spaces are necessary for the safety of all highway users [conditions 11, 12 and 13]. To ensure that BNG is delivered on site and effectively managed, a Habitat and Landscape Management plan is necessary [condition 17].
51. Implementation of noise mitigation at certain dwellings is necessary to ensure suitable future living conditions [condition 20]. Cycle parking and the provision of a Travel Plan are necessary to encourage sustainable forms of transport [conditions 22 and 23]. To ensure that existing trees within and adjacent to the site, are adequately protected, the works shall be undertaken in accordance with the Arboricultural Impact Assessment, Arboricultural Method Statement and Tree Protection Plan [condition 24].
52. A condition for electric vehicle charging is unnecessary as this is required by Building Regulations for all new dwellings. A condition to remove permitted development rights for boundary treatments has not been imposed. Planning Practice Guidance advises that area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity, and I see no exceptional reason to impose the condition here.

Conclusion

53. For the reasons set out above, I conclude that the appeal should be allowed.

Katie McDonald

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The works of demolition, in accordance with the approved details, shall be carried out within a period of 12 months from the date of this permission. The local planning authority shall be notified in writing of the date of commencement at least 14 days, prior to the commencement of works of demolition. The re-development of the site to which this permission relates must be commenced not later than 2 years from the date of this permission.
- 2) The development shall be carried out in accordance with the approved plans:
 - 1016 -Plans - Newbury Drg. no PL-01 Rev A. received 30/01/2024
 - 1016 - Elevations - Newbury Drg. no PL-04 Rev A. received 30/01/2024
 - 1135 - Elevations - Ramsey Drg. no. PL-04 Rev A received 30/01/2024
 - 1135 - Plans - Ramsey Drg. no. PL-01 received 04/10/2023
 - 1223 - Elevations - Ravensworth Drg. no. PL-04 received 30/01/2024
 - 1223 - Plans - Ravensworth Drg. no. PL-01 received 04/10/2023
 - 764 - Elevations - Affordable Drg. no. PL-04 Rev A received 30/01/2024
 - 764- Plans - Affordable Drg. no. PL-01 received 04/10/2023
 - 932- Elevations- Affordable Drg. no. PL-04 Rev A received 30/01/2024
 - 932 - Plans - Affordable Drg. no. PL-01 received 04/10/2023
 - 936 - Elevations - Lansdowne Drg. no. PL-04 Rev A received 30/01/2024
 - 936 - Plans - Lansdowne Drg. no. PL-01 Rev A received 30/01/2024
 - 983 -Elevations - Milford Drg. no. 983D-04 Rev A received 30/01/2024
 - 983 - Plans - Milford Drg. no. PL-01 Rev A received 30/01/2024
 - Drg no. 29128-HYD-XX-XX-DR-C-2000 rev P04 - Proposed Levels Plan received 29/01/2024
 - Drg no. L1061-ONE-ZZ-XX-DR-L-0201 rev P08 - Landscape Plan received 30/01/2024
 - Drg no. 001 - Site Location Plan received 04/10/2023
 - Drg. no. 004 rev H - Proposed Boundary and Materials Plan received 26/01/2024
 - Drg no. 006 Rev C - Proposed Block Plan received 29/01/2024
 - Drg no. 009 - Proposed Boundary Detail received 21/12/2023
 - Drg no. 005 rev D - Proposed Parking Plan received 24/01/2024
 - Drg 003 rev L - Proposed Site Layout Plan received 24/01/2024
 - Drg no. 007 rev D - Proposed Street Scene -Site Sections received 04/01/2024
 - Drg no. 008 rev D - Rendered Site Plan received 24/01/2024
 - Drg. no. PL-01 - Single Garage Plan received 10/01/2024
 - Drg. no. 29128-HYD-XX-XX-DR-C-4001 rev P04 - Proposed Site Entrance Details received 29/01/2024
- 3) No groundworks or development shall commence until the developer has appointed an archaeologist to undertake the following:
 - a) Historic building recording (Historic England Level 2/3, Understanding Historic Buildings: A Guide to Good Recording Practice (2016)) of Hope House, in accordance with a specification to be provided by the Local Planning Authority.
 - b) Historic building recording (Historic England Level 1/2, Understanding Historic Buildings: A Guide to Good Recording Practice (2016)) of the gate

piers along with any other surviving extant features associated with the colliery, comprising a basic rectified photographic survey and a written description.

No dwelling shall be occupied until the Historic Building Recordings have been submitted to and approved in writing by the local planning authority.

- 4) No development shall commence (including, demolition, ground works, site clearance) until the following details have been submitted to and approved in writing by the local planning authority:
- a) A pre-commencement badger checking survey within 3 months prior to the commencement of development and a pre-works check immediately before works commence on site to be undertaken by a suitably qualified ecologist.
 - b) A precautionary method statement to address risk of harm to amphibians, hedgehogs and reptiles from demolition, site clearance and construction works. The method statement shall include:
 - i. Purpose and objectives of the method statements.
 - ii. Details to clarify that any excavations left open overnight will have a means of escape for mammals that may become trapped in the form of a ramp at least 300mm in width and angled no greater than 45°.
 - iii. Detailed design(s) and/or working method(s) necessary to achieve the stated objectives.
 - iv. Extent and location of relevant works shown on appropriate scale maps and plans.
 - v. Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction.
 - vi. Persons responsible for implementing the method statements and clearly stating when/if an Ecological Clerk of Works is required to oversee works.

The development shall be implemented in accordance with the approved details.

- 5) No development shall commence until a Demolition/Construction Method Statement (DCMS), together with a supporting plan, has been submitted to and approved in writing by the local planning authority. The approved DCMS shall be adhered to throughout the demolition and construction period. The DCMS and supporting plan shall, where applicable provide for:
- a) highway dilapidation / condition survey of the site frontage area of carriageway and cycleway/footway of Mill Lane (with a highway representative present at survey);
 - b) details of temporary traffic management measures, temporary boundary treatments, vehicular/pedestrian gates, visibility splays, temporary access routes and vehicles;
 - c) vehicle cleaning facilities and/or measures to ensure that the public highway is cleansed of debris from the construction vehicles;
 - d) the parking of vehicles of site operatives and visitors;
 - e) the loading and unloading of plant and materials, including turning area facilities (or one-way routing);
 - f) storage of plant and materials used in constructing the development;
 - g) details of temporary south-bound bus stop arrangements on Mill Lane for the duration of the construction phase of the development;
 - h) temporary measures to be put in place to safeguard the permissive right of way or alternative route between Mill Lane and the recreational land to the

- east of the development site, including associated temporary signage, to replace the existing route lost during construction;
 - i) Construction phasing arrangements;
 - j) Dust mitigation measures; and
 - k) Assessment of any potential risk of noise and air quality impacting on the existing residential receptors in proximity of the application site, including but not limited to, restricting times that noisy works can take place and a complaint management protocol.
- 6) No development shall commence until further investigations and an assessment of the risks posed by any contamination have been submitted to and approved in writing by the local planning authority. The investigations and assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency - Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
- a) a survey of the extent, scale and nature of contamination;
 - b) the potential risks to:
 - i. human health;
 - ii. property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - iii. adjoining land;
 - iv. ground waters and surface waters;
 - v. ecological systems; and
 - vi. archaeological sites and ancient monuments.
 - c) an appraisal of remedial options, and proposal of the preferred option(s).
- 7) No development shall commence where (following the investigations and risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion, the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out, and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority, before the development is occupied.
- 8) No development shall commence until a detailed drainage scheme for the disposal of foul and surface water from the development has been submitted to and approved in writing by the local planning authority. The drainage scheme shall be in accordance with the submitted documents entitled 29128-HYD-XX-XX-RP-C-001 FRA and Drainage P05, received 30/01/2024, Drg. No. 29128-HYD-XX-XX-DR-C-2000 Rev P04, received 29/01/24 and include tanked permeable

paving to all parking bays, offline detention basin and downstream defender. The drainage scheme shall ensure that foul flows discharge to the existing NWL 300mm combined sewer on Mill Lane via manhole 6402 and ensure that surface water discharges to the existing NWL combined sewer on Mill Lane via manhole 6402. The surface water discharge rate shall not exceed a flow rate of 3.2l/sec that has been identified in Proposed Drainage Layout Drg. No. 29128-HYD-XX-XX-DR-C-1000 Rev P06 received 30/01/2024.

The drainage scheme shall include a detailed development layout, civil engineering details (including details of the SuDS features including permeable paving and offline detention basin - long and cross sections), maintenance requirements, maintenance programme and maintenance responsibilities for all SuDS features, detailed drainage drawings and hydraulic calculations highlighting how exceedance flows are to be managed. The development shall be constructed in accordance with the approved details.

- 9) Notwithstanding the indicative information included within Drg. no. 004 rev H - Proposed Boundary and Materials Plan received 26/01/2024, prior to commencement of development above damp course level, full details (including samples, drawings and / or specifications) of the proposed external facing and roofing materials of the dwellings hereby approved, and hard surface treatments shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.
- 10) Notwithstanding the details submitted, and prior to development above damp course level, full details for all boundary treatments and means of enclosure shall be submitted to and approved in writing by the local planning authority. This shall include details for an acoustic barrier (solid, continuous to the ground and have a density of 10kg/m² or greater), as detailed within Noise Assessment report ref: P6276-R1-V3 received 21/12/2023. The details shall include gaps with dimensions of 13cm x 13cm in fences between gardens and landscaped areas [if not an acoustic barrier] to allow hedgehog movement and foraging. No dwelling shall be occupied until the means of enclosure in respect of that dwelling have been provided in accordance with the approved details.
- 11) Notwithstanding the details submitted, no dwelling shall be occupied until amended and complete specification details in respect of the following off-site highway works and a timetable for implementation of these works in relation to construction/occupation of the development has been submitted to and approved in writing by the local planning authority:
 - a) Construction of new estate road access/junction with Mill Lane, together with associated works;
 - b) Closure of existing redundant vehicular accesses and reinstatement of kerb lines, footway/cycleway construction, verge areas, boundary treatments, lining, together with associated works;
 - c) Relocation of south-bound bus stop on Mill Lane, including provision of new shelter, level access kerbing, retaining structures and associated works, together with removal of existing redundant bus stop, shelter, road markings and reinstatement of carriageway surfacing;
 - d) Provision of inclusive mobility compliant pedestrian dropped kerbs on Mill Lane (east and west sides of road, the location to be agreed with the Local Planning Authority), together with associated works.

The off-site highway works shall be undertaken in full accordance with the specification and timetable details approved by the local planning authority.

- 12) No dwelling shall be occupied until vehicle and pedestrian access from Mill Lane to that dwelling has been constructed up to binder course level, with gullies set level with the temporary running surface, and in accordance with the site layout shown on the approved plans. Such access provision shall include the footpath/cycleway connection to Mill Lane in the south-west corner of the site. Thereafter the vehicle and pedestrian access routes shall remain in place at all times and shall be fully surfaced in accordance with details which shall include timescales/arrangements, to be submitted to and approved in writing by the local planning authority.
- 13) No dwelling shall be occupied until car parking spaces have been provided for that dwelling and all visitor car parking on any access roads from Mill Lane to that dwelling, in accordance with the approved plans. Thereafter all such car parking shall remain in place and always be available for such use.
- 14) No dwelling shall not be occupied until a verification report evidencing the completion of the approved sustainable drainage system has been submitted to and approved in writing by the local planning authority. This shall include tanked permeable paving, offline detention basin and downstream defender. The report shall include methodology of installation, evidence of depths and dimensions and supporting images from installation.
- 15) No dwelling shall be occupied until full details (including samples, drawings and / or specifications) of the photovoltaic panels to serve the development, together with a phasing plan to secure their completion, have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.
- 16) No dwelling shall be occupied until full details of hard and soft landscaping and on-site biodiversity enhancement measures, have been submitted to and approved in writing by the local planning authority. These details shall include:
 - a) Planting plans including the type, height, species, densities and location of any new trees, hedges and shrubs as well as any proposed seeding or turfing, topsoil depths, planting specification, boundary enclosure and details of establishment of planting.
 - b) Details for a minimum of 7no. integrated roosting features for birds (on elevations facing north, north east) and 7 no. integrated bat boxes on south west elevations.
 - c) Timing details regarding implementation thereof.The submitted details shall accord with Drg. no. L1061-ONE-ZZ-XX-DR-L-0201 rev P08 - Landscape Plan received 30/01/2024, Biodiversity Net Gain Assessment Ref: 6939 rev 05 received 30/01/2024, and BNG Metric 4.0 V5 received 30/01/2024. The development shall be implemented in accordance with the approved details.
- 17) No dwelling shall be occupied until a Habitat and Landscaping Management and Monitoring Plan has been submitted to and approved in writing by the local planning authority. The contents shall accord with the requirements of

BS8683:2021 - process for designing and implementing Biodiversity Net Gain - Specifications' including details of, but not restricted to, the following:

- a) the project's biodiversity baseline assessment against which BNG outcomes are assessed and monitored;
- b) a map showing post development habitats (with appropriate BNG wording);
- c) the project's BNG targets;
- d) the number of years to achieve and then maintain the BNG targets which shall comprise a continuous period of at least 30 years from first occupation of the development;
- e) a programme detailing the long-term phases of the management and monitoring activities;
- f) a monitoring plan to inform decisions about management, whether assessing progress towards the BNG targets is on track and whether changes to management are required to achieve the targets;
- g) the roles, responsibilities and required competencies of those involved with implementing and monitoring the BNG design during the implementation and post-implementation stages;
- h) provision for any approved landscaping that is removed, dies or becomes seriously diseased within the agreed timescales for achieving and maintaining the BNG targets to be replaced in the next planting season with landscaping of similar size and species to that which it replaces.

Thereafter the Habitat and Landscaping Management & Monitoring Plan shall be implemented as approved and in accordance with the approved timetables.

- 18) No dwelling shall be occupied until an amphibian friendly kerb and gully pot design, and a timetable for implementation of these works, has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.
- 19) No dwelling shall be occupied until full details (including samples, drawings and/or specifications) of proposed external lighting to serve the development, including a phasing plan, have been submitted to and approved in writing by the local planning authority. All external lighting shall be installed and thereafter retained in accordance with the approved details.
- 20) No dwelling shall be occupied until acoustic attenuation to that dwelling has been provided in full accordance with the details contained within the Noise Assessment Report Ref P6276-R1-V3 received 21/12/2023 and the addendum Acoustic Requirements received 24/01/2024. Thereafter those noise mitigation measures shall remain in place at all times.
- 21) No dwelling shall be occupied until infrastructure in respect of refuse storage and collection for that dwelling have been provided in full accordance with the approved plans.
- 22) No dwelling which does not have an in-curtilage garage shall be occupied unless covered and secure cycle parking in respect of that dwelling has been provided, in accordance with details which shall first have been submitted to and approved in writing by the local planning authority. Thereafter, the cycle parking shall be retained in accordance with the approved details and shall be always kept available for the parking of cycles.

- 23) A Full Travel Plan shall be submitted to and approved in writing by the local planning authority within 6 months of the first occupation of the development. At all times thereafter the approved Full Travel Plan shall be implemented in accordance with the approved details and remain in place until the last unit on the site is occupied. The full travel plan must include:
- a) details of and results from an initial survey of resident travel patterns;
 - b) clearly specified ongoing targets for travel mode shares;
 - c) a plan for monitoring and reviewing the effectiveness of the Full Travel Plan; including the provision of a biennial monitoring report to be submitted to the local planning authority regarding the implementation of the Full Travel Plan and the provision of additional travel plan measures if targets for travel mode share are not being met.
- 24) All works (including demolition) shall be undertaken in accordance with the tree protection measures, as detailed in the Arboricultural Impact Assessment, Arboricultural Method Statement and Tree Protection Plan received 04/10/2023 (and in accordance with BS5387 'Trees in Relation to design, demolition and construction' 2012, and NJUG guidelines). Works, including the excavation, removal or deposit of earth or other materials shall not be carried out within the identified Construction Exclusion Zones (CEZ's), as identified within the Tree Protection Plan - Drg no. ARB/AE/2799/TpP received 04/10/2023.
- 25) All construction or associated works or deliveries of materials shall take place between the hours of 0800-1800 Monday to Friday and 0800-1300 on Saturdays and not on Sundays and/or Public/Bank Holidays.
- 26) The finished ground floor level of the dwellings hereby permitted shall be carried out in accordance with the details included on Drg. no. 29128-HYDXX-XX-DR-C-2000 rev P04 received 29/01/2024.
- 27) The 1.8m high stone wall to Mill Lane as detailed on Drg. no. 004 rev H - Proposed Boundary and Materials Plan received 26/01/2024, shall be constructed, where possible, using stone from the existing stone boundary wall to Mill Lane (to be salvaged and retained following demolition and site clearance works) and where necessary, the use of new materials (type, colour, texture) shall closely match those of the existing stone boundary wall.
- 28) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

*****END OF CONDITIONS*****



Costs Decision

Site visit made on 22 July 2025

by **Katie McDonald MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13th August 2025

Costs application in relation to Appeal Ref: APP/A4520/W/25/3365110 Former Whitburn Lodge Public House, Mill Lane, Whitburn SR6 7BF

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Phil Jones (Lovell) for a full award of costs against South Tyneside Council.
 - The appeal was against the refusal of planning permission for the demolition of existing Whitburn Lodge Public House, vacant structures and associated car park and erection of up to 32 dwellings including vehicular access from Mill Lane, associated infrastructure and landscaping.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. A Local Planning Authority (LPA) is at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. The applicant submits that the LPA have acted unreasonably by:
 - a) Preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
 - b) A failure to produce evidence to substantiate each reason for refusal on appeal.
 - c) Vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The Written Ministerial Statement¹ details that "*The overturning of a recommendation made by a professional and specialist officer should be rare and infrequent – such that I have reminded the inspectorate that where it cannot find reasonable grounds for the committee having overturned the officer's recommendation, it should consider awarding costs to the appellant*".
5. The LPA's refusal relies on the proposal having an unacceptable effect on water quality from the waste water discharges from the site. This is because nearby waste water treatment works, under the operation of Northumbrian Water (NW),

¹ Dated 19 December 2023

- have been subject to investigation by Ofwat for unauthorised spilling of raw sewage. Ofwat have also been under investigation from the Office for Environmental Protection (OEP) for their failing to exercise its duty under environmental law to make enforcement orders.
6. For this reason, the LPA did not consider that the pollution control regime governing the handling of wastewater was operating effectively, as detailed by paragraph 201 of the National Planning Policy Framework (the Framework).
 7. The Council's approach is fundamentally at odds with what the Framework is seeking to achieve. Paragraph 201 is there to ensure that developments such as this do not get unduly delayed by matters outside the control of the developer, and by matters unrelated to the land use proposed.
 8. Moreover, the regulator has been investigating NW to ensure that the pollution control regimes are operating effectively. Ofwat has also been investigated, with the OEP acknowledging the draft enforcement orders proposed by Ofwat and awaits the outcome of its consultation process and ongoing investigations. This is exactly why paragraph 201 details that the focus of planning decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions.
 9. There were markedly no objections to the proposal from any technical or statutory consultees in relation to drainage matters, such as the Lead Local Flood Authority or NW. NW clearly expressed there is capacity in the system to accommodate the proposal.
 10. The Council's statement poorly defends the decision, quoting lengthily from the reports about investigations of NW, and not dealing with the land use proposed. Whilst there is an attempt to quantify an increase in discharges from the site as harmful, this is incorrect, and of no real material impact. Thus, there is a failure to produce evidence to substantiate the reason for refusal, and there are vague, generalised or inaccurate assertions about the proposal's impact in land use terms.
 11. Additionally, the delays placed upon the applicant were quite frankly, ludicrous. The application was resolved to be approved in May 2024 subject to the signing of a planning obligation. Once the planning obligation was signed, permission should have been issued. However, the Council kept the application in abeyance for 7 months while they were considering the implications of the Ofwat report, and awaiting the final version. After the Council were advised that a timescale could not be provided by Ofwat, the application was then sent back to Planning Committee with another recommendation to approve, but was subsequently refused for the matters discussed above. Whilst the Council may have been waiting for the final Ofwat report, the recommendation did not change, and this means that the delay was wholly unnecessary.
 12. Additionally, the fact that the officer recommendation was consistently to approve, stating that there were very special circumstances for the development in the Green Belt, the decision taken by the Committee to refuse for this very specific reason, unrelated to the acceptable use of land, is completely unreasonable. The Council has prevented and delayed development which should clearly be permitted, which is particularly concerning considering its shortage of market and affordable housing, and the draft allocation of this site for development.

13. Consequently, for the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is justified.

Katie McDonald

INSPECTOR

COSTS ORDER

In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that South Tyneside Council shall pay to Mr Phil Jones (Lovell), the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to South Tyneside Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.