



## Appeal Decision

Inquiry opened on 13 June 2017

Site visit made on 20 June 2017

by **Kenneth Stone BSc Hons DipTP MRTPI**

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

**Decision date: 20 September 2017**

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**Appeal Ref: APP/P2935/W/16/3164573**

**Land to the North of St Michael's Avenue, New Hartley, Northumberland NE25 0SB**

- 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 Barratt David Wilson North East against the decision of Northumberland County Council.
  - The application Ref 15/01182/FUL, dated 17 April 2015, was refused by notice dated 8 June 2016.
  - The development proposed is 285 residential dwellings with associated infrastructure and landscaping.
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### Decision

1. The appeal is allowed and planning permission is granted for 285 residential dwellings with associated infrastructure and landscaping at Land to the North of St Michael's Avenue, New Hartley, Northumberland, NE25 0SB in accordance with the terms of the application, Ref 15/01182/FUL, dated 17 April 2015, subject to the conditions contained in the schedule at the end of this decision.

### Application for costs

2. At the Inquiry an application for a full award of costs was made by Barratt David Wilson North East against Northumberland County Council and a second application was made for a partial award of costs by Northumberland County Council against Barratt David Wilson North East. These applications are the subject of separate Decisions.

### Preliminary matters

3. The Inquiry sat for 6 days on 13-16 and 20-21 June 2017. The site is readily visible from roads and public footpaths and I carried out an unaccompanied visit to the site and surroundings before the Inquiry and a further visit, during the Inquiry, on the 20 June 2017. At the start of my visit on 20 June 2017 I visited two adjoining properties: Meadow View, Mountford Road and Seaton Red House Farm, at the request of the occupants, and was accompanied by representatives of the main parties for that part of the visit, the remainder of the visit was unaccompanied.
  4. The application was originally submitted as a full application for 286 residential dwellings but was amended during the Local Planning Authority's consideration
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of the proposals, including alterations to the access arrangement onto St Michael's Avenue from a mini roundabout to a priority junction. As the Council determined the proposals on the basis of the amended scheme that has formed the basis of my decision. Amended plans were then provided during the appeal process. These primarily related to altered house types to update the design of the dwellings to reflect the appellant's latest house types. At the start of the Inquiry the Council and Seaton Valley Community Council and New Hartley Residents Group (SVNH) confirmed that they had no objection to the amended plans being considered. As these plans had been notified to interested parties, did not change the description of development and were only changes to the detailed design of properties, the amendments do not significantly alter the nature of the proposals. They are minor changes that are not fundamental to the scheme. The changes do not prejudice other parties and would be unlikely to change their views of the development, which remains similar in scale and kind. I am satisfied that this would not lead to any prejudice to any party and are therefore in keeping with the Wheatcroft<sup>1</sup> principles and I have therefore considered the appeal on the basis of the scheme determined by the Council as revised by these amended plans.

5. Towards the end of the Inquiry I was provided with a signed and executed legal agreement under section 106 of the Town and Country Planning Act. The agreement provides for 43 dwellings to be provided as affordable units and for a financial contribution towards highway works. I return to these matters and the section 106 agreement further below.
6. Following the formal close of the Inquiry I received further correspondence from the Council, PID 1, which confirmed that the Council had withdrawn its emerging Core Strategy and that this no longer is a material consideration. The letter also clarified this included the withdrawal of its evidence base<sup>2</sup>. Following an exchange of correspondence to clarify certain matters the appellant and SVNH were given an opportunity to comment on the matters raised. This has significant implications for the decision making process, the policy framework within which to consider the proposals and whether the Council can demonstrate a five year housing land supply. I address these matters at the start of my reasoning to set the proper context for the decision.

## **Main Issues**

7. The main issues are:

- whether the Council can demonstrate a five year supply of housing land;
- the effect of the proposed development on the character of New Hartley and the surrounding area, including the Seaton Delaval Conservation Area and the Hester Pit Memorial Garden;
- whether the occupants of the development would have reasonable access to employment, shops and services;
- the effect of the proposed development on highway safety; and
- whether the proposed houses would be safe from flooding or the development would lead to an increased flood risk elsewhere.

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<sup>1</sup> Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

<sup>2</sup> Main paragraph 4 page 2 of PID1.

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## Reasons

### *Policy and Background*

8. The statutory development plan for the area includes the saved policies of the Blyth Valley District Local Plan 1999 (BVDLP), the Blyth Valley Core Strategy 2007 (BVCS) and the Blyth Valley Development Control Policies DPD 2007 (BVDCP). The BVCS and BVDCP were to form part of a wider local development framework suite of planning documents which would replace the BVDLP. However, following local government re-organisation in 2009 the two tier local government structure in the area was abolished and Northumberland County Council (NCC) became a single unitary authority for the county.
  9. The Northumberland Local Plan (Core Strategy) (NLPCS) was an emerging plan in preparation by NCC that had been submitted for examination. This plan and its supporting evidence base has now, however, been withdrawn and the parties agree it is not therefore material to my determination of this appeal.
  10. The BVDLP 1999 sets out policies and proposals relating to land use up to the year 2006, its content was based on the overall settlement strategy laid down in the Northumberland County Structure Plan 1996. The BVCS, which was adopted in 2007, sets out the overall vision and spatial strategy for the area up to 2021. The BVCS had regard to the Northumberland County and National Park Joint Structure Plan (2005) and, at that time, the emerging Regional Spatial Strategy to identify its housing requirement. The housing requirements and settlement strategies to secure delivery to meet those requirements were based on figures which are now historic, do not reflect a present objectively assessed need for the area and are not consistent with the advice in the National Planning Policy Framework (the Framework). For the Council Mr Robson confirmed during cross examination that the requirement in those documents were no longer used and were in his words 'gone'. He confirmed that on this basis those elements of the extant development plan related to the identification of a housing requirement, were treated as out of date by the Council.
  11. New Hartley is identified in the BVCS, policy SS1, as a village which will accommodate small scale development within settlement limits in order to maintain sustainable communities. The BVDCP at policy DC1 states that development proposals will be situated within settlement boundaries as shown on the Local Plan proposals map or on subsequent settlement based DPDs. The settlement boundaries on the proposals map are those from the BVLDP. As the proposal sits outside those development limits the proposal would on its face conflict with these policies. However, they along with the overall settlement strategy are based on development plans formulated prior to the publication of the Framework, related to a housing requirement related to the Regional Strategy and do not take account of an objectively assessed housing need. The policies provide for a sequential more restrictive approach than is promoted in the Framework and are therefore not consistent with the Framework.
  12. There are saved policies within the BVDLP and policies in the BVCS which although somewhat dated are broadly consistent with the Framework. These are identified in ID3, they can still therefore be afforded significant weight.
  13. A significant proportion of the Inquiry time was given over to considering the detail of the application of policies in the NLPCS including policy 3, which was
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the only policy cited in the reason for refusal. The Council had during its decision making process given significant weight to the emerging policy given its views on the extant development plan policies. However the emerging Core Strategy is no longer before me and therefore the starting position for my decision must be based in the BVCS and the BVDLP as they still form part of the extant development plan.

14. By way of further background to the appeal the site has a significant history which is important in setting the context within which my decision is to be made. The site is not allocated for any development proposals in the extant development plan, and is shown as white land. There was some confusion at the Inquiry as to whether this had been historically removed from the Green Belt, but given the evidence from SVNH, ID22, it would appear that the land was never included in the Green Belt designation that surrounds the site beyond New Hartley. What is clear, and agreed, is that in the development plan the land does not fall within the Green Belt, falls outside New Hartley and is white land.
15. There is also a significant extent of documentation supporting the use of the site for residential development. Whilst this does not come in the form of development plan policy there are a number of other documents (including the Strategic Housing Land Availability Assessment (SHLAA) 2012, the Council's preferred options October 2013, the 2014 SHLAA, the Council's 5 year Housing Land Supply report October 2015, the 2016 SHLAA, the 2017 SHLAA and the Council's background paper to the emerging Core Strategy – Strategic Land Review – South East Northumberland Delivery Area which confirms the 2017 SHLAA sites and identifies this site as delivering within 0-5 years). All of these have identified the site as acceptable for housing development and include figures that the site could accommodate, ranging from 212 up to 286. Some of these, it could be argued, form part of the 'evidence base' for the emerging core strategy and are therefore no longer in front of me, however, the Council has not been clear on this matter. It is best to conclude that there is a general level of documentation that supports the contention that the Council historically have not ruled out the development of this site and indeed supported it. My decision, however, does not turn on this matter.
16. This conclusion can be further supported by the fact that Mr Horsman confirmed that the Council do not object to the principle of the development of the site and produced an illustrative layout suggesting the site could accommodate up to 70 dwellings. SVNH also accepted the principal of development of the site and that 70 dwellings represented a reasonable number of units.

*Five year supply of housing land*

17. Paragraph 47 of the Framework advises actions that local planning authorities should undertake to boost significantly the supply of housing. It advises amongst other matters that authorities should use their evidence base to ensure the local plan meets the full objectively assessed needs for market and affordable housing in the housing market area. It also advises that authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer.
  18. The Council in evidence confirmed that the requirement in the extant development plan was not based on a full objectively assessed need, that it no
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longer had regard to the figures in the plan and that they were 'gone' in the words of Mr Robson. Up until recently the Council had relied on the identification of an appropriate housing market area and an objectively assessed need derived as part of the evidence base for the NLPCS. That is no longer before me. The Council have confirmed, PID 3 response to question 3, that there is now not an Objectively Assessed Need (OAN) against which to calculate a five year supply of housing.

19. If there is no OAN and therefore no position from which to establish a requirement there is nothing to measure the supply of housing against and therefore a five year supply of housing cannot be properly calculated. The Framework test in paragraph 47 is for the Council to demonstrate a five year supply of deliverable housing sites.
20. The Council suggest that it can demonstrate a significant supply of housing sites and contends this is sufficient to more than meet likely housing requirements over the next five years. However, the Council accept it does not have an OAN and cannot calculate or therefore demonstrate a 5 year housing land supply. The Council refer to a significant number of units to be provided in existing planning permissions. However, this is in the context of considering matters at the County level, there is no consideration of a Housing Market Area and there is no consideration of the implications of the withdrawal of the Core Strategy in terms of future allocations, Green Belt releases and other factors contributing to the overall supply position. There is insufficient evidence to enable any rational conclusion to be reached on whether these figures represent a strong supply of housing if there is nothing to measure them against. The lack of the identification of a suitable Housing Market Area, the lack of any evidence on market signals and economic growth make the reference to the 2014 population statistics significantly weakened, as these would only be a starting position for a calculation of an OAN.
21. On this basis I conclude that the Council cannot demonstrate a 5 year supply of housing land.

*Character of New Hartley, including the Seaton Delaval Conservation Area and the Hester Pit Memorial Garden*

22. The appeal site comprises an agricultural field, currently primarily laid to an arable crop, on the edge of the settlement of New Hartley extending to around 11 hectares. The site is bounded to the west by the rear gardens of the two storey properties fronting Seaburn View at the settlement edge of New Hartley, and to the south by St Michael's Avenue, beyond which there is further residential development including a mix of two storey houses and bungalows. The Hartley Colliery Disaster Memorial Gardens (which the Council identify as an undesignated heritage asset) lies within the residential area to the south of St Michael's Avenue and opposite the appeal site. To the east the site is bounded by the Ashington, Blyth and Tyne railway line, beyond which there is open countryside, which is designated as Green Belt and includes the Seaton Delaval Conservation Area. To the north is reclaimed land of the former Hartley colliery which includes a belt of plantation woodland.
23. A public right of way, Public Footpath no.132, runs along the site's eastern edge, from St Michael's Avenue up to its northern boundary and through the plantation woodland to connect with Hastings Terrace to the north west of the appeal site.

24. The site is within National Character Area (NCA) 13 - South East Northumberland Coastal Plain. Key characteristics of this area include mining towns and villages merging into rural landscapes; restored sites; limited woodland cover, confined to pockets of mixed and coniferous woodland on reclaimed colliery sites; large open arable fields served by large scale farmsteads, bounded by low gappy hedges, scattered country houses with distinctive parkland settings; an extensive urban fringe effect near settlements where pit villages have often merged.
25. Local landscape character has been most recently assessed in the Northumberland Landscape Character Assessment 2010. This divides the area into 44 Landscape Character Types (LCT), which themselves are sub-divided into Landscape Character Areas (LCA). The appeal site falls within LCT 39 – Coalfield Farmland, the key characteristics of which include low-lying coastal farmland, heavily modified rural areas with extensive industrial and urban fringe influences, well settled with mining towns and villages, pylons chimneys and transport and industrial infrastructure are prominent and occasional wooded estate landscapes. Within LCT 39 the site is within LCA 39b, Seaton Delaval Character Area, the key characteristics of which include large arable and pastoral fields, shelter belt and estate woodland of Seaton Delaval Hall, surrounding settlement edges and main roads are key influences.
26. To my mind the appeal site and its immediate environs are representative of many of these features in particular the heavy influences of the settlement edge to the south and west, the plantation woodland to the north and the gappy hedge to the east. The transport infrastructure in terms of rail and road form the eastern and southern boundaries and further contain the appeal site. The site is otherwise relatively flat and open, in arable use, and includes power lines running east west across it. While the open nature of the site affords views across it to the open countryside beyond, and the sea in the longer distance, the hedge is relatively mature, and although gappy, restricts clear views to the immediate countryside beyond. Such views are further restricted by the farmstead buildings, including large agricultural buildings, associated with Seaton Red House Farm and the trees around Station House and Station Cottage.
27. The site is not subject to any landscape designations, although the land to the east, across the railway, is identified as a Conservation Area, the significance of which is, in part, due to its landscape form associated with Seaton Delaval Hall. The Council at this appeal, have sought to contend that the site is a 'valued landscape', in terms of paragraph 109 of the Framework. This is disputed by the appellant. The appellant has assessed the sensitivity of the site by reference to Box 5.1 of the Guidelines for Landscape and Visual Impact Assessment 3<sup>rd</sup> Edition (GLVIA3). The Council had not carried out such an exercise but Mr Horsman sought to do so under cross examination.
28. Looked at in this way I consider the landscape quality to be low of mainly local interest, there is no significant landscape structure or strong boundary trees within the site and the existing settlement edge is prominent. Similarly the scenic quality of the site is limited to local interest focused predominantly on the open views afforded to immediate neighbours and users of the footpaths, with detractive features such as the settlement edge, main roads, rail line and power cables reducing the scenic quality. The site does not have any rare or unusual features although is generally representative of the character area. Contrary to its initial assertions that the site was tranquil, the Council accepted

- under cross examination that there were significant influences including the urban settlement edge, the road, the rail line etc which meant that the site was not wild and tranquil. Whilst there is a conservation area across the rail line and the Hester Pit Memorial Garden to the south, the site itself contains no direct association with these and has no conservation interest in itself.
29. The proximity to the settlement edge and other urban influences reduce the rural feel of the site and whilst a public footpath skirts the eastern edge the overall experience of passing through the site on the footpath is dominated by the settlement edge to the west with wider views to the east being curtailed by the close proximity to the boundary hedge. The views from within the site are localised, and whilst wider panoramic views are available from the west across the site which include the sea, the general sense is of predominant settlement edge and an urban fringe location rather than a predominantly rural one. Of itself the site does not contain demonstrable physical attributes which take it out of the ordinary. On this basis I conclude that the site is not a valued landscape that the Framework seeks to protect.
  30. The appeal scheme would result in a transformation of the landscape of the site because open fields would be replaced with streets and houses, a point made by SVNH, and not one the appellant disagrees with. Mr Smith, for the appellant, has undertaken a Landscape and Visual Assessment in accordance with GLVIA3 and assessed this effect to be a moderate adverse (not significant). Mr Horsman has considered the effect **m**ajor /moderate adverse (significant) as it represents a significant change to the site. Given that I have concluded that the site is not a valued landscape Mr Horsman's assessment overplays the effect and I agree with that of Mr Smith.
  31. Mr Horsman identified other landscape receptors including the Hester Pit Memorial Garden, the land managed for nature conservation and the open fieldscape to the east of the railway. He concluded the scheme would have a major/moderate adverse (significant) effect on these, except on the land managed for nature conservation which would be minor beneficial (not significant). The areas chosen by Mr Horsman are however discreet small scale features rather than landscapes and this results in the assessed effect of the scheme being relatively greater. Mr Horsman is not a qualified landscape professional and notes that his evidence is informed by advice from a landscape professional from Landscape Consultancy Stephen Haliday, but it is not made clear which comments are based on the advice of the consultants and which are from Mr Morsman himself. The advice from the landscape consultant was not provided in evidence or provided as an appendix and could not therefore be tested. This reduces the weight I attach to Mr Horsman's evidence.
  32. Mr Smith on the other hand identifies broader landscapes that included views of the settlement edge, the gently sloping land form, and New Hartley as a whole and he concludes that there is a moderate adverse (not significant effect) on these. Given the broader nature of these areas, the context within which the development sits and the conclusions I have reached on the site itself I am satisfied that these are more representative of the landscape effects of the scheme.
  33. Turning to the visual effects of the proposals the parties agreed that the impacts of the scheme were relatively localised and this is demonstrated by all of the Council's view points and assessment being from points within 250m of

- the site. A number of common receptors were considered including residents of Seaburn View, residents to the North, visitors to Hester Pit Memorial Garden, and recreational users of St Michael's Avenue. Here both parties agreed that the effect would be significant, with Mr Horsman concluding it was major adverse and Mr Smith concluding it would be major/moderate adverse. The site would be developed from an open field to a housing estate it would be readily apparent to occupiers of surrounding residential properties and the recreational users of the surrounding streets, public right of way and visitors to the Hester Pit Memorial Gardens. This would result in material harm to the existing views experienced by those receptors. This would not be mitigated in the long term by landscaping.
34. As one moves further from the site however, the settlement edge and screening from tree belts and hedges reduce the visual effects of the development. The scheme will be viewed in the context of the existing development seen against the backdrop of an existing settlement edge which will be extended closer into the foreground but not dramatically altered. In this regard the longer views are less affected and the impacts are much less. Even from the view points of the Council on the bridleway the scheme would be closer to the receptors but not substantially change the experience or perception of the nearby settlement.
35. The Council were concerned that the scheme, including the necessary highway works, would have an adverse effect on the Conservation Area and its setting. The Conservation Area is related to the Grade I listed Seaton Delaval Hall and includes its registered park and gardens and other associated listed buildings. It derives its significance, in part, from the landscape and farmed estate of the Hall. The appeal scheme is not within the Conservation Area and separated from it by the railway line and associated boundary landscaping. There appears a visual and functional separation on the ground and I was provided with no evidence to demonstrate a historic relationship between the Hall and the appeal site. Whilst the scheme would bring built development closer to the Conservation Area boundary and reduce, to some extent the spatial relationship with the built up area, this does not compromise the significance of the conservation area given the intervening rail line, and lack of evidence of an associative link between the Hall and the site. The proposed road works would include street lighting on a presently unlit section of road, and the appellant accepted this would have a minor adverse effect on the rural appearance of the Conservation Area. This would affect a small section and have relatively little consequence but it would amount to an adverse effect and therefore would not preserve the character or appearance of the conservation area. The harm would be less than substantial in the context of the Framework.
36. In such circumstances paragraph 134 of the Framework advises that this harm should be weighed against the public benefits of the scheme, including securing its optimum viable use. The proposal would provide significant public benefit particularly in the form of 285 market and affordable housing units, with associated economic and social benefits. In my view these would outweigh the limited harm that would arise to the conservation area, albeit that I give this harm great weight and importance.
37. The Council also raised concerns about the effect of the development on the Hester Pit Memorial Gardens, which it identifies as a non-designated heritage asset. Paragraph 135 of the Framework advises the effect on such assets should be taken into account in determining applications and that a balanced
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judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. The Hester Pit Memorial Garden is a space provided for quiet reflection with a small monument and gardens and includes a bench and path where the names of all those who lost their lives in the disaster are recorded. The significance derives, in part, from the disaster and the consequences for the coal mining industry that followed thereafter as well as the commemoration and space for quiet reflection. The scheme will not directly affect the asset which lies on the other side of a road. Whilst the gardens are a small oasis they are located between and are overlooked by adjoining residential properties, enclosed by garages, the main road and a bus stop to the north and the rail line to the south. Whilst the scheme will result in the field opposite being developed and therefore reduce views of the open countryside this will not take away from the significance of the space or its purpose. The visual harm I identified above is to the appearance of the area and in my view this does not count significantly in the context of the significance of the memorial gardens which are a quiet, contemplative space in a semi built up area.

38. The altered view would partially enclose the view of the open countryside but this would be little different to the change that would result if the site were developed in the manner promoted by the Council and accepted by SVNH during this Inquiry. Taking a balanced judgement I find that the proposal would not materially harm the non-designated heritage asset.
39. The appellant has argued that the Council's reason for refusal has been greatly expanded and did not identify harm to the landscape, the effect on heritage assets, designated or non-designated. However, in applying the policies of the development plan and the Framework I am bound to reach my own view on these matters on the basis of the evidence before me. It was also contended that the harm to the landscape and other features would be a consequence of the development of the site and that the Council did not object to the principle of the development of the site. In my view the effects on the landscape of the appeal scheme should be assessed in the context of development plan policy.
40. In conclusion I consider that the site does not form part of a landscape that is to be regarded as a valued landscape in the terms of the Framework. I have had regard to the Landscape and Visual Assessment and agree that it reasonably categorises both the landscape and visual effects. I have given less weight to the Council's assessment for the reasons given above. To my mind the proposal would not result in significant harm to the landscape character of the area or to the wider appearance of the area but there would be limited harm to the appearance of the localised area. I have also concluded that there would be no material harm to the memorial gardens (a non-designated heritage asset) while any harm to the conservation area (a designated heritage asset) would be outweighed by the public benefits of the scheme. There would therefore be limited conflict with policy G10 of the BVDLP and policy DC10 of the BVDCP resulting from the adverse visual effect to which I attach limited weight as the harm is localised and contained.

*Reasonable access to employment, shops and services*

41. The site is located next to New Hartley, a village in the development plan settlement hierarchy. New Hartley itself has limited shops with a small parade in the centre providing for a convenience store, a post office, a dog grooming parlour and a private doctors' consulting practice. There is a public house,

- primary school and a community hall and there are well-equipped children's play facilities and open space adjacent to the community hall. There are some employment facilities at the end of Double Row at the western end of the settlement.
42. However, in the context of the wider area there is a significantly greater level of shops, service provision, and access to employment close by in Seaton Delaval, a service centre in the BVCS, and the other villages nearby. The Framework notes that to promote sustainable development in rural areas housing should be located where it will enhance or maintain the vitality of rural areas. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby (paragraph 55).
  43. There were concerns that the proposal would increase the population of New Hartley by around one third and this would overwhelm the existing services and facilities. As a result future residents would be forced to make journeys to access employment, shops and services which would of necessity be predominantly by private car given the limited public transport available.
  44. The appeal site has bus stops on St Michael's Avenue directly outside the appeal site in both directions. This provides access to a variety of bus services with a relatively frequent half hourly service. The buses provide access to the larger main towns close by which include key employment locations, and from there access to the wider Newcastle metropolitan area.
  45. Whilst there are no dedicated cycle lanes in the vicinity, the rural roads are not heavily trafficked and the topography relatively flat. Cycling is not an unrealistic option and given cycle times much of the close by employment locations in the other villages are within accessible reach of the appeal site and therefore their services and facilities.
  46. The consultees on the planning application have not identified a deficiency or need for additional contributions to education, either secondary or primary, and the health service has not identified a need for additional health facilities. I was addressed by the new Head Teacher of the first school but she did not say the school could not accommodate the increased population associated with the new development but cautioned there would be increased pressure.
  47. The Council sought to argue that the site is comparatively less accessible than other locations and is therefore not the best sustainable location. Paragraph 52 of the Framework suggests that the supply of new homes can sometimes be best achieved through planning for large scale development including extensions to existing villages and that local planning authorities should consider whether such opportunities provide the best way of achieving sustainable development. The fact land has not been allocated adjacent to the village and is not covered by Green Belt appears to be consistent with the advice at the end of paragraph 52 in this regard.
  48. The site has access to public transport in the form of the bus service, has access to facilities and services by foot or cycle and when considered in the context of surrounding villages it is reasonably served by such facilities.
  49. On this basis I conclude that the occupants of the development would have reasonable access to employment, shops and services. The proposals would therefore not conflict with policies SS1 of the BVCS or DC11 of the BVDCP, in

this regard, which seek to ensure accessibility and secure access to sustainable modes of transport for future residents.

### *Highway safety*

50. The Council have not objected to the proposals on highway safety grounds and base its conclusions on the advice from the Highway Authority which did not object to the proposals subject to the imposition of conditions. A financial contribution is proposed to cover off site highway works including a package of traffic management measures on Double Row, Bristol Street and St Michael's Avenue, and these are set out at paragraph 3.5 of the Planning Statement of Common Ground. Paragraph 3.5 also makes it clear that the Highway Authority do not dispute the broad nature of those measures. These measures are secured by an executed planning obligation.
51. I am required to give considerable weight to the views of statutory consultees and a departure from those views requires cogent and compelling reasons. SVNH have raised concerns regarding highway safety and have raised a number of issues but many, if not all, of these matters were before the Highway Authority when it provided its advice and the Council when it took its decision. They are therefore not new matters or matters which have not been considered.
52. Addressing firstly off site issues, the proposal provides for a priority junction onto St Michael's Avenue. There are no significant concerns raised about the design of the access and the geometry and sight lines are in accordance with relevant standards. Beyond the site access to the east St Michaels' Avenue crosses the rail line, by a level crossing, before proceeding out to the countryside where it eventually connects, via a priority junction with The Avenue. The width of the road at around 4.8m, in parts, is below the width required for two HGV or buses to pass but of sufficient width to allow a car and such larger vehicles to pass. The speed of the road has been restricted to 40 mph. Proposals in the financial contribution and illustrative highway designs propose traffic calming including a chicane, changes to the road markings, signage and street lighting. SVNH are concerned that with increased traffic including construction traffic the potential for conflict would be increased and there are no proposals for road widening. As they put it to me traffic calming would not change the width of vehicles and their concern was the width of the road and the ability of vehicles to pass safely.
53. The appellant's highway evidence demonstrates that the increase in HGV and larger vehicles would be limited and set against a backdrop of limited or modest existing large vehicle movements. The likely incidence when two such vehicles would meet would be limited and the proposed measures would assist in warning drivers of the potential hazards. It was further demonstrated that the existing potential movement along this section of the highway was low and that the likely increase from the development would be minimal. The overall effect of increasing the hazard for pedestrians and other road users would therefore be low. There were concerns regarding the visual impact of these measures however I have addressed those above.
54. To the west of the proposed access vehicles would drive through New Hartley village. SVNH were concerned that the increase in vehicle activity through the village could lead to increased conflict with pedestrians and affect highway safety. The measures to be supported by the financial contribution include an investigation into parking restrictions and additional crossing facilities within

the village. The numbers of personal injury accidents were low, reflective of the relatively rural location and that the highway network is not particularly busy. The rate as calculated by SVNH however is above the national average, and there are a number of incidents involving young children. The increase in traffic volumes would not have a significant effect on free flow of traffic through the village which is now subject to a 20 mph speed restriction. The proposed measures have the potential to introduce safe crossing positions and restrict parking if it is demonstrated that these directly affect safety and are reasonable and commensurate responses to the potential risk.

55. SVNH have also questioned the basis of the junction analysis undertaken as part of the Inquiry and TA submitted with the application. The detailed considerations of the inputs, modelling methodology and design parameters for the junctions, however, do little to alter the overall conclusions. In effect the increased traffic volumes from the development would not take any of the assessed junctions over their theoretical capacity, except with regard to the A192 Astley Road/ A190 The Avenue Junction. There would be increases to some queue lengths, in the majority of cases these would be minimal. Where there were greater increases in waiting times, in particular at the junction of the A192 Astley Road/ A190 The Avenue this would be sought to be mitigated by junction improvement works to be secured by condition. The improvements reduce the queue lengths and waiting times at the junction with delay only being increased on the A190 arm by around 24 seconds and on all other arms the delay being better than the no development scenario. Whilst there were detailed concerns regarding the design of the junction, works could be undertaken within the boundary of the highway and the detailed design can be the subject of further consideration by the Highway Authority. It would therefore not be unreasonable to be secured through the imposition of a suitably worded condition.
56. Turning to the onsite issues I have no concerns about the road layout or widths except insofar as the road widths could make on street parking difficult or that if parking was insufficient and lead to on-street parking this could result in problems which may then also spill off site.
57. The development makes provision for some 676 parking spaces in various forms including on curtilage spaces, detached garages, integral spaces and visitor parking. The total parking spaces complies with the BVDCP parking standards which require 1.5 spaces per dwelling; a requirement of 428 spaces. The development therefore meets the Development Plan standard. The County wide standards, which are supplementary planning advice, would however require provision of a maximum of 788 in-curtilage parking spaces. Concern has been expressed at the dimensions and suitability of some of the spaces to count towards the overall provision. In particular concerns were expressed at the internal dimensions of garages, the width of some of the in-curtilage spaces and the in-line positioning of some of the spaces.
58. The Highway Authority had regard to the internal space sizes of garages and halved the total garages contribution to have regard to the fact that they would still make a contribution for small cars. In terms of in-curtilage spaces there are no boundary fences indicated and the position of the spaces allows for some space around them such that they are still likely to be useable. In terms of the in-line spaces there are a number of plots where two car spaces are identified on a driveway, and in some instances these are in front of a garage, providing three in line. Again the Highway Authority considered this matter

and concluded that this would be a matter for the occupier and that there was provision to park cars off the street. In line parking on driveways is not unusual and assists in reducing the demands of the site to set aside land. This is primarily a matter for the occupants and would be unlikely to deter on-site parking particularly if the alternative was to create difficulties on street. The few areas where there are three in line spaces are limited and do not undermine the parking strategy. Overall the level of parking even with reducing the total contributions from garages and some in line parking would be in excess of the development plan requirements for the site. This would therefore not lead to or exacerbate parking elsewhere or lead to off-site highway safety issues.

59. In conclusion on this matter, I am satisfied that the proposal would not lead to material harm to highway safety on the surrounding highway network. The residual cumulative effects of the development would not be severe, the access would be safe and suitable, and so the proposal would therefore not conflict with the Framework, in particular paragraph 32. The proposals would also therefore comply with BVDCP policies DC2 and DC11 which address planning obligations, including highway matters, and require safe access and an appropriate level of parking.

#### *Flood risk*

60. The Council did not object to the proposal on the basis of flood risk, either in relation to the properties on the site or an increased risk of flood elsewhere. This position was informed by the consultation responses from the Environment Agency, the Northumberland County Council as Lead Local Flood Risk Authority, Northumbria Water and the Highway Authority, none of which objected to the scheme subject to the imposition of conditions.
61. SVNH objected to the proposal and the effectiveness of the proposed conditions primarily due to the disrepair of the downstream culverts and informal weir. It is contended that this currently affords protection of downstream land which is in flood zone 3 and affects the storage volume currently available in the pond. These are again not new matters and the statutory consultees were fully aware of the concerns being raised.
62. The appeal site is located in flood zone 1 and is therefore an appropriate location for development in terms of the sequential approach to flooding. The appellant's evidence demonstrated that even taking a worst case scenario if the finished floor levels of the dwellings in the development were set at 25m AOD they would be safeguarded from flooding. This was not robustly challenged by SVNH. The retention of the existing pond, and the provision of on-site swales and a surface water system, which would be adopted by Northumbria Water, would provide suitable protection and mitigation for the future occupiers of the site. A suitably worded condition could be imposed to secure such finished floor levels and this would not have significant implications for the visual impact of the development. On this basis I am satisfied that the proposal would not put future occupiers of the development at risk of flooding.
63. Proposed condition 26 in the Statement of Common Ground restricts the occupation of dwellings until details of the adoption and maintenance of all surface water features on site, including the Lysdon Burn, pond and weir within the ownership of the developer have been submitted to and agreed by the Local Planning Authority. Proposed condition 25 requires that prior to the commencement of development a scheme to dispose of surface water from the
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development in that phase shall be submitted to and approved by the Local Planning Authority. This would require the confirmation of the control volume of the weir and its effective impact on the drainage system.

64. In effect SVNH are suggesting development should not proceed until such time as this is first established to ensure that surface water control can be maintained within the new system. But in effect that is the purpose of proposed condition 25 and with suggested condition 26 this ensures the future adoption and maintenance of those on site elements to safeguard the system. I have imposed these conditions at numbers 16 and 17 in the attached conditions schedule. Given that the final design of the drainage proposals are subject to design and further consideration, the requirement is that there is a means of ensuring an appropriate solution can be found and that there is a degree of certainty this would be successful. Whilst there are existing areas of uncertainty these are not so fundamental that the existing restrictive properties of the weir and the extent of the volume of the pond could not be replicated by alternative measures if identified as necessary and appropriate in the forthcoming scheme. There is a reasonable degree of certainty about the existing situation and its effect. The scheme that is to be designed will need to address any concerns that arise and satisfy the relevant authorities that the proposals safeguard flooding elsewhere. The evidence before me does not preclude the potential for a solution and the relevant authorities are satisfied that it can be achieved, hence the suggested conditions. On this basis I do not have compelling evidence to set aside the advice of statutory undertakers, which did not object to the proposals.
65. On the basis of the above conclusions I am satisfied that the proposed development would be safe from flooding and that the development would not lead to an increased flood risk elsewhere. The proposal does not therefore conflict with BVDCP policy 19 which requires a sequential approach in relation to flood risk and seeks to ensure development does not increase the risk of flooding for future occupiers or elsewhere. This is consistent with the advice in the Framework and PPG.

### **Other matters**

66. The appeal site is reasonably well separated from surrounding properties on the majority of its boundaries such that there is no direct effect on the occupiers of surrounding properties. This is particularly so to the north where the site is next to a woodland plantation, to the east where the development is separated from adjoining properties by the railway and public footpath, the line of which is to be retained, and to the south where the closest development is on the opposite side of the road. Along the western boundary the site abuts the rear gardens of Seaburn View and these properties are reasonably well separated and rear gardens or flank walls separate the properties or there are flank to flank relationships.
67. In the north-west corner of the site where the site abuts Meadow View, a detached bungalow on Mountford Road, the site wraps around the boundaries of the property. Along the majority of the boundary plots 115 to 130 have rear gardens backing onto the access drive and this is a satisfactory arrangement. Where the bungalow sits approximately 2m from its southern boundary, the scheme proposes a short terrace of houses the flank wall of which would be around 10m from the bungalow. The wall of the bungalow facing this boundary contains a number of windows including to a kitchen and a study and a

secondary window to the main living area. The proposals would result in a two storey flank wall in reasonably close proximity to this elevation # would intrude in views from the secondary main living room window and kitchen window. This would result in material harm to the living conditions of the occupants of the property as it would have a negative effect on the outlook from the property and the area immediately adjacent to the boundary which is used as part of the external amenity space for the property. The property's main private amenity space and garden is to the west and is private and well screened with mature planting. It would not be directly affected by the development.

68. In terms of the effect on this property I conclude that there would be material harm to the living conditions for the occupants of that property, in terms of outlook. This would conflict with BVDCP policy DC1 which amongst other matters seeks to protect the amenities of residents of nearby residential properties and the Framework which seeks a good standard of amenity for all existing and future occupiers of land and buildings.
69. Seaton Red House Farm is a commercial farm enterprise located to the east across the rail line. It is focussed on livery in the stable buildings, and includes riding schools both indoor and outdoor. There are also buildings for the storage of hay and straw. Concerns were expressed that the proximity of housing could disturb the horses and riders at the school, the potential for fireworks could be a significant fire risk and result in animal welfare issues through noise. Concerns were also raised that the loss of the appeal site for the rural enterprise would affect the viability of the overall business.
70. It is undoubtedly the case that fireworks could pose a risk to the enterprise and site management procedures would need to be put in place to mitigate that risk. These potential effects would however be occasional. The loss of the field is a commercial issue and could occur whether or not the development was going ahead. The effect on the riding school and livery business is more questionable. The houses are separated from the site by a railway line and at this section of the site there would be an area managed for ecology. The eastern boundary of the site also includes swales, landscaping and the public footpath which would further separate the development. Overall I am satisfied that the matters raised do not result in material harm to the enterprise.
71. Concerns were expressed about the operation of the rail level crossing. However, there are no formal objections to the proposal from the rail operating authority or highway authority. The highway mitigation measures propose yellow box lining on the road and additional signage. There is no reason to withhold consent on this basis.
72. It was suggested that the development of this site would prejudice the potential of a future rail station in this location. However, there is no safeguarded area and no development plan policy to protect the site. Whilst there may be continuing feasibility investigations on-going these are not at such a stage that I can give them significant material weight in the determination of this appeal.

### **Planning Obligations**

73. A planning obligation in the form of a section 106 agreement under the Town and Country Planning Act 1990 was provided to me, signed and executed, on

- day 5 of the Inquiry. The agreement secures 43 affordable housing units and a financial contribution towards highways measures.
74. There is a significant need for affordable housing in the area, with some 158 households requiring affordable housing in the local area<sup>3</sup>. The latest figures indicating that of 8 properties that became available in New Hartley there were on average 30 bids from prospective tenants. The BVDPD seeks a 30% target for affordable housing provision or if lower a viability assessment to justify a lower provision. The scheme makes provision for 15% in line with the emerging policy which was predicated on the basis of a significant number of committed sites reducing the overall requirement for affordable housing. Whilst the emerging plan has been withdrawn the justification behind the reduced affordable requirement remains relevant and the Council continued to support the 15% level secured in the obligation.
75. There was an issue related to the provision of accommodation with level access and that more bungalow accommodation should be provided. However, the Council support the level of provision and the tenure split and have not objected to the proposal in relation to this particular matter.
76. On this basis I am satisfied that the provision meets the appropriate tests and I have therefore taken account of this matter in my decision. Given the need and level of provision I give this significant weight as a positive benefit of the proposals.
77. Turning to the off-site highways contribution the broad scope of the proposed works are set out as highway improvement measures in the agreement. The agreement also includes a timetable for the payment of the contributions and restrictions on the occupation of part of the development until the measures have been completed on the ground. The financial contribution reflects the costings of the scope of works and is therefore reasonable in terms of scale. The proposed works are required to mitigate the effects of the development and are supported by policy, in particular DC 11 of the BVDPD and para 32 of the Framework. In this regard the contributions are reasonable in kind and are related to the development and planning.
78. I accept that the schemes have not been fully worked up and are to be designed and subject to consultation under other legislation. However, they are supported by the Highway Authority and are on land within the highway boundary, there is therefore no reasonable expectation that they would not come forward. On this basis I am satisfied that they meet the tests in the CIL regulations and the Framework and I have taken them into account in reaching my decision. As they are mitigation they are not however a positive benefit of the scheme.

### **Overall conclusions and conditions**

79. Paragraph 49 of the Framework advises that relevant policies for the supply of housing should not be considered up to date if the Council cannot demonstrate a five year supply of deliverable housing sites. I have concluded that the Council cannot demonstrate a five year supply of housing sites. The primary purpose of paragraph 49 is to engage bullet point 4 of paragraph 14, which in the circumstances of this case I conclude is engaged. Planning permission should therefore be granted unless any adverse effects of doing so would

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<sup>3</sup> Statement of Compliance with CIL Regulations, para 2.1.



- significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole (the tilted balance) or specific policies in the Framework indicate development should be restricted.
80. The Council sought to suggest that paragraph 14 should not be engaged where there were relevant policies in the development plan that remained up to date against which to assess the scheme. However, these other policies are given due weight when addressing the matters that they bear upon and in the context of the tilted balance.
81. The Council also suggested that the tilted balance should be dis-applied as there were policies in the Framework indicating development should be restricted, namely paragraphs 134, 135, 109 and 64. I have concluded that although there would be less than substantial harm to a designated heritage asset that the public benefits outweighed this harm and therefore the paragraph 134 test was met. I have also concluded that the impact on the undesignated Memorial Gardens is compliant with policy 135. Furthermore I have concluded the site is not a valued landscape and therefore paragraph 109 does not restrict development. The Council have not sought to argue that the development itself is of poor design, and the landscape impact, in my view, does not make the scheme poor design, therefore, even if paragraph 64 was such a policy, of which I have my doubts, the Framework would not indicate the scheme should be restricted on this ground. On this basis I conclude that none of these matters suggest that the tilted balance should not apply, and therefore that is the basis on which I have drawn my conclusions.
82. Overall the benefits of this scheme are considerable and include the provision of 285 new dwellings, including the provision of 43 affordable homes. These are significant and substantial benefits and particularly so in the context where the Council are not able to demonstrate a five year housing land supply. The land is not allocated for any purposes (white land) and is surrounded by Green Belt and other designations which could restrict development in the wider area, including the wider housing market area. The result being the development of the land would assist in supporting those other policies at a point where there is a shortfall in the housing land supply which is providing additional pressure to ensure delivery of housing land. Associated with these benefits there are the economic and social benefits related to the construction and additional expenditure income to the local area from future residents.
83. I note the fact the Council have suggested the site could be developed for housing, albeit for a smaller scheme, although this does not have planning permission and is not a determinative issue in my conclusions. I have had regard to the fact that much of that surrounding area and of the wider Housing Market Area is constrained by Green Belt. Also, as noted earlier, there are a number of background papers, including various SHLAA papers etc, over the years that have identified that this site is suitable for development and at a scale that is not significantly different from that the subject of these proposals. On this basis, given the obvious constraints to development, the policy position which has been further weakened by the withdrawal of the emerging Core Strategy, and the background there is a strong justification for the development of this site.
84. Given the withdrawal of the spatial strategy in the emerging core strategy, the lack of a five year housing land supply and the limited weight that can be attached to the settlement strategy in the extant development plan there is
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- little planned basis on which to identify suitable locations for development given the vacuum that now exists.
85. The adverse effects of the scheme amount to a limited adverse visual effect on a localised area, a limited less than substantial harm to the conservation area, to which I have given considerable weight and importance, and an adverse effect on the living conditions of the occupiers of Meadow View. The conflicts with development plan policies have been addressed in the context of the consideration of these matters.
86. For completeness I also acknowledge that the scheme would conflict with the spatial strategy in the development plan, in particular as set out in policy SS1 of the BVCS and policy DC1 of the BVDCP, however I give this conflict limited weight as the settlement boundaries are significantly out date, demonstrated by the fact there is no 5 year housing land supply and the housing requirements on which they are based are not based on an up to date objectively assessed housing need.
87. I have concluded that there would not be material harm to the Hester Pit Memorial Gardens, that there would not be an adverse landscape effect, that there would not be material harm to highway safety and that there would not be an increased risk of flooding.
88. In my view the adverse effects of the proposal do not significantly and demonstrably outweigh the benefits of the scheme and the appeal should therefore be allowed.
89. I have considered the conditions suggested by the parties in the context of the advice in the PPG and made minor adjustments where necessary to improve precision and clarity or not imposed others where the matters are covered by other legislation or matters are not within the control of the appellant and to ensure they are in accordance with the guidance. I have also merged various matters to reduce the overall numbers of conditions.
90. An approved plans condition is required in order to ensure clarity and certainty. I have imposed a phasing condition, 3, in order to ensure clarity relating to the implementation of the development. Conditions 4 and 29 are imposed in the interests of the privacy of the occupiers of adjoining properties. A landscaping scheme is required in the interest of the appearance of the development and to protect the adjoining rail line. Details of fencing are required in the interests of privacy, ecology and to protect the adjoining rail line. Details of site levels, condition 9, are required to protect future occupiers from flooding and in the interest of the appearance of the development.
91. A condition requiring the provision of car parking is required in order to ensure the appropriate delivery of parking. Conditions 11, 30 and 31 are required in the interest of highway safety, both on and off the site. Conditions 12 and 13 are required to ensure suitable measures to encourage alternative means of transport are maximised by future occupiers of the development. A construction methodology statement, condition 15, is required in the interest of highway safety and the living conditions of surrounding occupiers.
92. Details of refuse storage are required to ensure the development is suitably provided with such facilities. Details of the works to the public footpath are required in the interests of the future users of the footpath and the appearance of the development. Conditions 16, 17, 18 and 19 are required to ensure the
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development is suitably drained and sites downstream are suitably protected, and conditions 21, 22 and 23 are required to ensure that any contamination, including ground gas, is properly addressed given the site is located in a previous mining location.

93. Details of noise mitigation are required to protect the future occupants of the affected properties from the adjacent railway. Conditions 25, 26 and 27 are required in the interest of ecology, biodiversity and to protect existing trees. Condition 28 is imposed in the interest of energy sustainability.
94. Conditions 3, 9, 11, 15, 16, 18, 21, 25, 27, 28, 30 and 31 are 'pre-commencement' conditions, or include such elements, and require certain actions before the commencement of development. In all cases the matters they address are of an importance or effect to mean they need to be resolved before construction begins.
95. For the reasons given above I conclude that, with the imposition of the aforementioned conditions, the appeal should be allowed.

*Kenneth Stone*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Simon Pickles	Of Counsel, Instructed by Northumberland County Council
He called Steven Robson BA, MA, LRTPI	Senior Planning Officer (policy)
Geoff Horsman BSc(Hons), DipTP, MTP, MRTPI	Senior Planning Officer

### FOR THE APPELLANT:

Sasha White QC	Queen's Counsel, instructed by Barratt David Wilson North East
He called Dr Nicholas Bunn, BSc, PhD, MSc, MCIHT, CMILT.	Director at WYG Transport
Matthew Elliot MSc, C Eng, FICE, CWEM, FCIWEM, FCI Arb, C Env.	Director WYG Engineering Ltd
Jeremy Smith BA, PG Dip LA.	Director SLR Consulting Limited
Mark Johnson MRICS, MRTPI	Johnson Mowat Planning & Development Consultants

### FOR SEATON VALLEY COMMUNITY COUNCIL and NEW HARTLEY RESIDENTS GROUP (SVNH):

Graham Garnham	Chartered Town Planner, instructed by SVNH
He called John Barrell BSc, CE, FCIHT, FRSRA	Local Resident

### INTERESTED PERSONS:

Councillor Susan Dungworth	Local ward Councillor
Jill Henderson	Local Resident
Christine Barrell	Local Resident
David Thompson	Red House Farm
Kerri Dowdney	Head Teacher New Hartley First School
Dr Libbie Cripps	Operates from Private medical Clinic in New Hartley

## DOCUMENTS SUBMITTED DURING INQUIRY

- ID1 Draft five Year Housing Land Supply 2017-22 agreed document
  - ID2 List of Disputed sites 11 June 2017 Update agreed document
  - ID3 List of Development Plan Policies and conflict submitted by Council
  - ID4 Plan of employment areas and bus accessibility submitted by Council
  - ID5 Extract from Planning Inspectorate Procedural Guide submitted by Council
  - ID6 Table identifying comparison of Landscape and Visual Impact Assessment submitted by Council
  - ID7 Strategic Planning Committee Report on Bedlington submitted by Appellant
  - ID8 Extract from Planning Policy Guidance re Updating evidence on deliverable sites submitted by the Appellant
  - ID9 Photomontages of 70 Unit Scheme submitted by Council
  - ID10 Note on new house types submitted by appellant
  - ID11 Journeys to work by bus travel times submitted by SVNH
  - ID12 Appellant's opening statement
  - ID13 Council's opening statement
  - ID14 SVNH's opening statement
  - ID15 Blyth Valley District Local Plan Extracts
    - A) Policies G4/G5/G6
    - B) housing Chapter
    - C) proposals map
  - ID16 Topographic survey drawing 001 submitted by appellant
  - ID17 Hand written sheet of ridge heights of new house types submitted by Council
  - ID18 Email correspondence regarding Barratt and Keepmoat delivery rates at Cramlington South West Sector submitted by Council
  - ID19 Blyth Valley District Local Plan extract pg 26 submitted by Council
  - ID20 Note on Cramlington South West Sector delivery by Barratt submitted by appellant
  - ID21 Northumberland Conservatives Manifesto for recent local election.
  - ID22 Blyth Valley District Local Plan Extract pgs 60 & 61 submitted by SVNH
  - ID23 Copies of oral presentations from interested parties
    - A) Councillor Susan Dungworth
    - B) Jill Henderson
    - C) Christine Barrell
    - D) David Thompson
  - ID24 Section 106 legal agreement dated 20<sup>th</sup> June 2017 signed and sealed
  - ID25 Full application for costs on behalf of the appellant
  - ID26 Response to Council's partial application for an award submitted by appellant
  - ID27 Partial costs application on behalf of the Council
  - ID28 Response to appellant's application for an award of costs submitted by Council
  - ID29 Map illustrating walking distance isochrones agreed between the parties
  - ID30 Closing submissions on behalf of SVNH
  - ID31 Closing submissions on behalf of the Council
  - ID32 Closing submissions on behalf of the appellant
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- ID33 Appellant's written response to the other parties closings
- ID34 Appellant's response to the Council's response on their application for full costs.
- ID35 Updated amendments to Council's response to appellant's costs claim.

DOCUMENTS SUBMITTED FOLLOWING THE INQUIRY CLOSING (Post Inquiry Documents)

- PID 1 Letter from Northumberland County Council dated 7 July 2017 confirming withdrawal of the Core Strategy and its evidence base
- PID 2 Letter from Inspectorate dated 20 July 2017 requesting clarification and comment on specific matters raised by the Inspector
- PID 3 Letter from Northumberland County Council dated 27 July 2017 responding to Inspectors questions.
- PID 4 Comments from Seaton Valley Community Council (Rule 6 Party), including appendix on matters raised in PIDs 1-3
- PID 5 Letter from Johnson Mowat, on behalf of the appellant, dated 7 August 2017 commenting on the correspondence in PID 1-3.

**Schedule of conditions for appeal reference: APP/P2935/W/16/3164573**

- 1) The development hereby permitted shall commence before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans. The approved plans for this development are drawing numbers:- 1430.01 Rev R; 1430.03 Rev B; 1430.04 Rev A; KED-01; NE-01; BA-01; BE-01; HA-01; AT-01; ALD-01; COL-01; DER-01; ENN-01; ENN-02; FOL-01; FOL-02; KE-01; MO-01; PAL-01; RI-01; ROS-01; TH-01; WIN-01; 001; QD960-00-01 Rev G; 1430.17.PS.15; 1430.17.PS.16; 1430.17.PS.13; 1430.17.PS.14; 1430.17.PS.11 and 1430.17.PS.12.
- 3) Prior to the commencement of development, a programme showing the overall phasing of the approved development shall be submitted to and approved in writing by the Local Planning Authority. This shall also include an Estate Street Phasing and Completion Plan which shall set out the development phases, completion sequence and construction standards in respect of estate streets serving each phase of the development. Thereafter the development shall be carried out in full accordance with that approved Estate Street Phasing and Completion Plan and the development shall be undertaken in full accordance with the overall phasing approved by the Local Planning Authority.
- 4) The first floor side window on Plot 98 shall be non-other than obscure glazed and shall remain so in perpetuity.
- 5) Prior to the installation of any external lighting on the scheme, full details of all such lighting shall be submitted to and approved in writing by the Local Planning Authority. All street lighting should be baffled so as not to direct lighting up into the atmosphere.
- 6) Other than in accordance with the works required under condition 30, the level crossing on St Michael's Avenue shall remain unobstructed at all times both during and after construction.
- 7) Prior to the first occupation of any dwelling in any phase the applicant shall submit a detailed landscape/hedge planting plan for that phase including the planting of significant proportions of locally native trees, shrubs and hedge plants of local provenance to be agreed in writing with the Local Planning Authority. The planting plan for that phase as approved by the Local Planning Authority shall be fully implemented during the first full planting season (November to March inclusive) following the first occupation of any dwelling in that phase.
- 8) Prior to the first occupation of any dwelling in a phase, details of all proposed means of enclosure, and boundary walls and fences in respect of that phase, shall be submitted to, and approved in writing by, the Local Planning Authority, and shall thereafter be implemented in complete accordance with the approved details unless otherwise approved in writing by the Local Planning Authority. All garden boundary fences or walls shall include a gap at the base measuring a minimum 13cm x 13cm to allow continued access through the site for hedgehogs.
- 9) Prior to the commencement of development in any phase details of the existing and proposed site levels in respect of that phase shall be submitted to and approved in writing by the Local Planning Authority, to include Finished Floor Levels at a minimum of 25m AOD. Thereafter the

- development shall be constructed in full accordance with the levels detailed approved by the Local Planning Authority.
- 10) Prior to the first occupation of any dwelling the car parking area including any garaging indicated on the approved plans for that dwelling shall be hard surfaced, sealed and marked out. Thereafter, that car parking area including any garaging shall be retained in accordance with the approved plans and shall not be used for any purpose other than the parking of vehicles associated with the development.
  - 11) Prior to the commencement of development in any phase details of the proposed highway works in that phase, and the arrangements for the future management and maintenance of the proposed streets within that phase, shall be submitted to and approved in writing by the Local Planning Authority. No dwellings in that phase shall be occupied until the highway works approved by the Local Planning Authority for that phase have been constructed in accordance with the approved plans and those streets shall thereafter be maintained in accordance with the management and maintenance details approved by the Local Planning Authority
  - 12) Prior to the first occupation of the development details of a Framework Travel Plan in respect of the application site shall be submitted to and approved in writing by the Local Planning Authority. At all times thereafter until implementation of a Full Travel Plan approved under condition 20 below the approved Framework Travel Plan shall be implemented in accordance with the approved details. This Framework Travel Plan must include:
    - a. the contact details of a suitably qualified Travel Plan Co-ordinator;
    - b. an implementation programme;
    - c. an on-site assessment including details of transport links to the site, on-site facilities and any transport issues and problems;
    - d. clearly defined aims and objectives in relation to travel modes; and
    - e. clearly defined senior management and staff responsibilities and roles in the implementation of the Framework Travel Plan.
  - 13) Twelve months after first occupation of the development details of a Full Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. At all times thereafter the approved Full Travel Plan shall be implemented in accordance with the approved details. This Full Travel Plan must include:
    - a. details of and results from an initial residents survey;
    - b. clearly specified targets for resident travel mode shares;
    - c. an on-going plan for monitoring and reviewing the effectiveness of the Full Travel Plan; and
    - d. a scheme providing for a biennial monitoring report until completion of the development to be submitted to the Local Planning Authority regarding the implementation of the Full Travel Plan.
  - 14) Prior to the first occupation of any dwelling in any phase details of refuse storage facilities and a refuse storage strategy for that phase shall be submitted to and approved in writing by the Local Planning Authority.
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Thereafter, those approved refuse storage facilities and the approved refuse storage strategy shall be provided and implemented in full.

- 15) Prior to the commencement of development a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. That approved Construction Method Statement shall be adhered to throughout the construction period. The Construction Method Statement shall, where applicable, provide for:
    - a. details of temporary traffic management measures, temporary access, routes and vehicles;
    - b. vehicle cleaning facilities;
    - c. the parking of vehicles of site operatives and visitors;
    - d. the loading and unloading of plant and materials;
    - e. storage of plant and materials used in constructing the development;
    - f. measures to control the emission of dust and dirt;
    - g. details of the use of cranes or other mechanical plant working adjacent to network rail's operational land;
    - h. details of the use of vibro-compaction machinery;
    - i. no noisy activity i.e. audible at the site boundary, to be carried out on the site before 8am on weekdays and 8am on Saturdays nor after 6pm on weekdays and 1pm on Saturdays nor at any time on Sundays or Bank Holidays;
    - j. a dust action plan to mitigate the effect of any dust created during the construction phase on neighbouring premises and which shall include emergency contact numbers in the event of a dust complaint being received.
  - 16) Prior to the commencement of development in any phase a scheme to dispose of surface water from the development in that phase shall be submitted to and approved in writing by the Local Planning Authority. Any new drains in a phase next to network rail operational land shall be constructed and maintained so as not to have any adverse effect upon the stability of any Network Rail equipment, structure, cutting or embankment. Thereafter that approved scheme shall be implemented in full prior to the first occupation of any dwelling in the phase to which it relates.
  - 17) Prior to the first occupation of any dwelling details of the adoption and on-going maintenance of all surface water drainage features on site, including the Lysdon Burn and pond and weir within the ownership of the developer have been submitted to and agreed by the Local Planning Authority. Thereafter, the adoption and on-going maintenance of all surface water drainage features shall be undertaken in full accordance with those approved details.
  - 18) Prior to the commencement of construction details of the disposal of surface water from the development throughout the construction phase shall be submitted to and approved in writing by the Local Planning Authority. Construction shall be undertaken in accordance with the approved details.
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- 19) No surface water connection shall be made associated with the development to those parts of the Lysdon Burn, the Lysdon Pond and the Lysdon Pond weir in the ownership of the developer until these features have been surveyed and fully cleared of all debris. Full details of the survey work undertaken and any clearance/ remediation identified shall be submitted to and agreed in writing by the Local Planning Authority prior to any connection.
- 20) Prior to the first occupation of any dwelling in a phase within which the existing public right of way lies, the part of that public right of way in that phase shall be re-constructed in accordance with a detailed specification which has first been submitted to and approved in writing by the Local Planning Authority.
- 21) Prior to the commencement of development, further intrusive investigation and monitoring, as identified in the Geo-environmental Appraisal Report by Sirius reference C5910 dated May 2014, to fully characterise the nature and extent of any land contamination shall be carried out and a report of the investigation shall be submitted to and approved in writing by the Local Planning Authority. The report shall also include a method statement detailing any remediation requirements for the land contamination and ground gas affecting the site including any timetable for implementation.
- 22) If during redevelopment contamination not previously considered is identified, then an additional method statement regarding this material shall be submitted to and approved in writing by the Local Planning Authority. No building shall be occupied until the method statement has been submitted to and approved in writing by the Local Planning Authority, and measures proposed to deal with the contamination have been carried out.
- 23) Prior to the first occupation of any dwelling a full closure report shall be submitted to and approved in writing by the Local Planning Authority. The report shall provide verification that the required works regarding contamination have been carried out in accordance with the approved method statement.
- 24) Prior to the construction of the dwellings in any phase, full details of the proposed mitigation measures within the submitted Noise Assessment in respect of those dwellings shall be submitted to and approved in writing by the Local Planning Authority. No dwelling shall be first occupied unless until those approved mitigation measures have been provided in full and those measures shall remain in place at all times thereafter.
- 25) No development shall take place unless in accordance with the avoidance, mitigation and enhancement measures detailed within the ecological reports ('New Hartley Habitat & Protected Species Risk Assessment', October 2013, 'New Hartley Mammal Surveys', May 2014, 'New Hartley Great Crested Newt Survey', May 2014, 'New Hartley Biodiversity Plan', February 2016, Penn Associates Ltd.)
- 26) No development shall be carried out other than in accordance with the 'Arboricultural Method Statement Tree protection Plan', All About Trees Ltd., Drawing No: AMS TPP – Rev B, 9.2.16, and the guidance set out in 'BS5837:2012 Trees in Relation to Design, Demolition and Construction: Recommendations' British Standards Institute, 2012.

- 27) Prior to the commencement of development a detailed Biodiversity Management Plan (BMP) shall be submitted to, and be approved in writing by, the LPA. The BMP shall include details of the legal and funding mechanisms by which the long-term implementation of the plan will be secured by the developer with the management body responsible for its delivery. The plan shall also set out (where results from monitoring show that conservation aims and objectives of the BMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. Thereafter the BMP shall be implemented as approved in perpetuity.
- 28) Prior to the commencement of development any measures for generating the energy for the development from decentralised renewable or low carbon sources, including the details of any physical works, shall first be submitted to and approved in writing by the Local Planning Authority. The approved scheme for any dwelling shall be implemented before that dwelling is first occupied and any measures contained within that scheme shall remain in place at all times thereafter.
- 29) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification), no additional window or other opening shall be made in the following elevations of the dwellings specified unless an application for planning permission in that behalf is first submitted to and approved in writing by the Local Planning Authority – 2 South, 6 West, 7 South, 9 East, 10 West, 11 West, 16 East, 17 West, 41 East, 48 North, 56 East, 61 East, 64 West, 70 South, 71 East, 73 South, 94 South East, 98 North West, 104 South East, 114 North East, 134 South East, 141 South East, 147 South, 153 North West, 158 East, 162 West, 167 West, 177 East, 179 North, 187 South, 190 East, 196 East, 198 West, 206 West, 215 South, 228 South, 234 East, 237 North, 244 South, 252 South, 261 North and South, 263 East, 273 East and 276 South
- 30) Prior to the commencement of development detailed designs of the proposed highway mitigation works at the St Michael's Avenue Level Crossing shall be submitted to and approved in writing by the Local Planning Authority. The highway works shall be constructed in accordance with the approved plans and shall be implemented prior to the occupation of any dwelling on the site.
- 31) Prior to the commencement of development detailed designs of the proposed highway works at the A190 / A192 Seaton Delaval roundabout shown indicatively on submitted drawing no. A085337 91 18 C007 and a timescale for implementation shall be submitted to and approved in writing by the Local Planning Authority. The highway works shall be constructed in accordance with the approved plans and timescale for implementation.

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