

Appeal Decision

Inquiry held on 4 – 6 June 2019

Site visit made on 4 June 2019

by Helen Heward BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th September 2019

Appeal Reference: APP/P2935/W/18/3210193

Land North of the Garth, Pottery Bank, Morpeth

- 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 Persimmon Homes Ltd against the decision of Northumberland County Council.
 - The application Ref: 16/04486/FUL dated 2 December 2016 was refused by notice dated 2 March 2018.
 - The development proposed is described as "53 residential dwellings and associated infrastructure".
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Decision

1. **The appeal is allowed** and planning permission granted for 53 residential dwellings and associated infrastructure at land north of the Garth, Pottery Bank, Morpeth, in accordance with the terms of the application, Ref 16/04486/FUL dated 2 December 2016, **subject to conditions** set out in the schedule at the end of this decision.

Procedural Matters

2. Prior to the Inquiry the Council formally withdrew Reasons 1 and 3 on the Decision Notice (DN).
3. The proposal includes contributions towards education infrastructure. At the time that the Inquiry sat Northumberland County Council (NCC) had already received five or more pooled contributions towards education.
4. Community Infrastructure Levy (CIL) Regulation 123(3) (b) prevented a planning obligation where five or more separate obligations for the funding of the project or infrastructure had been entered into on or after 6th April 2010. Therefore the Appellant provided a signed and executed legal agreement dated 12 June 2019, which would have made the education payments under s111 of the Local Government Act 1972. S111 Agreements do not run with the land and this can lead to enforcement issues.
5. However, as of 1st September 2019 Regulation 11 of the CIL (Amendment) (England)(no2) Regulations 2019 removed the limit upon the number of planning obligations that could be used to fund an infrastructure project.
6. The Appellant provided a second signed and executed legal agreement dated 3 September 2019. It revokes the deed dated 12 June 2019 and section 3.2 provides for the covenants, restrictions and requirements pursuant to s106 of the Town and Country Planning Act 1990 (as amended). The education

contributions are secured as owner's covenants with the Council in the Second Schedule.

7. The main parties and Morpeth Town Council were consulted on changes to the Government's Planning Practice Guidance web resource made after the inquiry closed. The responses have been taken into consideration.

Main Issues

8. The second reason for refusal states that *"the site is not a designated site for housing development and is therefore contrary to the Morpeth Neighbourhood Plan"*.
9. Paragraphs 12 and 29 of the National Planning Policy Framework (2019) (Framework) advise that where an application conflicts with an up-to-date development plan (DP) (including any neighbourhood plans (NP) that form part of the DP, permission should not usually be granted. Neighbourhood planning gives communities the power to develop a shared vision for their area. NPs can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory DP.
10. Advice on Gov.UK¹ adds *"Neighbourhood planning provides the opportunity for communities to set out a positive vision for how they want their community to develop over the next 10, 15, 20 years in ways that meet identified local need and make sense for local people. They can put in place planning policies that will help deliver that vision or grant planning permission for the development they want to see"*.
11. At Inquiry the Council explained that their starting point was that the proposal does not relate to an allocated housing site in the Morpeth Neighbourhood Plan 2011-2031 (Adopted May 2016) (MNP). It had formed part of one of four strategic options for the location of new housing considered during the consultation stage of the MNP. The community had carefully considered the options and had made a decision about their preferred strategic choice for the location of new housing. In the end the appeal site was not part of the chosen strategy. Therefore, the Council argued, the proposal would run contrary to the strategic choice made by the community about the preferred location of housing that underlies the MNP.
12. The main issues are whether or not the proposal:
 - i) Complies with the development plan when read as a whole, with particular regard to the MNP, and
 - a) The provision of new housing,
 - b) The setting and approaches to the town, and
 - c) The amenity of occupiers of adjacent dwellings at Pottery Bank Court.

Reasons

The development plan and provision for housing

13. The DP comprises the Castle Morpeth District Local Plan (2003, Saved Policies 2007) (CMDLP) and the MNP. In the preparation of the MNP the general

¹¹ Paragraph: 003 Reference ID: 41-003-20190509 Revision date: 09 05 2019

strategic approach in the emerging Northumberland Core Strategy (NCS) was followed. Noting that the final housing figure had yet to be adopted and uncertainties around the housing requirement, the MNP adopted a figure of “*at least 1700 dwellings*” to be delivered within the plan period to 2031.

14. The NCS has since been withdrawn. On 29 May 2019 the Northumberland Local Plan (January 2019)(NLP) was submitted to the Secretary of State for examination. Policy HOU 2 of the NLP supports new open market housing consistent with the spatial strategy and Policy HOU 3 advises that the Morpeth NP area should provide for a minimum of 1700 dwellings 2016-2036. Although the strategic housing requirement remains to be determined it is common ground between the main parties that the level of development promoted in the MNP reflects the strategic policies for the area and that the MNP is up-to-date.
15. The CMDLP identifies the town of Morpeth (together with Ponteland) as the main focus of the majority of future development and redevelopment. The MNP Vision includes that by 2031 Morpeth will be recognised as an historic market town, based in a rural setting, with a vibrant town centre. It will have harnessed its growth potential, whilst retaining its strong local identity and distinctiveness. MNP Plan Objective 1 (PO1) is to develop Morpeth’s strong sense of place, community and local identity; and its integrity, character and rural setting, including the green approaches, as an historic market town.
16. MNP paragraph 3.3.6 identifies Morpeth as a main town and a “*key hub*” for housing, employment, education, healthcare and retail, and the main focus for development to underpin social, economic, environmental and cultural regeneration. The MNP puts a strong emphasis on supporting Morpeth’s important roles as an historic market town based in a rural setting serving a large rural area and as a local employment hub. The MNP recognises that supporting new development within Morpeth will help sustain the settlement.
17. MNP Policy Sus1 – sustainable development principles – sets out how sustainable development will be supported across the MNP area. It states that proposals for new development will be supported at a scale and in locations that accord with policies elsewhere in the MNP where they support the continued sustainability and viability of communities in the plan area by providing, amongst other things, new homes to meet the objectively assessed housing needs. Proposals will be expected to satisfy six development principles, including that they can be accommodated within settlement boundaries defined in the MNP.
18. The MNP advises that it uses settlement boundaries to positively direct and shape the spatial distribution of development and to provide for a supply of land to meet the requirements of the MNP and the strategic requirements identified in the NCS. CMDLP Policy C1 also directs housing development to within settlement boundaries.
19. The appeal site is within the settlement boundary for Morpeth in both the CMDLP and MNP. MNP Policy Set1 states that development proposals will be supported within settlement boundaries subject to being in accordance with other relevant policies in the DP.
20. MNP Policy Hou1 provides for the housing requirement from specified existing commitments and allocations in Morpeth and Pegswood. Table 1 – Morpeth

Housing Supply a at 31 March 2015 identifies commitments. Policy Hou2 allocates St George's Hospital site for around 1000 homes as the principal location for residential development in the medium to long term, including beyond the plan period. The appeal site does not fall within any of these.

21. However, paragraph 146 of the Report to NCC of the Independent Examination of the MNP (September 2015) notes that *"whilst the commitments and site allocations would boost significantly housing supply, they do not represent all the housing development that would occur in the plan area over the plan period. The MNP anticipates other development proposals will be made inside the settlement boundary, which [Policy Set1] supports, provided that they are consistent with other development plan policy"*.
22. Paragraph 147 continues *"The NP is not seeking to impose a cap on the supply of housing development. Not only do the policies of the NP positively support development within the settlement boundaries generally, they also make specific provision for the development of significant areas of land for housing and employment purposes."* And at paragraph 235 adds *"There was no requirement for Policy Hou1 to list other sites. The Policy identifies commitments and provides for specific allocations. The policy does not preclude other development taking place."*
23. The appeal site appears within the document *"Housing Site Allocation – Outline Methodology and Potential Sites"* in a table "Other Possible Sites" as "Peacock Gap (part) SHLAA ref 3497" (since amended to 3497b). Whilst this document is not part of the MNP, paragraph 7.3.10 of the MNP states that the sites listed would be compliant with the MNP Objectives and Policies. At Inquiry the Council agreed that Policy Hou1 does not preclude development of housing on non-designated sites.
24. The MNP seeks to concentrate development to the north of the town on the St George's Hospital site as a sustainable urban extension, well related to the town, providing good access to services and facilities and more widely accessible via the Morpeth Northern Bypass. But there is no requirement for this site to come forward before others can be released.
25. Policy MNP Policies Hou1, Hou2 and Table 1 do not amount to a hierarchy or sequential strategy for a certain order of delivery of housing sites. In my opinion, from the evidence before me, there is nothing to suggest and there is scant evidence to say that allowing the appeal proposal would hinder or otherwise harm, the coming forward of St George's Hospital site.
26. The appeal site is also located in the north of the town and, from the A192, is accessible via the new strategic road network. There is a bus stop outside of the site and on my visits I found the site to be well related to the town centre.
27. Housing development on the appeal site would also contribute to wider key aims of the MNP strategy including supporting the continued sustainability and viability of the settlement and community and contributing to harnessing the growth potential of the historic market town.
28. The Appellant does not contest that NCC can demonstrate a 12.5-year housing land supply. In the years 2015-2018 housing delivery has been in the order of 197%. Within the MNP area 752 dwellings have been completed which equates to more than double the pro-rata annual minimum requirement for the period.

Housing has been allowed on appeal and outside of the settlement boundary for Morpeth. The 2018 SHLAA identifies a potential future housing land supply of 3473 from 2018 onwards (of which 2259 have permission and 1175 are expected to be delivered between 2018-2023).

29. However, the Framework seeks to boost significantly the supply of housing, to deliver a wide choice of quality homes and widen opportunities for home ownership. The housing requirement is a minimum and the overall strategic requirement has yet to be set in the NLP and there is very little evidence to say how this proposal would set a precedent for other proposals.
30. In an appeal at Hambrook² for 120 dwellings the Inspector's Report to the Secretary of State at paragraph 126 found that whilst the relevant policy did not place a ceiling on the numbers of homes to be accommodated in each Parish, the stated numbers are clearly indicative, and signalled the likely scale of housing that the local plan is seeking to accommodate in the area and to have any meaning it could not represent a 'blank cheque'.
31. In another appeal for up to 95 dwellings at Ditchling Road Wivelsfield³. Paragraph 334 of the Inspector's Report to the Secretary of State advises that *"a decision to allow the appeal could be expected to be viewed as an undermining of a neighbourhood plan that has been widely supported by the local community and lead to an erosion of confidence in neighbourhood planning. That would be a significant harmful negative outcome having regard to the importance on neighbourhood planning in national policy."*
32. However at both Ditchling Road and Hambrook the proposals were outside of settlement boundaries in the NPs concerned. In the Hambrook case the report informs that the parish is formed of 1000 homes, Hambrook/Nutbourne is a Service Village in the local plan, and the NP referred to an indicative number of 25 dwellings for Hambrook.
33. In contrast the MNP identifies Morpeth as a main town and key hub for housing, and the appeal site is within the settlement boundary. And the 53 dwellings would represent a very small percentage of additional dwellings in comparison to the 1000 new dwellings at St George's Hospital site. The MNP positively supports other housing development within the settlement boundary as a means of contributing to the vision for Morpeth and to achieve sustainable development.
34. The proposal would contribute to these aims and is supported in principle by MNP Policy Sus1 criteria 1 and 2 and Policy Set1. The proposal complies with the DP provisions for new housing and would not be harmful or contrary to the preferred housing strategy of the MNP in principle. I now turn to consider other requirements of the DP.

Setting, approaches and corridors

35. Paragraph 125 of the Framework acknowledges that NPs can play an important role in identifying the special qualities of each area and how this can be reflected in development. The essentially rural setting and the green approaches to Morpeth are recognised by the MNP as defining assets,

² APP/L3815/W/15/3004052

³ APP/P1425/W/16/3145053

- contributing to the sense of place and market town identity valued and protected by local residents.
36. Whilst paragraph 4.3.5 of the MNP advises that settlement boundaries should preserve the setting and approaches to Morpeth, these particular features or qualities are not defined in the MNP text or on MNP Inset Map 4. At the Inquiry there was much debate about where the rural setting and approaches are. The conclusions presented are ultimately based upon judgements and I have made my own based on all of the evidence presented and my site visit observations
37. On my site visits I found that approaching Morpeth on the A192 a loose ribbon of development set behind a roadside footpath, together with glimpses of built form ahead signal leaving open rural countryside. Once past the last open field there is a distinct change. Trees and vegetation combine to restrict the view and the character and appearance is well wooded and verdant. The impression gained is very much that one has left the open countryside and rural setting behind. The appeal site is still some way ahead. There is little if any intervisibility between the site and the open rural countryside outside of the settlement boundary. Development on the appeal site would not impact the open countryside setting.
38. Approaching the junction with Fulbeck Lane, in the vicinity of the settlement boundary, the A192 becomes more urbanised with metalled footpaths and lighting columns to either side. A sign announces "Welcome to Morpeth". The appeal site is beyond. A line of hedgerows and trees along the site frontage largely prevents views of the site and would be retained. A short row of bungalows would be set well back behind this section of landscape corridor and would be barely perceptible from the A192 approaching the town. The proposals would retain and not adversely impact on the green approach to the town in this area.
39. The policies of the CMDLP and MNP for landscape corridors apply both within and without the settlement boundaries. Together they provide a framework for the protection of a green corridor for landscape, amenity and other purposes along the A192 including the appeal site frontage.
40. Paragraph 30.10.1 of the CMDLP explains that the principle of encouraging "green corridors" on either side of the main approach roads to the town centre has been applied in the past to try to maintain and enhance the general amenity of the town. This practice was established before 1970 and provides a high-quality environment preserving the open, treed character of the town. The CMDLP inset map for Morpeth and Policy MC3 identify a landscape corridor along the northwestern approach on the A192 from west of Peacock Gap to Pottery Bank.
41. Policy MC3 refers to Policy C4 which advises that development adjacent to landscape corridors would be encouraged to include a landscape corridor of not less than 15m from the edge of the highway for the whole frontage of the development and that no development would be permitted within the landscaped zone
42. MNP Plan Objective 8, Natural and Heritage Assets (PO8), seeks to protect and enhance the natural environment and heritage assets of the plan area. Inset Map 4 shows a Landscape Corridor along a section of the site adjacent to the A192. Policy Env1 informs that Landscape and Wildlife Corridors defined on the

Proposals Map will be protected from development, other than that required to maintain, enhance or interpret their landscape or wildlife purposes. It does not stipulate a minimum width. The annotation on the map runs only along the A192 corridor and the edge of the appeal site. Whereas area designations, such as 'protected open space' at Leslie's View, extend some way back from the A192.

43. In a letter to Persimmon Homes, 12 May 2015, the Town Council acknowledged that whilst the site had not been identified as a preferred development site, neither had it been given a protected designation [in the MNP]. There is little evidence before me to say that landscape corridor policies preclude development of adjacent land in principle.
44. At the appeal site a gap along the frontage provides a view across part of the site. Open ground, hedgerows and Cotting Wood in the background can be seen and the view has a rural feeling and character. Topography and tree cover limit the extent of the view and it is seen in the context of the road corridor and the suburban layout and character of the open space at Leslie's View. Newly constructed housing, walls and fences on high ground adjacent to the northern boundary can also be glimpsed. Overall, the character of the wider locality is quite urban.
45. Development would be set back behind an open landscaped space adjacent to the access. This space would maintain much of the open green foreground of the present view and create a sense of spaciousness. Landscaping and tree planting in the open space would restrict and mitigate views of new housing beyond. The proposed development would partially obscure and mitigate views of the newly constructed housing to the north. The top of the wooded hillside would still be visible from elevated ground at Leslie's View.
46. The new open space would be quite in keeping with the green space at Leslie's View opposite. The traffic light junction would not be an unduly urbanising feature and would not adversely impact upon the green corridor. The harm that would arise from the loss of the present open view would be balanced by the creation of new views of open landscaped space. Although more urbanised, given that it is within the settlement boundary and the character of the wider area, this would not be harmful.
47. The green corridor continues along both sides of the road as it descends toward the town. There are high stone walls. The feeling is enclosing, and the character and appearance is well-wooded urban. The wall and trees on the appeal site would be retained. The development would be barely perceptible from Pottery Bank. Where seen, glimpses of dwellings would not be dissimilar to restricted views of other dwellings set in trees along this section of road.
48. Leaving the town on the A192 the site is seen in a restricted view adjacent to Pottery Bank Court. Residential development closely adjoins the southern boundary. Most of the area that is seen would be retained as open space.
49. The allocation of a larger site of 8.64Ha was pursued through the CMDLP. Paragraph 30.96 of the CMDLP Inspector's Report notes that two previous appeals had been dismissed⁴. Paragraph 30.97 adds that there is "*a strong sense of containment to the small development of high quality, low density*

⁴ APP/T2920/A/84/22194 and APP/T2920/A/89/135246/P8

housing at Fulbeck” ... that it has “a separate identity to the town of Morpeth and its peripheral housing sites, and that “To a large extent this is due to the open gap provided by the fields in question and the continuation of that gap to the west of the A192 formed by open land south of Lancaster Park.”

50. But there have been changes since. In particular, 39 dwellings were allowed on appeal on part of the site previously considered by the CMDLP Inspector, and on land directly north of this appeal site. In that appeal⁵ (Story Homes) the Inspector noted the low density and leafy character of Fulbeck but concluded that development would not transform the character of the area, which was within the settlement boundary.
51. Overall, the proposed open space together with the retained trees and hedgerows would create a robust landscape corridor along the site frontage. It would have a minimum width of 15m and would make a positive contribution to the character and appearance of the green approach along A192. The proposal would comply with the requirements of the CMDLP and MNP for landscape corridors.
52. MNP Inset Map 4 indicates a Wildlife corridor running along the route of the Cotting Burn adjacent to the eastern site boundary. On the other side is Cotting Wood, ancient semi natural woodland (ASNW), a designated Local Wildlife Site (MNP Policy Env5) and Site of Nature Conservation Interest (CMDLP Policies MC4 and C9). These policies have a presumption against development that would harm or put at risk their conservation value. CMDLP Policies MC6 and C12 seek to protect, maintain or enhance wildlife corridors through appropriate habitat creation.
53. At the Inquiry I heard that school children often cross the stream and go through the ASNW as a short cut to and from school. The proposal would result in more houses and people in close proximity to the ASNW and has the potential to result in a minor increase in footfall and a modest increase in disturbance in terms of access to the ASNW.
54. Advice on GOV.UK⁶ is that permission should be refused if development would result in the loss or deterioration of ancient woodland. Potential direct impacts include changing the water table or drainage of woodland. Indirect impacts can include reducing the amount of semi-natural habitat next to ancient woodland, increasing disturbance to wildlife, increasing light pollution, increasing damaging activities such as the impact of domestic pets or changing the landscape character.
55. Developers should identify ways to avoid negative effects on ancient woodland or ancient and veteran trees. This could include selecting an alternative site for development or redesigning the scheme. If permission is to be granted planning conditions or obligations should firstly make sure that the developer avoids damage and secondly mitigate against damage. Ancient woodland is irreplaceable. Compensation measures should not be considered as part of the assessment of the merits of the development proposal.
56. The proposals include for a wide landscaped wildlife buffer along the site adjacent to Cotting Burn with a minimum width of 15m. Dwellings would be

⁵ APP/P2935/W/15/3014930

⁶ <https://www.gov.uk/guidance/ancient-woodland-and-veteran-trees-protection-surveys-licences#avoid-impacts-reduce-mitigate-impacts-and-compensate-as-a-last-resort>

- set further back with rear gardens toward the corridor. New planting would include native species. Open space elsewhere on the site would provide paths and space for dog walking.
57. At the Inquiry the Appellant agreed that fencing could be erected along the wildlife corridor to prevent public access. This would also enhance the biodiversity value of the area. It could be required by a planning condition. Planning conditions could also control some of the effects of external lighting. Together with these on-site measures to avoid and mitigate effects, a contribution of £10,000 secured by a planning obligation towards managing public access of other local nature reserves within the locality and in the ownership of the Council would be reasonable.
58. Two sustainable urban drainage ponds are proposed on land close to the Cotting Burn. The oral evidence of NCC's Ecologist to the Inquiry was that the location of these ponds would not be likely to adversely affect hydrology or the root protection areas of trees in the ASNW. Rather, there was potential for a minor beneficial effect by controlling discharge into the Cotting Burn, regularising the water table and reducing potential for waterlogged conditions.
59. Northumberland Wildlife Trust objected due to concerns about inadequate surveys and potential impacts upon an important population of White Clawed Crayfish, which are protected under the Wildlife and Countryside Act 1981 (as amended). Natural England opined that the proposal was not likely to result in significant impacts on statutory designated nature conservation sites or landscapes and the Council raised no objection. With the wide wildlife buffer and controlled and filtered water discharge to the Cotting Burn it is unlikely that the development would have an adverse impact.
60. The landscape and wildlife corridors would connect at the southern area of the site. Overall the proposals would reinforce, extend and enhance distinctive features of the site and locality, extend the network connectivity and increase the potential for biodiversity and wildlife. Together with public open space and the package of measures described the scheme would avoid, reduce and mitigate impacts.
61. Paragraph 118b of the Framework recognises that some undeveloped land can perform many functions, such as for wildlife, recreation and flood mitigation. The proposal achieves an appropriate balance between a developable area and areas providing for these other needs.
62. With the measures described the proposals comply with MNP PO1 and satisfy requirements of MNP Policy Sus1 criteria 3 and 5 and Policy Des1 criterion A which seek to maintain the market town character of Morpeth and respect the character and appearance of the setting of the development and the surrounding area, and ensure that the design and layout of the development achieves a sense of place by protecting and enhancing the quality, distinctiveness and character of settlements.
63. The proposals comply with MNP PO8 and requirements of MNP Policies Env1 and Env5, and CMDLP Policies MC3, MC4, MC6, C4, C9 and C12, to protect and enhance the natural environment and landscape and wildlife corridors, advice at GOV.UK and paragraph 175 of the Framework to protect habitats and biodiversity.

Amenity of occupiers of adjacent dwellings at Pottery Bank Court

64. The Statement of Common Ground advises that this reason relates to the massing of the proposed development and the relationship between proposed dwellings on plots 35-45 and existing dwellings at No's 1, 2, 12, 13 and 14 Pottery Bank Court. The Council confirmed to the Inquiry that their reason for refusal on design was specific to this.
65. Existing dwellings have primary aspects, picture windows and external sitting areas which take advantage of the outlook across the site. CMDLP Policy H15 criterion iv requires not less than 20m between primary elevations.
66. The closest relationship would be with a side gable elevation at plot 45. At the Inquiry one resident explained that her main concern was that she would look out at this tall brick wall almost three storeys tall and with few openings.
67. The main parties agree that the closest separation distance would be approximately 80m and that the level difference between the ground floor levels would be approximately 6.8m. The proposed dwellings would be at a higher level and the change in outlook would be quite dramatic. But the separation distance would be great. There would be a wide belt of open space in between. Tree planting would, in time, soften and partially obscure views of built form.
68. At a property in The Dell I observed that new housing to the rear had been built at a much higher level. In that case the Inspector⁷ noted that the slope and rear boundary planting and mature trees would limit and filter views. She found that the proposed development would not be overly dominant when seen from the gardens of dwellings at The Dell. There were boundary trees affording some screening and differences in the steepness of the slope. But the separation distance of 52m is much less and the level difference of 11.5m greater than the case I am considering.
69. An illustrative landscape plan indicates an access track for service vehicles running directly behind gardens at Pottery Bank Court. This could be intrusive. At the Inquiry the Appellant agreed that there was no need for the track to be located in this way. A planning condition for the hard and soft landscaping details could require this information to be submitted and approved.
70. Overall, in my opinion, there would be neither any material adverse overlooking nor overbearing impact upon the residential amenity of dwellings at Pottery Bank Court.
71. The scheme proposes different character areas with designs to reflect those in the locality and which would create a sense of place. Some houses would be split level and 2.5 storey high. There are different designs in the locality including quite compact terraced housing south of the site, estate housing off Leslie's View and various designs including split level properties in large grounds at The Dell. The proposed designs together with the landscape strategy would respect and enhance the character of the locality and settlement.
72. I find no conflict with requirements of CMDLP Policy H15 and MNP Policy Des1 that development proposals should respect or enhance the character of the site

⁷ APP/P2935/W/15/3014930

and its surroundings in terms of its proportion, form, massing, density, height, size, scale, materials and detailed design features and make a positive contribution to their surroundings in terms of ensuring that the development does not have an unacceptable adverse impact upon on the amenities of occupiers of existing or proposed nearby properties, or advice in paragraph 127 of the Framework that new developments should create places with a high standard of amenity for existing and future users.

73. Nor do I find any conflict with NLP Policies HOU 9, QOP 1 and QOP 2, which, amongst other things, require that the physical presence and design of the development does not have a visually obtrusive or overbearing impact on neighbouring uses. I also find that NLP Policy HOU 9 C is about facilities for refuse & recycling and not relevant.

Other Matters

74. Policy Sus1 criterion 4 requires that regard is had to the need to make efficient use of land by encouraging reuse of previously developed land (PDL), which the site is not. The MNP Examiner recommended the word "encouraging" because the Framework encourages, but does not prioritise, the use of PDL. I find no conflict with Policy Sus1 criterion 4.
75. Although my attention was drawn to policies of the emerging NLP, which was submitted to the Secretary of State on 29 May 2019, it has yet to be examined and there are objections. I attach little weight to the NLP policies.

Highways

76. The Council withdrew a reason for refusal relating to highways prior to the Inquiry but interested parties raised a number of concerns at the Inquiry.
77. The Town Council and other members of the public would prefer a roundabout on the A192 to serve the site access and Leslie's View. However, I found little evidence to indicate that the proposed traffic light junction would be inadequate or a danger to road safety.
78. The proposal has been subject to modelling which has been scrutinised by NCC Highway Authority who have no objection and advised the Inquiry that in their opinion a signalised junction was preferable. I agree that a signalised junction would provide a safer crossing for pedestrians.
79. Interested parties drew attention to traffic queues during the installation of temporary lights. The Appellant and NCC Highway witness at the Inquiry agreed that such a contraflow would have quite different effects, as it would be intended to restrict capacity for safety. I am not persuaded that there is evidence to say that the development would result in a level or nature of traffic that would slow down or obstruct traffic or be likely to have a significant adverse impact on the transport network or highway safety.

Drainage and flooding

80. The Council withdrew a reason for refusal relating to flooding prior to the Inquiry. Groundwater was found on the site. Whilst historical mapping evidence suggested a spring, further investigations indicated that it might be from old land drains and collecting in a low-lying area. No evidence of an identifiable subterranean ground water spring was identified in investigation

work. A drainage strategy is proposed including laying perforated land drains. Planning conditions can secure additional information as required and restrict permitted development rights to prevent disturbance to drains laid in gardens.

81. Surface water and storm water from two attenuation basins would be discharged into the Cotting Burn at controlled rates. The Town Council was concerned about flood risk to the south and downstream and NCC's drainage witness advised the Inquiry that the measures could result in a beneficial impact for management of the Cotting Burn through controlled release of storm water.

Benefits

82. The scheme would deliver 44 market and nine affordable dwellings including eight bungalows. It would contribute 53 dwellings towards meeting the objectively assessed housing need, which has yet to be determined through the NLP. The Framework seeks to boost significantly the supply of housing and to deliver a wide choice of quality homes and widen opportunities for home ownership. The proposal would generate construction jobs, additional direct and indirect economic activity and future occupants would contribute to sustaining the local economy and services. The 12.5-year HLS and delivery record temper the weight, nevertheless these benefits attract weight in favour.
83. Contributions towards community infrastructure including education, healthcare and ecology and the provision and long-term management of new landscape, public open space and green infrastructure are required to mitigate effects of development and are neutral in effect.

Conclusions

84. The MNP is up-to-date and part of the DP. The appeal site had been part of a scenario considered in its preparation but was not ultimately a part of the chosen strategy for housing allocations. In this way I understand the community's frustration and why the proposal might not have made sense to them.
85. However, having examined the MNP and all of the relevant policies at some length I have found the fact that the appeal site is not an allocated site does not preclude it from development. I have also found that the proposal complies with the policies and strategy of the DP when considered as a whole and would represent sustainable development in terms of the Framework.
86. Therefore, allowing this appeal would not undermine either the MNP or the importance of neighbourhood planning in national policy
87. Having regard to all other matters raised, including by interested parties, I conclude that the appeal should be allowed subject to conditions set out at the end of this decision.

Conditions

88. It is a requirement of Section 91 of the Town and Country Planning Act 1990 (as amended) that the duration of a planning permission is limited. To ensure a satisfactory standard of development it is reasonable and necessary to require development to be carried out in accordance with the plans and documents

- submitted, for external materials to be approved and for permitted development rights relating to enclosures to be removed.
89. To provide effective safe drainage and prevent flooding it is necessary to require the flood mitigation measures to be implemented and details of the ground and surface water measures to be approved and implemented, and for all works to be retained. It is reasonable to withdraw permitted development rights for properties where works could prejudice drainage infrastructure.
90. To protect residential amenity of future occupants it is reasonable and necessary to require submission of an acoustic screen along the main road and to require its implementation and retention. To protect the residential amenity of occupiers of existing nearby dwellings it is reasonable to limit times of construction.
91. To protect future occupants it is reasonable to specify action required should contamination be found. Similarly, given the presence of ground water on the site it is reasonable to require a strategy to deal with any unforeseen circumstances.
92. To protect priority species and biodiversity it is necessary and reasonable to require an additional badger survey to be carried out prior to development, hedgehog gaps in fences and for all development to accord with ecological mitigation and enhancement works. Conditions requiring works to protect the existing tree and landscape resource and to secure enhancement are reasonable.
93. Conditions relating to provision of roads, construction management, car parking, cycle and refuse storage and street lighting are reasonable to ensure sustainable development and highway safety.
94. The Appellant agreed at the Inquiry that those conditions requiring matters to be dealt with pre-commencement are necessary.

Legal Obligation

95. MNP Policy Sus 1 criterion 6 requires that the physical and community infrastructure is provided on site where it is necessary to make the development acceptable or mitigate the impact of the development by measures implemented off-site either through direct provision or by way of financial contribution.
96. If permission is granted the undertaking would secure nine affordable units on-site. MNP Policy Hou4 requires developments of 10 or more units to provide on-site affordable housing in accordance with the DP or up to date housing needs assessment. CMDLP Policy H9 promotes affordable housing subject to various criteria. These include priorities in the Council's housing needs study. The Strategic Housing Market Assessment (SHMA) June 2018 identified a need of 151 affordable dwellings per annum. On this basis a 17% provision is reasonable. All of the units would have two bedrooms. Five would be affordable home ownership and the remainder rented or shared ownership to reflect advice in the Framework and needs identified in the SHMA.
97. Evidence from Northumberland Clinical Commissioning Group explains the derivation of a contribution of £40,500 towards additional GP consulting room

space in Morpeth. It is based on the number of dwellings proposed, average occupancy rates and evidence of build costs.

98. Earlier I found that a £10,000 contribution towards management of access in Local Nature reserves in Morpeth to be reasonable and necessary.
99. A contribution of £198,000 in three staged payments for education infrastructure is proposed. NCC Education Infrastructure Contribution Policy and a supplementary clarification explain the methodology, the estimated places required, standard sizes and build cost per square metre.
100. I am satisfied that the evidence provided demonstrates that each of these requirements meets the requirements of Regulation 122 of the CIL Regulations 2010 (CIL) as amended (2019) and the Framework.

Helen Heward

PLANNING INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development shall be carried out in accordance with the approved plans and documents listed at Annex A below.
- 3) The dwellings hereby permitted shall be constructed with external facing and roofing materials the details of which shall have been submitted to and approved in writing by the Local Planning Authority.
- 4) The flood mitigation measures specified in the approved Flood Risk Assessment (FRA) 'Peacock Gap' 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.
- 5) Prior to the commencement of the development the developer shall provide full details of the acoustic screening contained within the LA Environmental Noise Assessment ref: PH/PG/002 (18 October 2017) to the Local Planning Authority for its written approval. Plots 1-5 shall not be occupied until the acoustic screening approved by the Local Planning Authority has been implemented in full and thereafter the acoustic screening shall be retained for the lifetime of the development.
- 6) During the construction period, there shall be no construction activity on Sundays or Bank Holidays or outside the hours: Monday to Friday – 0800 to 1800, Saturday 0800 to 1300.
- 7) If during development contamination not previously considered is identified, then an additional written Method Statement regarding this material shall be submitted to and approved in writing by the Local Planning Authority. No building shall be occupied until a 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. Should no contamination be found during development then the applicant shall submit a signed statement indicating this to discharge this condition.

- 8) If before and during construction, ground water is found on site which requires additional mitigation measures to those outlined in drawing QD1161/00/28 Rev B – Proposed land drainage schematic, these measures shall be submitted to and agreed in writing by the Local Planning Authority and thereafter development shall be undertaken in full accordance with the approved details.
- 9) Development shall not commence until details of the implementation, maintenance and management of a scheme for surface water using a sustainable drainage scheme has been submitted to and approved by the Local Planning Authority. The scheme shall be in broad accordance with drawing No QD1161-00-01 Rev C “Drainage Strategy” and designed to dispose and attenuate surface water up to the 1 in 100 year plus climate change event from the development and shall limit discharge from the development to 10l/s, for all rainfall events. The scheme shall be implemented in accordance with the approved details, which shall include a timetable for its implementation.
- 10) Prior to first occupation details of the adoption and maintenance of all Sustainable Urban Drainage (SUD) features and groundwater flood mitigation measures shall be submitted to and agreed by the Local Planning Authority. A maintenance schedule, which includes details for all SUD’s features for the lifetime of development, shall be comprised within and be implemented before first occupation and maintained in perpetuity.
- 11) Prior to commencement of development, details of the disposal of surface water from the development through the construction phase shall be submitted to and agreed with the Local Planning Authority and implemented and maintained as approved during the construction phase.
- 12) 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 development falling within Classes A, D, E or F of Part 1 and Classes A or B of Part 1 to Schedule 2 of that Order shall be undertaken in respect of the dwellings and their curtilages on plots 21, 22, 23 or 24 unless planning permission for such development has been granted by the Local Planning Authority.
- 13) No development shall take place unless in accordance with the avoidance, mitigation and enhancement measures detailed within the ecological report (‘Confidential Badger Annex – Peacock Gap, Morpeth, December 2017, Final’, E3 Ecology Ltd., Version R04, 05.12.17) including, but not restricted to a checking survey for badgers and badger activity to be carried out no more than 2 months prior to the commencement of works on site to check that no new setts have become established within 30m of the site with the results of that survey, together with any necessary modifications to avoidance, mitigation and enhancement measures as required (including a Natural

England licence should that be required) to be forwarded to, and agreed in writing with, the Local Planning Authority before works commence.

- 14) No development shall take place unless in accordance with the avoidance, mitigation and enhancement measures detailed within the ecological reports ('Ecological Impact Assessment ' Peacock Gap, Morpeth ' Final, November 2015', Version R05, E3 Ecology Ltd. 14.11.16, 'Breeding Bird Survey ' Peacock Gap, Morpeth ' Final, November 2016', Version R02, E3 Ecology Ltd. 14.11.16, 'Bat Survey ' Peacock Gap, Morpeth ' Final, November 2016', Version R02, E3 Ecology Ltd. 14.11.16) including, but not restricted to the following matters for which the details shall be submitted to, and approved in writing by, the Local Planning Authority before works commence
- i. A mitigation scheme to manage and avoid access to the adjacent local wildlife site and ancient semi natural woodland at Cotting Wood, including suitable fencing to the proposed wildlife buffer along the eastern boundary of the site with the Cotting Burn which shall be implemented prior to the occupation of the first dwelling and thereafter retained,
 - ii. A Method Statement for prevention of pollution and works in or near a watercourse to be submitted to and agreed in writing with the Local Planning Authority before works commence,
 - iii. Erection/incorporation of 35 bird nesting features (as generally specified) with types and locations within the site boundary and in the ownership/control of the developer
 - iv. A checking survey for red squirrel dreys on or near the site to be conducted not more than 2 months before works commence with the results of that survey, together with any necessary modifications to avoidance, mitigation or enhancement measures
 - v. Updating ecological, nesting bird and bat surveys to be carried out in the event that development works do not commence before the end of November 2019 with the results of that survey together with any necessary modifications to avoidance, mitigation or enhancement measures; and
 - vi. A mitigation scheme to minimise light spillage in accordance with Bats and Lighting in the UK 2018 (ILE) to prevent light spillage into areas set aside for ecological or landscape use.
- 15) 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 hedgehog.
- 16) No development shall be carried out other than in accordance with the Arboricultural Method Statement Peacock Gap, Morpeth, Elliott Consultancy Ltd., June 2017 and the guidance set out in BS5837: 2012: Trees in Relation to Design, Demolition and Construction: Recommendations British Standards Institution, 2012.
- 17) No dwelling hereby permitted shall be occupied until a detailed landscaping scheme showing both hard and soft landscaping proposals, including access arrangements to the SUDs attenuation ponds for maintenance, has been submitted to and approved in writing by the Local Planning Authority. This shall include, where required, the planting of trees and shrubs including a fully

detailed planting schedule setting out species include a high proportion of indigenous species (h15 vii); numbers, densities and locations, the provision of screen walls or fences, the mounding of earth, the creation of areas of hardstanding, pathways etc, areas to be seeded with grass and other works or proposals for improving the appearance of the development. The scheme shall be carried out in accordance with the approved drawings within a timescale to be agreed in writing by the Local Planning Authority. The landscaped areas shall be subsequently maintained to ensure establishment of the approved scheme including watering, weeding and the replacement of any plants, or areas of seeding or turfing comprised in the approved landscaping plans, which fail within a period up to five years from the completion of the development.

- 18) No dwelling shall be occupied until the car parking area, relating to that dwelling has been implemented in accordance with the approved plans. Thereafter, the car parking area 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.
- 19) Development shall not commence until details of the proposed highway works have been submitted to and approved in writing by the Local Planning Authority. The dwellings shall not be occupied until the highway works have been constructed in accordance with the approved plans.
- 20) No development shall commence until an Estate Street Phasing and Completion Plan has been submitted to and approved in writing by the Local Planning Authority. The Estate Street Phasing and Completion Plan shall set out the development phases, completion sequence and construction standards that estate streets serving each phase of the development will be completed. The development shall be carried out in accordance with the approved Estate Street Phasing and Completion Plan and thereafter retained.
- 21) No development shall commence until details of proposed arrangements for future management and maintenance of the proposed streets, open spaces for public use and landscaped areas, (including the wildlife buffer set aside for avoidance with the Cotting Burn) within the site have been submitted to and approved in writing by the Local Planning Authority. Following occupation of the first dwelling on the site, these areas shall be maintained in accordance with the approved management and maintenance details.
- 22) No development shall commence until full engineering, drainage, street lighting (taking into account the requirements of condition 14) and constructional details, including fire hydrants, of the streets proposed for adoption have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the approved details.
- 23) No dwelling shall be occupied until details of a cycle parking plan have been submitted to and approved in writing by the Local Planning Authority. The approved cycle parking shall be implemented before each dwelling is occupied. Thereafter, the cycle parking shall be retained in accordance with the approved details.

- 24) Prior to occupation, details of surface water drainage to manage run off from private land onto adjacent highways shall have been submitted to and approved by the Local Planning Authority. The approved surface water drainage scheme shall be implemented in accordance with the approved details before the development is occupied and thereafter maintained in accordance with the approved details.
- 25) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other re-enacting or revoking Order with or without modification), no fence, gate, wall, or other means of enclosure other than those expressly authorised by this permission shall be erected or constructed within the curtilage of any property without planning permission being obtained from the Local Planning Authority.
- 26) Development shall not commence until a Construction Method Statement, together with supporting plan has been submitted to and approved in writing by the Local Planning Authority. The approved Construction Method Statement shall be adhered to throughout the construction period. The Construction Method Statement and plan shall, where applicable, provide for:
- i) details of temporary traffic management measures, temporary access, routes and vehicles;
 - ii) vehicle cleaning facilities;
 - iii) the parking of vehicles of site operatives and visitors;
 - iv) the loading and unloading of plant and materials; and
 - v) storage of plant and materials used in constructing the development.
- 27) Notwithstanding details submitted, Plots 1 to 12 shall not be occupied until details of refuse storage facilities and a refuse storage strategy for Plots 1 to 12 have been submitted to and approved in writing by the Local Planning Authority. The details shall include the location and design of the facilities and arrangement for the provision of the bins. The approved refuse storage facilities shall be implemented before Plots 1 to 12 are brought into use. Thereafter the refuse storage facilities and refuse storage plan shall operate in accordance with approved details.

Annex A plans and documents referred to in condition 2

Plans

LOCATION PLAN – 10.08.2015
PROPOSED SITE PLAN REV S – Drawing No. 291/A/GA/001
DRAINAGE STRATEGY – QD1161-00-01 REV C
COMPTON – ELEVATIONS – Drawing No. COM-02
COMPTON FLOOR PLANS – Drawing No. COM-01
HOLBORN – ELEVATIONS – Drawing No. HOL-02
HOLBURN – FLOOR PLANS – Drawing No. HOL-01
KINGLSEY – ELEVATIONS – Drawing No. KIN-02
KINGSLEY – FLOOR PLANS – Drawing No. KIN-01
RAEBURN – ELEVATIONS – Drawing No. RAE-02
RAEBURN – FLOOR PLANS – Drawing No. RAE-01
RAEBURN CORNER – ELEVATIONS – Drawing No. RAE-04
RAEBURN CORNER – FLOOR PLANS – Drawing No. RAE-03
ROMNEY – ELEVATIONS – Drawing No. ROM-02

ROMNEY – FLOOR PLANS – Drawing No. ROM-01
SPLIT LEVEL – ELEVATIONS – Drawing No. SPL-02
SPLIT LEVEL – ELEVATIONS – Drawing No. SPL-03
SPLIT LEVEL FLOOR PLANS – Drawing No. SPL-01
VANBURGH – ELEVATIONS – Drawing No. VAN-02
VANBURGH – ELEVATIONS – Drawing No. VAN-03
VANBURGH – FLOOR PLANS – Drawing No. VAN-01
BUNGALOW 9-10 ELEVATIONS – Drawing No. BUN-06
BUNGALOW PLOT 6-8 FLOOR PLANS – Drawing No. BUN-03
BUNGALOW PLOTS 1-5 – ELEVATIONS – Drawing No. BUN-02
BUNGALOW PLOTS 6-8 ELEVATIONS – Drawing No. BUN-04
BUNGALOW PLOTS 9-10 FLOOR PLANS – Drawing No. BUN-05 BUNGALOWS
– PLOTS 1-5 FLOOR PLANS – Drawing No. BUN-01
CLAYTON CORNER – ELEVATIONS – Drawing No. CLY/HAN-02
CLAYTON CORNER FLOOR PLANS – Drawing No. CLY/HAN-01
ADDITIONAL SITE SECTIONS – Drawing No. 291.ENG.100
BIN COLLECTION PLAN – (October 2017)
QD1161-00-10 REV A DETENTION BASIN GA'S
QD1161-00-28 REV B – Proposed Land Drainage Schematic
LEVELS STRATEGY PLAN 1/2 – Drawing No. QD1161-00-02
LEVELS STRATEGY PLAN 2/2 – Drawing No. QD1161-00-03
LANDSCAPE MASTER PLAN REV E – Drawing No. 5736-99-001
TRAFFIC SIGNALS PLAN AND REPORT – Drawing No. 102612/1030 REV B

Documents

DESIGN AND ACCESS STATEMENT – June 2018
AGRICULTURAL LAND REPORT – H&H August 2015
BADGER ANNEX – E3 Ecology Ltd November 2016
BAT SURVEY – E3 Ecology Ltd November 2016
BREEDING BIRD SURVEY – E3 Ecology Ltd November 2016
ECOLOGICAL IMPACT ASSESSMENT – E3 Ecology Ltd November 2015
FLOOD RISK ASSESSMENT AND DRAINAGE STATEMENT REV B –
Queensberry July 2018
DRAINAGE STATEMENT – Queensberry August 2018
ARBORICULTURAL METHOD STATEMENT – Elliott Consultancy June 2017
TRANSPORT STATEMENT – Fairhurst June 2017
NOISE REPORT – LA Environmental October 2017
CONFIDENTIAL BADGER REPORT – E3 Ecology December 2017
PEACOCK GAP SPRING MITIGATION – SHADBOLTS JAN 2019.

PARTICIPANTS AT THE INQUIRY

FOR THE APPELLANT

PAUL CAIRNES QC and instructed by Persimmon Homes Plc.

He called:

Richard J Holland BA (Hons) Dip TP MRTPI LHT CMCILT Land and Planning Manager
Persimmon Homes Plc.

Tom Robinson B. Phil CMLI FAU Robinson Landscape Design

Also attended in part:

Darran Kitchener BEng (Hons) MCIHT CMCILT Associate Director, Milestone Transport
Planning

Philip Mudie BEng (Hons) MSc Engineering Manager Persimmon Homes Plc.

FOR THE COUNCIL

Simon Pickles of Counsel and instructed by Melanie Bulman of NCC. He called:

Gordon Halliday MA MPhil MRTPI, Planning Consultant for NCC

Also attended in part:

Matthew Payne, Consultant Engineer (Highways) NCC

James Hitching Senior Sustainable Drainage Officer, NCC

Colin Marlee, Ecologist, NCC

Ian Stanners, Housing Enabling Officer, NCC

Heather Proudlock, Section 106 Monitoring Officer NCC

INTERESTED PERSONS

Maureen Davison, on behalf of Pottery Bank Court residents

Jill Fenwick Suzanne Austerberry

Keith Adams

Colin Coates, MNRAG Action Group on behalf of occupiers of dwellings at Lancaster
Park Morpeth

Ed Bober, local resident member of the Labour Party and MNRAG

Gillian Lavery

Councillor Andrew Tubbutt on behalf of Morpeth Town Council

Mark Hughes

Documents received at the inquiry

1. Appearances on behalf of Persimmon Homes plc
2. Appearances on behalf of NCC
3. Community Infrastructure Levy Regulations 2010 (as amended) statement of compliance by NCC
4. Opening statement on behalf of Persimmon Homes plc
5. Opening statement on behalf of NCC
6. Update statement from NCC to paragraphs 8.29 and 8.31 of Proof of Evidence, on housing land supply
7. Statement from Maureen Davison on behalf of Pottery Bank Court Residents
8. Statement notes from Colin Coates on behalf of MNRAG including excel traffic modelling
9. Statement by Councillor Andrew Tebbutt on behalf of Morpeth Town Council
10. Statement of overall planning balance, site sustainability and other material considerations, Richard J Holland, Persimmon Homes
11. Planning Balance statement by Gordon Halliday on behalf of NCC
12. Revised Schedule of planning conditions
13. A3 coloured plan of SHLAA sites for Morpeth
14. A3 overlay drawing, Land at Peacock Gap Morpeth, Proof of Evidence Landscape and Visibility issues, Robinson Landscape Design
15. A3 copy of sketch layout used in the Robinson Landscape Design preliminary landscape and visual impact assessment
16. Letter from Joan C Tebbutt Morpeth Town Councillor, dated 6 June 2019
17. Extract from Persimmon Transport Statement Document Ref D/1/D/95533/606 and 7 photographs of queuing traffic tabled by Maureen Davison
18. Extract from the MNP consultation- Map 12 – Location of New Housing in Morpeth showing committed sites and MNP preferred sites
19. NCC Education Infrastructure Contribution Policy
20. Supplementary Clarification regarding the proposed S106 education contribution for Pottery Bank, Morpeth, 16/04486/FUL, 16 May 2019
21. Supplementary Statement of Common Ground, 06 June 2019
22. Letter of objection from M Armstrong dated 22 May 2019
23. Closing submissions on behalf of NCC
24. Closing submissions on behalf of Persimmon Homes Plc.

Documents received after the inquiry closed

25. Letters from Persimmon Homes plc 12 August 2019, NCC 21 August 2019 and Morpeth Town Council 19 August 2019 regarding PPG updates and changes
26. NCC and Beazer Homes Ltd Legal Agreement dated 3 September 2019 and associated correspondence from NCC and Persimmon Homes plc