

DEVELOPMENT PLAN

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise.

Unitary Development Plan - current status

The Unitary Development Plan for Sunderland was adopted on 7th September 1998. In the report on each application specific reference will be made to those policies and proposals, which are particularly relevant to the application site and proposal. The UDP also includes a number of city wide and strategic policies and objectives, which when appropriate will be identified.

STANDARD CONDITIONS

Sections 91 and 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 require that any planning application which is granted either full or outline planning permission shall include a condition, which limits its duration.

SITE PLANS

The site plans included in each report are illustrative only.

PUBLICITY/CONSULTATIONS

The reports identify if site notices, press notices and/or neighbour notification have been undertaken. In all cases the consultations and publicity have been carried out in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION

The background papers material to the reports included on this agenda are:

- The application and supporting reports and information;
- Responses from consultees;
- Representations received;
- Correspondence between the applicant and/or their agent and the Local Planning Authority;
- Correspondence between objectors and the Local Planning Authority;
- Minutes of relevant meetings between interested parties and the Local Planning Authority;
- Reports and advice by specialist consultants employed by the Local Planning Authority;
- Other relevant reports.

Please note that not all of the reports will include background papers in every category and that the background papers will exclude any documents containing exempt or confidential information as defined by the Act.

These reports are held on the relevant application file and are available for inspection during normal office hours at the Economy and Place Directorate at the Customer Service Centre or via the internet at www.sunderland.gov.uk/online-applications/

Ms. Irene Lucas CBE
Chief Executive

Reference No.: 16/00884/FUL Full Application

Proposal: Substitution of house types to approved application 06/02209/FUL replacing 19 no. Swale house types on plots 58-61, 68-70, 77-80, 95-98 and 108-111 with 11 no. Souter housetypes (Plots 58-61, 68-70 _ 77-80), 2 no. Chedworth housetypes (Plots 96 _ 98) and 4 no. Moseley housetypes (Plots 108-111). Amended Description and Plans (5 December 2016).

Location: Land At Fir Tree Lane Easington Lane Houghton-le-Spring

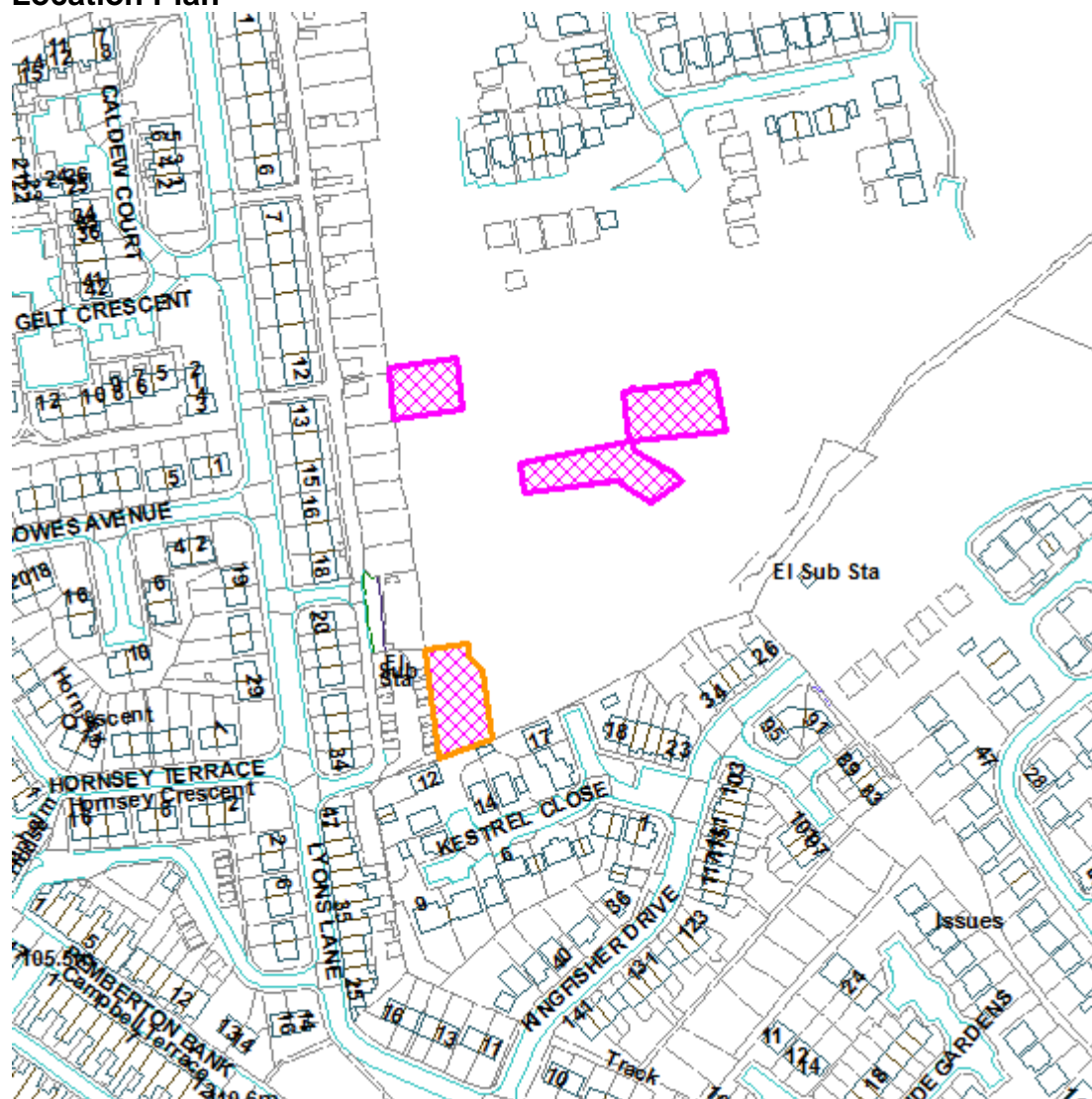
Ward: Hetton

Applicant: Mr Adam McVickers

Date Valid: 22 September 2016

Target Date: 22 December 2016

Location Plan



PROPOSAL:

The on-going residential development by Persimmon and Taylor Wimpey of the Murton Lane site was first approved by Members of the 6 July 2007 Development Control (Hetton, Houghton & Washington) Sub-Committee via the initial Hybrid planning approval ref. 06/02209/FUL.

The description of 06/02209/FUL is as follows:-

"Hybrid planning application comprising: Outline application for residential development and neighbourhood park; full application for Phase 1 residential on two parts of site; and stopping up of public footpath with change of use to residential development."

In so far as the above relates to Persimmon's portion of the site, planning application 06/02209/FUL approved three phases of development; Phase 1 was approved in detail whilst Phases 2 and 3 were approved in outline. This planning approval was subject to a Section 106 Agreement that secured financial contributions of £354,722 towards Education; £226,027 towards Sport & Recreation; and £628,744.25 towards the provision of public open space.

Following the 06/02209/FUL Hybrid approval the subsequent Reserved Matters submission (ref. 13/00540/REM) for Persimmon's Phases 2 & 3 was approved under delegated powers on the 5 December 2013. This Reserved Matters submission secured the scale, layout, appearance and landscaping details of 97 dwellings.

Since the approval of the Reserved Matters and responding to prospective purchasers/ market conditions Persimmon are now seeking to substitute 19 of the previously approved Swale house-types. Initially the Applicant proposed to do a straight swap replacing 19 Swales with 19 Souters. The Souter is very similar to the Swale with the main difference being that the Souter has a peaked dormer window in its front facing roof slope. However, following Officer comments in respect of potential land levels and relationships with nearby properties Persimmon have now elected to amend their substitution submission by introducing shallower house-types (i.e. Moseley and Chedworth) to Plots 96 & 98 and 108-111, and it is this amended submission that is now before Members.

Consequently, the Applicant is now seeking permission to substitute the 19 previously approved Swales with 17 units comprising the following:-

- o 11no. 3-bed Souter (Plots 58-61, 68-70 & 77-80)
- o 4no. 3-bed Moseley (Plots 108-111)
- o 2no. 4-bed Chedworth (Plots 96 & 98).

For clarity, in accordance with the Council's Scheme of Delegation, as this substitution submission is a full planning application that relates to 10 or more residential units it has to be determined by Members of the Committee.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Flood And Coastal Group Engineer
Hetton Town Council
Hetton - Ward Councillor Consultation

Final Date for Receipt of Representations: **27.12.2016**

REPRESENTATIONS:

In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015 the application has been subject to a press and site notice, whilst notification letters have also been sent out to surrounding neighbours and other interested parties. Following the amendments to now Plots 96 & 98 and 108-111 an additional notification letter was sent out to the nearest neighbours. Following this consultation exercise no letters of representation have been received.

POLICIES:

In the Unitary Development Plan the site is subject to the following policies;

B_2_Scale, massing layout and setting of new developments

HA_4_Sites for new housing

T_14_Accessibility of new developments, need to avoid congestion and safety problems arising

COMMENTS:

1. Principle of development

Turning to the consideration of the proposed substitutions the principle of residential development at the site has been firmly established by the initial Hybrid 06/02209/FUL approval and its associated reserved matters submission ref. 13/00540/REM, as well as the remix of Phase 1 application ref. 13/00198/FUL, which was approved by Members of 1 October 2014 Development Control (Hetton, Houghton & Washington) Sub-Committee.

Moreover, there are not considered to be any material changes to local (principally Unitary Development Plan (UDP) policy HA4 that allocates the site for housing), or national planning policy that would alter the established planning position. Consequently the development proposal is considered to be acceptable in principle.

2. Visual and Residential Amenity considerations

UDP policy B2 requires the scale, massing, layout and setting of proposed development to respect and enhance the best qualities of nearby properties and the locality. Policy B2 also requires development proposals to provide for an acceptable amount of privacy amenity, whilst also protecting visual and residential amenity. Paragraph 17 of the National Planning Policy Framework (NPPF), in part, states that planning should seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

In terms of visual amenity the proposed Souter house-type is similar in scale and massing to the already approved Swale, whilst the Chedworth is a house-type that already exists within the wider development site. Moreover, given that the Moseley is a Persimmon product it is considered to lend itself well to the surrounding Persimmon house-types and as such, its introduction is not considered alien to the overall development. Moreover, as the subject Plots and their curtilages remain largely unchanged and in view of the fact that the overall layout of development remains unaltered the proposed substitutions are considered acceptable in terms of visual amenity and design considerations.

In so far as the proposed substitutions relate to residential amenity the height of the Souter, at 9.5m, is 0.5m lower than the 10m high Swale. Furthermore, the Plots affected by the Souter substitution are all located within the development and as such largely relate to unoccupied/undeveloped parts of the site. However, on visiting the site the Case Officer noted that Plot 36, which opposes Plot 58 (i.e. one of the plots earmarked for a Souter) was occupied and as such, hand delivered a neighbour notification letter. Following this formal consultation period no letter of representation was received from the occupiers of Plot 36.

In terms of the interfacing relationship between Plots 38 (Hatfield) and 58 (proposed Souter) the scale and massing of the development will largely remain unaltered whilst the layout of the development is as already approved. In addition, with a spacing of over 23m and in view of the slightly differing designs of the two house-types, the introduction of the front dormer window is, on balance, not considered to detrimentally impact on Plot 38's existing residential amenity.

In terms of the relationships of between Plots 96 & 98 (i.e. the Chedworth) and No. 12, 14 & 15 Kestrel Close; and Plots 108-11 (i.e. the Moseley) and No. 12, 13 & 14 Lyons Avenue, the introduction of these more shallower house-types relative to the previously approved Swale provides for a greater interfacing distance with existing development. Consequently, it is arguable that the proposed substitutions improve on the residential amenity relationships already approved by previous submissions and as such, the proposed substituted house-types are considered acceptable.

The proposed substitutions are therefore considered to be acceptable from a visual and residential amenity perspective and in accordance with policy B2 of the UDP.

3. Highway considerations

UDP policy T14 requires new development to be readily accessible by pedestrians and cyclists, whilst proposals should not cause traffic congestion or highway safety problems and make appropriate safe provision for access and egress.

The Hybrid 06/02209/FUL application was accompanied by a comprehensive Transport Assessment. The junction assessments are still considered to be valid based on the evidence that traffic volumes in the area have not increased significantly. Traffic volumes are regularly monitored and there is no indication of a general trend in increased traffic in recent years.

Regarding the main and only access into the site this will be taken from Firtree Lane, as approved via 06/02209/FUL. From a highway engineering perspective the development now proposed is essentially the same as that previously approved. The main access road connecting Firtree Lane to Murton Lane is still integral to the scheme and the layout of the development has had to be fixed and designed around this constant. Each property will benefit from an in-curtilage parking space and as such, accords with policy. The distribution of visitor parking remains unaffected and as such is also considered.

Furthermore, a Section 38 (of the Highways Act 1980) Agreement has been entered into with the Local Highway Authority. Colleagues in Network Management (Street Scene) have confirmed that as part of this adoption process traffic calming measures have already been assessed and agreed. Traffic coming into the site from Firtree Lane and into the subsequent sub areas will be calmed via round top road humps that are placed at strategic locations.

In conclusion, the development proposed is not considered to be materially different to that previously approved. As the development will be accessed from within the site, which itself will be accessed from the adopted highway on Firtree Lane, there are to be no other through routes from other areas of the surrounding highway network, whilst traffic calming measures have already been agreed to via the Section 38 Agreement. Consequently, the scheme now proposed is considered to be acceptable and in accordance with UDP policy T14.

4. Ecological considerations

UDP policy CN22 highlights that development which would adversely affect any animal or plant species afforded special protection will not be permitted.

A verification survey was undertaken in March 2013 in support of the Reserved Matters submission (ref. 13/00540/REM). This verification survey represented a check of the site to identify whether any changes ecologically had occurred since the 06/02209/FUL approval. The verification survey confirmed that very little change has occurred. It confirmed that grazing appeared to have ceased and that there was considerable littering within the site. It also noted that there were no trees within the development, only hedging abutting the detached garden areas of Lyons Avenue.

Therefore, given the on-going development of the Murton Lane site the proposed development is considered to be acceptable in respect to ecological considerations and in accordance with policy CN22.

5. Flood Risk and drainage considerations

UDP policy EN12 stipulates that in assessing proposals for development, the Council, in conjunction with the Environment Agency and other interested parties, will seek to ensure the proposal would not likely impede materially the flow of flood water, or increase flooding elsewhere, or increase the number of people or properties at risk from flooding and not adversely affect the quality or availability of ground or surface water, including rivers and other waters.

The Flood Risk Assessment (FRA) submitted in support of the application reaffirms that the site is located within Flood Zone 1, which has the lowest probability of flooding and as such residential development is acceptable in principle. Ground investigations have previously confirmed that impermeable soils (Glacial Tills) extend across the site making direct infiltration techniques unsuitable for the discharge of surface water.

Flood Risk assessment work carried out in respect of the extant 06/02209/FUL approval set the current maximum surface water flow of the overall Murton Lane site at 44.0 litres per second. The surface water from the development is to flow into an adjacent existing watercourse (to the east of the site). In light of the fact that Persimmon's portion equates to approximately a third of the overall Murton Lane site the subsequent discharge rate for their development is 14.70 litres per second. These rates were subject to the agreement of the Environment Agency and Northumbrian Water and adherence to these flow rates will ensure Persimmon's portion of the site corresponds with the overall drainage strategy of the Murton Lane site.

Furthermore, given the previous conditions imposed on earlier permissions and in light of the fact that the current submission is a stand-alone full application that forms an integral part of Persimmon's development of the site it is considered that the conditions imposed on the 06/02209/FUL (initial Hybrid) and 13/00198/FUL ("re-mix") should be imposed on this permission, should Members be minded to approve the application.

In conclusion, the area of land lies within Flood Zone 1 which has the lowest risk of flooding and subject to the development adhering to the conditions, as detailed above, the scheme should provide for an appropriate method of controlling surface water discharges, whilst ensuring that there are no increased flood risks on downstream properties. The proposal is therefore considered to be acceptable and in accordance with policy EN12.

6. Section 106

Paragraph 204 of the NPPF states that planning obligations should only be sought where they meet all of the following tests:-

- (a) they are necessary to make the development acceptable in planning terms;
- (b) they are directly related to the proposed development;
- (c) they are fairly and reasonably related in scale and kind to the development proposal.

Planning applications 06/02209/FUL (i.e. the initial Hybrid approval) & 13/00198/FUL (i.e. the "remix" of Phase 1) are both subject to the same Section 106 Agreement that secures financial contributions in respect of education (£354,722), sport and recreation (£226,027) and public open space (£628,744.25). It is therefore considered appropriate for this application to be beholden to the same Section 106 and financial obligations. This will be achieved via a Supplemental Agreement to 06/02209/FUL's Section 106 Agreement, should Members be minded to approve.

Conclusion

The principle of residential development on the site has long been established via UDP policy HA4 and the previous and numerous planning approvals detailed above. The NPPF requires Local Planning Authorities to consider housing applications in the context of a presumption in favour of sustainable development (Paragraph 49). Furthermore, there are not considered to be any adverse impacts arising from the proposed substitution house-type that would significantly or demonstrably outweigh the benefits of the delivery of this much needed new housing to the City.

Equality Act 2010 - 149 Public Sector Equality Duty

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:-

- o age;
- o disability;
- o gender reassignment;
- o pregnancy and maternity;
- o race;
- o religion or belief;
- o sex;

- o sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to:-

- (a) tackle prejudice, and
- (b) promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

CONCLUSION

For the reasons given above and subject to the conditions listed below the proposed substitutions are considered to be acceptable in terms of design, scale, massing and layout and impact on surrounding existing and proposed residents. It is therefore considered that the proposal accords with all relevant UDP policies and NPPF criteria. Consequently, Members are recommended to be minded to approve the application subject to the completion of the Supplemental Agreement pursuant to 06/02209/FUL's Section 106 Agreement and subject to the following conditions.

RECOMMENDATION: DELEGATE TO EXECUTIVE DIRECTOR OF ECONOMY AND PLACE, who is minded to approve the application subject to the signing of a Supplemental Agreement under Section 106 of the Town and Country Planning Act 1990 and subject to the conditions set out below.

Conditions:

- 1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the

Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time.

- 2 Unless otherwise first agreed in writing with the Local Planning Authority, the development hereby granted permission shall be carried out in full accordance with the following approved plans: To be confirmed

In order to ensure that the completed development accords with the scheme approved and to comply with policy B2 of the adopted Unitary Development Plan.

- 3 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) 25 June 2013 and the following mitigation measures detailed within the FRA:

Surface Water discharge is restricted to a maximum of 14.70 litres per second for this area of the development.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/ phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority. In order to prevent flooding by ensuring the satisfactory storage of/ disposal of surface water from the site and to comply with UDP policy EN12.

- 4 The development hereby permitted shall not be commenced until such time as a scheme of surface water management has been submitted to, and approved in writing by, the Local Planning Authority.

- 1) Network can operate without flooding
- 2) Confirmation that climate change has been considered in the storage
- 3) Ensure access to/ improvement/ protection and maintenance of the drainage network
- 4) Outfall design

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing/ phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason:

- 1) To prevent flooding by ensuring the satisfactory storage of/ disposal of surface water from the site
- 2) To reduce the risk of flooding to the proposed development and future users
- 3) To ensure the structural integrity of the network thereby reducing the risk of flooding
- 4) To ensure structural integrity of the outfall.

In order to prevent the increased risk of flooding from any sources in accordance with the NPPF and policy UDP policy EN12.

- 5 Development hereby permitted shall not commence until a detailed scheme for the disposal of foul water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water. Thereafter the development shall take place in accordance with the approved details. In order to prevent the increased risk of flooding from any sources in accordance with the NPPF and policy UDP policy EN12.
- 6 Development hereby permitted shall not commence until a survey of the existing and proposed ground levels; and details of the finished floor levels of each property, has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in complete accordance with the agreed details, unless otherwise agreed in writing by the Local Planning Authority, in order to achieve a satisfactory form of development and to comply with policy B2 of the UDP.
- 7 Notwithstanding any specifications on the submitted plans, details of all walls, fences or other means of boundary enclosure shall be submitted to and approved by the Local Planning Authority before the development hereby permitted is commenced. The agreed boundary treatment shall be completed before occupation or in accordance with an agreed timetable, in the interests of visual amenity and to comply with policy B2 of the Unitary Development Plan.
- 8 Development hereby permitted shall not commence until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v. wheel washing facilities
 - vi. measures to control the emission of dust and dirt during construction
 - vii. measures to control any surface water runoff during the construction of development.
- To protect the amenities of the area and highway safety, in accordance with Unitary Development Plan policies B2 and T14.
- 9 The construction works required for the development hereby approved shall only be carried out between the hours of 07:00 and 19:00 Monday to Friday and between the hours of 07:30 and 14:00 on Saturdays and at no time on Sundays or Bank Holidays, unless otherwise agreed in writing by the Local Planning Authority, in order to protect the amenities of the area and to comply with policy B2 of the Unitary Development Plan.
- 10 Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with

contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

- 1) A preliminary risk assessment which has identified: all previous uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways and receptors; potentially unacceptable risks arising from contamination at the site.
- 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 3) The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

The information provided with the planning application 06/02209/FUL indicates that the site has been subject to a potentially contaminative land-use. The environmental setting of the site is sensitive as it lies on the Magnesian limestone, a principal aquifer. This condition will ensure that the risks posed by the site to controlled waters are assessed and addressed as part of the redevelopment and that it accords with policy EN14 of the UDP.

- 11 Prior to commencement of the development hereby permitted, a verification report demonstrating completion of the works set in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.

The information provided with the planning application 06/02209/FUL indicates that the site has been subject to a potentially contaminative land-use. The environmental setting of the site is sensitive as it lies on the Magnesian limestone, a principal aquifer. This condition will ensure that the risks posed by the site to controlled waters are assessed and addressed as part of the redevelopment and to accord with policy EN14 of the UDP.

- 12 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Unsuspected contamination may exist at the site which may pose a risk to controlled waters and in order to accord with policy EN14 of the UDP.

- 13 No dwelling shall be occupied on site until the access roads within the development have been completed to at least base level and off street parking has been made available for the parking of vehicles within the development, in the interests of highway safety and the free passage of traffic and to comply with Unitary Development Plan policy T14.
- 14 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the buildings or the completion of the development whichever is the sooner, and any planting which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation, in the interests of visual amenity and nature conservation and to comply with policies B2 of the Unitary Development Plan.

Reference No.: 16/01475/VAR Variation of Condition

Proposal: Variation of Condition 2 attached to planning approval 13/00198/FUL (Erection of 42 dwellings with associated landscaping, infrastructure and car parking (revision of previously approved layout ref. 06/02209/FUL)) to allow the replacement of 9 no. swale housetypes (plots 117-120 & 126-130) with 4.no souter housetype (Plots 117-120) and 5 morden housetypes (Plots 126-130). Amended Description and Plans (5 December 2016).

Location: Land At Murton Lane/ South Of Firtree Lane Easington Lane Houghton-le-Spring

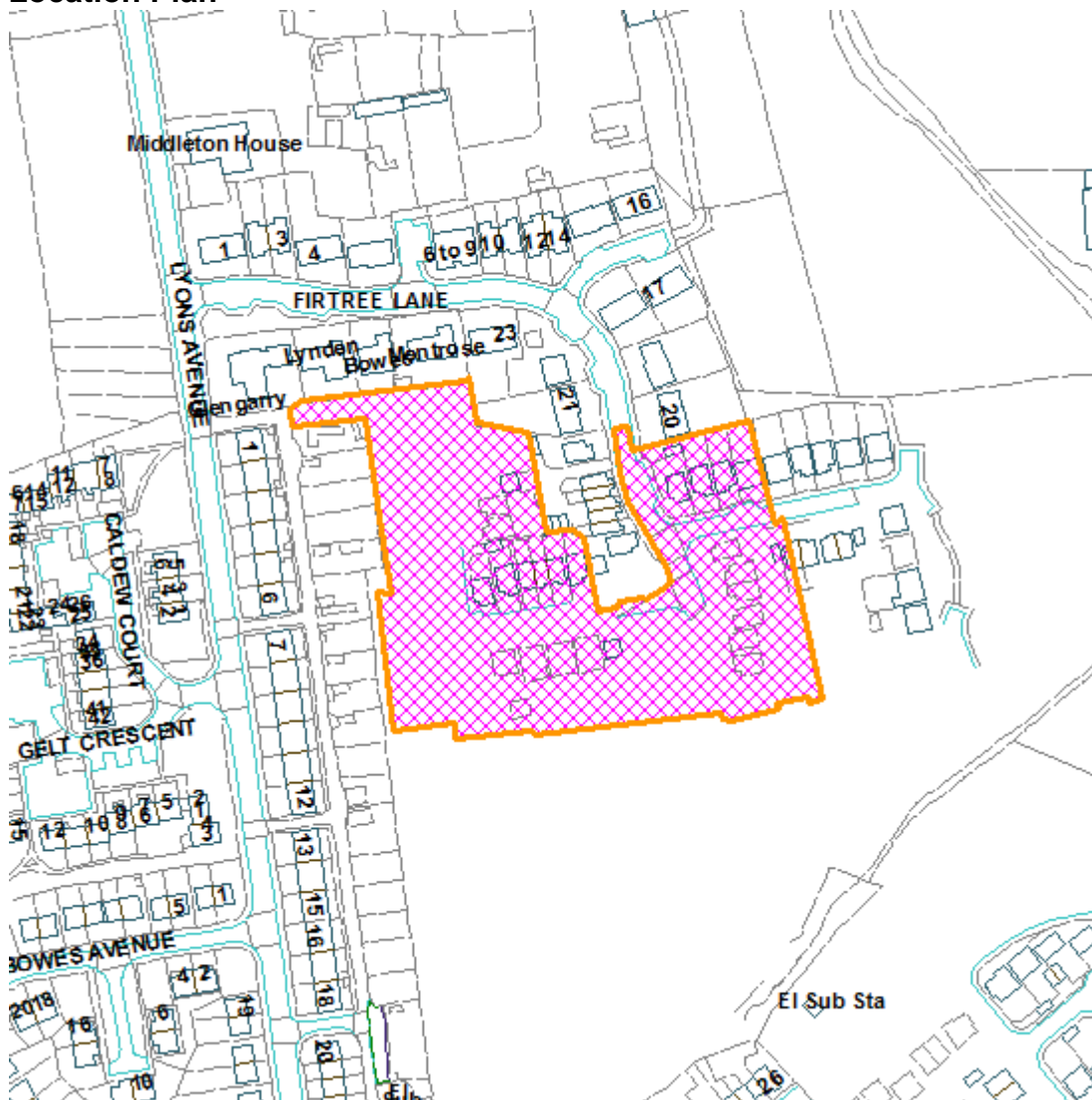
Ward: Hetton

Applicant: Mr Adam McVickers

Date Valid: 24 August 2016

Target Date: 23 November 2016

Location Plan



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PROPOSAL:

Introduction

Members may recall that application ref. 13/00198/FUL granted planning permission to erect 42 dwellings with associated landscaping, infrastructure and car parking within the previously approved Phase 1 of Persimmon's portion of the Murton Lane housing site. Application 13/00198/FUL was heard and approved by Members of the 1 October 2014 Development Control (Hetton, Houghton & Washington) Sub Committee meeting and subsequently approved on the 4 June 2015 following the completion of the required Supplemental Section 106 Agreement.

Planning application 13/00198/FUL was effectively a "re-mix" of the detailed Phase 1 of the Hybrid approval that first enabled residential development at the site, planning ref. 06/02209/FUL. This Hybrid submission was approved by Members of the 6 February 2007 Development Control (Hetton, Houghton & Washington) Sub Committee meeting and its description is as follows:-

"Hybrid planning application comprising: Outline application for residential development and neighbourhood park; full application for Phase 1 residential on two parts of site; and stopping up of public footpath with change of use to residential development."

The residential development of the site is subject to the Section 106 Agreement that formed part of the 06/02209/FUL approval and which secures financial contributions of £354,722 towards Education; £226,027 towards Sport & Recreation; and £628,744.25 towards public open space. Therefore, as the 13/00198/FUL "re-mix" application is an integral and sizeable portion of the overall Murton Lane site it also was tied to the above financial obligations via a Supplemental Agreement to the original Section 106 Agreement.

Proposal

The application that is now before Members has been made via Section 73 of the Town and Country Planning Act 1990. Section 73 allows applications to be made for permission to develop without complying with a condition(s) previously imposed on a planning permission, in this case the "re-mix" permission ref. 13/00198/FUL. The Local Planning Authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide that the original condition(s) should continue. Members should note that the original permission i.e. 13/00198/FUL will continue to subsist whatever the outcome of the Section 73 application.

The subject variation application initially sought to replace the previously approved Swale house-type with a Souter house-type on Plots 117-120 and 126-139. However, following observations by the Case Officer in respect of potential land levels and spacing with other properties when discharging conditions within Phases 2 & 3 the Applicant elected to amend this substitution submission in tandem and which resulted in 5 Souters that had been proposed on Plots 126-130 now being replaced by 5 of their smaller and shallower Morden house-type.

Consequently, the Applicant is now seeking a variation to the 13/00198/FUL approval to enable the following to form part of their "remix" of Phase 1:-

- o 4no. 3-bed Souter (Plots 117-120)
- o 5no. 2-bed Morden (Plots 126-130)

In order to accommodate these changes this variation application is seeking to vary the relevant plans approved via condition no. 2 i.e. the "in accordance with the approved plans" condition.

For completeness Condition no. 2 of 13/00198/FUL states:-

Condition 2 - Plans

Unless otherwise first agreed in writing with the Local Planning Authority, the development hereby granted permission shall be carried out in full accordance with the following approved plans:

Phase 1 Architectural site layout, DRG. No. 242/A/GA/002 REV A;
Phase 1, Location Plan, DRG. No. 242/A/LP/001 received 23 July 2013;
Topo Survey, DRG. No. ENG-HET-TOPO received 7 February 2013;
Detailed Landscape Proposals: Ph 1, Drawing No 1733/14 received 28 January 2013;
Double Garage Construction Details, DRG. No. 2004/A/GAR/002 received 7 February 2013;
Swale 2 Housetype, DRG. No. 2004/A/SWA2/001 REV C received 28 January 2013;
Melrose Housetype, DRG. No. 242/A/MEL/001 received 28 January 2013,
Single Garage Construction Plans, DRG. No. 2004/A/GAR/001 received 7 February 2013;
Roof Types Plan, Plan Ref: RTP/A/GA/001 received 28 January 2013;
Hanbury, HB-WD01, Rev L received 28 January 2013;
Hatfield, HT-WD01, Rev J received 28 January 2013;
Chedworth, CD-WD01 received 28 January 2013;
The Clevedon, CV-WD01, Rev C received 28 January 2013;
Roseberry, RS-WD01, Rev K received 28 January 2013;
Rufford, RF-WD01, Rev K received 28 January 2013;
Winster, WS-WD01, Rev J received 28 January 2013;

In order to ensure that the completed development accords with the scheme approved and to comply with policy B2 of the adopted Unitary Development Plan.

Should Members be minded to approve this variation application the "Swale 2 Housetype, DRG. No. 2004/A/SWA2/001 REV C received 28 January 2013" drawing will be replaced with "Souter, SU-WD01 Rev U, Plans & Elevations" and "Morden, MR-WD01, Plans & Elevations Rev L" drawings; while the "Phase 1 Architectural site layout, DRG. No. 242/A/GA/003 REV A received 11 August 2013" will be replaced by "Phase 1 Architectural site layout, DRG. No. 242/A/GA/004 Rev STP1" drawing.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Hetton - Ward Councillor Consultation
Network Management
Environment Agency
Environmental Health
Hetton Town Council
Northumbrian Water
Flood And Coastal Group Engineer

Final Date for Receipt of Representations: **27.12.2016**

REPRESENTATIONS:

In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015 the application has been subject to a press and site notice, whilst notification letters have also been sent out to surrounding neighbours and other interested parties. Following the amendments to Plots 126-130 an additional notification letter was sent out to their nearest neighbours.

Following this extensive consultation exercise one letter of representation (in response to the first round of consultation) was received from a neighbour who lives next to the side road to the north-east of the site and adjacent to the amended plots. The representation highlighted a concern over whether the track would be turned into an access road into the new build estate. The letter highlighted problems in the past where builders have attempted to use the track as a construction access into the site when residents blocked the main access at Firtree Lane.

When responding to the objector's concerns it is important to re-iterate that this variation is only seeking to vary the house-types and that this issue also arose during the consideration of the initial "remix" 13/00198/FUL application. It was confirmed that there no route of any kind will be introduced from the track into the proposed development site and the proposed substitutions do not alter this aspect of the development. Furthermore, as the now proposed Morden house-type is a shallower house-type the rear boundaries of Plots 126-130 are correspondingly shallower, thereby providing more space going forward for those existing residents who presently use it for their rear access i.e. Bowes and Montrose in Firtree Lane.

In addition, during the course of considering the "remix" 13/00198/FUL application the Applicant confirmed that they would in due course give consideration to selling or transferring the track to the surrounding properties (particularly Bowes and Montrose) whilst also confirming that they would not be proposing any form of highway adoption of this land i.e. the track will remain a track.

Street Scene - Network Management

In their response engineering colleagues offered no observations or recommendations to the proposed variation.

Street Scene - Lead Local Flood Authority

The Council's Flood and Coastal Team advised that with regard to flood risk and drainage there is no impact from the change in house-types.

Northumbrian Water

In making their response Northumbrian Water assessed the impact of the proposed development on their assets and the capacity of their network to accommodate and treat the anticipated flows arising from the development.

Having assessed the proposed variation Northumbrian Water responded by referring to their previous 25 July 2013 consultee response to the "remix" 13/00198/FUL application. In this earlier response Northumbrian Water requested that a detailed scheme for the disposal of surface water and foul water be submitted to the LPA and Northumbrian Water for their approval and as such, should Members be minded to approve, it is recommended that this condition be carried forward.

POLICIES:

In the Unitary Development Plan the site is subject to the following policies;

B_2_Scale, massing layout and setting of new developments

T_14_Accessibility of new developments, need to avoid congestion and safety problems arising

H_4_Density of housing development to at least reflect that of the locality

COMMENTS:

Turning to the consideration of the proposed variation, the principle of residential development has been firmly established by the above referenced approvals. There have also been no changes to the local or national planning policy context that alters this established position and therefore the development proposal is still considered to be acceptable in principle.

Given the proposed alterations and the parameters of the affected condition, and in light of the consultations responses received, it is considered that the main issues to consider are the impact of the proposed alterations on visual and residential amenity.

- Visual and Residential Amenity considerations

Unitary Development Plan (UDP) policy B2 requires the scale, massing, layout and setting of proposed development to respect and enhance the best qualities of nearby properties and the locality. Policy B2 also requires development proposals to provide for an acceptable amount of privacy amenity, whilst also protecting visual and residential amenity. Paragraph 17 of the National Planning Policy Framework (NPPF), in part, states that planning should seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

The height of the Souter at 9.5m is 0.5m lower than the 10m high Swale. It is considered that this is a positive variation that will reduce the bulk of the development on the adjacent properties i.e. the detached gardens of No 6, 7 & 8 Lyons Avenue. Furthermore, another differentiation of the Souter to the Swale is the fact that the Souter only has one rear rooflight, as opposed to the two in the Swale, whilst the internal layout of the Souter means that its rooflight is served by an en-suite, as opposed to a bedroom in the Swale house-type. It is therefore arguable that the proposed variation improves the privacy amenity of the existing residents.

Regarding the Morden house-type, at 7.72m in height the proposed variation reduces the bulk of the development further still on surrounding residents; and as the depth of the Morden is 7.4m the interfacing distances with the existing properties in Firtree Lane (i.e. Bowes and Montrose) are also increased given that the approved Swale has a depth of just under 9m.

In terms of visual impacts as the Souter is broadly similar to the already approved Swale, barring the introduction of a dormer window to the front, it is considered that there will be limited impacts arising from the proposed variation. It is considered that the dormer windows; given that they are an integral part of Souter, will read as a natural design feature. Furthermore, as the front dormer windows all face into the development and all the affected plots face onto the internal road layout this further limits yet further visual and residential amenity impacts.

Regarding the introduction of the Morden, as this is a Persimmon product, it is considered to lend itself well to the surrounding Persimmon house-types and as such, its introduction is not considered alien to the overall development. Moreover, as the overall layout of development

remains unaltered the proposed substitutions are considered acceptable in terms of visual amenity and design considerations.

It is therefore considered that the proposed alterations will have a limited impact on the overall scheme in terms of appearance and layout of development.

Section 106

Paragraph 204 of the NPPF states that planning obligations should only be sought where they meet all of the following tests:-

- (a) they are necessary to make the development acceptable in planning terms;
- (b) they are directly related to the proposed development;
- (c) they are fairly and reasonably related in scale and kind to the development proposal.

Planning applications 06/02209/FUL (i.e. the initial Hybrid approval) & 13/00198/FUL (i.e. the "remix" of Phase 1) are both subject to the same Section 106 Agreement that secures financial contributions in respect of education (£354,722), sport and recreation (£226,027) and public open space (£628,744.25). It is therefore considered appropriate for this variation application to be beholding to the same Section 106 and financial obligations. This will be achieved via a Supplemental Agreement to the Section 106 Agreement, should Members be minded to approve.

Conditions

Apart from "in accordance with the approved" plans condition no. 2 i.e. the condition that is subject to this variation application, given that none of the relevant conditions have been discharged and in light of the continued relevance of the other 'adherence' conditions it is recommended that all the previous conditions imposed on the "remix" 13/00198/FUL approval should be carried forward onto this variation, should Members be minded to approve the application.

Conclusion

The principle of residential development on the site has long been established via UDP policy HA4 and the previous and numerous planning approvals detailed above. The NPPF requires Local Planning Authorities to consider housing applications in the context of a presumption in favour of sustainable development (Paragraph 49). Furthermore, there are not considered to be any adverse impacts arising from the proposed variation house-types that would significantly or demonstrably outweigh the benefits of the delivery of this much needed new housing to the City.

Equality Act 2010 - 149 Public Sector Equality Duty

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:-

- o age;
- o disability;
- o gender reassignment;
- o pregnancy and maternity;

- o race;
- o religion or belief;
- o sex;
- o sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to:-

- (a) tackle prejudice, and
- (b) promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

CONCLUSION

For the reasons given above and subject to the conditions listed below the revised proposal is considered to be acceptable in terms of design, scale, massing and layout and impact on surrounding residents. It is therefore considered that the proposal accords with all relevant UDP policies and NPPF criteria. Consequently, Members are recommended to be minded to approve the variation application subject to the completion of the Supplemental Agreement pursuant to 06/02209/FUL's Section 106 Agreement and subject to the following conditions:-

RECOMMENDATION: DELEGATE TO EXECUTIVE DIRECTOR OF ECONOMY AND PLACE, who is minded to approve the application subject to the signing of a Supplemental Agreement under Section 106 of the Town and Country Planning Act 1990 and subject to the conditions set out below.

Conditions:

- 1 The development to which this permission relates must be begun not later than three years beginning with the date on which the original permission was granted (4 June 2015) to ensure that the development is carried out within a reasonable period of time.
- 2 Unless otherwise first agreed in writing with the Local Planning Authority, the development hereby granted permission shall be carried out in full accordance with the following approved plans:
 - Phase 1 Architectural site layout, DRG. No. 242/A/GA/004 Rev STP1;
 - Phase 1, Location Plan, DRG. No. 242/A/LP/001 received 23 July 2013;
 - Topo Survey, DRG. No. ENG-HET-TOPO received 7 February 2013;
 - Detailed Landscape Proposals: Ph 1, Drawing No 1733/14 received 28 January 2013;
 - Double Garage Construction Details, DRG. No. 2004/A/GAR/002 received 7 February 2013;
 - Souter, SU-WD01 Rev U, Plans & Elevations;
 - Morden, MR-WD01, Plans & Elevations Rev L;
 - Melrose Housetype, DRG. No. 242/A/MEL/001 received 28 January 2013,
 - Single Garage Construction Plans, DRG. No. 2004/A/GAR/001 received 7 February 2013;
 - Roof Types Plan, Plan Ref: RTP/A/GA/001 received 28 January 2013;
 - Hanbury, HB-WD01, Rev L received 28 January 2013;
 - Hatfield, HT-WD01, Rev J received 28 January 2013;
 - Chedworth, CD-WD01 received 28 January 2013;
 - The Clevedon, CV-WD01, Rev C received 28 January 2013;
 - Roseberry, RS-WD01, Rev K received 28 January 2013;
 - Rufford, RF-WD01, Rev K received 28 January 2013;
 - Winster, WS-WD01, Rev J received 28 January 2013;

In order to ensure that the completed development accords with the scheme approved and to comply with policy B2 of the adopted Unitary Development Plan.

- 3 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) 25 June 2013 and the following mitigation measures detailed within the FRA:

Surface Water discharge is restricted to a maximum of 14.70 litres per second for this area of the development.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/ phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority. In order to prevent flooding by ensuring the satisfactory storage of/ disposal of surface water from the site and to comply with UDP policy EN12.

4 The development hereby permitted shall not be commenced until such time as a scheme of surface water management has been submitted to, and approved in writing by, the Local Planning Authority.

- 1) Network can operate without flooding
- 2) Confirmation that climate change has been considered in the storage
- 3) Ensure access to/ improvement/ protection and maintenance of the drainage network
- 4) Outfall design

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing/ phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason:

- 1) To prevent flooding by ensuring the satisfactory storage of/ disposal of surface water from the site
- 2) To reduce the risk of flooding to the proposed development and future users
- 3) To ensure the structural integrity of the network thereby reducing the risk of flooding
- 4) To ensure structural integrity of the outfall.

In order to prevent the increased risk of flooding from any sources in accordance with the NPPF and policy UDP policy EN12.

5 The development hereby permitted shall not commence until a detailed scheme for the disposal of surface water and foul water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water. Thereafter the development shall take place in accordance with the approved details. In order to prevent the increased risk of flooding from any sources in accordance with the NPPF and policy UDP policy EN12.

6 The development hereby permitted shall not commence until a survey of the existing and proposed ground levels; and details of the finished floor levels of each property, has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in complete accordance with the agreed details, unless otherwise agreed in writing by the Local Planning Authority, in order to achieve a satisfactory form of development and to comply with policy B2 of the UDP.

7 The felling of any tree, shrubs or other tree works as a consequence of the development, hereby approved, shall be undertaken outside the bird nesting season (i.e. not during the period mid-February to end of August). If this is unavoidable, a nesting bird survey must be undertaken on the day before removal is to commence in order to ensure no breeding bird will be disturbed. If nests are found, removal works shall not commence until any dependent chicks have fledged, unless otherwise first agreed in writing with the Local Planning Authority. In the interests of nature conservation and in order to comply with policy CN18 of the UDP.

8 Notwithstanding any specifications on the submitted plans, details of all walls, fences or other means of boundary enclosure shall be submitted to and approved by the Local Planning Authority before the development hereby permitted is commenced. The agreed boundary

treatment shall be completed before occupation or in accordance with an agreed timetable, in the interests of visual amenity and to comply with policy B2 of the Unitary Development Plan.

9 The development hereby permitted shall not commence until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. measures to control any surface water runoff during the construction of development.

To protect the amenities of the area and highway safety, in accordance with Unitary Development Plan policies B2 and T14.

10 The construction works required for the development hereby approved shall only be carried out between the hours of 07:00 and 19:00 Monday to Friday and between the hours of 07:30 and 14:00 on Saturdays and at no time on Sundays or Bank Holidays, unless otherwise agreed in writing by the Local Planning Authority, in order to protect the amenities of the area and to comply with policy B2 of the Unitary Development Plan.

11 Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1) A preliminary risk assessment which has identified: all previous uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways and receptors; potentially unacceptable risks arising from contamination at the site.

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

The information provided with the planning application 06/02209/FUL indicates that the site has been subject to a potentially contaminative land-use. The environmental setting of the site is sensitive as it lies on the Magnesian limestone, a principal aquifer. This condition will ensure that the risks posed by the site to controlled waters are assessed and addressed as part of the redevelopment and that it accords with policy EN14 of the UDP.

- 12 Prior to commencement of development hereby approved by this planning application, a verification report demonstrating completion of the works set in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.

The information provided with the planning application 06/02209/FUL indicates that the site has been subject to a potentially contaminative land-use. The environmental setting of the site is sensitive as it lies on the Magnesian limestone, a principal aquifer. This condition will ensure that the risks posed by the site to controlled waters are assessed and addressed as part of the redevelopment and to accord with policy EN14 of the UDP.

- 13 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Unsuspected contamination may exist at the site which may pose a risk to controlled waters and in order to accord with policy EN14 of the UDP.

- 14 No dwelling shall be occupied on site until the access roads within the development have been completed to at least base level and off street parking has been made available for the parking of vehicles within the development, in the interests of highway safety and the free passage of traffic and to comply with Unitary Development Plan policy T14.
- 15 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the buildings or the completion of the development whichever is the sooner, and any planting which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation, in the interests of visual amenity and nature conservation and to comply with policies B2 of the Unitary Development Plan.

Reference No.: 16/01919/VAR Variation of Condition

Proposal: Variation of condition 2 (plans) of planning permission ref. 16/00430/FUL (Erection of 120no. dwellings and 32no. garage blocks comprising substitution of house/garage types approved by reserved matters application ref. 09/02328/REM including reduction in roof pitches and heights of 89no. dwellings from 42 degrees to 35 degrees, replacement of 'contemporary' elevational treatment of Plots 150-200 with 'traditional' design and amend garage roof pitches to hipped design) to facilitate minor material amendment comprising replacement of two terraced dwellings (Plots 172 and 173) with one detached dwelling (Plot 172) and replacement of one detached dwelling (Plot 200) with two semi-detached dwellings (Plots 173 and 200)

Location: Former Lambton Cokeworks Lambton Lane Houghton-le-Spring

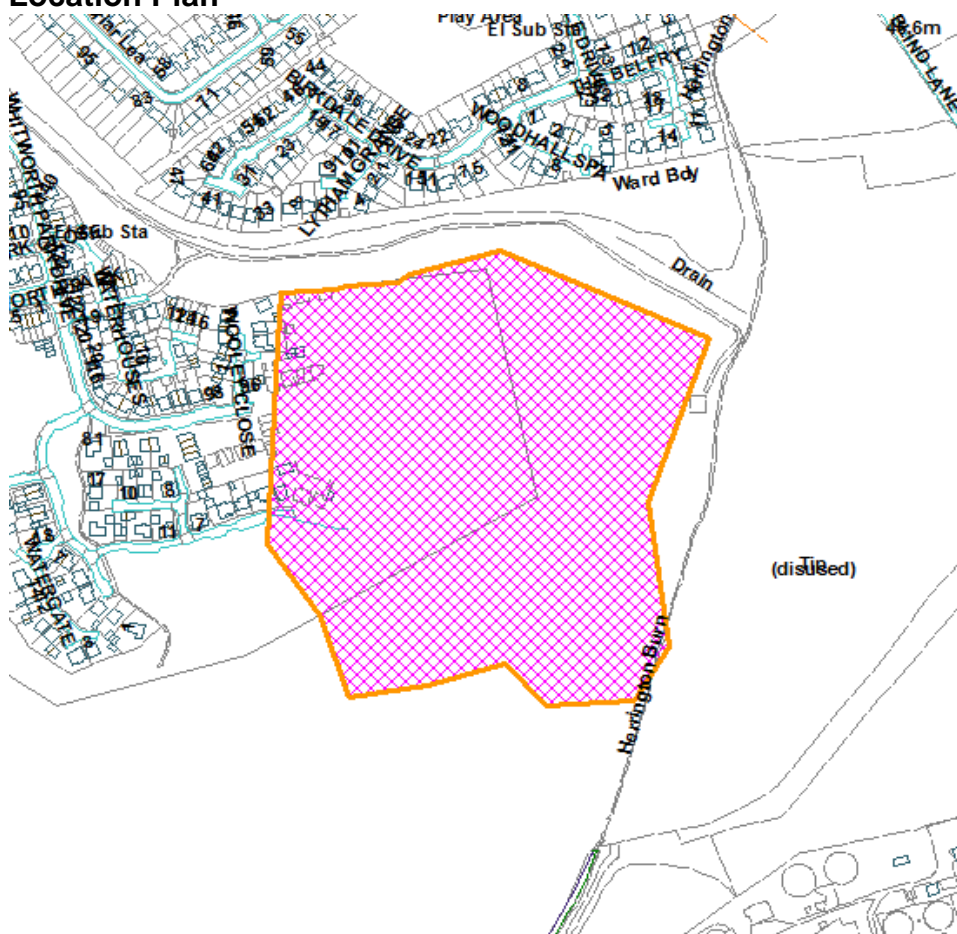
Ward: Houghton

Applicant: Barratt Homes

Date Valid: 18 October 2016

Target Date: 17 January 2017

Location Plan



PROPOSAL:

Site Description and History

Elba Park, the former Lambton Cokeworks, lies to the south of Chester Road, east of the route of the proposed "Central Route" west of Blind Lane and north of the Sedgeleth Sewage Treatment Works and Fencehouses. The development comprises a mix of detached, semi-detached and terraced two-storey properties and construction works are on-going.

Planning permission for the reclamation of the former Lambton Cokeworks site was granted in October 1998 (ref. 98/01135/LAP) and an outline planning application 350 no. dwellings (ref. 06/00843/OUT) which subsequently was approved in May 2006.

Phase 1 of this 350 dwelling development, comprising 96no. dwellings, was granted consent in September 2009 (ref. 09/02185/REM), whilst Phase 2, to which the current application relates, accounts for the remaining 254no. dwellings and was granted consent in December 2009 (ref. 09/02328/REM).

Consent was subsequently granted in January 2013 (ref. 12/02340/FUL) for an alteration to the housing layout granted by 09/02328/REM comprising a substitution of house types affecting 6no. plots and the construction of an electricity substation and for a minor material amendment (ref. 12/02339/VAR) to change fenestration, materials and elevations of house types of Plots 203-225 and 228-306, which also involved the replacement of 'Contemporary' elevations to 'Traditional'.

Applications for full planning permission were approved in January 2016 (ref. 15/02328/FUL) to carry out alterations and add a rear extension to 6no. plots (104, 147, 157, 158, 165 and 171) and in June 2016 (ref. 16/00430/FUL) to amend 120no. dwellings and 32no. garage blocks, comprising the reduction of the roof pitches of 89no. dwellings (Plots 152, 153, 155, 156, 161, 163, 164, 166, 170, 179, 183, 186-188, 192-194, 197, 200, 203-209, 213-215, 218-225, 228-235, 243, 246, 247-254, 256-264, 267-270, 274-286 and 291-298) and the replacement of the elevational treatment of Plots 150-200 from a 'contemporary' to a 'traditional' design, both within Phase 2.

Proposal

Consent is sought to make a "material minor amendment" under section 73 of the Town and Country Planning Act 1990 by varying Condition 2 (list of approved plans) of planning permission ref. 16/00430/FUL.

The proposed amendments comprise the replacement of two terraced dwellings (Plots 172 and 173, EP49K_T house types) with one detached dwelling (Plot 172, EP46T house type) and the replacement of one detached dwelling (Plot 200, EP46T V2 house type) with two semi-detached dwellings (Plots 173 and 200, EP49K_T house types). The garage block to the south of Plot 200 would be altered from a single to a double garage to serve the additional dwelling in this part of the site and the previously approved garage arrangement would remain unaltered in respect of Plot 172, with this dwelling being allocated two as opposed to one garage.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Network Management
Houghton - Ward Councillor Consultation
Flood And Coastal Group Engineer

Final Date for Receipt of Representations: **29.11.2016**

REPRESENTATIONS:

The Council's Flood and Coastal Group Engineer, acting in the capacity of the Council as Lead Local Flood Authority, has recommended that the application be refused in lieu of the provision of SuDS (Sustainable Urban Drainage Systems) within the curtilage of the site, which will be elaborated upon below.

The Council's Network Management section confirmed that no observations or recommendations are offered in this instance.

No representations have been received from neighbouring occupants.

POLICIES:

In the Unitary Development Plan the site is subject to the following policies;

B_2_Scale, massing layout and setting of new developments
EN_11_Restrictions upon new development or intensified use of land liable to flooding
EN_12_Conflicts between new development and flood risk / water resources

COMMENTS:

A "minor material amendment" to a planning permission can be made by varying the condition which lists the approved plans (in this case condition 2) through an application under section 73 of the Town and Country Planning Act 1990. The National Planning Practice Guidance (the "NPPG") (Paragraph: 018 Reference ID: 17a-018-20140306 Revision date: 06.03.2014) states that "there is no statutory definition of a 'minor material amendment' but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved".

The main issues which were considered in the assessment of the original application and subsequent appeal were:

- o Design and Visual Amenity;
- o Residential Amenity; and
- o Drainage and Flood Risk

In this instance, the proposed amendments are considered to be material in that they would alter the street scene of the affected parts of the development. However, given that the same house types as previously approved would be used and the proposal would not notably alter the layout of the development, it is not considered that the current proposal would result in a form of

development which is substantially different from that approved, having regard to the scheme as a whole and the current proposal raises no design or amenity concerns.

It is noted that the Council's Flood and Coastal Team, acting in its capacity as Lead Local Flood Authority, has made a statutory objection on the basis that the pond into which storm water would be drained and connections falls outwith the current application site.

However, condition 4 of the reserved matters application ref. 09/02328/REM requires the development approved by this permission to be carried out in accordance with the FRA and condition 5 requires the submission of a scheme for the management of surface water, which was discharged by submission ref. 11/00657/DIS. Given that this consent has been implemented and, in part, will be completed, particularly in respect of the dwellings which remain unaltered and the road network, the requirement to accord with these conditions remains extant.

Similar conditions were therefore imposed on the planning permission which the current proposal seeks to vary and no amendments to the drainage strategy have been proposed. As such, it is recommended that this, together with all other conditions of the host planning permission, be re-imposed should Members be minded to approve; all flood protection measures and drainage details which fall outwith the current application site will be required to be implemented in accordance with previous extant planning permissions.

Equality Act 2010 - 149 Public Sector Equality Duty

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to:

- (a) tackle prejudice, and
- (b) promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

Conclusion

For the reasons given above, the proposal is considered to constitute a "minor material amendment" to the consent which it seeks to vary and it is considered that such amendments are acceptable in design terms, would not be detrimental to visual or residential amenity and would not increase the risk of flooding. It is therefore considered that the proposal accords with UDP policies B2, EN11 and EN12 and the relevant criteria of the NPPF set out above and, as such, it is recommended that Members grant consent, subject to the conditions set out below.

RECOMMENDATION: Approved subject to the conditions listed below:-

Conditions:

- 1 This permission must be implemented within three years of the date (16.06.2016) of the original permission (16/00430/FUL) and does not extend the time period for implementation.
- 2 The development hereby granted permission shall be carried out in full accordance with the following approved plans and documentation:
 - Materials Schedule received 06 June 2016
 - Drawing no. H5019/PLANNING/LOCATION/02: Location Plan dated 07.03.2016 received 14.03.2016
 - Drawing no. SL001M: Proposed Site Layout received 14.10.2016
 - The following house type drawings received 14.03.2016:
 - EP21T (1no. sheet)
 - EP22T (5no. sheets)
 - EP23T (6no. sheets)
 - EP33T (2no. sheets)
 - EP34T (5no. sheets)
 - EP38T (7no. sheets)
 - EP40T (6no. sheets)
 - EP46T with variations (6no. sheets)

- EP48B-T (4no. sheets)
- EP48K-T (5no. sheets)
- EP57T (3no. sheets)

- The following house type drawings received 06.06.2016:
 - EP20T (3no. sheets)
 - EP21T (3no. sheets)
 - EP44T (4no. sheets)

- Drawing no. H5019/GARAGE/TYPEN/01: Floor Plan and Elevations received 06.06.2016
- Drawing no. H5019/GARAGE/TYPEO/01: Floor Plan and Elevations received 06.06.2016
- Drawing no. H5019/GARAGE/TYPER/01: Floor Plan and Elevations received 06.06.2016

In order to ensure that the completed development accords with the scheme approved.

- 3 Notwithstanding the provisions of the current Town and Country Planning (General Permitted Development) (England) Order 2015 (Schedule 2 Parts 1 and 2) or any statutory instrument re-enacting that Order, either in whole or in part, no extensions or other development shall be undertaken to the dwellings hereby permitted without the prior written consent of the Local Planning Authority, in order that the Local Planning Authority may retain control over the development and to comply with policy B2 of the adopted Unitary Development Plan.

- 4 Notwithstanding the provisions of the current Town and Country Planning (General Permitted Development) (England) Order 2015 (Schedule 2 Part 1) or any statutory instrument re-enacting that Order, either in whole or in part, the cladding and render on the residential dwellings hereby granted consent shall be retained and stained, varnished, painted or coloured in accordance with the agreed scheme and shall be retained as such. Thereafter the cladding and render shall not be re-coloured or otherwise altered without the prior written consent of the Local Planning Authority in order to retain the design scheme for the development in the interests of visual amenity and to comply with policy B2 of the adopted Unitary Development Plan.

- 5 The development hereby approved shall only be carried out in accordance with the approved Phase 2 and 3 Flood Risk Assessment (FRA) ref. QD249-90-14 rev. C dated 17 December 2009 and the following mitigation measures as detailed within the FRA:
 - (i) The development layout is as per Drawing No. QD249-03-02 rev. D dated July 2009;
 - (ii) Minimum finished floor levels are set no lower than 40.600 mAOD;
 - (iii) Surface water discharge from the site must be attenuated to 3.5l/s/ha of impermeable area;
 - (iv) Flood resilience construction measures must be incorporated into the foul flow pumping house;
 - (v) The carriageway access over the Herrington Burn must be raised above the flood zone levels.

In order to reduce the risk of flooding to future occupants and downstream as a result of the development and to ensure the pumping house remains operational during times of flooding and to provide road access and egress from the site at all times and to comply with policies EN11 and EN12 of the adopted Unitary Development Plan.

- 6 The development hereby permitted shall only be carried out in accordance with the Category 4 Surface Water Run-off Design Stage Evidence document ref. QD249 rev. B dated 25 March 2011, drawing no. 60031948/SK39 rev. P1 dated 06.04.2009 and Appendix D of Phase 2 and 3 Flood Risk Assessment (FRA) ref. QD249-90-14 rev. C dated 17 December 2009. Thereafter, all associated equipment shall maintained to remain fully operational in accordance with the specification provided, in order to prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site and to comply with policy EN12 of the adopted Unitary Development Plan.