



Ministry of Housing,  
Communities &  
Local Government

Mr Chris Smith  
Lichfields  
[REDACTED]

Ms Michelle Robinson  
Stantec  
[REDACTED]

*By email only*

Our refs:

A: APP/X1355/W/22/3330836  
B: APP/X1355/W/22/3331745  
C: APP/X1355/W/22/3331801  
D: APP/X1355/W/22/3333600

Your refs:

DM/22/03712/OUT  
DM/23/00591/OUT  
DM/22/03686/FPA  
DM/22/03778/FPA

21 August 2024

Dear Mr Smith and Ms Robinson

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL A MADE BY: CO. DURHAM LAND LLP AND  
APPEALS B, C AND D MADE BY: BELLWAY HOMES LTD  
A. LAND AT SNIPERLEY PARK, PITY ME, DURHAM, DH1 5DZ, DH1 5RH –  
APPLICATION REF DM/22/03712/OUT  
B. LAND NORTH AND EAST OF SNIPERLEY FARM, DURHAM CITY, COUNTY  
DURHAM – APPLICATION REF DM/23/00591/OUT  
C. SNIPERLEY FARM BUILDINGS, DURHAM – APPLICATION REF DM/22/03686/FPA  
D. LAND NORTH AND EAST OF SNIPERLEY FARM, DURHAM, COUNTY DURHAM -  
DM/22/03778/FPA**

*This decision was made by the Minister of State for Housing and Planning Matthew Pennycook MP on behalf of the Secretary of State*

1. I am directed by the Secretary of State to say that consideration has been given to the report of Helen Hockenhill BA(Hons) B.PI MRTPI, who held a public local inquiry on 30-31 January and 1-21 February 2024 into your clients' appeals against the failure of Durham County Council to determine your clients' applications for planning permission for the following developments:

### *Appeal A*

Demolition of existing buildings adjacent to B6532 and outline planning permission (all matters reserved except for access) for a maximum of 1,550 residential dwellings (Use Class C3), a local centre (Use Classes E and F2), public house (Use Class Sui Generis)

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and primary school (Use Class F1), compensatory improvements to the Green Belt, associated infrastructure and landscaping in accordance with application ref: DM/22/03712/OUT dated 14 December 2022.

### *Appeal B*

Outline planning application (with all matters reserved apart from access) for the development of up to 370 dwellings, an extension to Sniperley park and ride, demolition of former farm buildings and associated infrastructure works in accordance with application ref: DM/23/00591/OUT dated 15 February 2023.

### *Appeal C*

Conversion of existing farm buildings to form 4no. residential units (Use Class C3) in accordance with application ref: DM/22/03686/FPA dated 13 December 2022.

### *Appeal D*

Hybrid planning application consisting of outline planning permission (all matters reserved) for an extension to the Sniperley Park and Ride and full planning permission for the development of 368 dwellings associated access and works and demolition of former farm buildings in accordance with application ref: DM/22/03778/FPA dated 13 December 2022.

2. On 12 January 2024, these appeals were recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act (TCPA) 1990.

### **Inspector's recommendation and summary of the decision**

3. The Inspector recommended that all four appeals are allowed, and planning permission granted.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with her recommendations. She has decided to allow the appeals and grant planning permission for each of the four applications. The Inspector's Report (IR) is attached. All references to paragraph numbers, unless otherwise stated, are to that report.

### **Environmental Statement**

5. In reaching this position, the Secretary of State has taken into account the Environmental Statements which were submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 in support of Appeals A, B and D. Having taken account of the Inspector's comments at IR6, the Secretary of State is satisfied that the Environmental Statements comply with the above Regulations and that sufficient information has been provided for her to assess the environmental impact of the proposals.

### **Matters arising since the close of the inquiry**

6. One letter was received from the Appeals B, C and D applicant; Bellway Homes, via Mary Kelly Foy MP on 6 August 2024. The Secretary of State is satisfied that the issues raised do not affect her decision, and no other new issues were raised in this correspondence to

warrant further investigation or necessitate additional referrals back to parties. A copy of this letter may be obtained on request to the email address at the foot of the first page of this letter.

7. On 30 July 2024, the Written Ministerial Statement (WMS) 'Building the Homes we Need' (UIN HCWS48) was published. On that same date, the government launched a consultation to reform the existing National Planning Policy Framework (the Framework). The Secretary of State does not consider that publication of the WMS and the consultation on the existing Framework raise any matters that would require her to refer back to the parties for further representations prior to reaching her decision on this appeal, and she is satisfied that no interests have thereby been prejudiced.

### **Policy and statutory considerations**

8. In reaching her decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
9. In this case the development plan consists of the County Durham Plan (CDP), which was adopted in 2020, and the Witton Gilbert Neighbourhood Plan, made in 2019. The Secretary of State considers that relevant development plan policies include those set out at IR46-71.
10. Other material considerations which the Secretary of State has taken into account include the Framework and associated planning guidance (the Guidance), and the materials identified at IR72-75.
11. Mandatory biodiversity net gain (BNG) has been commenced for planning permissions granted in respect to an application made on or after 12 February 2024. Applications made before this date are not subject to mandatory BNG.
12. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.

### **Main issues**

#### *Masterplanning, provision and timing on infrastructure (Appeals A, B and D)*

13. For the reasons given at IR611-615, the Secretary of State agrees with the Inspector that the submitted Masterplan is acceptable to achieve a comprehensive and sustainable development (IR615). The Secretary of State notes at IR611 that Sniperley Park was allocated for residential development in 2020 under Policy 4 of the CDP, and there is therefore no dispute between the parties that the site is suitable for residential development in land use terms.
14. The Secretary of State has noted the Council's concerns at IR616 and IR623 regarding risks to infrastructure delivery arising from the delivery of housing by multiple developers within the allocation. For the reasons set out in IR616-632, the Secretary of State agrees with the Inspector's conclusions at IR633-634 that Appeals A, B and D have been comprehensively masterplanned and that should the Bellway scheme, Appeal B or D be

delayed or not proceed, the County Durham Land (CDL) scheme, Appeal A, could proceed independently making provision for the delivery of all the necessary infrastructure required by CDP Policy 5, and conversely if the CDL scheme does not proceed, the Bellway scheme could mitigate its own impacts.

15. The Secretary of State agrees with the conclusion at IR635 that the delivery of suitable and timely infrastructure and services in line with the CDP has been demonstrated in alignment with the Council's adopted Masterplan and the Council's Healthy Active Travel Connectivity Plan (HATCP), and there is therefore no conflict with Policy 5 of the CDP.

*Sustainable transport (Appeals A, B and D)*

16. For the reasons set out in IR640, the Secretary of State agrees that the active travel measures within the HATCP and Active Travel Supplementary Planning Documents (SPDs) should be given limited weight.
17. For the reasons set out in IR641-646, the Secretary of State agrees with the Inspector at IR646 that the upgrading of the section of the A167 between the new site access and the Park and Ride roundabout is not necessary to comply with the requirements of Policy 5. For the reasons set out at IR647-652, the Secretary of State agrees with the Inspector at IR652 that the Appeal A appellant's proposal to fund a feasibility study for a cycle route along Dryburn Road and also a financial contribution to fund a scheme is an appropriate way forward.
18. For the reasons set out in IR636-654, the Secretary of State agrees with the conclusions at IR655 and IR667 that the Active Travel measures secured in Appeals A, B and D would deliver adequate sustainable transport options for walking and cycling in compliance with the requirements of Policy 5.
19. For the reasons set out in IR656-666, the Secretary of State agrees with the Inspector's conclusion at IR667 that subject to Schedule 4 to the section 106 coming into effect, Appeals A, B and D deliver adequate sustainable transport options, including walking, cycling and public transport to and within the site and to the wider area. The Secretary of State notes the Inspector's statement at IR664, stating that there was no evidence before the Inspector that the appellant's assumptions on cross subsidy for public transport are unreasonable, and for the reasons set out in IR661-664, she agrees that the lower contribution proposed by the developer should be secured. As such the Secretary of State agrees with the Inspector at IR665 that Schedule 4 to the section 106 should come into effect in respect of Appeal A and that Schedule 4A should not. Consequently, within the Appeal B and Appeal D section 106 agreements, the first definition of 'Bus Service Contribution', with the associated financial sum, should come into effect, as set out in IR597.
20. The Secretary of State agrees with the Inspector at IR757 that the new homes would be in a sustainable location with access to a network of active travel routes, shared and segregated footways and cycleways giving priority to walking and cycling, improved crossing points for non-car users and improved public transport. She agrees with the Inspector that these measures would benefit future and existing residents, and further agrees with the Inspector that these sustainable travel measures should be afforded limited weight for the reasons set out in IR757. She applies this weight to Appeals A, B and D.

### *Education (Appeals A, B and D)*

21. For the reasons given in IR668-687, as well as IR759, the Secretary of State agrees with the Inspector's conclusions at IR688-689 that regarding the areas of dispute, the appellants' suggested cost estimate for the primary school is justified and should be preferred and that the triggers for the payment of the secondary school contribution should also be in line with the appellants' proposal. Schedule 3 of the Appeal A section 106 agreement should therefore come into effect in respect of Appeal A and Schedules 3A, 3B and 3C should not (IR688). Consequently, within the Appeal B and Appeal D section 106 agreements, the first definition of 'Primary Education Contribution', with the associated financial sum, should come into effect, as set out in IR597.
22. On this basis, she further agrees that the appeals would appropriately mitigate their impact by providing for primary and secondary school places generated by the development. She therefore agrees with the conclusion at IR689 that Appeals A, B and D would comply with CDP Policy 5b.

### *District heating (Appeals A, B and D)*

23. For the reasons set out in IR690-707, the Secretary of State agrees with the Inspector that the exploration of a district heating network has been undertaken in sufficient depth, and the appeal proposals therefore comply with CDP Policies 5 and 29 (IR707).

### *Affordable housing (Appeal D)*

24. While affordable housing is a benefit of Appeals A, B and D, the area of dispute around affordable housing applies to Appeal D only. For the reasons set out at IR708-717, the Secretary of State agrees with the Inspector's conclusions at IR718 that only very limited weight can be attributed to the Housing Needs SPD and Interim Policy Statement (IPS), that the national discount and caps should be applied to First Homes, and that the Discount Market Sale (DMS) discount is acceptable.

### *Viability and other housing issues*

25. For the reasons given at IR719-733, the Secretary of State agrees with the Inspector's conclusions on viability and other housing issues.

### *Heritage (Appeals B,C and D)*

26. For the reasons given at IR734-746, the Secretary of State agrees with the Inspector's conclusion at IR746 that the appeal schemes would cause no harm to the non-designated heritage assets and have regard to the visual association with Durham Castle and Cathedral World Heritage Site, therefore complying with the Framework, and Policies 5 and 44 of the CDP.
27. In respect of Appeal C, the Secretary of State agrees with the conclusion at IR743 that bringing the buildings back into use, preventing future deterioration and possible collapse, provides a significant heritage benefit. She considers that this carries significant weight for Appeal C. The Secretary of State considers that there are no heritage considerations which weigh against Appeal A.

## *Ecology*

28. For the reasons set out at IR778-786, the Secretary of State agrees with the Inspector's conclusion at IR787 that with appropriate mitigation required by planning conditions and the respective planning obligations, the appeal proposals would be acceptable, and meet policy requirements to ensure the protection and enhancement of biodiversity.

## *Poor design, overdevelopment and car parking (Appeal D)*

29. The Secretary of State has considered the Inspector's discussions of Appeal D and design at IR747-752 and IR788-793. She has also taken into consideration the objections of the City of Durham Trust (IR464-471) with regard to design. She notes the Inspector's statement at IR789 that Appeal D is accompanied by a Design and Access Statement incorporating a Design Code, and that the submitted scheme has been the subject of a lengthy design process including a comprehensive assessment of the site and its context.

30. For these reasons the Secretary of State agrees with the Inspector's conclusion at IR793 that the development is appropriate from a design perspective, meeting the requirements of Policy 5 and Policy 29 of the CDP. She also agrees with the conclusion at IR752 that there is no overdominance of car parking in the design of Appeal D. For the reasons given at IR762-765, she further agrees with the conclusion at IR765 that the allocation would not be overdeveloped and can accommodate the 1,920 dwellings proposed with appropriate levels of open space and supporting infrastructure.

## *Highway safety*

31. For the reasons given at IR766-776, the Secretary of State agrees with the Inspector's conclusion at IR777 that safe and suitable access can be achieved, and the proposals will not lead to adverse impacts on highway safety.

## *Other issues (Appeals A, B and D)*

32. For the reasons given at IR794-796, the Secretary of State agrees with the Inspector's conclusions on amenity, safety issues of the children's play area, and healthcare infrastructure.

## **Other benefits**

33. In her report the Inspector has generally assigned weights to the benefits of the allocation-wide development as a whole. The Secretary of State has given regard to the need to determine each appeal separately, on their own merits, and therefore assigns separate weights to the benefits of each appeal.

34. The Secretary of State has given regard to the delivery of housing as set out in IR754: up to 1,550 dwellings in Appeal A, up to 370 dwellings in Appeals B/D and four dwellings in Appeal C, totalling up to approximately 1,920 new homes. She agrees that this would maintain the Council's ability to deliver a five-year housing land supply over the Plan period and beyond, and ensure that the housing need of 1,308 dwellings per annum and 24,852 dwellings to 2035, can be met. The Secretary of State assigns significant weight to the delivery of housing for Appeals A, B and D, and for reasons of scale, assigns limited weight to Appeal C.

35. The Secretary of State agrees that affordable dwellings will address the significant shortfall in the County and the need for 836 affordable homes over the plan period to

2035, and agrees with the Inspector at IR755 that significant weight should be given to the delivery of affordable homes. The Secretary of State applies this weight to Appeals A, B and D.

36. The Secretary of State notes that the houses to be delivered would meet the Nationally Described Space Standards (NDSS), 66% would meet Building Regulations M4(2) (accessible and adaptable) standards and 10% would be suitable to meet the needs of older people, in compliance with Policy 15 of the CDP. She agrees with the Inspector at IR756 that these factors all weigh in favour of the appeal schemes and assigns these benefits limited weight for each of the four appeals.
37. The Secretary of State agrees with the Inspector's conclusion at IR757 that the proposals' sustainable travel measures, being a requirement of Local Plan policy, carry limited weight. She assigns this weight to Appeals A, B and D, and applies no weight to Appeal C.
38. For the reasons set out at IR758, the Secretary of State assigns moderate weight to off-site highway improvements funded by Appeals A, B and D, which would be of benefit to all users. She also assigns moderate weight to the extension to the Sniperley Park and Ride, facilitated by Appeals B and D, for each of these appeals. She agrees with the Inspector at IR758 that this would maximise the sustainability of the allocation.
39. The Secretary of State agrees at IR759 that the provision of a new primary school with financial contributions from the appeal schemes would be a further benefit. She notes that should Appeal A not proceed, Appeals B/D would contribute to improvements at existing primary schools, and the schemes would also make financial contributions to the expansion of Framwellgate School. The Secretary of State agrees with the Inspector at IR759 that as these matters are a requirement of policy, providing facilities for children generated by the developments, they attract limited weight. She assigns this weight to Appeals A, B and D.
40. For the reasons set out in IR760 the Secretary of State agrees that the stated economic benefits of the developments carry significant weight and assigns this weight to Appeals A, B and D. For reasons of scale, she does not assign any weight for economic benefits to Appeal C.
41. The Secretary of State has given regard to the environmental benefits set out in IR761, with BNG in excess of 10% as well as ecological mitigation measures including swift boxes, bat boxes and barn owl boxes. Appeal A would provide Green Belt compensatory improvements on land to the north of Potterhouse Lane and Appeals B/D would do the same on land to the south of the A691. This would provide the opportunity for further BNG. She also notes that the developers have made a commitment to the houses being 'gas-free' for heating with a fabric first approach being adopted to enhance thermal performance.
42. The Inspector suggests that significant weight should be applied to these benefits. However, having given consideration to such measures being existing local and national policy requirements, the Secretary of State assigns moderate weight to the environmental benefits of Appeals A, B and D. She does not assign any weight for environmental benefits to Appeal C.

## **Other matters**

43. The Secretary of State notes the Inspector's statement at IR7 that she has no reason to disagree with the appellants' conclusions that overall, the development would result in a low level of landscape and visual harm for a scheme of this size. For the reasons given in IR7 she agrees with the Inspector's conclusion that the proposals are compliant with CDP Policies 26, 39 and 40 which seek to conserve and enhance green infrastructure, trees, woodland and hedges and maintain the character, quality and distinctiveness of the landscape. The Secretary of State considers that the low level of landscape harm carries limited weight in relation to Appeals A, B and D, and no weight in relation to Appeal C.

## **Planning conditions**

44. The Secretary of State has had regard to the Inspector's analysis at IR605-609, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 56 of the Framework and the relevant Guidance. She agrees with the Inspector that the optional conditions discussed at IR606-609 for Appeals A, B and D are not necessary and considers that they should not form part of her decision.

45. She is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 56 of the Framework and that the conditions set out at Annex A should form part of her decision on Appeal A, the conditions set out at Annex B should form part of her decision on Appeal B, the conditions set out at Annex C should form part of her decision on Appeal C, and the conditions set out at Annex D should form part of her decision on Appeal D.

## **Planning obligations**

46. The Secretary of State has had regard to the Inspector's analysis at IR4 and IR560-604, IR619-20, IR622, IR652, IR661-666 and IR670-681 and IR684-688, the final planning obligations in respect of Appeals A, B and D dated 19 March 2024, paragraph 57 of the Framework, the Guidance and the Community Infrastructure Levy (CIL) Regulations 2010, as amended. There is no planning obligation for Appeal C.

47. *Appeal A* – The signed section 106 agreement includes blue pencil clauses for the Secretary of State to determine the appropriate obligations on disputed matters. For the reasons set out in paragraph 19 and 21 of this decision letter, the Secretary of State agrees that Schedules 3 and 4 of the section 106 should come into effect. Under the Alternative Obligations of the Parties clause at paragraph 4 of the signed section 106 agreement this means that Schedules 3A, 3B, 3C, and 4A do not come into effect. The Secretary of State has given regard to the Inspector's assessment of planning obligations at IR565-589. She notes at IR585 that a voluntary contribution is proposed which does not meet the tests, and has not taken this into account when reaching a decision on this case. For the reasons given at IR565-589 and the Secretary of State's conclusions in respect of the disputed matters, the Secretary of State agrees with the Inspector's conclusions that, with the exception of the voluntary contribution, the obligations that will come into effect comply with Regulation 122 of the CIL Regulations 2010 and the tests at paragraph 57 of the Framework.

48. *Appeal B* – The signed section 106 agreement includes blue pencil clauses in the form of alternative definitions for the Secretary of State to determine the appropriate obligations on disputed matters. The Secretary of State agrees that the first definition of 'Primary Education Contribution', with the associated financial sum, as set out in the Definitions of

the signed section 106 agreement should come into effect. This means that the second definition does not come into effect. The Secretary of State also agrees that the first definition of 'Bus Service Contribution', with the associated financial sum, as set out in the Definitions of the signed section 106 agreement should come into effect. This means that the second definition does not come into effect.

49. For the reasons given at IR590-600, the Secretary of State agrees with the Inspector's conclusions that the obligations comply with Regulation 122 of the CIL Regulations 2010 and the tests at paragraph 57 of the Framework, with the exception of the voluntary contribution at Schedule 5 which has not been assessed against these requirements. For the reasons given at IR595 the Secretary of State has not taken the voluntary contribution into account when reaching a decision on this case.

50. *Appeal D* – The signed section 106 agreement includes blue pencil clauses in the form of alternative definitions for the Secretary of State to determine the appropriate obligations on disputed matters. The Secretary of State agrees that the first definition of 'Primary Education Contribution', with the associated financial sum, as set out in the Definitions of the signed section 106 agreement should come into effect. This means that the second definition does not come into effect. The Secretary of State also agrees that the first definition of 'Bus Service Contribution', with the associated financial sum, as set out in the Definitions of the signed section 106 agreement should come into effect. This means that the second definition does not come into effect.

51. For the reasons given at IR601-604 and the Secretary of State's conclusion in respect of discounted price to be applied to the DMS Units set out in Paragraph 24 of this decision letter that, with the exception of the voluntary contribution at Schedule 5, the obligations comply with Regulation 122 of the CIL Regulations 2010 and the tests at paragraph 57 of the Framework. The Secretary of State has not taken the voluntary contribution into account when reaching a decision on this case.

## **Planning balances and overall conclusions**

### *Appeal A*

52. For the reasons given above, the Secretary of State considers that Appeal A is in accordance with the development plan overall. She has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.

53. Weighing in favour of Appeal A is the delivery of housing, affordable housing and economic benefits, each of which carry significant weight; environmental benefits and off-site highway improvements, each of which carry moderate weight; and adherence to housing space and accessibility standards, school provision and sustainable travel measures, each of which carry limited weight. Weighing against the proposal is a low level of landscape harm, which carries limited weight.

54. Overall, in applying section 38(6) of the PCPA 2004, the Secretary of State considers that the accordance with the development plan and the material considerations for Appeal A indicate that permission should be granted.

### *Appeal B*

55. For the reasons given above, the Secretary of State considers that Appeal B is in accordance with the development plan overall. She has gone on to consider whether

there are material considerations which indicate that the proposal should be determined other than in line with the development plan.

56. Weighing in favour of Appeal B is the delivery of housing, affordable housing and economic benefits, each of which carry significant weight; the extension to Sniperley Park and Ride, environmental benefits and off-site highway improvements, each of which carry moderate weight; and adherence to housing space and accessibility standards, school provision and sustainable travel measures, each of which carry limited weight. Weighing against the proposal is a low level of landscape harm, which carries limited weight.
57. Overall, in applying section 38(6) of the PCPA 2004, the Secretary of State considers that the accordance with the development plan and the material considerations for Appeal B indicate that permission should be granted.

### *Appeal C*

58. For the reasons given above, the Secretary of State considers that Appeal C is in accordance with the development plan overall. She has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.
59. Weighing in favour of Appeal C is the heritage benefit, which carries significant weight; and the provision of housing, adherence to housing space and accessibility standards, and environmental benefits, each of which carry limited weight. There are no material considerations weighing against Appeal C.
60. Overall, in applying section 38(6) of the PCPA 2004, the Secretary of State considers that the accordance with the development plan and the material considerations for Appeal C indicate that permission should be granted.

### *Appeal D*

61. For the reasons given above, the Secretary of State considers that Appeal D is in accordance with the development plan overall. She has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.
62. Weighing in favour of Appeal D is the delivery of housing, affordable housing and economic benefits, each of which carry significant weight; the extension to Sniperley Park and Ride, environmental benefits and off-site highway improvements, each of which carry moderate weight; and adherence to housing space and accessibility standards, school provision and sustainable travel measures, each of which carry limited weight. Weighing against the proposal is a low level of landscape harm, which carries limited weight.
63. Overall, in applying section 38(6) of the PCPA 2004, the Secretary of State considers that the accordance with the development plan and the material considerations for Appeal D indicate that permission should be granted.

### **Formal decisions**

64. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendations. She hereby allows all four of your clients' appeals and grants planning permission for the following developments:

### *Appeal A*

Demolition of existing buildings adjacent to B6532 and outline planning permission (all matters reserved except for access) for a maximum of 1,550 residential dwellings (Use Class C3), a local centre (Use Classes E and F2), public house (Use Class Sui Generis) and primary school (Use Class F1), compensatory improvements to the Green Belt, associated infrastructure and landscaping, subject to the conditions set out in Annex A of this decision letter, in accordance with application ref DM/22/03712/OUT, dated 14 December 2022

### *Appeal B*

Outline planning application (with all matters reserved apart from access) for the development of up to 370 dwellings, an extension to Sniperley park and ride, demolition of former farm buildings and associated infrastructure works, subject to the conditions set out in Annex B of this decision letter, in accordance with application ref DM/23/00591/OUT, dated 15 February 2023

### *Appeal C*

Conversion of existing farm buildings to form 4no. residential units (Use Class C3) (Resubmission), subject to the conditions set out in Annex C of this decision letter, in accordance with application ref DM/22/03686/FPA dated 13 December 2022

### *Appeal D*

Hybrid planning application consisting of outline planning permission (all matters reserved) for an extension to the Sniperley Park and Ride and full planning permission for the development of 368 dwellings associated access and works and demolition of former farm buildings (resubmission), subject to the conditions set out in Annex D of this decision letter, in accordance with application ref DM/22/03778/FPA dated 13 December 2022

65. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the TCPA 1990.

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

66. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decisions may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the TCPA 1990.

67. An applicant for any consent, agreement or approval required by a condition of these permissions for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

68. A copy of this letter has been sent to Durham County Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

*Laura Webster*

Decision officer

*This decision was made by the Minister of State for Housing and Planning Matthew Pennycook MP on behalf of the Secretary of State, and signed on his behalf*

## **Annex A List of Conditions for Appeal A**

1. Approval of the details of appearance, landscaping, layout and scale (hereinafter called “the reserved matters”) for each phase, or part thereof (as approved through Condition No. 6), shall be obtained in writing from the Local Planning Authority before any development is commenced other than demolition, archaeological investigation, services diversions and any land remediation/ground investigation works.
2. Application for approval of reserved matters for the first phase, or part thereof (as approved through Condition No. 6), shall be made to the Local Planning Authority before the expiration of three years beginning with the date of this permission. The development must be begun no later than the expiration of two years from the final approval of the reserved matters.
3. The application for approval of reserved matters for the subsequent phases of development shall be made to the Local Planning Authority before the expiration of 15 years from the date of this permission and each phase must be begun not later than the expiration of two years from the approval of reserved matters for that phase of development.
4. The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Location Plan ref. 1300-DUR-SD-00.01 Rev B
  - Land Use Parameter Plan ref. 1300-DUR-SD-30.01 Rev B
  - Connectivity Parameter Plan ref. 1300-DUR-SD-30.02 Rev C
  - Density Parameter Plan ref. 1300-DUR-SD-30.03 Rev B
  - Building Scale Parameter Plan ref. 1300-DUR-SD-30.04 Rev B
  - Linear Park Area Plan ref. 1300-DUR-SD-20.01 Rev B
  - Demolition Plan ref. 1300-DUR-SD-20.02 Rev B
  - Proposed Junction Improvement A167 / Park & Ride roundabout ref. 226483/P-01 Rev A
  - Proposed B6532 / Potterhouse Lane Trouts Lane Junction Improvement ref. 226483/P-04 Rev A
  - Proposed Potterhouse Lane Improvement to Bus Route ref. 226483/P-05 Rev A
  - Proposed A167 / Link Road Junction ref. 226483/P-07 Rev A
  - Proposed A167 Controlled Crossing ref. 226483/P-06 Rev A

5. The development shall be implemented in accordance with the approved Sniperley Park Strategic Design Code (December 2022) and Comprehensive Masterplan and Infrastructure Phasing (December 2022) submitted with the planning application.

Each reserved matters application shall be accompanied by a Compliance Statement that demonstrates accordance with the principles for the relevant Character Area(s) as detailed in the Sniperley Park Strategic Design Code.

6. Prior to the submission of any reserved matters application a phasing plan setting out the proposed phasing of the construction of the development shall be submitted to and approved in writing by the Local Planning Authority. The submitted Phasing Plan shall indicate the extent of each phase, the sequence of development, the approximate number of units proposed within each phase and sub-phase and associated timetable of works. Thereafter each reserved matters application for a phase or part thereof submitted pursuant to Condition 1 above shall be accompanied by an updated phasing plan for the approval of the Local Planning Authority. The updated phasing plan shall set out any proposed changes from the phasing plan previously approved pursuant to this Condition.

For the purposes of this permission all references to a “phase” shall be interpreted as being a reference to a phase or part thereof as defined on the phasing plan approved pursuant to this condition.

7. Prior to the construction above damp proof course level of any of the dwellings hereby approved in a phase, a report setting out how at least 66% of the total number of units approved for each phase or part thereof will conform to Buildings Regulations M4(2) standard shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.
8. A scheme detailing how at least 10% of the total number of units approved on each phase will be constructed to a design and type which meet the needs of older people, shall be submitted to the Local Planning Authority for approval alongside an application for reserved matters for the respective phase of the scheme. Thereafter the development phase shall be carried out fully in accordance with the approved details.
9. Natural gas shall not be used as a fuel to heat any dwellings or other buildings hereby approved.
10. The reserved matter of layout for each phase, or part thereof, shall include details of cycle storage, compliant with the Council's Parking and Accessibility Supplementary Planning Document (2023) (or such replacement document). Thereafter, the development shall be carried out in accordance with the agreed detail and the approved provision shall be retained for the storage of cycles at all times for the duration of the use hereby approved.
11. The reserved matter of landscaping for each phase, or part thereof, must be accompanied by an updated arboricultural impact assessment. This must include details of all works to trees and hedges and details of those to be retained and details of tree/hedgerow protection in accordance with BS.5837:2010 with the inclusion of tree constraint and tree protection plans. Thereafter the development must be completed in accordance with the approved details.
12. No demolition, archaeological investigation, service diversions and any land remediation/ground investigation works shall be undertaken on the site which result in the loss of existing trees and hedgerows, unless otherwise approved through reserved matters.
13. A scheme and programme detailing compensatory improvements to the Green Belt (as identified on Land Use Parameter Plan ref. 1300-DUR-SD-30.01 Rev B), including the

provision of a community hub (as illustrated on the Orchard Hut plan ref. DE-517-002) and replacement playing field, together with a timetable for its implementation shall be submitted to and approved in writing by the Local Planning Authority alongside an application for reserved matters for the first phase of the scheme. The improvement works thereafter shall be completed in accordance with the details and timetable agreed.

14. Prior to the commencement of development in each phase, or part thereof, a coal mining investigation scheme shall be submitted to and approved in writing by the Local Planning Authority. This will include a scheme of intrusive investigations to be carried out on site to establish risks posed by past coal mining activity, including that posed by recorded mine entries and shallow mine workings. These works shall be carried out in accordance with authoritative UK guidance in relation to Coal Mining.
15. Prior to the commencement of each phase of development, or part thereof, any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, shall be implemented in full in order to ensure that the site is made safe and stable for the proposed development. These works shall be carried out in accordance with authoritative UK guidance in relation to Coal Mining.
16. If unforeseen legacy coal mining activity is encountered during construction works, the Coal Authority shall be notified in writing immediately. Operations on the affected part of the site shall cease until an investigation and risk assessment, and if necessary, a remediation strategy is carried out in accordance with the Coal Authority guidance and agreed with the Coal Authority. The development shall be completed in accordance with any amended specification of works and the Local Planning Authority provided with a copy of any amended specification before such works commence.
17. Prior to the commencement of development of any phase, a land contamination scheme shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and include a Preliminary Risk Assessment (desk top study). If the Preliminary Risk Assessment identifies that further investigation is required a Site Investigation shall be carried out, which shall include a sampling and analysis plan. If the Site Investigation identifies any unacceptable risks, a Remediation Strategy shall be produced and where necessary include gas protection measures and method of verification.
18. The development on the relevant phase shall not be brought into use until such time as a Verification Report related to that part of the development has been submitted to and approved in writing by the Local Planning Authority.
19. If unforeseen contamination is encountered during construction works, the Local Planning Authority shall be notified in writing immediately. Operations on the affected part of the site shall cease until an investigation and risk assessment, and if necessary, a remediation strategy is carried out in accordance with the YALPAG guidance and agreed with the Local Planning Authority. The development shall be completed in accordance with any amended specification of works.
20. Prior to the commencement of development, a written scheme of investigation setting out a phased programme of archaeological work in accordance with 'Standards For All Archaeological Work in County Durham and Darlington' shall be submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work will then be carried out in accordance with the approved scheme of works.
21. Prior to occupation of each phase of development, or part thereof, a post investigation assessment is to be completed in accordance with the approved Written Scheme of Investigation for that relevant phase, or part thereof. The provision made for analysis,

publication and dissemination of results, and archive deposition, shall be confirmed in writing to and approved by the Local Planning Authority.

22. In undertaking the development hereby approved no deliveries shall take place other than between the hours of 0800 to 1800 on Monday to Friday and 0900 to 1300 on Saturday. No deliveries shall take place on Sundays, Public or Bank Holidays.
23. In undertaking the development hereby approved, no external construction works, works of demolition, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1300 on Saturday. No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.
24. No construction works or works of demolition whatsoever, including external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

25. Sound attenuation measures to dwellings adjacent to the A167 shall be undertaken in accordance with the mitigation detailed in Table G8.1 within the approved document 'Sniperley Park, Durham, Environmental Statement December 2022 Volume 2 Chapter G – Noise and Vibration'. Such attenuation measures shall be completed prior to first occupation of each dwelling and be permanently retained thereafter.
26. Prior to the occupation of the first dwelling, the site access to the A167 / Park & Ride roundabout, together with reconfigured roundabout and pedestrian crossing (as shown on plan 'Proposed Junction Improvement A167/Park & Ride roundabout 226483/P-01 Rev A') shall be constructed and be available for use.
27. Prior to the occupation of the 500th dwelling, the new roundabout on the A167, together with pedestrian crossing and proposed speed change to 40mph (on the A167 between Pity Me roundabout and the A167 / Park and Ride roundabout) (as shown on plan 'Proposed A167 / Link Road Junction 226483/P-07 Rev A') shall be constructed and be available for use.
28. Prior to the occupation of the 200th dwelling the section of the vehicular link road between the site and adjoining land within the allocation immediately to the south (as identified by H1 on the Define Infrastructure Delivery Plan – Composite – Figure 04), shall be constructed to the site boundary and be available for use.
29. Prior to the occupation of the 400th dwelling the newly created north-south primary road connecting the B6532 with the new arm created on the A167/Park & Ride roundabout (as identified by H5 on the Define Infrastructure Delivery Plan – Composite – Figure 04), shall be constructed and be available for use.
30. Prior to the occupation of the 400th dwelling the new junction on the B6532 adjacent to the Local Centre (as identified by G8 on the Define Infrastructure Delivery Plan – Composite – Figure 04), shall be constructed and be available for use.
31. Prior to the occupation of the 600th dwelling the newly created east-west primary road connecting the B6532 with the new A167 roundabout (as identified by H6 on the Define Infrastructure Delivery Plan – Composite – Figure 04) shall be constructed and be available for use.
32. Prior to the occupation of the 500th dwelling the improvements to Potterhouse Lane and Trouts Lane junctions with the B6532 (as shown on plan 'Proposed B6532 / Potterhouse

Lane, Trouts Lane Junction Improvement 226483/P-04 Rev A'), shall be constructed and be available for use.

33. Prior to the occupation of any dwellings in the development immediately south of Potterhouse Lane, the site access junction that serves that part of the development (as shown on plan 'Proposed Potterhouse Lane Improvement to Bus Route 226483/P-05 Rev A') shall be constructed and be available for use.
34. No dwelling shall be occupied unless and until the new estate roads serving that dwelling have been constructed to at least base course level and shall include temporary ramps and surfacing to provide for movement by those with impaired mobility.
35. Prior to the commencement of each phase of development, or part thereof, full engineering details of the estate roads, future management and maintenance of the proposed streets within that phase or part thereof shall have been submitted to and approved in writing by the Local Planning Authority. In the event of proposals to maintain the highway by means other than through transfer to the Highway Authority then the scheme shall provide for future management and maintenance in perpetuity.
36. Prior to the occupation of the 400th dwelling the signalisation of the arms to be signalised on Sniperley roundabout (as shown on plan '60620899-SHT-20-DSR-X-001') shall be implemented and be available for use.
37. Prior to the occupation of the 300th dwelling a scheme to improve the footway and cycleway along Rotary Way (as identified by I1 on the Define Infrastructure Delivery Plan – Composite – Figure 04) shall be submitted and approved in writing by the Local Planning Authority. Thereafter the scheme shall be implemented prior to the occupation of the 500th dwelling.
38. Prior to the occupation of the 500th dwelling the toucan crossing between the site and Woodbine Road shown on plan: '226483/P-06 Rev A' shall be constructed and operational.
39. Prior to the occupation of the 300th dwelling a scheme to improve the footpath and cycleway along the A167 between the newly created roundabout and Pity Me roundabout (as identified by I3 on the Define Infrastructure Delivery Plan – Composite – Figure 04) shall be submitted and approved in writing by the Local Planning Authority. Thereafter the scheme shall be implemented prior to the occupation of the 500th dwelling.
40. Prior to the commencement of development, a scheme to improve the footway and cycleway between the newly created arm on the A167 / Park & Ride roundabout and the Sniperley Park and Ride Pick Up/ Drop Off Point (as identified by I11 East) on the Define Infrastructure Delivery Plan – Composite – Figure 04), shall be submitted and approved in writing by the Local Planning Authority. Thereafter the scheme shall be implemented prior to the occupation of the first dwelling.
41. Prior to the occupation of the 200th dwelling the pedestrian crossing on the B6532 in proximity to the Local Centre (as identified by I19 on the Define Infrastructure Delivery Plan – Composite – Figure 04), together with a connection to the A167 Underpass (as identified by the location of I4 on the Define Infrastructure Delivery Plan – Composite – Figure 04) shall be constructed and be available for use.
42. Prior to the occupation of the 400th dwelling the pedestrian crossing on the B6532 in proximity to Bridleway (No. 44) (as identified by I20 on the Define Infrastructure Delivery Plan – Composite – Figure 04), shall be constructed and be available for use.

43. Prior to the occupation of the 900th dwelling the northern most pedestrian crossing on the B6532 (as identified by I21 on the Define Infrastructure Delivery Plan – Composite – Figure 04), shall be constructed and be available for use.
44. Prior to the occupation of the 200th dwelling the pedestrian/cycle connection between the B6532 (at I19 as shown on the Define Infrastructure Delivery Plan – Composite – Figure 04) and the connection point at the site boundary (as identified by H2 on the Define Infrastructure Delivery Plan – Composite – Figure 04), shall be constructed to the site boundary and be available for use.
45. Prior to the occupation of the 280th dwelling the two active travel routes between the B6532 and the connections points by H3 and H4 on the Define Infrastructure Delivery Plan – Composite – Figure 04), shall be constructed to the site boundary and be available for use.
46. Prior to the occupation of the 1,250th dwelling the pedestrian crossings on Potterhouse Lane (as identified by I22 and I23 on the Define Infrastructure Delivery Plan – Composite – Figure 04), shall be constructed and be available for use.
47. The active travel route between New College Durham and Potterhouse Lane/Trouts Lane adjacent to the B6532 (as identified by I13 on the Define Infrastructure Delivery Plan – Composite – Figure 04) will be implemented in the following stages:
  - Prior to the occupation of the 200th dwelling the section between New College and the B6532 crossing at the Local Centre (as identified by I19 on the Define Infrastructure Delivery Plan – Composite – Figure 04) shall be constructed and be available for use.
  - Prior to the occupation of the 280th dwelling the section from the B6532 Crossing at the Local Centre to the pedestrian crossing (as identified by I20 on the Define Infrastructure Delivery Plan – Composite – Figure 04) shall be constructed and be available for use.
  - Prior to the occupation of the 900th dwelling the section between the pedestrian crossing (as identified by I20 on the Define Infrastructure Delivery Plan – Composite – Figure 04) to the Potterhouse Lane/Trouts Lane Junction Improvement shall be constructed and be available for use.
48. Prior to the occupation of the first dwelling in each phase, a Residential Travel Plan shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The Travel Plan should:
  - Follow the timescales and details in Framework Travel Plan as detailed in the approved document ‘Sniperley Park, Durham, Environmental Statement December 2022 Volume 3 Chapter D – Transport’.
  - Include measures to encourage sustainable travel to the nearest existing primary school in the period before the opening of the on site primary school.
  - Include a scheme to provide new residents with travel vouchers to encourage sustainable travel.
  - Include the contact details of a suitably qualified Travel Plan Co-ordinator.
  - Include an implementation programme.
  - Include an on-site assessment including details of transport links to the site, on-site facilities and any transport issues and problems.
  - Clearly define aims and objectives in relation to travel modes.

- Clearly define senior management and staff responsibilities and roles in the implementation of the Framework Travel Plan.

The development in each phase shall thereafter be carried out and operated in accordance with the approved Travel Plan for that phase.

49. Prior to occupation of the school, an initial Framework Travel Plan should be submitted to the Local Planning Authority for approval. Thereafter, a Full/Final Travel Plan should be submitted to the Local Planning Authority within 24 months of first occupation of the school. The Full Travel Plan as approved through the Framework Travel Plan shall be implemented. Surveys to explore modal shift should be carried out and submitted to the County Council's Sustainable Travel Officer at 12 month intervals.
50. For any car park that is intended to serve any non-residential element of the development, a Car Park Management Strategy shall be submitted to and approved in writing by the Local Planning Authority before the car park is first used. The Strategy shall include details of: (a) the maximum duration of stay for all users (non-employment); (b) include number of parking spaces per user type; (c) car park enforcement; (d) measures and techniques to maximise car park efficiency/security and the way it will be managed; and (e) mechanism for a review of the Strategy within 12 months of the opening of the phase to confirm the satisfactory operation and safety of each car park and surrounding highway network. The car park shall be surfaced and laid out in accordance with the approved plans and operated thereafter in accordance with the approved Car Park Management Strategy.
51. Prior to the commencement of development in each phase, or part thereof, a detailed Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:
  1. A Dust Action Plan including measures to control the emission of dust and dirt during construction.
  2. Details of methods and means of noise reduction/suppression.
  3. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
  4. Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
  5. Designation, layout and design of construction access and egress points.
  6. Details for the provision of directional signage (on and off site).
  7. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.
  8. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.
  9. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.
  10. Routing agreements for construction traffic.
  11. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.

12. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
13. Management measures for the control of pest species as a result of demolition and/or construction works.
14. Detail of measures for liaison with the local community and procedures to deal with any complaints received.

The development in each phase shall thereafter be carried out and operated in accordance with the approved CEMP.

52. Prior to commencement of each phase of development, or part thereof (excluding demolition, archaeological investigation, services diversions and any land remediation/ground investigation works) a scheme for the provision of foul water drainage works shall be submitted to and approved by the Local Planning Authority. The scheme shall be in accordance with the approved document 'Sniperley Park, Durham Environmental Statement December 2022 Volume 2: Chapter K Water Management and Flooding'. The development in each phase, or part thereof, thereafter, shall be implemented in accordance with the details and timetable agreed.
53. Prior to commencement of each phase of development, or part thereof (other than ground clearance, site preparation, or remediation works) a scheme for surface water drainage and treatment shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be in accordance with the approved document 'Sniperley Park, Durham Environmental Statement December 2022 Volume 2: Chapter K Water Management and Flooding'. The development in each phase, or part thereof, thereafter, shall be completed in accordance with the details and timetable agreed.
54. No development including ground clearance or remediation works for each phase, or part thereof, shall commence until a build programme and timetable for the construction of the critical surface water infrastructure has been submitted to and approved in writing by the Local Planning Authority. The programme must include, amongst other matters, details of the outfall structure, control devices, attenuation/storage, temporary control measures during the construction phase and measures to control silt levels entering the watercourse. The order of works to be undertaken must be identified and the timescale for delivery. The development thereafter shall be completed in accordance with the details and timetable agreed.
55. Prior to the commencement of development in each phase, details of the ecological mitigation identified in the approved document 'Sniperley Park, Durham, Environmental Statement December 2022 Volume 2 Chapter E – Ecology' shall be submitted to and approved in writing by the Local Planning Authority. The mitigation measures shall include:
  - A Habitat Creation and Management Plan, that details the target habitat descriptions; timescales for the target habitats to be delivered; details of the long-term management of habitats; and a monitoring scheme in relation to the delivery of the target habitats.
  - Provision of Bat Boxes within retained trees and within 15% of new build properties.
  - Increased provision of existing bird nesting opportunities.
  - Lighting Plan to ensure areas of habitat targeted for wildlife remain unlit and areas of public open space, sustainable urban drainage features and other landscaping are lit sensitively with respect to use by wildlife.

- Thereafter the mitigation measures in each phase shall be implemented and retained in perpetuity.
56. Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats.
  57. Prior to the occupation of the 400th dwelling the public house/restaurant (Use Class Sui Generis) shall be implemented and available for use. The new floorspace shall be restricted to no more than 550 sq.m gross external.
  58. Prior to the occupation of the 100th market dwelling, a scheme for a Mobility Hub, and temporary retail provision, shall be submitted to and approved in writing by the local planning authority. Thereafter the scheme shall be implemented prior to the occupation of the 300th dwelling.
  59. Prior to the occupation of the 800th dwelling, accommodation that is suitable to be used as a health centre (Use Class F2) shall be implemented and available for use. The new floorspace shall be restricted to no more than 767 sq.m gross external.
  60. Prior to the occupation of the 800th dwelling, the retail uses in the Local Centre (Use Class E) shall be implemented and available for use. The new floorspace hereby permitted within Use Class E, together with the health centre, shall be restricted to no more than 1,500 sq.m gross external. No individual unit within Use Class E hereby permitted shall exceed 450 sq.m gross external floorspace.
  61. The reserved matter of layout of each phase, or part thereof, shall be accompanied by details of refuse storage facilities and refuse storage plan for that phase of the development for approval by the Local Planning Authority. The details are to include the location and design of the facilities and arrangement for the provision of the bins.
  62. Notwithstanding the details shown on School and Playing Fields Plan (ref. 1300-DUR SD-20.05 Rev B) a scheme for the provision of 80 number additional car parking spaces adjacent to the proposed primary school / playing pitch area together with a timetable for implementation shall be submitted and approved in writing by the Local Planning Authority. Thereafter the car parking spaces shall be completed in accordance with the details and timetable agreed.
  63. Notwithstanding the provisions of Part 3, Class L of Schedule 2 of the Town and Country Planning (General Permitted Development Order) 2015 (as amended) (or any revocation and re-enactment of that order), the dwellinghouse(s) hereby approved, shall only be used for uses falling within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any revocation and re-enactment of that order) and for no other use.
  64. Garage(s), hardstanding(s)/drive(s) to any dwelling hereby approved, shall be constructed and made available for use before the first occupation of that dwelling. Thereafter they shall be used and maintained in such a manner as to always ensure their availability at all times for the parking of private motor vehicles.
  65. The reserved matter of layout for each phase, or part thereof, must be accompanied by a scheme detailing the precise means of broadband connection to that phase for approval by the local planning authority. Thereafter, the development shall be carried out in accordance with the agreed details.
  66. Prior to the occupation of the first dwelling of each phase, or part thereof, a strategy for electric vehicle charging points for 'on-street' visitor parking bays shall be submitted to and agreed by the Local Planning Authority. The submitted details shall include, but not be limited to:

- A plan showing the position of all proposed visitor parking charging points;
- A specification of each type of charging point to be installed including minimum charging rating;
- A timetable for their installation; and
- Details for the on-going maintenance of the charging points. In the event of proposals to maintain the charging points by means other than through transfer to the Local Authority then the scheme shall provide details of an agreed maintenance schedule in perpetuity.
- The electric vehicle charging points shall thereafter be maintained in accordance with the approved details.

### **Annex B List of Conditions for Appeal B**

1. Application for approval of reserved matters for the first phase, or part thereof, shall be obtained in writing from the Local Planning Authority before the expiration of three years beginning with the date of this permission. The development must be begun no later than the expiration of two years from the final approval of the reserved matters.
2. Approval of the details of appearance, landscaping, layout and scale (hereinafter called “the reserved matters”) for each phase, or part thereof, shall be obtained in writing from the Local Planning Authority before any development is commenced other than remediation and access works.
3. The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Site Location Plan (P22-2905.001 Rev A)
  - Existing Site Plan (P22-2905.002)
  - Land Use Parameter Plan (P22-2905.101)
  - Green Infrastructure Parameter Plan (P22-2905.100 Rev A)
  - Movement Network Parameter Plan (P22-2905.102 Rev A)
  - Building Heights Parameter Plan (P22-2905.103 Rev A)
  - Phasing Plan (P22-2905.104 Rev A)
  - Movement Hierarchy Plan (P22-2907.105 Rev B)
  - Open Space Plan (P22-2905.106 Rev A)
  - Indicative Masterplan (P22-2905.107 Rev A)
  - Comprehensive Masterplan and Infrastructure Phasing (December 2022)
  - Design and Access Statement incorporating Design Code (August 2023)
  - Define Infrastructure Delivery Plan, (February 2024)
  - Biodiversity Net Gain Statement 139-09i, June 2023
  - Proposed On Site Road Layout (21-057-022 Rev A)
  - Landscape Masterplan (11058-L-01 P22)
  - Sniperley Flood Risk Assessment (20182-FRA-02)

- Tree Retention Plan (11058-T-10 Rev A)
  - Tree Protection Plan (11058-T-11 Rev A)
  - Visibility Splays (21-057/101 Rev E)
  - A691 Footway / Cycleway Improvement Scheme (21-057-014)
4. The development shall be implemented in accordance with the Sniperley Park Design and Access Statement incorporating Design Code (P22-2905C) (August 2023) and Comprehensive Masterplan and Infrastructure Phasing (December 2022) submitted with the planning application.
  5. Prior to the construction above damp-proof course of any of the dwellings of each phase as indicated on Phasing Plan 'P22-2905.104 Rev A' hereby approved, a report setting out how at least 66% of the total number of units approved of the development will conform to Buildings Regulations M4(2) standard shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter in accordance with the approved details.
  6. A scheme detailing how at least 10% of the total number of units approach on each Phase, as approved by Phasing Plan "P22-2905.104 Rev A" will be constructed to a design and type which meet the needs of older people, shall be submitted to and approved in writing by the Local Planning Authority alongside an application for reserved matters for the respective phase of the scheme. Thereafter the development phase shall be carried out fully in accordance with the approved details.
  7. Natural gas shall not be used as a fuel to heat any dwellings hereby approved.
  8. Prior to the occupation of the first dwelling of each phase as indicated on Phasing Plan 'P22-2905.104 Rev A', a strategy for electric vehicle charging points for 'on-street' visitor bays and communal parking courts shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include, but not be limited to:
    - A plan showing the position of all proposed charging points;
    - detail specification of each type of charging point to be installed including minimum charging rating;
    - a timetable for their installation; and
    - a scheme for the on-going maintenance of the charging points. In the event of proposals to maintain the charging points by means other than through transfer to the Local Authority then the scheme shall provide for details of an agreed maintenance schedule in perpetuity.
    - The electric vehicle charging points shall thereafter be maintained in accordance with the approved details.
  9. The reserved matter of layout for each phase, or part thereof, shall include details of cycle storage, compliant with the Council's Parking and Accessibility Supplementary Planning Document (2023) (or such replacement document). Thereafter, the development shall be carried out in accordance with the agreed detail and the approved provision shall be retained for the storage of cycles at all times for the duration of the use hereby approved.
  10. The reserved matter of landscaping for each phase, or part thereof, must be accompanied by a detailed landscaping scheme, based on the principles set out in dwg. no. (11058-L-01-P22) (Landscape Masterplan) and its maintenance and management, which has been submitted to and approved in writing by the Local Planning Authority.

The landscape scheme shall include accurate plan-based details of the following:

- Trees, hedges and shrubs scheduled for retention;
- Details of tree protection measures;
- Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers;
- Details of planting procedures or specification;
- Finished topsoil levels and depths;
- Details of temporary topsoil and subsoil storage provision. Seeded or turf areas, habitat creation areas and details etc;
- Details of land and surface drainage; and
- The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.
- Trees, hedges and shrubs shall not be removed without agreement within five years.

11. The reserved matter of landscaping for each phase, or part thereof, must be accompanied by an updated arboricultural impact assessment. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, scheduled for retention, have been protected in accordance with the approved details and in accordance with BS 5837:2012. The protection measures shall remain in place until the cessation of the development works. The tree protection shall be retained throughout the construction period for each development phase. No materials, equipment or vehicles shall be stored inside the protective fencing.
12. The reserved matter of landscaping for each phase, or part thereof, of development must be accompanied by a scheme for the ongoing maintenance of the areas of public open space and structural landscaping within the development which has been submitted to and agreed in writing by the Local Planning Authority. In the event of proposals to maintain the public open space by means other than through transfer to the Local Authority then the scheme shall provide for details of an agreed maintenance schedule in perpetuity. The landscaping and open space areas shall thereafter be maintained in accordance with the approved details.
13. Prior to the construction of the first dwelling, any hard surface or apartment block hereby approved, a scheme and programme detailing measures for compensatory improvements to the Green Belt (as identified on the Landscape Masterplan dwg. no. 11058-L-01-P22) together with a timetable for its implementation and a management scheme (pursuant to S39 of the Wildlife and Countryside Act 1981 or any other power of statutory provision) shall be submitted to and approved in writing by the Local Planning Authority.

Once approved, the compensatory improvements shall be implemented in accordance with the details and timetable agreed and shall be maintained in accordance with the approved management scheme.

14. In the event that unforeseen legacy coal mining activity is encountered during construction works, the Coal Authority shall be notified in writing immediately. Operations on the affected part of the site shall cease until an investigation and risk assessment, and if necessary, a remediation strategy is carried out in accordance with the Coal Authority guidance and agreed with the Coal Authority. The development shall be completed in accordance with any amended specification of works and the Local

Planning Authority provided a copy of any amended specification before such works commence.

15. No development (excluding demolition) of each phase of development, or part thereof (as identified on Phasing Plan P22-2907.104 Rev A) shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and the 'Phase 2' site investigation. A 'Phase 3' remediation strategy shall be produced and where necessary include details of the gas protection measures and method of verification.
16. The development shall not be brought into use until such time a 'Phase 4' verification report related to that part of the development has been submitted to and approved in writing by the Local Planning Authority.
17. If unforeseen contamination is encountered, the Local Planning Authority shall be notified in writing immediately. Operations on the affected part of the site shall cease until an investigation and risk assessment, and if necessary, a remediation strategy is carried out in accordance with the YALPAG guidance and agreed with the Local Planning Authority. The development shall be completed in accordance with any amended specification of works.
18. In undertaking the development that is hereby approved no deliveries shall take place other than between the hours of 0800 to 1800 on Monday to Friday and 0900 to 1300 on Saturday. No deliveries shall take place on Sundays, Public or Bank Holidays.
19. In undertaking the development that is hereby approved, no external construction works, works of demolition, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1300 on Saturday. No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

No construction works or works of demolition whatsoever, including external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

20. Sound attenuation measures shall be undertaken in accordance with the mitigation detailed within Environmental Statement Chapter 12 – Noise and Vibration, February 2023. Such attenuation measures shall be completed prior to first occupation of the relevant Phase and be permanently retained thereafter.
21. Prior to occupation of the first dwelling the bus stops to the A691 (as shown on plan ref: P22-2905.102 Rev A) shall be installed and be available for use.
22. Prior to occupation of the 120th dwelling hereby approved the bus stops to the primary route within the site (as shown on plan ref: P22-2905.102 Rev A) shall be installed and be available for use.
23. Prior to the occupation of the 120th dwelling the pedestrian / cycle connection between the A691 (as identified by G2 on the Define Infrastructure Delivery Plan – Composite – Figure 04) and the connection point at the site boundary (as identified by H2 and H3 on the Define Infrastructure Delivery Plan – Composite – Figure 04), together with any associated Linear Park space, shall be constructed to the site boundary at H2 and H3 and be available for use.

24. Prior to the 170th dwelling the pedestrian / cycle route linking between the site and the adjoining Park & Ride Site immediately to the South (as shown on plan ref: P22-2905.102 Rev A), shall be constructed to the site boundary and be available for use.
25. Prior to the 250th dwelling the non-vehicular route within Serpentine Wood linking between the site and adjoining land within the allocation immediately to the north (as identified by Scheme H4 on the approved Infrastructure Delivery Plan), shall be constructed to the site boundary and be available for use.
26. Prior to the 120th dwelling the section of the vehicular link road between the site and adjoining land within the allocation immediately to the north (as identified by Scheme H1 on the approved Infrastructure Delivery Plan), shall be constructed to the site boundary and be available for use.
27. No dwelling shall be occupied unless and until the new estate roads serving the dwelling have been constructed to at least base course level that shall include temporary ramps and surfacing to allow movement by those with impaired mobility.
28. Prior to the commencement of each phase of development, or part thereof, full engineering details of the estate roads, future management and maintenance of the proposed streets within that phase or part thereof shall have been submitted to and approved in writing by the Local Planning Authority. In the event of proposals to maintain the highway by means other than through transfer to the Highway Authority then the scheme shall provide for future management and maintenance in perpetuity.
29. Upon occupation of the first dwelling hereby approved, the measures contained with the Framework Travel Plan (ref: Transport Assessment and Travel Plan, February 2023) shall be carried out in accordance with the details hereby approved and retained in perpetuity.
30. Twelve months after first occupation of the development details of a Full Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. At all times thereafter the approved Full Travel Plan shall be implemented in accordance with the approved details. This Full Travel Plan must include:
  - i. the details of the appointed Travel Plan Coordinator, including confirmation of the length of their appointment and that funding is secured to enable the successful implementation of the Full Travel Plan;
  - ii. a feasibility study for a car club;
  - iii. clearly specified ongoing targets for travel mode shares;
  - iv. a plan for monitoring and reviewing the effectiveness of the Full Travel Plan; and
  - v. A biennial monitoring report to be submitted to the Local Planning Authority regarding the implementation of the Full Travel Plan.
31. Prior to the construction of the first dwelling hereby approved, a detailed scheme to widen the existing shared use path alongside the A691 between the Sniperley Park and Ride site and the new access roundabout on the A691 (as identified by I11 on the Define Infrastructure Delivery Plan – Composite – Figure 04) shall be submitted to and agreed in writing by the Local Planning Authority. Once agreed, the scheme shall be carried out in accordance with the approved details prior to first occupation.
32. Prior to the occupation of the first dwelling, a scheme to clear vegetation to re-establish the footway width along the front of the site on the A691 (identified by Scheme I12 on the approved Infrastructure Delivery Plan – Composite – Figure 04), together with a timetable for its implementation, shall be submitted to and approved in writing by the

Local Planning Authority. Once approved, the scheme shall be carried out in accordance with the approved details.

33. Prior to the occupation of the 300th dwelling hereby approved a scheme to provide improved signposting to greenspace (as identified by scheme reference 'Intervention 15' in the Sniperley Active Travel Plan (Review), July 2023), together with a timetable for its implementation, shall be submitted to and approved in writing by the Local Planning Authority. Once agreed, the scheme shall be implemented in accordance with the approved details.
34. Prior to the occupation of the 100th dwelling hereby approved a scheme for an on site Mobility Hub (as identified by Scheme I16b on the Define Infrastructure Delivery Plan – Composite – Figure 04) shall be submitted to and approved in writing by the Local Planning Authority. Once agreed, the Mobility Hub shall be available for use prior to the occupation of the 200th dwelling.
35. No dwelling shall be occupied until full engineering details of the estate roads and external footpath connections have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme.
36. Prior to the commencement of any part of the development or any works of demolition, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall consider the potential environmental impacts (noise, vibration, dust, & light) that the development may have upon any nearby sensitive receptors and shall detail mitigation proposed, as a minimum this should include, but not necessarily be restricted to, the following:
  - i. A Dust Action Plan including measures to control the emission of dust and dirt during construction.
  - ii. Details of methods and means of noise reduction/suppression.
  - iii. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
  - iv. Details of measures to prevent mud and other such material migrating onto the highway from construction vehicles;
  - v. Designation, layout and design of construction access and egress points;
  - vi. Details for the provision of directional signage (on and off site);
  - vii. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;
  - viii. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials
  - ix. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period;
  - x. Routing agreements for construction traffic, avoiding the Air Quality Management Area;
  - xi. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - xii. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.

- xiii. Management measures for the control of pest species as a result of demolition and/or construction works.
- xiv. Detail of measures for liaison with the local community and procedures to deal with any complaints received.
- xv. Details of routes for construction traffic to access the site; and
- xvi. Details of the scheduling of deliveries to minimise potential disturbance on local residents and conflicts with the highway peak hours;

The management strategy shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

The approved Construction Management Plan shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

- 37. The approved flood risk and foul drainage strategy shall be implemented in accordance with the approved document '20182-FRA- 02' prior to the first occupation of each phase of development, or part thereof.
- 38. The drainage scheme shall ensure that foul flows discharge to the foul sewer at manhole 6101, as indicated within approved document '20182-FRA-02', and ensure that surface water discharges to the existing Sustainable Drainage System Pond.
- 39. Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats.
- 40. Prior to the commencement of development in each phase, details of the ecological mitigation identified in the approved document 'Sniperley Farm, Durham, Environmental Statement, December 2022 Chapter 8 – Ecology' shall be submitted to and approved in writing by the Local Planning Authority. The mitigation measures shall include:
  - 74 integrated bat boxes to be installed on new buildings across the site;
  - 110 integrated swift nesting boxes to be installed on new buildings;
  - 2 barn owl boxes to be installed on retained trees on the western edge of the off-Site habitat creation area;
  - Hedgehog gaps measuring approximately 13cm x 13cm to be installed at the base of all boundary treatments;
  - Habitats to meet the needs of grey partridge within the off-site habitat creation area; and
  - The use of narrow spectrum bulbs and the use of shielding or cutting light to avoid light spillage.

Thereafter, the mitigation measures will be implemented, maintained, and retained in perpetuity.

- 41. Prior to the first occupation of each phase, the bat and breeding bird units as identified for installation shall be erected. The mitigation shall be carried out in accordance with the measures detailed in the 'Biodiversity Net Gain Statement, June 2023' and retained in perpetuity.
- 42. Prior to the construction of each phase of the development, or part thereof, details of refuse storage facilities and refuse storage plan for that phase of the development shall be submitted to and approved in writing by the Local Planning Authority. The details

should be in accordance with the approved 'Design and Access Statement incorporating Design Code (August 2023)' and are to 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 the first occupation of any dwelling in that phase. Thereafter the refuse storage facilities and refuse storage plan shall operate in accordance with approved details.

43. No development of each phase, or part thereof, including ground clearance or remediation works shall commence until a build programme and timetable for the construction of the critical surface water infrastructure has been submitted to and approved in writing by the Local Planning Authority. The programme must include, amongst other matters, details of the outfall structure, control devices, attenuation/storage, temporary control measures during the construction phase and measures to control silt levels entering the watercourse. The order of works to be undertaken must be identified and the timescale for delivery. The development thereafter shall be completed in accordance with the details and timetable agreed.
44. The reserved matter of appearance must be accompanied by details of the make, colour and texture of all walling and roofing materials of each dwelling which have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.
45. Prior to the commencement of any hard surface or dwelling on each phase of development, or part thereof, details showing the existing and proposed site levels, and the finished floor levels of the proposed development and those of existing neighbouring buildings (if any), shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details thereafter.
46. The reserved matters of appearance and layout must be accompanied by details of all means of enclosure to be erected within the development which shall be submitted to and approved in writing by the Local Planning Authority. The submitted details must include details of any retaining walls/structures required including their interaction with other means of enclosure such as garden fences within the site. The development shall thereafter be carried out in accordance with the approved details.
47. The reserved matters of appearance and layout must be accompanied by details of the surface treatment and construction of all hard-surfaced areas which shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.
48. Notwithstanding the provisions of Part 3, Class L of Schedule 2 of the Town and Country Planning (General Permitted Development Order) 2015 (as amended) (or any revocation and re-enactment of that order), the dwellinghouse(s) hereby approved, shall only be used for uses falling within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any revocation and re-enactment of that order) and for no other use.
49. Garage(s), hardstanding(s)/drive(s) to any dwelling hereby approved, shall be constructed and made available for use before the first occupation of that dwelling. Thereafter they shall be used and maintained in such a manner as to always ensure their availability at all times for the parking of private motor vehicles.
50. The reserved matter of layout for each phase, or part thereof, must be accompanied by a scheme detailing the precise means of broadband connection to that phase for approval in writing by the local planning authority. Thereafter, the development shall be carried out in accordance with the agreed details.

51. Prior to the commencement of the park and ride extension hereby approved, details of the height, type, position and angle of external lighting shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall be erected and maintained in accordance with the approved details.
52. No development of the park and ride extension hereby approved (other than ground clearance or remediation works) shall commence until a scheme for the provision of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be developed in accordance with the Councils Sustainable Drainage Systems (SuDS) Adoption Guide 2016.  
The development thereafter shall be completed in accordance with the details and timetable agreed.
53. The development shall be carried out in full accordance with Chapter 8 of Environmental Statement which requires:
  - Suitable mitigation for nesting birds;
  - Habitat protection and creation / management; and
  - Sensitive lighting design.
54. Prior to the occupation of the 200th dwelling, the park and ride extension hereby approved shall be constructed and made available for use.

### **Annex C List of Conditions for Appeal C**

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans :
  - Site location plan Ref P21-2606.001 (Rev A)
  - Concept plan Ref P21-2606.010 (Rev B)
  - Proposed floor plans Ref P21-2606.011 (Rev C)
  - Proposed perspectives Ref P21-2606.012 (Rev A)
  - Proposed elevations Ref P21-2606.013 (Rev A)
  - Proposed access Ref P21-2606.015
  - NDSS check (proposed ground & first floor layout plans) P21-2606.016 (Rev A)
  - Demolition volume Ref P21-2606.017
  - Proposed access Ref 21-057/014 (Rev A)
3. No development shall take place unless in accordance with the mitigation as identified in the 'Outline Biodiversity Management and Monitoring Plan (BMMP) Revision 11' by Quants Environmental (June 2023).
4. Works to the buildings likely to affect known roosts shall not in any circumstances commence unless the Local Planning Authority has been provided with either:
  - i. a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorising the specified activity/development to go ahead; or

- ii. confirmation that the site is registered on a Bat Mitigation Class Licence issued by Natural England; or
  - iii. written justification by a suitably qualified ecologist confirming why a licence is no longer required.
5. No development shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. If the Phase 2 survey identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and where necessary include gas protection measures and method of verification.
6. Remediation works shall be carried out in accordance with the approved remediation strategy. The development shall not be brought into use until such time a Phase 4 verification report related to that part of the development has been submitted to and approved in writing by the Local Planning Authority.
7. Prior to the commencement of development, details of the management of surface water drainage within the site during the construction phase and following the occupation of the development shall be submitted to and approved in writing by the Local Planning Authority. Once agreed, the drainage works shall be carried in accordance with the approved details.

The development shall then be constructed in accordance with the approved details, any drainage connection to the adjoining land within the allocation made prior to first occupation, and the drainage measures shall be maintained thereafter in perpetuity.

8. Prior to works commencing to the fabric of the buildings, precise details of the external appearance, including samples, of the following shall be submitted to and approved in writing by the Local Planning Authority:
- i. External elevations
  - ii. Roofs
  - iii. Window frames (including any recess), heads and sills
  - iv. Doors
  - v. Rainwater goods

The development shall then be constructed in accordance with the approved details.

9. Prior to works commencing to the fabric of the buildings, details of noise insulation measures shall be submitted to and approved in writing by the Local Planning Authority. These measures shall ensure the following levels are achieved:
- i) 35dB LAeq 16hr bedrooms and living room during the day-time (0700 - 2300)
  - ii) 30 dB LAeq 8hr in all bedrooms during the night time (2300 - 0700)
  - iii) 45 dB LAm<sub>ax</sub> in bedrooms during the night-time
  - iv) 55dB LAeq 16hr in outdoor living areas

The development shall then be constructed in accordance with the approved details.

10. Prior to their erection, precise details of the height and appearance of the proposed boundary treatments to each plot shall be submitted to and approved in writing by the Local Planning Authority.

The development shall then be constructed in accordance with the approved details.

11. Prior to commencement of development, details of the siting and appearance of an electric vehicle charging point at each dwelling shall be submitted to and approved in writing by the Local Planning Authority.  
The charging points shall then be installed and made operational prior to the occupation of each dwelling.
12. Prior to commencement of development, details of the siting and appearance of cycle storage at each dwelling shall be submitted to and approved in writing by the Local Planning Authority.  
The cycle storage shall then be installed and made available for use prior to the occupation of each dwelling.
13. Prior to commencement of development details of refuse storage and the collection arrangement for all dwellings across the development shall be submitted to and approved in writing by the Local Planning Authority.  
The storage details shall then be implemented prior to the occupation of each dwelling, and the collection arrangement shall be carried out in perpetuity.
14. Prior to commencement of development details of the provision of high-speed internet broadband to each dwelling shall be submitted to and approved in writing by the Local Planning Authority.  
The approved connections shall then be installed prior to the occupation of each dwelling.
15. In undertaking the development that is hereby approved, no external construction works, works of demolition, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1300 on Saturday. No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.  
No construction works or works of demolition whatsoever, including external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.  
For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

#### **Annex D List of Conditions for Appeal D**

Conditions relating only to the element of the application for which full planning permission is sought.

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby approved shall be carried out in strict accordance with the following approved plans:
  - Site Location Plan Ref. P22-2907.001 Rev A
  - Existing Site Plan Ref. P22-2907.002
  - Proposed Layout Plan Ref. P22-2907.100 Rev N
  - Adoptable Highways Plan Layout Ref. P22-2907.102 Rev C

- Open Space Plan Ref. P22-2907.103 Rev G
- Boundary Treatment Plan Part 1 Ref. P22-2907.104 Rev D
- Boundary Treatment Plan Part 2 Ref. P22-2907.104 Rev D
- Spacing Standards Plan Ref. P22-2907.105 Rev D
- Parking Strategy Plan Ref. P22-2907.106 Rev C
- Affordable Housing Location Plan Ref. P22-2907.120 Rev B
- Phasing Plan Ref. P22-2907.114 Rev B
- Movement Hierarchy Plan Ref. P22-2907.115 Rev B
- Comprehensive Masterplan and Infrastructure Phasing (December 2022)
- Design and Access Statement incorporating Design Code (July 2023)
- Define Infrastructure Delivery Plan, DE517 (February 2024)
- Biodiversity Net Gain Statement, June 2023
- House Type Honeyman Elevations P22-2907-DE-001\_F\_19
- House Type Honeyman Floor Plans P22-2907-DE-001\_F\_20
- House Type Beekeeper Elevations P22-2907-DE-001\_E\_23
- House Type Beekeeper Floor Plans P22-2907-DE-001\_F\_22
- Landscape Masterplan (11058-L-01 P22))
- Sniperley Flood Risk Assessment (20182-FRA-01 Rev H)
- Tree Retention Plan (11058-T-10 Rev A)
- Tree Protection Plan (11058-T-11 Rev A)
- Visibility Splays (21-057/101 Rev E)
- A691 Footway / Cycleway Improvement Scheme (21-057-014)
- Proposed on Site Layout (21-057-022 Rev A)
- House Type Manciple ECW/801/SDB/00/01
- House Type Manciple MP-2B-2S-P1
- House Type Coiner ECW/876/SDB/00/01
- House Type Coiner CN-2B-2S-P1
- House Type Chandler ECW/951/SDB/00/01
- House Type Chandler ECW/1026/SDB/00/02
- House Type Chandler CH-3B-2S-P1
- House Type Harper – Sniperley Farm Area - ECW/1026/SDB/00/01
- House Type Harper (Render) ECW1026/SDB/00/02
- House Type Harper HA-3B-2S-P1
- House Type Blenmere ECW/1026/SDB/00/01
- House Type Blenmere ECW/1026/SDB/00/02

- House Type Blenmere BM-3B-2S-P1
- House Type Tillman ECW/T1026/SDB/00/01
- House Type Tillman T1-3B-2S-P1
- House Type Sawyer – Medium Density Elevations - ECW/1083/SDB/00/01
- House Type Sawyer – Sniperley Farm Area - ECW/1083/SDB/00/02
- House Type Sawyer – Medium Density Elevations (Render) SY-3B-2S-P1
- House Type Mercer ECW/1083/SDB/00/01
- House Type Mercer ECW/1083/SDB/00/02
- House Type Mercer ME-4B-2S-P1
- House Type Spinner ECW/1248/SDB/00/01
- House Type Spinner SP-3B-25S-P1
- House Type Reedmaker ECW/1309/SDB/00/01
- House Type Reedmaker – Sniperley Farm Area – ECW/1309/SDC/00/01
- House Type Reedmaker RE-4B-2S-P1
- House Type Cutler ECW/1335/SDB/00/01
- House Type Cutler ECW/1335/SDB/00/02
- House Type Cutler CU-4B-2S-P1
- House Type Forester ECW/1528/SDB/00/01
- House Type Forester ECW/1528/SDB/00/02
- House Type Forester ECW/1528/SDB/00/03
- House Type Forester ECW/1528/SDB/00/04
- House Type Forester FO-4B-2S-P1
- House Type Bowyer ECW/1356/SDB/00/02
- House Type Bowyer ECW/1356/SDB/00/04
- House Type Bowyer BO-4B-2S-P1
- House Type Lorimer ECW/1554/SDB/00/01
- House Type Lorimer ECW/1554/SDB/00/02
- House Type Lorimer ECW/1554/SDB/00/03
- House Type Lorimer LO-4B-2S-P1
- House Type Weaver ECW/1688/SDB/00/01
- House Type Weaver ECW/1688/SDB/00/02
- House Type Weaver ECW/1688/SDB/00/03
- House Type Weaver ECW/1688/SDB/00/04
- House Type Weaver WE-4B-2S-P1
- House Type Magnolia Bungalow ECW/MAG/SDB/00/01

- House Type Magnolia Bungalow ECW/MAG/SDB/00/02
- House Type Watchmaker ECW/1901/SDB/00/01
- House Type Watchmaker ECW/1901/SDB/00/02
- House Type Watchmaker ECW/1901/SDB/00/03
- House Type Watchmaker ECW/1901/SDB/00/04
- House Type Watchmaker P22-4321-DE-118-03
- House Type Watchmaker WA-5B-2S-P1 rev A
- House Type Watchmaker P22-4321-DE-118-04
- House Type Draper ECW/2243/SDB/00/01
- House Type Draper ECW/2243/SDB/00/02
- House Type Draper ECW/2243/SDB/00/03
- House Type Draper ECW/2243/SDB/00/04
- House Type Draper P22-4321-DE-118-01
- House Type Draper DR-5B-2S-P1
- House Type Draper P22-4321-DE-118-02
- House Type Rosemary ASH/802MP/00/TC/01
- House Type Rosemary ASH/802MP/00/CC/01
- House Type Rosemary ASH/802MP/00/AC/01
- House Type Oxalis ASH/876CN/00/TC/02 Rev C
- House Type Oxalis ASH/876CN/00/CC/02 Rev C
- House Type Oxalis ASH/876CN/00/AC/01 Rev C
- House Type Orchid ASH/951/00/TC/R1/02 Rev M
- House Type Orchid ASH/951/00/CC/R1/02 Rev M
- House Type Orchid ASH/951/00/AC/01 Rev M
- House Type Alyssum ASH/1026BM/00/TC/02
- House Type Alyssum ASH/1026BM/00/AC/01 Rev C
- House Type Alyssum ASH/1026HA/00/TC/02
- House Type Perilla ASH/1026HA/00/CC/02 Rev E
- House Type Perilla ASH/1026/HA/00/AC/01 Rev E
- House Type Perilla ASH/1026T1/00/TC/02 Rev F
- House Type Petuna ASH/1026T1/00/AC/01 Rev F
- House Type Petuna ASH/1083/00/TC/02 Rev H
- House Type Begonia ASH/1083/OC/CC/02 Rev H
- House Type Begonia ASH/1083/00/AC/01 Rev H
- House Type Daphne ASH/SP1248/00/TC/02 Rev E

- House Type Daphne ASH/SP1248/00/CC/02 Rev E
  - House Type Daphne ASH/SP1248/00/AC/01 Rev E
  - House Type Delphinium ASH/1248/WH/00/TC/02 Rev D
  - House Type Delphinium ASH/1248/WH/00/CC/02 Rev D
  - House Type Delphinium ASH/1248/WH/00/AC/01 Rev D
  - House Type Myrtle ASH/1160/00/TC/02 Rev B
  - House Type Myrtle ASH/1160/00/CC/02 Rev B
  - House Type Myrtle ASH/1160/00/AC/01 Rev B
3. The development shall be implemented in accordance with the Sniperley Park Design and Access Statement incorporating Design Code (P22-2907F) (July 2023) and Comprehensive Masterplan and Infrastructure Phasing (December 2022) submitted with the planning application.
  4. Prior to the construction above damp-proof course of any of the dwellings of each phase as indicated on Phasing Plan 'P22-2907.114 Rev B' hereby approved, a report setting out how at least 66% of the total number of units approved of the development will conform to Buildings Regulations M4(2) standard shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter in accordance with the approved details.
  5. Natural gas shall not be used as a fuel to heat any dwellings hereby approved.
  6. Prior to the occupation of the first dwelling or apartment block of each phase as indicated on Phasing Plan 'P22-2907.114 Rev B', a strategy for electric vehicle charging points for 'on-street' visitor bays and communal parking courts shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include, but not be limited to:
    - A plan showing the position of all proposed charging points;
    - detail specification of each type of charging point to be installed including minimum charging rating;
    - a timetable for their installation; and
    - a scheme for the on-going maintenance of the charging points. In the event of proposals to maintain the charging points by means other than through transfer to the Local Authority then the scheme shall provide for details of an agreed maintenance schedule in perpetuity.

The electric vehicle charging points shall thereafter be maintained in accordance with the approved details.

7. All dwellings and apartment blocks hereby approved shall be provided with private cycle storage in accordance with the details submitted within the Council's Parking and Accessibility Supplementary Planning Document (2023) (or such replacement document) and said storage must be installed and available for use before occupation of each dwelling.
8. No dwelling or apartment block shall be occupied in each phase, or part thereof, as indicated on Phasing Plan 'P22-2907.114 Rev B' until a detailed landscaping scheme, based on the principles set out in dwg. no. (11058-L-01-P22) (Landscape Masterplan) and its maintenance and management, has been submitted to and approved in writing

by the Local Planning Authority. The landscape scheme shall include accurate plan-based details of the following:

- Trees, hedges and shrubs scheduled for retention;
- Details of tree protection measures;
- Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers;
- Details of planting procedures or specification;
- Finished topsoil levels and depths;
- Details of temporary topsoil and subsoil storage provision. Seeded or turf areas, habitat creation areas and details etc;
- Details of land and surface drainage; and
- The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.
- Trees, hedges and shrubs shall not be removed without agreement within five years.

9. Any works to trees or hedges within each phase, or part thereof, must be in strict accordance with the hereby approved Tree Protection Plan (11058-T-11 Rev A). No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, scheduled for retention, have been protected in accordance with the approved details and in accordance with BS 5837:2012. The protection measures shall remain in place until the cessation of the development works. The tree protection shall be retained throughout the construction period for each development phase. No materials, equipment or vehicles shall be stored inside the protective fencing.

10. Prior to the construction of the first dwelling, any hard surface or apartment block hereby approved, a scheme and programme detailing measures for compensatory improvements to the Green Belt (as identified on the Landscape Masterplan dwg. no. 11058-L-01-P22) together with a timetable for its implementation and a management scheme (pursuant to S39 of the Wildlife and Countryside Act 1981 or any other power of statutory provision) shall be submitted to and approved in writing by the Local Planning Authority.

Once approved, the compensatory improvements shall be implemented in accordance with the details and timetable agreed and shall be maintained in accordance with the approved management scheme.

11. In the event that unforeseen legacy coal mining activity is encountered during construction works, the Coal Authority shall be notified in writing immediately. Operations on the affected part of the site shall cease until an investigation and risk assessment, and if necessary, a remediation strategy is carried out in accordance with the Coal Authority guidance and agreed with the Coal Authority. The development shall be completed in accordance with any amended specification of works and the Local Planning Authority provided with a copy of any amended specification before such works commence.

12. No development (excluding demolition) of each phase of development, or part thereof (as identified on Phasing Plan P22-2907.114 Rev B) shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG

guidance and the 'Phase 2' site investigation. A 'Phase 3' remediation strategy shall be produced and where necessary include details of the gas protection measures and method of verification.

13. The development shall not be brought into use until such time a 'Phase 4' verification report related to that part of the development has been submitted to and approved in writing by the Local Planning Authority.
14. If unforeseen contamination is encountered, the Local Planning Authority shall be notified in writing immediately. Operations on the affected part of the site shall cease until an investigation and risk assessment, and if necessary, a remediation strategy is carried out in accordance with the YALPAG guidance and agreed with the Local Planning Authority. The development shall be completed in accordance with any amended specification of works.
15. In undertaking the development hereby approved no deliveries shall take place other than between the hours of 0800 to 1800 on Monday to Friday and 0900 to 1300 on Saturday. No deliveries shall take place on Sundays, Public or Bank Holidays.
16. In undertaking the development hereby approved, no external construction works, works of demolition, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1300 on Saturday. No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

No construction works or works of demolition whatsoever, including external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

17. Sound attenuation measures shall be undertaken in accordance with the mitigation detailed within Environmental Statement Chapter 12 – Noise and Vibration, December 2022. Such attenuation measures shall be completed prior to first occupation of the relevant Phase (P22-2907.114 Rev B) and be permanently retained thereafter.
18. Prior to occupation of the first dwelling or apartment block hereby approved, the bus stops to the A691 (as shown on plan ref: P22-2907.100 N) shall be installed and available for use.
19. Prior to occupation of the 120th dwelling hereby approved the bus stops to the primary route within the site (as shown on plan ref: P22-2907.100 N) shall be installed and available for use.
20. Prior to the occupation of the 120th dwelling the pedestrian / cycle connection between the A691 (as identified by G2 on the Define Infrastructure Delivery Plan – Composite – Figure 04) and the connection point at the site boundary (as identified by H2 and H3 on the Define Infrastructure Delivery Plan – Composite – Figure 04), together with any associated Linear Park space, shall be constructed to the site boundary at H2 and H3 and be available for use.
21. Prior to the 170th dwelling the pedestrian / cycle route linking between the site and the adjoining Park & Ride Site immediately to the South (as shown on plan ref: P22-2907.100 N), shall be constructed to the site boundary and be available for use.

22. Prior to the 250th dwelling the non-vehicular route within Serpentine Wood linking between the site and adjoining land within the allocation immediately to the north (as identified by Scheme H4 on the approved Infrastructure Delivery Plan), shall be constructed to the site boundary and be available for use.
23. Prior to the 120th dwelling the section of the vehicular link road between the site and adjoining land within the allocation immediately to the north (as identified by Scheme H1 on the approved Infrastructure Delivery Plan), shall be constructed to the site boundary and be available for use.
24. No dwelling or apartment block shall be occupied unless and until the new estate roads serving the dwelling have been constructed to at least base course level that shall include temporary ramps and surfacing to allow movement by those with impaired mobility.
25. At all times following the occupation of the first dwelling or apartment block, the Framework Travel Plan as detailed in the approved document 'Transport Assessment and Travel Plan 21-057 N, December 2022' shall be implemented in accordance with the approved details.

Upon occupation of the first dwelling hereby approved, the measures contained with the Framework Travel Plan (ref: Transport Assessment and Travel Plan 21-057 N, December 2022) shall be carried out in accordance with the details hereby approved and retained in perpetuity.

26. Twelve months after first occupation of the development, details of a Full Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. At all times thereafter the approved Full Travel Plan shall be implemented in accordance with the approved details. This Full Travel Plan must include:
  - i. the details of the appointed Travel Plan Coordinator, including confirmation of the length of their appointment and that funding is secured to enable the successful implementation of the Full Travel Plan;
  - ii. a feasibility study for a car club;
  - iii. clearly specified ongoing targets for travel mode shares;
  - iv. a plan for monitoring and reviewing the effectiveness of the Full Travel Plan; and
  - v. a biennial monitoring report to be submitted to the Local Planning Authority regarding the implementation of the Full Travel Plan.
27. Prior to the construction of the first dwelling or apartment block hereby approved, a detailed scheme to widen the existing shared use path alongside the A691 between the Sniperley Park and Ride site and the new access roundabout on the A691 (as identified by I11 on the Define Infrastructure Delivery Plan – Composite – Figure 04) shall be submitted to and agreed in writing by the Local Planning Authority. Once agreed, the scheme shall be carried out in accordance with the approved details prior to first occupation.
28. Prior to the construction of the first dwelling or apartment block hereby approved, a scheme to clear vegetation to re-establish the footway width along the A691 (as identified by Scheme I12 on the Define Infrastructure Delivery Plan – Composite – Figure 04), together with a timetable for its implementation, shall be submitted to and approved in writing by the Local Planning Authority. Once approved, the scheme shall be carried out in accordance with the approved details.

29. Prior to the occupation of the 300th dwelling hereby approved a scheme to provide improved signposting to greenspace (as identified by scheme reference 'Intervention 15' in the Sniperley Active Travel Plan (Review), July 2023), together with a timetable for its implementation, shall be submitted to and approved in writing by the Local Planning Authority. Once agreed, the scheme shall be implemented in accordance with the approved details.
30. Prior to the occupation of the 100th dwelling hereby approved a scheme for an on site Mobility Hub (as identified by Scheme I16b on the Define Infrastructure Delivery Plan – Composite – Figure 04) shall be submitted to and approved in writing by the Local Planning Authority. Once agreed, the Mobility Hub shall be available for use prior to the occupation of the 200th dwelling.
31. No dwelling or apartment block shall be occupied until full engineering details of the estate roads and external footpath connections have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme.
32. Prior to the commencement of any part of the development or any works of demolition, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall consider the potential environmental impacts (noise, vibration, dust, & light) that the development may have upon any nearby sensitive receptors and shall detail mitigation proposed. As a minimum this should include, but not necessarily be restricted to, the following:
  1. A Dust Action Plan including measures to control the emission of dust and dirt during construction.
  2. Details of methods and means of noise reduction/suppression.
  3. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
  4. Details of measures to prevent mud and other such material migrating onto the highway from construction vehicles;
  5. Designation, layout and design of construction access and egress points;
  6. Details for the provision of directional signage (on and off site);
  7. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;
  8. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials
  9. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period;
  10. Routing agreements for construction traffic, avoiding the Air Quality Management Area;
  11. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  12. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
  13. Management measures for the control of pest species as a result of demolition and/or construction works.

14. Detail of measures for liaison with the local community and procedures to deal with any complaints received.
15. Details of routes for construction traffic to access the site; and
16. Details of the scheduling of deliveries to minimise potential disturbance on local residents and conflicts with the highway peak hours;

The management strategy shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

The approved Construction Management Plan shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

33. The approved flood risk and foul drainage strategy shall be implemented in accordance with the approved document '20182-FRA-01 Rev H' prior to the first occupation of each phase of development, or part thereof.
34. The drainage scheme shall ensure that foul flows discharge to the foul sewer at manhole 6101, as indicated within approved document '20182-FRA-01 Rev H', and ensure that surface water discharges to the existing Sustainable Drainage System Pond.
35. Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats.
36. Prior to the commencement of development in each phase, or part thereof, details of the ecological mitigation identified in the approved document 'Sniperley Farm, Durham, Environmental Statement, December 2022 Chapter 8 – Ecology' shall be submitted to and approved in writing by the Local Planning Authority. The mitigation measures shall include:
  - 74 integrated bat boxes to be installed on new buildings across the site;
  - 110 integrated swift nesting boxes to be installed on new buildings;
  - 2 barn owl boxes to be installed on retained trees on the western edge of the off-Site habitat creation area;
  - Hedgehog gaps measuring approximately 13cm x 13cm to be installed at the base of all boundary treatments;
  - Habitats to meet the needs of grey partridge within the off-site habitat creation area; and
  - The use of narrow spectrum bulbs and the use of shielding or cutting light to avoid light spillage.

Thereafter, the mitigation measures will be implemented, maintained, and retained in perpetuity.

37. No development shall take place unless in accordance with the approved document 'Biodiversity Net Gain Statement 139-09i, June 2023'.
38. Prior to the first occupation of each dwelling or apartment block on each phase, the bat and breeding bird units as identified for installation shall be erected. The mitigation shall be carried out in accordance with the measures detailed in the 'Biodiversity Net Gain Statement, June 2023' and retained in perpetuity.

39. Prior to the construction of the substation hereby approved, full details of its design, appearance and scale shall be submitted to and agreed in writing by the Local Planning Authority. Once agreed, the substation shall be constructed in accordance with the details approved.
40. Prior to the construction of the first dwelling or apartment block on each phase of the development, or part thereof, as indicated on Phasing Plan 'P22-2907.114 Rev B', details of refuse storage facilities and refuse storage plan for that phase of the development shall be submitted to and approved in writing by the Local Planning Authority. The details should be in accordance with the approved 'Design and Access Statement incorporating Design Code (July 2023)' and are to 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 the first occupation of any dwelling in that phase. Thereafter the refuse storage facilities and refuse storage plan shall operate in accordance with approved details.
41. No development of each phase, or part thereof, as indicated on Phasing Plan 'P22-2907.114 Rev B' including ground clearance or remediation works shall commence until a build programme and timetable for the construction of the critical surface water infrastructure has been submitted to and approved in writing by the Local Planning Authority. The programme must include, amongst other matters, details of the outfall structure, control devices, attenuation/storage, temporary control measures during the construction phase and measures to control silt levels entering the watercourse. The order of works to be undertaken must be identified and timescale for delivery. The development thereafter shall be completed in accordance with the details and timetable agreed.
42. Prior to the construction of any hard surface or building above damp proof course, details of the make, colour and texture of all walling and roofing materials of each dwelling shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.
43. Prior to the commencement of any hard surface or building on each Phase of development, or part thereof, details showing the existing and proposed site levels, and the finished floor levels of the proposed development and those of existing neighbouring buildings (if any), shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details thereafter.
44. Prior to the construction of any hard surface or building above damp-proof course on each Phase of development, or part thereof, full details of all means of enclosure to be erected within the development shall be submitted to and approved in writing by the Local Planning Authority. The submitted details must include details of any retaining walls/structures required including their interaction with other means of enclosure such as garden fences within the site. The development shall thereafter be carried out in accordance with the approved details.
45. Prior to the construction of any hard surface or building above damp-proof course on each phase of development, or part thereof, full details of the surface treatment and construction of all hard-surfaced areas shall be submitted to and approved in writing the Local Planning Authority. The development shall be constructed in accordance with the approved details.
46. Notwithstanding the provisions of Part 3, Class L of Schedule 2 of the Town and Country Planning (General Permitted Development Order) 2015 (as amended) (or any revocation and re-enactment of that order), the dwellinghouse(s) hereby approved,

shall only be used for uses falling within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any revocation and re-enactment of that order) and for no other use.

47. Garage(s), hardstanding(s)/drive(s) to any dwelling hereby approved, shall be constructed and made available for use before the first occupation of that dwelling. Thereafter they shall be used and maintained in such a manner as to always ensure their availability at all times for the parking of private motor vehicles.
48. Prior to the construction of the first dwelling for each phase, or part thereof, a scheme detailing the precise means of broadband connection to that phase must be submitted for approval in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the agreed details.

Conditions relating only to the element of the application for which outline planning permission is sought.

49. Application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years beginning with the date of this permission. The development must be begun not later than the expiration of two years from the final approval of the reserved matters.
50. Approval of the details of appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be obtained in writing from the Local Planning Authority before any development is commenced other than remediation works.
51. Prior to the commencement of the park and ride extension hereby approved, details of the height, type, position and angle of external lighting shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall be erected and maintained in accordance with the approved details.
52. No development of the park and ride extension hereby approved (other than ground clearance or remediation works) shall commence until a scheme for the provision of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be developed in accordance with the Councils Sustainable Drainage Systems (SuDS) Adoption Guide 2016.  
The development thereafter shall be completed in accordance with the details and timetable agreed.
53. The development shall be carried out in full accordance with Chapter 8 of Environmental Statement which requires:
  - Suitable mitigation for nesting birds;
  - Habitat protection and creation / management; and
  - Sensitive lighting design.
54. Prior to the occupation of the 200th dwelling, the park and ride extension hereby approved shall be constructed and made available for use.



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# **Report to the Secretary of State for Levelling Up, Housing and Communities**

**by Helen Hockenhill BA(Hons) B.PI MRTPI**

**an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities**

**Date 3 June 2024**

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**TOWN AND COUNTRY PLANNING ACT 1990**

**DURHAM COUNTY COUNCIL**

**APPEALS BY CO DURHAM LAND AND BELLWAY HOMES**

**PROPOSED DEVELOPMENT AT SNIPERLEY PARK, PITY ME, DURHAM**

Inquiry Held on 30-31<sup>st</sup> January and 1-21 February 2024

Site visits on 30 January 2024 and 13 February 2024

File Ref(s): APP/X1355/W/22/3330836 APP/X1355/W/22/3331745  
APP/X1355/W/22/3333600 APP/X1355/W/22/3331801

## **ABBREVIATIONS IN THIS REPORT**

ATP	Active Travel Plan
BNG	Biodiversity Net Gain
CDL	County Durham Land
CDP	County Durham Plan
DCC	Durham County Council
DfE	Department for Education
DMS	Discount Market Sale
EIA	Environmental Impact Assessment
EiP	Examination in Public
2FE	2 Form entry
The Framework	National Planning Policy Framework
FHS	Future Homes Standard
FTP	Framework Travel Plan
GDV	Gross Development Value
GNC	Great North Cycleway
HATCP	Healthy Active Travel Connectivity Plan
IPS	Interim Policy Statement
LGA	Local Government Association
LTN 1/20	Local Transport Note 1/20
MoU	Memorandum of Understanding
NDHA	Non-Designated Heritage Asset
NDSS	Nationally Described Space Standards
NP	Neighbourhood Plan
PPG	Planning Practice Guidance
RfR	Reason for refusal
RICS	Royal Institute of Chartered Surveyors
s106	Section 106
SE	Sport England
SHMA	Strategic Housing Market Assessment
SoCG	Statement of Common Ground
SoS	Secretary of State
SPD	Supplementary Planning Document
Sq ft	Square foot
SuDS	Sustainable Urban Drainage System
SUE	Sustainable Urban Extension
WMS	Written Ministerial Statement

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### **Appeal A Ref: APP/X1355/W/22/3330836**

#### **Land At Sniperley Park, Pity Me , Durham, DH1 5DZ, DH1 5RH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Co. Durham Land LLP against Durham County Council.
- The application Ref DM/22/03712/OUT is dated 14 December 2022.
- The development proposed is Demolition of existing buildings adjacent to B6532 and outline planning permission (all matters reserved except for access) for a maximum of 1,550 residential dwellings (Use Class C3), a local centre (Use Classes E and F2), public house (Use Class Sui Generis) and primary school (Use Class F1), compensatory improvements to the Green Belt, associated infrastructure and landscaping .

#### **Summary of Recommendation: That the appeal be allowed**

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### **Appeal B Ref: APP/X1355/W/22/3331745**

#### **Land north and east of Sniperley Farm, Durham City, County Durham**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Bellway Homes Ltd against Durham County Council.
- The application Ref DM/23/00591/OUT is dated 15 February 2023.
- The development proposed is Outline planning application (with all matters reserved apart from access) for the development of up to 370 dwellings, an extension to Sniperley park and ride, demolition of former farm buildings and associated infrastructure works.

#### **Summary of Recommendation: That the appeal be allowed**

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### **Appeal C Ref: APP/X1355/W/22/3331801**

#### **Sniperley Farm Buildings, Durham**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Bellway Homes Ltd against Durham County Council.
- The application Ref DM/22/03686/FPA is dated 13 December 2022.
- The development proposed is Conversion of existing farm buildings to form 4no. residential units (Use Class C3) (Resubmission).

#### **Summary of Recommendation: That the appeal be allowed**

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### **Appeal D Ref: APP/X1355/W/22/3333600**

#### **Land north and east of Sniperley Farm, Durham, County Durham**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Bellway Homes Ltd against Durham County Council.
- The application Ref DM/22/03778/FPA is dated 13 December 2022.
- The development proposed is the Hybrid planning application consisting of outline planning permission (all matters reserved) for an extension to the Sniperley Park and Ride and full planning permission for the development of 368 dwellings associated access and works and demolition of former farm buildings (resubmission).

#### **Summary of Recommendation: That the appeal be allowed**

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## 1. Procedural Matters

1. The Inquiry opened on 30 January 2024 and sat for a total of 13 days.<sup>1</sup> An accompanied site visit took place on 30 January 2024, and unaccompanied visits on the evening of 30 January and 13 February 2024 to assess the surrounding road network. A virtual Case Management Conference was held on 20 November 2023 with the main parties when the procedure and timetable for the submission of documents was discussed.
2. The appeals were recovered for decisions by the Secretary of State by a direction made on 12 January 2024. The reasons for the direction are that appeals APP/X1355/W/23/3330836 (Appeal A), APP/X1355/W/23/3331745 (Appeal B) and APP/X1355/W/23/3333600 (Appeal D) involve proposals for residential development of over 150 units or on sites of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities. Appeal APP/X1355/W/23/3331801 (Appeal C) is most efficiently and effectively decided alongside the other appeals and therefore the appeal is being recovered under the criterion that there are on occasions other cases which merit recovery because of the particular circumstances.
3. Appeal A and B are submitted in outline with all matters reserved except for the principal means of access. The matters of appearance, scale, layout and landscaping are reserved for future approval. Appeal D forms a hybrid application with outline planning permission with all matters reserved being sought for the extension of the Sniperley Park and Ride and full planning permission being sought for the development of 368 dwellings.
4. Three draft planning obligations under section 106 of the Town and Country Planning Act 1990 were submitted in respect of Appeals A, B and D. These were discussed at length at the Inquiry. Due to ongoing negotiations to resolve differences and enable the principles of the agreements to be finalised, the Inquiry was closed in writing on 26 February 2024. Final signed, dated and certified copies of the agreements were then submitted on 19 March 2024. The agreements contain covenants in respect of affordable housing, education, delivery of a local centre, public transport, active travel measures, healthcare, sports pitches, local employment and skills and Compensatory Green Belt management. I return to the obligations later.
5. During the Inquiry the Council withdrew the putative fifth reason for refusal in respect of Appeals A, B and D relating to the quantum and quality of playing fields and replacement pitch provision. Following the submission of the Meeting Note agreed with Sport England (SE) (ID35), and the formal presentation of evidence on Playing Fields, Masterplanning and Planning, this is no longer a disputed matter between the parties. I do not therefore address this matter further in this report.
6. Environmental Impact Assessments (EIA) were undertaken for Appeals A, B and D and reported in Environmental Statements in accordance with the

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<sup>1</sup> The Inquiry sat virtually on 20 and 21 February 2024

requirements of The Town and Country Planning (EIA) Regulations 2017. These have been taken into account in arriving at the recommendation.

7. Heritage and landscape matters were unchallenged and dealt with through written representations. I address heritage matters in this report in light of submitted representations and my statutory duty under the Planning (Listed Buildings and Conservation Area) Act 1990. I do not consider landscape matters in this report as this did not form an area of dispute between the parties and was not the subject of any putative reasons for refusal. Based on the written evidence<sup>2</sup> submitted by Bellway in respect of Appeals B, C and D, as well as that submitted by CDL<sup>3</sup> in respect of Appeal A, I have no reason to disagree with the appellant's conclusions that overall, the development would result in a low level of landscape and visual harm for a scheme of this size compliant with CDP Policies 26, 39 and 40. These policies seek to conserve and enhance green infrastructure, trees, woodland and hedges and maintain the character, quality and distinctiveness of the landscape.

## **2. Planning History and background**

8. The County Durham Plan (CDP) forms the development plan for the area and was adopted in 2020. The Sniperley Park site was allocated within Policy 5 of the Plan as a planned urban extension removed from the Green Belt, accommodating 1700 houses. The policy sets out a number of requirements, one of which was for the site to be comprehensively masterplanned. The Plan does not clarify who is to undertake this exercise.
9. The Council decided to prepare a masterplan in October 2020 with a view to it being completed in March 2021. The appellants were consulted during its preparation. A draft<sup>4</sup> was approved for consultation in November 2021, with the final document<sup>5</sup> being adopted by the Council in June 2022.
10. The site falls into three ownerships, that controlled by County Durham Land (CDL), that area owned by Bellway Homes and that owned by the Council.
11. Following delays in the preparation of the masterplan, the appellants submitted planning applications for their respective parts of the allocation in September 2021. These were accompanied by a masterplan prepared jointly between CDL and Bellway. CDL submitted a single outline application whilst Bellway submitted two applications one in outline and one hybrid incorporating an outline application for an extension to Sniperley Park and Ride and a full application for residential development. Appeals for non-determination were submitted in May 2022. Amendments to the applications were made during the course of the appeal which the Inspector determined were not appropriate to make, as cumulatively they changed the scheme to the extent that interested parties could be prejudiced in the decision-making process, The appeals were subsequently withdrawn.

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<sup>2</sup> CD14.24 and CD14.25

<sup>3</sup> CD1.56 Environmental Statement December 2022, Volume 2, Chapter 1, LVIA

<sup>4</sup> CD10.03

<sup>5</sup> CD10.04

12. The applications were then resubmitted in December 2022 and February 2023 and are now the subject of the current appeals on the grounds of non - determination. They are again accompanied by a Comprehensive Masterplan<sup>6</sup> prepared jointly by CDL and Bellway. This does not seek to duplicate the Council's Masterplan but adopts a different focus with greater attention on the delivery of infrastructure and how this would be apportioned in each phase of development.
13. Since the applications the subject of Appeals B and D were submitted, the Council has separately applied for and granted planning permission for an extension to the Park and Ride site, to provide a further 262 parking spaces<sup>7</sup>. Bellway sold the required land to the Council at the end of January 2024. It is the intention that the scheme will be implemented by the Council under this alternative permission with Transforming Cities funding. It is anticipated the scheme will be completed by September 2024<sup>8</sup>.
14. There is also a live planning application submitted by Bellway Homes for the Sniperley Farm Buildings (DM/23/01833/FPA) the site of Appeal C, for the restoration and conversion of existing buildings to form 4no. residential units (use class C3), a farm shop (use class E1) and a café (use class E1). This application was pending at the time of the Inquiry.

### **3. The Appeal Site and its Surroundings**

15. Sniperley Park covers an area of approximately 139 hectares. The CDL site the subject of Appeal A comprises 119 hectares, approximately 80% of the allocation. Bellway Homes site, the subject of Appeals B, C and D, covers around 20 hectares or 20% of the site.
16. It is located to the north west of the City of Durham to the west of Framwellgate Moor and Pity Me. The B6532 runs through the site, providing direct connections into Durham City Centre and north to Sacriston. It intersects with Potterhouse Lane to the north. The A691 follows the western boundary of the site providing connections from Durham City to Lanchester and Consett, with the A167 following the eastern boundary of the site running north towards Chester-Le-Street. Unclassified roads, Potterhouse Lane and Trouts Lane sit at the northern end of the site acting as links between the two A-Roads.
17. The allocation is bounded to the north by agricultural land, a poultry farm and Pity Me Nurseries Garden Centre, to the south by Sniperley Park and Ride and to the west by Sniperley Fire and Rescue, Sniperley Hall and Lanchester Road Hospital. On the other side of the A167 to the east, lies New College Durham and the settlements of Pity Me and Framwellgate Moor.
18. The site has access to public transport with existing bus services running along the B6532 through the centre of the allocation and the A691 along the west of the allocation. Sniperley Park and Ride to the south provides bus connections into Durham City. Durham Rail Station is located approximately 2.5km to the south east of the site which is served by the East Coast Main Line.

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<sup>6</sup> CD.1.15

<sup>7</sup> Ref. DM/22/03237/FPA

<sup>8</sup> ID41

19. The site is generally flat, and mainly comprises agricultural fields currently in use for arable farming with some pasture. Some alternative uses are also present including a number of playing pitches, located in the south eastern part of the site and a residential dwelling to the north of Potterhouse Lane. A number of public rights of way cross the site.
20. The former Cater House Pit lies in the centre of the site. The pit ceased to operate around 1910. It is currently in the ownership of the Council and is managed for recreation and nature conservation purposes.
21. The buildings of Sniperley Farm, the subject of Appeal C, lie to the south west of the site to the north of the Fire and Rescue building. It comprises a farmhouse and a range of 19th and 20th century buildings currently unoccupied and in need of renovation.
22. Overhead power lines cross the site from north-east to south-west. The Environment Agency Flood Map confirms the site is located in Flood Zone 1 (low probability of flooding). There are two watercourses within the site, the Little Gill on the northern boundary and the Folly Plantation Burn which are to be retained.

#### **4. The Proposals**

##### **Appeal A**

23. Appeal A proposes the demolition of existing buildings adjacent to the B6532 and the erection of up to 1550 new dwellings with a Local Centre, including retail, health centre, apartments and a mobility hub, a public house, a primary school, approximately 21.5 hectare linear park and around 30 hectares of Green Belt compensation land to the north of Potterhouse Lane.
24. The appeal is in outline with the matter of access being applied for. A Comprehensive Masterplan and Infrastructure Phasing Plan<sup>9</sup> accompanies the application as required by Policy 5 of the CDP. The development includes three new primary access points, a new arm on the A167/Sniperley Park and Ride roundabout to the south east of the site, a new roundabout junction with the A167 to the east of the site which will provide a new connection between the A167 and the B6532 and a vehicular connection between the CDL site and Bellway Homes site. In addition, improvements to the existing roads including Potterhouse Lane and the B6532 are proposed.
25. The development also proposes to deliver a range of active travel routes through the site and connecting to other cycle and pedestrian routes thereby maximising the opportunities for sustainable travel. The new road network will be designed to allow public transport to penetrate the site.
26. Whilst indicative at this outline stage it is envisaged that the development will comprise a mix of 2,3 4 and 5 bed homes, with 25% affordable housing ie up to 388 homes. It is also the intention that 10% of the homes on the site will be of a design and type suitable for older persons (such as level access flats and bungalows)and that 66% would meet M4(2) standards. Furthermore, all homes would be built to Nationally Described Space Standards (NDSS).

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<sup>9</sup> CD1.25

27. Although siting, layout, scale and landscaping are reserved for future consideration, the application is accompanied by a strategic design code<sup>10</sup> as part of the design and access statement, a land use parameter plan, building scale parameter plan, connectivity parameter plan, density parameter plan, and a demolition plan. It is intended that the planning permission should be tied to these plans by planning obligations and conditions. The parameter plans are intended to align with the submitted Masterplan.
28. It is indicated that the development would have a range of densities with less than 30 dwellings per hectare and building heights of up to 2.5 storeys to the north and north west of the adjoining open countryside. A higher density up to 35 dwellings per hectare and building heights up to 3 storeys would be provided to the centre of the site. Land is identified on part of the existing playing fields for a two form entry (2FE) primary school. Replacement playing pitches and new provision to serve the development is proposed adjacent to the school and on land to the north of Potterhouse Lane. In addition to the linear park that would extend through the centre of the site, further areas of public open space would be provided including a neighbourhood play area, allotments and a community orchard.
29. The Local Centre would accommodate a maximum of 1500 square metres of retail floorspace and a public house of around 550 square metres and a health centre. It would also include a mobility hub, an inter modal transfer station, which could comprise cycle parking, EV charging points, bike servicing, a coffee shop, parcel collection /drop off and transport information. A temporary retail and convenience facility would be provided in advance of the permanent retail facility.

## **Appeal B**

30. Appeal B proposes the demolition of former farm buildings and the development of up to 370 dwellings, an extension to Sniperley Park and Ride, approximately 4.83 hectares of linear park together with around 7.74 hectares of compensatory improvements to the Green Belt.
31. The appeal is in outline with the matter of access being applied for at this time. Like Appeal A, a Comprehensive Masterplan and Infrastructure Phasing Plan accompanies the application as required by Policy 5 of the CDP. In terms of access, it is proposed that a new roundabout be provided on the A691 to the south of the site with a secondary access from the A691 north west of the Fire and Rescue building. A vehicle connection to Appeal A would be provided. Pedestrian and cycle connections to the A691 would be delivered alongside the main and secondary access as well as a combined footpath and cycleway link to the Sniperley Park and Ride. In addition, four further pedestrian/cycle connections would be made to Appeal site A.
32. Although indicative at this outline stage, it is envisaged that the mix of dwellings would include 1, 2, 3, 4 and 5 bed homes. Affordable housing would comprise 25% of the homes, equating to up to 93 dwellings. As in Appeal A, 10% of the homes on the site are envisaged to be of a design and type suitable for older

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<sup>10</sup> CD1.24

persons and 66% would meet M4(2) standards. Furthermore, all homes would be built to NDSS.

33. The proposed linear park would form a continuation of that provided in Appeal A. In addition, a further hectare of amenity open space would be provided and approximately 1.7 hectares of woodland within the appeal site. The Compensatory Improvements to the Green Belt would be on land to the south and north of the A691.
34. Like Appeal A, the application is accompanied by a strategic design code as part of the design and access statement, land use parameter plan, building heights parameter plan, movement network parameter plan, movement hierarchy plan, green infrastructure parameter plan, a landscape masterplan, open space plan and tree protection and retention plans. Again, it is intended that the planning permission should be tied to these plans by a s106 planning obligation and conditions.

### **Appeal C**

35. Appeal C proposes the conversion of existing farm buildings at Sniperley Farm, a non-designated heritage asset, to form four residential units, 1 no. two bed property, 2 no. three bed properties and one four bed property. This involves two new extensions to provide sufficient floor areas for the properties to meet NDSS. The original courtyard would be retained, and new boundary treatments provided to the south east and north east. The access would be from the existing site access from the A691.

### **Appeal D**

36. Appeal D proposes the demolition of former farm buildings and the development of 368 dwellings, an extension to Sniperley Park and Ride, approximately 4.83 hectares of linear park together with around 7.74 hectares of compensatory improvements to the Green Belt.
37. This forms a hybrid planning application seeking outline planning permission for the Park and Ride extension and full planning permission for 368 dwellings. The proposed access arrangement to the site as well as the active travel proposals are the same as described in Appeal B.
38. The proposed mix of dwellings includes 1, 2, 3, 4 and 5 bed homes. Affordable housing would comprise 25% of the homes, equating to up to 92 dwellings. This would comprise 23 First Homes, 14 discounted market sale (DMS) home ownership and 55 social rent dwellings. 10% of the homes on the site would be of a design and type suitable for older persons and 66% would meet M4(2) standards. Furthermore, all homes would be built to NDSS.
39. As in Appeal B, the proposed linear park would form a continuation of that provided in Appeal A. In addition, a further hectare of amenity open space would be provided and approximately 1.7 hectares of woodland. The Compensatory Improvements to the Green Belt would be on land to the south and north of the A691.
40. Like Appeals A and B, the application is accompanied by a strategic design code as part of the Design and Access statement.

## 5. Reasons for refusal

41. All four applications were appealed due to the failure of the Council to issue a decision in the prescribed time. The Council however has provided putative reasons for refusal had they determined the applications.
42. Appeals A, B and D would have been refused planning permission by the Council for the following reasons:
  - 1) The Applicant has failed to propose a comprehensive masterplan of the allocation and to demonstrate how the phasing of development on these sites will have regard to the provision and timing of the infrastructure and services necessary to support them resulting in a fragmented approach to delivery that does not fully align to the Council's adopted Masterplan and Healthy Active Travel Connectivity Plan and contrary to Policy 5 of the County Durham Plan.
  - 2) The proposed development fails to deliver adequate sustainable transport options to future residents. The development proposals fail to demonstrate that there is sufficient public transport provision to and within the site or that the requirements of Active Travel are to be fully delivered on and around the Sniperley Park allocation. The proposals are therefore contrary to Policies 5 (a, b, g, & j), 21, 22, 24, 25, and 29 of the County Durham Plan and Parts 8, 9, 12 and 14 of the National Planning Policy Framework.
  - 3) The development fails to secure the delivery of a suitably sized primary school within the Sniperley Park allocation and to off-set pupil demand upon secondary school places in the locality contrary to Policies 5 (b) and 25 of the County Durham Plan and Part 4 of the National Planning Policy Framework.
  - 4) The development has failed to demonstrate that a district heating system across the development and the wider area is not feasible and viable contrary to Policy 5 (i) of the County Durham Plan and Part 14 of the National Planning Policy Framework.
  - 5) The development has failed to provide a sufficient quantum and quality of playing fields, together with replacement pitch provision configured within them and necessary ancillary provisions, including sufficient vehicle parking, contrary to Policies 5 (b), 21 and 26 of the County Durham Plan and Parts 8, 9, 11 and 12 of the National Planning Policy Framework.
43. Further reasons for refusal in respect of Appeal D, Bellway's hybrid application, include:
  - 6) Failure to demonstrate the full delivery of homes to suitable levels of affordability for the Sniperley Park allocation contrary to Policies 5 and 15 of the County Durham Plan and Parts 5, 8 and 12 of the National Planning Policy Framework.
  - 7) The proposals lead to overdevelopment resulting in poor design from over dominance of off-street vehicle parking contrary to Policies 5, 21 and 29 of the County Durham Plan, Policies 2 and 6 of the Witton Gilbert

## Neighbourhood Plan and Part 12 of the National Planning Policy Framework.

44. In respect to Appeal C, the Council in their Statement of Case has confirmed that they would recommend this application for approval under delegated powers and would not seek to contest this further at this appeal.

### **6. Planning Policy**

45. The development plan for the area comprises the County Durham Plan (CDP) adopted on 21 October 2020 and the Witton Gilbert Neighbourhood Plan made in 2019.

#### **County Durham Plan**

46. The CDP sets out the vision for housing, employment and the environment to 2035 as well as the necessary infrastructure to support the growth proposed.
47. Policy 4 allocates a number of sites shown on the Policies Map for housing. This includes site ref H5 at Sniperley Park, a site with a gross site area of 107.8 hectares, allocated for 1,700 dwellings.
48. Policy 5 of the Plan relates to Durham City's Sustainable Urban Extensions, Sniperley Park and Sherburn Road. It states that in order to meet housing need and to promote sustainable patterns of development that land at these two locations will be allocated for planned urban extensions and will be removed from the Green Belt. The Policy requires development to be comprehensively masterplanned and to demonstrate how the phasing of development will have regard to the provision and timing of infrastructure and services necessary to support them. Policy 5 sets out a series of requirements, numbered a-l, that development at Sniperley Park must meet, including several infrastructure improvements and provision.
49. Policy 15 of the CDP addresses affordable housing need. In the highest value areas of Durham, which includes Sniperley Park, 25% affordable housing provision is required on sites of 10 or more units. The Policy also sets out that 10% of homes provided should be for affordable home ownership (discount market sale housing and other affordable properties to home ownership). The Policy goes on to consider the needs of older people and people with disabilities and requires 66% of dwellings on sites of 5 units or more to be built to M4(2) (accessible and adaptable) standard. Additionally on sites of 10 or more dwellings a minimum of 10% of the total number of dwellings should be designed to be of a design and type that will increase housing options for older people such as level access flats or bungalows.
50. Policy 19 states that the Council will secure an appropriate mix of dwelling types and sizes on all new housing developments taking account of existing imbalances in the housing stock, site characteristics, viability, economic and market considerations.
51. Policy 21 seeks to ensure that development delivers sustainable transport by accommodating and facilitating safe sustainable modes of transport in the following order of priority; those with mobility issues or disability, walking, cycling, bus and rail transport, car sharing and alternative fuel vehicles.

Development should provide appropriate well designed permeable and direct routes for walking, cycling and bus access, so that new developments can link to existing services and facilities and to existing routes.

52. Policy 22 Durham City Sustainable Transport aims to reduce the dominance of car traffic, address air quality and improve the historic environment. In Part c) it refers to walking, cycling and public transport improvements linking Ayckley Heads, Sniperley, Framwellgate Moor, Newton Hall and the city centre.
53. Policy 24 permits new and improved transport infrastructure where certain criteria are met. Criterion a) relates to where it is necessary to improve the existing highway network and /or public transport infrastructure. Part c) refers to where such infrastructure makes safe and proper provision for all users which prioritises the movement of pedestrians, cyclists and public transport.
54. Policy 25 states that new development will be approved where any mitigation necessary to make the development acceptable in planning terms is secured through appropriate planning conditions or planning obligations.
55. Policy 26 expects development to maintain, protect and where appropriate improve the County's green infrastructure network. Proposals should incorporate appropriate green infrastructure that is integrated into the wider network, which maintains an improved biodiversity, landscape character, increases opportunities for healthy living and contributes to healthy ecosystems and climate change objectives.
56. Policy 27 requires new development to be served by a high-speed broadband connection.
57. Policy 29 Sustainable Design requires development proposals to achieve well designed buildings and places contributing to the area character, identity, heritage significance, townscape and landscape features helping to create and reinforce locally distinctive and sustainable communities. This Policy also requires development to seek to achieve zero carbon buildings and minimise the use of non-renewable and unsustainable resources. Major developments should create a well-designed easily navigable and accessible network of streets and spaces with convenient access for all users, prioritising the needs of pedestrian's, cyclists, public transport users, people with disabilities and emergency and service vehicles as well as connecting to existing cycle and pedestrian networks. All new residential development is required to meet NDSS and to be built to at least 30 dwellings per hectare in and around town centres and where there is good access to facilities and public transport.
58. Policy 35 requires all development proposals to consider the effect of the proposed development on flood risk both on and off site. In major developments the management of water must be an intrinsic part of the overall development.
59. Policy 36 provides guidance on the disposal of foul water.
60. Policy 39 permits proposals for new development where it would not cause unacceptable harm to the character, quality or distinctiveness of the landscape.
61. Policy 40 seeks to prevent the loss of or damage to trees, woodlands and hedges

and requires new development to retain existing trees and fully integrate them into the design.

62. Policy 41 requires new development to minimise impacts on biodiversity by retaining and enhancing existing biodiversity assets and features and provide net gains for biodiversity.
63. Policy 44 expects development to sustain the significance of designated and non-designated heritage assets, including any contribution made by their setting.
64. Policy 45 requires that any development with or affecting the Durham Castle and Cathedral World Heritage site and its setting should sustain and enhance the significance of the designated asset.

### **Witton Gilbert Neighbourhood Plan (NP)**

65. The Witton Gilbert NP was made in 2019 and covers the period 2018-2033. Part of the appeal site falls within the NP area.
66. Whilst the NP pre-dates the adoption of the CDP, it recognises (at section 5.2) that: "The Parish of Witton Gilbert may need to accommodate a large number of new homes if the proposed urban extension of Sniperley remains as part of the emerging County Plan."
67. Policy 2 states that new housing development will be supported where it results in high quality sustainable design, does not adversely impact on the amenity of existing and future residents, provides a range of housing choices, includes affordable housing where viable using the target percentages in the Local Plan and ensures safe access to and from the site by all modes of transport including pedestrians and cycle routes.
68. Policy 3 requires 10% of dwellings on schemes of 10 units or more to be suitable for older people.
69. Policy 6 seeks sustainable design and requires development to respond to the character of the local environment, demonstrate a commitment to sustainable design and achieve high levels of energy efficiency and make adequate provision for green open space.
70. Policy 7 states that proposals for new development should integrate biodiversity where possible. Existing features which support biodiversity, such as watercourses, hedgerows, walls and trees should be retained and where possible enhanced as part of the development. If their loss is unavoidable, then replacements or provision of alternative habitats or refuges for wildlife must be provided within or close to the development site, resulting in a net benefit for biodiversity.
71. Policy 11 requires all new development to incorporate the means of enabling high speed broadband.

### **Sniperley Park Masterplan**

72. The Council adopted a Masterplan for the allocation in June 2022 after a period of consultation including discussion with the site promoters and landowners. The document is intended to enable a 'joined up' approach across multiple land

holdings to bring forward proposals that have a coherent approach to place making, access, movement, green infrastructure and drainage. It is recognized that it is a high-level document using the evidence base prepared for the CDP and that more detailed assessments relating to transport, ecology, noise, visual impact etc will be submitted as part of a future planning application. The vision and principles set out in the Masterplan should be treated as the starting point for forthcoming masterplanning work which may form an outline planning application for the site.

73. The Council's vision for Sniperley Park is that of a high quality, zero carbon, well designed community that will stand the test of time and leave a legacy which Durham will be proud of.

### **Sniperley Healthy Active Travel Connectivity Plan**

74. In June 2022 the Council adopted the Sniperley Healthy Active Travel Connectivity Plan<sup>11</sup> (HATCP), following a period of consultation alongside the draft Masterplan. The Plan illustrates the significant opportunities for active travel within and surrounding the Sniperley development. The document includes design principles in line with the latest national guidance; Local Transport Note 1/20 (LTN1/20) and looks at the existing infrastructure around the Sniperley allocation. It then sets out a series of 29 Interventions, or schemes, including costings and potential funding opportunities. These include proposals to improve pedestrian and cycle connectivity to the Arnison Retail Centre, the Great North Cycleway, Framwellgate Schools, the city centre, Witton Gilbert and Sacristan.
75. In early November 2023 the Council published a revision to the HATCP, the Active Travel Plan (ATP)<sup>12</sup>. This provided an update to the original document based on updates to agreed development site works. It provided a more focused list of 16 Interventions, though excluded cost information. No consultation took place on this revised document.

### **7. Agreed matters between the Appellants and the Council**

76. Throughout the Inquiry, the Council and both appellants worked proactively and positively to narrow down their differences. This resulted in separate addenda to the Overarching Planning Statements of Common Ground (SoCG) by CDL<sup>13</sup> and Bellway<sup>14</sup>, setting out their final positions on the reasons for refusal following the presentation of evidence. Revised SoCG on Public Transport and Active Travel matters were also prepared and submitted to the Inquiry.
77. It is agreed that the relevant Development Plan is the County Durham Plan (2020) and Witton Gilbert Neighbourhood Plan (2019).
78. It is also common ground that the development proposals are located within the area allocated under Policy 5 for a sustainable urban extension to Durham City. It is also agreed that the appeal schemes meet criterion d) of the policy relating to surface and foul water drainage incorporating SUDS and criterion f) that any

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<sup>11</sup> CD10.05

<sup>12</sup> CD10.06

<sup>13</sup> ID60

<sup>14</sup> ID63

visual association with the Durham Castle and Cathedral World Heritage Site is given special regard to reflect its significance.

79. The Council's latest published position is that it can demonstrate a supply of housing land of 5.47 years as at 1 April 2023. Housing supply is not in dispute.
80. It is agreed that in line with Policy 15 of the CDP, as Sniperley Park falls within the highest viability area, 25% of all new dwellings should be affordable. The policy required tenure split is similarly agreed comprising 10% for affordable home ownership and 15% for affordable rent. The level of discounts to be applied to DMS properties and the discount and price cap to First Homes remain in dispute.
81. It is not in dispute that there are delivery mechanisms in place, through conditions and/or section 106 Agreement to secure the supporting infrastructure that is linked to the Policy 5, subject to the implementation of the adjacent appeal site to the allocation. There remains some disagreement in relation to the costs (e.g. primary school) and full extent of the active travel interventions. The differences between the parties are the subject of blue pencil clauses in the section 106 obligations.
82. It is agreed that the potential for a district heating scheme has been 'explored' in the context of CDP Policy 5(i), and that there is no evidence that there is any medium-term likelihood of connecting to Ayckley Heads or Lanchester Road Hospital. There is a dispute between the parties as to whether it has been sufficiently explored, but it is agreed that this criterion is not breached and that it is relevant that both CDL and Bellway propose a commitment to no gas solutions.
83. A new primary school shall be provided within the allocation, though the total cost is not agreed. The trigger point for the delivery of the school (prior to the occupation of the 600th dwelling) and the triggers for the payment of financial contributions are however agreed. Financial contributions will also be made towards secondary school provision.
84. Following the submission of the Meeting Note with SE(ID35), and the formal presentation of evidence on Playing Fields, Masterplanning and Planning, it is agreed that the appeal proposals provide sufficient quantum and quality of playing fields together with replacement pitch provision.
85. The updated Active Travel SoCG<sup>15</sup> between the Council and both appellants confirms that active travel arrangements within the appeal sites are agreed together with most of the interventions in the ATP. Two interventions, Intervention 3 - A167 Great North Cycleway upgrade and Intervention 8 - New College to Ayckley Heads are not agreed.
86. It is agreed that the on-site local centre, primary school and mobility hub are within 800m walking distance of all residential areas on site. A speed limit reduction to 40mph is also agreed on the A167 between the Pity Me roundabout and the A167/Park & Ride roundabout.

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<sup>15</sup> ID57

87. The updated Public Transport SoCG<sup>16</sup> outlines the existing bus services that serve the allocation, and the bus strategy principles; that all residents should be within 400 metres distance of a bus stop providing a regular service to key destinations. It also sets out the bus route diversions and extensions to be put in place. The procurement method for these new and altered services and the level of the capped bus subsidy is however not agreed.

## **8. The Case for Co. Durham Land Ltd (Appeal A)**

88. The following is principally a summary of the appellants closing submissions.<sup>17</sup>

### Overview

89. CDL consider that they had no option but to appeal against non-determination . If they had not done so, the application was likely to remain undetermined due to lack of urgency and clarity. The Council have been working proactively with CDL since the Inquiry commenced to address the putative reasons for refusal through the conditions and s106 agreement in line with the National Planning Policy Framework (the Framework) paragraph 55. Not all issues are resolved, however, and blue pencil clauses are proposed where there is disagreement. But the result, is essentially one of agreement, and that subject to the determination of blue pencil clause matters within the s106, the appeal scheme benefits from paragraph 11(c) of the Framework and ought to be granted without delay. In other words, the Inspector is invited to recommend the Secretary of State (SoS) to determine the very limited, discrete points in dispute, but no matter how they are determined the appellant's position is that the evidence leads inexorably to the conclusion that the scheme should be granted consent in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004.
90. The fact that the formal position of the Council is now very different to day one of the Inquiry is welcomed and the SoS's attention is especially drawn to the Planning SoCG Addendum as embodying the limited areas of dispute as between CDL and the Council.
91. Sniperley Park is the largest allocation in the CDP, in fact it is described by the Council's Planning witness as the "largest and most prestigious allocation in the County" - and is central to delivering a significant part of the Council's housing land supply within the plan period and also the economic strategy for Durham City. The appeal scheme is consistent with Policy 5 of the CDP, which governs its allocation, and accords with the development plan as a whole taking either party's view.
92. There is no dispute that the scheme accords with the Witton Gilbert NP and, it is a scheme with significant and numerous economic, social, and environmental benefits. There are plainly no material considerations that should preclude the development of the site, and it is therefore welcome that the Council's focus – however belatedly – has been upon the terms of paragraph 55 of the Framework and what obligation and conditions ought to be imposed upon any permission.

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<sup>16</sup> ID58

<sup>17</sup> ID67and ID68

## Introduction

93. Prior to the CDP's adoption in October 2020, this allocation was included as a draft allocation in the earlier version of the CDP examined in 2014 and has been promoted as a proposed allocation since 2012.
94. In September 2020 Durham County Council (DCC) commissioned a procurement exercise to draft a masterplan for the allocation as well as an allocation specific Infrastructure Delivery Plan. The CDP was adopted on 21st October 2020, but the DCC Masterplan did not follow in March 2021 as CDL had been assured was the intention. Having waited a further 7 months for an adopted Masterplan, CDL's application was submitted on 15th October 2021 comprising a similar development to that proposed in this appeal.
95. That application too was not determined by DCC and an appeal was lodged in June 2022, the same month the Council adopted its Masterplan. When the Council put forward its putative reasons for refusal in that appeal, along with a raft of previously unshared consultee comments, CDL sought to amend its Masterplan to take account of those reasons for refusal. However, the Inspector after a Case Management Conference, considered that whilst those changes were each minor, cumulatively they amounted to an application which was different to that which had been before members and refused consent to introduce revised parameters plans.
96. That appeal was then withdrawn on 3rd November 2022 with discussions taking place between CDL and the Council to submit a fresh application which would make those changes in the hope of securing a local consent. The second application which has led to this appeal was lodged the same month.
97. The second application followed the location of the primary school contained within the now adopted Masterplan. And yet in its evidence and opening submissions the position of the Council was that the location of the school was not fixed and that it would have been open to CDL to promote and then deliver the school on CDL controlled land.
98. That stance seems to have been founded upon the proposition that because the Council owns the land earmarked for the school, and that there is no land deal between CDL and the Council at this stage, that the appeal should be dismissed because CDL can't guarantee that the Council will deliver a school.
99. This ignores fundamental points that the Council's Planning witness accepted in terms that the planning system works on the presumption that public authorities will operate reasonably and in: (a) the public interest and (b) in accordance with its statutory duties.
100. A public body operates within certain very strict legal constraints and can't just assert that because there is no formal agreement behind the scenes that an appeal should be dismissed because elements rely upon land owned by the Council. What matters is that controls are put in place to ensure that whoever develops the site is obliged to ensure delivery of essential elements of the allocation.
101. Secondly, the land isn't surplus to requirements. The site of the retained playing fields will remain in use as playing fields and isn't surplus. The site of the

primary school presently accommodates two playing fields which will need to be re-provided. Land will not need to be re-appropriated by the Council for education purposes, but it isn't surplus since it is held for Education purposes. The site of the improvements to Sniperley roundabout was acquired for highway purposes to deliver the existing park and ride and has therefore been appropriated for those purposes and will be needed for those purposes. It is not surplus. Cater House Pit is currently in use as managed open space with public access and if a deal isn't done with CDL then it will continue in that use and will form a seamless part of the linear park.

102. The evidence of the Council's Deliverability witness and much of the Council's case has been run on an erroneous basis that delivery is in doubt if it relies upon land owned by the Council.
103. The Council's approach has been contingent on the need for confidence and surety of delivery which with a single planning application would have been easier to achieve. However, there is no legal or policy requirement for a single planning application. There is nothing in Policy 5 to that effect and nothing in the adopted Masterplan nor any other level of policy. This is a point the Council now seems to have accepted.
104. The agreed position, reached as a result of this Inquiry, is that the CDL application on its own complies with the development plan. It should be consented without delay pursuant to para 11(c) of the Framework, irrespective of the outcome of any of the Bellway appeals. However, it is firmly submitted that the CDL scheme is overwhelmingly likely to come forward with the Bellway scheme which in combination cover the entire allocation. And any doubts over the delivery of land owned by DCC should be firmly assuaged by its repeated assurance that it will abide by the decision of the SoS and help to deliver and facilitate whatever permission is granted by the SoS.

### Benefits

105. Paragraph 11 of the Framework is clear that, in the context of the presumption in favour of sustainable development, development that accords with an up-to-date development plan should be approved without delay. Granting permission for this allocation to enable it to finally proceed is long overdue but is full square in accordance with national policy.
106. The appeal proposal (80% of the allocation) will clearly make a significant and important social, economic, and environmental contribution towards the Council's housing land supply (general and affordable) in Durham, as the largest allocation in the plan. Sniperley Park is unquestionably a sustainable location – that is why it was allocated. The Site is ready to be delivered now. There should not be any further delay to delivering this important allocation.
107. The significant benefits of the scheme include the delivery of a mix of types and sizes of up to 1,550 new homes on an allocated site which contributes to the Council's housing land supply. The provision of 25% affordable homes (up to 338 dwellings based on a full build out of 1,550 dwellings) is also a significant benefit.
108. Economic benefits include the creation of 280 jobs in construction and related industries and the creation of 325 spin off jobs in the supply chain. The construction value is estimated to be £225 million. The scheme would also

generate around £3.1 million in additional expenditure per annum in the local area giving rise to approximately 66 jobs in retail and leisure.

109. In terms of social benefits, the scheme will deliver an attractive and desirable place to live with green infrastructure through the linear park and green corridors. It will also provide new homes in a sustainable location through a network of active travel routes which prioritise walking and cycling connections. Upgraded bus services will benefit both new and existing residents; and, new and improved crossing points as well as a speed reduction along the A167, along with upgrades to existing foot and cycle paths, will integrate the new development with existing communities.
110. Environmental benefits include the provision of much needed housing in a sustainable location that benefits from the ability for new residents to walk, cycle and get the bus to local facilities, services, and employment opportunities, including the City Centre, thus reducing the need for private car travel. The proposal will provide enhanced biodiversity as a result of increased and enhanced provision of landscaped areas including the linear park, new planting, SuDS features, and ecological improvement to the compensatory area north of Potterhouse Lane. A fabric first approach to enhance the thermal performance of buildings in an effort to use natural resources prudently and a commitment to bringing no gas onto the site will be adopted. Extensive areas of open space generating recreational benefits will be provided, including approximately 24 ha of linear park and approximately 30 ha of compensatory improvements to the land to remain in the Green Belt, with both areas providing an opportunity to deliver biodiversity net gain on site.
111. In summary, the scheme is a policy compliant sustainable development which delivers significant social, economic and environmental benefits. The sustainability credentials of the site's location and the allocation were fully tested at the Examination in Public (EiP) into the Local Plan. Policy 5 sets out a comprehensive framework for delivery of Sniperley Park – this proposal complies with that policy framework and other relevant policies in the CDP. Any adverse impacts that arise through the development of this allocated site have been appropriately considered through the CDP EiP and mitigated at the planning application stage. There are no material considerations that should preclude the development of the site.
112. CDL has assumed responsibility for the delivery of the essential components of the infrastructure for the whole development within its planning obligation -which is different to how Schedule 11 of the agreement was drafted at the start of the Inquiry. There has been no change of position on behalf of CDL to providing a 'no Bellway' safety net. The factual position is that CDL have confidence that Bellway will deliver their part of the allocation. In taking on the default responsibility for all infrastructure, CDL does not consider that this is more than a trivial risk. If the Council had expressed this concern at any time before the Inquiry the required surety could have been provided well before the Inquiry opened.

#### Preliminary matters

113. The Council's Planning witness stated in cross examination by Bellway's advocate, that, if reasons for refusal (RfR) 2-5 were addressed, RfR1 fell away.

114. The delivery of the local centre is not part of RfR1 or any RfR. Its only point of contention has been the trigger point in which it comes forward, the Council suggesting that it comes forward at day zero. The Council's Planning witness has however since withdrawn this suggestion. Policy 5 when referring to 'timing' clearly does not require the delivery of a local centre before anyone occupies the site. Since the local centre is not commercially viable early in the development build out, the appellant will deliver a temporary retail provision, ensured through the submission of a scheme secured by condition.
115. The Council has not, at any stage before the evidence in chief of the Council's Deliverability witness, suggested there is a requirement to pump prime the permanent local centre, nor was it part of the EiP, nor in policy, nor the Council's evidence generally. The important component in the delivery of the local centre is the phasing and timing to bring it forward when there is a sufficient population to create a viable local centre. Indeed, CDL's Planning witness explained in cross examination that the developer will have an obvious commercial incentive to secure an occupier. Once built it would be subject to empty building business rates, the consequence being that it would be in CDL's interest to ensure it is occupied, even by a tenant who does no more than cover the ongoing costs.
116. The s106 triggers sensibly include provision to agree a marketing strategy in advance with the Council, so that a commercial tenant will have both an 'oven ready' building and a landlord with a substantial incentive to let. There is no evidence to suggest that it is other than highly likely that the local centre will be delivered and let. It also must be borne in mind that housebuilders sell a lifestyle and a neighbourhood not just a home and therefore there is an additional incentive to use such facilities to market homes.
117. There is no RfR that alleges a failure to deliver a linear park in accordance with Policy 5(g). That is not particularly surprising, as the vast majority of the linear park on the Masterplan is within the CDL site. Granting the CDL scheme consent would not prejudice Bellway bringing their small remaining part forward in due course, and there would be nothing to preclude the Council continuing to allow access to Cater House Pit for public access, which is managed for recreation and nature conservation.
118. It is consistent with the Policy 5(g) that Cater House Pit should be part of the linear park, which similarly is not subject to section 123 of the Local Government Act 1972 requirements because it is not held as surplus to requirements (i.e. it would remain consistent with its existing land use). Accordingly, even if Cater House Pit is untouched (despite CDL wishing to take on its management), there is compliance with this aspect of the policy. There is a public right of way through it, and access would be facilitated from land to the north and south.
119. None of the RfRs relate to the green belt compensatory improvements required by Policy 5(h)(1). If CDL were only to be granted consent, CDL's Planning witness explained that the Bellway site would remain open (openness being the fundamental purpose of Green Belt land) and CDL's compensatory improvements would be delivered, in a way which naturally and spatially links to the CDL site. That approach also reflects paragraph 147 of the Framework which refers to the 'impact' (i.e. the land use harm) as a result of removing land from the Green Belt which would only be triggered when development commences.

## Reason for Refusal 1

### Comprehensive masterplan, phasing of development, and provision and timing of infrastructure

120. CDP Policy 5 requires the development to be comprehensively master planned, albeit the policy itself is silent in terms of the responsibility, or process, for preparing a masterplan.
121. An adopted masterplan could be a detailed Supplementary Planning Document (SPD) and could contain the sort of detailed delivery plans contained in the appendices to the evidence of CDL's Design witness, but the Council's is much higher level and more visionary which openly identified a number of aspects to be addressed through applications and to be informed by detailed technical information.
122. CDL and Bellway have not produced a rival masterplan, but rather have jointly prepared a Comprehensive Masterplan for the entire allocation which, consistent with its terms, has sought to build upon and not merely duplicate that of the Council's. In other words, they "gel together" and the appellant's Masterplan is to be read together with and does not supersede that of the Council's. There are some minor differences between the Council's version and the two appellants proposals for the site that is unsurprising as masterplans tend to evolve through the design process – as a function of good design. Importantly, it also places more emphasis on the phasing of the development provision and timing of infrastructure delivery as required by the first paragraph of Policy 5. There is no objection, but rather praise from the Design Review Board and the Council to the coding exercise and design undertaken to date.
123. There is no obligation to submit a single planning application. This was agreed by the Council's Planning witness. Policy 5 expressly acknowledges and provides for this – limb (l) refers to "planning applications [plural] for the Sniperley Park site". The Council's own Masterplan also refers plurally to applications multiple times. Since at least 2014 the Council has been aware of this prospect not least since the allocation comprises three land ownerships, including that of the Council. What really counts is a suite of conditions and obligations which has since been progressed.
124. The evidence of CDL's Planning witness demonstrates that the Council's apparent (although now diminishing) concerns of the theoretical risk that either CDL or Bellway proceed and develop out a scheme alone is unrealistic, given the commercial position of both parties. Where joint infrastructure is required, it will be secured through a combination of conditions and s106 agreements. The evidence of CDL's Design witness provides a detailed breakdown of those planning obligations in relation to the build out of the appeal sites, including a Gantt Chart<sup>18</sup> and Infrastructure Phasing Plans<sup>19</sup> which are agreed with Bellway. These provide clarity on how the necessary infrastructure will be properly delivered, mostly by CDL.

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<sup>18</sup> CD14.11 Appendix 16

<sup>19</sup> CD14.09 Appendices A and B

125. Conditions and obligations clarify the end stop where infrastructure will be delivered in accordance with each phase. The triggers provide sufficient certainty and security, but simultaneously provide for flexibility on a more granular level to allow for infrastructure to be delivered at precisely the right time. The trigger points indicate when the infrastructure must be delivered by, in practice therefore it will be before then and could be some significant time earlier. In fact, the delivery of infrastructure (including facilities) is early in the development, throughout phases 1 and 2, such that phase 3 is light on infrastructure. The consequence – far from giving rise to fragmentation, all elements of RfR1 are blatantly overcome and the approach to master-planning gives rise to nothing but coordination.
126. In the highly unlikely scenario that the CDL scheme is granted permission, but the Bellway scheme is significantly delayed or refused, CDL's Design witness explains that it would not affect CDL being able to deliver or contribute proportionately to the essential infrastructure required by the appeal scheme and enable its part of the allocation being delivered without in any way prejudicing the delivery of the Bellway site.
127. The two elements which are co-ordinated, being the bus scheme and access to the Park & Ride by active travel (Intervention 11), are secured right at the start of the development, as a result the CDL scheme could be consented independently. That approach also means that such infrastructure would be in place so would not cause any harm to co-ordination if Bellway were to come forward at a later stage.
128. The Council's Deliverability witness provided evidence that without proof of legal rights over one another's land, the allocation could not appropriately be secured. If this had been a Compulsory Purchase Order Inquiry or even a Development Consent Order examination, then a detailed assessment of delivery would have been appropriate, but this is a Planning Inquiry determining the appropriate restrictions to place upon the grant of any planning permission for a use of land that no-one who attended the Inquiry has actually opposed. The Council's Deliverability witness provided evidence which was unhelpful and ill-directed to any of the reasons of refusal.
129. Even if this had been an Inquiry into the detailed contractual means of securing delivery (rather than the controls over the grant of a planning permission) the position of the Council's witness is premised on the wholly mistaken understanding that the Council would be required to follow best value rules. That is fundamentally flawed because sections 122 and 123 of the Local Government Act 1972 only apply when disposing of land which has been declared surplus to requirements. It is not engaged when the Council seeks to re-appropriate land which it already owns in order to use it for a different statutory purpose (playing fields to education); and it certainly isn't engaged when the land has already been appropriated for the use for which it is being proposed to be used (highways, open space, playing fields).
130. The Council's Deliverability witness suggested the Council owned land needed to construct the Sniperley roundabout, could potentially creating a ransom. However, it would not, as this is held as highway land acquired from a landowner with whom CDL has a contractual relationship. The witness agreed in cross examination that the sliver of Council land needed at the access would not cause

an issue for deliverability. He also agreed that based on his experience of a scheme at Pickerings Farm, south of Preston, that there is no need for a single application for a strategic site, and that when considering likelihood in relation to land ownership matters a distinction ought to be drawn between the Council, a local authority that has certain statutory duties (including to provide school places for pupils through the Education Act 1996), and a private landowner.

131. The evidence before the inquiry, both from CPaL, the Council's Estates Team and the Council in its local planning authority capacity, indicate that the Council will unequivocally co-operate in delivering the allocation if consent is granted.
132. In reality, the Local Government Association (LGA) toolkit<sup>20</sup> relied on by the Council's Deliverability witness does not preclude the delivery of strategic sites by multiple landownership – it is one of the express anticipated modes of delivery -- rather it merely highlights that there can be some challenges. The mechanisms to overcome such challenges, as provided by the toolkit, have been utilised for this scheme – there is a masterplan (indeed there are two consistent masterplans); there are conditioned common plans; detailed s106 obligations forward funding as a matter of good practice is proposed; the Council were invited to enter into an equalisation agreement/ limited partnership; and the appellants have entered into a Memorandum of Understanding (i.e. a collaboration agreement). Where the toolkit refers to a single overarching s106, the Council's Planning witness accepted in cross examination that it was no part of the Council's case, nor was it in evidence, that one had been requested. There are plainly no particular heightened or elevated risks to this site.
133. It is more co-ordinated and less complex (where others involved potential compulsory purchase powers for instance) than the strategic housing site examples referred to in the evidence of the Council's Deliverability witness<sup>21</sup>, all of which in any event are happening, moving forward and being delivered.
134. Indeed, the Council's Planning witness accepted that CDL's approach is pretty much on all fours with the approach taken in the Sandleford Park Appeal Decision<sup>22</sup>. If there is a difference it is one that works to the favour of CDL. In the Sandleford case the application before the SoS was in respect of 85% of the allocation with no application before him on the remainder. In this case the CDL application is for 80% of the allocation and Bellway's is for the remaining 20%. Not only is the appeal comparable to the Sandleford appeal – it should provide a much greater degree of reassurance to the decision maker that the allocation will be delivered.

## Reason for Refusal 2

### Sustainable transport options

135. The Council have accepted that RfR2 has fallen away<sup>23</sup>. The remaining discrete points of disagreement are addressed by blue pencil clauses in the s106 and the 'alternative' conditions, such that the Council's Planning witness accepted that

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<sup>20</sup> CD8.17 Appendix 5

<sup>21</sup> CD8.16

<sup>22</sup> CD11.02

<sup>23</sup> Mr Blakey cross examination

irrespective of how it is determined by the SoS permission should not be refused. These discrete areas are addressed below.

136. The bus strategy developed and agreed with Go North East provides a phased approach and utilises existing services (including an extension to the 20 service which was re-introduced to the University Hospital of North Durham on 29 January 2024) and a new service. The proposed routes will serve the city centre, including interim destinations and the Arnison Centre. The great majority, and probably all residents will be within 400m of a bus stop. The Public Transport SoCG establishes the agreement of bus strategy principles in this context. It also explains that a blue pencil clause is included in the s106 on the basis that the appellant is willing to make a contribution to services.
137. The dispute that remains is the level of subsidy which should be assumed (ie. from retained bus fares). CDL's Transport witness explained in the Round Table Session that the level of precision sought by the Council never exists at this stage, for the simple reason that there is little to no point having a bus agreement in place if it is not going to be delivered for a number of years. In respect of cross-subsidy, Go North East have expressed contentment in principle<sup>24</sup> to CDL's approach; that is important given it is the main local operator. It is highly likely on the balance of probability that they would be the operator given they have existing infrastructure in the area, would be extending existing services and the only addition would be a modest shuttle bus. The Council's view that there can be no reliance on this and therefore a far more cautious approach is warranted, is clearly wrong, fails to understand the correct burden of proof and the inevitable degree of risk that is present in any scheme. Go North east's recent position as appended to the updated Public Transport SoCG<sup>25</sup> provides confidence that CDL's position is to be preferred.
138. The submission of a detailed bus strategy (at suitable trigger points) is secured by the s106. The s106 also provides that the Council are able to elect whether to procure the bus services, or whether it is for the developer in the case of the lower CDL contribution of up to £662,000. If the latter, it is clear that private sector negotiations avoid the public sector restraints through the tender process, and provides flexibility to reach an agreement with Go North East. This position is reversed in the case of the higher Council scenario of a cost up to £1,783,199 i.e. CDL can elect whether to procure the bus service directly or make staged payments to the Council.
139. Turning to active travel, Policy 5 is silent on what measures might be required to ensure that the allocation is delivered in a sustainable manner. There is no SPD, but there are 'interventions' proposed in the HATCP and the ATP.
140. With regards to offsite connections and the HATCP, limited and very limited weight as policy respectively must necessarily be attributed to the adopted and the updated versions<sup>26</sup> of the document particularly given the update was not subject to public consultation and the initial HATCP was adopted under delegated powers post adoption of the CDP. It has also become clear during the course of

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<sup>24</sup> CD14.32 Appendix A

<sup>25</sup> ID58

<sup>26</sup> CD10.05 and CD10.06

the Inquiry that the interventions in the HATCP were not consulted on and therefore cannot be given anything more than limited weight.

141. There are multiple and extensive active travel measures within the appeal site that will be delivered directly by the development, including the mobility hub and the new pedestrian and cycle routes within the scheme. There is no disagreement between the parties in relation to on-site measures.<sup>27</sup> There are also offsite measures, most of which are interventions in the HATCP. Only one and a half interventions are disputed, Intervention 3 and Intervention 8.
142. The widening of the existing shared use path on the east side of the A167 between the Sniperley and Pity Me roundabouts, as put forward by the Council, is not necessary. Only the section between the new site access roundabout and the Pity Me roundabout is needed; the length of route the Park and Ride roundabout and the site access roundabout is not required to be used by pedestrians or cyclists travelling to or from the development given the extensive network of foot and cycle paths within the site that link to A167 crossing points. The Council's position appears to be entirely premised on the fact that it is a key strategic route, referencing the Great North Cycleway route, for which Intervention 3, alongside the A167 is part of a "cycle super route" that the Council wants a wide range of users to take advantage of, including those cycling from "Blyth to Darlington".
143. None of that is relevant when considering if it is necessary in light of Policy 5 which requires safe and high-quality cycle routes "within, and connecting to, adjoining facilities". The appellant doesn't disagree that the A167 adjacent route would provide long route benefits.
144. In relation to those travelling to and from the site, however, the Council suggested that residents in the south of the allocation may want to travel to the Arnison Centre and that a route adjacent to the A167 would be the most direct and quickest route. Wherever occupants live in the development, there would likely be a more direct and certainly safer and more pleasant route (which are more often used) than to actively choose to join the strategic A167 corridor (even with speed reductions). The Council's position also ignores that the A167 route isn't fully lit, so it would be far less attractive in the evening or at night. The shortest route is not necessarily the best option.
145. In relation to Intervention 8, the Council have proposed a segregated cycle track or shared use path on the eastern side of Dryburn Road. It is not needed due to alternative routes, and that its delivery would, in any event, be extremely challenging and probably deeply unwelcome by residents. It is not disputed that there would be other options available to use sustainable travel modes to travel to Aykley Heads (including frequent bus services, where all services that serve Sniperley Park go via Aykley Heads). The Council's position appears to be trying to transfer the requirements of Policy 3, which requires Aykley Heads to provide "new walking and cycle routes will connect the site to surrounding housing." to the Sniperley development proposal. The Aykley Heads position statement<sup>28</sup>

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<sup>27</sup> ID15 Active Travel SoCG, updated version ID57

<sup>28</sup> ID38

- demonstrates that it can still be provided as part of further consents within Policy 3 at that site.
146. When looking at development connection, the facilities required day to day were considered, such as the local centre, primary school and mobility hubs. Aykley Heads, as an employment location (alongside many others) is more appropriately considered as a secondary classification; that does not fall within the Policy 5 reference to "adjoining facilities"; indeed, an employment site is not, sensibly considered, a facility. As such, although it is desirable to improve connections to such employment locations, that does not equate to it being essential to have a segregated route along Dryburn Road. Accordingly, even if no connection were provided to Aykley Heads there would still be compliance with Policy 5. Indeed, the only time Aykley Heads is actually mentioned in Policy 5 is as part of the district heating limb of the policy, which is ironic given that district heating doesn't get a reciprocal nod in the Officer's report or decision on Aykley Heads which also did not require the provision of a link along Dryburn Road to provide access to the 'largest and most prestigious' allocation in the County.
147. The delivery of the Intervention is extremely challenging. In fact, it is so challenging that the Council have not been able to identify a feasible scheme despite mulling this issue over for the last decade or so. It was even targeted by the Transforming Cities Fund, but a scheme could not be developed. That is for numerous reasons, including as a result of the existing property boundaries where there is pinch point on the southbound approach to the roundabout junction with Durham Moor; and because it is a bus route which prevents narrowing of the road.
148. Nonetheless, the appellant has committed to a feasibility study, such that if a feasible option can be identified the s106 provides that a contribution will be paid. Should a Dryburn Road scheme not prove viable the monies would be deployed to deliver the appellant's alternative scheme. In that light, it is not abundantly clear why the Council continue to defend this issue as the appellant is going above and beyond the requirement of Policy 5.
149. The proposals include a well- considered, detailed strategy with regards to pedestrian and cycle connectivity: within the site the Connectivity Parameter Plan<sup>29</sup> shows active travel routes that ensure desire lines are taken up to the local centre and other destinations (with all residential properties within an 800m, 10 minute walk, of the local centre and primary school); and connections also provide routes east west from the existing part of Durham (to the east of the A167), through the site, towards the compensatory improvements area. Specific elements (both on and off site), including those raised by the City of Durham Trust, will be addressed at the detailed stage.
150. Active travel corridors extend through the linear park and have been designed intentionally flexibly and use the context for the strategic design code. This has draft status to allow fine points of technical coordination to take place between lighting, sustainable urban drainage, and other detailed features. All are appropriately secured through conditions and obligations.

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<sup>29</sup> CD1.04

### Reason for refusal 3

#### Primary and Secondary School Provision.

151. RfR3, premised on Policy 5(b), has also now fallen away. The only remaining point of contention is the cost of the primary school, which is set out in the s106 subject to a blue pencil clause.
152. Rather than the narrowing of issues, in the lead up to the Inquiry the Council introduced a number of new issues, all of which run contrary to the previously positive and proactive discussions between the appellants and the Council. As a result, a topic specific SoCG has not been agreed.
153. What is agreed is the level of provision required. In particular, a monetary contribution secured by s106 towards the expansion of Framwellgate Secondary School, and the need for a 2FE primary school provision on the allocation site in the location proposed by the adopted Masterplan. It is agreed that although the appeal scheme is expected to generate more than 2FE's worth of provision, due to falling birth numbers and existing nearby capacity, 2FE is appropriate.
154. The primary education funding which had been requested by the Council, when scrutinised, is patently excessive, includes clear errors, double counting of indexation, and a grossly exaggerated approach to contingencies (unexplained, unevidenced 24% v industry standard 10%). The appellant's Education witness explains how the Council's circa £17m figure equates to approximately £38k per pupil cost. In comparison, the appellant's figure equates to circa £26k per pupil. Even the appellants own figure is significantly above the Council's average cost at Springmoor Grange Primary School<sup>30</sup>, Spennymoor<sup>31</sup> and the Department for Education (DfE) average of £21k per pupil. In fact, when comparing the base build cost (net of indexation) the appellant's starting figure is actually greater at £11.5m than the Council's at £10.5m before indexation and contingency. As the appellants witness explained, the Council's figure incorrectly applies indexation to an anticipated future date when the school will be needed and then adds a 24% contingency on top of both the net build costs and that indexation, which results in serious overinflation and double counting.
155. The Council's Education witness stated that he had not produced the figures and so could not explain the large contingency or application of indexation. The result is that the Council's £17m is clearly erroneous, and there is no evidence to explain why, nor what the correct figure should be. In that sense the Council's figures sensibly cannot be adopted in light of the CIL Reg 122 requirements and the appellant's figure, which is still significantly above the average cost per pupil, is unchallenged. It applies a 10% uplift to take into account the move to zero carbon in line with the DfE guidance<sup>32</sup> and correctly applies the methodology. The Council do not dispute the accuracy of such calculations.
156. The Council's position prior to the s106 being agreed in week 3 of the Inquiry (discussed for the first time in the Council's Education evidence)<sup>33</sup> was that the

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<sup>30</sup> CD15.12

<sup>31</sup> CD14.15 Appendix A

<sup>32</sup> CD15.16

<sup>33</sup> ID4.

primary school should be provided prior to the occupation of any of the houses, with the responsibility for the delivery put onto the shoulders of the developer. That is premised on the response that the Council requires "confidence and surety". It is expressly inconsistent with the well-established approach; DfE guidance<sup>34</sup>; and worse, the Council's own policy titled 'Securing Developer Contributions towards Education Provision in County Durham 2017'<sup>35</sup> and even the Strategic Site PAS/LGA Toolkit produced by the Council's Deliverability witness – all of which expect recoupment from developers of money committed up front by Local Education Authorities delivering school places.

157. The DfE guidance does nothing short of fully and entirely endorse the approach of securing financial contributions.<sup>36</sup> It also expressly indicates that developer contributions provide certainty. Whilst developer delivery is possible (albeit rare), and could be secured through a s106, the appellant's Education witness explains that it is not something that would be warranted in this case. On the contrary, given the Council have experience delivering schools, and have the statutory duty of ensuring sufficient pupils for their area, it is obvious that they should be the delivering body, absent very good reason to the contrary. It is even more obvious given the Council own the land on which the primary school is proposed, and both the Council's and appellants' Masterplan identifies the school on the Council's land, following its previous notation elsewhere in the allocation<sup>37</sup>. Indeed, it was the Council that moved it from that position onto the Council's own land in the first place.

158. If the appeal were to be allowed, there would be no question in respect of delivery – there is an adopted Masterplan, parameters plan, feasibility study already commissioned by the Council, funding, and the Council would act consistently with its statutory education duties – the result of which, as the Council's Planning witness accepted in cross examination, is that the Council would have no choice but to build the school.

159. The Council's concerns about triggers and payments, including recouping any forward funding in the extremely unlikely situation that the Bellway scheme did not come forward is simply answered by pointing to the s106 agreement, which provides that CDL will pay it instead in default.

160. The Council's suggestion that that the primary school is needed prior to occupation is evidentially unjustified. It is in direct contradiction to the Council's previously set out position based on existing school capacity which accepted that a new school would be needed at around 600 dwellings.<sup>38</sup> The Council's Education witness could not explain why the position in terms of triggers agreed in September 2023 had changed,

161. This position is in conflict with the full first sentence of Policy 5b, which provides: "A new primary school will be provided of a scale which will meet the expected requirement for school places generated by the new housing

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<sup>34</sup> Cd15.17

<sup>35</sup> ID13 paragraph 7.11

<sup>36</sup> CD15.16 paragraphs 7,8

<sup>37</sup> CD14.,12 Appendix 6

<sup>38</sup> Cd14.14 Appendix A

- development.” The term ‘expected requirement’ requires consideration of how many places will be needed and when they will be needed.
162. Provision ‘before anyone moves in’ is unwarranted in light of the Council’s projections for schools in the planning area<sup>39</sup> and the number of spare places in nearby schools prior to the occupation of dwellings. There would be no children on the site to sustain a school at a pre-occupation trigger point for a number of years, and in the meantime, it would get filled up with students from the wider area, which would decrease available places for pupils from the development once they start accommodating children on site. In the interim, the Council’s approach would result in a building being empty for some time with associated maintenance costs.
163. Practically, the approach would also prevent the ability to build a 1FE school and expand it into a 2FE if the need for the school changed in line with the Council’s own policy<sup>40</sup>, an approach the Council’s Planning witness accepted was now within the scope of the s106. It would also be inconsistent with DfE guidance which indicates new schools should only open when there are enough children to make them viable and that early delivery of schools can be problematic<sup>41</sup>.
164. The 600 dwelling trigger is entirely sensible as there would be 0.3 primary school aged children per dwelling and 0.043 pupils per year group. Accordingly, when applying the Council’s child yield, 20 reception age pupils would be present on the site at 466 dwellings. However, given the existing capacity of 150, the school would not be needed until the 600th dwelling, when 180 pupils arise from the development, not all of whom would change school. This is also consistent with the DfE guidance which provides for the timely provision of infrastructure including high quality schools when and where needed.<sup>42</sup>
165. The Council’s Education witness accepted in cross examination that the Council had not required the delivery of a school pre-occupation of any other developer or site. Indeed, there was nowhere else in Durham which required a school before the need for a school arose. The best he could do to justify it was to repeat the mantra that with CDL and Bellway there are two developments proposed on two sites despite this being a singular allocation. That, despite the fact that the Council’s witness also accepted that the same risks arise with any large-scale development.
166. Turning to secondary education, in December 2023 a contribution of £4.4M (index linked) was required – but the Council started the inquiry, refusing to provide any figure but instead inviting the appellant to enter into a ‘blank cheque clause’ by requiring it to fund an unknown and unjustified figure. Such a provision would have failed basic contract law as being insufficiently precise, but worse it would be incapable of being able to enable the decision maker to know whether such an as yet unknown figure met the Secretary of State’s policy requirements as well as reg 122(2) of the CIL Regulations.

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<sup>39</sup> Cd14.14 Table 2

<sup>40</sup> ID13, paragraph 7.10

<sup>41</sup> CD15.16 paragraph 10 and 60-66

<sup>42</sup> CD15.16

167. The Council's Education witness accepted in cross examination that the possibility of drafting a s106 which was premised on the cost of a bolt on Framwellgate School, totalling £5,140,040 across both the CDL and Bellway proposals, which would then be reduced if DfE's actual remodelling cost was lower (given their quotation was £4.4m) was "a satisfactory way forward". He could not explain why that approach had never been proposed by the Council. The result is that exactly that approach has been taken in the s106 which provides for a contribution of up to £5,140,040.
168. At the time of writing proofs, no issue had been raised by the Council in respect of CDL's proposed trigger. It was therefore a surprise near the end of the Inquiry that the Council said the trigger was not agreed and the Council finally set out what trigger they were seeking, 160 dwellings. Such an approach is plainly unreasonable but typifies the reason why this appeal was necessary. Such a trigger represents the equivalent of 19 secondary school pupils generated by the CDL development based on the Council's own estimate of 0.12 secondary pupils per dwellings. Based on the full contribution this, would represent £32,125 per dwelling built by that stage. Had this ever been put in evidence then the Council's Education witness would have been rigorously cross-examined about the absurdity of this stance by Council.
169. So that the SOS can form a view as to whether CDL's case is preferred, the s106 have been drafted with four schedules:
- a) Schedule 3 represents CDL's case;
  - b) Schedule 3A represents CDL's case on primary school contribution, but DCC's trigger on secondary education; and
  - c) Schedule 3B represents DCC's case on primary school contribution and CDL's trigger on secondary education;
  - d) Schedule 3C represents DCC's case on primary school contribution and DCC's new trigger.
170. The approach CDL has adopted is entirely in alignment with the DfE Securing Developer Contributions Guidance<sup>43</sup> and also the Council's own approach to Securing Developer Contributions<sup>44</sup>. The differential between the prudential borrowing of the Council and BCIS indexation means that although the Council would have to borrow and be repaid the Council can literally 'turn a coin' as has been said during the course of the Inquiry. CDL's stance is completely orthodox and sensible – DCC's stance is the precise opposite. It is also not fairly and reasonably related in scale and kind to the development, contrary to paragraph 57 of the Framework.
171. The Education issue has involved something of a forensic roller-coaster but ought never to have even approached a reason for refusal. That it has done so and resulted in such a strange and entrenched position based upon an array of misunderstandings and misperceptions is symptomatic of why this appeal has been necessary.

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<sup>43</sup> CD15.15 paragraphs 14 and 15

<sup>44</sup> ID13

## Reason for refusal 4

### District Heating system

172. RfR4 has also fallen away throughout the course of the Inquiry. The Council's Planning witness explicitly accepted the inevitable in cross examination that district heating has been 'explored' in conformity with the Policy 5(i) requirement and that the policy as written does not require a need to demonstrate it is the best option or not viable. In any event, the Council's witness accepted that even if there was a breach, material considerations, including that there is no gas to be brought onto the site, would outweigh any conflict with the development plan as it is meeting the policy requirement and therefore that it should not preclude the granting of consent (a position that aligns with the Council's Low Carbon Energy Team's position).

173. The Council's RfR4 exceeds Policy 5(i) requirement, which merely requires that "opportunities for a district heating network will be explored". The text of the Council's Masterplan similarly exceeds the CDP policy requirements, stating that opportunities should be 'grasped', not explored. CDP Policy 29 requirements are also exceeded in the Council's Masterplan, which refers to "a high quality, zero carbon, well designed community" on the basis of the Climate Emergency declared by the Council in 2019. The Council's Planning witness conceded in cross examination that such statements are to be understood as merely aspiration rather than requirement.

174. Notwithstanding this, both CDL and Bellway have committed to a position whereby no gas will be brought onto the site to heat the development, and that each individual dwelling will be constructed with its own individual air source heat pump. That is consistent with the adopted Masterplan.<sup>45</sup> The appeal scheme will also look ahead to the emerging Future Homes Standard and Future Building Standard which will cover the vast majority if not all of the build out.

175. In practice, the evidence of the appellant's District Heating witness, demonstrates that opportunities for a district heating network have been sufficiently and properly explored<sup>46</sup> and that it has been reasonably discounted in the circumstances of the case, given there has been no intention to engage from the Lanchester Road Hospital and the Aykley Heads development. The appellant's witness explained in the Round Table Session that he distinguishes between a 'district heating network', which would go outside of the red line boundary, and a 'community heating network' which would not go off site. Without off-site premises, in this instance Lanchester Hospital, Aykley Heads and/or University Hospital Durham to take substantial energy, a district heating system would not be viable on Sniperley Park.

176. In respect of Lanchester Road Hospital, the existence of a long-term, 15-year, gas supply contract results in unavailability to connect to a district heating system utilising current equipment that is relatively new, and not near its end of life. Overengineering or future proofing a district heating system for a speculative anchor load from Lanchester Road would not be possible, given the need to

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<sup>45</sup> CD10.04 page 29

<sup>46</sup> CD1.30

secure investment and given the challenges when specific heat loads are unknown.

177. In relation to Aykley Heads Business Park, the early part of the development (plot C) has been developed with air source heat pumps. Although there could be the ability to connect to a district heating network in the future, speculative design is extremely difficult given unknowns in relation to heat loads, cooling loads and diversity, particularly given the development does not even yet have a development partner; that in addition to the challenges of financial modelling.
178. The Council pursued RfR4 when they did not even grant planning permission to Aykley Heads with a conditional obligation requiring it be to suitably configured to connect to a district heating network should one ever come forward at Sniperley Park. But they did not, and they cannot now try to retrospectively apply one through this allocation rather than Aykley Heads, having failed to introduce that obvious reciprocal requirement.
179. University Hospital Durham operate on a steam heating system and indicated that there would be a significant cost associated with retrofitting insulation and a suitable low temperature heat delivery system, which would be required to connect to a low temperature district heating system and expressed no positive interest in becoming involved.
180. The result is that all three were explored, as required, but none had interest in supporting a district heating network in the near future. On that basis, the appellant's witness explained that New College Durham was not explored as an anchor load is crucial. Had that position been doubted then it would have been open to DCC to have asked any of those providers themselves- that they have not sought to do so is with respect telling.
181. A community heating network for the allocation itself might be viable. However, that doesn't mean that its non-provision is a basis to consider what is actually proposed is objectionable, nor that this criterion of the policy is breached. A district heating system has been properly explored and there are good reasons for not pursuing a much lesser idea of a community heating network, especially when for houses the whole focus is now upon substantially reducing the energy required to heat such homes.
182. The appellant's witness explained how overall individual air source heat pumps provide the best environmental outcome, meet national and local policy, and meet current and future Building Regulations. Moreover, delivering a 4th generation community heat network would almost double the cost of the solution provided for no obvious additional environmental benefit.
183. Whole-life carbon outcomes (including operational and embodied carbon) are significantly worse for a community heating network in the particular circumstances of Sniperley Park compared with the solution proposed by the appellants. In respect of operational carbon, the appellants' witness explains that individual air source heat pumps reduce operational carbon emissions, given heat losses in a heat network proposed would be up to 20% (in accordance with, and as prescribed by, the CIBSE Code of Practice for Heat Networks (CP1)).
184. In relation to embodied carbon, the centralisation of air source heat pumps (and hot water cylinders) required for a community heating network, providing

back-up plant for fail or during maintenance, and the addition of circa 65km of thermally insulated pipe and additional plant required would almost certainly result in a far worse embodied carbon, compared to individual air source heat pumps. A closed-loop ground source heat pump system was discounted on the basis that it would be highly unlikely given the dangerous need to drill over 700 boreholes through coal seams; indeed, the appellant's witness indicated in the Round Table Session that he was only aware of one example which instead went through a mine shaft.

185. At paragraph 72 of the Council's closing submissions, it is said that the use of mine water has not been explored. This is factually wrong. A detailed report by the Coal Authority has been produced which indicates that it could provide a district heating system. The appellant's witness explained that this work was not taken further because without Ackley Heads or Lanchester Hospital all that could be achieved would be a small-scale community heating system and this provides no sensible advantage in sustainability terms compared to individual air source heat pumps in a no gas solution.

186. An open loop system, which is far more complex, would be inappropriate given the relatively low amount of heat required by the allocation. The appellant's witness explained that the refrigerants now used are now far less harmful than those referred to by the Council's witness, and that refrigerant leakage capture is included in all projects. It would also be patently wrong to assume that a domestic householder cannot be expected to employ a competent maintenance contract in relation to individual air source heat pumps. In any event, and taking a step back, even on the Council's approach the difference would be, at worse, marginal.

187. That must also be considered in tandem with the cost differences. As a result of the need for significantly increased plant, the cost of a community heating network would be almost double that of individual air source heat pumps. Moreover, the coefficient of performance does not particularly differ, given both are similarly dependent on seasonal weather performance.

188. There would need to be significant efficiencies to pay back the additional capital cost of 65km of pipe and back up boilers in a community heating network; and any financial advantage beyond this would not be seen by consumers but would be taken as profit by operators. Given operators merely match what consumers can get from individual air source heat pumps and retain any additional revenue, it offers no benefit to consumers. Individual air source heat pumps allow far greater flexibility to consumers, including the ability to choose a preferred electricity supplier, where occupiers may also take advantage of their own solar/ battery system, and therefore also offers social benefit in comparison.

189. Given the country's net zero targets, the difference between individual heat pumps and centralised heat pumps through a community heat network is actually a moot point. Either scenario uses the same electricity and when the grid is fully decarbonised in 2035/36, when the final homes are built, both will be entirely zero-carbon solutions, and even now both are equally zero-carbon ready.

190. The evidence satisfies the Policy 5(i) criteria to 'explore' but goes much further in demonstrating why the appellant's solution is the most suitable. That is best expressed in the Council's Low Carbon Energy Team conclusions, which state "I

would not object to the application , if the applicant were to confirm that all dwelling would be heated by Heat Pumps and that no gas would be taken into the site as an indication that the developer was taking the aim for Net Zero seriously<sup>47</sup>. As with education, the Council's approach here is to try to rewrite the policy requirement – rather than to engage with what policy 5(i) actually says.

### Reason for refusal 5

#### Quantum and Quality of Playing Fields

191. RfR5 has also now fallen away. That is despite the Council's Sports Pitch Provision witness suggesting in evidence that the Council now wanted to ensure that the financial contribution for sporting provision generated by the future population should be spent on sports halls and improvements to swimming pools rather than the playing fields, despite the previously agreed position between the parties. It was abundantly clear that the Council's witness had not been briefed properly – he had not read the s106, did not know what conditions were.
192. In subsequent meetings with the Council and SE, SE have provided clarity, certainty and it has resulted in an agreed position which reflects the appellant's position from the start of this appeal.
193. RfR5 seems to have arisen due to confusion and timing of information that has been shared with SE over recent months. In particular having secured a consultation response of no objection subject to a s.106 obligation, SE were then consulted upon a pre-app for a feasibility study for the school to which they objected. Whatever DCC may have sought to consult SE upon, in practice, the appeal proposals have not changed since SE reviewed the application in January 2023, where they were in agreement with the appellant's approach, subject only to the signing of the s106, so it is not surprising that they still agree with their previous position. Quite why the Council had not sought further comments from SE before the inquiry commenced is entirely unknown, and it remains even more inexplicable that comments on a proposal which isn't part of the appeal scheme then led to SE modifying their position.
194. CDP Policy 5(b) as adopted assumed that the new primary school would be located in a different area on the site and that it would include playing pitches to replace all of those lost on the existing parcel. However, since then the Council has established, through its masterplan, a preferred approach to retain the existing playing fields with a small area (1.8Ha) lost to deliver the primary school. The Council's masterplan also establishes that any replacement pitches to offset the land for the primary school can be located within the much larger area of compensatory improvement at land to the north of Potterhouse Lane (2.24Ha). The application is entirely consistent with this (as is the appellants' Masterplan), as set out in the Land Use Parameter Plan<sup>48</sup> and Illustrative Masterplan<sup>49</sup>. Given the area shown for replacement playing fields is indicative, there is obvious

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<sup>47</sup> ID16

<sup>48</sup> CD1.03

<sup>49</sup> CD1.15

flexibility for its precise location and size to be fixed at the Reserved Matters stage, when greater clarity is known about the area needed to be replaced.

195. The replacement provision of 2.24 ha is an overstated replacement area, given not all of the existing playing field will be lost as the school will include playing fields within its own boundary. It is also some 10% larger than stated in the DfE Building Bulletin 103<sup>50</sup> than the total area of land which would be needed for the primary school of between 1.6-2 ha. The overstatement also allows flexibility for the consideration of parking and other requirements that influence the exact area to be determined. However, even that issue has crystallised as it is now agreed that the area for the primary school will be 1.8ha.
196. The supporting detailed design drawings as set out in the evidence of CDL's Design witness<sup>51</sup>, demonstrates how 180 parking spaces can be delivered to serve the primary school and playing fields within the school area, alongside other ancillary requirements such as changing facilities. This amount of parking accommodates the additional 80 spaces required by the Council via condition even when the detailed technical analysis of CDL's Transport witness<sup>52</sup> demonstrates that this amount of parking is very unlikely to be required. The detailed design drawings also demonstrate that the total area of playing field that would need to be replaced in order to deliver the built element of the school, car parking and other ancillary facilities would be less than the 2.24 ha assumed on the Land Use Parameter Plan, in fact it proves that only 1.3 ha of existing pitches would be 'lost'. The Council accepted that there would be a material betterment in area terms.
197. The evidence demonstrates that the statutory requirement is met by providing 'like for like' in terms of quantity and quality, and the non-statutory contribution is justified in delivering a better quality to the standard of both the playing field to be retained and the replacement playing field to be created. Accordingly, there would be compliance with Policy 5 (a point agreed by the Council's Playing Pitch Provision witness in cross examination) and, in fact, there would be enhancement to currently unused pitches (from a community perspective excluding some occasional and unspecified use by St Leonard's School).
198. In any event, there is now agreement as set out in detail in the SE Meeting Note<sup>53</sup>. The s106 provides that the £2.033m is to be deployed to reconfigure existing playing fields as part of the primary school development; if there is betterment when delivering replacement pitches north of Potterhouse Lane that may be deducted from the contribution (that taking into account the fact that the existing pitches have pipe and silt drainage as identified by SE); and any remaining funds can be utilised in the wider Durham City area for other sporting proposals.

## **Conclusion**

199. The appeal scheme, on the largest allocated site in the CDP which contributes

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<sup>50</sup> CD10.14

<sup>51</sup> CD14.09 pages 25/26

<sup>52</sup> CD14.09 page 27

<sup>53</sup> ID35

to Durham's housing land supply, ought to be granted without delay. It is a scheme which is consistent with the development plan; secured by appropriate conditions and planning obligations and, subject to discrete points to be determined in either party's favour, it is agreed that there are no longer any reasons to refuse consent.

200. In favour of the appeal are numerous economic, social, and environmental benefits. There are no material considerations that should preclude the development of the site. The scheme is compliant with each limb of CDP Policy 5 and the other policies cited within the RfR – and there are no material considerations to warrant a different outcome other than to allow the appeal.
201. It is CDL's emphatic submission that it considers that there is also no good reason not to allow the three Bellway appeals also; nonetheless the CDL appeal is not dependent upon one or more of Bellway's appeals being allowed and that CDL could be allowed on its own. Moreover, if the Bellway site were to not be brought forward for reasons which aren't presently clear, schedule 10 of the s.106 provides that CDL would be responsible for the delivery of the totality of the public transport and school contributions etc.
202. This puts the CDL scheme on all fours with the Sandleford Park scheme consented by the SOS<sup>54</sup> on 6th May 2022, as the Council's Planning witness accepted in cross examination, and which has always been the intention of CDL. If the Bellway land didn't come forward either as quickly as expected or at all, or even were its appeals to be dismissed, then it is firmly submitted that the CDL scheme would still deliver major plan compliant benefits and the CDL scheme would comply with Policy 5 taken as a whole, and s.38(6) would be engaged in favour of allowing its appeal.
203. DCC's position is in reality one of imposing its preferred controls rather than those of the appellant (so an appeal was always going to be necessary to resolve this). Nonetheless, and with thanks to all those who have worked behind the stage to reduce the areas of dispute to points which do not really go to reasons to refuse consent -- this development plan policy compliant scheme, delivering 80% of a key allocated site, and provides surety of delivery of essential infrastructure at the right time and in the right place, the CDL appeal should obviously be granted allowed/consent without delay, and it is firmly submitted that this should be the Inspector's recommendation to the SOS as the outcome of this appeal.

## **9. The Case for Bellway Homes (Appeals B, C and D)**

204. The following is principally a summary of Bellway Homes closing submissions<sup>55</sup>

### Introduction and context

205. By the end of this Inquiry, two fundamental points have been clarified. The first is the sense of urgency involved and commitment in bringing this development forward from the appellants. The Council have sought to reflect the

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<sup>54</sup> CD11.02

<sup>55</sup> ID69

- same. The second is that it has become crystal clear what has been holding it all back; namely a matter of process rather an issue of principle.
206. No matter how many times the Council's advocate attempted to dress up the Council's interest as only being one of 'outcome', the reality has been to find as many different ways to frustrate this allocation, with the futile hope (and misplaced expectation) that the appellants will just say they will do it all themselves. This is very disappointing. And once again underscores the need now for the SoS to exercise DCC's DM powers.
207. The purported 'risks' that the Council keeps on using as some sort of shield is more an indictment of their lack of imagination, failure to discharge functions, and in many ways basic competence.
208. This is the largest SUE to Durham City in a generation, the largest allocation in their recently adopted plan, a transformative opportunity for DCC. There should be a real sense of excitement in the air. Instead, the Council Officers, together with their political leadership, see Sniperley as an existential threat.
209. Bellway owns the site outright and has been promoting it for a significant period of time. It needs the site to succeed, it has a local division to feed and many more hundreds of jobs to support directly and indirectly, some of which have already been lost as a result of the delay and frustration of this site by DCC. We have placed before the Inquiry an outline and a hybrid application; such is the keenness to implement any consent sooner rather than later. Contrary to the Frameworks' encouragement to work 'proactively and positively' with each other, the Council's conduct has been unedifying.

### Costs

210. It is right to record that Bellway have been contemplating since the start of the Inquiry that it was likely to make an application for an award of costs relating to the appeal. Bellway have agreed not to pursue its application. Nevertheless, an important factor in the decision not to pursue costs was that Bellway is a very substantial developer headquartered in the North East, working across Durham and the country. Bellway believes strongly in having a positive working relationship with the Council, which will hopefully lead to many beneficial developments coming forward in future.
211. However, it will be clear from the evidence heard at the Inquiry that a full award of costs would have been amply justified, especially given the failure of the Council to substantiate its oscillating case, which taken at its highest, the Council's Planning witness accepted the appeals would still be allowed.
212. It remains baffling whilst patently clear that DCC had a negative agenda towards this scheme following the summer of 2021 and the change in political leadership. Much of the events since then could easily have been avoided, together with this appeal.
213. There are lessons in best practice to be learned by DCC from this appeal regardless of whether they have been amplified by an award of costs; notably, what the plain reading of the words in Policy 5 actually mean, the burden of proof it seeks to apply against the Appellants in meeting requirements, the need to be

positive/proactive in finding solutions, and ultimately keeping a sense of proportion.

214. Given the Council's Planning witness' clear indication that he was 'pretty close' to writing up these appeals for approval in August 2023, it is worth recording that we remain of the view that this costly process could and should have been avoided altogether.
215. Nevertheless, this process has been catalyst led by the Inspector, and many differences have been narrowed and the process made that much richer by the local community contributions.

### Education

216. DCC as the planning authority with the power to enforce any consent, and the local education authority statutorily tasked with providing places, is uniquely placed to deliver this very much needed school – as expected by the adopted Local Plan. They have experience building schools in Durham, and then delivering them to the community<sup>56</sup>. The land on which the school is to be provided (1.8ha) is already in public ownership and is already shown on the Council's own consulted upon Masterplan. The public expect it to come forward on that land.
217. The Council's Education witness accepted that any ordinary reading of Policy 5(b) a new primary school ought to be provided when its need is required to be met. Namely when a certain number of units (as to be agreed on the triggers) are built and occupied. The notion that a whole school should be built and completed before a single dwelling is built would actually be contrary to Policy 5, as accepted by both the Council's Education and Planning witnesses. It is contrary to DCC's own internal guidance<sup>57</sup>. It would fly in the face of common sense and have major consequences for the other schools in the locality. It would create resource sapping reality for the local authority, attract rates, taxes and security implications, something which the Council did not seem concerned about i.e. wasting taxpayers money. It would be impractical for a brand-new school to be sitting right in the middle of a housing estate. It is not a serious proposition.
218. As the appellant's Education witness mentioned, there is a serious risk of birth rates continuing to fall, for capacities in neighbouring schools to free up, and for a 2FE to be a surplus to requirement. And yet, the appellants are willing to sign up to a present reality, right now.
219. The Council's Education witness accepted that what the Council is asking for in this instance has never been requested anywhere in Durham, and anywhere in the County in so far as he was aware. Neither of the appellants have experience in building schools. He accepted the Council had more experience than the appellants. He confirmed that there was no risk assessment made as to what their request actually means, or indeed the procurement implications. There is

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<sup>56</sup> Bowburn Primary School, 540 pupils plus 70 place nursery places, opened in May 2022; Springmoor Grange School, Spennymoor, 630 pupils plus 52 nursery places, currently under construction, as confirmed via an FOI; Belmont Campus, £37m, 900 secondary school pupils, and 315 primary school pupils.

<sup>57</sup> ID13

therefore no serious proposal from the Council to demonstrate to the Inspector that the developers undertaking this task is the appropriate way forward.

220. The persistent attempts to demonstrate a particularly higher risk in this case and to demonstrate that there is a real risk of funding shortfalls in the future is not made out. Given his many decades of experience, the Council's witness confirmed he had no example of a developer seeking to renege and drive downwards contributions towards education provisions. When taken to the Memorandum of Understanding (MoU) signed by the appellants, he had no evidence to suggest that it was not reliable or acceptable. And it would also appear that the Council's whole negotiating tactic has been to keep plucking random (but high) figures out of the air in order to exacerbate the developers, in the hope that they would simply say they will deliver it themselves. They have never engaged in a serious manner nor suggested alternative figures.
221. For the Council, the position is simple, they do not want to focus on 'contributions' but rather 'outcomes' and which ultimately means them wanting to resile from their statutory duties to provide places and seek to frustrate the allocation. It was also particularly embarrassing when it became clear that up until September 2023, the Council were prepared to accept a contribution and triggers, and negotiations were advanced. The Council's witness struggled to explain precisely what has changed since.
222. By the end of the evidence, we have therefore been able to agree the following.
- i. It is agreed that a 2FE plus 26 nursery places primary school is required. The child yield as matters stand is also agreed;
  - ii. Bellway must pay its share of contribution towards the extension to Framwellgate Secondary School;
  - iii. The only land currently set aside, as shown on the Council's Masterplan, is that belonging to the Council, in public ownership;
  - iv. There was no policy, logical or best practice basis to request that the school be built out completely prior to any dwellings;
  - v. An ordinary reading of Policy 5(b) makes clear that it is the development that creates the need for the school, a need that does not arise before;
  - vi. The appellants propose that the school is needed at or around the 600th completion across the two development sites;
  - vii. A contribution of c.£5.1m needed towards the expansion of Framwellgate School, previously agreed at £4.4m;
  - viii. Other than two separate developers and applicants, there is nothing inherently risky about this development compared to others. It was also odd to inexplicably suggest that being at appeal somehow made this development more risky.
223. In terms of the costings for the new primary school, there was acceptance from the Council's witness that he was actually not responsible for any of the

figures, and they were not his figures. Indeed, he accepted that the only figures which can be tested are those presented by the appellant; they are as follows,

- a) Primary School: £25,983 x 446 = £11,588,41812
- b) Secondary School: £5.1m index linked, subject to an updated cost by the DfE, with a maximum 'bolt on' figure to be inserted in the s106;
- c) Primary school + Contingency: £11,588,418 + 10% =  
£12,747,26013
- d) Secondary contribution + contingency: £5.1m + 10%

224. In the event that only Bellway were to come forward, in such highly unlikely circumstances, the need for a new primary school would not arise. There would be sufficient capacity in the existing education landscape for the 111 primary school aged pupils generated by 370 dwellings<sup>58</sup>. There is forecast to be an average of 119 spare places per annum in the Framwellgate Moor Primary Planning Area, as reported by the Council<sup>59</sup> which exceeds the child yield of the Bellway scheme when viewed in isolation.

225. Regardless, the monies could also be used towards an extension elsewhere as initially envisaged when a 2 form plus 0.5 form expansion was needed early in the applications' determination. The Council do not suggest otherwise.

226. Fundamentally, having a school as part of this development is to have the heart of a community built for the prosperity of children who will be the future of Sniperley. It is in the interests of both appellants and the Council to see the school built, the needs of the development met and ensure that Sniperley Park thrives. It would be absolutely 'absurd' to suggest that somehow the developers will just say we have now reached the 1,249th unit, let's stop and avoid building the school. And if that was a serious threat and risk, the Council would have engaged us in negotiations to try and address this to their ultimate satisfaction.

227. The Council's latest figures have no credibility or evidential support. They have moved significantly from the original position of £17m and became even less credible as the Inquiry has proceeded. The parties are now in a position to ask the Inspector to reach her own judgement based on the positions set out in the s106.

228. We have to also be guided by the DfE Best Practice Guidance (August 2023) when considering developer contributions for education.<sup>60</sup> The document seeks to cater for all eventualities, including the potential need for forward funding being standard practice and expected on sites large enough to generate the need for new school provision.<sup>61</sup> The guidance allows for local planning authorities to recoup the monies spent where school places have been forwarded funded – including interest, fees and expenses. Again, any risk – however remote – are

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<sup>58</sup> 370 dwellings x 0.3 = 111 Primary School aged pupils

<sup>59</sup> CD8.24 Table 2,

<sup>60</sup> CD15.16

<sup>61</sup> Ibid paragraph 14

mitigated and funding recouped, plus indexation, an approach supported by the DfE.<sup>62</sup>

229. The guidance seeks to ensure that costs are not excessive and, crucially, for this Inspector and ultimately the SoS, can be justified under the CIL Regulations. We also learn that many local authorities are said to find 'the best approach is to open the school at the stage of the development where there is expected to be a viable number of pupils to admit into Reception'<sup>63</sup>. This approach is in line with what might be expected in these circumstances, it is in line with Policy 5 of CDP, and yet another way to demonstrate the absurdity of building a 2FE school prior to the construction of any dwelling on this site.
230. The approach advanced by the Council will have dire consequences on parental demand and the viability of existing schools. The guidance specifically discourages this and speaks about working with local school providers to avoid this<sup>64</sup>.
231. Whilst one might well seek to appreciate and understand the financial pressures on local authorities, the concern about infrastructure funding, and any future implications on the Council, the position taken in this case is one of extremity. Partly driven by politics, but mainly by a failure of imagination. It is completely contrary to what the adopted policy expects, what the Examiner contemplated, and even rationally what the Council's position was right up until November 2023. It is contrary to local and national guidance, and common sense.
232. Below is a summary of the position in terms of cost of primary and secondary school provision, and the proportionate contributions.

	Totals	CDL	Bellway
Dwellings	1920	1550	370
Percent Split	100%	80.73%	19.27%
DCC Primary	£15,033,887	£12,136,732	£2,897,155
Appellant Primary	£12,747,260	£10,290,757	£2,456,503
Agreed Secondary	£5,140,040	£4,149,511	£990,529

### District Heating

233. The starting point in relation to the appropriateness of having a district heating network as part of this development begins with the Policy 5 wording. It was common ground between the parties during the Round Table discussion that the exploration of such opportunities is not some infinite search but a matter of judgement in what could be possible, and ultimately feasible.

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<sup>62</sup> Ibid paragraph 15

<sup>63</sup> CD15.16 paragraph 60

<sup>64</sup> Ibid paragraph 64

234. The Council's own Masterplan speaks to its own expectation of 'no gas', likely improved Building Regulation changes and Future Homes Standards.
235. The starting point in understanding and approaching the energy hierarchy relates to sustainable design standards. A good design, in line with the Masterplan, will seek to maximise solar gain, manage energy efficiency, minimise heat loss and ultimately ensure the need for heat is reduced as much as possible. This is what both CDL and Bellway are seeking to achieve on their developments.
236. The appellant's witness has investigated the possibility of community heat networks and concluded that this would have sub-optimal carbon outcomes for Sniperley, even if it can be made viable<sup>65</sup>.
237. As to the district heating network, the biggest challenge remains the heat users that could anchor a network for Sniperley Park, as anticipated by Policy 5. There are currently far too many hurdles associated with this opportunity becoming a reality.
238. Both appellants have confirmed that they will install heat pumps across Sniperley Park and that no gas will be taken into the site. Naturally, this will significantly improve carbon outcomes and provide a solution that is wholly supportive of the Future Homes Standard and is consistent with Policy 5 and the Council's own Masterplan. Bellway are a leader in developing technologies towards Future Homes Standard such as demonstrated through Bellway's offer of the sites' involvement in the Salford University project.
239. This is not a reason for refusal that is capable of withholding consent.

#### Public Transport and Active Travel

240. There has been considerable common ground achieved between the parties on these issues. There are now two separate SoCG on Public Transport<sup>66</sup> and Active Travel.<sup>67</sup>
241. The necessity of providing any new or rerouted bus service to the Arnison Centre has been queried by both appellants, there being no specific mention of an Arnison Centre bus link within CDP Policy 5. If the Inspector decides that there is such a requirement, then, at para 2.14-2.15 of the Public Transport SoCG, the parties have agreed two mechanisms for procuring bus services. However, as set out in paragraph 3.3, the preferred mechanism remains in dispute, as the Council have not confirmed which they would prefer.
242. The amount of cross-subsidy also remains in dispute, with the Council requesting £1,783,199 and the appellants stating that the subsidy would be more appropriately capped at £602,354 + 10% (assuming the Arnison service is considered a requirement and noting that a higher £662,000 cap has also been offered up by the appellants). Again, these figures are based on evidence presented.

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<sup>65</sup> CD.14.18 section 5.6

<sup>66</sup> ID58

<sup>67</sup> ID57

243. Specifically relevant to Bellway's proposal is the appropriateness of applying a firm 400m measure of walk distances from each dwelling to the closest bus stop. Bellway's Transport witness citing distances of between 500m and 1km being accepted by the Council on both the Appeal site and Sherburn Road, the other strategic land release the subject of Policy 5, and on the Appeal site itself for the Park and Ride expansion (by the Council themselves).
244. Nevertheless, this issue could be addressed by the application of an appropriately worded condition within any approval for the site, with paragraphs 2.9 and 2.10 of the SoCG<sup>68</sup> offering suggested wording which has been agreed by the appellants and the Council.
245. On the issue of Active Travel, we now have two residual areas between the parties on this, the requirement for Intervention 8 and the 'missing link' of Intervention 3.<sup>69</sup> The first place to start is to understand the status of the document on which conflict is alleged, namely the Sniperley ATP, and the interventions contained therein. It was confirmed at the Inquiry this latest version has not been consulted upon, no formal approval, delegated or otherwise.
246. It was also confirmed by the Council that the Interventions set out in the previous adopted version of the plan (then named the Sniperley Healthy Active Travel Connectivity Plan) (HATCP)) have also been subject to no public consultation. Only limited weight (at the lowest possible end) may be attached to these plans.
247. In relation to Intervention 3, the Council cannot justify the requirement they wish to see. What CDL is proposing is an appropriate response, there is no evidence to support the specific request to deliver improvements to the Great North Cycle route in the way requested. And as confirmed by the appellants, this is policy compliant.
248. As to Intervention 8, it has been confirmed that the Council has received £9.3m in funding to facilitate the delivery of the Aykley Heads site, including for active travel corridors, as expected in CDP Policy 3. The connection of Aykley Heads, surrounding housing and the Park and Ride means connecting to the appeal schemes before this inquiry. CDL have spoken to being open to funding a feasibility study to investigate further, however Bellway maintain that no intervention is necessary as a result of the impact of their development.
249. In terms of understanding the role played by Aykley Heads, the Council's request for a segregated cycle route is not appropriate. CDL are proposing a suitable alternative route to Aykley Heads, with Bellway able to use the existing cycle facilities on the existing public highway, all of which have either been recently upgraded, have funding secured to be upgraded with works starting shortly or are part of Interventions agreed to be funded by the applicants. These may not be the precise connections that the Council is requesting, but the routes are there. Nevertheless, even if it is arguable that access to this employment site

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<sup>68</sup> ID58

<sup>69</sup> ID57

is desirable, this is not of the same order of needing a connection to a school or hospital.

250. Access to an employment allocation is simply not in the same category as access to key facilities like hospitals. The reliance on the supporting text preceding Policy 5 to support what the Council is requesting is misplaced. The only time Policy 5 mentions Aykley Heads is at (i) and that is in relation to a district heating network, not in relation to a specific connection as a key off-site facility for Sniperley Park residents. In short, what the Council ought to be doing is enforcing this issue via Policy 3 instead of via the back door with Policy 5.

251. Finally, it is worth acknowledging the evidence presented by the City of Durham Trust (and others) in relation to the Council's latest car parking standards. It emerged quite clearly how the latest requirements are hard to reconcile with the Local Plan examining Inspectors vision of the site's sustainable transport network. The car parking standards also undermine the overall approach taken to sustainable transport requests of developments more widely.

### Playing Fields

252. The evidence of the Council's Playing Pitch provision witness left much to be desired in relation to the Council's case. His position was markedly at odds with negotiations during s106 and conditions discussion. The irrational concern about one developer completing their scheme, and another simply doing nothing at all drives the Council's position. It is misplaced. Crucially, though, the Council's Planning witness was candid enough to accept that RFR 5 should never have been placed against the Bellway proposals, and then went on to withdraw the RfR against the Bellway schemes.

253. Once we see beyond the irrational concerns, the playing pitches objections falls away. The statutory consultee is content. The relevant mitigation measures can be secured legally. There is no other reason to delay this much needed development. By the end of the Inquiry, RFR 5 has been withdrawn against the Bellway proposals. There is absolutely no need to withhold such a profound improvement to community facilities on a spurious basis.

### Delivery

254. The Council's Deliverability witness seeks to persuade the Inquiry that there are question marks relating to delivery of this development. However, it is not based on any realistic understanding of how such schemes come forward, the risks taken by developers, the significant step taken by an Examining Inspector (exercising judgement) to release a site, and the expectation from the application of policy to ensure that the system delivers such allocations for the benefit of the public.

255. The Council's witness accepted that he has no experience promoting and then subsequently delivering a development of this scale anywhere in the country. He has no evidence to support the position, for example, that land interests have not been secured in order to deliver the development and all the infrastructure that comes along with it. He sets out arguments about what sites should or should not have done and applies many assumptions that do not stand up to scrutiny. He pontificates in the hyperbolically hypothetical, by asking random rhetorical

questions. He then says the appellants have 'no evidence regarding whether the issues described above have been considered let alone resolved.'<sup>70</sup>

256. During cross examination he accepted that the three sites he sought to use to demonstrate the difficulties in delivering large scale developments were actually delivering now. Having read the signed MoU, he still has reservations that it is not a 'legally binding document'. His knowledge of the appeal site was poor, had not considered any conditions or planning obligations and did not apply his assessment to the reasons for refusal. He fails to understand the role that legal agreements and planning conditions play in (a) securing mitigation; (b) reduce risk and (c) ultimately ensure that the best interests of the public are secured. He also had a poor understanding of the arrangements and agreements between the main parties and was unable to explain why this development was inherently riskier.
257. The three examples of strategic housing sites cited do not help the Council's position in the slightest. The Council's witness accepted during cross examination that he had little to nothing involvement with any of these sites, and what he had done was nothing more than a desk based exercise.
258. The applicant for the Godley Green Garden village was the Council who had all the powers under the CPO to ensure delivery of the site. The Council's witness does not suggest that this is appropriate for this site.
259. In so far as the Gilston Garden Town site is being relied upon, the Council's witness conceded that a similar MoU was signed between the parties in Sniperley. It would appear therefore that if it was good enough for 10,000 dwellings across seven villages, it's good enough for just over a tenth of that amount in one corner of Durham.
260. The attempts to stitch together the circumstances of the Halsnead Garden village is comical and unconvincing. It adds no value to our Inquiry.
261. In none of these examples is the absurd proposition of delivering the school fully at the outset advanced by a serious local authority. They were all delivering units and infrastructure, and in so far as they were helpful examples, they show joint cooperation between parties. They show how quite straightforward the Sniperley allocation actually is, and how well both CDL and Bellway are working closely together.

#### Design and masterplanning

262. There is a clear position in design, layout and masterplanning terms. The Council has not thought it appropriate to attach any reasons for refusal in relation to the outline and hybrid proposals. The Council's Planning witness had the following to say about it: 'All in all, the scores represent one of the best first responses to an outline scheme I have tabled to the Design Review Panel.'<sup>71</sup>
263. With design being given more emphasis in the new Framework (December 2023), this is a scheme that has assessed the existing context comprehensively,

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<sup>70</sup> CD8.16 paragraphs 2.1.1 -2.1.13

<sup>71</sup> CD14.23 Appendix 01

processed through many design review panels, and crucially always respected the sensitivities of Sniperley Hall and Sniperley Farm, the non-designated heritage assets.

264. There has been a great deal of discussion at the Inquiry in relation to parking, design and which particular regulations apply to the current proposal. At the time when the applications were submitted, there was less off-street parking proposed than what is now required in the new SPD. To this end, there is clearly less likelihood of an over- dominance of off-street parking through the current proposals.
265. The appellants have been working quite closely to deliver a mixed approach to parking provisions. This includes on street, on-plot or within parking courtyards, consistent with accepted parking solutions. In order to mitigate against the visual effects of parked cars on street scenes, there is space for soft landscaping and street tree planting.<sup>72</sup>
266. Ultimately, the Bellway schemes (outline and hybrid) both respond well to the Council's and joint appellants Masterplan. There is no reason for refusal to refute. There is a balanced approach to the design code, parking typologies and the landscape strategy that adequately responds to the area.

#### Heritage

267. There has been no reason for refusal pursuant to heritage matters.
268. In relation to Appeal B (Outline) and Appeal D (Hybrid) they have been thoroughly assessed against the setting and any impacts to the non-designated heritage assets. Pursuant to Policy 5(e), there has been careful regard to the vicinity of Sniperley Hall and Farm. Similarly, pursuant to Policy 5(g) there has been careful consideration to the relationship between the Hall with land to the north and with Sniperley Farm, having regard to their setting.
269. There has been a careful and iterative design and masterplanning process seeking to create a scheme that has careful regard to the setting and character of Sniperley Hall, Sniperley Farm and Sniperley Park.
270. Appeal C provides a significant improvement by seeking to bring currently disused and dilapidated buildings which have been identified as non-designated assets back into use, preventing further decay and sustaining their significance.

#### Affordable Housing

271. The Council's position in relation to discounts and caps, contrary to national and local policy, was not something that Bellway was prepared to accept. The ramifications for this site and other allocated sites are therefore quite far reaching. This is why the Inspector's resolution, as hopefully to be endorsed by the SoS, is critical.
272. In summary, the difference and common ground between the parties is as follows:

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<sup>72</sup> CD6.07

- i. This dispute relates only to Appeal D, affecting 92 units in total;
- ii. There is no dispute about meeting the 25% AH policy requirement in the 'Highest Value Area' as stipulated in Policy 15;
- iii. The difference between the Council and Bellway relates to the discounts and/or caps to be applied to 'First Homes' and 'Discount Market Sale' (DMS);
- iv. This only impacts 23 dwellings (12 x 3-bed and 11 x 2-bed units) in relation to First Homes and only 14 dwellings (2x 3-bed units and 12 x2 bed bed-units) in relation to DMS;
- v. Viability of the whole scheme, in circumstances where there are multiple moving parts (price of school, bus service etc) remain at large;
- vi. On a without prejudice basis, Bellway made an offer of 37.5% across the two tenures with a view to avoiding appeal, this was rejected;
- vii. The Council's position has similarly moved since the proofs were exchanged, such that its own evidence is now out of date;
- viii. It is accepted that meeting the clear need of 836 affordable homes per annum is only possible with significant assistance from the private sector

273. Against that background, the following is the context in which we meet this issue;

- i. The County Durham Strategic Housing Market Assessment (SHMA) (the evidence base for the LP) only mentions Starter Homes, the equivalent of the yet to be invented 'First Homes'; and crucially whilst referring to the 20% discount, makes explicit reference to the national cap of £250,000 as applicable to Durham;<sup>73</sup>
- ii. The clear focus throughout, as agreed, relates to the meeting of the 836 additional homes needed per annum;<sup>74</sup>
- iii. The Local Plan Viability Addendum (2019) supporting the emerging Local Plan states 'The Framework is clear that there is a finite level of available monies derived from development which can be used to meet policy requirements. If the Local Authorities set their policies above this finite threshold, then this will undermine scheme delivery. Policies should therefore be carefully considered and set at realistic and deliverable levels."<sup>75</sup> (emphasis added)
- iv. The mentioning of 'Starter Homes' and 'DMS' is done so in the context of securing 'up to 80% of market value' and this 'potentially having a positive impact on viability';<sup>76</sup> This is all done with viability being in mind, and the

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<sup>73</sup> CD10.25 page 51 para 3.95

<sup>74</sup> Ibid, page 57, paragraph 3.122

<sup>75</sup> ID32 page 8 para 2.1.33

<sup>76</sup> Ibid page 11 para 2.1.6

need to increase the amount of affordable schemes that could be delivered.

- v. In sum, the testing ahead of the Local Plan does not mention price caps for affordable products and mentions a positive impact only at the 20% impact.
- vi. The Inspector's Report following the EiP re-iterates the importance of affordable housing and the need figure – both of which are established in the report together with single Durham wide Housing Market Area.
- vii. In then appreciating this through the Local Plan as adopted, Policy 15 expects Sniperley to provide the highest amount of affordable housing, which is common ground; The plan makes clear, in line with national policy, the importance of carefully assessing viability. It refers back to the viability assessment cited above, adding that it 'informed realistic targets for the delivery of affordable housing which do not threaten viability and the delivery of housing, and which include an assessment of the impacts of other policy requirements.'
- viii. The CDP makes mention of DMS being sold 'at a discount of at least 20%'.

274. In so far as we can rely on what the CDP saw in equivalent tenures to First Homes, DMS is a form of First Homes and we can see what the CDP states, and the 'at least 20%' national figure is as far as the CDP goes in introducing discount.

275. By the time we get to 2021, and the government introduces First Homes, the Written Ministerial Statement (WMS) makes it clear that in order to set a 'deeper minimum discount', there will be a need to demonstrate this 'through evidence.'<sup>77</sup> In this context, the Framework defers to the WMS on the approach to take on First Homes.<sup>78</sup>

276. Further, when it comes to the need to the setting of levels and types of affordable homes required, the Framework makes clear that it is to be understood in the wider context of other infrastructure required (i.e. education & transport in this case). Crucially, that policies 'should not undermine the deliverability of the plan'<sup>79</sup>.

#### Planning Practice Guidance (PPG) on First Homes

277. The PPG is clear that the starting point is the WMS, and that any departure from the 30% discount, must have robust evidence to support it. Further, it is expected that the assessment of such a need ought to be undertaken as part of the plan-making process.<sup>80</sup> Understandably, this is not possible at the moment given the recently adopted Local Plan. Nevertheless, we do know that as part of the evidence base for the emerging local plan, the Council did not seek to impose the discount and caps it seeks as part of this appeal for equivalent tenure.

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<sup>77</sup> ID 33,WMS 24 May 2021

<sup>78</sup> National Planning Policy Framework paragraph 6

<sup>79</sup> National Planning Policy Framework para 34

<sup>80</sup> PPG Guidance on First Homes, Paragraph: 004 Reference ID: 70-004-20210524

278. PPG Guidance states that minimum discounts should apply 'to the entire local plan area' and not be changed on a 'site by site basis'<sup>81</sup>. And an explicit expectation that any revision of minimum discounts occurs in 'future alterations to their plans.' The Council accepted that the levels of discounts and caps being sought at this appeal are the first of its kind, it is plainly obvious that they're doing precisely what the PPG states shouldn't be done. There are no other comparable sites in which this is sought anywhere in County Durham, nor indeed was the Council's Affordable Housing witness able to mention any other authority attempting the same.
279. Guidance makes it clear that '*Local price caps should not be set arbitrarily and should only be used if evidence demonstrates a need for intermediate housing at particular price points.*'<sup>82</sup> The Council's witness confirmed to the Inquiry that he had not consulted with the development industry as part of their consultation, nor did the Council undertake any due diligence to understand how their approach would affect them. It is plainly obvious now that these caps have been set arbitrarily, and the evidence is now being sought to make it fit. Rather than being led by the evidence.
280. The methods open to local authorities in ensuring that First Homes work well in their area are highly specific and does not support the approach being taken by the Council. In so far as the publication of interim policy statement is concerned, the guidance clearly expects that to be an adopted position. Only limited weight is appropriate, for a document that's still yet to be further consulted upon, and certainly quite far away from being adopted<sup>83</sup>.
281. In short, on First Homes, the position as articulated in the s106 is the 30% discount. This is as the only justifiable position following the evidence.
282. On DMS, the national position is quite clear, namely that it is 'at least 20% discount'. The CDP similarly considered at the time the same percentage, with a viability assessment concluding that such discounts made the plan viable, mindful of Sniperley being in the 'Highest Value Area'. Crucially, that this was always with a keen eye on meeting the identified (undisputed) need of 836 dwellings per annum.
283. The Council's whole evidence base on this is fundamentally flawed and puts into context the cap they wish to introduce. In the first instance, they wish to impose a cap that's over half the national cap (£250,000) and set it at £120,000. The market and developers have repeatedly told the Council this is not workable. Now the Council's position stands at £140,000, subject to further consultation. The £140,000 is based on the Council's untested viability evidence, (released during the Public Inquiry, and conveniently back dated to October 2023) which is new, has not yet been subject to public consultation and crucially does not test the Sniperley Park allocation.
284. The Council's position is untested and reliant on incomplete evidence. The Council have admitted the confusion between the gross / net income point.

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<sup>81</sup> PPG Guidance on First Homes, Paragraph: 004 Reference ID: 70-004-20210524

<sup>82</sup> PPG Guidance on First Homes: Paragraph: 005 Reference ID: 70-005-20210524

<sup>83</sup> GS accepted during XX that adoption was most likely towards the end of the year.

Further to this, the income multipliers are not reflective of actual lending – the calculations to determine the ‘affordability cap’ are based on grossly underestimated annual salaries and are figures after tax, rather than the gross figures that relate to lending. These representations will be made to the forthcoming public consultation.

285. The figure inserted in the s106 in respect of the DMS units is 67.5% of the Open Market Value; and a 30% discount against Open Market Value is to be applied in respect of First Homes in line with the nationally adopted position.

#### Emerging position on SPD and Interim Policy Statement

286. The Council’s emerging position seeks to circumvent the Local Plan by introducing policy via the back door. None of the evidence base relied upon has been properly tested, still less has any of it been properly scrutinised. There has been little if any interaction the private sector from the Council but that numerous objections had been made to the past round of consultation via the Housebuilders Federation and developers. The movement that has taken place between the previously stated position, and that soon to be ratified for the cap, demonstrates the arbitrariness of the Council’s position.

287. Notwithstanding the questionable attempts to introduce policy via supplementary documents and interim statements, the most the Inspector can do is attach very limited weight to this material. All the First Home evidence postdates the adopted development plan meaning that none of it has been viability tested in the context of the wider plan and its associated policies. The Council’s continued approach will almost certainly lead to a position of any adopted document being subject to grounds of challenge. Particularly, as indicated by the Council’s witness, the Council is determined to ignore the development industry’s views.

#### Conclusion on Affordable Housing

288. Bellway’s view is that what the Council is pursuing in this case will be highly consequential to its business. The lack of evidence, the early consultation of what is proposed, how far removed it is from the adopted position, PPG guidance, NPPF and WMS, all persuasively support the position advanced by Bellway at this appeal. To accept the Council’s case would be a first anywhere in the country.

#### Viability

289. There is a great deal of overlap of this evidence on viability and that heard in the context of affordable housing. In so far as the evidence by the Council’s viability witness and the appellant’s viability witness add further points, the following is worth noting.
290. First right up until August 2023, Bellway and CDL were of the view that the Council was likely to recommend that these appeals be granted consent locally. At that point the figures in relation to the infrastructure remained at large, and crucially there were no in-principal objections to the development at large. Only when this fell apart, and it was clear that the target of a September 2023 committee meeting was no longer in the offing, that the need for a viability witness became necessary.

291. Second, the Council's witness accepted that the only viability testing that took place to inform the CDP was in 2019 and even that was not site specific to take account of the known land interests and the likelihood of two separate planning applications on the Sniperley Park allocation. It was high level and the caps and discounts pursued as part of this appeal were not contemplated at all.
292. Third, the Council's witness was able to confirm that if the infrastructure sought, like the school, were to be built 'up front', this would have negative consequences on viability. The notion that this does not translate into a negative residual land value is fanciful. The appellant's witness confirmed this as part of her evidence and was not challenged in cross examination. Similarly, the Council's suggestion that it would have been prudent to undertake a viability assessment across CDL and Bellway allocation is absurd. Given the discreet impacts and specific (uncontested) apportionments make the approach taken appropriate here.
293. Fourth, the points taken by the Council in relation to whether the initial report is said to be PPG compliant, or indeed Royal Institute for Chartered Surveyors (RICS) compliant, are not worthy of a fuller response. Suffice it to say they make no difference at all ultimately to the outcome on this point for reasons set out above and further below. In short, the Council's witness accepted the appellant's assumptions on all the aspects of the assessment that matter, and the approach is PPG compliant in that it refers back to the local plan evidence base and follows the standardised inputs set out in PPG.
294. On the residual areas of difference, namely Future Homes Standard (FHS) and Gross Development Value (GDV), these are matters of professional judgement between the experts. The Council has not sought to appraise the FHS position independently, has not consulted the industry, and has approached this issue from a purely viability negotiations perspective when acting exclusively for Councils. As the appellant made clear, it would make an incompetent developer who tries to ignore this and not take account of it in the ultimate financial appraisals.
295. As the appellants viability witness explained, any example of the Council's witness supposedly agreeing with developers to omit FHS from appraisals will only be done in the course of viability negotiations to avoid appeal and will not be based on the acceptance that the costs will not apply as the Council's witness suggested. In the real world, the appellant's witness confirmed that the costs are included in RICS 'Red Book' valuations for lending purposes and bids to purchase land, which is not something the Council's witness can verify in his capacity of only acting for Councils. The costs associated with FHS of £2.944m must therefore be factored into any appraisal for scheme viability.
296. There was also a debate about whether there would be any value uplift associated with FHS, with the Council arguing that the impact would be 'cost neutral' and the appellant's witness using her developer side and valuation experience to explain why this is not the case. Namely, there has not been any house price increases since the introduction of Part L&F Building Regulations (an interim step on the way to achieving FHS), with Durham House Price Index (HPI) showing a small decline over the course of 2023. This shows that energy efficiency is not a priority for purchasers and is not impacting on house prices,

with bill savings already a known benefit of new build housing. No evidence was offered by the Council to contradict this point beyond professional conjecture.

297. On GDV, there is a difference of professional opinion. The appellant's witness set out in appendix 11 of her Proof, an evidence led detailed assessment of GDV that she believes to be optimistic and reflective of the comments provided by the Council's witness prior to the Appeal. The Council's witness merely adjusts this by attempting to quantify subjective valuation principles and increases the GDV to suit a particular conclusion. His opinion does not advance matters.
298. The appellant's witness was clear that in her valuation the discount from the Aykley Woods site was minor, but the premium applied when compared to the Priory View site was significant. Priory View is in fact relatively comparable in terms of rural position and house types and helps to demonstrate how Aykley Woods is outperforming the local market because of the bespoke house types and unique setting.
299. Much was made of the appellant's assessment of value at the Inquiry with the Council referring to the Bradley Hall report that was commissioned by Bellway. It was put to the appellant's witness that Bradley Hall, as local estates agents, have a better understanding of the local market than her, and the comments within their report about Aykley Woods being more exclusive and desirable carry more weight than her opinion. The appellant's witness was clear that the commentary within this report was likely to be exaggerated because Bradley Hall act as estate agents for Bellway and are likely to be overly positive to help secure future instructions.
300. The Bradley Hall valuation of the site within the same report for a selection of the house types is much lower than the appellants valuation. The difference across the respective house types is that the appellant's valuation is £25,000 - £50,000 higher per house type, which would obviously have a much more significant impact over 368 dwellings. This assessment of value by a local estate agent clearly supports her view that her assessment of GDV is optimistic and cannot be increased any further.
301. In summary, the conclusions to reach are these:
- i. Following national caps and discounts tested locally, the scheme is viable;
  - ii. Local Policy 5 is complied with by the current proposal;
  - iii. There has been no testing of the impact of the proposed value caps for Sniperley Park itself by the Council (with the only testing to date based on hypothetical typologies. This was released during the inquiry and is subject to public consultation so carries very little weight);
  - iv. The proposed scheme is policy compliant, and the onus falls on the Council to provide an evidence led assessment of viability which has not been done;
  - v. Based on the Council's emerging untested position, the scheme is £2.5m in deficit in viability terms.

- vi. If the scheme is expected to deliver a full delivery of infrastructure up front, following national caps, the appellant's viability witness confirmed it would lead to a negative residual land value.

### Planning balance

302. Sniperley Park housing allocation is the largest and most prestigious proposed by the CDP for new housing development. Those are the words of the Council's delegated report<sup>84</sup>. The Council no longer takes the point on the need for one application as opposed to two or for the need of a single s106 across both sites. There are two viable commercial appellants keen to realise the full potential of Policy 5, and it has a willing partner in the Council.
303. The Council's Planning witness confirmed that the Council and Councillors are committed to seeing Sniperley Park delivered despite no attendance by other senior officers or Councillors, and that any risks ought to be assessed on the balance of probabilities.
304. On Public Transport and Active Travel issues, the differences between the parties are well defined (as above). The net result is whichever way the Inspector decides this matter, consent ought to be forthcoming. RfR 2 falls away, and there will be compliance with Policy 5.
305. On the schools similarly the difference between the parties is well defined, with no disagreement in relation to the apportionment between the appellants. This will ultimately be resolved by the Inspector a 'Blue pencil' clause. The net result being Bellway will pay the requisite contributions at the appropriate triggers. RfR 3 will fall away and there will be confirmation that Policy 5 is met.
306. On the affordable housing asks, the Council's Planning witness was able to confirm that the requests relating to discounts and caps are pursuant to the emerging position. He also confirmed that only limited weight should be attached to the documents that will be consulted upon (SPD and Interim Policy Statement). For all the reasons stated above, the tenure percentages and caps advanced by Bellway are appropriate in the present case. In those circumstances, RfR 6 falls away and full compliance with Policy 15.
307. The issue of viability is closely related to that of affordable housing and the Council's Planning witness made clear he accepted that this was an issue that evolved over the summer of last year. During which time the s106 asks were not fully known, new caps and discounts were being introduced, and the implications for the hybrid scheme not fully comprehensible. It made sense on that basis to present a case on viability.
308. Ultimately, the Council's District Heating witness accepted that the matter of whether the district heating network had been explored (pursuant to Policy 5(i)) is ultimately a matter of judgement for the Inspector. He agreed that it should be understood in the context of FHS and Building Regulations and Bellway's commitment to no gas. This would ultimately mean that RfR 4 would fall away.
309. The public pitches reason for refusal 5 has been withdrawn.

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<sup>84</sup> CD15.15 paragraph 195.

310. Very candidly, the Council's Planning witness accepted that it was not 'his reading' of Policy 5 that a school ought to be built before a single unit is built or occupied. We agree. He confirmed that the Council no longer took the point that a single application and s106 was the only way to proceed with this application, nor was the same contemplated at the EiP.
311. He really struggled to explain why there was such a markedly different approach to the Sherburn Road (Policy 5) site and the Bellway application. A larger size scheme, with multiple landowners, including the Council (like here) albeit via one application (a point not pursued anymore here) was given local consent. Despite only having a one page masterplan, no competing masterplan and no landscape infrastructure delivery plan. Bellway is entitled to be fully aggrieved by this approach.
312. The MoU is an important document but should not be read in isolation. The Council's Planning witness was honest in accepting that it should be read alongside the legal agreement, legally enforceable planning conditions and the plain commitment by both Bellway and CDL to realise the full potential of this allocation. Without having any evidence to the contrary, he accepted that substantial weight ought to be attached to it in the context of all the other aforementioned components.
313. As to the decision-making approach in this case, the Council's Planning witness accepted Bellway's appeals can be consented in isolation to CDL, and vice-versa. He accepted it could have (and nearly was) consented locally. Plainly, it would make more sense for both to be consented together, but neither needs to delay the other as Bellway requested many times prior to appealing. He confirmed that Bellway is able to mitigate its own impacts, even if this means that sums paid to the Council could be deployed at a later date in case there are delays to CDL.
314. That this would similarly be in line with the public interest, and crucial to the delivery of this 'prestigious' allocation. The Council's witness accepted that there are no procedural or practical problems identified that could stop consent from being forthcoming.
315. The evidence of Bellway's Planning witness remains unchallenged in its entirety. He was able to confirm that he agreed with the Council's Planning witnesses assessment as set out above. One point pursued by the Council's advocate related to the 'calibrating' of the benefits in so far as they relate to 'generic' housing in the usual sense. There is no need to repeat here the list of benefits set out below, save to comment on the unique set of circumstances which led to the site being released from the Green Belt. Indeed 'exceptional circumstances' were needed to be established in order for this site to be released, and with that compensation land and other critical benefits/mitigations measures must be delivered. The healthcare offer is an example of a benefit that goes well beyond the 'generic'. Perhaps most crucially, the Framework landscape today in relation to Green Belt would mean that Sniperley Farm is highly unlikely to be realised in any local plan making process.
316. Far from these benefits being 'generic', they are now at an even higher premium than when the Local Plan was adopted in 2020.

## Benefits

### Economic

317. Sniperley Farm Buildings are to be brought back into use, resulting in the securing of future sustainability as a non-designated heritage asset.
318. The proposal would provide the right types of housing to meet the needs and aspirations of existing and future residents which would in turn support the economy's need for more and better jobs. This will help to address economic under-performance across the County by supporting the economic potential of Durham City. Further economic boost from the delivery of Aykley Heads by capturing business and investment growth, retaining graduates and creating opportunities to increase and retain spending in the City. This would improve the retail offer by reducing the impact of the fluctuation in population between University terms.
319. To summarise the benefits contained in either the legal obligations or elsewhere, they can be captured as follows.
- i. Healthcare: A contribution from Bellway of £178,710.00, to be spent towards a new health centre.
  - ii. Primary Education: A significant financial contribution (millions) to be used either towards the delivery of a primary school on the neighbouring site or a 0.5 form entry expansion at Framwellgate Moor Primary School or another existing primary school in the locality of the site;
  - iii. Secondary Education: Bellway's contribution (nearly a million) towards the expansion of Framwellgate Secondary School;
  - iv. Sniperley roundabout: Bellway's contribution of nearly half a million towards the construction and significant improvement of Sniperley roundabout for all users. This will be delivered either by the Council or by the developer of the neighbouring site (in which case the Council is to pay the sum to the developer of the neighbouring site);
  - v. Play Fields and Build Sports Facilities Bellway's contribution: of nearly half a million as requested by the statutory consultee, Sport England.
  - vi. Public Transport and Active Travel improvements; of £716,830
320. The Council accepted that substantial weight should be given to these benefits.

### Social

321. The delivery of much needed housing in order to maintain the Council's ability to demonstrate a five-year land supply and ensure that the housing need of 1,308 new homes per annum can be achieved on allocated sites rather than relying upon unplanned, windfall sites. Up to 370 new homes which meet NDSS.
322. Provision of up to 92/93 affordable homes (25%), comprising of 23 First Homes, home ownership and 56 social rent (92 affordable homes for Appeal D with 55 being for social rent). Including;

- i. 66% of homes to meet M4(2) standards.
  - ii. 10% are suitable for the needs of older people (level access flats and bungalows).
  - iii. 100% NDSS compliance.
  - iv. All homes to have the ability to connect to super-fast broadband.
323. Active and sustainable travel options designed to improve health and well-being:
- i. 490 metres of shared use cycleway / footways segregated from the road;
  - ii. 960 metres of new segregated footways including recreational welly walks;
  - iii. 2 educational boards documenting the local history of Sniperley Hall, Farm and Garden;
  - iv. Play facilities incorporating the 'play on the way' principles.
324. Again, the Council accepted that substantial weight should be given to these benefits.

#### Environment

325. All homes will meet or exceed Future Homes (Building Regulations) Standard. A commitment to 'greener' homes and no gas on site, in order to support the Council in its drive towards reducing carbon emissions by 80% by 2030.
326. Land has been gifted to the Council for the facilitation of the extension to the existing Park and Ride (enabling the delivery of 262 parking spaces, 29 disabled bays, 18 electric charging bays and 4 motorhome bays).
327. Low energy street lighting, Landscape Strategy is agreed in principle, and the following key features that are to be secured as part of this scheme.
- i. 4.83 hectares of linear park;
  - ii. One hectare of amenity open space; and
  - iii. 1.7 hectares of woodland.
328. The biodiversity net gain of 21.4% for habitat units and 18.59% for hedgerow units to be delivered. Ecological mitigation measures to be incorporated across these areas include the erection of:
- i. 110 no. swift boxes;
  - ii. 2 no. barn owl boxes;
  - iii. 74 no. bat boxes;
  - iv. Provision of hedgehog gaps in fences.

#### Appeal C

329. The Council has helpfully produced a delegated report supporting consent to the Appeal C application. Whilst the decision is now out of the hands of the

Council, this is a document that should be given substantial weight. The conditions attached to it are easily transposed over to Appeal C, as part of the overall recommendation.

### Conclusion

330. There can be little doubt by the end of this Inquiry how urgent the delivery of this allocation is in the present circumstances. The schemes speak for themselves, and if the last three weeks are anything to go by, the Council are now desperate, too, to see it being realised.

331. We commend Sniperley Park to the Inspector and to the Secretary of State.

### **10. The Case for the Council**

332. The following is principally a summary of Durham County Council closing submissions<sup>85</sup>

#### Issue 1

Whether a comprehensive masterplan for the allocation has been proposed which demonstrates the delivery of suitable and timely infrastructure and services in line with the County Durham Plan, the Council's adopted Masterplan and the Council's HATCP.

333. These propositions are agreed and are unanswerable:

- The Sniperley Park allocation was predicated on the basis that a comprehensive sustainable development would be delivered.
- Policy 5 and its structure requires that comprehensive development is delivered.
- CDL make no viability case on affordable housing or any other aspect of the Policy 5 requirements that would be an evidential basis to avoid deliverability.

334. In this respect CDL recognise that the emerging allocation was viability tested as a whole for 1,700 houses and included infrastructure consisting of a Western Bypass. The proposals before the Inquiry now are for over 1,900 houses with no Western Bypass requirement (estimated to cost £15M to the developers). The case for deletion of the Western Bypass was based on Sniperley Park being capable of achieving highly sustainable and attractive alternatives to the motor car.

335. The Council's Planning witness maintained in his evidence<sup>86</sup> that the focus was continually drawn to the appellants to the ability to achieve actual delivery of comprehensive development of the allocation across two separate and unrelated planning application areas. Specifically, neither appellant has expressed a willingness, still less an ability, to exercise control over the other's land.

336. The legal position, again not in dispute, is that:

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<sup>85</sup> ID66

<sup>86</sup> CD8.04 paragraph 3.4

- i. A decision-maker cannot require a planning permission to be implemented;
  - ii. A decision-maker cannot impose a condition that the development is completed or the development occurs up to a certain level;
  - iii. Where, as here, there are two applications, it cannot be assumed that each, or any approval would be implemented. Thus, the decision-maker cannot assume these appeals - even if approved - will be implemented.
337. Having chosen to submit two separate applications and appeals the decision maker must give effect to the legal consequences that flow from that election by the appellants. The appellants' joint mantra is that the possibility of them both not coming forward together is remote or extremely unlikely. Firstly, not so. Secondly, this is an issue of law and the decision maker should not and we submit cannot, ignore or fail to address the legal position and issues that flow from that.
338. The requirements for Sniperley Park as a sustainable urban extension were derived from those elements that constituted the exceptional circumstances that form the basis for the release of the site from the Green Belt. The case that has to be made for the demonstration of "exceptional circumstances" is a "high bar".
339. In this case there are two elements of considerable importance and weight: (i) that the development be comprehensively masterplanned and (ii) how phasing on these sites will have regard to the provision and timing of their infrastructure and the services necessary to support them.

#### CDL Position

340. CDL's Planning witness agreed that it is "crucial" to secure the delivery of the social and physical infrastructure across the whole of the allocation, and in particular, whether the individual and separate development appeals deliver comprehensive development.
341. It can be noted that the position of CDL has shifted during the course of the Inquiry in two material particulars. Firstly, as was pointed out in the first week, the draft obligation contains an obligation purporting to be a legally enforceable commitment whereby CDL would "pick up" any failure of delivery by Bellway. If Bellway had provided an obligation that it would assume the cost of approximately 20% of the delivery of infrastructure, CDL's liability would be no more than the remainder - approximately 80%. In truth the 100% delivery obligation fell away upon Bellway simply entering into an obligation themselves. The effect of this "trigger" would "disapply" any prospect of CDL being required to pay 100% of infrastructure costs. Importantly, even if the Bellway scheme that was subject to the obligation set out above was entered into but not then implemented, there was nothing that the LPA could do beyond the recovery of the prospective 80% that CDL were committing to. That position has now changed.
342. The second issue relates to the inclusion of CDL as a party to the planning obligation. The derivation of title has shown that CDL had a registerable interest in that it held an Option to acquire ownership of the subject land that had been entered into in 2018. There is a legal debate as to whether that would be a "prior interest" and that if CDL were to exercise their 2018 Option and were not

themselves a party to the Section 106 obligation on the exercise of it, they took free of any obligation entered into after the date of their Option agreement.

343. The entering into the planning obligation by CDL during the course of the Inquiry has removed that question and the need to address it. Quite simply, CDL have by the recent amendment to the planning obligation committed themselves to be bound by the planning obligations contained within it such that if the Option is ever exercised then CDL will be bound by its terms.

344. CDL have moved their case to align more closely with the decision at Sandlesford Park<sup>87</sup>. The Sandlesford Park decision concerns a proposal to build 100 new homes, 80 extra care housing units; a two-form entry primary school; expansion land for Parkhouse Academy School; a local centre; new means of access; open space including the layout of a new country park. The Inspector recommended that planning permission be granted.

345. The reasoning is interesting. The subject application covered some 85% of the allocated site. The effect of that case is that the proposal would not comply with the Core Strategy insofar as a bus link via Warren Road to Andover Road would not be provided. However, the Inspector concluded that the proposed bus service would provide a satisfactory connection and would have the potential to be extended in the future.

346. The Sandlesford SPD required a single planning application for the site. It was not part of the Statutory Development Plan policy. The Inspector noted that the appeal proposal occupied 114 ha out of the allocation of 120 ha. . The concluding paragraph appears at paragraph 16.248 where the Inspector concluded:

"The Sandlesford SDP is a material consideration of significant weight in this appeal. Amongst other matters it requires a single planning application for the entire site. This is not a requirement of the Core Strategy or the emerging Local Plan. **The proposal would deliver the necessary infrastructure in a timely manner and would not prejudice the development of the adjoining DNH site.** I do not find the failure to provide a single application for the entire allocation gives rise to any significant harm." [emphasis added].

347. The SoS agreed with this conclusion.

#### Policy 5 Requirements

##### Local Centre

348. Policy 5(a) requires the provision of a centrally located local centre as a focus "for community activity, including convenience retail provision." Thus, the requirement is to deliver, not to investigate whether the provision of such a local centre is viable in its own right.

##### Education

This is addressed below.

##### Structural landscaping

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<sup>87</sup> CD11.02

349. The purpose of the structural landscaping is set out in the sub-paragraph: to ensure suitable screening and that the perception of an extension to Durham City is minimised. It was recognised by the Local Plan examining Inspector as a matter of importance. There remains the issue of how this proposal will be implemented. The appellant's case is somewhat light on detail here.
350. The Council's Planning witness in his proof of evidence paragraph 6.25 stated "... the Council has nothing before it that ensures the delivery of the structural landscaping required by Policy 5 (c) from the appellants beyond a phasing plan which shows their provision of the landscaping in three stages from south to north. Given the great weight attributed by the EiP to the provision of the landscaping, the questionable delivery of the policy outcome is a concern for the Council in meeting Policy 5 (c)."
351. The only mechanism available to the Council is via the landscaping condition and to work into the same a requirement for the timing of the delivery of this aspect.
352. The Council accepts that in respect of Policy 5(d) drainage; 5(e) setting of Sniperley Hall and Farm; and 5(f) impact on the World Heritage Site - are acceptable in respect of the appeal applications.

#### Linear Park

353. A linear park of approximately 25 ha of open space, community woodlands and a network of footpaths and cycleways is required to be provided as a major benefit to new and existing residents. The park was to be provided in perpetuity through the centre of the site. Whilst not a land use matter there remains an issue concerning what is effectively the appropriation of Council owned land to deliver the linear park.

#### Green Belt Compensatory improvements

354. Policy 5(h) requires identified compensatory improvements to land remaining in the Green Belt. Paragraph 147 of the Framework requires development plans to set out ways in which the impact of removing land from the Green Belt can be offset through compensatory improvements to the environmental quality and accessibility of remaining Green Belt land.
355. The schemes are identified in Policy 5(h)(1) and (2) and are spatially separate. Plainly the land north of Potterhouse Lane is spatially unconnected with the Bellway site. That is not true of the scheme identified in Policy 5(h)(1). Whilst the compensatory land lies to the south of Bellway's site, there is a spatial relationship between the development of CDL and the compensation land to the south.
356. Without being overly simplistic, the two compensatory improvements that are required are not alternatives and are not identified as capable or appropriate for bringing forward separately. The conjunctive "and" is used. That plainly conveys a requirement that both be achieved upon development of the Sniperley Park allocation.

#### District Heating

357. This is addressed separately.

### Cycleways and footways

358. Policy 5(j) requires the development to be connected to the existing development to the east of the A167 through suitable, convenient, safe and attractive cycleways and footpaths in order to achieve sustainable and cohesive communities is addressed later.
359. This should be seen in the context of the deletion of the requirement for the Western Relief Road in recognising the sustainability of the location of the site and the extent to which convenient, safe and attractive alternative routes to the use of the private motor car could be achieved.
360. Active Travel is addressed later but it should be noted that LP examining Inspector placed an emphasis on this.

### Park and Ride

361. Consistent with the case of DCC throughout, it has moved on its own initiative to secure public funding from the Department of Transport for the extension to the Park and Ride facility. It has secured planning permission and the land was transferred to the Council during the inquiry.

### Bellway Position

362. The CDL application site covers 80% or thereabouts of the Sniperley Park allocation. As noted earlier in respect of the Sandleford Park proposal, CDL are proposing that, in the absence of a contribution from Bellway, they will deliver those elements of Policy 5 of the CDP facilitating the sustainable urban extension.
363. The position of Bellway as a "stand alone" scheme is in marked contrast to the ability of CDL to achieve actual delivery of the elements contained within Policy 5.
364. There is no evidence that Bellway have any degree of control over CDL land. The MoU<sup>88</sup> does not and is incapable of granting legal rights. A position not dissimilar from the Sandleford Park example. As the Council's Planning witness points out, Bellway have not even demonstrated that they have attempted to negotiate any control that would secure the timely delivery of the local centre required by Policy 5(a) of the CDP. <sup>89</sup> In the case of Bellway, therefore, in the absence of the provision of a centrally located centre that acts as a focus for community activities envisaged in Policy 5(a), the development of the Bellway site would amount to no more than an isolated and relatively remote housing development. The same is true for the other elements of Policy 5.
365. In circumstances where Bellway cannot demonstrate that there is control facilitating delivery their appeals must be seen in the light of an absence of evidence that the facilities can be provided with the consequence that the measure of their scheme is for housing development alone.
366. This observation runs through all aspects of the requirements of Policy 5 which is anticipated to be facilitated by the CDL development.

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<sup>88</sup> ID12

<sup>89</sup> CD 8.06, para.6.8

367. At its simplest, Bellway have no control over actual delivery of the local centre, primary school, the provision of structural landscaping, elements of Green Belt compensatory improvements, the securing of convenient, safe and attractive cycleways and footpaths that are connected to existing development to the east of the A167 etc.

368. This is the legal point central to DCC's case. Bellway have not adequately addressed it – they simply assert that the CDL proposal will come forward and the two schemes together will deliver.

## Issue 2

Whether the proposed development delivers adequate sustainable transport options, including walking, cycling and public transport to and within the site and to the wider area and whether the requirements of Active Travel are effectively delivered on and around the Sniperley Park allocation.

369. The national policy context for this appears in Paragraph 116 of the current iteration of the Framework such that applications for development should:

- Give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and,
- Second - so far as possible - to facilitating access to high quality public transport, with layouts which maximise the catchment areas for bus and other public transport services, and appropriate facilities that encourage public transport use;
- Address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- Create places that are safe, secure and attractive - which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards.

370. The Sniperley Park allocation was seen and promoted as a sustainable urban extension in the County Durham Plan. Policy 5(I) of CDP requires a contribution to delivering sustainable transport in accordance with Policies 21 and 22 of the CDP. The Plan had originally included a bypass solution to deal with the increase in traffic. The case put and accepted by the Examining Inspector was that Sniperley Park could be developed without the same. Policy 5 ends:

*'In order to reduce the dominance of car traffic and improve the permeability, both sites will incorporate convenience, safe and high quality bus, pedestrian and cycle routes within, and connecting to, adjoining facilities. A Transport Assessment and Travel Plan for each site will also be required to ensure that reliance on the private car is reduced and to mitigate the impact of increased traffic in accordance with Policy 21 and Policy 22.'*

## **Public Transport**

371. The SoCG on Public Transport sets out the areas of agreement and the proposed delivery mechanisms.

372. The first area that remains in contention relates to the mechanism for procuring enhanced bus services. The appellants propose that the Council procure the services using funding provided by the appellants. Both parties recognise that there is a distinct advantage in the appellants procuring the services. If it were the Council's responsibility, a public arrangement and tendering process would in all probability be required, whereas the appellants may directly engage with local providers to procure the services.

### Subsidy

373. There are two issues. Firstly, the method and level of subsidy is not agreed, whether that is a contribution if the Council is to provide the services or, in any event, an absolute maximum level of subsidy if it were the responsibility of the appellants to procure.

374. Secondly, the appellants' case relies upon a computation of the appellants' calculation of the maximum level of subsidy and relies upon an assumption in relation to cross-subsidy between different bus services to derive the maximum contribution amount. The level of subsidy is the issue. The Council does not consider that the cross subsidy will amount to 100% (resulting in the circa £600,000 payment) more realistically and precautionary is the evidence of the Council. Thus, the appropriate figure of subsidy is circa £1.7M. It is submitted that the latter figure should commend itself to the decision maker.

### Active Travel

375. It is agreed that the HATCP<sup>90</sup> for Sniperley Park that was adopted in June 2022 is a material consideration - because there had been public consultation and formal adoption. Since May 2023 the Council has been working on an update to the Plan referred to as the Sniperley ATP<sup>91</sup>. Whilst it is capable of being a material consideration, it is recognised as not carrying the same weight as the HATCP because of the absence of public consultation and resolution to adopt. Nevertheless, insofar as it is relevant, the issues identified in the HATCP are not materially different from those in the more recent iteration of the Active Travel Plan. Table 3.1 identifies the interventions. Those items which are not agreed, the Great North Cycleway (GNC) and Dryburn Road are addressed below.

376. GNC is a key strategic long-distance route that serves both local and long distance routes. It is also described as a "backbone" or the equivalent of the M1 (in cycle terms) providing primary and local routes. It is also one of the Cycle Super Routes within five miles of Durham City. Importantly in this context, the accessibility for the widest range of users is expected to be provided for. That includes people with buggies and cargo bikes; addressing the gender inequalities and addressing the less mobile and older population. Specifically, the design should allow for future growth. Considerable evidence is provided that people prefer direct, safe, easy to navigate routes.

377. The GNC lies to the east of the Sniperley Park allocation and runs north to south. This route can support both commuter and leisure trips across the region.

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<sup>90</sup> CD10.05

<sup>91</sup> CD10.06

It will also support shorter journeys around Durham and is well connected to employment sites. It is consistent with the exceptional circumstances case recorded in CDP. It provides:

**“Maximising the number of journeys undertaken by sustainable means such as walking, cycling and public transport and minimising overall journey distances and times.** This will help address congestion and associated issues such as air quality and carbon emissions and enable the creation of a more sustainable transport network across the city ...”  
[emphasis added]

378. A key area of disagreement relates to the provision of any existing shared use path next to the A167. The approach of the appellants in this instance is inconsistent with LTN 1/20 requirements. Paragraph 6.5.4 states:

“In urban areas, the conversion of a footway to shared use should be regarded as a last resort. Shared use paths are generally not favoured by either pedestrians or cyclists ... It can create difficulties for visually impaired people. Actual conflict may be rare, but the interaction between people moving at different speeds can be perceived to be unsafe and inaccessible, particularly by vulnerable pedestrians. This adversely affects the comfort of both types of user, as well as directness for the cyclist.”

379. It is not disputed that there is sufficient space within the highway to provide a fully segregated travel corridor for both pedestrians and cyclists. An aim of Policy 5 of CDP is of incorporating convenient and safe and high-quality pedestrian and cycle routes.

380. CDL dismisses the issue on the basis that there would be little or no development demand on a shared use path and that, in any event, there is an alternative route through the site. However, this is not a direct, nor is it coherent route. This alternative route would also result in delays and conflict. The diversion from a strategic route to a decidedly secondary route through a housing estate is a substandard solution. It fails in Framework terms to maximise opportunities to provide sustainable transport solutions<sup>92</sup>.

#### Dryburn Road – Active Travel corridor

381. This relates to Intervention No.8 and is a requirement for the developer to deliver an active travel corridor between New College Durham and Aykley Heads via Dryburn Road. This is a primary route in the Local Cycling and Walking Infrastructure Plan and is a logical desire line. The consequence would be its delivery would minimise overall journey times and distance. It is a preferable route as it is relatively flat in comparison to Southfield Way. It links to the northern zone of Aykley Heads which will see the first phase of redevelopment. There is additionally the issue of whether Aykley Heads is a key off-site facility for Sniperley Park residents. There is an obvious inconsistency in the appellants' case. The appellants recognise that there ought to be public transport provision to Aykley Heads and on that basis, it seems something of an anomaly that provision would not be made for Active Travel to the same destination.

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<sup>92</sup> Paragraph 109

382. During the course of the inquiry, it was agreed a feasibility study should be undertaken. If feasible the obligation secures funds to deliver a scheme. If not feasible then a fund is provided for transport improvements.

### Issue 3

Whether the proposal secures the delivery of a suitably sized primary school within the Sniperley Park allocation and offsets pupil demand for secondary school places in the locality.

383. The appellants agreed:

- i. that the educational infrastructure consisting of a two-form entry Primary School and Secondary School contributions are CIL compliant;
- ii. it follows that the appellants accept that in terms the Primary School provision is (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development;
- iii. that the Primary School would take about two years to construct and become available for use;
- iv. the Primary School would require 1.8 ha of land;
- v. that the Primary School was needed around the 600th completion of the residential properties at the Sniperley Park site and this figure reflects the capacity expected in other local schools after their capacity to accommodate would be exhausted.

384. It is clear that the provision of the Primary School will be required during the course of the development and such delivery is "crucial".

385. The appellants did not disagree that the development requires the delivery of the Primary School- ie an outcome, not a sum of money; and the developers should be responsible for 100% of the cost of providing the school.

386. The appellants' initial case was that the cost of the Primary School is £11,588.41827. The obligation now makes provision for circa £12.7M. It is purely a build cost and does not include any sum reflecting the cost of the land upon which the Primary School provision is constructed. The Council's case is that the figure of circa £15.1M in the obligation represents the more realistic assessment of cost but importantly if the costs are below there is a standard re-charge clause enabling the return of monies. The number of dwellings proposed by Bellway and CDL is then used to apportion the division of cost to the respective development sites - 19.27% is ascribed to Bellway and 80.73% is ascribed to CDL. It is apparent from the rebuttal evidence of CDL's Planning witness<sup>93</sup> that the apportionment is made to the £11.5M build cost.

### Secondary School

387. The need for the provision of Secondary School places is not in dispute, nor is

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<sup>93</sup> CD 14.33, PDF pp.22/23.

the calculation for the requirement. The nearest school is Framwellgate School. The school is already at capacity.

388. More importantly, it is subject to the Government's school rebuilding programme funded by the DfE and not the Local Authority. It is the DfE that is responsible for the design and construction. It does not extend to the need to expand the schools. It is, in short, a replacement for the existing school and no more. The initial estimates provided by the Local Authority for an extension to the Framwellgate School was costed at £7.2M.
389. When the Council became aware of the DfE school rebuilding proposal at Framwellgate, it acted in a proactive manner by engaging in discussions whereby the reconstructed school would be built such as to accommodate the Sniperley Park development. This would achieve a significant cost saving. The Council was informed by the DfE (without further particulars) that the capital contribution that was expected for the "future-proofing extension" would be of the order of £4.4M.
390. As a side issue, it is quite apparent that the Council was pursuing this matter of the extension in early 2023 and was under a different political control from that at the time of the Sniperley Park promotion and adoption in the Local Plan. That, of itself, should be sufficient to dispel the suggestion at Paragraph 6 of the Bellway Opening of the Council resiling from a commitment to Sniperley Park. If the intention was to stymie development at Sniperley Park then trying to secure a cost saving that exclusively benefits these developers to the tune of £2.8m might strike the SoS as a very peculiar approach.
391. The figure in the section 106 obligation is one of circa £5.1M including a contingency figure. Again, the provisions allow a repayment in the event that the costs do not exceed this figure.

#### Issue 4

#### Whether the proposal satisfactorily explores the delivery and viability of a district heating system.

392. Policy 5(i) of the CDP provides that: "Opportunities for a district heating network will be explored given the site's proximity to Lanchester Road Hospital and Aykley Heads ..."
393. There has to be a genuine and proportionate examination of the opportunities that are available for a district heating network at Sniperley Park.
394. Until recently the appellants' position was that a gas supply would be expected to be provided to the future residential properties at Sniperley Park. In the appeal they have shifted their ground and propose to deliver undertaking that there will not be a gas supply to the individual houses, but heat pumps will be used instead.
395. The Council's District Heating witness is clear that the evidence does not support that there has been an appropriate assessment investigating the opportunities for a district heating network for Sniperley Park.
396. The parties agree that the fourth-generation network would be the most appropriate opportunity to be considered. It is also called a low temperature

network. The Technical Note by Wardell Armstrong<sup>94</sup> does not present a feasibility for the site. It was a "high level" document that does not cover heating systems and is no more than "an introduction".

397. A Heat Network provides wider benefits beyond pure costs to the consumer including back-up to houses and greater resilience. A specific issue that is bespoke to Sniperley Park is the likely availability of mine water following the workings in the vicinity of the site. The concerns expressed by the appellants were overstated. Gateshead is an example where this has been pursued actively. The availability of the flooded mine seam and the water within it represents a "great resource". The temperature in the workings would be about 15 °C which would provide a resource to develop the heat network. Quite simply, the availability of mine water that could be accessed by boreholes represents a great resource that has not been explored.

398. The appellants point to the response of the Low Carbon Economy Team in a report prepared by the Net Zero Manager two years ago. The conclusion is straightforward:

"I remain unconvinced that District Heating has been suitably assessed, however I would not object to the application, if the Applicant were to confirm that all dwellings would be heated by Heat Pumps and that no gas would be taken into the site as an indication that the developer was taking the aim for Net Zero seriously."

399. There are, in essence, two conclusions. The first addresses the policy requirement of the CDP. In respect of that matter, he is unconvinced and notes that his response includes a report from the Coal Authority highlighting the potential for mine water heat around the site and their confirmation that the site could indeed be viable. He also notes that the applicant had not approached any suppliers of district heating networks to enquire about suitability.

400. The Net Zero Manager was present at the Round Table on District Heating. In response to the Inspector's question, he acknowledged that the heat pumps were essentially a "fallback".

## Issue 5

Whether the proposal provides sufficient quantum and quality of playing fields, together with replacement pitch provision with necessary ancillary facilities such as car parking.

401. There is no dispute that the proposals lead to a loss of playing pitches. SE permit loss of playing pitches only when an exception is capable of being established. Exception E4 states that the area of playing field to be lost as a result of the proposed development will be replaced, prior to the commencement of development, by a new area of playing field of equivalent or better quality and of equivalent or greater quantity, and in a suitable location, and subject to recruitment or better accessibility and management arrangements.

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<sup>94</sup> CD14.18

402. CDL propose to replace the loss by provision at Potterhouse Lane. The pitches that are lost are of "standard quality" as assessed in the County Durham Playing Pitch Strategy<sup>95</sup>. This is the mid-range provided in the Playing Pitch Strategy that range being from 'poor', 'standard' to 'good'. It was put to the Council's Playing Pitch Provision witness that the existing playing pitches were of poor quality and were "rubbish". This is no more than anecdotal evidence - properly so-called. No properly informed let alone expert evidence has been produced. Consistent with the criteria in the Playing Pitch Strategy, the Sniperley pitches should be regarded as anything other than "standard quality".
403. The SE consultation response referred to in the Council's evidence<sup>96</sup> shows an increased population on the CDL land of (2.31 residents per dwelling x 1,550 = 3,580). The quantification of a required contribution by SE then applied the playing pitch calculator (£790,640), a sports hall (£620,197) and swimming pool (£622,448) resulting in a total financial contribution requirement of £2,033,284. The issue that was addressed during the course of the evidence was the CDL case that the costs of the replacement fields should be deducted from the £2,033,284.
404. A further issue relates to the location of the replacement playing fields at Potterhouse Lane. The location of the replacement pitches is within the Green Belt. A point was raised with the Council's witness that parking facilities and a building to accommodate changing rooms would be capable of being regarded as unacceptable in a Green Belt location. Insofar as the parking and any building were appropriate facilities for outdoor sport and recreation and preserved openness this does not conflict with Green Belt policy. This is dealt with at Paragraph 154 of the Framework where an exception to the consideration of construction of new buildings in the Green Belt being considered inappropriate.

#### Involvement of Sport England

405. For reasons that are not entirely clear, it was considered by CDL that they were being precluded from engaging with SE directly. That was clarified and DCC were making it clear that there is no property in a witness and direct engagement with SE was not being precluded or objected to by the LPA.
406. This has resulted in a Sport England Meeting Note<sup>97</sup> that deals with a number of the substantive issues in respect of the playing fields. It has addressed the quantity of playing fields. It has been agreed that through conditions and planning obligations which could be put in place to ensure that the quantity of any playing fields lost in order to deliver the primary school can be offset through the replacement provision. In terms of quality, outstanding reservations were expressed by SE. Nevertheless, whilst it was not possible to fully satisfy SE's reservations at this juncture, it is agreed that this can be appropriately addressed at Reserved Matters stage.
407. The contribution of £2,033,284 was also addressed. The central issue was whether the financial contribution could be directed towards improving the

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<sup>95</sup> CD10.12

<sup>96</sup> CD 8.29, para.2.11.

<sup>97</sup> ID35

playing fields at Sniperley. The upshot of the conclusion<sup>98</sup> was that the money identified can be directed towards the improvements at Sniperley and to fund the improvements to the playing fields and the delivery of ancillary facilities. It was specifically concluded that if there were improvements to the quality of the replacement playing fields that would be delivered north of Potterhouse Lane compared to those being replaced then if agreed at a later date as "betterment" this would be deducted from the balance of the final financial contribution. Any unspent money from the overall contribution could be directed towards improvements to sports facilities - sports halls and swimming pools - in the wider local area.

### Bellway

408. In respect of the Bellway proposal, this will lead to an increase in population of 888 which is not of a scale to generate demand for on-site provision. The SE consultation response<sup>99</sup> provided the Sports Facility Calculator upon which the Council's case was based. The increased demand would require a contribution of £183,844 to playing pitches and a further contribution of £289,552 required to meet sports facilities demand from the Bellway development.

### Issue 7

#### The benefits of the proposal

409. The starting point for considering the benefits is the degree to which each and any of the appeal applications would provide benefits. This requires the decision-maker to apply the consideration of what is the subject matter within the four corners of the appeal application that is capable of being enforced such as to enable the decision-maker to satisfy themselves that actual delivery as opposed to theoretic elision with another development will occur.

### CDL

410. At the point of exchange of evidence, a carefully drafted section 106 planning obligation had been provided and appended to the evidence of CDL's Planning witness.

411. A careful reading of that document led to the point being made during the course of the Inquiry that CDL was only binding itself to the delivery of 80% associated with the delivery of requirements contained within Policy 5 of CDP. a further concern related to the extent to which CDL, not being a party to the planning obligation itself, may on the exercise of their agreement of 2018 be capable of being "free" of any obligations subsequently entered into by the owners. These matters have now been addressed in the latest planning obligation.

412. CDL therefore appears to have brought itself much closer to the position expressed in the Sandford Park decision<sup>100</sup> by itself undertaking the delivery of 100% of the policy obligations contained in Policy 5 in respect of the local centre,

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<sup>98</sup> ID35, para.4.7.

<sup>99</sup> CD9.01

<sup>100</sup> CD11.02

education - both primary and secondary, replacement pitches, the laying out and provision of the linear park, public transport, accessibility to the east of the A167 etc.

413. In the event that planning permission were granted for the CDL proposal and implemented, the obligations would become enforceable by the Local Planning Authority, and consistent with the power contained within Section 106 in default the Local Planning Authority could execute the works and charge the owners of the land for that intervention.

#### Bellway

414. The position of Bellway is markedly and obviously different. The legal position that has been set out in a number of places in the Council's evidence remains. In the event that any planning permission granted to CDL is not implemented or implemented in a timely manner, as the Bellway appeals are exclusively for housing, the delivery of the Policy 5 elements required for a sustainable development do not materialise. These are not "goodies" but are inextricably linked to securing sustainable development as required by Policy 5.
415. That is not to say that a housing proposal is of itself harmful. The delivery of market and affordable housing is a matter of considerable weight as a benefit of the proposal. But it would be wrong to over-inflate the benefits associated with the Bellway proposal and would be wrong in law to elide those benefits with those of the CDL proposal when Bellway have no control over delivery.
416. A specific benefit of the Bellway proposal is in bringing back into beneficial use Sniperley Farm and associated buildings which are non-designated heritage assets (NDHA).
417. The Council acknowledge that the addition of 370 dwellings would contribute to sustainable development in economic, social and environmental terms. But this is easily overstated. It is not materially different to the case of any residential development of the same quantum and the weight to be given to those benefits must be calibrated in light of that fact.
418. Bellway was not seen as an isolated fragment of potential residential development to be brought forward in isolation from the remainder of Sniperley Park that "will be a sustainable urban extension". On the contrary, it was and remains part of the "largest and most prestigious allocation in the Durham Plan", the sustainability credentials of which were examined thoroughly in the EiP. There is simply no evidence to suggest that bringing forward piecemeal components of the Sniperley Park allocation as a whole was regarded as an appropriate way forward. The comprehensive nature of the development was emphasised throughout. Bellway in isolation is not "comprehensive". It is not associated with those elements embedded within Policy 5 of CDP designed to achieve a comprehensive, sustainable extension to Durham.

#### Issue 8

Whether Appeal D makes appropriate provision for the delivery of affordable housing to meet the needs of residents having regard to viability.

419. The CDP was adopted in October 2020. Policy 15 states that affordable housing will be sought on sites of 10 or more units. 25% is sought in the highest value areas. The lowest that is sought is 10% reflecting low value areas. 10% of the homes provided should be for affordable home ownership (starter homes, discount market sale housing and other affordable routes to home ownership). Policy 15 then requires that any contribution above 10% should be provided as affordable housing for rent. Policy 15 accords with Paragraph 66 of the framework. After the adoption of CDP, a WMS<sup>101</sup> in May 2021 was produced concerning First Homes.
420. DCC has elected to make the development requirements for First Homes clear in their area by the provision of an Interim Policy Statement (IPS). This accords with PPG and states that local planning authorities are also encouraged to make the development requirements for First Homes clear for their area. The most appropriate method or tool to do this will depend on individual circumstances for each local planning authority. These might include (but may not be limited to): publication of an interim policy statement or updating relevant local plan policies. Local planning authorities should assess their own circumstances when considering the most appropriate way to achieve this in their context.
421. The key point is that CDP is recently adopted. It made up-to-date provision for affordable housing through Policy 15. The guidance<sup>102</sup> requires a minimum of 25% of all affordable housing units secured through developer contributions should be First Homes. The expectation is that First Homes and the mechanism to secure the discount in perpetuity will be secured through planning obligations. The subject scheme at 368 dwellings gives a First Homes requirement of 23 units.

#### Housing Need

422. The SHMA<sup>103</sup> established that County Durham constituted one Housing Market Area. For that assessment, ONS data in terms of the Travel to Work areas is one of self-containment. There is no warrant or evidential basis for the appellant's case to subdivide the area into different pockets for the application of policy and a different identification of what is affordable for each of those pockets.
423. At Paragraph 47 of his report the Local Plan Examining Inspector stated<sup>104</sup> that for the purposes of plan-making, County Durham can be considered to be a single housing market area. This is because there are high levels of self-containment. For example, 82% of the people who work in the county also live there, and 72% of people who move to a house in the county previously lived there. Adjoining authorities have taken consistent approaches in their adopted or emerging plans.

#### Discount market sales

424. The definition in Annex 2 of the Framework refers to a discount of "at least 20%". This is clearly a floor, not a ceiling. It would follow that greater than 20% would also be acceptable in principle.

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<sup>101</sup> ID43

<sup>102</sup> PPG ID: 70-012.

<sup>103</sup> CD10.25

<sup>104</sup> CD10.07, para.47.

425. Crucial to the achievement of meeting affordable housing need is the determination of what is truly “affordable” and the evidence to support the determination. The approach to the calculation appears in the evidence of the Council’s Affordable Housing witness<sup>105</sup>. In short, it is as follows:
- Average income: £17,228 x 2 (couple): £34,456
  - Maximum mortgage: £103,368
  - 15% deposit: £18,000
426. The application results in an affordable housing quantum at £120,000.
427. In cross examination, the Council’s witness was challenged on the basis that the maximum mortgage was assessed by reference to a multiplier of 3. In evidence he explained that that is the figure used by estate agents/other providers on an almost daily basis. A figure was put in cross examination of a multiplier of 5. No evidence has been provided to support that figure. The Council’s evidence should be preferred on this issue being a matter with which it engages on a daily basis.
428. There are a number of areas of dispute in respect of 23 dwellings being the level of discount to ensure affordability of the First Homes. The appellants’ Statement of Case - that was self-evidently produced after their appeal had been launched - continued the reference to 37.5% as the applicable discount. Bellway are seeking to resile from the content of this document.
429. Nevertheless, if affordability is to be achieved then those making the application will logically be required to pay more than that which is truly “affordable”. The application of a percentage deduction does not, of itself, secure that a property would actually be affordable. The approach to a price cap is entirely consistent with PPG<sup>106</sup>. This states that:
- ‘Local price caps should not be set arbitrarily and should only be used if evidence demonstrates a need for intermediate housing at particular price points. Whilst the national standard price caps will be high for many local areas across England, homes built as First Homes will need to be of appropriate size and price for first-time buyers in any area. The national price cap should not be used as justification for delivering more expensive properties than are necessary or required in any area’.
430. The IPS on First Homes has been informed by an independent evidence base prepared by ORS<sup>107</sup> (2022) and is evidence driven. This specifically confirmed the reduction in the cap from £250,000 (referenced in national PPG) to a cap of £120,000 would be required to make the properties affordable.
431. The IPS is undoubtedly a material consideration. Weight can be given to it as it consistent with the Framework, PPG and CDP. Policy 15 states:

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<sup>105</sup> CD8.33, para.2.24 et seq.

<sup>106</sup> PPG ID: 70-001 and 005.

<sup>107</sup> CD10.24

“To contribute towards meeting the needs of the county’s existing and future residents we will require all qualifying new housing proposals to provide a percentage of Affordable Housing which is accessible, **affordable and meets the needs of those residents unable to access the open housing market.**”  
[Emphasis added].

432. The policy requirement is for affordable housing that meets residents’ needs not cheaper housing. Price cap is a means recognised in PPG (see above) of delivering affordability. In this context an emerging SPD attracts weight albeit not full weight until completion and adoption. Important here is the evidence base of the emerging SPD. The independently prepared evidence base of the SPD and it being elided with national policy and guidance together with CDP Policy 15 carries weight as an expression of the same.
433. The second area of dispute relates to DMS properties. The issue is raised in respect of two 3-bedroom houses. Again, the level of discount reflects the value of a 3-bed property. The 3-bed properties would have a discounted price to £140,250 (mid-terrace) and £143,000 (end terrace). This was considered appropriate and properly reflects the 3-bedroom dwelling house compared to a 2-bed apartment.
434. The third area of dispute relates to the cascade mechanism in respect of the 12 DMS 2-bed apartments. DCC had assumed and understood that the intention for all of the apartment units were to be at an affordable rent and managed by a Registered Provider of Affordable Housing. The position of the Council is that the cascade mechanism is included in any Section 106 obligation. In circumstances where there is no demand for the property on a first or subsequent sale, then the property would cascade to other forms of affordable home ownership and, in the last resort, affordable rent. The position of Bellway is that the cascade should “ultimately revert to market sale” with a payment in lieu to the Council to enable it to provide affordable housing elsewhere. This is inconsistent with the approach in paragraph 63 of the Framework of creating mixed and balanced communities.
435. The fourth area of dispute relates to 12 DMS 2-bed apartments in respect of the service charge. It is inevitable that a service charge for an apartment scheme would be required to appropriately manage the common areas.
436. DCC would expect to be able to understand this service charge to ensure that it does not impact upon affordability. There would have to be a mechanism for supervision, through a condition, to provide or circumstances where the service charge would be established. In short, without some control over the service charge (including its future application), the determination of whether a proposal meets the requirement for being affordable is not capable of being established.

#### Housing Needs :Viability

437. The Council’s evidence in respect of viability has been prepared by independent consultants. The evidence of the Council’s witness <sup>108</sup>addressed the issue of viability in the context of the Framework, PPG and relevant RICS guidance.

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<sup>108</sup> CD8.36 and C 8.37; CD8.50 and CD8.51.

438. It is important to note that the evidential basis of the Bellway case was introduced remarkably late into the proceedings. The “discussion document”<sup>109</sup> that was provided almost immediately before the appeal was launched calculated the GDV of the Bellway development at £286 per square foot: Construction costs of £139 per square foot and abnormals at £13,970,508. This was unsupported by evidence.
439. Paragraph 58 of the Framework firmly places the burden of proof on an appellant where there is an up- to-date Plan with policies setting out the contributions expected from development.
440. The Council’s Viability witness raises a number of criticisms with the approach adopted by Bellway including that the viability assessment should refer back to the Plan’s original viability assessment and demonstrate evidence of change; it should be supported by appropriate available evidence and use available market evidence; it should use local market conditions in respect of the calculation of costs and importantly, provide a sensitivity test. This is mandatory in RICS guidance.
441. The Council’s consultants responded in November 2023 to the “high level review document” submitted by Bellway. It should be noted that the sales rate was challenged, his assessment being £300 per square foot. The evidence of Bellway’s Viability witness <sup>110</sup>actually represents the first properly so-called viability assessment submitted by Bellway.
442. It is noteworthy that this is still deficient in a number of material particulars including that the information still does not provide a detailed explanation of the abnormals cost. The importance in respect of the abnormals is that they impact upon the Benchmark Land Value calculations. BLV is existing use plus a premium to incentivise the owner to part with the land for development. This has been examined in two cases which are the subject matter of Decision Letters in respect of land at Trafford and Lancaster. The worked-up hypothetical cases in the evidence of the Council’s witness<sup>111</sup> demonstrate the impact and importance of having a clear understanding of the abnormals cost.

#### Future Homes Standard

443. There is a dispute between the parties that remains unresolved as to the treatment of FHS. The introduction of the Standard is anticipated to cause a reduction in carbon omissions at 75% - 80% compared to buildings erected under the current Building Regulations. The inevitable consequence would be that there would be reduced energy bills for householders. What is unknown at this stage - and no evidence one way or the other exists - addresses what consequences in terms of viability assessments this necessarily involves. It represents an additional cost. However, there is a corresponding value associated with the reduction in energy bills which is consequent upon that cost. In these circumstances, the Council considers it is plausible that there could be an

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<sup>109</sup> DN PoE CD8.36, Appendix 3.

<sup>110</sup> CD14.30 and CD14.31.

<sup>111</sup> C8.50, para.2.7.7, 9/44.

increase in value to offset the additional costs in meeting the FHS Standard when introduced. He nevertheless proceeds on the basis that the effect is neutral.

### The Appraisal Assumptions

444. This is dealt with in the Rebuttal evidence of the Council's Viability witness.<sup>112</sup>
445. The use of comparable evidence to calculate the GDV is important and is a fundamental step in the assessment of viability. The comparable developments from which evidence of value can be derived are Aykley Woods (Persimmon) and Priors View, Pity Me (Storey Homes). These are the comparables according to Bellway's witness. The Council's witness regards these as likely to be inferior to the price that could be realised at Sniperley Park. His opinion is shared by the CDL Planning witness who in cross examination regarded Sniperley Park as likely to be the best residential site when available and better than the two comparables relied upon by Bellway's Viability witness. It is also not without significance that the Chartered Surveyors/Estate Agents on behalf of Bellway commented upon the attractiveness of Sniperley Park<sup>113</sup>. The letter is dated 15th August 2023. They stated:
- "This site is a flagship site within Durham and one that has been in the public eye for some time. Our Durham Residential Office have sold numerous properties in the immediate vicinity of this site and are also of the opinion that this site will overperform and be extremely popular once released to the public."
446. The reliance upon the calculation of value per square foot does not help the appellant. This is a "relative" assessment. It is an assessment of Sniperley Park being, in effect, the best residential site that would be available in the County Durham market and be likely to "overperform and be extremely popular".
447. Furthermore, the Council's witness corrects the evidence of Bellway's witness in that she has relied upon a number of properties that are "second-hand". New build would attract a premium of at least 10%.
448. In terms of developer profit, Bellway's witness relies upon 20%. That was a figure that was deployed at the time of the viability assessment for the whole of Sniperley Park during the course of the EiP. It is to be noted that the PPG on developer profit produces a range of between 15% and 20%. In this particular case, the level of profit is almost exactly at the mid- point in PPG at 17.49% and therefore well within the range of acceptable levels of developer profit within PPG.
449. Re-visiting the issue in accordance with RICS guidance, the market value should be assessed at £305 per square foot; with no deduction for Future Homes Standard; an adjusted sales period to six months after construction including the Council's housing values being applied together with Section 106 contributions, the residual land value is above £9M.

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<sup>112</sup> CD8.50.

<sup>113</sup> CD8.49 Appendix 4

450. Even following a sensitivity test, 0.5% up or down in sales and construction costs, sales fall to £298 per square foot and costs increase and the residual value is just below £7M and therefore above BLV.

#### Issue 8

##### The Overall Planning Balance.

451. CDL has now committed to delivery of Policy 5 requirements.

452. Bellway as a scheme to be considered on its own merits delivers sustainability benefits as a housing scheme. Crucially to the local planning authority, it conflicts with Policy 5 of the CDP as it cannot deliver the specific policy requirements that underpin the allocation. For delivery, Bellway is entirely dependent on the delivery by CDL.

#### Issue 9

##### The effect of the proposed development on the significance and setting of designated and non-designated heritage assets within and in proximity to the site.

453. This relates to Appeals B and D. DCC has made it clear that they have no concerns in relation to any impact on the significance and setting of designated and non-designated heritage assets in the vicinity of the site.

#### CDL

454. The policy context is set out in the CDP at Policies 44 and 45. It will be noted that Historic England raised no objections to the proposal. It forms no part of DCC's case that heritage is a sound basis to criticise these proposals.

#### Bellway

455. The delegated Report in respect of the hybrid application has no objection to the development and recorded that Historic England raised no objections to the proposal.

#### Issue 10

##### Whether the proposed development constitutes poor design and overdevelopment with an over dominance of off street car parking

456. This turns upon the degree to which the Active Travel and public transport impact on the proposal. In particular, if the DCC interventions are made out the need for additional parking would be negated in the hybrid scheme and therefore the appeal would be in line with the Parking SPD.

#### Issue 11

##### The effect of the proposed development on the significance of Sniperley Farm, a non-designated heritage asset.

457. This relates only to Appeal C. There are no matters in dispute and the only issue relates to the status of Sniperley Farm being an NDHA. The DCC have no objections to the proposal that constitutes a bringing back into beneficial use of Sniperley Farm. On that basis, the LPA recognise that what is proposed produces a heritage benefit.

### Overall conclusion

458. Whilst considerable progress has been made and CDL have adopted a position of overall responsibility for delivery, their proposal still falls short of what can be expected for a fully policy compliant scheme. For example, CDL remains reliant on the Council to deliver important elements of the overall scheme including Park and Ride.
459. Bellway is seen in a completely different light as it is unable to secure a means by which it can secure compliance with Policy 5. The SoS should not cross his fingers and hope for the best.

## **11. Other Persons appearing at the Inquiry**

### **City of Durham Trust**

460. City of Durham Trust provided two statements before the inquiry and their representatives, Mr Lowe, Mr Phillips, Mr Hurlow and Mr Ashby gave further oral evidence and provided speaking notes at the event<sup>114</sup>. The following is a summary of the material points made.
461. The City of Durham Trust is a civic society founded in 1942 that works to protect and enhance the natural and built environment of Durham City and its surroundings. The Trust has been closely involved in the emergence of Sniperley Park as Site H5 in the approved County Durham Plan and especially in the independently examined and modified wording of Policy 5. For the avoidance of any doubt, the Trust fully supports the approved County Durham Plan's policies relating to the Sniperley Park housing allocation.

### Masterplan

462. It is not clear which masterplan and design code (the Council's or the appellant's), if any, will be applied to subsequent reserved matters applications if the appeals are allowed. To avoid further dispute and delay, this should form part of the determination of the appeal.
463. While the joint Comprehensive Masterplan includes information on the phasing of the overall development, it includes no timescales. The whole of the Bellway portion and part of the CDL portion is allocated to Phase 1 of three. The retail at the local centre arrives in Phase 2, meaning that residents will not initially have access to food shops within walking distance, and indeed according to para. 5.74 of the CDL Statement of Case, the retail would only be provided prior to the 800th dwelling in the CDL allocation. In the separate application from Bellway there is a more detailed phasing plan for the Bellway land, but that part of the site closest to the Park and Ride is almost last to be developed, which will suppress the use of Park and Ride bus services by the new residents. The Trust considers that these phasing issues should be examined when considering the adequacy of the proposed masterplans, with the aim of ensuring as early as possible in the build-out of the development that residents have the amenities which they need in order to minimise use of the private car.

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<sup>114</sup> ID8, ID17, ID19, ID28, ID29, ID37, ID42

### Design, quantity of development and highway impacts

464. The Trust considers that the quantity of housing proposed will result in poor design and limited character areas unsupported by a consistent Design Code, contrary to Policies 5 and 29 of the County Durham Plan. The Trust considers that the application fails to demonstrate the required design qualities. The Trust considers that the submitted information fails to deliver Design Codes as recognised in the guidance issued by the Ministry of Housing, Communities and Local Government - Guidance Notes for Design Codes, 2021. The design approaches are based on basic collections of standard house types, lacking County Durham or Durham City distinctiveness.
465. The Trust considers that exceeding the Policy 5 figure of 1,700 homes is also likely to affect the design quality, and will limit the scope to deliver on important policy requirements such as the orientation of houses to optimise thermal comfort and solar PV; legibility, priority and directness for the path network; land-efficient car parking provision which can be re-purposed if car ownership declines in line with DCC targets and higher quality public space and parkland.
466. The Trust considers the Design Code submitted with the Bellway Hybrid application unfit for purpose. Its greatest concern is focused on the Bellway Hybrid application because of its advanced stage of detailed design and lack of scope, if approved, for improvement. On the Bellway site the squeezing in of the parking proposed contributes to dictating the layout, limits the scope for good orientation for solar gain and solar panels, viability, and affordable housing provision. It also limits space for necessary landscape provision in the body of the development. At present, apart from the paths round the edge, it does not look any different from a typical car dependent accretion, and the copious car parking and good road access will only reinforce this.
467. The SHMA indicates greater need for 2 and 3 bed properties than the developer intends to provide. Moving away from common approach of detached, semi-detached, and short terraces to more compact built forms, including potentially more apartments, would free up a lot more space to improve the quality of the development and would better meet the housing needs identified in the SHMA.
468. Policy 5(e) requires the design to have regard to the character and setting of the Hall and Farm, the layout of the housing immediately to the north of the Hall has eight houses back onto the historic parkland with 1.8m close boarded fences. This does not have regard to the character or setting of the Hall. The partial open space buffer is minimal with no screening other than a new hedgerow, and the remainder of the boundary area is formed from relatively small rear gardens, failing Policy 29(I). The whole arrangement falls substantially below the design quality expected by the policy.
469. With regard to Sniperley Farm, the design approach adopted for these houses offers very little change from the standard house types otherwise proposed. There is little that is distinctive in the surrounding proposed development and the farm's distinctiveness is harmed by the new housing.
470. The submitted plans and information show substantial areas of the open space being taken up with SuDS drainage basins, including within the linear park. Great

care will be required in their management to fulfil their potential without decreasing the functionality of the landscape areas as open space.

471. Much focus was placed in the Examination in Public on the capacity of the road network to cope with the 1,700 houses proposed by the County Council. Whilst the Inspector rejected the need for the Western Relief Road, he set out other requirements necessary to ensure safe and suitable access to the Sniperley Park site. Policy 5 was amended accordingly in particular part I) which requires "capacity improvements along the A167 corridor from Neville's Cross to Sniperley, including improvements to Sniperley roundabout".
472. The Highway Authority have commented that the increased motor traffic can largely be accommodated on the existing road network, and remarks that an assessment of the A167 south of the Sniperley roundabout was excluded from the scoping. They also state that the Neville's Cross and Toll House Road junctions already experience queues and delays and that with the Sniperley Park development expected to contribute "only 5%" additional traffic at these junctions, a planning obligation to fund amelioration could not be justified under the Community Infrastructure Levy Regulations 2010. This approach appears to be contrary to the assessment of the EiP Inspector.
473. The Inspector of the County Plan rejected the proposed Western Relief Road for several reasons including because it "would cause significant harm to the rural landscape" including the settings of several heritage assets. It is essential that sufficient measures to promote sustainable transport are included in the planning obligations for the Sniperley Park development to minimise the cumulative impact on those parts of the existing road network which are congested, including the environmental impact on air quality and pollution, and to avoid the need for a relief road arising again in the future.
474. With the numbers of dwellings proposed significantly exceeding the Policy 5 allocation, the appeal should carefully consider whether it is appropriate for further active travel measures identified in the HATCP and the Durham City Sustainable Transport Delivery Plan to be funded through planning obligations on the Sniperley site. The Trust does not share the view of the Highway Authority that a 5% increase in traffic is a "relatively small additionality". Indeed, in this case 5% of a very significant amount of existing traffic at the Neville's Cross and Toll House Road junctions would be itself a lot of traffic.

#### Sustainable transport

475. The Trust considers that the proposed developments do not deliver adequate sustainable transport options to future residents, and that these options depend on delivering the full package of mitigations contained within the HATCP, designing cycle access that fully complies with LTN 1/20, and providing suitable bus services without extending journey times of existing bus services.
476. In its submission to the Council's consultation on its Masterplan, the Trust argued for a more radical layout to prioritise sustainable transport access to the site and discourage shorter car journeys. Nevertheless, without changing the basic road layouts, the Council's Masterplan and the applications under appeal could be strengthened by restricting some through routes by the use of bus gates or cycle/walking filters.

477. The proposed new access roundabout on the A167 is much further south than that proposed in the Council's Masterplan and reduces the likely catchment area of the proposed bus service to the Arnison Centre, meaning that dwellings in the northern part of the site will be too far from a bus stop. The proposed diversion of the existing 16/16A service away from the B6532 attempts to remedy this but will extend existing bus journey times. The Trust considers that the Council's Masterplan provides for more effective and convenient bus access.
478. CDL's outline application reserves all matters except access. The application, however, is only specific about access arrangements for motor traffic, which is exactly opposite of how the Framework envisages priorities for design. Active Travel England concurs in their response of 9 November 2023. The Framework's priorities are also supported in the Department for Transport's Manual for Streets and indeed by the County Council itself in its 'Durham City Sustainable Travel Delivery Plan'. The priorities are to consider pedestrians first, then cyclists, then public transport users, then specialist service vehicles, and finally consider other motor traffic last.
479. Where the CDL application proposes motor traffic access arrangements in the form of new junctions and road crossings, the Trust considers these do not comply with the appropriate design guidance in respect of the walking and cycling access. The Trust supports the need for the mitigations contained within the HATCP, and would go beyond this plan in seeking higher quality provision in some cases,
480. The Trust considers that a 40mph limit is less likely to be observed on this stretch of the A167 without further engineering measures. The Trust suggests these two issues could be addressed by reallocating one lane of the formerly three-lane highway as a segregated cycleway. This could be done relatively cheaply using bolt-down kerb units. The narrowing of the carriageway would allow the 40mph limit to be introduced and would make the proposed at-grade signalised crossings acceptable. A redesign of the proposed A167 access roundabout and the alterations to the A167 Park and Ride roundabout would be required.
481. The Trust considers, therefore, that the application as it currently stands cannot be said to prioritise pedestrian and cycle movements (Framework paragraph 112, CDP Policy 24c and Policy 29m.2) or to incorporate "convenient, safe and high-quality pedestrian and cycle routes" (CDP Policy 5). The requirement that the site be "connected to the existing development to the east of the A167 through suitable, convenient, safe and attractive cycleways and footpaths" (CDP Policy 5j) has not been demonstrated.
482. There is a lack of information and detail about cycle parking throughout the development including for individual dwellings and the apartment blocks. A condition should be applied to ensure that the cycle parking does not just cater for standard cycles but also for equipment which may be used by families or disabled people, e.g. child/cargo trailers, adapted cycles.
483. Cycle routes should be designed in accordance with LTN 1/20, the current national guidance for cycling design, as stipulated in the policies of the County Durham Strategic Cycling and Walking Delivery Plan which, according to CDP Policy 21, "all development should have regard to". This is confirmed by the

Framework in paragraph 114c which requires the design of transport elements to reflect current national guidance. Although the appellant mentions LTN 1/20 in the documentation, various features of the proposed path network do not comply. The Trust have provided a more detailed note highlighting specific junctions and crossings during the Inquiry<sup>115</sup>.

484. In relation to public transport, the Trust comments that that the layout of the site and the two link roads, and the distribution of dwellings, density, and use of built form should demonstrate how the catchment for bus services has been maximised to support no more than 400m walking distance from bus stops and preferably 300m where services are less frequent than five an hour. Furthermore, the service to the Arnison Centre is a key requirement which should be introduced earlier in the build-out. Phasing issues may affect access to Park and Ride services unless appropriate conditions are secured, and the subsidy of more evening bus services should be included in any agreement.
485. The Trust expresses concern about the level of car parking provision. They recognise the tensions inherent between the recently adopted Parking and Accessibility SPD, the Building for Life SPD, and the aims of Policies 5 and 21 to reduce car dependence. The Trust's calculations suggest an underprovision in relation to the adopted Parking and Accessibility SPD however it is suggested the scheme could go further having regard to the rate of local car ownership. The Trust has consistently argued that the Sniperley development could never result in a shift to sustainable transport modes without considerable upgrade to the walking and cycling network beyond the site, prioritisation of bus access, and design measures to reduce car use.
486. One major feature of the Trust's proposal for allowing a lower rate of car parking, is the balance in favour of unallocated car parking. A greater proportion of unallocated parking is recognised as more efficient in land use by Manual for Streets paragraph 8.3.11, the National Model Design Code: Part 2, section M.3.i, and by the Council's own Building for Life SPD (para. 11.2). The draft County Durham Design Code SPD also allows for a wider variety of design solutions for residential car parking than the in-curtilage arrangements mandated by the Parking and Accessibility SPD.
487. The general layout, with car parking mostly in front of houses, will make streets unattractive and dominated by parked cars, offering no scope for tree-lined streets. Unallocated parking is an efficient use of land, such as parking courts and car barns to concentrate allocated parking provision. While locating residential car parking in front of each house does simplify the provision of electric car charging points, this is by no means the only possible solution to encourage the use of electric vehicles.
488. The draft Travel Plan submitted with the application has a target for car trip reduction which the Trust considers is not ambitious enough, with the initial target slightly exceeding the existing car trip rates for neighbouring Framwellgate Moor. The Travel Plan measures proposed for encouraging sustainable travel are inadequate.

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<sup>115</sup> ID19

### Links to Sniperley Park and Ride

489. Safe and attractive links to the Park and Ride site are required by CDP Policy 5(k). The Council's adopted Masterplan included a key cycle and pedestrian route along the boundary of the CDL and Bellway sites, leading directly to the Park and Ride. This was omitted in the appellant's Masterplan and in the full and outline applications from Bellway for the neighbouring site. The outline layout shown in the CDL application relies solely on the main highway network as it approaches the Park and Ride site and shows no links to the site itself. While other foot and cycle paths are shown linking to the Bellway site, the layout of the Bellway application does not provide for attractive links onward to the Park and Ride.

### Conditions

490. The Trust has concerns regarding the phasing of the build-out of the Bellway development. The Trust would like to see conditions imposed which would ensure that the parts of the site closest to the Park and Ride are prioritised, in order to maximise the active travel and public transport journeys.

491. The Trust considers that the timing of the measures is inadequate to develop sustainable transport habits among the occupants of the new housing. The improvement of the underpass and the lighting will not benefit occupants until the development of the CDL portion of the site is well underway. That almost the whole of the Bellway portion could be developed before the alternative Finchale Road corridor is improved is quite unacceptable. Children might have spent half their time at primary school being driven there from Sniperley by the time this is implemented. The two measures which would have greatest impact on active travel from the site, namely safe crossings of the A691 Park and Ride roundabout and the main Sniperley roundabout are either omitted or will not come about until the development is nearly complete. These should be delivered prior to the occupation of the first dwelling, or perhaps within a set time limit of occupation.

### Conclusion

492. The Trust considers that there are grounds for refusal which are robust and are supported by local and national policy. The appeal proposals are contrary to Policies 5, 21, 22, 24 and 29 of the adopted CDP and to the provisions of the Framework as set out above, without compelling grounds for setting these policies or provisions aside. Accordingly, the City of Durham Trust submits that this appeal should be dismissed.

### **Western Relief Road Action Group (WRRAG)**

493. WRRAG submitted a Statement before the inquiry and their representative, Mr Pacey spoke to expand on various topics at the event and provided speaking notes.<sup>116</sup>

### Summary of Written Statement<sup>117</sup>

494. WRRAG was formed originally in opposition to the Durham City Western Relief

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<sup>116</sup> ID20, ID21, ID30, ID43

<sup>117</sup> CD13.24

Road proposed in the CDP. In consequence of the withdrawal from the County Plan of proposals for a Western Relief Road and the decision to allocate the Sniperley Park site for large-scale residential development WRRAG resolved that, with a continuing passionate interest in protecting the environment and quality of life across the western edge of Durham City, it would seek to work positively with Durham County Council to ensure that planning consent for applications for development on the Sniperley Park site would be granted upon terms which ensures the best environmental protection reasonably achievable. It is in this spirit and with this objective that WRRAG makes these representations.

495. Without appropriate reference to the need for measures to address matters of congestion and air quality reflecting Policy 5, point L requirements and relevant Framework expectations as set out in Chapters 9 and 11, WRRAG's contention is that the County Council's Master Plan for Residential Development at Sniperley Park is and will remain fundamentally flawed.
496. Such will be the impact on traffic flow and congestion at and around the Sniperley Roundabout and the public's obvious interest in the matter we are extremely surprised that this information has not been made more readily available. This is especially so, given the need for emergency services to have immediate and constant access to the roundabout at all times.
497. We have found no evidence from documents lodged in support of these applications to demonstrate that the providers of emergency services have been consulted about proposals for signalisation at Sniperley Roundabout nor seen comment from representatives from the Fire Authority or North Durham Hospital (A&E) as to the operational implications of these proposals for emergency services using Sniperley Roundabout.
498. Neither of the CDL or Bellway applications under current consideration is in conformance with the requirements included in Point L of Policy 5. To the extent that both applications under current consideration fail to demonstrate conformance with County Plan Policy 5, Point L, so far as it relates to matters of capacity and congestion at the Sniperley roundabout and south down the A167 corridor to Neville's Cross, neither application as currently submitted is in a form which could be approved. So far as we are aware neither Applicant has attempted to justify failure to comply with matters of congestion specified in Point L of Policy 5 on grounds that "material considerations dictate otherwise".
499. The Highway Authority's view of the transport implications is clearly focused on matters of road safety rather than on matters of public health.
500. The particular issue of congestion and air pollution along this stretch of the A167 goes to the heart of WRRAG's general concern to protect, as far as may be reasonably possible, the western edge of the City from the damaging environmental consequences of major residential development and related traffic on our doorstep on land which, until very recently, was designated as Green Belt. This includes our concern for the health and well-being of those residents in the immediate vicinity and the many thousands of children attending local schools over the years, including the Neville's Cross Primary School and the Durham Johnston Comprehensive School.

501. Whilst signalisation of the Sniperley roundabout may have considerable value in the context of traffic management and safety, it would do absolutely nothing to address the serious matter of congestion at the Sniperley roundabout nor, for that matter, at the Blackie Boy roundabout at peak times. Nor would signalisation help to free up the movement of traffic on the A167 at a point on the road network which would at all times have to be constantly accessible to emergency service vehicles. What signalisation would do, however, would be to guarantee systematic tailbacks on all five roads feeding into the roundabout, with standing traffic at peak times contributing to damaging air pollution, often described as “the silent or invisible killer”.
502. WRAGG believes and urges that, before any planning consent for development at Sniperley Park could be given, the Council’s Masterplan should be revised. Durham County Council Highways should further consider measures to relieve congestion on the A167 and in particular Sniperley roundabout, to include the feasibility of simple short left filter /slip road arrangements for traffic travelling from the Blackie Boy roundabout along Dryburn Park and into Southfield Way and, (possibly), for traffic travelling north on A167 wishing to turn left into A691 travelling west.
503. Either or both of these arrangements would, by siphoning off left-turning traffic from the roundabout, make a significant contribution towards relief of congestion and freeing up traffic flow. In consequence, such measures could make a substantial difference to the volume of queuing traffic and level of air pollution at the Sniperley roundabout.
504. Durham County Council should also confirm its intention to put in place measures to improve traffic flow at the Toll House Road intersection with A167, and establish and ensure the ongoing management of a School Traffic Management Plan for pupils attending Durham Johnston school. Both to include an indicative timeline for implementation.
505. The aggregate number of houses for which planning permission might be granted at Sniperley Park is strictly limited to 1,700, as provided for in the approved Durham County Plan – thereby helping to limit escalating congestion and air pollution, which will otherwise increase at Sniperley roundabout and south down the A167 corridor to Neville’s Cross as development progresses over the coming years.

Supplementary Statement<sup>118</sup>

506. A supplementary statement was made at the Inquiry by Mr Pacey and is summarized below.
507. Statements of Common Ground have been agreed between the appellants and the Council covering matters pertaining to capacity and congestion. The SoCG places reliance on statements made by Durham County Council Highways and National Highways neither of whom has particular regard to health, as opposed to safety.

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<sup>118</sup> ID20

508. The effectiveness of the proposed works at Sniperley roundabout is open to serious doubt given that the County Council's own consultants Aecom, provided in a report of 10 February 2020 (CD15.05), that the effectiveness of signalisation would be dependent on completion of works on the A167 corridor then under consideration but now no longer proposed.
509. The concern of the EiP Inspector has effectively been ignored, there is no reference of Policy 5 (I) in the County Council's Masterplan. No credible rationale had been provided to explain the extraordinary transition from the imperative need for a Western Relief Road to address longstanding congestion on the A167 corridor as against the current position where such risk has become minimal-reliance on improved Active Travel and public transport could not possibly be credible.
510. The Secretary of State might expect a report from a Public Inquiry which has taken into account and not ignored the views expressed by local residents who have not had the benefit of prior consultation on matters of huge importance and concern on their doorstep.
511. What falls for consideration is the wisdom of a decision to exclude from consideration measures which could and almost certainly should be possible against the background of the Aecom warning about the need for implementation of measures previously considered, to remove the southbound blocking that will stifle the benefits of the scheme to signalise Sniperley roundabout report. This undermines the ability of the appellants to demonstrate compliance with Policy 5 (L).
512. If adverse impacts at and around Sniperley are to be minimised it is essential that such works as may be necessary on the roundabout are progressed at the earliest point, with the trigger for house building to be no earlier than the date of practical completion of signalising and related works at the roundabout. This in WRAGGS view would in addition to minimising adverse impacts would better protect the needs of the emergency Services across a challenging period of implementation.
513. WRAGGS objective remains is to help to achieve development at Sniperley Park in the least environmentally damaging way reasonably possible, rather than to frustrate development. It will be the road users and those residents at the western edge of the City who will have to live with the permanent consequences of what may be determined and about which they have not been consulted.

## **CPRE**

514. The CPRE representative Mr Cowan read two statements<sup>119</sup> relating to Active Travel and cycle issues and also in relation to Green Belt Compensation and Diversity<sup>120</sup>. He also raised concern about the number of houses being proposed which exceeds the 1700 specifically referred to in the Local Plan. This should not be exceeded unless there are good reasons for it.

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<sup>119</sup> ID18

<sup>120</sup> ID36

## Active Travel and Cycling

515. Apart from safe and attractive routes being available, two factors however can influence a decision to cycle, one whether there are changing/shower facilities at my destination and secondly whether there is a secure and safe place to park my bike.
516. In terms of showering/changing, these are mentioned in the Strategic Cycling and Walking Delivery Plan at Objective 3 point 5. It is also referred to in the DfT document Cycle Infrastructure Design 2020 but not in the Sniperley HATCP. However, in this case it is not considered necessary to include showering/changing facilities, given the short distances involved. The situation however may be different if the idea is to attract people from further afield to cycle to facilities in this development.
517. Secure cycle parking however is a different matter. Cycle parking may not be specifically referred to in Policy 5, which relates to the Sniperley SUE, but it is mentioned in Policy 21 (Delivering Sustainable Transport) in the first bullet point after point e). As I understand it, this Policy applies to all development in the County, including that allocated under Policy 5.
518. There are communal facilities within this development. These are in the Local Centre and include a health centre, shop and school. These are clearly likely to attract a number of residents. Allotments and Sports fields are also to be provided and these may also do so. The hope is that residents will walk or cycle there. If they choose to cycle, they will want somewhere safe and secure to park the bike while they visit, say, the shop or play football.
519. The Comprehensive Masterplan (CD1.25) shows one cycle hub, at the Sniperley Park and Ride, which adjoins the SUE. This is logical and welcome. However, it is disappointing that no other cycle hub is shown on this Masterplan and cycle parking is only referred to once, in the section relating to Transport Phase 2 (and then it appears to relate to an off-site requirement).
520. It is noted that a Mobility Hub is shown at the Local Centre to the south of the B6532, together with a public house and a restaurant. The appellant states<sup>121</sup> that the Mobility Hub could contain a number of facilities, including secure cycle parking. I can find no other reference to Cycle Parking in the applications.
521. This is inadequate for the following reasons:
- i. The Mobility Hub site (unlike the Park and Ride) is not a definite commitment. The word "could" is important and shows that cycle parking is only a possibility.
  - ii. Even if it is a commitment, this appears to be inadequate. The retail and health centres are on the other side of the B6532 from the Mobility Hub and are the most likely to attract cyclists, especially if they are taking children with them. While a commitment to secure cycle parking for the restaurant and public house would be welcome, I represent that there also

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<sup>121</sup> CD14.05 paragraph 4.6

needs to be a commitment to provide secure parking at the retail and health centres. Parking your bike and then crossing a road is not desirable.

- iii. There is no apparent provision for other places which are likely to act as hubs, such as the allotments or sports pitches.

522. Cycle parking, even if it is only for short periods, is an important feature if people are to be encouraged to cycle to hubs within this development. The lack of adequate cycle parking means that the proposed development does not meet the requirements of Policy 21, which in turn must impact on Policy 5.

#### Green Belt Compensation and Diversity

523. It is queried whether land to the north of the A691 in the Bellway application is or is not to be designated as Green Belt. This land has of course been deleted from the Green Belt as part of the CDP but it is uncertain as to whether it has been reinstated.

524. The land to the south of the A691, which has never been deleted from the Green Belt, is not included in the Red Line boundary of the application, although it is shown as being in the control of the appellants. It is uncertain if it is intended to control development on this strip by condition or in a Section 106 agreement.

525. It is noted that a right of way is shown to link with Footpath 12 on the County Durham Definitive Footpaths Map (Witton Gilbert section). This starts opposite the proposed new junction into the development. While the proposed new path appears satisfactory, it is queried whether the crossing over the A691 is adequate, given that this road is very busy in both directions. This is more of a recreational route than a "commuter" one as may be the case with crossings over the A167, but if this route is to prove an attractive one for people wanting to join the footpath system into the Browney Valley, as mentioned in point h of Policy 5 of the County Durham Plan), it should be addressed.

526. A permissive route is also shown opposite the existing roundabout to the Park and Ride. Permissive footpaths should not count as acceptable alternatives as the right can be removed at any time. This track is gated and, where Footpath 12 crosses it, there is a sign to say there is no public right of way towards Stotgate Farm. It should be clarified that a permissive right from Footpath 12 to the A691 does in fact exist and whether this can be upgraded to a full public right of way.

527. All provisions for BNG appear to be on land that is marked as compensation improvements for loss of the Green Belt. The linear park and any SuDS provision may well also provide a gain for certain wildlife. However, some of the birds recorded on the site as it is, are unlikely to benefit from these proposals.

528. As far as the Green Belt compensation to the north of Potterhouse Lane is concerned, it appears that public access will be available on much of this site. In addition, there will be a significant amount of tree or hedge planting. This is unlikely to make it attractive to ground nesting birds such as Skylark. Whether Grey Partridge will come onto land where there is human disturbance is also questionable. Brown Hare may also be displaced from this area.

529. Birds such as Linnet, Willow Tit and Yellowhammer may well use the hedges and scrub. Linnet however does not appear to come into land where there is human disturbance. It is questioned whether this species will move to any of the areas within this compensation development.
530. As far as the land to the south of the A691 is concerned, this is a relatively narrow strip of land that at present is mainly in arable use. It is noted that public access is limited to the proposed footpath through this area and that is welcome. Tree and scrub planting may attract Linnets if the public is kept out of this area. However, in view of the nature of this narrow strip of land and the proposed planting, it is questioned whether it will be used by ground nesting birds or mammals such as Brown Hare.
531. This is an issue as the Matrix for Biodiversity Net Gain places great emphasis on tree and hedge planting and water features. While the benefits that such works can bring are not disputed, it must also be borne in mind that such planting does not help all species. In this case, it does not help the ground nesting birds, many of which are red listed, that have been recorded on the site and so they may well be displaced.

### **Mr Llewellyn**

532. Mr Llewellyn resides at Sniperley Hall. He raised concern about the nature of the boundary between the Bellway development and Sniperley Hall. A two-foot-high fence and hedge would not be sufficient on this well-established boundary and who would maintain these features. The scheme fails to acknowledge the importance of the Hall.
533. The separation distance of 21 metres between the Hall and the proposed dwellings was questioned. Concerns were raised about how it was measured and whether it would be adequate to protect the privacy of existing residents.
534. The linear park is inadequate. The proposed dual use as public open space and SUDs raise concern with regard to children playing in waterlogged fields is not appropriate. The proposed children play area under power lines and near a road was not a suitable location. A more appropriate place could be found within the development.

### **Mr McArdle**

535. Mr McArdle expressed the importance of making cycling attractive to future residents. Routes should be safe, lit and sheltered. The B6352 is not safe for cycling, as observed on the site visit.

### **Mrs Ashby**

536. Mrs Ashby is a local Parish Councillor and was speaking on behalf of residents. She stated that matters relating to delays and journey times were not significant matters to residents, Environmental concerns were more important such as air quality and safe routes to school for school children.

## **12. Written Representations**

537. Written representations were submitted in response to the appeals. In addition

to the representations made by WRRAG, City of Durham Trust and CPRE, as detailed above, the remainder are from local residents and other consultees.

## **Appeal A**

### Statutory consultee responses

538. Durham Constabulary Crime Unit- recommend the principles of secured by design be adopted and make detailed comments on the design.
539. NHS North East and North Cumbria ICB – request s106 funds for improvements to local GP practices.
540. Northumbrian Water- no objection subject to conditions.
541. Sport England –The applicant’s Planning Statement recognises that playing field will be lost to the construction of the Primary School, albeit the school itself will contain playing fields designed in accordance with SE guidance and made available for community use in conjunction with the retained Sniperley playing field. The statement clarifies that the net loss of playing field will be replaced within the open space area north of Potterhouse Lane. Given that the application is in outline with all matters bar access reserved for later approval, this is sufficient at this stage for Sport England to have no statutory objection. The reserved matters application will need to demonstrate how the qualitative test within exception 4 is to be met.
542. At present the proposal makes no on-site provision to meet the demand for indoor and outdoor sports facilities which will directly arise from the development itself, and instead rely on existing provision. The sum total of pools, sports halls and pitch investment needed to enhance the existing local sports infrastructure network, to meet the demand arising from the new development, would cost £2,033,284. The applicant has recognised this requirement in their planning statement and the draft Heads of Terms for a s106 Agreement should the application be approved. SE welcomes and supports the applicant’s intention here.
543. Given the scale and duration of the development site splitting the overall contribution into 3 tranches (payable prior to occupation of 500th, 900th and 1200th dwellings respectively) is considered reasonable. As the investment into local sporting will only be secured by the signing of a s106 Agreement it is necessary for SE to submit a (non-statutory) holding objection at this stage. The holding objection would fall away upon the signing of the s106 agreement.
544. The Coal Authority - The application site falls within the defined Development High Risk Area; therefore, within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. Coal mining legacy poses a potential risk to the proposed development and that investigations are required, along with possible remedial measures, in order to ensure the safety and stability of the proposed development. A number of planning conditions are recommended.
545. National Highways - recommend that conditions should be attached to any planning permission that may be granted.

546. City of Durham Parish Council - Objects. Parish Council acknowledges that the principle of the development of the site is acceptable. The Parish Council welcomes that the applicant has commissioned a masterplan and submitted this as one of the application documents. However, this still does not fully accord with the County Council Masterplan for the site. The Parish Council remains concerned that there is not one application for the Sniperley Park urban extension as a whole, in addition that there is a lack of clarity regarding the delivery of important infrastructure, services and facilities. The fundamental concern of the Parish Council is that this current application, when considered alongside the application DM/22/03778/FPA, propose a level of development (1,918 dwellings) which would be significantly more than the level of development identified within the CDP (1,700 dwellings). The Parish Council remains concerned that the development proposal does not deliver adequate sustainable transport options to allow future residents to access important facilities.

#### Other written representations

547. In relation to Appeal A, 18 letters of representation were received by the Council at application stage. These raised concern about the capacity of local infrastructure such as schools, GP provision, hospitals and shops. The development is too large and in the wrong place. It will lead to more highway congestion particularly at Sniperley roundabout. The road network around the proposed area of development is currently unable to cope with the volume of traffic during rush hour. Already, as an example, traffic backs up so far from Nevilles Cross that it affects traffic travelling in the opposite direction due to congestion at Sniperley roundabout, which is always difficult to cross at peak times. It will endanger children crossing the A167 to Durham Johnston School. Any new development should have ground source heat pumps, insulation and solar panels at a minimum. More public transport would also be essential. Quality of life will be diminished further if more houses are built. There is a lack of detail regarding the provision for cycling. There will be wildlife and environmental impacts.

548. Three further letters were received in response to the appeal notification raising similar issues.

### **Appeal B**

#### Statutory Consultee responses

549. National Highways raise no objections. Durham Constabulary Crime Unit and the NHS North East and North Cumbria ICB make similar comments to Appeal A above.

550. The Coal Authority- confirm that the site is coated in a defined Development Low Risk Area.

#### Other Written representations

551. Appeal B received 18 representations highlighting the same issues as Appeal A above. Points raised relate to the need to consider both the CDL and Bellway schemes together to assess their cumulative impact. The scheme does not respect the historic setting of Sniperley Hall. Dwellings are sited too close to the

Hall and a greater separation distance is required. The density of development is also too high.

## **Appeal C**

### Statutory Consultee responses

552. County Durham and Darlington Fire and Rescue Service - The Fire Service raise concerns with the proposed access arrangement during the construction and subsequent occupation of the development. Their concerns relate to the potential impact on the functionality and blue light operations of the Fire Station & Mountain Rescue Centre, together with the costs associated in maintaining the unadopted access road. They have no comment on the residential development as a whole, though raise concerns with the treatment of the access road and with who uses it.

### Other written representations

553. Two letters were received raising concerns about the location of the development, highway safety, the impact on local services and infrastructure, the setting of Sniperley Hall, visual amenity and the amenity of occupiers of neighbouring properties.

554. One further letter was received in response to the appeal notification. It was also highlights that the site was next to the Fire Station. The use of the shared access was not appropriate as there would have the potential for it to be blocked impeding the exit of emergency vehicles. Furthermore, the noise and disturbance from training exercises at the fire station would affect the amenity of future residents.

## **Appeal D**

### Statutory consultees

555. County Durham and Darlington Fire and Rescue Service – maintain the comments made in relation to Appeal C. The Fire Service is opposed to the existing access road being used for any construction activities for any new development.

556. The Coal Authority, NHS North East and North Cumbria ICB, Northumbrian Water, Durham Constabulary Crime Unit, City of Durham Parish Council and National Highways - make similar comments as per Appeals A and B.

557. Witton Gilbert Parish Council – object. The number of homes proposed as a combined application with the CDL application exceeds the 1700 stated in the CDP. There is a significant risk of the Bellway dwellings being delivered a head of the required infrastructure required by Policy 5. There have been no attempts to link this new park land and community to Witton Gilbert village. The development should utilise renewable and low carbon technologies as the main heating source, as gas should not be utilised on site. The Masterplan makes clear that Sniperley will be an extraordinary development that responds to its special location and character. It will be an exemplar of design excellence. There is nothing visually distinctive here. Nor could it be described as design excellence.

558. Sport England - reiterate their comments made in Appeal B. They submit a holding objection until the investment into local sporting infrastructure identified by the applicant has been secured by the signing of a s106 agreement. Notwithstanding the holding objection, SE is supportive of the application's proposed investment into sport and its intention to create a healthy and active development environment.

#### Other written representations

559. In response to the planning application the Council received 21 letters of representation from local residents. Two further letters were received in response to the appeal. These raised issues similar to those expressed in Appeal A and B.

### **13. Planning Obligations**

560. Planning obligations are submitted in relation to Appeals A, B and D.

561. This section considers the final executed versions of the s106<sup>122</sup> and the views expressed in the roundtable discussions at the Inquiry. It also has regard to the Planning Obligation Summary Notes<sup>123</sup> provided by the appellants.

562. On the last day of the Inquiry, I was informed that whilst discussions on the planning obligations had progressed well, there were still some outstanding matters. I allowed the parties time after the Inquiry to resolve these, and I consider the final position of the parties below.

563. The Framework states that planning obligations must only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. I shall consider each of the schedules in turn, in the context of this guidance and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. The planning obligations include a mechanism (sometimes known as a 'blue pencil' clause) which provides that should the SoS conclude that any of the obligations do not pass the statutory tests such obligations shall have no effect and consequently the owner and/or other covenanters shall not have liability for payment or performance of that obligation.

564. I shall discuss the outstanding matters between the Council and the appellants later in this report.

### **Appeal A**

#### Schedule 1 and 2- Affordable Housing

565. The planning obligation requires the submission of an affordable housing scheme with the submission of a reserved matters approval application in respect of each phase/sub phase. Each affordable housing scheme is to provide 6.25% of all dwellings in each phase or sub phase as First Homes and 18.5% of all dwellings to be provided as affordable housing units. This meets the requirements of Policy 15 of the CDP to provide 25% affordable housing on the

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<sup>122</sup> ID70, ID75, ID74

<sup>123</sup> ID52 and ID71

site. The tenure mix shall be 60% affordable rent, 25% First Homes and 15% DMS Units. The provision of affordable housing is fairly and reasonably related in scale and kind to the development and would comply with the statutory tests.

### Schedule 3 Education

566. This remains an area of dispute between the parties. There is disagreement on the level of contribution to a new primary school and the triggers for the payment of the contribution to secondary school provision. Clause 4 of the agreement enables the Secretary of State to determine that either Schedule 3, 3A, 3B or 3C shall apply.

567. Schedule 3 and 3A require a contribution of £10,290,757 to a new primary school to be paid in three instalments on the completion of 484, 727 and 888 dwellings respectively. In terms of secondary school contribution, both schedules require a payment of £4,149,511 however Schedule 3 requires payment in three instalments at the completion of 500, 100 and 1250 dwellings and Schedule 3A requires payment on the completion of 160 dwellings.

568. Alternative Schedules 3B and 3C require the payment of £12,136,737 towards the new primary school to be paid in three instalments as above. In terms of secondary school contribution, whilst the figure is agreed, the triggers are not. Schedule 3B mirrors Schedule 3, i.e. payment in three instalments, at the completion of 500, 1000 and 1250 dwellings whilst Schedule 3C reflects Schedule 3A and requires payment on the completion of 160 dwellings. Each Schedule includes a clause so that if the contributions exceed the actual costs, repayment should be made.

569. The need for a new primary school on the site is accepted by all parties and meets the requirement set out in CDP Policy 5 to provide for school places generated by the new houses. Its provision meets the necessity test, the direct relationship test and proportionality test in the statutory Regulations.

570. There are insufficient places in existing secondary schools. A contribution is therefore necessary to increase capacity at Framwellgate School. The obligation is directly related to the development and fairly and reasonably related in scale and kind.

571. I consider the 'blue pencil' clauses providing alternative options for the level of primary school contribution and the triggers for the payment of the secondary school contribution later in this report.

### Schedule 4 Public transport

572. This is also an area of disagreement between the parties in terms of the amount to be paid as a contribution to the agreed bus strategy. The strategy includes the phased extension of the reinstated 20 service from Aykley Heads to the Arnison Centre via Sniperley Park providing a 30-minute frequency Monday to Saturday and hourly frequency on Sunday; the diversion of the 16/16A services to loop into the site from the B6523 and a package of marketing measures.

573. Two alternative schedules are provided in the s106, Schedule 4 and Schedule 4A. The Secretary of State can determine which should apply, as set out in clause

4 of the agreement. Schedule 4 requires a contribution of £534,426 to be paid in five annual instalments commencing on the completion of 200 dwellings. Schedule 4A requires a contribution of £1,439,561 to be paid at the same triggers. It is for the Council to elect who should provide the bus service by serving either a Bus Service Council Delivery Notice or a Bus Service Owners Delivery Notice. Each Schedule includes a clause so that if the contributions exceed the actual costs, repayment should be made.

574. The above public transport contribution accords with CDP Policy 5 which provides that a contribution to delivering sustainable transport in line with Policy 21 and 22 will be required. The obligation is necessary, directly related to the development, and appropriate in scale and kind.

#### Schedule 5 Local Centre

575. Policy 5 requires the provision of a local centre within the site. The obligation requires the submission, approval and marketing of a local centre. The local centre shall also provide a building suitable for use as a health centre and shall also include a temporary retail location until a point where there are sufficient new residents on the site to provide a warrant a permanent retail outlet. The obligation is necessary, directly related to the development and fairly and reasonably related in scale and kind to the development and would comply with the statutory tests.

#### Schedule 6 Healthcare facility

576. This schedule requires the marketing of the Healthcare land to a healthcare operator. The obligation meets the necessity test, the direct relationship test and proportionality test in the statutory Regulations.

#### Schedule 7 Sports Pitches

577. The development will give rise to the need to replace existing sports pitches following the construction of the primary school and increased demand for sports facilities. The Parties agree that contribution is necessary to mitigate the impacts of the development on the site.

578. This Schedule provides an obligation for the appellant to make a contribution of £2,033,284 to the provision of sports pitches, to be paid in three tranches on the completion of 500, 100 and 1250 dwellings. The contribution has been calculated using SE's Playing Pitch calculator which estimates the demand from new grass and artificial pitches.

579. As discussed, and agreed in the Sport England Meeting Note<sup>124</sup>, the value of any betterment to the quality of the existing playing fields on the primary school/sports pitches land which would result from their provision of on the Green Belt land, shall be deducted from the final payment. The appellant is also obligated to lay out the Green Belt sports pitches prior to the occupation of 400 dwellings, to submit and also to agree a Green Belt Management Plan and secure the management and maintenance of this land.

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<sup>124</sup> ID35

580. These obligations are necessary, directly related to the development and appropriate in scale and kind.

#### Schedule 8 Healthy Active Travel plan measures

581. Policy 5 of the CDP requires the site to be connected to the existing development to the east of the A167 through suitable, convenient, safe and attractive cycleways and footpaths.

582. Contributions to fund a range of measures are provided for in this schedule. These works are referenced in the HATCP as interventions to enhance Active Travel. These include improvements to the drainage in the A167 underpass, speed reduction measures on the B6532, Front Street cycle parking, green space signage, and lighting along the section of path between the underpass to Alexandra Close and New College.

583. With regard to Intervention 8 in the HATCP/ATP, a segregated cycle track or shared use path on the eastern side of Dryburn Road, there remains some disagreement between the parties as to the feasibility of such a scheme. Nevertheless, the appellant has agreed to an obligation to fund a Feasibility Study and to pay a financial contribution towards its implementation. If a scheme is not feasible, the contribution shall be used to fund an alternative shared pedestrian and cycle route south of the A167.

584. These obligations are necessary, directly related to the development and appropriate in scale and kind.

#### Schedule 9 Employment and Skills

585. This obligation seeks the submission of an Employment and Skills Programme to provide work-based apprenticeships, and to promote employment and skills opportunities to eligible local people as part of the development. The parties recognise that this obligation does not meet the statutory regulations, but they still wish to proceed with it. This voluntary obligation is excluded from the 'blue pencil clause' and is afforded no weight in the determination of the appeal.

#### Schedule 10 Additional obligations

586. The Council have raised concern about the delivery of infrastructure at Sniperley Park should the Bellway scheme not proceed. Financial contributions to fund the various infrastructure required are apportioned approximately 80 –20 . If the Bellway scheme did not proceed, there would be funding gap. To overcome this, CDL have agreed to pay an additional contribution to infrastructure in the circumstance where an adjoining land contribution ie from Bellway, has not been paid by the trigger for the payment. This ensures that the infrastructure will be funded and delivered. It is agreed that when the developer of the adjoining land pays their respective contributions to the Council, the additional contribution paid by CDL would be refunded.

587. This obligation meets the necessity test, the direct relationship test and proportionality test in the statutory Regulations.

#### Schedule 11 Unbound Cater House Pit Land

588. Cater House Pit, to the southern end of the CDL site, is owned by the Council and managed for recreational purposes and forms part of the proposed linear park. It is not bound by this agreement. Schedule 11 sets out an obligation for the appellant to submit a Linear Park Management and Maintenance plan for approval by the Council and subject to the council granting a Licence in respect of the unbound Cater House Pit Land, to undertake the long-term management and maintenance of this land in accordance with the approved plan.

589. Policy 5 of the CDP requires the provision of a linear park in perpetuity through the centre of the allocation. Cater House Pit is a key part of it. This obligation is therefore necessary to comply with the development plan and meets the statutory tests.

### **Appeal B**

Schedule 1 – includes relevant plans referred to in the agreement.

#### Schedule 2 Affordable Housing

590. The obligation secures the provision of 25% affordable housing units comprised of 60% affordable rent units, 25% First Homes and 15% DMS Units. This ensures the scheme complies with Policy 15 of the CDP. An Affordable Housing Scheme shall be submitted to each phase of the development. It shall detail what is to be delivered including the discounts to be applied in respect of the DMS Units. The provision of affordable housing is fairly and reasonably related in scale and kind to the development and would comply with the statutory tests.

#### Schedule 3 Transport and Highways

591. With regard to public transport, the appellant is required to submit a Bus Strategy for approval and to pay a Bus Service Contribution prior to the occupation of the 321<sup>st</sup> dwelling. As noted above the level of contribution is in dispute. Bellway covenants to pay 19.27% of the Bus Service contribution whatever is payable and set out in the Secretary of States' decision.

592. The agreement also includes an obligation for the appellant to pay its respective proportion of the costs of the works to Sniperley roundabout before the occupation of the 200<sup>th</sup> dwelling. There is a fall-back provision that enables the Council to require Bellway to deliver an interim scheme in the event that the CDL scheme does not proceed or is delayed.

593. These obligations are necessary, directly related to the development and appropriate in scale and kind.

#### Schedule 4 Open Space and Public right of Way

594. This obligation requires the management and maintenance of the public open space in the development including the linear park. It also requires public rights of way to be maintained in perpetuity. This is necessary to comply with the requirements of CDP Policy 5. The obligation meets the necessity test, the direct relationship test and proportionality test in the statutory Regulations.

#### Schedule 5 Local Labour

595. The appellant is obligated to submit a Local Labour Scheme to the Council for approval within 6 months of the commencement of development. This comprises a targeted recruitment and training programme to encourage training and employment opportunities. It is recognised that this is not CIL Compliant, but Bellway wish to enter into this voluntarily. The provisions of this schedule are not examined under the requirements of Regulation 122 of the CIL Regulations and have not been taken into account.

#### Schedule 6 Financial Contributions

596. As a general principle, where a financial contribution relates to the Bellway site and the CDL site, Bellway is responsible for 19.27%. This schedule covers contributions towards healthcare provision, primary education, secondary education, playing pitches, sports facility, allotments, and active travel measures as outlined above in relation to Appeal A.

597. In respect to Appeal B, primary school means either a new primary school on the wider allocation or the extension of Framwellgate Moor Primary School. As discussed above, the primary school contribution is not agreed. In relation to this appeal, the agreement sets out that the contribution shall be either £2,456,503 or £2,897,155. In the event that the Secretary of State agrees with the Council 's requested contribution, then the higher sum will be paid. The triggers for all contributions are agreed.

598. The various contributions are necessary to mitigate the impact of the development and comply with the provisions of Policy 5. They are directly related to the development and appropriate in scale and kind.

#### Schedule 7 Retail and Cafe Land

599. This provides an obligation on Bellway to make provision for retail and cafe uses on land outside the appeal site (this relates to the Sniperley Farm site the subject of Appeal C for which Bellway has submitted an application to the Council for a farm shop and cafe). These obligations only apply in the event that no part of the CDL site has been occupied prior to the occupation of the 250<sup>th</sup> dwelling.

600. This obligation is necessary to ensure that retail facilities are in place for future residents should the local centre proposed in the CDL scheme be delayed or the development does not proceed. It is also directly related to the development and appropriate in scale and kind.

### **Appeal D**

(Schedule 1 – includes relevant plans referred to in the agreement)

#### Schedule 2 Affordable Housing

601. The agreement makes provision for 25% affordable housing , 55 units affordable rent, 14 units DMS and 23 First Homes. This accords with Policy 15 of the CDP. Prior to the commencement of development, details of the affordable housing service charges shall be submitted to the Council for approval. The parties agree that should the affordable rented units not be taken up by a Registered Provider, the appellant can serve an Affordable Rented Conversion

Notice on the Council and those units may than be sold as discounted sale properties.

602. There is still dispute in respect to the discounted price to be applied to the DMS Units. Bellway considers this should be 67.5% of the Open Market Value. There is also disagreement on the cap to be applied to first Homes. Bellway consider this should mirror the national adopted position of 30% set out in the PPG. The agreement includes wording such that the discount for DMS units and cap for First Homes determined by the Secretary of State should apply.

#### Schedules 3-7

603. Schedules 3 to 7 are drafted the same as for the agreement in Appeal B. The comments made above equally apply here. These obligations are necessary, directly related to the development and appropriate in scale and kind.

#### Schedule 9 Private Allocation Procedure

604. This schedule relates to the procedure for marketing and allocating a DMS Unit including a local connection criterion. This is necessary to ensure that the DMS units remain affordable. It meets the statutory tests.

### **14. Conditions**

605. A list of suggested conditions was submitted and discussed at the Inquiry that were mostly agreed. Amendments have been made to the wording of some conditions, including corrections to plan references for clarity, brevity, or to avoid duplication and inconsistencies, and to ensure accordance with the tests set out in paragraph 55 of the Framework. Pre-commencement conditions have been agreed by the appellant. The attached Schedules set out the conditions that I recommend should the Secretary of State approve the appeals.

606. Three conditions remain in dispute at the end of the Inquiry. The first one in Appeal A relates to the provision of footpath and cycleway improvements between the Park and Ride roundabout and Sniperley roundabout. This scheme provides an alternative active travel route if the Dryburn Road improvement scheme is not feasible. However, as this matter is adequately addressed in the s106, I do not consider that a condition is necessary.

607. The second condition, again in Appeal A, relates to Intervention 3 in the ATP, the Great North Cycleway upgrade, specifically footpath and cycleway improvements on the A167 between the new roundabout serving the scheme and the Park and Ride roundabout. I discuss the need for this improvement scheme in the section of this report concerned with Active Travel and conclude that these improvements are not required and therefore the condition is not necessary.

608. The third condition which relates to Appeals A, B and D, requires the submission of a district heating scheme and a timetable for its implementation. In the section in my report considering this matter, I conclude such a system would not be viable. A condition as suggested by the Council is therefore unreasonable and unnecessary.

609. Should the Secretary of State disagree and conclude that the above conditions are necessary, meeting the relevant tests, the wording of the suggested

conditions is set out in Schedule 5.

## **15. Conclusions**

*The numbers in square brackets refer to earlier paragraphs in this report.*

610. Mindful of the reason for recovery, the SoCG on Planning, Public Transport and Active Travel, as well as the written and oral evidence, the main considerations are:

With regard to Appeals A, Appeal B and Appeal D

- Whether a comprehensive master plan for the allocation has been proposed which demonstrates the delivery of suitable and timely infrastructure and services in line with the County Durham Plan, the Council's adopted Masterplan and the Council's Healthy Active Travel Connectivity Plan.
- Whether the proposed development delivers adequate sustainable transport options, including walking, cycling and public transport to and within the site and to the wider area and whether the requirements of Active Travel are effectively delivered on and around the Sniperley Park allocation.
- Whether the proposal secures the delivery of a suitably sized primary school within the Sniperley Park allocation and offsets pupil demand for secondary school places in the locality.
- Whether the proposal satisfactorily explores the delivery and viability of a district heating system.
- The benefits of the proposal, and
- The overall planning balance.

Appeals B, C and D

- The effect of the proposed development on the significance and setting of designated and non-designated heritage assets within and in proximity to the site.

Appeal D

- Whether the appeal proposal makes appropriate provision for the delivery of affordable housing to meet the needs of residents having regard to viability.
- Whether the proposed development constitutes poor design and overdevelopment with an over dominance of off street car parking.

### **Masterplanning, provision and timing of infrastructure**

#### The Masterplan

611. Sniperley Park was allocated for residential development in 2020 under Policy 4 of the CDP. There is therefore no dispute between the parties that the site is suitable for residential development in land use terms.

612. Policy 5 of the CDP relates specifically to Durham City's Sustainable Urban Extensions, namely Sniperley Park and Sherburn Road. It requires development to be comprehensively master planned and to demonstrate how the phasing of development will have regard to the provision and timing of the infrastructure and services necessary to support them.
613. The Policy does not indicate who will prepare the masterplan or if one should be agreed in advance of a planning application.
614. The Council's Masterplan<sup>125</sup> commenced preparation in October 2020 and was adopted in June 2022. This was a higher-level document which identified that detailed technical matters would need to be addressed through subsequent planning applications. The appellants, CDL and Bellway jointly produced a Masterplan which built on the Council's document, taking account of design and place making principles. It also addressed phasing and timing of infrastructure as required by Policy 5.
615. The Council raise no objection to the content and principles of the appellant's Masterplan. I am satisfied that the submitted Masterplan is acceptable to achieve a comprehensive and sustainable development.

#### Single planning application

616. The Council's concern relates to delivery of the required infrastructure particularly as there is not one single planning application covering the allocation as a whole. It is agreed however that Policy 5 does not require one single application. In fact, Policy 5 refers to applications in the plural as does the Council's Masterplan. The Council has been aware, since at least 2014, that the submission of separate planning applications may be a possibility given the multiple ownerships and site promoters. [103, 123, 130, 302, 310, 346]
617. It is not uncommon to have more than one application on a large SUE such as this. The important factor is that there is a Comprehensive Masterplan to guide development of the site and achieve coordination between proposals in land use terms.

#### Delivery of Infrastructure

618. There is always some risk that a development may not proceed following the grant of planning permission. There is no evidence in these appeals that the risks are any greater. Both CDL and Bellway have been promoting the development of Sniperley Park for several years and were actively involved in the Local Plan process to achieve the allocation of the site, spending significant time and resources.
619. The appellants have agreed an Infrastructure Phasing Plan<sup>126</sup> which was updated during the Inquiry, setting out when various pieces of infrastructure will be provided. This refers to the respective planning conditions and s.106 obligations that secure their implementation. These provide triggers to ensure that the required infrastructure is delivered in a timely fashion when it is

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<sup>125</sup> CD10.04

<sup>126</sup> CD14.09 Appendices A and B, updated by ID65

- required. Of course, in practice, delivery could be in advance of the trigger. It is notable that most of the infrastructure is to be provided in the first two phases of development.
620. CDL have majority control of the allocation site and propose to build around 80% of the proposed dwellings. If the Bellway scheme does not proceed or is significantly delayed, it is set out in Schedule 10 of the planning obligation for the CDL application (Appeal A), that CDL would pay additional contributions to enable the essential infrastructure to be delivered. Once the Bellway scheme or a scheme by another developer came forward, the additional contributions would be repaid to them by the Council.
621. Two pieces of infrastructure, namely the bus service agreement and its delivery and the access to the Park and Ride (Active Travel Intervention 11) are secured at the start of the development so that the CDL scheme could be consented independently. As this infrastructure would be in place, it would not affect coordination if the Bellway scheme were to take place later. [127]
622. In the event CDL does not happen, the Bellway scheme could still proceed. Through conditions and the respective planning obligation, the development can mitigate its own impacts. For example, Schedule 6 of the respective s106's for Appeals B and D, provides for a contribution to the expansion of Framwellgate Moor Primary School or the new school on the allocation site. The s106 also provides for contributions to health care, interim works to Sniperley roundabout, a temporary shop/café and a playing field contribution.
623. I acknowledge the Council's concern that if Appeals B/D proceed, Bellway do not have any control over CDL's land and could not secure the delivery of the necessary infrastructure for the allocation as a whole. Whilst I accept this would be the case, it would not be necessary for the Bellway scheme to provide this, as it would not be proportionate to the scale of the development proposed. This wider infrastructure would come forward when the rest of the allocation is built out, either by CDL or another developer. As I have stated above, the Bellway scheme can mitigate its own impact. [128,129,365-369]
624. The Council's Deliverability witness commented that the appellants had not secured an interest in all the land within the planning application boundaries, some of which was particularly critical to the delivery of infrastructure. The Council has control of around 13.66 hectares, just over 11% of the site.<sup>127</sup> The Council's witness suggests that until agreement is reached with the Council, there is a significant risk of ransom. [130]
625. However, the Council's Estates Department CPaL, has made it clear that the Council as landowner remains committed to the long term success and delivery of Sniperley Park<sup>128</sup>. This does not suggest at all that the Council would be unwilling to work with the appellants to achieve the delivery of the scheme, or that they would not act reasonably in the public interest consistent with its statutory duties. It is notable that the witness's evidence did not consider the

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<sup>127</sup> POE p8 para 2.2.1

<sup>128</sup> Cd18.17 Appendix 3

- suggested conditions, or the planning obligations drafted to provide greater certainty with regard to delivery. [131]
626. The Council's witness sought to show the difficulties in bringing forward large developments through discussion of three examples of strategic housing developments. In the Godley Green Garden Village development, the Council in its capacity as part landowner took the lead as applicant. A masterplan was prepared, and an equalisation agreement sought between all the landowners. A key difference with the Sniperley Park scheme is that the Council made a commitment to use compulsory purchase powers (if necessary) and the landowner did not have direct access being reliant on adjacent landholdings. [256-258]
627. In the Gilston Garden Town example, the strategic site for 1000 dwellings covered 7 villages with two major landowners. There were similarities to the case here in that two separate applications were made, and planning obligations required an Infrastructure Delivery Plan to be agreed. Cooperation was required between the two landowners to achieve the infrastructure delivery required. The parties had a Memorandum of Understanding (MoU) in place which guaranteed the shared funding for the delivery of the priority infrastructure. CDL and Bellway have also signed a MoU <sup>129</sup> which sets out the commitment that both parties have made to work collaboratively to ensure the comprehensive delivery of the allocation. Rather than highlight problems, this example seems to support the approach taken by the appellants. [259]
628. The Hasnead Garden Village has some similarities to the appeal cases in that there were multiple landowners and each individual developer submitted their own planning application. Whilst there may have been issues with infrastructure crossing ownership boundaries, they have been resolved. [260]
629. All three of the above schemes are progressing and delivering homes and infrastructure. Whilst they highlight the potential difficulties, they demonstrate that with cooperation they can be overcome.
630. The Council's Deliverability witness makes reference to the LGA Toolkit on Effective Delivery of Strategic Sites<sup>130</sup>. It looks at various ownership and delivery models and highlights the advantages and challenges. One of the models involves multiple landowner promotion. In the appeal cases, the respective challenges have been addressed along the lines the toolkit suggests. A masterplan has been prepared, there are conditioned common plans, detailed s106 forward funding is proposed and the appellants have entered into a MoU. [132]
631. The approach taken at Sniperley Park is comparable to that taken in the Sandlesford Park appeal decision.<sup>131</sup> At Sandlesford Park there was a masterplan in place and separate planning applications by the developers. One key difference was that this application, which was also before the SoS, covered 85% of the

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<sup>129</sup> ID12

<sup>130</sup> CD8.17 Appendix 5

<sup>131</sup> CD11.02

site. In these appeals, the applications cover all the site. This gives greater reassurance to scheme delivery. [134,344-347]

632. The Council conceded at the Inquiry that if reasons for refusal 2-5 were addressed, then reason for refusal 1, relating to masterplanning and delivery would also fall away.

### Conclusion

633. Appeals A, B and D have been comprehensively masterplanned as required by CDP Policy 5.
634. Should the Bellway scheme, Appeal B or D be delayed or not proceed, the CDL scheme, Appeal A, could proceed independently making provision for the delivery of all the necessary infrastructure required by CDP Policy 5. Conversely if the CDL scheme does not proceed, the Bellway scheme could mitigate its own impacts.
635. Given the above, the delivery of suitable and timely infrastructure and services in line with the CDP has been demonstrated in alignment with the Council's adopted Masterplan and the Council's HATCP. There is therefore no conflict with Policy 5 of the CDP.

## **Sustainable Transport**

### Active Travel

636. CDP Policy 5 seeks to ensure Sniperley Park will be an attractive, well-designed place incorporating sustainable development principles. Part j of the Policy requires that in order to achieve sustainable and cohesive communities, the development must be connected to the existing development to the east of the A167 through suitable convenient, safe and attractive cycleways and footpaths.
637. Appeals A, B and D propose a range of active travel measures within their respective parts of the allocation, including a mobility hub and an extensive network of pedestrian and cycle routes. All residential areas would be within 800 metres, a 10-minute walk of the local centre and primary school<sup>132</sup>. The key routes are shown on the Connectivity Parameter Plan<sup>133</sup>. North/south routes will be provided through the development plots and through the linear park and east/west routes will link different parts of the site and provide links to the east of the A167. It is clear from the Active Travel SoCG<sup>134</sup> that the Council raise no issues with the on-site measures proposed.
638. The off-site measures follow the Interventions set out in the HATCP<sup>135</sup> and ATP<sup>136</sup>. In summary these include a segregated cycle track on Rotary Way, a Toucan crossing on the A167, A167 underpass drainage works, New College path lighting, Front Street cycle parking, improved pedestrian and cycle facilities at

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<sup>132</sup> ID57

<sup>133</sup> CD1.04

<sup>134</sup> OID15 updated in ID57

<sup>135</sup> CD10.05

<sup>136</sup> CD10.06

Sniperley roundabout, widening the shared use path on the A691 and speed reduction on the B6532.

639. Two Interventions remain in dispute, that related to Intervention 3, the Great North Cycleway upgrade and Intervention 8, the New College to Ayckley Heads active travel corridor via Dryburn Road.
640. Before discussing this issue in detail, it is appropriate to consider the status of the HATCP and ATP. The original HATCP was the subject of consultation and was adopted by the Council in August 2021. It was confirmed at the Inquiry however that the Interventions therein were not the subject of consultation. The ATP forms an updated version produced in October 2023 which was not consulted upon and which has been through no formal approval process. Given the above, I am of the view that the documents, whilst they are material considerations, can only attract limited weight. [140, 246, 376]
641. Turning to Intervention 3, Appeal A proposes a widening of the existing shared use path and its upgrading to a segregated route between the new site access and the Pity Me roundabout to the north. The Council wish to see the upgrading of the path to the south of the proposed access to the Park and Ride roundabout. The appellant proposes to widen two sections, between the site access roundabout and north to the Pity Me roundabout and south between the Park and Ride roundabout and the Sniperley roundabout. [142-144,247,377]
642. The route as a whole forms part of the Great North Cycleway, which connects Blyth to Darlington with the aim of supporting commuting and leisure trips across the region. I acknowledge that its improvement would provide benefits to users of this strategic route and provide a consistency in its quality. [377]
643. There would be an extensive network of footpaths and cycle paths within the development that link to the A167 crossing points so that users would not need to use the route along the A167. A resident living at the northern end of the allocation and travelling south to Durham would use the route along the B6532, cross the A167 at the Toucan crossing at the Park and Ride roundabout and then use the improved shared path adjunct the A167. A resident at the southern end of the allocation going north to the Arnison Centre would go through the development to the toucan crossing at the northern end of the site then travel north on the improved section of the A167. If heading east to Framwellgate schools, they could use the subway. [378-381]
644. Whilst these on-site routes may not be the shortest or most direct, they would be more attractive and quieter than using the cycle route along the A167. Of course, if residents wish to use the strategic route from the southern end of the development, they could travel on the existing shared use path. However, this route is only partially lit which may discourage its use in the evening.
645. I take account of the wording of Policy 5j) which requires that the site should incorporate convenient safe and high-quality pedestrian and cycle routes within and connecting to adjoining facilities. In order to comply with Policy 5, I am not persuaded that this includes the upgrading of a strategic cycleway providing long route leisure benefits.
646. Given the above, together with the limited weight I attribute to the HATCP and ATP, I conclude that the upgrading of the section of the A167 between the new

site access and the Park and Ride roundabout is not necessary to comply with the requirements of Policy 5.

647. The other area of dispute between the parties relates to the implementation of Intervention 8, a segregated cycle track or shared use path on the eastern side of Dryburn Road. The delivery of a scheme is problematic. There are existing grass verges which would be lost and a pinch point on the southbound approach to Blackie Boy roundabout. There is a substation at this point and property boundaries close to the road making the provision of a cycle route very challenging. It is also a bus route and bus shelters would need to be relocated to enable the road to be widened and a cycle route put in place. In light of these problems, CDL have put forward an alternative scheme. [145-147,248]
648. At the Round Table discussion, the Council acknowledged the difficulties and suggested that a 'place making' scheme may be more appropriate. This could include such measures as speed reductions and other works to make the route more attractive to users. It is notable however that the ATP does not suggest this type of scheme but rather requires an active travel corridor comprising a segregated cycle track or shared use path.
649. The Council are keen to see improvements on Dryburn Road as it leads to Ayckley Head, a nine-hectare strategic employment site allocated in Policy 3 of the CDP. It is viewed as a key facility by the Council. I accept the desirability of providing active travel routes to a large strategic employment site but in my view, it does not form a key facility such as a school or health centre which would be an important facility for Sniperley Park residents. [249,382]
650. Dryburn Road provides a convenient relatively flat route to the northern end of Ayckley Heads. I was advised at the Inquiry that the Council considered the possibility of a scheme along Dryburn Road as part of the Transforming Cities bid but a proposal was not developed further. However, the Council have achieved Transforming Cities Funding to implement a scheme on Southfield Way to provide a quality link to the City centre. CDL propose a complementary improvement to the section of the Great North Cycleway next to the A167 between the Park and Ride roundabout and Sniperley roundabout. This route would lead to the southern end of the Ayckley Heads site. Whilst it would be longer and not as flat as Dryburn Road, Southfield Way is much wider and a route would be much easier to deliver.
651. Connections from Sniperley Park are not the only option to secure active travel routes to and from Ayckley Heads. CDP Policy 3 requires the Ayckley Heads development to provide new walking and cycle routes which will connect the site to surrounding housing. It has been confirmed by the Council that they have received £9.3m<sup>137</sup> in funding to facilitate the delivery of the Ayckley Heads site including £3.5m for active travel corridors.
652. Nevertheless, CDL have offered to fund a feasibility study for a cycle route along Dryburn Road and also a financial contribution to fund a scheme. This is included in the s106 for Appeal A. Should a scheme prove not to be feasible, the s106 provides that the monies can be used to fund the appellant's alternative

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<sup>137</sup> ID38

proposal. I consider this to be an appropriate way forward to secure a suitable, deliverable improvement scheme providing a cycle route to the Aykley Heads employment site. [148,383]

653. The City of Durham Trust have commented<sup>138</sup> on the design of a number of cycle routes, that they do not comply with LTN 1/20 for a variety of reasons including turning radii and the size of refuges. In relation to Appeals A and B these design issues can be addressed in the respective reserved matters applications. In Appeal D, the hybrid scheme, any necessary design improvements can be highlighted in the Road Safety Audits and approvals for s.278 works. [480,482,484]
654. Both the City of Durham Trust and the CPRE comment about cycle parking and the need for an appropriate level of provision throughout the development . Appeal A proposes cycle parking at all community facilities including the Local Centre, the Mobility Hub and the Sports Facilities. Their delivery can be ensured through the imposition of appropriate conditions should the appeal be allowed. [483,518,519]
655. I am satisfied given the above, that Appeals A, B and D deliver adequate sustainable transport options for walking and cycling in compliance with the requirements of Policy 5.

#### Public Transport

656. Sniperley Park is served by existing public transport services running along the B6532 through the site, along the A691 at the western site boundary and by the Sniperley Park and Ride facility.
657. The proposed bus strategy for the site has been the subject of discussion between the parties during the Inquiry. A revised SoCG<sup>139</sup> was produced which sets out that an extension to the 20-bus service from Aykley Heads to serve the site and connect to the City Centre at a 30-minute frequency has been agreed. In addition, a service linking Sniperley Park to the Arnison Retail Centre at a minimum 30-minute frequency is to be provided. It is agreed between the parties that this will enable most new residents (95%) and probably all residents to be located within 400 metres of a bus service to Durham City and the Arnison Centre. [136]
658. The appellants had originally questioned the need for a service linking the site to the Arnison Centre but have now agreed to its provision. In any event I consider it to be necessary in order to provide a convenient non car means of accessing the Centre where there are many high street names and a major supermarket. [241]
659. The appellants have discussed their bus strategy with Go North East, the current bus operator, who have agreed to it in principle, subject to an appropriate subsidy. [137]

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<sup>138</sup>ID19

<sup>139</sup> ID58

660. If for whatever reason, the road link between the CDL site and the Bellway site is delayed, residents on the Bellway site, the subject of Appeals B and D, can access the X5/X15/PR1 service. Additionally, it is agreed that should the trigger points for a new/diverted bus service be met before the link between the sites is delivered, then Bellway will submit a temporary bus strategy to the Council. This should provide for facilities within the Bellway site to enable a bus to turn and bus stops to be provided to bring all dwellings within an acceptable walking distance of a bus service or for the provision of additional footway facilities within the Bellway site to connect all dwellings to existing bus stops within an acceptable walking distance. [244]
661. The appellants both agree that they will provide a financial contribution to subsidise the bus service. Bellway covenants in the s106 for Appeals B and D, to pay 19.27% of the Bus Service contribution whatever is payable and set out in the Secretary of States' decision. The amount of the capped subsidy is still in dispute, so is the mechanism for the procurement of the enhanced bus services. The s106 for Appeal A includes blue pencil clauses on the basis of each parties' different positions. [137,242]
662. CDL provided Bus Subsidy Calculations<sup>140</sup> before the Inquiry. The updated Public Transport SoCG<sup>141</sup> provides a revised calculation using trip rates per household; the revenue per trip; and the bus cost metrics that have been agreed between the parties. The appellants assume a 100% cross subsidy. The Council takes a more cautious approach, that a cross subsidy of around 50% should be assumed. On this basis, it is calculated that the two appellants combined financial contributions should be either £1,783,199 on the basis of the Council's approach or £602,354 based on the appellants' assumptions. [375]
663. The Council have argued that the current bus operator may not be the successful tenderer for the extended and additional services. I agree with the appellants that it is unlikely that an operator other than Go North East would operate these services. The Appendix to the updated Public Transport SoCG provides an email from Go North East confirming they are content with the bus strategy and that they would be able to deliver the services subject to receipt of an appropriate subsidy from the appellant.
664. It is key to achieving a sustainable development that a high-quality frequent bus service is provided. There is always a risk that circumstances may change, and the operator may not be able to deliver the service. At this very early stage it is difficult to be precise about the terms of any agreement for a service that won't be delivered for several years. Whilst the Council's precautionary approach is understandable, there is no evidence before me that the appellant's assumptions on cross subsidy are unreasonable. Accordingly, it is my view that the total joint contribution should be at the lower level of £602,354.
665. In terms of the procurement strategy for the bus service, should the developers undertake to secure the bus service, it would overcome the public sector constraints through the tender process and provide more flexibility to reach an agreement with the bus operator. The s106 in Appeal A sets out in

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<sup>140</sup> CD2.44

<sup>141</sup> ID58 Table 2

Schedule 4 that in the case of the lower contribution, it is for the Council to decide whether to procure the bus service themselves with a contribution from the developers or require the developers to do it. In the case of the higher contribution, Schedule 4A provides that the appellants can elect whether to procure the bus service directly or make staged payments to the Council for them to procure the service. As I have determined the lower contribution should apply, the former scenario set out in Schedule 4 of the s106 should come into effect.

666. In both scenarios, the s106 provides that any surplus contributions be refunded to the developers. The s106 also provides that should the appellant or the Council, whoever is tasked with negotiating the bus service, is unable to enter into a Bus Service Agreement with the Bus Service Provider, an alternative bus strategy can be agreed by the parties. This provides a further contingency measure to ensure an appropriate service is provided.

### Conclusion

667. Bringing the above together, I conclude that subject to Schedule 4 of the s106 coming into effect, Appeals A, B and D deliver adequate sustainable transport options, including walking, cycling and public transport to and within the site and to the wider area. Furthermore, the requirements of Active Travel are effectively delivered on and around the Sniperley Park allocation. In this regard, the Appeals comply with Policy 5 (a, b, g, & j), 21, 22, 24, 25, and 29 of the CDP which seek to achieve sustainable transport and design.

### **Education provision**

#### Primary School

668. Policy 5b) requires a new primary school of a scale to meet the expected requirement for school places generated by the new housing development.

669. There is no dispute that a primary school should be provided within the development in line with the above policy. It is agreed that a 2FE primary school accommodating 420 pupil places with a 26-place nursery should be provided. The size of the primary school takes account of projected surplus places in the eight state funded primary schools in the locality. This equates to a projected surplus of 142 places by the 2028/2029 academic year. [153]

670. The point of contention between the parties relates to the cost of the school and the triggers for payments. The s106 includes blue pencil clauses for the Secretary of State to determine the appropriate figure.

671. The DfE in their Securing Contributions for Education document (August 2023)<sup>142</sup> sets out how costs should be calculated using relevant average regional costs published by the DfE school places scorecard adjusted for inflation since the latest scorecard was established. This is then increased by 10% to take account of Basic Need Uplift to achieve sustainability and design standards set out by the Department. The appellants calculate that this gives a figure of £25,983 per pupil place, giving a total cost for a new primary school of £11,588,418. This

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<sup>142</sup> CD15.16

- equates to the amount that the DfE would provide if they were funding a new school through Basic Need Allocation. [154,228]
672. At the start of the Inquiry, the Council estimated that the school would cost £17,078,388. This equates to £38,292 per pupil place, significantly higher than the appellant's calculations. [227]
673. By way of comparison, my attention is drawn by the appellants to a new primary school at Springmoor Grange, which is a larger 3 form entry school with 52 nursery places due to open in September 2024. I am advised this had an approved budget around £14.53 Million<sup>143</sup>. This produces a cost per pupil place of around £21,318, well below the £25,983 calculated by the appellant and around the DfE average. [154]
674. The Council has provided a School Cost breakdown<sup>144</sup> to justify their figure of just over £17m. This applies a BCIS inflation index to the anticipated base date of third quarter 2026 and first quarter 2027. However, the s106 also applies this inflation index so there is double counting amounting to around £1.416m. The Council's estimate also applies a contingency figure of 24%, amounting to approximately £3.3m. This is very high, and it is unclear why this has been applied particularly as this is a greenfield site with no significant abnormal costs. The Council's witness when asked to explain these figures was unable to do so, as they had not been involved in their preparation. [155]
675. As the Inquiry progressed, the parties continued discussions and negotiations to try to come to an agreement. Factoring in a contingency of 10%, the industry standard, the appellant puts forward an increased figure of £12,747,260. The Council has also reviewed their figure and suggests that an amount of around £15.1m would be required which they consider is a more realistic assessment of cost. [387]
676. Based on the evidence before me, I consider that the appellants cost estimate to be justified and therefore preferred. It more closely follows the DfE guidance for Securing Developer Contributions and is comparable to that of other recent school projects in the County. The payments in the s106 are appropriate in scale and kind and comply with the CIL Regulations. A standard re charge clause is included in the s106, enabling the return of any surplus monies.
677. The remaining area of dispute relates to the timing of payments for the new primary school. The Council's position in September 2023 was that it would be needed at around 600 dwellings. However, the Council changed its position just before the Inquiry requiring the school be built prior to occupation of any of the proposed dwellings. Policy 5 requires a school to meet the expected requirement for school places. It does not require a school before occupation, but rather suggests the school should be provided when needed.
678. The DfE guidance provides for the timely provision of infrastructure including high quality schools when needed<sup>145</sup>. This approach also goes against the Councils own guidance 'Securing Developer Contributions Towards Education

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<sup>143</sup> CD15.12

<sup>144</sup> CD14.14 Table 3

<sup>145</sup> CD15.16

provision in County Durham 2017<sup>146</sup>. The Council has not required a school prior to occupation in any other development. The fact that there are two developers here does not justify a change of approach. [157-165,217,219,220]

679. The outcome of this requirement would be an empty school which the Council would have to maintain until such time as there were enough pupils to justify it opening. Furthermore, the likelihood would be that children from the wider area would then be sent to this school taking up places for children who would later occupy the site. The DfE guidance specifically discourages this.<sup>147</sup> A further consideration is that the delivery of infrastructure upfront, would more than likely lead to a negative residual land value and result in the scheme being unviable. [217,218,230,292]

680. During the Inquiry, following further negotiations the Council, in the spirit of cooperation, changed its position and the parties have agreed triggers for payments on the completion of 484, 727 and 888 dwellings. This is reasonable considering that the primary school will take approximately 24 months to build and taking account of projected surplus places in other local schools, the school would not be needed until the completion of around 600 dwellings.

681. In the unlikely event that the Bellway scheme takes place in isolation, there would be sufficient capacity in existing schools for the 111 pupils generated by the proposed 370 dwellings. A new primary school would therefore not be required. Education contributions from Bellway, could then be used to fund increased provision at other schools. Conversely if the Bellway scheme did not take place or was delayed, CDL have committed in their s106 (Appeal A) to fund the full cost of the primary school. This overpayment would be refunded by the Council when contributions from the Bellway site were made. [224,225]

### Secondary School

682. The need for additional secondary school places to serve the development is not in dispute. It is estimated that 230 secondary school places will be required. The closest school is Framwellgate School which is at capacity. The school is the subject of a planned DfE school rebuild. The Council acted proactively to engage with the Department to secure not just its rebuild but also its expansion to cater for the increased demand for the Sniperley Park development. This is certainly the most cost-effective approach. [390]

683. The Council were informed by DfE that the cost to increase the school's capacity would be around £4.4 m. However, this has now increased and the s106 includes a contribution of £5.1 m which includes a 10% contingency figure. This total cost would of course be apportioned between the two appellants. The provisions of the agreement allow a repayment should the cost not reach that figure. [167]

684. The area of dispute still outstanding between the parties relates to the trigger for the payment. The Council consider that payment before the occupation of 160 dwellings would be appropriate. The appellants consider phased payments on the

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<sup>146</sup> ID13 paragraph 7.11

<sup>147</sup> CD15.16 para 64

completion of 500, 1000 and 1250 dwellings respectively would be suitable. The s106 has been drafted with blue pencil clauses to set out each scenario and for the Secretary of State to determine the appropriate way forward. [168]

685. The Council's justification for their early payment relates to the point at which they consider they will have to pay the DfE for the improved school. The Council do not in effect wish to act as bank for the developers. However, I am mindful of the DfE Guidance<sup>148</sup> which states in paragraph 15 that when school places have to be forward funded, a Council can secure developer contributions to recoup the monies spent with interest fees and expenses. Furthermore, the LGA toolkit<sup>149</sup> referred to by the Council's Deliverability witness also confirms this approach. [170,228]

686. The planned rebuild was scheduled to be completed by September 2025 but it is likely to be delayed. Nevertheless, it would still be completed early on in the development of Sniperley Park. The 230 places required will not be realised until the mid 2030's when the site is complete. A payment at 160 dwellings as requested by the Council, represents the equivalent of 19 secondary school pupils based on the Council's estimate of 0.12 pupils per dwelling<sup>150</sup>. It is also a significant sum which would further frontload the infrastructure requirements in the first phase of the development, with potential implications for viability.

687. Bearing in mind the DfE guidance, and the requirements of the Framework and the CIL Regulations for contributions to be reasonably related in scale and kind to the development, I consider that payment in three instalments throughout the development, as preferred by the appellants, would be justified. There is no evidence before me to suggest that the Council could not borrow the funds required and be repaid by the developers, an approach supported by the DfE guidance.

### Conclusion

688. Regarding the areas of dispute, I have found that the appellants suggested cost estimate for the primary school, £12.7m (apportioned between CDL and Bellway) is justified and should be preferred and that the triggers for the payment of the secondary school contribution should also be in line with the appellant's proposal that of 500, 100 and 1250 dwellings. Schedule 3 of Appeal A should therefore come into effect.

689. On the above basis, I am satisfied that the Appeals would appropriately mitigate their impact by providing for primary and secondary school places generated by the development. Appeals A, B and D would therefore comply with CDP Policy 5b).

### **District Heating**

690. CDP Policy 5i) requires the opportunities for a district heating system to be explored given the site's proximity to Lanchester Road Hospital and Ayckley

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<sup>148</sup> CD15.16

<sup>149</sup> CD8.17

<sup>150</sup> CD14.14 page 18

- Heads. The Council accepts that some exploration has been undertaken by the appellants but takes the view that that this has not been in sufficient depth.
691. At this point it is helpful to outline the difference between a community heating system and a district heating system. Both have been explored by the appellant. A community heating system would be contained within the Sniperley Park development. A district heating system would be developed across a geographical area wider than the appeal sites which would be anchored using the demand for heat from a major heat consumer. The Policy requires the latter to be explored.
692. The Council's Masterplan goes further than CDP Policy 5 in that it states that there should be no connection to the gas network; instead, heating homes through a range of ways including air source/ground source heat pumps or a district heating system. Policy 29 of the CDP, however, goes further than the Masterplan by seeking to achieve zero carbon buildings.
693. The appellants commissioned a Technical Note from Wardell Armstrong to explore the options for the site <sup>151</sup>. This outlined different potential heat technologies. The parties agree that the most appropriate option for the site is a 4<sup>th</sup> generation low temperature heat network. A district heat network is most viable when there is high density housing such as high-rise accommodation or an anchor heat load with a significant heat demand such as Lanchester Hospital or Ayckley Heads as suggested in the Policy. [397]
694. The appellants have contacted these organizations as well as New College Durham and the University Hospital, Durham to explore the feasibility of such a proposal<sup>152</sup>.
695. I understand that there could be an opportunity at Lanchester Hospital but only in the longer term. This is because they have an existing 15-year gas supply contract. Furthermore, a connection from a high temperature system to a low temperature network would require significant upgrade to heat emitters and other plant. [176]
696. University Hospital Durham whilst being open to consider a district heat system, had concerns about technical matters with retrofitting insulation and the installation of a new low temperature heat delivery system. [179]
697. New College Durham is closest to the appeal site at 50 metres distance but lies on the other side of the A167 so that running a heat network would be challenging and potentially costly. Additionally, a heat demand predominantly in the daytime and in term time may not be conducive to an efficient network. [180]
698. Turning to Ayckley Heads, this is a strategic employment site around 700 metres from Sniperley Park. Construction commenced in 2021 with Plot C designed to incorporate air source heat pumps. Future development here could be designed to be part of a district heating system but detailed designs are not yet progressed so there is uncertainty about heat demand. Another consideration

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<sup>151</sup> CD14.18

<sup>152</sup> Ibid section 4 page 5-7

is that the buildings are likely to be designed to a very high level of fabric efficiency such that the heat demand could be low. [177]

699. It is notable that Policy 3 of the CDP, which specifically relates to Ayckley Heads, does not include a reciprocal requirement to explore a district heating system with Sniperley Park. Furthermore, the outline planning permission for Ayckley Heads does not require the development to be able to connect to a future district heating system. The opportunities to connect to Ayckley Heads are therefore uncertain. [178]

700. In light of the above, in the absence of a large anchor, I consider it is unlikely that a district heating system would be viable.

701. An option for the appeal site is to use mine water from the various mine workings in the vicinity of the site. The Council commissioned the Coal Authority to carry out a Phase 1 mine water heat study<sup>153</sup> to establish the potential for flooded mine workings in the Sniperley area to provide a heat source for new housing that may incorporate a heat network. This concluded that there was potential, but that further detailed assessment would be required.

702. The use of mine water however is not without risk as outlined in Chapter 7 of the Report. These risks and uncertainties relate to the temperature of the mine water, the available flow, mine water chemistry, risks of construction, drilling and operational risks. I accept that the appellants have not taken this further. However, a closed loop ground source heat pump would require over 700 boreholes through coal seams with the inherent dangers and risks as outlined above. There are very few examples of heat networks using mine water. A scheme in Gateshead has been brought to my attention by the Council but that relates to a much larger scale development. [184,185,398]

703. The appellants have also given consideration to a community heating system, though this is not required by Policy 5. The Wardell Armstrong report provides a SWOT analysis of different heat options<sup>154</sup>. When comparing a community heat system to individual air source heat pumps, the community heating network would be almost double the cost and provides a higher whole life carbon outcome due to heat losses of 20% during construction, the need for back up plant for failure and or maintenance, and the addition of approximately 65km of thermal insulated pipework and additional plant. [181,187,188,234]

704. It is likely that the majority, if not all, the new homes on at Sniperley Park will be constructed in 2025 after the expected changes to the Building Regulations come into effect which will mean no gas heating and the construction of zero carbon homes in line with the Future Homes Standard. This will mean that homes will have a much lower energy demand and it is anticipated that heat pumps will become the primary heat technology for new homes. The appellants have confirmed that there will be no gas brought onto the site and that individual dwellings would be constructed with air source heat pumps installed. [174,238,395]

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<sup>153</sup> Ibid, App 2

<sup>154</sup> CD14.18 Table 2 page 15

705. I have had regard to the comments of the Council's Low Carbon energy team.<sup>155</sup> These state there is no objection to the application of the applicant were to confirm that all dwellings would be heated by heat pumps and that no gas would be taken onto the site as an indication that the developer was taking the aim of Net Zero seriously. The appellants have made such a commitment. [190,399,401]

706. Policy 29 of the CDP seeks to achieve zero carbon buildings and include connections to an existing or approved district energy scheme where viable opportunities exist. Where connection is not viable, the policy requires development to utilise renewable and low carbon technologies as the main heating source. The appellants have outlined in evidence why a district heating network would not be viable and why a community heating system would be more costly and result in higher overall carbon than individual air source heat pumps which they propose. Accordingly, the proposals would comply with this Policy.

### Conclusion

707. I find that the exploration of a district heating network has been undertaken in sufficient depth by the appellant. The appeal proposal therefore complies with CDP Policies 5 and 29 which seek to achieve sustainable development.

### **Affordable Housing**

708. The issue of affordable housing relates to Appeal D only. There is no dispute that the proposal meets the requirements for 25% affordable housing as set out in Policy 15. The matter in dispute relates to the discounts and caps to be applied to First Homes and DMS Units. This affects 23 First Homes and 14 DMS dwellings. [272]

709. The WMS on First Homes<sup>156</sup> sets out that a First Home should be discounted by 30% against market value and that after discount has been applied, the first sale of the home must be at a price no higher than £250,000. It outlines that local authorities can set a higher minimum discount at either 40% or 50% and impose lower price caps if they can demonstrate a need for this through evidence.

710. The PPG on First Homes supports the WMS. It outlines<sup>157</sup> that any local price caps should be determined through the plan-making process with regard to local income levels, related to local house prices and mortgage requirements.

711. The CDP predates the introduction of First Homes. The Local Plan Viability Assessment does not therefore test the impact of at least 30% discount on market value. As the CDP is less than 5 years old, the Council are not required to undertake a local plan review. Instead, the Council produced a Housing Needs SPD and Interim Policy Statement (IPS) on First Homes in December 2022 to provide guidance to developers.

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<sup>155</sup> ID16

<sup>156</sup> ID33

<sup>157</sup> PPG Paragraph 004 Reference ID:70-004-20210524

712. The SPD and IPS is supported by a First Homes Assessment report <sup>158</sup> commissioned by the Council which looks at minimum discount, price caps and eligibility criteria. It concluded that there is no clear case why a discount larger than 30% should be applied in Durham. House prices are below the £250,000 price cap for First Homes without a discount, so there is no strong case for a larger discount than 30% because this would adversely impact upon viability and does not make a significantly higher number of households able to afford First Homes. The document went on to recommend that as almost all of the need for First Homes comes from properties which are 3 bedrooms or lower, a price cap of around £120,000 would ensure that any properties sold represent a genuine discount. [431]
713. The SPD and IPS was the subject of consultation and numerous objections were received from the Housebuilders Federation and developers, particularly as there was no updated viability evidence to support it. A second version of the document<sup>159</sup> has been prepared which is accompanied by an addendum to the Local Plan Viability Assessment<sup>160</sup>. This concludes that First Homes are to be sold at a discount of 30% of the open market value of the property, up to a maximum level of £140,000 in line with a viability informed cap. [283]
714. In terms of DMS properties, the Framework states that they should be sold at a discount of at least 20% below local market value. At the time of the Inquiry, the appellant offered a discount of 32.5% which takes account of viability. This is lower than their original offer of 37.5% which I understand was aimed at achieving a positive local decision. The Council is seeking a 45% discount to achieve the cap that they see as representing an affordable price in the County.
715. The draft Housing SPD and IPS<sup>161</sup> sets out that the Council follows a standard approach to inform the level of discount for a DMS property. The County Durham SHMA confirms that County Durham is one housing market area. Using data for this area, a range of factors are considered to determine the price of an affordable DMS property. This includes gross household income, disposable household income, and makes assumptions on the maximum mortgage that could be afforded and a minimum 15% deposit. This results in an assumed property value that would be affordable of £120,000. The addendum to the Local Plan wide viability assessment, however, determines that the discount from open market value should be a maximum of £140,000 to take account of scheme viability. [426]
716. I am concerned that the Council's assessment does not rely on third party validation such as confirmation from brokers or banks about mortgage lending multipliers. Furthermore, the Council uses a disposable income figure rather than a gross income figure which is usually used by lenders. This results in a very low-income figure being used in the calculation. There is also no justification for the 15% deposit assumed which is not necessarily representative of actual deposits required. [284]

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<sup>158</sup> ID23

<sup>159</sup> ID26

<sup>160</sup> ID32

<sup>161</sup> ID26 paragraph 8.5

717. The Council's SPD and IPS is still in draft form and were the subject of consultation in February/March 2024, after the Inquiry sat. It is likely that this second iteration of the document will attract numerous objections from the development industry. The viability evidence that supports it is has not been examined and does not specifically test the Sniperley Park allocation. [283]
718. In light of the above, I consider that, irrespective of whether the Council's assumptions in their calculation of the affordability cap appropriate, only very limited weight can be attributed to the SPD and IPS. In these circumstances, I consider that the national discount and caps should be applied to First Homes in the appeal scheme. The s106 (Appeal D) reflects this with a 30% discount against open market value for First Homes. In respect of DMS properties, the appellant offers a discount of 32.5% of the Open Market value. This is well above the nationally adopted requirement of at least 20% discount and is therefore acceptable. [287,432]

#### Other Housing Issues

719. Another area of dispute between the parties at the start of the Inquiry was the cascade mechanism should any of the affordable rent properties, particularly proposed apartments, not be taken up by a Registered Provider. The Council maintained a concern that the developer could seek to revert them to market sale with a payment in lieu for affordable housing elsewhere. The parties have however come to agreement on this point and the s106 provides that any affordable rent units that remain unsold can be reverted to DMS properties, maintaining them as affordable housing units. [435]
720. The Council also expressed concern that in respect of the apartments any service charges should be set at an appropriate level to maintain affordability. This has also been addressed in the s106 which now requires the Council to be consulted on any figure set. [436]

#### Housing needs -Viability

721. The Framework at paragraph 58 sets out that planning applications complying with up-to-date development plan policies, should be assumed to be viable. The onus is on an appellant to demonstrate that this is not the case.
722. The appellant, Bellway, have provided viability evidence to set this out<sup>162</sup>. This concludes that the Council's requested level of discount on market value for DMS properties together with the other planning contributions requested, would result in a £2.5m deficit. The effect of this is that only 16% affordable housing would be viable. The Council disputes this and argues the scheme would still be viable overall. [301]
723. I acknowledge that the issue of viability was raised late on in the application process as the lack of agreement on planning contributions and the decision to appeal necessitated evidence on viability. I note that the Council challenged the appellant's initial viability 'discussion document' due to lack of detail and compliance with the PPG and RICS guidance. Nevertheless, things have moved on and further evidence has been provided. [439]

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<sup>162</sup> CD14.30

724. There remain areas in dispute between the parties firstly the lack of evidence to support the appellants assumed abnormal costs, whether to take into account the cost of the Future Homes Standard (FHS) and lastly the gross development value (GDV).
725. The Council are not satisfied that the abnormal costs are adequately justified by evidence. It is their view that a third party specialist, such as a Quantity surveyor would be required to review and interrogate such costs. They have not been able to do this due to lack of information and the lack of time between the appellant's evidence being available and the start of the Inquiry. Abnormal costs are important as they allow for a premium to impact Benchmark Land Value (BLV) calculations. Such values are used as a premium to incentivise a landowner to sell his land for development. [443]
726. I acknowledge that the appellant could have provided more detail of how the abnormal costs have been calculated. However, the Council's Viability witness has accepted the abnormal figures and used them in his own appraisal. It is pertinent that BLV is not just affected by abnormal costs. They should also reflect site specific infrastructure costs and professional site fees and should be informed by market evidence including current uses, costs and values. Therefore, for the purposes of this appeal, I consider that the appellant's abnormal cost assumptions are fit for purpose.
727. Turning to the second matter in dispute, FHS, the appellant takes account of the costs of meeting this Standard in their appraisal. The Council does not, arguing that these costs will be recouped in the higher sales values that a more energy efficient home would attract. The Council's Viability witness suggests that meeting this Standard would therefore be cost neutral. There is however no current evidence to demonstrate this. [295,296,444]
728. Bellway's Viability witness explained that the cost of FHS is included in the RICS 'Red book' valuations for lending purposes and also in bids to purchase land. The cost associated with FHS in the appeal scheme is around £2.94m. It is reasonable in my view that the appellant has taken this cost, which is not insignificant, into account in the financial appraisal.[295]
729. Turning to the issue of GDV, the differences relate to potential sales values based on comparable data, particularly the developments at Ayckley Woods and Priory View. The Council argue that the sales values achieved at these two sites are likely to be lower than the appeal site. This is because Sniperley Park is viewed as having the potential to be an extremely popular development when released and likely to overperform. This is confirmed by Bradley Hall the local estate agent employed by the appellant to provide advice on market values.<sup>163</sup> [297,446]
730. Bradley Hall in their report, sets out that at Ayckley Woods, has exceeded initial assumptions on revenues as they are achieving over £300 per square foot (sq ft) for four bed properties in an area of Durham where this has not been achieved. The report suggests that Sniperley Park would achieve similar if not better rates due to its more desirable location. I recognise that a local agent will

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<sup>163</sup> CD8.49 Appendix 4

have very good knowledge of the market. However, there is a risk that they may be overly positive for their client and their assessment should be considered with a little caution. [299]

731. Ackley Woods has a rural outlook and comprises large bespoke house types in mature attractive landscape. I acknowledge this will generate an uplift on sales values. Priory View in contrast, has more similar house types to those provided in the appeal scheme and is comparable in terms of rural location. It has achieved sales values of between £252 and 291 per sq ft . This again demonstrates how Ayckley Woods is outperforming the local market. [298]
732. The appellant has assumed a sales value below Ackley Woods but above Priory View, at around £292 per sq ft. This is below the Council's more optimistic estimate of £305 per sq ft. Having assessed the evidence before me, I consider the appellant's figure to be reasonable and preferred.
733. In conclusion, I have already found that the Council's cost estimate for the primary school and the requested discount and caps for the affordable housing are not justified. I have also found that FSH should be included in the viability appraisal and that the appellant's estimated sales values are reasonable. On this basis, I consider that the scheme is likely to be viable.

#### Heritage

734. The issue of heritage relates to Appeals B, C and D. Whilst there are no reasons for refusal on these grounds, there are objections from interested parties. The heritage assets affected are Sniperley Hall, Sniperley Farm and Sniperley Park. They were once all part of the Sniperley Hall estate and are non-designated heritage assets. [454-456]
735. As part of the evidence base for the Local Plan, a Heritage Impact Assessment<sup>164</sup> was prepared to assess the impact of the proposed housing allocations, including the appeal site, on heritage assets. It was concluded that, at this high-level stage, Sniperley Park was an acceptable location for development.
736. Sniperley Park, established in the early 19<sup>th</sup> century, is identified on the Durham Local List of Historic, Greens, Gardens and Designated Landscapes of Local Interest. The significance of the Park lies primarily in its historic and artistic interest through the setting it provides to the Hall with the survival of key elements of its design such as the entrance drive, serpentine woodland belt to the north east, the kitchen garden, hoha and pleasure grounds. There are no designed avenues or views within the Park. It is notable that the boundary of the Park includes the modern buildings of the Durham Community Fire Station.
737. Sniperley Hall is a former country house dating from the early 19<sup>th</sup> Century. It has undergone significant alteration and extension. It is now split into two dwellings. Its significance derives from its historic interest being part of a small country estate and its architectural interest as an early 19<sup>th</sup> Century mansion house for the gentlemen class within the area. The parkland, being part of the setting to the Hall contributes to its significance. The greatest contribution

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<sup>164</sup> CD10.23

comes from the formal gardens, haha and entrance drive to the west and south west of the building which the principal facade overlooks. These areas lie outside the appeal boundaries. The walled garden to the north of the Hall also makes a contribution to its setting, being a directly associated structure and subservient to the house. The appeal schemes do not affect any of these elements.

738. Sniperley Farm consists of a farmhouse and four attached outbuildings forming a 'U' shape. The date of construction is unknown but is likely to be early in the 18<sup>th</sup> century. The Farmhouse has been extended and new buildings added through the 19<sup>th</sup> and 20<sup>th</sup> centuries. The Farm ceased operation in the early 1990's when the farmhouse was converted to a children's nursery. This closed in the 2000s and the site has been left vacant since.
739. The buildings of the farm within the boundaries of Appeals B and D are proposed to be demolished. These are modern structures without heritage significance. The buildings within Appeal C, five in total, which are in a poor state of repair, are to be converted to residential use. The significance of the farm lies in its association with the Hall and as part of the wider Sniperley Estate.
740. CDP Policy 5 e) requires that the design of development in the vicinity of Sniperley Hall and Farm will have regard to their character and setting and the recognition of the area as an Historic Park and Garden of local interest. Part g) of the Policy, amongst other things, seeks to maintain the relationship of the Hall with the land to the north and with Sniperley Farm, having regard to their setting.
741. These requirements have been included in the Masterplan. Appeal B and D propose public open space to the rear of the Hall and a swathe of open space leading north east. This allows an appreciation of the relationship between the Hall and the parkland. It is also proposed that the track which once connected the Hall and the Farm, should be retained, allowing an appreciation of the connection between the two assets. [269]
742. The creation of the farm character area to the rear of the Hall and Farm set out in the submitted Design Code have specifically had regard to the setting of these assets. The layout of this area presents a village green type character with a varied roofline providing visual interest and a less suburban form. Car ports have been added of timber construction and chimney stacks have been added to some properties to reflect the simple aesthetic of the Farm. Furthermore, the properties front onto the copse of trees which are retained in the scheme. Additionally, a reduced density of 21 dwellings per hectare has been applied to take account of the context of the Hall and Farm. [469,470]
743. Turning to Appeal C, the conversion of Sniperley Farm to residential use, the scheme will result in change to historic fabric, however this is necessary and unavoidable considering the condition of the buildings and the proposed reuse. Minimal intervention to the main farmhouse is proposed, with the removal of a modern porch on the front elevation, enabling the restoration of the original facade. The 'u' shaped layout of the farm buildings is retained, maintaining an understanding of the function of this area and preserving the historic layout which contributes to the significance of the asset. Appeal C brings the farm buildings back into use, preventing future deterioration and possible collapse, which provides a significant heritage benefit. [270]

744. Policy 5f) of the CDP seeks to ensure that any visual association with Durham Castle and Cathedral World Heritage Site (WHS) will be given special regard to reflect its significance. This asset is located approximately 2.6 km to the south of the appeal site. Its significance is expressed through eight attributes which make up its Outstanding Universal Values. Of relevance in this appeal is the visual drama of the Cathedral and Castle on the peninsula and the associations with the notions of romantic beauty.
745. There is an inner and outer setting to the WHS, the appeal site being within the outer setting in the Zone of Theoretical Visibility. On site however, it is not possible to see the WHS. Furthermore, there are no key views identified in the WHS Management Plan either within the appeal site or in areas which may include the site. The development proposed is relatively low level in scale as residential housing and the site has substantial screening through the woodland belt of Sniperley Park, the Durham Community Fire Station, and the landscaping associated with the Park and Ride. I therefore conclude that the appeal scheme would have no impact on the WHS as there will be no change to the Outstanding Universal Values.
746. Given the above, I am satisfied that appeals cause no harm to the non-designated heritage assets and have regard to the visual association with Durham Castle and Cathedral World Heritage Site. The proposals comply with the Framework, Policy 5, and Policy 44 of the CDP. These policies seek to protect and enhance the historic environment.

#### Poor design, Overdevelopment and Car Parking

747. This issue relates to Appeal D only. The Council's reason for refusal states that the proposed development constitutes poor design and overdevelopment with an over dominance of off street car parking. [457]
748. The Council's car parking requirements changed during the course of the application process with the Council adopting a new Parking and Accessibility SPD in October 2023. When originally submitted, I am advised that the proposal met the requirements in place at that time. However, the new guidance now requires more parking spaces on the site than is being provided in the scheme. In fact, the proposal provides 192 spaces less than required and also more cycle parking spaces than required. [264]
749. The SPD recognises that in certain circumstances for example for reasons of sustainability, design or viability, a deviation from the guidelines may be considered. In the appeal case, a key priority is to promote non car means of travel and achieve a sustainable development. Therefore, fewer car parking spaces are justified.
750. It is ironic that despite the above, the Council feels there is an over dominance of off street car parking. The proposed layout provides a range of parking solutions including driveway parking, on street and parking courts. The design provides for soft landscaping of the side and front boundaries of dwellings and street tree planting to mitigate the visual impact of car parking in the street scene. [265]
751. A representative of City of Durham Trust argued at the Inquiry that even fewer car parking spaces should be provided in the scheme bearing in mind the low

levels of car ownership in the locality and to promote non car use and active travel. Whilst greater use of non-allocated car parking bays would provide a more efficient use of land and may free up space in front of dwellings for more landscaping, it must be recognised that many people prefer to have their car on plot for security and convenience. I accept that there are a wide range of design solutions, not just on plot car parking which can all accommodate electric vehicle charging. However, a further reduction in car parking on the site, may result in the schemes non-compliance with the Council's Parking standards.

752. There have been no objections from the Council or statutory consultees to the appellants jointly prepared Masterplan or the Design Code. Consequently, I am satisfied that Appeal D is of a high quality of design and that there is no overdominance of car parking. The proposal complies with Policies 5, 21 and 29 of the CDP and Policies 2 and 6 of the Witton Gilbert Neighbourhood Plan which seek to achieve sustainable transport and design.

### **Benefits**

753. The appeal schemes would deliver a range of social, economic and environmental benefits.

754. Firstly, the delivery of housing; up to 1550 dwellings in Appeal A, up to 370 dwellings in Appeals B/D and four dwellings in Appeal C, totalling up to 1920 new homes. This would maintain the Council's ability to deliver a five-year housing land supply over the Plan period and beyond. It would also ensure that the housing need of 1308 dwellings per annum, 24,852 dwellings to 2035, can be met. I give substantial weight to the appeal schemes contributions to housing supply.

755. The developments will also deliver 25% affordable housing, up to 388 dwellings in Appeal A, around 93 dwellings in Appeal B or 92 in Appeal D. These affordable dwellings would have a mix of tenure including First Homes, DMS and affordable rent. They will address the significant shortfall in the County and the need for 836 affordable homes over the plan period to 2035. I therefore give significant weight to the delivery of affordable homes.

756. The houses to be delivered would meet the NDSS, 66% would meet M4(2) standards and 10% would be suitable to meet the needs of older people, in compliance with Policy 15 of the CDP. These factors all weigh in favour of the appeal schemes.

757. The new homes would be in a sustainable location with access to a network of active travel routes, shared and segregated footways and cycleways giving priority to walking and cycling, improved crossing points for non car users and improved public transport. These measures would benefit future and existing residents. However, as sustainable travel measures are a requirement of Local Plan policy, I attribute them limited weight.

758. The proposed off site highway improvements are required to mitigate the effects of the development on the local highway network. They would also enable the network to operate more efficiently and be of benefit to all users. Appeals B/D facilitate the extension to the Sniperley Park and Ride, maximising the sustainability of the allocation and being of benefit to all users of the facility. These benefits attract moderate weight.

759. The provision of a new primary school with financial contributions from the appeal schemes would be a further benefit. Should Appeal A not proceed, Appeals B/D would contribute to improvements at existing primary schools. The schemes would also make financial contributions to the expansion of Framwellgate School. As these matters are a requirement of policy, providing facilities for children generated by the developments, they attract limited weight.
760. The development would also provide economic benefits. The provision of new homes would help to address economic underperformance in the County by supporting the economic potential of Durham in particular the delivery of Ayckley Heads. The construction of the dwellings would create employment, including opportunities for apprenticeships for over 10 years. Indirect jobs in the supply chain would also be supported. Additional permanent employment would be created in the primary school and secondary schools' expansion, as well as in the local centre. Future residents of the developments would increase expenditure in the local economy. I give these benefits significant weight.
761. In terms of environmental benefits, the developments would provide Biodiversity Net Gain(BNG) in excess of 10% as well as ecological mitigation measures including, swift boxes, bat boxes and barn owl boxes. Appeal A would provide Green Belt compensatory improvements on land to the north of Potterhouse Lane and Appeals B/D would do the same on land to the south of the A691. This would provide the opportunity for further BNG. The developers have made a commitment to the houses being 'gas free' for heating with a fabric first approach being adopted to enhance thermal performance. All these factors weigh in significantly in favour of the developments.

## **Other matters**

### Quantum of development

762. CDP Policy 5 allocates the Sniperley Park site for 1,700 dwellings. Cumulatively the appeal schemes would provide in excess of this, up to 1,920 new dwellings.
763. The allocation of 1,700 dwellings is an estimated yield as confirmed in the CDP.<sup>165</sup> It was not based on detailed technical appraisal and layout of the allocation, rather the figure was to inform the Council's housing land supply assessment at the local plan examination stage. The figure of 1,700 is therefore indicative only.
764. The Density Parameter Plan<sup>166</sup> for Appeal A demonstrates different densities in each of the proposed character areas with densities below 30 dwellings per hectare on the periphery of the site, and higher densities up to 35 dwellings per hectare towards the centre of the site. Similarly, a range of densities is proposed in Appeals B/D, for each of the proposed character areas. The appeal schemes have an average density of around 32 dwellings per hectare.
765. Based on the design evidence before me, I am satisfied that the allocation would not be overdeveloped and can accommodate the 1,920 dwellings proposed with appropriate levels of open space and supporting infrastructure.

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<sup>165</sup> Table 7 Housing Allocation to the Local Plan and paragraph 4.88

<sup>166</sup> CD1.05

### Highway safety

766. The City of Durham Trust and WRRAG have raised a number of matters relating to the highway impacts of the proposals.
767. The Transport Assessment accompanying the appeals looks cumulatively at the impact of Appeals A/B and D. It demonstrates that the baseline vehicular trip rates are similar to that considered by the Examining Inspector at the EiP in 2019.
768. Eight existing junctions were modelled together with the new eastern access roundabout on the A167. The assessment concluded that all junctions studied would operate within capacity except for the existing B6532/Trouts Lane junction and the Sniperley roundabout. A mitigation scheme is put forward for the B6532 Trouts Lane junction and it is proposed to signalise the Sniperley roundabout.
769. The location of the new access roundabout on the A167 is proposed further south than that envisaged in the Council's Masterplan. This does not impact on the public transport accessibility or pedestrian connectivity and access to facilities to the east of the A167. It is therefore acceptable. The Highway Authority have raised no objection. [478]
770. The lowering of the speed limit on the A167 from 60mph to 40mph between the Pity Me roundabout and the Park and Ride roundabout would be beneficial to improve the connectivity of the site to the community to the east of the A167 and reduce severance. [481]
771. Criticism has been made of the Travel Plan and whether it would be effective. The submitted Framework Travel Plan (FTP) sets out the broad measures that would be implemented as part of the development. It is the developer's intention to produce a residential travel plan and a school travel plan. Measures could include bus stops with real time travel information, cycle parking at on site facilities, car sharing, EV charging points, bus vouchers for new residents, as well as welcome packs providing public transport information. The FTP includes the target of reducing single occupancy car trips by 5 percent. The target set is reasonable and achievable. In reality the level of reduction may be greater given the exemplar nature of the development in terms of sustainability. As part of the Travel Plan there is a commitment to monitor and review targets and interventions and adjust them according to travel patterns. [489]
772. In respect of Appeal A, the City of Durham Trust have suggested the introduction of modal filters/bus gates to discourage car use and encourage more sustainable means of travel. Whilst these can be effective, consideration needs to be given to potential knock-on effects. The consequence of diverting traffic to other routes may not outweigh the benefits of the modal filter. Should modal filters be considered appropriate by the Highway Authority, they are best addressed at reserved matters stage.
773. WRRAG are particularly concerned with the impact of additional traffic on the A167 between Sniperley roundabout and Nevilles Cross. It is considered this will lead to increased congestion and reduce air quality. CDP Policy 5 (I) includes capacity improvements on the A167 corridor from Sniperley to Nevilles Cross. As the addition of traffic from the development at peak times is small, around 5%,

any contribution to capacity improvement would not be proportionate or CIL compliant. [473,499,501]

774. With regard to air quality, as part of the Environmental Statement the developers undertook an Air Quality Assessment to look at the long-term air quality impacts of the development on the A167 corridor between Sniperley roundabout and Neville's Cross. This predicts that all pollution concentrations at receptors along Neville's Cross will be less than 0.5% of the relevant air quality objective/limit value. The impacts are therefore negligible.
775. WRRAG have commented that the signalisation of Sniperley roundabout may have value in the context of traffic management but would do nothing to address the matter of congestion at the roundabout. Where a roundabout has a dominant arm, this can cause queues on other legs and a knock-on effect to other junctions. In the case of Sniperley, queues to Blackie Boy roundabout often result as traffic tries to enter the Sniperley roundabout, having to wait for a gap in traffic. Signalisation will enable queues on the A691 link, A167 link and Blackie Boy roundabout to be given a green light to proceed. I have no evidence before me that the proposed signalisation would create difficulties for emergency services located on the A691. [498,502]
776. WRRAG refer to the Aecom Report commissioned by the Council in 2020. This found that the effectiveness of signalisation of the Sniperley roundabout was dependent on works to remove southbound blocking, a scheme for these works was proposed at that time but were not taken forward. The appellant's Transport Assessment has considered the proposed works to this roundabout and concluded that they would lead to significant improvement to its operation. The Highway Authority have raised no objection to the principle of signalisation. [509,512]
777. In conclusion, safe and suitable access can be achieved, and the proposals will not lead to adverse impacts on highway safety. The developments comply with paragraphs 114 and 115 of the Framework and Policies 5I), 21 and 29 of CDP which seek to promote sustainable transport.

#### Ecology and Biodiversity

778. Some concern has been raised by interested parties about the impact of the development on ecology and wildlife. A comprehensive suite of detailed ecological surveys were undertaken by both developers including detailed botanical surveys of woodland; breeding bird surveys; winter bird surveys; reptile surveys and bat surveys.
779. They found that the appeal sites support habitats of relatively low biodiversity value including intensively managed arable cropland with species-poor trimmed native hedgerows. Two areas of Japanese knotweed were found to be present the site of Appeals B/D. The appeal sites support a range of breeding and wintering birds.
780. In respect to Appeal A, the areas of woodland on site to the north and north east support an understorey including ancient woodland indicator species. Within the central area is a small area of grassland which has been managed for wildlife. The watercourses on site providing wildlife linkages across the local area.

781. Two day roosts of solitary common pipistrelle and brown long-eared bats were found in the derelict buildings at Sniperley Farm, the subject of Appeal C. No other rare, protected or notable species were found to be present on the wider appeal site.
782. Mitigation measures are proposed in the respective developments (to be secured by planning condition) to minimising vegetation removal; protect retained woodland; minimise dust and noise; ensure habitat creation and long-term habitat management; eradicate Japanese knotweed; create dead wood habitats; protect bat roosts and active bird nests; provide bat boxes and bird nesting boxes; design sensitive lighting and provide hedgehog habitats.
783. In order to ensure that the development will result in a Biodiversity Net Gain of greater than 10% for Habitats and greater than 10% for Hedgerows, on-Site and off-Site habitat creation and enhancement measures will be provided. These habitats will be sensitively managed for at least 30 years. A Biodiversity Management and Monitoring Plan will be required by a planning condition to ensure the development delivers the net gains for biodiversity.
784. The Council has raised concern that the implementation of structural landscaping along the A167 and the southern edge of the new road from the A691 to the Pity Me roundabout as required by CDP Policy 5 c) is lacking detail from the appellants. It is notable that it does not specifically feature in the appellants final Infrastructure Delivery Schedule<sup>167</sup>. Nevertheless, CDL have illustrated the works on the submitted Landscape Masterplan. The provision of landscaping will be a key part of ensuring a high-quality development. I have no reason to doubt that these works would not be implemented at an appropriate stage in the development. The implementation of structural landscaping can be considered further at reserved matters stage and be the subject of appropriate conditions should the appeals be allowed. [350-352]
785. The Green Belt compensation areas provide the opportunity for informal recreation as well as further biodiversity enhancement. Whilst these areas will be open to public access, through existing public rights of way and proposed additional footpaths, these areas will be appropriately managed through the above Biodiversity Management and Monitoring Plan to ensure enhancements are achieved. [529]
786. The Council have raised concern that the delivery of these two areas are not alternatives; they are not identified as capable or appropriate for bringing forward separately. Clearly, they are not required to mitigate the impact of the development on the allocation. That said I see no reason why they cannot be provided separately, especially as the land north of Potterhouse Lane relates spatially to the CDL site and the land along the A691 relates to the Bellway site. Paragraph 147 of the Framework sets out that the impact of removing land from the Green Belt can be offset though compensatory improvements to the environmental quality and accessibility of remaining Green Belt. Should the Bellway scheme not proceed, that part of the allocation would remain undeveloped and open. The key word in paragraph 147 of the Framework is

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<sup>167</sup> ID65

'impact', that is the land use harm resulting from removing land from the Green Belt which can only be triggered when development commences. [119,355-357]

787. Overall, I am satisfied that with appropriate mitigation required by planning conditions and the respective planning obligations, the appeal proposals would be acceptable, meeting the requirements of Policies 40 and 43 of the CDP which seek to ensure the protection and enhancement of biodiversity.

#### Design (Appeal D- Bellway Hybrid scheme)

788. Interested parties have raised concern about the legibility of the proposed layout, priority, orientation of houses to optimise thermal comfort, the provision of solar PV, the directness of the path network and the quality of the public open space and parkland in respect to Appeal D. [466]

789. Appeal D is accompanied by a Design and Access Statement incorporating a Design Code<sup>168</sup>. The submitted scheme has been the subject of a lengthy design process including a comprehensive assessment of the site and its context. The site layout takes account of urban design principles, the Framework, the National Design Guide and National Model Design Code to achieve community integration and a sustainable development with strong links to the surrounding areas.

790. The Design Code is informed by a detailed analysis of local character. The code proposes 5 broad character areas each with a clearly defined character relating to the sites context and surroundings. Consideration is given to strategic landmarks, gateway buildings, corners and key vistas, as well as movement hierarchy, street type codes and active travel corridors.

791. The submitted Masterplan builds on the Council's Masterplan to achieve the Council's design vision to produce a high quality well designed new community. The proposal would respect the local character with a varied townscape achieved through the delivery of areas with distinctive character, creating identity and sense of place. Legible routes are created throughout the development, providing sustainable transport choices set in a strong landscape structure with a linear park.

792. The City of Durham Trust commented that the extent of parking proposed and its impact on the street scene, limits the scope for good orientation for solar gain and solar panels, and limits space for necessary landscape provision. The submitted 3D visualizations<sup>169</sup> demonstrate how the layout has been designed to provide attractive public areas and street scene, with both car parking space to the front and to the side of dwellings, the provision of grassed front garden areas with hedgerows features set back from grassed tree lined streets. I have already commented on the level of car parking proposed in the development and that it is below that required in the Council parking standards. The proposed dwellings have been orientated as much as possible to take account of solar gain, though I accept this is not feasible in all circumstances. [467]

793. Given the above, I consider the development is appropriate from a design perspective, meeting the requirements of Policy 5 and Policy 29 of the CDP.

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<sup>168</sup> CD.5.25 and CD 5.26

<sup>169</sup> CD6.74 and 6.75

### Sniperley Hall

794. A resident has questioned the proximity of the proposed dwellings in Appeal D to Sniperley Hall and raised concern that there would be an adverse effect on residential amenity though loss of privacy and overlooking. The scheme maintains a minimum 21 metre separation distance between habitable rooms which is considered to be acceptable to safeguard the privacy of the occupants of the Hall. [458,533,534]

### Location of children's play area

795. Concern has been raised about the proximity of the children's play area in Appeal A to the power lines that traverse the site. Appeal A is in outline so that the precise location of play equipment can be determined at reserved matters stage. It can be ensured that the 35-metre recommended offset zone contained within National Grid guidance can be achieved. In addition, I understand the developer intends to put up Information boards containing education and safety messages next to play areas. I therefore have no reason to take the view that there would be any safety issues from the location of the children's play area close to power lines. [535]

### Healthcare

796. The appeal schemes will generate additional demand for healthcare facilities in the locality. Appeal A includes the provision for a new health facility within the proposed local centre. Appeal B makes a financial contribution secured through the s106. I am satisfied that the appeal proposals make appropriate provision for healthcare infrastructure.

### **Planning Balance**

797. The Planning and Compulsory Purchase Act 2004, s38(6)) requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.
798. Sniperley Park allocation forms the largest allocation in the CDP and contributes to Durham's housing land supply. The appeals comply with the requirements of CDP Policy 5 with the imposition of a number of planning conditions and planning obligations. Discrete points in relating to the delivery of the primary school, the trigger for secondary school contribution and the public transport cross subsidy, are discussed in my report and I conclude on appropriate ways forward.
799. The appeals result in a number of social, economic and environmental benefits. The Masterplan prepared by the developers builds on the Council's Masterplan and provides the required infrastructure to create a sustainable development. The proposals will deliver improved public transport, a range of active travel measures for pedestrians and cyclists and Appeals B/D provide for the expansion of the adjacent Sniperley Park and Ride. A safe and suitable access can be provided to the site for all users, the developments would not have an unacceptable impact on highway safety and the resultant cumulative impact on the road network would not be severe subject to the junction improvements and off site highway works proposed.

800. The submitted Design Codes will produce developments of a high quality of design. The schemes incorporate an appropriate mix of housing types and tenures to reflect housing need including housing for older people and affordable housing in compliance with CDP Policy 15.
801. The developments will deliver a new primary school when needed and contribute to the expansion of Framwellgate School. District heating has been explored as required by Policy 5 and the use of individual air source heat pumps together with a commitment to be gas free is acceptable to contribute towards the Council's net zero aspirations.
802. In terms of heritage matters, I have found that the appeals would cause no harm to the nearby non designated assets of Sniperley Farm and Sniperley Hall.
803. Appeal A is not dependent on the implementation of Appeals B/D. If the latter site does not come forward, Appeal A would still be responsible for the delivery of all the necessary infrastructure to ensure a sustainable development.
804. There are no outstanding areas of dispute in relation to Appeal C, the conversion of Sniperley Farm to residential dwellings. The Council has helpfully prepared a draft delegated report<sup>170</sup> to this effect. I have no reason to disagree with their recommendation.
805. Paragraph 11c) of the Framework states that development proposals that accord with an up-to-date development plan should be approved without delay. I have found above that the proposal complies with the development plan as a whole and there are no material considerations that justify a decision other than in accordance with the development plan.

## **16. Recommendations**

806. I recommend that Appeals A, B C and D should be approved, and planning permission granted subject to the respective Schedules of conditions attached and the planning obligations in the respective section 106 agreements, with Schedule 3 relating to education and Schedule 4 concerning public transport coming into effect in respect of Appeal A.

*Helen Hockenhull*

PLANNING INSPECTOR

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<sup>170</sup> ID55

## **APPENDIX A**

### **APPEARANCES**

#### **FOR THE APPELLANT, CDL:**

Paul G Tucker KC and Shemuel Sheikh, Counsel instructed by Neil Westwick of Lichfields

They called:

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\*Ben Hunter BA DipMS  
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#### **FOR THE APPELLANT, BELLWAY HOMES:**

Hashi Mohamed Counsel

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Michelle Robinson BA(Hons), DipTP, MRTPI  
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\*Appeared on behalf of both appellants.

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Cairo Nickolls LLB  
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## **FOR THE COUNCIL**

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He called:

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**INTERESTED PARTIES**

John Lowe	City of Durham Trust
Matthew Phillips	City of Durham Trust
Michael Hurlow	City of Durham Trust
John Ashby	City of Durham Trust
John Pacey	Western Relief Road Action Group WRRAG
Richard Cowan	CPRE
Mr Llewellyn	Resident
Mr McCardle	Resident
Mrs Ashby	Parish Councillor

## **APPENDIX B**

### **DOCUMENTS SUBMITTED DURING THE INQUIRY.**

- ID1 DCC Appearance List
- ID2 CDL Appearance List
- ID3 Bellway Appearance List
- ID4 DCC Section 106 Email of 26 January 2024
- ID5 Paul Tucker KC Openings
- ID6 Hashi Mohamed Openings
- ID7 John Barrett Openings
- ID8 John Lowe (City Of Durham Trust) Statement
- ID9 John Pacey (WRRAG) Statement
- ID10 WRRAG Supplementary Note
- ID11 Richard Cowen (CPRE) Statement
- ID12 Memorandum of Understanding between CDL and Bellway
- ID13 Securing Developer Contributions 2017
- ID14 Public Transport Statement of Common Ground
- ID15 Active Travel Statement of Common Ground
- ID16 Low Carbon Team Comments
- ID17 Matthew Philips (City of Durham Trust) Statement on Public Transport
- ID18 Richard Cowen (CPRE) Statement on Active Travel
- ID19 Matthew Philips (City of Durham Trust) Questions
- ID20 John Pacey (WRRAG) Supplementary Statement
- ID21 WRRAG Checklist
- ID22 Local Plan Viability Testing – Update
- ID23 First Homes Assessment 2022 (Draft)
- ID24 Draft Housing SPD
- ID25 CPaL Letter of 23 August 2022
- ID26 Covering Report to Cabinet on Solar Energy and Housing Needs  
Supplementary Planning Documents
- ID27 Andrew Williams Urban Design Proof of Evidence Errata and Update Note
- ID28 John Ashby (City of Durham Trust) Masterplanning Statement

ID29 Michael Hurlow (City of Durham Trust) Design Statement  
ID30 John Pacey (WRRAG) Master Planning Statement  
ID31 Updated Figure 9 of Andrew Williams Appendices  
ID32 Local Plan Viability – Addendum  
ID33 Written Ministerial Statement made on 24 May 2021  
ID34 A691 Roundabout Note  
ID35 Sport England Meeting Note 13.01.24  
ID36 Richard Cowen (CPRE) Statement on Green Belt and Biodiversity  
ID37 Matthew Philips (City of Durham Trust) Statement  
ID38 DCC Aykley Heads Position Statement  
ID39 DCC Masterplan Position Statement  
ID40 David Newham Updated Position  
ID41 Park and Ride Position Statement  
ID42 Michael Hurlow (City of Durham Trust) Design Statement (15.02.2024)  
ID43 John Pacey (WRRAG) Statement (15.02.2024)  
ID44 CDL Updated Draft Conditions  
ID45 CDL Updated Draft S106  
ID46 CDL S106 Summary Note  
ID47 Bellway Homes Hybrid Updated Conditions (Appeal D)  
ID48 Bellway Homes Outline Updated Conditions (Appeal B)  
ID49 Bellway Affordable Homes Location Plan  
ID50 Bellway Homes Hybrid Updated Draft S106 (Appeal D)  
ID51 Bellway Homes Outline Updated Draft S106 (Appeal B)  
ID52 Bellway S106 Summary Note  
ID53 Appellants’ Response to DCC Masterplan Position Statement  
ID54 DCC Appropriation (Land) Position Statement (Updated)  
ID55 Bellway Appeal C Draft Delegated Report  
ID56 Updated Park and Ride Position Statement  
ID57 Updated Active Travel Statement of Common Ground  
ID58 Updated Public Transport Statement of Common Ground  
ID59 DCC List of Appearances (Updated)

- ID60 Planning Statement of Common Ground Addendum (CDL and DCC)
- ID61 CDL List of Appearances (Updated)
- ID62 Bellway List of Appearances (Updated)
- ID63 Planning Statement of Common Ground Addendum (Bellway and DCC)
- ID64 CDL Conditions (Agreed Final Draft) 21.02.2024
- ID65 Andrew Williams Proof of Evidence Errata and Update Note
- ID66 DCC Closing Submissions
- ID67 CDL Closing Submissions
- ID68 CDL Closing Submissions Addendum
- ID69 Bellway Closing Submission

## **APPENDIX C**

### **DOCUMENTS SUBMITTED AFTER THE EVENT.**

ID70 CDL S106 (Agreed Final Draft) - 23.02.2024

ID71 CDL S106 Summary Note - 23.02.2024

ID72 Bellway Hybrid (Appeal D) Conditions (Agreed Final Draft) - 27.02.2024

ID73 Bellway Outline (Appeal B) Conditions (Agreed Final Draft) - 27.02.2024

ID74 Bellway Hybrid (Appeal D) S106 (Agreed Final Draft) - 28.02.2024

ID75 Bellway Outline (Appeal B) S106 (Agreed Final Draft) - 28.02.2024

ID76 Bellway (Appeal C) Delegated Report (Final) - 27.02.2024

## **APPENDIX D**

### **LIST OF CORE DOCUMENTS**

#### **CD1 Application Documents and Plans relating to Co. Durham Land LLP Appeal**

- 1.01 Location Plan SD-00.01 Rev B
- 1.02 Existing Site Plan SD-00.02 Rev B
- 1.03 Land Use Parameter Plan SD-30.01 Rev B
- 1.04 Connectivity Parameter Plan SD-30.02 Rev C
- 1.05 Density Parameter Plan SD-30.03 Rev B
- 1.06 Building Scale Parameter Plan SD-30.04 Rev B
- 1.07 Phasing Parameter Plan SD-30.05 Rev B
- 1.08 Linear Park SD-20.01 Rev B
- 1.09 Demolition Plan SD-20.02 Rev B
- 1.10 Proposed Junction Improvement A167 / Park & Ride Roundabout 226483/P- 01 Rev A
- 1.11 Proposed B6532 / Potterhouse Lane, Trouts Lane Junction Improvement 226483\_P-04 Rev A
- 1.12 Proposed Potterhouse Lane Improvement to Bus Route 226483\_P-05 Rev A
- 1.13 Proposed A167 Controlled Crossing 226483/P-06 Rev A
- 1.14 Proposed A167 / Link Road Junction 226483/P-07 Rev A
- 1.15 Illustrative Masterplan SD-10.01 Rev G
- 1.16 Illustrative Landscaping Strategy Plan 1603-1-1 Rev J
- 1.17 Illustrative Planting Strategy Plan 1603-1-3 Rev H
- 1.18 Illustrative Compensatory Habitat Plan 1603-1-5 Rev D
- 1.19 Illustrative Linear Park Landscape Strategy Plan 1603-1-6 Rev H
- 1.20 Illustrative Neighbourhood Equipped Area for Play (NEAP) 1603-1-7 Rev A
- 1.21 Illustrative Habitat Mitigation Plan 1603-1-8
- 1.22 Covering Letter
- 1.23 Design and Access Statement
- 1.24 Strategic Design Code
- 1.25 Comprehensive Masterplan and Infrastructure Phasing
- 1.26 Planning Statement

- 1.27 Agricultural Land Classification Report
- 1.28 Arboricultural Impact Assessment ARB/AE/848
- 1.29 Health Impact Assessment
- 1.30 District Heating Technical Note NT15278v6 14/12/2022
- 1.31 Mineral Risk and Mineral Assessment C5175A/7969/DCB
- 1.32 Preliminary Geoenvironmental Appraisal C5715A1.33 Preliminary Geoenvironmental Appraisal Appendix A
- 1.34 Preliminary Geoenvironmental Appraisal Appendix B
- 1.35 Preliminary Geoenvironmental Appraisal Appendix C
- 1.36 Preliminary Geoenvironmental Appraisal Appendix D
- 1.37 Preliminary Geoenvironmental Appraisal Appendix E
- 1.38 Preliminary Geoenvironmental Appraisal Appendix F
- 1.39 Preliminary Soil Resource Management Strategy C5715D/PSRMS/JPM
- 1.40 Landscape Management and Maintenance Plan
- 1.41 Landscape Management Schedule
- 1.42 M4(2) checklist
- 1.43 Sustainability Checklist
- 1.44 Education Note 14 December 2022
- 1.45 Draft Heads of Terms December 2022
- 1.46 Statement of Community Involvement December 2022
- 1.47 ES (Vol 1) Non-Technical Summary
- 1.48 ES (Vol 2) Chapter A: Introduction & Background
- 1.49 ES (Vol 2) Chapter B: Scope and Methodology
- 1.50 ES (Vol 2) Chapter C: Site and Development Description
- 1.51 ES (Vol 2) Chapter D: Transport
- 1.52 ES (Vol 2) Chapter E: Ecology and Biodiversity
- 1.53 ES (Vol 2) Chapter F: Air Quality (including Odour)
- 1.54 ES (Vol 2) Chapter G: Noise and Vibration
- 1.55 ES (Vol 2) Chapter H: Below Ground Heritage
- 1.56 ES (Vol 2) Chapter I: Landscape and Visual Impact Assessment
- 1.57 ES (Vol 2) Chapter J: Socio-Economics

- 1.58 ES (Vol 2) Chapter K: Water Management and Flooding
- 1.59 ES (Vol 2) Chapter L: Climate Change (Greenhouse Gas Emissions)
- 1.60 ES (Vol 2) Chapter M: Cultural Heritage
- 1.61 ES (Vol 2) Chapter N: Climate Change Resilience
- 1.62 ES (Vol 2) Chapter O: Cumulative and Residual Effects
- 1.63 ES (Vol 2) Chapter P: Mitigation and Monitoring
- 1.64 ES (Vol 3) Chapter A: Appendices
- 1.65 ES (Vol 3) Chapter B: Appendices
- 1.66 ES (Vol 3) Chapter C: Appendices
- 1.67 ES (Vol 3) Chapter D: Appendices
- 1.68 ES (Vol 3) Chapter E: Appendices
- 1.69 ES (Vol 3) Chapter F: Appendices
- 1.70 ES (Vol 3) Chapter G: Appendices
- 1.71 ES (Vol 3) Chapter H: Appendices
- 1.72 ES (Vol 3) Chapter I: Appendices
- 1.73 ES (Vol 3) Chapter K: Appendices
- 1.74 ES (Vol 3) Chapter L: Appendices
- 1.75 ES (Vol 3) Chapter M: Appendices
- 1.76 ES (Vol 3) Chapter N: Appendices
- 1.77 ES (Vol 3) Chapter O: Appendices
- 1.78 ES Contents Sheet

**CD2 Additional/amended reports and/or plans submitted after validation relating to Co. Durham Land Appeal**

- 2.01 ES Conformity Statement
- 2.02 Annex 1 – AECOM Review of ES Chapter F
- 2.03 Annex 2 – Updated Volume 2 – Chapter F (Air Quality)
- 2.04 Annex 3 – Updated Volume 3 – Chapter F (Air Quality) Appendices
- 2.05 Annex 4 – DCC Ecology Comments
- 2.06 Annex 5 – Updated Volume 3 – Chapter E (Ecology) Appendix E13
- 2.07 Enhanced Design Review Covering Email to DCC 6 March 2023

- 2.08 Development Cell Extract Diagram (1)
- 2.09 Development Cell Extract Diagram (2)
- 2.10 Orchard Community Building DE-517-001; 002 and 003
- 2.11 Transport Update Email to DCC 23 March 2023
- 2.12 Vectos A167 Note 21 March 2023
- 2.13 Vectos Provision of Bus Services Note 23 March 2023
- 2.14 S106 Extract Example (Beaulieu)
- 2.15 S106 Note Email to DCC 29 March 2023
- 2.16 Eversheds Sutherland / Gowlings S106 Advice Note
- 2.17 Updated EFM Education Note 12 May 2023
- 2.18 Education Note Covering Email to DCC 12 May 2023
- 2.19 Updated Draft Heads of Terms (CDL and Bellway) May 2023
- 2.20 Covering Email sent to DCC 15 May 2023
- 2.21 Glen Kemp Cost Schedule for Playing Field Improvements Rev D
- 2.22 Referenced Sports Provision Plan 1603-1-9
- 2.23 Covering Email (with Sport Provision Costs) sent to DCC 18 May 2023
- 2.24 Design Review Panel Response Note 22 May 2023
- 2.25 Internal Design Review – Vectos Response 19 May 2023
- 2.26 DRP Covering Email to DCC 23 May 2023
- 2.27 Vectos A167 Speed Strategy 19 June 2023
- 2.28 Vectos Note with Active Travel Proposals 20 June 2023
- 2.29 Healthy Active Travel Connectivity Plan Review 14 July 2023
- 2.30 Vectos HATCP Update Review 14 July 2023
- 2.31 HATCP Covering Email to DCC 14 July 2023
- 2.32 CDL Email to DCC (Primary School) 31 July 2023
- 2.33 Sniperley Joint s106 Schedule Submission 1 August 2023
- 2.34 CDL Covering Email to DCC (with S106 Schedule) 1 August 2023
- 2.35 Wardell Armstrong Air Quality Response 4 August 2023
- 2.36 Air Quality Covering Email to DCC 4 August 2023
- 2.37 Vectos Bus Subsidy Calculations 8 August 2023
- 2.38 Email to DCC with Clarity on Road Widths 9 August 2023

- 2.39 Wardell Armstrong Response to DCC comments (Air Quality)  
RS/MTW/NT16100/004
- 2.40 Education Table 24 August 2023
- 2.41 Email Correspondence (Air Quality) 25 August 2023
- 2.42 CDL Email to DCC (with Secondary School Payment Terms) 5 September 2023
- 2.43 Updated EFM Education Note 7 September 2023
- 2.44 Vectos Updated Note with Bus Subsidy Calculations 7 September 2023
- 2.45 Section 106 Table (CDL and Bellway) 8 September 2023
- 2.46 Covering Email to DCC 8 September 2023
- 2.47 Email Response to DCC (on Sport England Matters) 11 September 2023
- 2.48 Vectos Note on Sniperley Roundabout Improvement Works 11 September 2023
- 2.49 Draft Planning Conditions 14 September 2023
- 2.50 Covering Email to DCC (with Draft Conditions) 14 September 2023
- 2.51 CDL Email to DCC (Intent to Appeal) 20 September 2023
- 2.52 Vectos Bus Strategy and Subsidy Revisions - 19 December 2023

### **CD3 Application Documents and Plans relating to Bellway Outline Appeal**

- 3.01 Site Location Plan P22-2905.001
- 3.02 Existing Site Plan P22-2905.002
- 3.03 Movement Hierarchy Plan P22-2905.105 B
- 3.04 ES Non Technical Summary Part 1 of 2
- 3.05 ES Non Technical Summary Part 2 of 2
- 3.06 ES Vol 1 Main Text and Figures
- 3.07 ES Vol 1 Main Text and Figures Cover Sheet
- 3.08 Chapter 1 Introduction
- 3.09 Chapter 2 EIA Methodology
- 3.10 Chapter 3 Site and Development Description
- 3.11 Chapter 4 Alternatives and Design Evolution
- 3.12 Chapter 5 Construction Methodology and Phasing
- 3.13 Chapter 6 Cultural Heritage
- 3.14 Chapter 7 Landscape and Visual Effects

- 3.15 Chapter 8 Biodiversity
- 3.16 Chapter 9 Water Resources and Flood Risk
- 3.17 Chapter 10 Transport and Access
- 3.18 Chapter 11 Air Quality
- 3.19 Chapter 12 Noise and Vibration
- 3.20 Chapter 13 Population and Human Health
- 3.21 Chapter 14 Summary and Conclusions
- 3.22 Figure 1.1 Site Location Plan
- 3.23 Figure 2.1 Cumulative Schemes Plan
- 3.24 Figure 3.1 Illustrative Masterplan
- 3.25 Figure 3.2 Building Heights Parameter Plan
- 3.26 Figure 3.2 Green Infrastructure Parameter Plan
- 3.27 Figure 3.2 Land Use Parameter Plan
- 3.28 Figure 3.2 Movement Network Parameter Plan
- 3.29 Figure 4.1 Alternative Masterplan Proposed Layout Sheet 1 Rev M
- 3.30 Figure 4.1 Alternative Masterplan Proposed Layout Sheet 2 Rev M
- 3.31 Figure 10.1 Site Context and Local Highway Network
- 3.32 Figure 10.2 Local Cycle Network
- 3.33 Figure 10.30 Walking and Cycling Catchments
- 3.34 Figure 10.4 Pic Study Area
- 3.35 Figure 11.1 Monitoring Locations
- 3.36 Figure 11.2 Operational Phase Road Vehicle Exhaust Emissions Sensitive Receptors
- 3.37 Figure 12.1 Identified Noise Sensitive Receptors and Survey Locations
- 3.38 Figure 12.1 Noise Sensitive Receptors and Surround Roads
- 3.39 Figure 12.3 Measured 1 Hour Time History at Position A
- 3.40 Figure 12.4 Measured 1 Hour Time History at Position B
- 3.41 Figure 12.5 – 12.6 Analysis of the Typical Background Sound Position A
- 3.42 Figure 12.7 – 12.8 Analysis of the Typical Background Sound Level Position B
- 3.43 Figure 12.9 Traffic Noise Level Contour LA10\_18HR Baseline Year

- 3.44 Figure 12.10A Traffic Noise Level Contour LA10\_18HR Do Something Future Year
- 3.45 Figure 12.11A Traffic Noise Level Contour LA10\_18HR Difference Between Do Something
- 3.46 Figure 12.12 Noise Level Contour LAEQ 1HR at 1.5M From Park and Ride during Day
- 3.47 Figure 12.13 Measured 1 Hour Time History at Position C
- 3.48 Figure 12.14\_12.15 Analysis of the Typical Background Sound Level Position
- 3.49 Figure 12.16A Traffic Noise Level Contour LA10\_18HR Cumulative Traffic
- 3.50 Figure 13.1 Study Area
- 3.51 Appendix 1.1 Location of information within the ES Required by Schedule 4 of Regulations
- 3.52 Appendix 1.2 Statement of the Expertise and Qualifications of the Competent Experts
- 3.53 Appendix 2.1 EIA Scoping Report
- 3.54 Appendix 2.2 Durham County Council Scoping Opinion Part 1 of 3
- 3.55 Appendix 2.2 Durham Council EIA Scoping Opinion Part 2 of 3
- 3.56 Appendix 2.2 Durham Council EIA Scoping Opinion Part 3 of 3
- 3.57 Appendix 5.1 Outline for Construction Environmental Management Plan
- 3.58 Appendix 6.1 Heritage Baseline Part 1 of 2
- 3.59 Appendix 6.1 Heritage Baseline Part 2 of 2
- 3.60 Appendix 6.2 Geophysical Survey Part 1 of 2
- 3.61 Appendix 6.2 Geophysical Survey Part 2 of 2
- 3.62 Appendix 6.3 Archaeological Evaluation
- 3.63 Appendix 7.1 LVIA Figures
- 3.64 Appendix 7.2 LVIA Criteria 3324873
- 3.65a Appendix 7.3 LVIA Viewpoints Part 1 of 3
- 3.65b Appendix 7.3 LVIA Viewpoints Part 1 of 2
- 3.65c Appendix 7.3 LVIA Viewpoints Part 1 of 3
- 3.66 Appendix 7.4 LVIA Landscape Effects Table 3324877
- 3.67 Appendix 7.5 Visual Effects Table
- 3.68 Appendix 7.6 Landscape Masterplan
- 3.69 Appendix 8.1 Phase 1 Habitat Map 2021 Version

- 3.70 Appendix 8.2 Hedgerows Regulations Survey Results
- 3.71 Appendix 8.3 Breeding Bird Survey Results 2021 Version
- 3.72 Appendix 8.4 Bat Survey Results 2021 Version
- 3.73 Appendix 8.5 Environmental Records Information
- 3.74 Appendix 9.1 Flood Risk Assessment
- 3.75 Appendix 9.2 Construction Surface Water Management Plan
- 3.76 Appendix 10.1 – 2011 Census Method of Travel to Work Data
- 3.77 Appendix 10.2 Trip Distribution Assessment
- 3.78 Appendix 10.3 Traffic Data Car Park Emissions
- 3.79 Appendix 10.4 Model Verification
- 3.80 Appendix 11.1 Dispersion Modelling Assessment Input Data
- 3.81 Appendix 11.2 Ecological Air Quality
- 3.82 Appendix 13.1 Health Impact Assessment
- 3.83 Accessible and Adaptable Homes Statement
- 3.84 Agricultural Land Classification Report
- 3.85 Better with Bellway Brochure
- 3.86 Biodiversity Metric Information
- 3.87 Biodiversity Net Gain BNG Statement
- 3.88 Outline Biodiversity Management and Monitoring Plan BMMP
- 3.89 Demolition Volume
- 3.90 Design and Access Statement Incorporating Design Code Part 1 of 2
- 3.91 Design and Access Statement Incorporating Design Code Part 2 of 2
- 3.92 DM\_23\_00591\_Out Application Form No Personal Data
- 3.93 Environmental Statement Volume 2 Technical Appendices
- 3.94 Environmental Statement Volume 2 Technical Appendices Cover Sheet
- 3.95 Flood Risk Assessment Drainage Strategy
- 3.96 Japanese Knotweed Remediation Report Part 1 of 2
- 3.97 Japanese Knotweed Remediation Report Part 2 of 2
- 3.98 Covering Letter Including Supporting Information 15 Feb 2023
- 3.99 Phase 1 Desk Study Part 1 of 3
- 3.100 Phase 1 Desk Study Part 2 of 3

- 3.101 Phase 1 Desk Study Part 2 of 3
- 3.102 Phase 2 Site Investigation
- 3.103 Resource Soil Management Plan
- 3.104 Sniperley Park Comprehensive Masterplan Print Version
- 3.105 Sniperley Park Comprehensive Masterplan Spread Version
- 3.106 Statement of Community Involvement Part 1 of 2
- 3.107 Statement of Community Involvement Part 1 of 2
- 3.108 Structural Survey Report
- 3.109 Structural Checklist for Developers
- 3.110 Sustainability Statement
- 3.111 Tree Survey Part 1 of 3
- 3.112 Tree Survey Part 2 of 3
- 3.113 Tree Survey Part 3 of 3

**CD4 Additional/amended reports and/or plans submitted after validation relating to Bellway Outline Appeal**

- 4.01 Existing Site Plan, May 2023
- 4.02 Building Heights Parameter Plan, May 2023
- 4.03 Green Infrastructure Parameter Plan, May 2023
- 4.04 Land Use Parameter Plan, May 2023
- 4.05 Movement Hierarchy Plan, May 2023
- 4.06 Movement Network Parameter Plan, May 2023
- 4.07 Parameters Plan (land use, movement network and building heights), May 2023
- 4.08 Open Space Plan, May 2023
- 4.09 Phasing Plan, May 2023
- 4.10 Covering Letter regarding further information submitted, May 2023
- 4.11 Indicative Masterplan, May 2023
- 4.12 Indicative Sniperley Core Character Area Street Scenes, May 2023
- 4.13 Indicative Sniperley Farm Character Area Street Scenes, May 2023
- 4.14 Indicative Sniperley Green North Character Area Street Scenes, May 2023

- 4.15 Indicative Sniperley Parkland Character Area Street Scenes, May 2023
- 4.16 Indicative Sniperley South Character Area Street Scenes, May 2023
- 4.17 Masterplan Callouts, May 2023
- 4.18 Revised Design and Access Statement incorporating Design Code, May 2023
- 4.19 Summary of Statement Transport Proposals, May 2023
- 4.20 Response to Air Quality Comments, May 2023
- 4.21 Movement Hierarchy Plan, August 2023
- 4.22 Parameters Plans, August 2023
- 4.23 Proposed On Site Road Layout 21-057-022 Rev A
- 4.24 Design and Access Statement incorporating Design Code August 2023
- 4.25 Sniperley Feb 23 ES Letter and Heritage Ch 23 June 23
- 4.26 MTP Highways Technical Notes 01-05
- 4.27 Road Safety Audit & Designers Response from Coast
- 4.28 Stantec Note "Information Relating to Sustainable Levels of Car Parking" 15<sup>th</sup> Aug 23

#### **CD5 Application Documents and Plans relating to Bellway Hybrid Appeal**

- 5.01 Site Location Plan P22-2907.001
- 5.02 Existing Site Plan P22.2907.002
- 5.03 Proposed Layout P22.2907.100 Rev E
- 5.04 Proposed Layout Plan Rendered P22-2907\_DE\_101\_E
- 5.05 Adoptable Highways Plan Layout O22-2907.102 Rev A
- 5.06 Open Space Plan P22-2907.103D
- 5.07 Boundary Treatment Plan Layout P22-2907104.B Part 1 of 2
- 5.08 Boundary Treatment Plan Layout P22-2907.104.B Part 2 of 2
- 5.09 Spacing Standards Plan P22-2907.105B
- 5.10 Parking Strategy Plan P22-2907.106A
- 5.11 Sniperley Farm Character Area Street Scene P22-2907.108A
- 5.12 Sniperley Green North Character Area Street Scene P22-2907.109A
- 5.13 Sniperley Parkland Character Area Street Scenes P22-2907.110A
- 5.14 Sniperley Core Character Area Street Scene P22-2907.111A

- 5.15 Sniperley South Character Area Street Scene P22-2907.112C
- 5.16 Movement Hierarchy Plan P22-2907.115A
- 5.17 Sniperley South Character Sheet P22-2907.116
- 5.18 Sniperley Hall Focus Sheet P22-2907.117
- 5.19 Apartment Eles\_FPs Rendered P22-2907-001A
- 5.20 Proposed Layout Plan rendered LR P22-2907\_100F
- 5.21 House Type Pack Part 1 of 3 P22-2907.113
- 5.22 House Type Pack Part 2 of 3 P22-2907.113
- 5.23 House Type Pack Part 3 of 3 P22-2907.113
- 5.24 Phasing Plan P22-2907.114
- 5.25 Sniperley Park DAS inc Design Code Part 1 of 2 P22-2907C
- 5.26 Sniperley Park DAS inc Design Code Part 2 of 2 P22-2907C
- 5.27 Landscape Masterplan P07 11058-L-01
- 5.28 Accessible and Adaptable Homes Statement
- 5.29 ALC Report Sniperley Farm Durham
- 5.30 Covering Letter Hybrid MR 221213
- 5.31 Ground Gas Risk Assessment
- 5.32 Site Investigation Report
- 5.33 Sniperley Durham Desk Study Part 1 of 3
- 5.34 Sniperley Durham Desk Study Part 2 of 3
- 5.35 Sniperley Durham Desk Study Part 3 of 3
- 5.36 Sniperley Farm Buildings Structural Survey Rev A 01 2020 Optimized
- 5.37 Sniperley SCI Part 1
- 5.38 Sniperley SCI Part 2
- 5.39 Planning Statement
- 5.40 Affordable Housing Statement inc in Planning Statement
- 5.41 Application Form
- 5.42 Application Form Redacted
- 5.43 Open Space Play Leisure Assessment Needs (Hybrid)
- 5.44 Sniperley Minerals Risk Assessment
- 5.45 Sustainability Checklist for Developers

- 5.46 Sniperley Sustainability Statement Rev B
- 5.47 Soil Management Resource
- 5.48 Transport Assessment and Travel Plan 21 057 N with Appendices 1\_5
- 5.49 Transport Assessment and Travel Plan 21 057 N Appendices 6\_21
- 5.50 Comprehensive Masterplan Documents print version
- 5.51 Comprehensive Masterplan Document spreads
- 5.52 Sniperley AIA Rev B Part 1 of 4 HTL17216 A
- 5.53 Sniperley AIA Rev B Part 2 of 4 HTL17216 A
- 5.54 Sniperley AIA Rev B Part 3 of 4 HTL17216 A
- 5.55 Sniperley AIA Rev B Part 4 of 4 HTL17216 A
- 5.56 Japanese Knotweed Remediation Report Part 1 of 2
- 5.57 Japanese Knotweed Remediation Report Part 2 of 2
- 5.58 Land and Planning – Better with Bellway
- 5.59 Farm Building Demolition Volume P21-2606.017
- 5.60 Sniperley Hybrid App S106
- 5.61 Sniperley ES Non Technical Summary
- 5.61 Sniperley ES Vol 1 Main Text Contents Page
- 5.62 Sniperley ES Chapter 1 Introduction
- 5.63 Sniperley ES Chapter 2 EIA Method
- 5.64 Sniperley ES Chapter 3 Site Dev
- 5.65 Sniperley ES Chapter 4 Alternatives
- 5.66 Sniperley ES Chapter 5 Construction
- 5.67 Sniperley ES Chapter 6 Heritage
- 5.68 Sniperley ES Chapter 7 Landscape
- 5.69 Sniperley ES Chapter 8 Biodiversity
- 5.70 Sniperley Park ES Chapter 9 Water
- 5.71 Sniperley ES Chapter 10 Transport
- 5.72 Sniperley ES Chapter 11 Air F22
- 5.73 Sniperley ES Chapter 12 Noise F22
- 5.74 Sniperley ES Chapter 13 Population
- 5.75 Sniperley ES Chapter 14 Summary

5.76 ES Vol 2 Appendix Contents Page

5.77 Appendix 1.1

5.78 Appendix 1.2

5.79 Appendix 2.1

5.80 Appendix 2.2 r Part 1 of 2

5.81 Appendix 2.2 r Part 2 of 2

5.82 Appendix 5.1

5.83 Appendix 6.1

5.84 Appendix 6.2

5.85 Appendix 6.3

5.86 Appendix 7.1

5.87 Appendix 7.2

5.88 Appendix 7.3 Part 1 of 2

5.89 Appendix 7.3 Part 2 of 2 part 1

5.90 Appendix 7.3 Part 2 of 2 part 2

5.91 Appendix 7.4

5.92 Appendix 7.5

5.93 Appendix 7.6

5.94 Appendix 8.1

5.95 Appendix 8.2

5.96 Appendix 8.3

5.97 Appendix 8.4

5.98 Appendix 8.5

5.99 Appendix 9.1 Part 1 of 3

5.100 Appendix 9.1 Part 2 of 3

5.101 Appendix 9.1 Part 3 of 3

5.102 Appendix 9.2

5.103 Appendix 10.1

5.104 Appendix 10.2

5.105 Appendix 10.3

5.106 Appendix 10.4

- 5.107 Appendix 11.1
- 5.108 Appendix 11.2
- 5.109 Appendix 1.1
- 5.110 Figure 1.1
- 5.111 Figure 2.1
- 5.112 Figure 3.1
- 5.113 Figure 4.1
- 5.114 Figure 10.1
- 5.115 Figure 10.2
- 5.116 Figure 10.3
- 5.117 Figure 10.4
- 5.118 Figure 11.1
- 5.119 Figure 11.2
- 5.120 Figure 11.2
- 5.121 Figure 12.1
- 5.122 Figure 12.2
- 5.123 Figure 12.3
- 5.124 Figure 12.5 and 12.6
- 5.125 Figure 12.7 and 12.8
- 5.126 Figure 12.9
- 5.127 Figure 12.10
- 5.128 Figure 12.11
- 5.129 Figure 12.12
- 5.130 Figure 12.13
- 5.131 Figure 12.14 and 12.15
- 5.132 Figure 12.16
- 5.13 Figure 13.1

**CD6 Additional/amended reports and/or plans submitted after validation relating to Bellway Hybrid Appeal**

- 6.01 BNG Statement June 2023

- 6.02 Outline BMMP June 2023
- 6.02a Email re BNG 31914 DM\_22\_03778\_FPA Sniperley
- 6.03 Winter Bird Survey January 2023
- 6.04 Arboriculture Assessment and Method Statement Rev B August 2023
- 6.05 Arboriculture Assessment and Method Statement July 2023
- 6.06 Landscape Masterplan 11058-L-01 P14 April 2023
- 6.07 Landscape Masterplan 11058-L-01 P14 June 2023
- 6.08 Tree Survey Plan 11-58-T-01-05
- 6.09 Tree Survey Plan 11-58-T-06A-10A
- 6.10 Tree Survey Plan 11058-T-06B-10B
- 6.11 Tree Protection Plan 11058-T-11A-15A
- 6.12 Tree Protection Plan 11058-T-11B-15B
- 6.13 Proposed Drainage Layout Sheet 1 of 7 (20182\_11\_P7)
- 6.14 Proposed Drainage Layout Sheet 2 of 7 (20182\_12\_P7)
- 6.15 Proposed Drainage Layout Sheet 3 of 7 (20182\_13\_P7)
- 6.16 Proposed Drainage Layout Sheet 4 of 7 (20182\_14\_P7)
- 6.17 Proposed Drainage Layout Sheet 5 of 7 (20182\_15\_P7)
- 6.18 Proposed Drainage Layout Sheet 6 of 7 (20182\_16\_P7)
- 6.19 Proposed Drainage Layout Sheet 7 of 7 (20182\_17\_P7)
- 6.20 Visibility Splays 210570010 Rev E
- 6.21 Covering Letter Hybrid 230428 MR sh
- 6.22 Affordable Housing Addendum A5 MR 230417
- 6.23 Sniperley Sustainability Statement Part 1 of 2
- 6.24 Sniperley Sustainability Statement Part 2 of 2
- 6.25 Sniperley Park Summary Statement
- 6.26 Sniperley DAS in Design Code, April 2023
- 6.27 Sniperley Garden Depths P22-2907
- 6.28 Proposed Layout Plan P22-2907.100N
- 6.29 Proposed Layout Plan P22-2907.100I
- 6.31 Adoptable Highways Plan P22-2907/102B
- 6.32 Adoptable Highways Plan P22-2907.102C

- 6.33 Open Space Plan P22-2907.103F
- 6.34 Open Space Plan P22-2907.103G
- 6.35 Boundary Treatment Layout P22-2907.104C
- 6.36 Boundary Treatment Layout P22-2907.104C
- 6.37 Boundary Treatment Layout P22-2907.104D
- 6.38 Boundary Treatment Layout P22-2907.104D
- 6.39 Spacing Standards Plan P22-2907.105C
- 6.40 Spacing Standards Plan P22-2907.105D
- 6.41 Parking Strategy Plan P22-2907.106B
- 6.42 Parking Strategy Plan P22-2907.106C
- 6.43 Sniperley Farm Character Area Street Scene P22-2907.108B
- 6.44 Sniperley Farm Character Area Street Scene P22-2907.108C
- 6.45 Sniperley Green North Character Area Street Scene P22-29008.109B
- 6.46 Sniperley Green North Character Area Street Scene P22-29008.109C
- 6.47 Sniperley Parkland Character Area Street Scenes P22-2907.110B
- 6.48 Sniperley Parkland Character Area Street Scenes P22-2907.110C
- 6.49 Sniperley Core Character Area Street Scene P22-2907.111B
- 6.50 Sniperley Core Character Area Street Scene P22-2907.111C
- 6.51 Sniperley South Character Areas Street Scene P22-2907.112E
- 6.52 Sniperley South Character Areas Street Scene P22-2907.112F
- 6.53 House Type Pack Part 1 of 2 P22-2907.113B
- 6.54 House Type Pack Part 2 of 2 P22-2907.113B
- 6.55 Phasing Plan P22-2907.114A
- 6.56 Phasing Plan P22-2907.114B
- 6.57 Movement Hierarchy Plan P22-2907.115B
- 6.68 Sniperley South Character Sheer P22-2907.116D
- 6.69 Sniperley Hall Focus Sheet P22-2907.117B
- 6.70 Character Area Plan P22-2907.119.A
- 6.71 Character Area Plan NTS P22-2907.119.B
- 6.72 Affordable Locations Plan P22-2907.120A
- 6.73 Apartment Eles & FPs P22-2907\_DE\_01\_F

- 6.74 3DVisualisationDoc\_Part1 of 2 P22-2907D
- 6.75 3DVisualisationDoc\_Part2 of 2 P22-2907D
- 6.76 SniperlyPark\_DAS\_Part1 of 2 P22-2907F
- 6.77 SniperlyPark\_DAS\_Part2 of 2 P22-2907F
- 6.78 Sniperley - Affordable Housing Position 03.10.23
- 6.79 Sniperley Park M4ii Compliance Layout
- 6.80 Sniperley-FRA-Rev G\_Part 1 of 2
- 6.81 Sniperley-FRA-Rev G\_Part2 of 2
- 6.82 Sniperley-FRA-Rev H-\_Part1 of 3
- 6.83 Sniperley-FRA-Rev H-\_Part2 of 3
- 6.84 Sniperley-FRA-Rev H-\_Part3 of 3
- 6.85 Swept Path TK01 Rev H
- 6.86 Swept Path TK02 Rev G
- 6.87 TK03 Rev H
- 6.88 Swept Path TK04 Rev H
- 6.89 Consultation Response Air Quality 17.08.2023
- 6.90 On Site Road Layout 21-057-02
- 6.91 Sniperley Park Viability Executive Summary
- 6.92 Sustainable Levels of Car Parking, August 23
- 6.93 Sniperley Dec 22 ES Letter and Heritage Ch 23 June 23
- 6.94 Covering email Land north and east of Sniperley Farm DM\_22\_03778\_FP and DM\_23\_00591\_out
- 6.95 MTP Highways Technical Notes 01-05
- 6.96 Road Safety Audit & Designers Response from Coast
- 6.97 Stantec Note "Information Relating to Sustainable Levels of Car Parking" 15<sup>th</sup> Aug 2023

### **CD7 Application Documents and Plans relating to Bellway Farm Appeal**

- 7.01 Covering Letter COU MR 221213
- 7.02 Comprehensive masterplan Document pages print version
- 7.03 Comprehensive masterplan Document spreads
- 7.04 Sniperley Park ES Chapter 8 Biodiversity

- 7.05 Heritage Assessment P21-2606
- 7.06 21-2606.014 Ownership plan 1-2500 A1
- 7.07 31914 Ground Gas Risk Assessment
- 7.08 31914 Phase 1 Desk Study
- 7.09 31914 Phase 2 Site Investigation
- 7.10 Sniperley Farm Buildings Structural Survey REV A 01 Dec 2020 Optimized
- 7.11 Figure 12.1
- 7.12 Figure 12.2
- 7.13 Figure 12.3
- 7.14 Figure 12.4
- 7.15 Figure 12.5 and 12.6
- 7.16 Figure 12.7 and 12.8
- 7.17 Figure 12.9
- 7.18 Figure 12.10
- 7.19 Figure 12.11
- 7.20 Figure 12.12
- 7.21 Figure 12.13
- 7.22 Figure 12.14 and 12.15
- 7.23 Figure 12.16
- 7.24 HTL17216-A Sniperley Arboriculture Impact Assessment Rev B HTL17216-A
- 7.25 D7.25 P21-2606.001A Site location plan 1-1250
- 7.26 P21-2606.002 Existing site plan 1-1250 A3
- 7.27 P21-2606.003 Existing Floor Plans
- 7.28 P21-2606.004 Existing Perspective
- 7.29 P21-2606.005 Existing Elevations (Sheet 1)
- 7.30 P21-2606.006 Existing Elevations (Sheet 2)
- 7.31 P21-2606.007 Existing Elevations (Sheet 3)
- 7.32 P21-2606.010B Concept Plan
- 7.33 P21-2606.011C Proposed Floor Plans
- 7.34 P21-2606.013A Proposed Elevations
- 7.35 P21-2606.015 Proposed access plan 1-1250 A

- 7.36 P21-2606.016A NDSS Check
- 7.37 P21-2606.017 Demolition Volume
- 7.38 Design and Access Statement Sniperley Farm P21-2606.200A
- 7.39 Proposed Access-3069976 (1)
- 7.40 Sniperley ES Chapter 6 Heritage
- 7.41 Sniperley ES Chapter 7 Landscape
- 7.42 D7.42 Sniperley ES Chapter 12 Noise F22
- 7.43 P21-2606.012A Proposed Perspectives

### **CD8 DCC Proof of Evidence**

- 8.01 Proof of Evidence of Thomas Bennett
- 8.02 Appendices to Proof of Evidence of Thomas Bennett
- 8.03 Summary Proof of Evidence of Thomas Bennett
- 8.04 Proof of Evidence of Graham Blakey (Co. Durham Land LLP)
- 8.05 Summary Proof of Evidence of Graham Blakey (Co. Durham Land LLP)
- 8.06 Proof of Evidence of Graham Blakey (Bellway)
- 8.07 Summary Proof of Evidence of Graham Blakey (Bellway)
- 8.08 Proof of Evidence of Matthew Crawford
- 8.09 Appendices to Proof of Evidence of Matthew Crawford
- 8.10 Proof of Evidence of Simon Day (Co. Durham Land LLP)
- 8.11 Appendices to Proof of Evidence of Simon Day (Co. Durham Land LLP)
- 8.12 Summary Proof of Evidence of Simon Day (Co. Durham Land LLP)
- 8.13 Proof of Evidence of Simon Day (Bellway)
- 8.14 Appendices to Proof of Evidence of Simon Day (Bellway)
- 8.15 Summary Proof of Evidence of Simon Day (Bellway)
- 8.16 Proof of Evidence of Murray Lloyd
- 8.17 Appendices to Proof of Evidence of Murray Lloyd
- 8.18 Summary Proof of Evidence of Murray Lloyd
- 8.19 Proof of Evidence of Victoria Lloyd-Gent (Co. Durham Land LLP)
- 8.20 Summary Proof of Evidence of Victoria Lloyd-Gent (Co. Durham Land LLP)
- 8.21 Proof of Evidence of Victoria Lloyd-Gent (Bellway)

- 8.22 Summary Proof of Evidence of Victoria Lloyd-Gent (Bellway)
- 8.23 Appendix to Proofs of Evidence of Victoria Lloyd-Gent
- 8.24 Proof of Evidence of Graeme Plews (Co. Durham Land LLP)
- 8.25 Summary Proof of Evidence of Graeme Plews (Co. Durham Land LLP)
- 8.26 Proof of Evidence of Graeme Plews (Bellway)
- 8.27 Summary Proof of Evidence of Graeme Plews (Bellway)
- 8.28 Appendix to Proofs of Evidence of Graeme Plews
- 8.29 Proof of Evidence of George Richardson (Co. Durham Land LLP)
- 8.30 Appendices to Proof of Evidence of George Richardson (Co. Durham Land
- 6.31 Proof of Evidence of George Richardson (Bellway)
- 8.32 Appendix to Proof of Evidence of George Richardson (Bellway)
- 8.33 Proof of Evidence of Graeme Smith (Bellway Hybrid)
- 8.34 Appendices to Proof of Evidence of Graeme Smith (Bellway Hybrid)
- 8.35 Summary Proof of Evidence of Graeme Smith (Bellway Hybrid)
- 8.36 Proof of Evidence of David Newham (Bellway Hybrid)
- 8.37 Appendices to Proof of Evidence of David Newham (Bellway Hybrid)
- 8.38 Rebuttal Proof of Evidence of Graham Blakey (Co. Durham Land LLP)
- 8.39 Appendices to Rebuttal Proof of Evidence of Graham Blakey (Co. Durham)
- 8.40 Rebuttal Proof of Evidence of Graham Blakey (Bellway)
- 8.41 Appendices to Rebuttal of Graham Blakey (Bellway)
- 8.42 Rebuttal Proof of Evidence of Matthew Crawford
- 8.43 Rebuttal Proof of Evidence of Simon Day (Co. Durham Land LLP)
- 8.44 Rebuttal Proof of Evidence of Simon Day (Bellway)
- 8.45 Rebuttal Proof of Evidence of Victoria Lloyd-Gent
- 8.46 Rebuttal Proof of Evidence of Graeme Plews
- 8.47 Rebuttal Proof of Evidence of George Richardson
- 8.48 Rebuttal Proof of Evidence of Graeme Smith (Bellway Hybrid)
- 8.49 Appendices to Rebuttal Proof of Evidence of Graeme Smith (Bellway Hybrid)
- 8.50 Rebuttal Proof of Evidence of David Newham (Bellway Hybrid)
- 8.51 Appendices to Rebuttal Proof of Evidence of David Newham (Bellway Hybrid).

## **CD9 Consultee Comments and Other Correspondence**

- 9.01 Sport England Comments 19 January 2023
- 9.02 Sport England Comments 8 September 2023
- 9.03 Design Review Panel Comments 24 May 2023
- 9.04 The Coal Authority Minewater Report
- 9.05 Sniperley Counsel Masterplan Note to DCC
- 9.06 DM\_23\_00591\_OUT Archaeology – 3344392
- 9.07 Spatial Policy Comments (6 February 2023)

## **CD10 The Development Plan and Other Documents**

- 10.01 The County Durham Plan
- 10.02 Witton Gilbert Neighbourhood Plan
- 10.03 The Council's Masterplan (consultation draft version)
- 10.04 The Council's Masterplan (adopted version)
- 10.05 The Council's Healthy Active Travel Connectivity Plan (adopted June 2022)
- 10.06 The Council's Healthy Active Travel Connectivity Plan (reviewed October)
- 10.07 Inspector's Report into the County Durham Plan
- 10.08 Inspector's Schedule of Main Modifications into the County Durham Plan
- 10.09 The Council's feasibility study in relation to the primary school
- 10.10 The Council's costing spreadsheet based on a one phase school build
- 10.11 The Council's costing spreadsheet based on a two phase school build
- 10.12 The Council's Playing Pitch Strategy (2021)
- 10.13 Sport England's Playing Field Policy
- 10.14 DfE Building Bulletin 103
- 10.15 County Durham Climate Change Strategy and Emergency Response Plan  
2022- 2024
- 10.16 The Council's Settlement Study
- 10.17 The Council's Rational for Housing Allocations
- 10.18 The Council's Spatial Approach Justification Paper
- 10.19 Extract of 2020 Local List of Historic Parks, Gardens and Designed  
Landscapes

- 10.20 The Council's Exceptional Circumstances inc Minor Modifications Report 2019
- 10.21 Parking and Accessibility SPD (2023)
- 10.22 Draft Supplementary Planning Document on Housing Needs and Interim Policy Statement on First Homes December 2022
- 10.23 Extract from Council's Heritage Impact Assessment – Policy 5
- 10.24 The ORS report Durham County Council: First Homes Assessment 2022.
- 10.25 The County Durham Strategic Housing Market Assessment 2019
- 10.26 Durham City Sustainable Transport Delivery Plan
- 10.27 County Durham Strategic Cycling and Walking Delivery Plan 2019 – 2029
- 10.28 Durham City Local Cycling & Walking Infrastructure Plan
- 10.29 Building For Life SPD
- 10.30 Residential Amenity SPD

### **CD11 Relevant Appeal Decisions**

- 11.01 SOS Appeal Decision APP/V2255/W/19/3233606 (Land At South-West Sittingbourne/Wises Lane, Sittingbourne)
- 11.02 SOS Appeal Decision APP/W0340/W/20/3265460 (Land At Sandleford Park, Newtown Road, Newbury)

### **CD12 Relevant Judgements**

- 12.01 Hillside Properties v Snowdonia National Park Authority [2022] UKSC 30
- 12.02 Fiske v. Test Valley Borough Council [2023] EWCA Civ 1495
- 12.03 Phides Estates (Overseas) Limited v The Secretary of State for Communities and Local Government [2015] EWHC 827
- 12.04 Bovis Homes (Scotland) Ltd v Inverclyde District Council [1982] SLT 473

### **CD13 Pre-Inquiry Documents**

- 13.01 CDL Statement of Case
- 13.02 Bellway Homes Ltd Statement of Case (Outline)
- 13.03 Bellway Statement of Case (Hybrid)
- 13.04 Bellway Statement of Case (Conversion of Farm Buildings)
- 13.05 DCC Statement of Case

- 13.06 Inspector's CMC Agenda
- 13.07 Inspector's CMC Pre-meeting note
- 13.08 Inspector's CMC Summary Note
- 13.09 Interested Party Representations Residents of the Beeches (3330836)
- 13.10 Interested Party Representations City of Durham Trust (3330836)
- 13.11 Interested Party Representations Mr Allfree (3330836)
- 13.12 Interested Party Representations Mr Carr (3330836)
- 13.13 Interested Party Representations Mrs West (3330836)
- 13.14 Interested Party Representations Mr Robson (3330836)
- 13.15 Interested Party Representation Mr Nurowski (3330836)
- 13.16 Interested Party Representation Mr Nurowski (3331801)
- 13.17 Interested Party Representation Mr Nurowski (3331745)
- 13.18 Interested Party Representation C Cooper (3331745)
- 13.19 Interested Party Representation City of Durham Trust (3330836, 3331745)
- 13.20 Interested Party City of Durham Trust Statement of Case (3330836)
- 13.21 Interested Party City of Durham Trust Statement of Case (3333600)
- 13.22 Interested Party Western Relief Road Action Group (3330836, 3331745)
- 13.23 Interested Party Western Relief Road Action Group Statement of Case  
(3330836, 3331745)
- 13.24 Interested Party Western Relief Road Action Group Statement of Case v4  
(3330836, 3331745)
- 13.25 Interested Party Representation M Roberts (3333600)
- 13.26 Interested Party Representation Mr Nurowski (3333600)
- 13.27 Interested Party Representation CPRE Durham (3333600)
- 13.28 Inquiry Timetable
- 13.29 City of Durham Trust comments on Council's draft Masterplan and HATCP  
(12 January 2022)
- 13.30 City of Durham Trust comments on Council's Parking and Accessibility SPD  
(8 July 2023)
- 13.31 DCC Statement of Case (Bellway Hybrid)

## **CD14 Appellants' Proof of Evidence**

- 14.01 Planning Statement of Common Gound
- 14.02 Public Transport Statement of Common Ground
- 14.03 Active Travel Statement of Common Ground
- 14.04 Education Statement of Common Ground
- 14.05 Proof of Evidence of David Bird
- 14.06 Appendices to Proof of Evidence of David Bird
- 14.07 Summary Proof of Evidence of David Bird
- 14.08 Proof of Evidence of Andrew Williams
- 14.09 Appendices to Proof of Evidence of Andrew Williams
- 14.10 Summary Proof of Evidence of Andrew Williams
- 14.11 Proof of Evidence of Christopher Harrison
- 14.12 Appendices to Proof of Evidence of Christopher Harrison
- 14.13 Summary Proof of Evidence of Christopher Harrison
- 14.14 Proof of Evidence of Ben Hunter
- 14.15 Appendices to Proof of Evidence of Ben Hunter
- 14.16 Summary Proof of Evidence of Ben Hunter
- 14.17 Proof of Evidence of Jason Horner
- 14.18 Appendices to Proof of Evidence of Jason Horner
- 14.19 Summary Proof of Evidence of Jason Horner
- 14.20 Proof of Evidence of James Hall
- 14.21 Appendices to Proof of Evidence of James Hall
- 14.22 Proof of Evidence of Mike Carr
- 14.23 Appendices to Proof of Evidence of Mike Carr
- 14.24 Proof of Evidence of Gary Holliday
- 14.25 Appendices to Proof of Evidence of Gary Holliday
- 14.26 Proof of Evidence of Laura Garcia
- 14.27 Appendices to Proof of Evidence of Laura Garcia
- 14.28 Proof of Evidence of Darran Kitchener
- 14.29 Appendices to Proof of Evidence of Darran Kitchener
- 14.30 Proof of Evidence of Laura Mackay

- 14.31 Appendices to Proof of Evidence of Laura Mackay
- 14.32 Rebuttal Proof of Evidence of David Bird
- 14.33 Rebuttal Proof of Evidence of Christopher Harrison
- 14.34 Rebuttal Proof of Evidence of Ben Hunter
- 14.35 Rebuttal Proof of Evidence of Jason Horner
- 14.36 Rebuttal Proof of Evidence of Laura Mackay
- 14.37 Rebuttal Proof of Evidence of James Hall

### **CD15 Other Documents**

- 15.01 The Council and Sport England Statement of Common Ground (October 2019)
- 15.02 The Council and Sniperley Statement of Common Ground (October 2019)
- 15.03 Statement of Common Ground in relation to APP/X1355/W/22/3303231 (September 2022)
- 15.04 The Fore Consulting TA submitted for the CDP
- 15.05 AECOM A167 / A691 Durham Sniperley Roundabout report (10 February 2020)
- 15.06 National Design Guide (National Design Guide: Planning Practice Guidance for Beautiful, Enduring and Successful Places (October 2019)
- 15.07 Manual for Streets (DfT 2007)
- 15.08 The DfT's publication "Transport Decarbonisation Plan" (2021)
- 15.09 TCPA Guidance "20 Minute Neighbourhoods" (March 2021)
- 15.10 LTN 1/20 Cycle Infrastructure Design (July 2020)
- 15.11 Transport Assessment supporting the Sniperley Park and Ride expansion planning consent
- 15.12 School FOI Request
- 15.13 DCC Delegated Report – 22/03712/OUT (CDL)
- 15.14 DCC Delegated Report – 23/00591/OUT (Bellway Outline)
- 15.15 DCC Delegated Report – 22/03778/FPA (Bellway Hybrid)
- 15.16 DfE Guidance - Securing Contributions for Education (August 2023)
- 15.17 DfE Guidance – Estimating Pupil Yield from Housing Development (August 2023)

## **APPENDIX E**

### **RECOMMENDED CONDITIONS SHOULD PERMISSION BE GRANTED.**

#### **SCHEDULE 1**

##### **Appeal A**

- 1) Approval of the details of appearance, landscaping, layout and scale (hereinafter called "the reserved matters") for each phase, or part thereof (as approved through Condition No. 6), shall be obtained in writing from the Local Planning Authority before any development is commenced other than demolition, archaeological investigation, services diversions and any land remediation/ground investigation works.

Reason: Required to be imposed pursuant to Section 92 of the Town and County Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004

- 2) Application for approval of reserved matters for the first phase, or part thereof (as approved through Condition No. 6), shall be made to the Local Planning Authority before the expiration of three years beginning with the date of this permission. The development must be begun no later than the expiration of two years from the final approval of the reserved matters.

Reason: Required to be imposed pursuant to Section 92 of the Town and County Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 3) The application for approval of reserved matters for the subsequent phases of development shall be made to the Local Planning Authority before the expiration of 15 years from the date of this permission and each phase must be begun not later than the expiration of two years from the approval of reserved matters for that phase of development.

Reason: Required to be imposed pursuant to Section 92 of the Town and County Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:

- Location Plan ref. 1300-DUR-SD-00.01 Rev B
- Land Use Parameter Plan ref. 1300-DUR-SD-30.01 Rev B
- Connectivity Parameter Plan ref. 1300-DUR-SD-30.02 Rev C
- Density Parameter Plan ref. 1300-DUR-SD-30.03 Rev B
- Building Scale Parameter Plan ref. 1300-DUR-SD-30.04 Rev B
- Linear Park Area Plan ref. 1300-DUR-SD-20.01 Rev B
- Demolition Plan ref. 1300-DUR-SD-20.02 Rev B
- Proposed Junction Improvement A167 / Park & Ride roundabout ref. 226483/P-01 Rev A
- Proposed B6532 / Potterhouse Lane Trouts Lane Junction Improvement ref. 226483/P-04 Rev A

- Proposed Potterhouse Lane Improvement to Bus Route ref. 226483/P-05 Rev A
- Proposed A167 / Link Road Junction ref. 226483/P-07 Rev A
- Proposed A167 Controlled Crossing ref. 226483/P-06 Rev A

Reason: To define the consent and ensure that a satisfactory form of development is obtained and in accordance with Policies 4, 5, 10, 14, 15, 19, 21, 22, 25, 26, 29, 31, 32, 35, 36, 39, 40, 41, 43, 44, 45 and 56 of the County Durham Plan.

- 5) The development shall be implemented in accordance with the approved Sniperley Park Strategic Design Code (December 2022) and Comprehensive Masterplan and Infrastructure Phasing (December 2022) submitted with the planning application.

Each reserved matters application shall be accompanied by a Compliance Statement that demonstrates accordance with the principles for the relevant Character Area(s) as detailed in the Sniperley Park Strategic Design Code.

Reason: In the interests of the appearance of the area in accordance with Policies 5, 26, 29, 39, and 40 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

- 6) Prior to the submission of any reserved matters application a phasing plan setting out the proposed phasing of the construction of the development shall be submitted to and approved in writing by the Local Planning Authority. The submitted Phasing Plan shall indicate the extent of each phase, the sequence of development, the approximate number of units proposed within each phase and sub-phase and associated timetable of works. Thereafter each reserved matters application for a phase or part thereof submitted pursuant to Condition 1 above shall be accompanied by an updated phasing plan for the approval of the Local Planning Authority. The updated phasing plan shall set out any proposed changes from the phasing plan previously approved pursuant to this Condition.

For the purposes of this permission all references to a "phase" shall be interpreted as being a reference to a phase or part thereof as defined on the phasing plan approved pursuant to this condition.

Reason: To define the consent and ensure a satisfactory form of development is obtained in accordance with Policies 4, 5, 10, 14, 15, 19, 21, 22, 25, 26, 29, 31, 32, 35, 36, 39, 40, 41, 43, 44, 45 and 56 of the County Durham Plan.

- 7) Prior to the construction above damp proof course level of any of the dwellings hereby approved in a phase, a report setting out how at least 66% of the total number of units approved for each phase or part thereof will conform to Buildings Regulations M4(2) standard shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.

Reason: In order to address housing need requirements in accordance with Policy 15 of the County Durham Plan.

- 8) A scheme detailing how at least 10% of the total number of units approved on each phase will be constructed to a design and type which meet the needs of older people, shall be submitted to the Local Planning Authority for approval alongside an application for reserved matters for the respective phase of the scheme. Thereafter the development phase shall be carried out fully in accordance with the approved details.

Reason: To meet the housing needs of older people and people with disabilities in accordance with Policy 15 of the County Durham Plan and Part 5 of the National Planning Policy Framework. Required to be pre-commencement to ensure that an acceptable scheme can be agreed and incorporated into the development before site works commence.

- 9) Natural gas shall not be used as a fuel to heat any dwellings or other buildings hereby approved.

Reason: In the interests of reducing CO2 emissions as encouraged by Policy 29 of the County Durham Plan and Part 14 of the National Planning Policy Framework.

- 10) The reserved matter of layout for each phase, or part thereof, shall include details of cycle storage, compliant with the Council's Parking and Accessibility Supplementary Planning Document (2023) (or such replacement document). Thereafter, the development shall be carried out in accordance with the agreed detail and the approved provision shall be retained for the storage of cycles at all times for the duration of the use hereby approved.

Reason: To ensure that sustainable transport modes are encouraged in accordance with Policies 21, 22, 29 and 31 of the County Durham Plan and Parts 8, 9 and 15 of the National Planning Policy Framework.

- 11) The reserved matter of landscaping for each phase, or part thereof, must be accompanied by an updated arboricultural impact assessment. This must include details of all works to trees and hedges and details of those to be retained and details of tree/hedgerow protection in accordance with BS.5837:2010 with the inclusion of tree constraint and tree protection plans. Thereafter the development must be completed in accordance with the approved details.

Reason: In the interests of the appearance of the area in accordance with Policies 5, 26, 29, 39, and 40 of the County Durham Plan and Parts 8 and 12 of the National Planning Policy Framework.

- 12) No demolition, archaeological investigation, service diversions and any land remediation/ground investigation works shall be undertaken on the site which result in the loss of existing trees and hedgerows, unless otherwise approved through reserved matters.

Reason: In the interests of the protection of trees and hedges and visual amenity having regard to Policies 29 and 40 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

- 13) A scheme and programme detailing compensatory improvements to the Green Belt (as identified on Land Use Parameter Plan ref. 1300-DUR-SD-30.01 Rev B), including the provision of a community hub (as illustrated on the Orchard Hut plan ref. DE-517-002) and replacement playing field,

together with a timetable for its implementation shall be submitted to and approved in writing by the Local Planning Authority alongside an application for reserved matters for the first phase of the scheme. The improvement works thereafter shall be completed in accordance with the details and timetable agreed.

Reason: In order to provide improvements to the wider area in accordance with Policies 5, 39 and 41 of the County Durham Plan and Parts 8, 11, 13 and 15 of the National Planning Policy Framework.

- 14) Prior to the commencement of development in each phase, or part thereof, a coal mining investigation scheme shall be submitted to and approved in writing by the Local Planning Authority. This will include a scheme of intrusive investigations to be carried out on site to establish risks posed by past coal mining activity, including that posed by recorded mine entries and shallow mine workings. These works shall be carried out in accordance with authoritative UK guidance in relation to Coal Mining.

Reason: To ensure that the presence of contamination is identified, risk assessed and proposed remediation works are agreed in order to ensure the site suitable for use, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

- 15) Prior to the commencement of each phase of development, or part thereof, any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, shall be implemented in full in order to ensure that the site is made safe and stable for the proposed development. These works shall be carried out in accordance with authoritative UK guidance in relation to Coal Mining.

Reason: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 189 and 190 of the National Planning Policy Framework.

- 16) If unforeseen legacy coal mining activity is encountered during construction works, the Coal Authority shall be notified in writing immediately. Operations on the affected part of the site shall cease until an investigation and risk assessment, and if necessary, a remediation strategy is carried out in accordance with the Coal Authority guidance and agreed with the Coal Authority. The development shall be completed in accordance with any amended specification of works and the Local Planning Authority provided with a copy of any amended specification before such works commence.

Reason: To ensure that risks from legacy coal mining activity to the future users of the land and neighbouring land are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

- 17) Prior to the commencement of development of any phase, a land contamination scheme shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and include a Preliminary Risk Assessment (desk top study). If the Preliminary Risk Assessment identifies that further investigation is required a Site Investigation shall be carried out, which shall include a sampling and analysis plan. If the Site Investigation identifies any unacceptable risks, a Remediation Strategy shall be produced and where necessary include gas protection measures and method of verification.

Reason: To ensure that the presence of contamination is identified, risk assessed and proposed remediation works are agreed in order to ensure the site suitable for use, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.

- 18) The development on the relevant phase shall not be brought into use until such time as a Verification Report related to that part of the development has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

- 19) If unforeseen contamination is encountered during construction works, the Local Planning Authority shall be notified in writing immediately. Operations on the affected part of the site shall cease until an investigation and risk assessment, and if necessary, a remediation strategy is carried out in accordance with the YALPAG guidance and agreed with the Local Planning Authority. The development shall be completed in accordance with any amended specification of works.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

- 20) Prior to the commencement of development, a written scheme of investigation setting out a phased programme of archaeological work in accordance with 'Standards For All Archaeological Work in County Durham and Darlington' shall be submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work will then be carried out in accordance with the approved scheme of works.

Reason: To ensure that findings are recorded appropriately in accordance with Policy 44 of the County Durham Plan and Part 16 of the National Planning Policy Framework.

- 21) Prior to occupation of each phase of development, or part thereof, a post investigation assessment is to be completed in accordance with the approved Written Scheme of Investigation for that relevant phase, or part thereof. The provision made for analysis, publication and dissemination of results, and archive deposition, shall be confirmed in writing to and approved by the Local Planning Authority.

Reason: To ensure that findings are recorded appropriately in accordance with Policy 44 of the County Durham Plan and Part 16 of the National Planning Policy Framework.

- 22) In undertaking the development hereby approved no deliveries shall take place other than between the hours of 0800 to 1800 on Monday to Friday and 0900 to 1300 on Saturday. No deliveries shall take place on Sundays, Public or Bank Holidays.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

- 23) In undertaking the development hereby approved, no external construction works, works of demolition, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1300 on Saturday. No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

- 24) No construction works or works of demolition whatsoever, including external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

- 25) Sound attenuation measures to dwellings adjacent to the A167 shall be undertaken in accordance with the mitigation detailed in Table G8.1 within the approved document 'Sniperley Park, Durham, Environmental Statement December 2022 Volume 2 Chapter G – Noise and Vibration'. Such attenuation measures shall be completed prior to first occupation of each dwelling and be permanently retained thereafter.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

- 26) Prior to the occupation of the first dwelling, the site access to the A167 / Park & Ride roundabout, together with reconfigured roundabout and pedestrian crossing (as shown on plan 'Proposed Junction Improvement A167/Park & Ride roundabout 226483/P-01 Rev A') shall be constructed and be available for use.

Reason: To ensure that the development has safe access to the highway network in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 27) Prior to the occupation of the 500th dwelling, the new roundabout on the A167, together with pedestrian crossing and proposed speed change to 40mph (on the A167 between Pity Me roundabout and the A167 / Park and Ride roundabout) (as shown on plan 'Proposed A167 / Link Road Junction 226483/P-07 Rev A') shall be constructed and be available for use.

Reason: To ensure that the development has safe access to the highway network in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 28) Prior to the occupation of the 200th dwelling the section of the vehicular link road between the site and adjoining land within the allocation immediately to the south (as identified by H1 on the Define Infrastructure Delivery Plan – Composite – Figure 04), shall be constructed to the site boundary and be available for use.

Reason: To ensure that the development has safe access to the highway network in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 29) Prior to the occupation of the 400th dwelling the newly created north-south primary road connecting the B6532 with the new arm created on the A167/Park & Ride roundabout (as identified by H5 on the Define Infrastructure Delivery Plan – Composite – Figure 04), shall be constructed and be available for use.

Reason: To ensure that the development has safe access to the highway network in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 30) Prior to the occupation of the 400th dwelling the new junction on the B6532 adjacent to the Local Centre (as identified by G8 on the Define Infrastructure Delivery Plan – Composite – Figure 04), shall be constructed and be available for use.

Reason: To ensure that the development has safe access to the highway network in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 31) Prior to the occupation of the 600th dwelling the newly created east-west primary road connecting the B6532 with the new A167 roundabout (as identified by H6 on the Define Infrastructure Delivery Plan – Composite – Figure 04) shall be constructed and be available for use.

Reason: To ensure that the development has safe access to the highway network in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 32) Prior to the occupation of the 500th dwelling the improvements to Potterhouse Lane and Trouts Lane junctions with the B6532 (as shown on plan 'Proposed B6532 / Potterhouse Lane, Trouts Lane Junction Improvement 226483/P-04 Rev A'), shall be constructed and be available for use.

Reason: To ensure that the development has safe access to the highway network in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 33) Prior to the occupation of any dwellings in the development immediately south of Potterhouse Lane, the site access junction that serves that part of the development (as shown on plan 'Proposed Potterhouse Lane Improvement to Bus Route 226483/P-05 Rev A') shall be constructed and be available for use.

Reason: To ensure that the development has safe access to the highway network in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 34) No dwelling shall be occupied unless and until the new estate roads serving that dwelling have been constructed to at least base course level and shall include temporary ramps and surfacing to provide for movement by those with impaired mobility.

Reason: To ensure that the development has safe access to the highway network in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 35) Prior to the commencement of each phase of development, or part thereof, full engineering details of the estate roads, future management and maintenance of the proposed streets within that phase or part thereof shall have been submitted to and approved in writing by the Local Planning Authority. In the event of proposals to maintain the highway by means other than through transfer to the Highway Authority then the scheme shall provide for future management and maintenance in perpetuity.

Reason: In the interests of highway safety in accordance with Policies 6, 21 and 29 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 36) Prior to the occupation of the 400th dwelling the signalisation of the arms to be signalised on Sniperley roundabout (as shown on plan '60620899-SHT-20-DSR-X-001') shall be implemented and be available for use.

Reason: To ensure that impacts from the development upon highway safety are mitigated in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 37) Prior to the occupation of the 300th dwelling a scheme to improve the footway and cycleway along Rotary Way (as identified by I1 on the Define Infrastructure Delivery Plan – Composite – Figure 04) shall be submitted and approved in writing by the Local Planning Authority. Thereafter the scheme shall be implemented prior to the occupation of the 500th dwelling.

Reason: To ensure that impacts from the development upon highway safety are mitigated in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 38) Prior to the occupation of the 500th dwelling the toucan crossing between the site and Woodbine Road shown on plan: '226483/P-06 Rev A' shall be constructed and operational.

Reason: To ensure that impacts from the development upon highway safety are mitigated in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 39) Prior to the occupation of the 300th dwelling a scheme to improve the footpath and cycleway along the A167 between the newly created roundabout and Pity Me roundabout (as identified by I3 on the Define Infrastructure Delivery Plan – Composite – Figure 04) shall be submitted and approved in writing by the Local Planning Authority. Thereafter the scheme shall be implemented prior to the occupation of the 500th dwelling.

Reason: To ensure that impacts from the development upon highway safety are mitigated in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 40) Prior to the commencement of development, a scheme to improve the footway and cycleway between the newly created arm on the A167 / Park & Ride roundabout and the Sniperley Park and Ride Pick Up/ Drop Off Point (as identified by I11 East) on the Define Infrastructure Delivery Plan – Composite – Figure 04), shall be submitted and approved in writing by the Local Planning Authority. Thereafter the scheme shall be implemented prior to the occupation of the first dwelling.

Reason: To ensure that impacts from the development upon highway safety are mitigated in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 41) Prior to the occupation of the 200th dwelling the pedestrian crossing on the B6532 in proximity to the Local Centre (as identified by I19 on the Define Infrastructure Delivery Plan – Composite – Figure 04), together with a connection to the A167 Underpass (as identified by the location of I4 on the Define Infrastructure Delivery Plan – Composite – Figure 04) shall be constructed and be available for use.

Reason: To ensure that impacts from the development upon highway safety are mitigated in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 42) Prior to the occupation of the 400th dwelling the pedestrian crossing on the B6532 in proximity to Bridleway (No. 44) (as identified by I20 on the Define Infrastructure Delivery Plan – Composite – Figure 04), shall be constructed and be available for use.

Reason: To ensure that impacts from the development upon highway safety are mitigated in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 43) Prior to the occupation of the 900th dwelling the northern most pedestrian crossing on the B6532 (as identified by I21 on the Define Infrastructure Delivery Plan – Composite – Figure 04), shall be constructed and be available for use.

Reason: To ensure that impacts from the development upon highway safety are mitigated in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 44) Prior to the occupation of the 200th dwelling the pedestrian/cycle connection between the B6532 (at I19 as shown on the Define Infrastructure Delivery Plan – Composite – Figure 04) and the connection point at the site boundary (as identified by H2 on the Define Infrastructure Delivery Plan – Composite – Figure 04), shall be constructed to the site boundary and be available for use.

Reason: To ensure that impacts from the development upon highway safety are mitigated in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 45) Prior to the occupation of the 280th dwelling the two active travel routes between the B6532 and the connections points by H3 and H4 on the Define Infrastructure Delivery Plan – Composite – Figure 04), shall be constructed to the site boundary and be available for use.

Reason: To ensure that impacts from the development upon highway safety are mitigated in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 46) Prior to the occupation of the 1,250th dwelling the pedestrian crossings on Potterhouse Lane (as identified by I22 and I23 on the Define Infrastructure Delivery Plan – Composite – Figure 04), shall be constructed and be available for use.

Reason: To ensure that impacts from the development upon highway safety are mitigated in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 47) The active travel route between New College Durham and Potterhouse Lane/Trouts Lane adjacent to the B6532 (as identified by I13 on the Define Infrastructure Delivery Plan – Composite – Figure 04) will be implemented in the following stages:

- Prior to the occupation of the 200th dwelling the section between New College and the B6532 crossing at the Local Centre (as identified by I19 on the Define Infrastructure Delivery Plan – Composite – Figure 04) shall be constructed and be available for use.
- Prior to the occupation of the 280th dwelling the section from the B6532 Crossing at the Local Centre to the pedestrian crossing (as identified by I20 on the Define Infrastructure Delivery Plan – Composite – Figure 04) shall be constructed and be available for use.
- Prior to the occupation of the 900th dwelling the section between the pedestrian crossing (as identified by I20 on the Define Infrastructure Delivery Plan – Composite – Figure 04) to the Potterhouse Lane/Trouts Lane Junction Improvement shall be constructed and be available for use.

Reason: To ensure that impacts from the development upon highway safety are mitigated in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 48) Prior to the occupation of the first dwelling in each phase, a Residential Travel Plan shall be submitted to and approved in writing by the Local

Planning Authority in consultation with the Highway Authority. The Travel Plan should:

- Follow the timescales and details in Framework Travel Plan as detailed in the approved document 'Sniperley Park, Durham, Environmental Statement December 2022 Volume 3 Chapter D – Transport'.
- Include measures to encourage sustainable travel to the nearest existing primary school in the period before the opening of the on site primary school.
- Include a scheme to provide new residents with travel vouchers to encourage sustainable travel.
- Include the contact details of a suitably qualified Travel Plan Co-ordinator.
- Include an implementation programme.
- Include an on-site assessment including details of transport links to the site, on-site facilities and any transport issues and problems.
- Clearly define aims and objectives in relation to travel modes.
- Clearly define senior management and staff responsibilities and roles in the implementation of the Framework Travel Plan.

The development in each phase shall thereafter be carried out and operated in accordance with the approved Travel Plan for that phase.

Reason: To reduce reliance on the private motor car and to promote sustainable transport methods in accordance with Policies 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 49) Prior to occupation of the school, an initial Framework Travel Plan should be submitted to the Local Planning Authority for approval. Thereafter, a Full/Final Travel Plan should be submitted to the Local Planning Authority within 24 months of first occupation of the school. The Full Travel Plan as approved through the Framework Travel Plan shall be implemented. Surveys to explore modal shift should be carried out and submitted to the County Council's Sustainable Travel Officer at 12 month intervals.

Reason: To reduce reliance on the private motor car and to promote sustainable transport methods in accordance with Policies 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 50) For any car park that is intended to serve any non-residential element of the development, a Car Park Management Strategy shall be submitted to and approved in writing by the Local Planning Authority before the car park is first used. The Strategy shall include details of: (a) the maximum duration of stay for all users (non-employment); (b) include number of parking spaces per user type; (c) car park enforcement; (d) measures and techniques to maximise car park efficiency/security and the way it will be managed; and (e) mechanism for a review of the Strategy within 12 months of the opening of the phase to confirm the satisfactory operation and safety of each car park and surrounding highway network. The car park shall be surfaced and laid out in accordance with the approved plans and

operated thereafter in accordance with the approved Car Park Management Strategy.

Reason: To ensure that impacts from the development upon highway safety are mitigated in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 51) Prior to the commencement of development in each phase, or part thereof, a detailed Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:
1. A Dust Action Plan including measures to control the emission of dust and dirt during construction.
  2. Details of methods and means of noise reduction/suppression.
  3. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
  4. Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
  5. Designation, layout and design of construction access and egress points.
  6. Details for the provision of directional signage (on and off site).
  7. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.
  8. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.
  9. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.
  10. Routing agreements for construction traffic.
  11. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
  12. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
  13. Management measures for the control of pest species as a result of demolition and/or construction works.
  14. Detail of measures for liaison with the local community and procedures to deal with any complaints received.

The development in each phase shall thereafter be carried out and operated in accordance with the approved CEMP.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

- 52) Prior to commencement of each phase of development, or part thereof (excluding demolition, archaeological investigation, services diversions and any land remediation/ground investigation works) a scheme for the provision of foul water drainage works shall be submitted to and approved by the Local Planning Authority. The scheme shall be in accordance with the approved document 'Sniperley Park, Durham Environmental Statement December 2022 Volume 2: Chapter K Water Management and Flooding'. The development in each phase, or part thereof, thereafter, shall be implemented in accordance with the details and timetable agreed.

Reason: To ensure that foul water is adequately disposed of, in accordance with Policies 35 and 36 of the County Durham Plan and Parts 14 and 15 of the National Planning Policy Framework.

- 53) Prior to commencement of each phase of development, or part thereof (other than ground clearance, site preparation, or remediation works) a scheme for surface water drainage and treatment shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be in accordance with the approved document 'Sniperley Park, Durham Environmental Statement December 2022 Volume 2: Chapter K Water Management and Flooding'. The development in each phase, or part thereof, thereafter, shall be completed in accordance with the details and timetable agreed.

Reason: To ensure that foul water is adequately disposed of, in accordance with Policies 35 and 36 of the County Durham Plan and Parts 14 and 15 of the National Planning Policy Framework.

- 54) No development including ground clearance or remediation works for each phase, or part thereof, shall commence until a build programme and timetable for the construction of the critical surface water infrastructure has been submitted to and approved in writing by the Local Planning Authority. The programme must include, amongst other matters, details of the outfall structure, control devices, attenuation/storage, temporary control measures during the construction phase and measures to control silt levels entering the watercourse. The order of works to be undertaken must be identified and the timescale for delivery. The development thereafter shall be completed in accordance with the details and timetable agreed.

Reason: To ensure that critical surface water infrastructure is in place to adequately deal with and dispose of surface water prior to the construction of the development, in accordance with Policy 35 of the County Durham Plan and Parts 14 and 15 of the National Planning Policy Framework. Required to be a pre-commencement condition to ensure that water infrastructure is in place at an early stage of the development to adequately manage surface water.

- 55) Prior to the commencement of development in each phase, details of the ecological mitigation identified in the approved document 'Sniperley Park, Durham, Environmental Statement December 2022 Volume 2 Chapter E –

Ecology' shall be submitted to and approved in writing by the Local Planning Authority. The mitigation measures shall include:

- A Habitat Creation and Management Plan, that details the target habitat descriptions; timescales for the target habitats to be delivered; details of the long-term management of habitats; and a monitoring scheme in relation to the delivery of the target habitats.
- Provision of Bat Boxes within retained trees and within 15% of new build properties.
- Increased provision of existing bird nesting opportunities.
- Lighting Plan to ensure areas of habitat targeted for wildlife remain unlit and areas of public open space, sustainable urban drainage features and other landscaping are lit sensitively with respect to use by wildlife.
- Thereafter the mitigation measures in each phase shall be implemented and retained in perpetuity.

Reason: In the interests of protected species and to comply with the objectives of Part 15 of the National Planning Policy Framework.

- 56) Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats.

Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

- 57) Prior to the occupation of the 400th dwelling the public house/restaurant (Use Class Sui Generis) shall be implemented and available for use. The new floorspace shall be restricted to no more than 550 sq.m gross external.

Reason: To ensure the delivery of the ancillary land uses on the site in accordance with Policy 5 of the County Durham Plan and paragraph 73 of the National Planning Policy Framework.

- 58) Prior to the occupation of the 100th market dwelling, a scheme for a Mobility Hub, and temporary retail provision, shall be submitted to and approved in writing by the local planning authority. Thereafter the scheme shall be implemented prior to the occupation of the 300th dwelling.

Reason: To ensure the delivery of the ancillary land uses on the site in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 59) Prior to the occupation of the 800th dwelling, accommodation that is suitable to be used as a health centre (Use Class F2) shall be implemented and available for use. The new floorspace shall be restricted to no more than 767 sq.m gross external.

Reason: To ensure the delivery of the ancillary land uses on the site in accordance with Policy 5 of the County Durham Plan and paragraph 73 of the National Planning Policy Framework.

- 60) Prior to the occupation of the 800th dwelling, the retail uses in the Local Centre (Use Class E) shall be implemented and available for use. The new

floorspace hereby permitted within Use Class E, together with the health centre, shall be restricted to no more than 1,500 sq.m gross external. No individual unit within Use Class E hereby permitted shall exceed 450 sq.m gross external floorspace.

Reason: To ensure the delivery of the ancillary land uses on the site in accordance with Policy 5 of the County Durham Plan and paragraph 73 of the National Planning Policy Framework.

- 61) The reserved matter of layout of each phase, or part thereof, shall be accompanied by details of refuse storage facilities and refuse storage plan for that phase of the development for approval by the Local Planning Authority. The details are to include the location and design of the facilities and arrangement for the provision of the bins.

Reason: In the interests of highway safety in accordance with Policies 6, 21 and 29 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 62) Notwithstanding the details shown on School and Playing Fields Plan (ref. 1300-DUR SD-20.05 Rev B) a scheme for the provision of 80 number additional car parking spaces adjacent to the proposed primary school / playing pitch area together with a timetable for implementation shall be submitted and approved in writing by the Local Planning Authority. Thereafter the car parking spaces shall be completed in accordance with the details and timetable agreed.

Reason: In the interests of highway safety in accordance with Policies 6, 21 and 29 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 63) Notwithstanding the provisions of Part 3, Class L of Schedule 2 of the Town and Country Planning (General Permitted Development Order) 2015 (as amended) (or any revocation and re-enactment of that order), the dwellinghouse(s) hereby approved, shall only be used for uses falling within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any revocation and re-enactment of that order) and for no other use.

Reason: In the interests of the amenity of the area in accordance with Policies 29 of the County Durham Plan and Paragraph 63 of the National Planning Policy Framework.

- 64) Garage(s), hardstanding(s)/drive(s) to any dwelling hereby approved, shall be constructed and made available for use before the first occupation of that dwelling. Thereafter they shall be used and maintained in such a manner as to always ensure their availability at all times for the parking of private motor vehicles.

Reason: In the interests of highway safety in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 65) The reserved matter of layout for each phase, or part thereof, must be accompanied by a scheme detailing the precise means of broadband connection to that phase for approval by the local planning authority.

Thereafter, the development shall be carried out in accordance with the agreed details.

Reason: To ensure a high quality of development is achieved and to comply with the requirements of Policy 27 of the County Durham Plan and Part 10 of the National Planning Policy Framework.

- 66) Prior to the occupation of the first dwelling of each phase, or part thereof, a strategy for electric vehicle charging points for 'on-street' visitor parking bays shall be submitted to and agreed by the Local Planning Authority. The submitted details shall include, but not be limited to:
- A plan showing the position of all proposed visitor parking charging points;
  - A specification of each type of charging point to be installed including minimum charging rating;
  - A timetable for their installation; and
  - Details for the on-going maintenance of the charging points. In the event of proposals to maintain the charging points by means other than through transfer to the Local Authority then the scheme shall provide details of an agreed maintenance schedule in perpetuity.
  - The electric vehicle charging points shall thereafter be maintained in accordance with the approved details.

Reason: To ensure that sustainable transport modes are encouraged in accordance with Policies 21, 22, 29 and 31 of the County Durham Plan and Parts 8, 9 and 15 of the National Planning Policy Framework

## **SCHEDULE 2**

### **Appeal B**

- 1) Application for approval of reserved matters for the first phase, or part thereof, shall be obtained in writing from the Local Planning Authority before the expiration of three years beginning with the date of this permission. The development must be begun no later than the expiration of two years from the final approval of the reserved matters.

Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2) Approval of the details of appearance, landscaping, layout and scale (hereinafter called "the reserved matters") for each phase, or part thereof, shall be obtained in writing from the Local Planning Authority before any development is commenced other than remediation and access works.

Reason: As required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 3) The development hereby permitted shall be carried out in accordance with the following approved plans:

- Site Location Plan (P22-2905.001 Rev A)
- Existing Site Plan (P22-2905.002)
- Land Use Parameter Plan (P22-2905.101)
- Green Infrastructure Parameter Plan (P22-2905.100 Rev A)
- Movement Network Parameter Plan (P22-2905.102 Rev A)
- Building Heights Parameter Plan (P22-2905.103 Rev A)
- Phasing Plan (P22-2905.104 Rev A)
- Movement Hierarchy Plan (P22-2907.105 Rev B)
- Open Space Plan (P22-2905.106 Rev A)
- Indicative Masterplan (P22-2905.107 Rev A)
- Comprehensive Masterplan and Infrastructure Phasing (December 2022)
- Design and Access Statement incorporating Design Code (August 2023)
- Define Infrastructure Delivery Plan, (February 2024)
- Biodiversity Net Gain Statement 139-09j, June 2023
- Proposed On Site Road Layout (21-057-022 Rev A)
- Landscape Masterplan (11058-L-01 P22)
- Sniperley Flood Risk Assessment (20182-FRA-02)
- Tree Retention Plan (11058-T-10 Rev A)
- Tree Protection Plan (11058-T-11 Rev A)

- Visibility Splays (21-057/101 Rev E)
- A691 Footway / Cycleway Improvement Scheme (21-057-014)

Reason: To define the consent and ensure that a satisfactory form of development is obtained and in accordance with Policies 4, 5, 10, 14, 15, 19, 21, 22, 25, 26, 29, 31, 32, 35, 36, 39, 40, 41, 43, 44, 45 and 56 of the County Durham Plan.

- 4) The development shall be implemented in accordance with the Sniperley Park Design and Access Statement incorporating Design Code (P22-2905C) (August 2023) and Comprehensive Masterplan and Infrastructure Phasing (December 2022) submitted with the planning application.

Reason: Reason: In the interests of the appearance of the area in accordance with Policies 5, 26, 29, 39, and 40 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

- 5) Prior to the construction above damp-proof course of any of the dwellings of each phase as indicated on Phasing Plan 'P22-2905.104 Rev A' hereby approved, a report setting out how at least 66% of the total number of units approved of the development will conform to Buildings Regulations M4(2) standard shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter in accordance with the approved details.

Reason: In order to address housing need requirements in accordance with Policy 15 of the County Durham Plan.

- 6) A scheme detailing how at least 10% of the total number of units approach on each Phase, as approved by Phasing Plan "P22-2905.104 Rev A" will be constructed to a design and type which meet the needs of older people, shall be submitted to and approved in writing by the Local Planning Authority alongside an application for reserved matters for the respective phase of the scheme. Thereafter the development phase shall be carried out fully in accordance with the approved details.

Reason: To meet the housing needs of older people and people with disabilities in accordance with Policy 15 of the County Durham Plan and Part 5 of the National Planning Policy Framework. Required to be pre-commencement to ensure that an acceptable scheme can be agreed and incorporated into the development before site works commence.

- 7) Natural gas shall not be used as a fuel to heat any dwellings hereby approved.

Reason: In the interests of reducing CO2 emissions as encouraged by Policy 29 of the County Durham Plan and Part 14 of the National Planning Policy Framework.

- 8) Prior to the occupation of the first dwelling of each phase as indicated on Phasing Plan 'P22-2905.104 Rev A', a strategy for electric vehicle charging points for 'on-street' visitor bays and communal parking courts shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include, but not be limited to:

- A plan showing the position of all proposed charging points;

- detail specification of each type of charging point to be installed including minimum charging rating;
- a timetable for their installation; and
- a scheme for the on-going maintenance of the charging points. In the event of proposals to maintain the charging points by means other than through transfer to the Local Authority then the scheme shall provide for details of an agreed maintenance schedule in perpetuity.
- The electric vehicle charging points shall thereafter be maintained in accordance with the approved details.

Reason: To ensure that sustainable transport modes are encouraged in accordance with Policies 21, 22, 29 and 31 of the County Durham Plan and Parts 8, 9 and 15 of the National Planning Policy Framework

- 9) The reserved matter of layout for each phase, or part thereof, shall include details of cycle storage, compliant with the Council's Parking and Accessibility Supplementary Planning Document (2023) (or such replacement document). Thereafter, the development shall be carried out in accordance with the agreed detail and the approved provision shall be retained for the storage of cycles at all times for the duration of the use hereby approved.

Reason: To encourage sustainable transport modes of travel having regard to CDP Policy 21, 22, 29 and 31 and Parts 8, 9 and 15 of the National Planning Policy Framework.

- 10) The reserved matter of landscaping for each phase, or part thereof, must be accompanied by a detailed landscaping scheme, based on the principles set out in dwg. no. (11058-L-01-P22) (Landscape Masterplan) and its maintenance and management, which has been submitted to and approved in writing by the Local Planning Authority.

The landscape scheme shall include accurate plan-based details of the following:

- Trees, hedges and shrubs scheduled for retention;
- Details of tree protection measures;
- Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers;
- Details of planting procedures or specification;
- Finished topsoil levels and depths;
- Details of temporary topsoil and subsoil storage provision. Seeded or turf areas, habitat creation areas and details etc;
- Details of land and surface drainage; and
- The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.
- Trees, hedges and shrubs shall not be removed without agreement within five years.

Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

- 11) The reserved matter of landscaping for each phase, or part thereof, must be accompanied by an updated arboricultural impact assessment. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, scheduled for retention, have been protected in accordance with the approved details and in accordance with BS 5837:2012. The protection measures shall remain in place until the cessation of the development works. The tree protection shall be retained throughout the construction period for each development phase. No materials, equipment or vehicles shall be stored inside the protective fencing.

Reason: In the interests of the visual amenity of the area and to comply with Policy 40 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework. Required as a pre-commencement condition to ensure that the trees are adequately protected prior to the commencement of the development.

- 12) The reserved matter of landscaping for each phase, or part thereof, of development must be accompanied by a scheme for the ongoing maintenance of the areas of public open space and structural landscaping within the development which has been submitted to and agreed in writing by the Local Planning Authority. In the event of proposals to maintain the public open space by means other than through transfer to the Local Authority then the scheme shall provide for details of an agreed maintenance schedule in perpetuity. The landscaping and open space areas shall thereafter be maintained in accordance with the approved details.

Reason: In the interests of the visual amenity of the area and to comply with Policies 26 and 29 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

- 13) Prior to the construction of the first dwelling, any hard surface or apartment block hereby approved, a scheme and programme detailing measures for compensatory improvements to the Green Belt (as identified on the Landscape Masterplan dwg. no. 11058-L-01-P22) together with a timetable for its implementation and a management scheme (pursuant to S39 of the Wildlife and Countryside Act 1981 or any other power of statutory provision) shall be submitted to and approved in writing by the Local Planning Authority.

Once approved, the compensatory improvements shall be implemented in accordance with the details and timetable agreed and shall be maintained in accordance with the approved management scheme.

Reason: In order to provide improvements to the wider area in accordance with Policies 5, 39 and 41 of the County Durham Plan and Parts 8, 11, 13 and 15 of the National Planning Policy Framework.

- 14) In the event that unforeseen legacy coal mining activity is encountered during construction works, the Coal Authority shall be notified in writing immediately. Operations on the affected part of the site shall cease until an

investigation and risk assessment, and if necessary, a remediation strategy is carried out in accordance with the Coal Authority guidance and agreed with the Coal Authority. The development shall be completed in accordance with any amended specification of works and the Local Planning Authority provided a copy of any amended specification before such works commence.

Reason: To ensure that any risks from legacy coal mining activity to the future users of the land and neighbouring land are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

- 15) No development (excluding demolition) of each phase of development, or part thereof (as identified on Phasing Plan P22-2907.104 Rev A) shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and the 'Phase 2' site investigation. A 'Phase 3' remediation strategy shall be produced and where necessary include details of the gas protection measures and method of verification.

Reason: To ensure that the presence of contamination is identified, risk assessed and proposed remediation works are agreed in order to ensure the site is suitable for use, in accordance with Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.

- 16) The development shall not be brought into use until such time a 'Phase 4' verification report related to that part of the development has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

- 17) If unforeseen contamination is encountered, the Local Planning Authority shall be notified in writing immediately. Operations on the affected part of the site shall cease until an investigation and risk assessment, and if necessary, a remediation strategy is carried out in accordance with the YALPAG guidance and agreed with the Local Planning Authority. The development shall be completed in accordance with any amended specification of works.

Reason: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

- 18) In undertaking the development that is hereby approved no deliveries shall take place other than between the hours of 0800 to 1800 on Monday to Friday and 0900 to 1300 on Saturday. No deliveries shall take place on Sundays, Public or Bank Holidays.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

- 19) In undertaking the development that is hereby approved, no external construction works, works of demolition, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1300 on Saturday. No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

No construction works or works of demolition whatsoever, including external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

- 20) Sound attenuation measures shall be undertaken in accordance with the mitigation detailed within Environmental Statement Chapter 12 – Noise and Vibration, February 2023. Such attenuation measures shall be completed prior to first occupation of the relevant Phase and be permanently retained thereafter.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

- 21) Prior to occupation of the first dwelling the bus stops to the A691 (as shown on plan ref: P22-2905.102 Rev A) shall be installed and be available for use.

Reason: To ensure that sustainable transport modes are encouraged in accordance with Policies 21, 22, 29 and 31 of the County Durham Plan and Parts 8, 9 and 15 of the National Planning Policy Framework.

- 22) Prior to occupation of the 120th dwelling hereby approved the bus stops to the primary route within the site (as shown on plan ref: P22-2905.102 Rev A) shall be installed and be available for use.

Reason: To ensure that sustainable transport modes are encouraged in accordance with Policies 21, 22, 29 and 31 of the County Durham Plan and Parts 8, 9 and 15 of the National Planning Policy Framework.

- 23) Prior to the occupation of the 120th dwelling the pedestrian / cycle connection between the A691 (as identified by G2 on the Define Infrastructure Delivery Plan – Composite – Figure 04) and the connection point at the site boundary (as identified by H2 and H3 on the Define Infrastructure Delivery Plan – Composite – Figure 04), together with any

associated Linear Park space, shall be constructed to the site boundary at H2 and H3 and be available for use.

Reason: To ensure that the development has safe access to the highway network in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 24) Prior to the 170th dwelling the pedestrian / cycle route linking between the site and the adjoining Park & Ride Site immediately to the South (as shown on plan ref: P22-2905.102 Rev A), shall be constructed to the site boundary and be available for use.

Reason: To ensure that the development has safe access to the highway network in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 25) Prior to the 250th dwelling the non-vehicular route within Serpentine Wood linking between the site and adjoining land within the allocation immediately to the north (as identified by Scheme H4 on the approved Infrastructure Delivery Plan), shall be constructed to the site boundary and be available for use.

Reason: To ensure that the development has safe access to the highway network in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 26) Prior to the 120th dwelling the section of the vehicular link road between the site and adjoining land within the allocation immediately to the north (as identified by Scheme H1 on the approved Infrastructure Delivery Plan), shall be constructed to the site boundary and be available for use.

Reason: To ensure that the development has safe access to the highway network in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 27) No dwelling shall be occupied unless and until the new estate roads serving the dwelling have been constructed to at least base course level that shall include temporary ramps and surfacing to allow movement by those with impaired mobility.

Reason: To protect residential amenity and to address the needs of existing and future residents with mobility issues or disabilities in accordance with Policies 21 and 31 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 28) Prior to the commencement of each phase of development, or part thereof, full engineering details of the estate roads, future management and maintenance of the proposed streets within that phase or part thereof shall have been submitted to and approved in writing by the Local Planning Authority. In the event of proposals to maintain the highway by means other than through transfer to the Highway Authority then the scheme shall provide for future management and maintenance in perpetuity.

Reason: In the interests of highway safety in accordance with Policies 6, 21 and 29 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 29) Upon occupation of the first dwelling hereby approved, the measures contained with the Framework Travel Plan (ref: Transport Assessment and Travel Plan, February 2023) shall be carried out in accordance with the details hereby approved and retained in perpetuity.

Reason: To reduce reliance on the private motor car and to promote sustainable transport methods in accordance with Policies 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 30) Twelve months after first occupation of the development details of a Full Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. At all times thereafter the approved Full Travel Plan shall be implemented in accordance with the approved details. This Full Travel Plan must include:
- i. the details of the appointed Travel Plan Coordinator, including confirmation of the length of their appointment and that funding is secured to enable the successful implementation of the Full Travel Plan;
  - ii. a feasibility study for a car club;
  - iii. clearly specified ongoing targets for travel mode shares;
  - iv. a plan for monitoring and reviewing the effectiveness of the Full Travel Plan; and
  - v. A biennial monitoring report to be submitted to the Local Planning Authority regarding the implementation of the Full Travel Plan.

Reason: To reduce reliance on the private motor car and to promote sustainable transport methods in accordance with Policies 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 31) Prior to the construction of the first dwelling hereby approved, a detailed scheme to widen the existing shared use path alongside the A691 between the Sniperley Park and Ride site and the new access roundabout on the A691 (as identified by I11 on the Define Infrastructure Delivery Plan – Composite – Figure 04) shall be submitted to and agreed in writing by the Local Planning Authority. Once agreed, the scheme shall be carried out in accordance with the approved details prior to first occupation.

Reason: To ensure that impacts from the development upon highway safety are mitigated in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 32) Prior to the occupation of the first dwelling, a scheme to clear vegetation to re-establish the footway width along the front of the site on the A691 (identified by Scheme I12 on the approved Infrastructure Delivery Plan – Composite – Figure 04), together with a timetable for its implementation, shall be submitted to and approved in writing by the Local Planning Authority. Once approved, the scheme shall be carried out in accordance with the approved details.

Reason: To ensure that impacts from the development upon highway safety are mitigated in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 33) Prior to the occupation of the 300th dwelling hereby approved a scheme to provide improved signposting to greenspace (as identified by scheme reference 'Intervention 15' in the Sniperley Active Travel Plan (Review), July 2023), together with a timetable for its implementation, shall be submitted to and approved in writing by the Local Planning Authority. Once agreed, the scheme shall be implemented in accordance with the approved details.

Reason: To ensure that impacts from the development upon highway safety are mitigated in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 34) Prior to the occupation of the 100th dwelling hereby approved a scheme for an on site Mobility Hub (as identified by Scheme I16b on the Define Infrastructure Delivery Plan – Composite – Figure 04) shall be submitted to and approved in writing by the Local Planning Authority. Once agreed, the Mobility Hub shall be available for use prior to the occupation of the 200th dwelling.

Reason: To ensure that impacts from the development upon highway safety are mitigated in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 35) No dwelling shall be occupied until full engineering details of the estate roads and external footpath connections have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme.

Reason: In the interests of highway safety in accordance with Policies 6, 21 and 29 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 36) Prior to the commencement of any part of the development or any works of demolition, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall consider the potential environmental impacts (noise, vibration, dust, & light) that the development may have upon any nearby sensitive receptors and shall detail mitigation proposed, as a minimum this should include, but not necessarily be restricted to, the following:

- i. A Dust Action Plan including measures to control the emission of dust and dirt during construction.
- ii. Details of methods and means of noise reduction/suppression.
- iii. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
- iv. Details of measures to prevent mud and other such material migrating onto the highway from construction vehicles;
- v. Designation, layout and design of construction access and egress points;
- vi. Details for the provision of directional signage (on and off site);

- vii. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;
- viii. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials
- ix. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period;
- x. Routing agreements for construction traffic, avoiding the Air Quality Management Area;
- xi. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- xii. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
- xiii. Management measures for the control of pest species as a result of demolition and/or construction works.
- xiv. Detail of measures for liaison with the local community and procedures to deal with any complaints received.
- xv. Details of routes for construction traffic to access the site; and
- xvi. Details of the scheduling of deliveries to minimise potential disturbance on local residents and conflicts with the highway peak hours;

The management strategy shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

The approved Construction Management Plan shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required pre-commencement to ensure that impacts are mitigated from the outset of development commencing on site.

- 37) The approved flood risk and foul drainage strategy shall be implemented in accordance with the approved document '20182-FRA- 02' prior to the first occupation of each phase of development, or part thereof.

Reason: To ensure that foul water is adequately disposed of, in accordance with Policies 35 and 36 of the County Durham Plan and Parts 14 and 15 of the National Planning Policy Framework.

- 38) The drainage scheme shall ensure that foul flows discharge to the foul sewer at manhole 6101, as indicated within approved document '20182-

FRA-02', and ensure that surface water discharges to the existing Sustainable Drainage System Pond.

Reason: To ensure that foul water is adequately disposed of, in accordance with Policies 35 and 36 of the County Durham Plan and Parts 14 and 15 of the National Planning Policy Framework.

- 39) Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats.

Reason: In the interests of the ecological protection of the area and to comply with Policy 41 of the County Durham Plan and Part 15 of the National Planning Policy Framework

- 40) Prior to the commencement of development in each phase, details of the ecological mitigation identified in the approved document 'Sniperley Farm, Durham, Environmental Statement, December 2022 Chapter 8 – Ecology' shall be submitted to and approved in writing by the Local Planning Authority. The mitigation measures shall include:

- 74 integrated bat boxes to be installed on new buildings across the site;
- 110 integrated swift nesting boxes to be installed on new buildings;
- 2 barn owl boxes to be installed on retained trees on the western edge of the off-Site habitat creation area;
- Hedgehog gaps measuring approximately 13cm x 13cm to be installed at the base of all boundary treatments;
- Habitats to meet the needs of grey partridge within the off-site habitat creation area; and
- The use of narrow spectrum bulbs and the use of shielding or cutting light to avoid light spillage.

Thereafter, the mitigation measures will be implemented, maintained, and retained in perpetuity.

Reason: In the interests of protected species and to comply with the objectives of Part 15 of the National Planning Policy Framework. Required pre-commencement to ensure that biodiversity interests are protected from the outset of development.

- 41) Prior to the first occupation of each phase, the bat and breeding bird units as identified for installation shall be erected. The mitigation shall be carried out in accordance with the measures detailed in the 'Biodiversity Net Gain Statement, June 2023' and retained in perpetuity.

Reason: In the interests of protected species and Policy 31 of the County Durham Plan and to comply with Part 15 of the National Planning Policy Framework.

- 42) Prior to the construction of each phase of the development, or part thereof, details of refuse storage facilities and refuse storage plan for that phase of the development shall be submitted to and approved in writing by the Local Planning Authority. The details should be in accordance with the approved 'Design and Access Statement incorporating Design Code (August 2023)'

and are to 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 the first occupation of any dwelling in that phase. Thereafter the refuse storage facilities and refuse storage plan shall operate in accordance with approved details.

Reason: In the interests of highway safety in accordance with Policies 6, 21 and 29 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 43) No development of each phase, or part thereof, including ground clearance or remediation works shall commence until a build programme and timetable for the construction of the critical surface water infrastructure has been submitted to and approved in writing by the Local Planning Authority. The programme must include, amongst other matters, details of the outfall structure, control devices, attenuation/storage, temporary control measures during the construction phase and measures to control silt levels entering the watercourse. The order of works to be undertaken must be identified and the timescale for delivery. The development thereafter shall be completed in accordance with the details and timetable agreed.

Reason: To ensure that critical surface water infrastructure is in place to adequately deal with and dispose of surface water prior to the construction of the development, in accordance with Policy 35 of the County Durham Plan and Parts 14 and 15 of the National Planning Policy Framework. Required to be a pre-commencement condition to ensure that water infrastructure is in place at an early stage of the development to adequately manage surface water.

- 44) The reserved matter of appearance must be accompanied by details of the make, colour and texture of all walling and roofing materials of each dwelling which have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

- 45) Prior to the commencement of any hard surface or dwelling on each phase of development, or part thereof, details showing the existing and proposed site levels, and the finished floor levels of the proposed development and those of existing neighbouring buildings (if any), shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details thereafter.

Reason: In the interests of the amenity of the surrounding areas and neighbouring properties, in accordance with Policy 29 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework. Required as a pre-commencement condition to ensure that the implications of changes in level are properly considered and accounted for in the development.

- 46) The reserved matters of appearance and layout must be accompanied by details of all means of enclosure to be erected within the development

which shall be submitted to and approved in writing by the Local Planning Authority. The submitted details must include details of any retaining walls/structures required including their interaction with other means of enclosure such as garden fences within the site. The development shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

- 47) The reserved matters of appearance and layout must be accompanied by details of the surface treatment and construction of all hard-surfaced areas which shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

- 48) Notwithstanding the provisions of Part 3, Class L of Schedule 2 of the Town and Country Planning (General Permitted Development Order) 2015 (as amended) (or any revocation and re-enactment of that order), the dwellinghouse(s) hereby approved, shall only be used for uses falling within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any revocation and re-enactment of that order) and for no other use.

Reason: In the interests of the amenity of the area in accordance with Policies 29 of the County Durham Plan and Paragraph 63 of the National Planning Policy Framework.

- 49) Garage(s), hardstanding(s)/drive(s) to any dwelling hereby approved, shall be constructed and made available for use before the first occupation of that dwelling. Thereafter they shall be used and maintained in such a manner as to always ensure their availability at all times for the parking of private motor vehicles.

Reason: In the interests of highway safety in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 50) The reserved matter of layout for each phase, or part thereof, must be accompanied by a scheme detailing the precise means of broadband connection to that phase for approval in writing by the local planning authority. Thereafter, the development shall be carried out in accordance with the agreed details.

Reason: To ensure a high quality of development is achieved and to comply with the requirements of Policy 27 of the County Durham Plan and Part 10 of the National Planning Policy Framework.

- 51) Prior to the commencement of the park and ride extension hereby approved, details of the height, type, position and angle of external lighting shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall be erected and maintained in accordance with the approved details.

Reason: In the interests of the amenity of nearby residents/appearance of the area in accordance with Policy 31 of the County Durham Plan and Part 8 of the National Planning Policy Framework.

- 52) No development of the park and ride extension hereby approved (other than ground clearance or remediation works) shall commence until a scheme for the provision of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be developed in accordance with the Councils Sustainable Drainage Systems (SuDS) Adoption Guide 2016.

The development thereafter shall be completed in accordance with the details and timetable agreed.

Reason: To ensure that surface and foul water are adequately disposed of, in accordance with Policies 35 and 36 of the County Durham Plan and Parts 14 and 15 of the National Planning Policy Framework.

- 53) The development shall be carried out in full accordance with Chapter 8 of Environmental Statement which requires:
- Suitable mitigation for nesting birds;
  - Habitat protection and creation / management; and
  - Sensitive lighting design.

Reason: In order to deliver Biodiversity Net Gain in accordance County Durham Plan Policy 41, Policy 7 of the Witton Gilbert Neighbourhood Plan and Part 15 of the National Planning Policy Framework

- 54) Prior to the occupation of the 200th dwelling, the park and ride extension hereby approved shall be constructed and made available for use.

Reason: To ensure use of sustainable transport mode options in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

## **SCHEDULE 3**

### **Appeal C**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans :

Site location plan Ref P21-2606.001 (Rev A)

Concept plan Ref P21-2606.010 (Rev B)

Proposed floor plans Ref P21-2606.011 (Rev C)

Proposed perspectives Ref P21-2606.012 (Rev A)

Proposed elevations Ref P21-2606.013 (Rev A)

Proposed access Ref P21-2606.015

NDSS check (proposed ground & first floor layout plans) P21-2606.016 (Rev A)

Demolition volume Ref P21-2606.017

Proposed access Ref 21-057/014 (Rev A)

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with, Policies 10, 21, 26, 29, 31, 32, 35, 39, 40, 41, and 43, 44 of the County Durham Plan, Policies 1, 2, 6 and 7 of the Witton Gilbert Neighbourhood Plan, and Parts 9, 12, 14 and 15 of the National Planning Policy Framework.

- 3) No development shall take place unless in accordance with the mitigation as identified in the 'Outline Biodiversity Management and Monitoring Plan (BMMP) Revision 11' by Quants Environmental (June 2023).

Reason: In the interests of biodiversity and conserving protected species, in accordance with Policies 41 and 43 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

- 4) Works to the buildings likely to affect known roosts shall not in any circumstances commence unless the Local Planning Authority has been provided with either:
  - i. a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorising the specified activity/development to go ahead; or
  - ii. confirmation that the site is registered on a Bat Mitigation Class Licence issued by Natural England; or
  - iii. written justification by a suitably qualified ecologist confirming why a licence is no longer required.

Reason: To maintain the favourable conservation status of a European protected species (bats), in accordance with Policies 40 and 41 of the County Durham Plan, and the National Planning Policy Framework.

- 5) No development shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. If the Phase 2 survey identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and where necessary include gas protection measures and method of verification.

Reason: To ensure that the presence of contamination is identified, risk assessed and proposed remediation works are agreed in order to ensure the site is suitable for use, in accordance with Policy 32 of the County Durham Plan, and with the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.

- 6) Remediation works shall be carried out in accordance with the approved remediation strategy. The development shall not be brought into use until such time a Phase 4 verification report related to that part of the development has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with Policy 32 of the County Durham Plan, and with the National Planning Policy Framework.

- 7) Prior to the commencement of development, details of the management of surface water drainage within the site during the construction phase and following the occupation of the development shall be submitted to and approved in writing by the Local Planning Authority. Once agreed, the drainage works shall be carried in accordance with the approved details.

The development shall then be constructed in accordance with the approved details, any drainage connection to the adjoining land within the allocation made prior to first occupation, and the drainage measures shall be maintained thereafter in perpetuity.

Reason: In the interest of preventing an increase in surface water flood risk within the site and elsewhere, in accordance with Policies 35 and 36 of the County Durham Plan, and with the National Planning Policy Framework. Required to be pre-commencement to ensure that drainage measures can be implemented throughout the construction phase.

- 8) Prior to works commencing to the fabric of the buildings, precise details of the external appearance, including samples, of the following shall be submitted to and approved in writing by the Local Planning Authority:
- i) External elevations
  - ii) Roofs
  - iii) Window frames (including any recess), heads and sills
  - iv) Doors
  - v) Rainwater goods

The development shall then be constructed in accordance with the approved details.

Reason: In the interest of the character and appearance of the non-designated heritage asset upon completion of the works, in accordance with Policies 29 and 44 of the County Durham Plan, Policies 1, 2 and 6 of the Witton Gilbert Neighbourhood Plan, and with the National Planning Policy Framework.

- 9) Prior to works commencing to the fabric of the buildings, details of noise insulation measures shall be submitted to and approved in writing by the Local Planning Authority. These measures shall ensure the following levels are achieved:
- i) 35dB LAeq 16hr bedrooms and living room during the day-time (0700 - 2300)
  - ii) 30 dB LAeq 8hr in all bedrooms during the night time (2300 - 0700)
  - iii) 45 dB LAmax in bedrooms during the night-time
  - iv) 55dB LAeq 16hr in outdoor living areas

The development shall then be constructed in accordance with the approved details.

Reason: In the interest of the amenity of occupiers of the development, in accordance with Policies 29 and 44 of the County Durham Plan, Policies 1, 2 and 6 of the Witton Gilbert Neighbourhood Plan, and with the National Planning Policy Framework.

- 10) Prior to their erection, precise details of the height and appearance of the proposed boundary treatments to each plot shall be submitted to and approved in writing by the Local Planning Authority.

The development shall then be constructed in accordance with the approved details.

Reason: In the interest of the character and appearance of the non-designated heritage asset upon completion of the works, in accordance with Policies 29 and 44 of the County Durham Plan, with Policies 1, 2 and 6 of the Witton Gilbert Neighbourhood Plan, and with the National Planning Policy Framework.

- 11) Prior to commencement of development, details of the siting and appearance of an electric vehicle charging point at each dwelling shall be submitted to and approved in writing by the Local Planning Authority.

The charging points shall then be installed and made operational prior to the occupation of each dwelling.

Reason: In the interest of sustainable development, and in the interest of the character and appearance of the non-designated heritage asset upon completion of the works, in accordance with Policies 29 and 31 of the County Durham Plan, with Policies 1, 2 and 6 of the Witton Gilbert Neighbourhood Plan, and with the National Planning Policy Framework. Required pre-commencement to ensure that the impacts upon the non-designated heritage asset are effectively assessed.

- 12) Prior to commencement of development, details of the siting and appearance of cycle storage at each dwelling shall be submitted to and approved in writing by the Local Planning Authority.

The cycle storage shall then be installed and made available for use prior to the occupation of each dwelling.

Reason: In the interest of sustainable development, and in the interest of the character and appearance of the non-designated heritage asset upon completion of the works, in accordance with Policies 29 and 44 of the County Durham Plan, Policies 1, 2 and 6 of the Witton Gilbert Neighbourhood Plan, and with the National Planning Policy Framework. Required pre-commencement to ensure that the impacts upon the non-designated heritage asset are effectively assessed.

- 13) Prior to commencement of development details of refuse storage and the collection arrangement for all dwellings across the development shall be submitted to and approved in writing by the Local Planning Authority.

The storage details shall then be implemented prior to the occupation of each dwelling, and the collection arrangement shall be carried out in perpetuity.

Reason: In the interest of highway safety, and in the interest of the character and appearance of the development, in accordance with Policies 21, 29 and 44 of the County Durham Plan, with Policies 1, 2 and 6 of the Witton Gilbert Neighbourhood Plan, and with the National Planning Policy Framework. Required pre-commencement to ensure that the impacts upon the non-designated heritage asset are effectively assessed.

- 14) Prior to commencement of development details of the provision of high-speed internet broadband to each dwelling shall be submitted to and approved in writing by the Local Planning Authority.

The approved connections shall then be installed prior to the occupation of each dwelling.

Reason: In the interest of ensuring provision of high-speed internet connectivity at each dwelling, in accordance with Policy 27 of the County Durham Plan, Policy 11 of the Witton Gilbert Neighbourhood Plan, and the National Planning Policy Framework. Required pre-commencement to ensure that the impacts upon the non-designated heritage asset are effectively assessed.

- 15) In undertaking the development that is hereby approved, no external construction works, works of demolition, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1300 on Saturday. No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

No construction works or works of demolition whatsoever, including external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

## **SCHEDULE 4**

### **Appeal D**

Conditions relating only to the element of the application for which full planning permission is sought.

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2) The development hereby approved shall be carried out in strict accordance with the following approved plans:

- Site Location Plan Ref. P22-2907.001 Rev A
- Existing Site Plan Ref. P22-2907.002
- Proposed Layout Plan Ref. P22-2907.100 Rev N
- Adoptable Highways Plan Layout Ref. P22-2907.102 Rev C
- Open Space Plan Ref. P22-2907.103 Rev G
- Boundary Treatment Plan Part 1 Ref. P22-2907.104 Rev D
- Boundary Treatment Plan Part 2 Ref. P22-2907.104 Rev D
- Spacing Standards Plan Ref. P22-2907.105 Rev D
- Parking Strategy Plan Ref. P22-2907.106 Rev C
- Affordable Housing Location Plan Ref. P22-2907.120 Rev B
- Phasing Plan Ref. P22-2907.114 Rev B
- Movement Hierarchy Plan Ref. P22-2907.115 Rev B
- Comprehensive Masterplan and Infrastructure Phasing (December 2022)
- Design and Access Statement incorporating Design Code (July 2023)
- Define Infrastructure Delivery Plan, DE517 (February 2024)
- Biodiversity Net Gain Statement, June 2023
- House Type Honeyman Elevations P22-2907-DE-001\_F\_19
- House Type Honeyman Floor Plans P22-2907-DE-001\_F\_20
- House Type Beekeeper Elevations P22-2907-DE-001\_E\_23
- House Type Beekeeper Floor Plans P22-2907-DE-001\_F\_22
- Landscape Masterplan (11058-L-01 P22)
- Sniperley Flood Risk Assessment (20182-FRA-01 Rev H)
- Tree Retention Plan (11058-T-10 Rev A)
- Tree Protection Plan (11058-T-11 Rev A)
- Visibility Splays (21-057/101 Rev E)

- A691 Footway / Cycleway Improvement Scheme (21-057-014)
- Proposed on Site Layout (21-057-022 Rev A)
- House Type Manciple ECW/801/SDB/00/01
- House Type Manciple MP-2B-2S-P1
- House Type Coiner ECW/876/SDB/00/01
- House Type Coiner CN-2B-2S-P1
- House Type Chandler ECW/951/SDB/00/01
- House Type Chandler ECW/1026/SDB/00/02
- House Type Chandler CH-3B-2S-P1
- House Type Harper – Sniperley Farm Area - ECW/1026/SDB/00/01
- House Type Harper (Render) ECW1026/SDB/00/02
- House Type Harper HA-3B-2S-P1
- House Type Blenmere ECW/1026/SDB/00/01
- House Type Blenmere ECW/1026/SDB/00/02
- House Type Blenmere BM-3B-2S-P1
- House Type Tillman ECW/T1026/SDB/00/01
- House Type Tillman T1-3B-2S-P1
- House Type Sawyer – Medium Density Elevations - ECW/1083/SDB/00/01
- House Type Sawyer – Sniperley Farm Area - ECW/1083/SDB/00/02
- House Type Sawyer – Medium Density Elevations (Render) SY-3B-2S-P1
- House Type Mercer ECW/1083/SDB/00/01
- House Type Mercer ECW/1083/SDB/00/02
- House Type Mercer ME-4B-2S-P1
- House Type Spinner ECW/1248/SDB/00/01
- House Type Spinner SP-3B-2S-P1
- House Type Reedmaker ECW/1309/SDB/00/01
- House Type Reedmaker – Sniperley Farm Area – ECW/1309/SDC/00/01
- House Type Reedmaker RE-4B-2S-P1
- House Type Cutler ECW/1335/SDB/00/01
- House Type Cutler ECW/1335/SDB/00/02
- House Type Cutler CU-4B-2S-P1
- House Type Forester ECW/1528/SDB/00/01
- House Type Forester ECW/1528/SDB/00/02

- House Type Forester ECW/1528/SDB/00/03
- House Type Forester ECW/1528/SDB/00/04
- House Type Forester FO-4B-2S-P1
- House Type Bowyer ECW/1356/SDB/00/02
- House Type Bowyer ECW/1356/SDB/00/04
- House Type Bowyer BO-4B-2S-P1
- House Type Lorimer ECW/1554/SDB/00/01
- House Type Lorimer ECW/1554/SDB/00/02
- House Type Lorimer ECW/1554/SDB/00/03
- House Type Lorimer LO-4B-2S-P1
- House Type Weaver ECW/1688/SDB/00/01
- House Type Weaver ECW/1688/SDB/00/02
- House Type Weaver ECW/1688/SDB/00/03
- House Type Weaver ECW/1688/SDB/00/04
- House Type Weaver WE-4B-2S-P1
- House Type Magnolia Bungalow ECW/MAG/SDB/00/01
- House Type Magnolia Bungalow ECW/MAG/SDB/00/02
- House Type Watchmaker ECW/1901/SDB/00/01
- House Type Watchmaker ECW/1901/SDB/00/02
- House Type Watchmaker ECW/1901/SDB/00/03
- House Type Watchmaker ECW/1901/SDB/00/04
- House Type Watchmaker P22-4321-DE-118-03
- House Type Watchmaker WA-5B-2S-P1 rev A
- House Type Watchmaker P22-4321-DE-118-04
- House Type Draper ECW/2243/SDB/00/01
- House Type Draper ECW/2243/SDB/00/02
- House Type Draper ECW/2243/SDB/00/03
- House Type Draper ECW/2243/SDB/00/04
- House Type Draper P22-4321-DE-118-01
- House Type Draper DR-5B-2S-P1
- House Type Draper P22-4321-DE-118-02
- House Type Rosemary ASH/802MP/00/TC/01
- House Type Rosemary ASH/802MP/00/CC/01
- House Type Rosemary ASH/802MP/00/AC/01
- House Type Oxalis ASH/876CN/00/TC/02 Rev C

- House Type Oxalis ASH/876CN/00/CC/02 Rev C
- House Type Oxalis ASH/876CN/00/AC/01 Rev C
- House Type Orchid ASH/951/00/TC/R1/02 Rev M
- House Type Orchid ASH/951/00/CC/R1/02 Rev M
- House Type Orchid ASH/951/00/AC/01 Rev M
- House Type Alyssum ASH/1026BM/00/TC/02
- House Type Alyssum ASH/1026BM/00/AC/01 Rev C
- House Type Alyssum ASH/1026HA/00/TC/02
- House Type Perilla ASH/1026HA/00/CC/02 Rev E
- House Type Perilla ASH/1026/HA/00/AC/01 Rev E
- House Type Perilla ASH/1026T1/00/TC/02 Rev F
- House Type Petuna ASH/1026T1/00/AC/01 Rev F
- House Type Petuna ASH/1083/00/TC/02 Rev H
- House Type Begonia ASH/1083/OC/CC/02 Rev H
- House Type Begonia ASH/1083/00/AC/01 Rev H
- House Type Daphne ASH/SP1248/00/TC/02 Rev E
- House Type Daphne ASH/SP1248/00/CC/02 Rev E
- House Type Daphne ASH/SP1248/00/AC/01 Rev E
- House Type Delphinium ASH/1248/WH/00/TC/02 Rev D
- House Type Delphinium ASH/1248/WH/00/CC/02 Rev D
- House Type Delphinium ASH/1248/WH/00/AC/01 Rev D
- House Type Myrtle ASH/1160/00/TC/02 Rev B
- House Type Myrtle ASH/1160/00/CC/02 Rev B
- House Type Myrtle ASH/1160/00/AC/01 Rev B

Reason: To define the consent and ensure that a satisfactory form of development is obtained and in accordance with Policies 4, 5, 10, 14, 15, 19, 21, 22, 25, 26, 29, 31, 32, 35, 36, 39, 40, 41, 43, 44, 45 and 56 of the County Durham Plan.

- 3) The development shall be implemented in accordance with the Sniperley Park Design and Access Statement incorporating Design Code (P22-2907F) (July 2023) and Comprehensive Masterplan and Infrastructure Phasing (December 2022) submitted with the planning application.

Reason: Reason: In the interests of the appearance of the area in accordance with Policies 5, 26, 29, 39, and 40 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

- 4) Prior to the construction above damp-proof course of any of the dwellings of each phase as indicated on Phasing Plan 'P22-2907.114 Rev B' hereby approved, a report setting out how at least 66% of the total number of units approved of the development will conform to Buildings Regulations

M4(2) standard shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter in accordance with the approved details.

Reason: In order to address housing need requirements in accordance with Policy 15 of the County Durham Plan.

- 5) Natural gas shall not be used as a fuel to heat any dwellings hereby approved.

Reason: In the interests of reducing CO2 emissions as encouraged by Policy 29 of the County Durham Plan and Part 14 of the National Planning Policy Framework.

- 6) Prior to the occupation of the first dwelling or apartment block of each phase as indicated on Phasing Plan 'P22-2907.114 Rev B', a strategy for electric vehicle charging points for 'on-street' visitor bays and communal parking courts shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include, but not be limited to:

- A plan showing the position of all proposed charging points;
- detail specification of each type of charging point to be installed including minimum charging rating;
- a timetable for their installation; and
- a scheme for the on-going maintenance of the charging points. In the event of proposals to maintain the charging points by means other than through transfer to the Local Authority then the scheme shall provide for details of an agreed maintenance schedule in perpetuity.

The electric vehicle charging points shall thereafter be maintained in accordance with the approved details.

Reason: To ensure that sustainable transport modes are encouraged in accordance with Policies 21, 22, 29 and 31 of the County Durham Plan and Parts 8, 9 and 15 of the National Planning Policy Framework.

- 7) All dwellings and apartment blocks hereby approved shall be provided with private cycle storage in accordance with the details submitted within the Council's Parking and Accessibility Supplementary Planning Document (2023) (or such replacement document) and said storage must be installed and available for use before occupation of each dwelling.

Reason: To encourage sustainable transport modes of travel having regard to CDP Policy 21 and Part 9 of the National Planning Policy Framework.

- 8) No dwelling or apartment block shall be occupied in each phase, or part thereof, as indicated on Phasing Plan 'P22-2907.114 Rev B' until a detailed landscaping scheme, based on the principles set out in dwg. no. (11058-L-01-P22) (Landscape Masterplan) and its maintenance and management, has been submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall include accurate plan-based details of the following:

- Trees, hedges and shrubs scheduled for retention;

- Details of tree protection measures;
- Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers;
- Details of planting procedures or specification;
- Finished topsoil levels and depths;
- Details of temporary topsoil and subsoil storage provision. Seeded or turf areas, habitat creation areas and details etc;
- Details of land and surface drainage; and
- The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.
- Trees, hedges and shrubs shall not be removed without agreement within five years.

Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

- 9) Any works to trees or hedges within each phase, or part thereof, must be in strict accordance with the hereby approved Tree Protection Plan (11058-T-11 Rev A). No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, scheduled for retention, have been protected in accordance with the approved details and in accordance with BS 5837:2012. The protection measures shall remain in place until the cessation of the development works. The tree protection shall be retained throughout the construction period for each development phase. No materials, equipment or vehicles shall be stored inside the protective fencing.

Reason: In the interests of the visual amenity of the area and to comply with Policy 40 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework. Required as a pre-commencement condition to ensure that the trees are adequately protected prior to the commencement of the development.

- 10) Prior to the construction of the first dwelling, any hard surface or apartment block hereby approved, a scheme and programme detailing measures for compensatory improvements to the Green Belt (as identified on the Landscape Masterplan dwg. no. 11058-L-01-P22) together with a timetable for its implementation and a management scheme (pursuant to S39 of the Wildlife and Countryside Act 1981 or any other power of statutory provision) shall be submitted to and approved in writing by the Local Planning Authority.

Once approved, the compensatory improvements shall be implemented in accordance with the details and timetable agreed and shall be maintained in accordance with the approved management scheme.

Reason: In order to provide improvements to the wider area in accordance with Policies 5, 39 and 41 of the County Durham Plan and Parts 8, 11, 13 and 15 of the National Planning Policy Framework.

- 11) In the event that unforeseen legacy coal mining activity is encountered during construction works, the Coal Authority shall be notified in writing immediately. Operations on the affected part of the site shall cease until an investigation and risk assessment, and if necessary, a remediation strategy is carried out in accordance with the Coal Authority guidance and agreed with the Coal Authority. The development shall be completed in accordance with any amended specification of works and the Local Planning Authority provided with a copy of any amended specification before such works commence.

Reason: To ensure that any risks from legacy coal mining activity to the future users of the land and neighbouring land are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

- 12) No development (excluding demolition) of each phase of development, or part thereof (as identified on Phasing Plan P22-2907.114 Rev B) shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and the 'Phase 2' site investigation. A 'Phase 3' remediation strategy shall be produced and where necessary include details of the gas protection measures and method of verification.

Reason: To ensure that the presence of contamination is identified, risk assessed and proposed remediation works are agreed in order to ensure the site is suitable for use, in accordance with Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.

- 13) The development shall not be brought into use until such time a 'Phase 4' verification report related to that part of the development has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

- 14) If unforeseen contamination is encountered, the Local Planning Authority shall be notified in writing immediately. Operations on the affected part of the site shall cease until an investigation and risk assessment, and if necessary, a remediation strategy is carried out in accordance with the YALPAG guidance and agreed with the Local Planning Authority. The development shall be completed in accordance with any amended specification of works.

Reason: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework

- 15) In undertaking the development hereby approved no deliveries shall take place other than between the hours of 0800 to 1800 on Monday to Friday

and 0900 to 1300 on Saturday. No deliveries shall take place on Sundays, Public or Bank Holidays.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

- 16) In undertaking the development hereby approved, no external construction works, works of demolition, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1300 on Saturday. No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

No construction works or works of demolition whatsoever, including external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

- 17) Sound attenuation measures shall be undertaken in accordance with the mitigation detailed within Environmental Statement Chapter 12 – Noise and Vibration, December 2022. Such attenuation measures shall be completed prior to first occupation of the relevant Phase (P22-2907.114 Rev B) and be permanently retained thereafter.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

- 18) Prior to occupation of the first dwelling or apartment block hereby approved, the bus stops to the A691 (as shown on plan ref: P22-2907.100 N) shall be installed and available for use.

Reason: To ensure that sustainable transport modes are encouraged in accordance with Policies 21, 22, 29 and 31 of the County Durham Plan and Parts 8, 9 and 15 of the National Planning Policy Framework.

- 19) Prior to occupation of the 120th dwelling hereby approved the bus stops to the primary route within the site (as shown on plan ref: P22-2907.100 N) shall be installed and available for use.

Reason: To ensure that sustainable transport modes are encouraged in accordance with Policies 21, 22, 29 and 31 of the County Durham Plan and Parts 8, 9 and 15 of the National Planning Policy Framework.

- 20) Prior to the occupation of the 120th dwelling the pedestrian / cycle connection between the A691 (as identified by G2 on the Define Infrastructure Delivery Plan – Composite – Figure 04) and the connection point at the site boundary (as identified by H2 and H3 on the Define Infrastructure Delivery Plan – Composite – Figure 04), together with any

associated Linear Park space, shall be constructed to the site boundary at H2 and H3 and be available for use.

Reason: To ensure that the development has safe access to the highway network in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 21) Prior to the 170th dwelling the pedestrian / cycle route linking between the site and the adjoining Park & Ride Site immediately to the South (as shown on plan ref: P22-2907.100 N), shall be constructed to the site boundary and be available for use.

Reason: To ensure that the development has safe access to the highway network in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 22) Prior to the 250th dwelling the non-vehicular route within Serpentine Wood linking between the site and adjoining land within the allocation immediately to the north (as identified by Scheme H4 on the approved Infrastructure Delivery Plan), shall be constructed to the site boundary and be available for use.

Reason: To ensure that the development has safe access to the highway network in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 23) Prior to the 120th dwelling the section of the vehicular link road between the site and adjoining land within the allocation immediately to the north (as identified by Scheme H1 on the approved Infrastructure Delivery Plan), shall be constructed to the site boundary and be available for use.

Reason: To ensure that the development has safe access to the highway network in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 24) No dwelling or apartment block shall be occupied unless and until the new estate roads serving the dwelling have been constructed to at least base course level that shall include temporary ramps and surfacing to allow movement by those with impaired mobility.

Reason: To protect residential amenity and to address the needs of existing and future residents with mobility issues or disabilities in accordance with Policies 21 and 31 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 25) At all times following the occupation of the first dwelling or apartment block, the Framework Travel Plan as detailed in the approved document 'Transport Assessment and Travel Plan 21-057 N, December 2022' shall be implemented in accordance with the approved details.

Upon occupation of the first dwelling hereby approved, the measures contained with the Framework Travel Plan (ref: Transport Assessment and Travel Plan 21-057 N, December 2022) shall be carried out in accordance with the details hereby approved and retained in perpetuity.

Reason: To reduce reliance on the private motor car and to promote sustainable transport methods in accordance with Policies 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 26) Twelve months after first occupation of the development, details of a Full Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. At all times thereafter the approved Full Travel Plan shall be implemented in accordance with the approved details. This Full Travel Plan must include:
- i. the details of the appointed Travel Plan Coordinator, including confirmation of the length of their appointment and that funding is secured to enable the successful implementation of the Full Travel Plan;
  - ii. a feasibility study for a car club;
  - iii. clearly specified ongoing targets for travel mode shares;
  - iv. a plan for monitoring and reviewing the effectiveness of the Full Travel Plan; and
  - v. a biennial monitoring report to be submitted to the Local Planning Authority regarding the implementation of the Full Travel Plan.

Reason: To reduce reliance on the private motor car and to promote sustainable transport methods in accordance with Policies 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 27) Prior to the construction of the first dwelling or apartment block hereby approved, a detailed scheme to widen the existing shared use path alongside the A691 between the Sniperley Park and Ride site and the new access roundabout on the A691 (as identified by I11 on the Define Infrastructure Delivery Plan – Composite – Figure 04) shall be submitted to and agreed in writing by the Local Planning Authority. Once agreed, the scheme shall be carried out in accordance with the approved details prior to first occupation.

Reason: To ensure that impacts from the development upon highway safety are mitigated in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 28) Prior to the construction of the first dwelling or apartment block hereby approved, a scheme to clear vegetation to re-establish the footway width along the A691 (as identified by Scheme I12 on the Define Infrastructure Delivery Plan – Composite – Figure 04), together with a timetable for its implementation, shall be submitted to and approved in writing by the Local Planning Authority. Once approved, the scheme shall be carried out in accordance with the approved details.

Reason: To ensure that impacts from the development upon highway safety are mitigated in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 29) Prior to the occupation of the 300th dwelling hereby approved a scheme to provide improved signposting to greenspace (as identified by scheme reference 'Intervention 15' in the Sniperley Active Travel Plan (Review), July 2023), together with a timetable for its implementation, shall be submitted to and approved in writing by the Local Planning Authority. Once agreed, the scheme shall be implemented in accordance with the approved details.

Reason: To ensure that impacts from the development upon highway safety are mitigated in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 30) Prior to the occupation of the 100th dwelling hereby approved a scheme for an on site Mobility Hub (as identified by Scheme I16b on the Define Infrastructure Delivery Plan – Composite – Figure 04) shall be submitted to and approved in writing by the Local Planning Authority. Once agreed, the Mobility Hub shall be available for use prior to the occupation of the 200th dwelling.

Reason: To ensure that impacts from the development upon highway safety are mitigated in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 31) No dwelling or apartment block shall be occupied until full engineering details of the estate roads and external footpath connections have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme.

Reason: In the interests of highway safety in accordance with Policies 6, 21 and 29 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 32) Prior to the commencement of any part of the development or any works of demolition, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall consider the potential environmental impacts (noise, vibration, dust, & light) that the development may have upon any nearby sensitive receptors and shall detail mitigation proposed. As a minimum this should include, but not necessarily be restricted to, the following:

1. A Dust Action Plan including measures to control the emission of dust and dirt during construction.
2. Details of methods and means of noise reduction/suppression.
3. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
4. Details of measures to prevent mud and other such material migrating onto the highway from construction vehicles;
5. Designation, layout and design of construction access and egress points;
6. Details for the provision of directional signage (on and off site);
7. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;
8. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials

9. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period;
10. Routing agreements for construction traffic, avoiding the Air Quality Management Area;
11. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
12. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
13. Management measures for the control of pest species as a result of demolition and/or construction works.
14. Detail of measures for liaison with the local community and procedures to deal with any complaints received.
15. Details of routes for construction traffic to access the site; and
16. Details of the scheduling of deliveries to minimise potential disturbance on local residents and conflicts with the highway peak hours;

The management strategy shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

The approved Construction Management Plan shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required pre-commencement to ensure that impacts are mitigated from the outset of development commencing on site.

- 33) The approved flood risk and foul drainage strategy shall be implemented in accordance with the approved document '20182-FRA-01 Rev H' prior to the first occupation of each phase of development, or part thereof.

Reason: To ensure that foul water is adequately disposed of, in accordance with Policies 35 and 36 of the County Durham Plan and Parts 14 and 15 of the National Planning Policy Framework.

- 34) The drainage scheme shall ensure that foul flows discharge to the foul sewer at manhole 6101, as indicated within approved document '20182-FRA-01 Rev H', and ensure that surface water discharges to the existing Sustainable Drainage System Pond.

Reason: To ensure that foul water is adequately disposed of, in accordance with Policies 35 and 36 of the County Durham Plan and Parts 14 and 15 of the National Planning Policy Framework.

- 35) Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats.

Reason: In the interests of the ecological protection of the area and to comply with Policy 41 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

- 36) Prior to the commencement of development in each phase, or part thereof, details of the ecological mitigation identified in the approved document 'Sniperley Farm, Durham, Environmental Statement, December 2022 Chapter 8 – Ecology' shall be submitted to and approved in writing by the Local Planning Authority. The mitigation measures shall include:

- 74 integrated bat boxes to be installed on new buildings across the site;
- 110 integrated swift nesting boxes to be installed on new buildings;
- 2 barn owl boxes to be installed on retained trees on the western edge of the off-Site habitat creation area;
- Hedgehog gaps measuring approximately 13cm x 13cm to be installed at the base of all boundary treatments;
- Habitats to meet the needs of grey partridge within the off-site habitat creation area; and
- The use of narrow spectrum bulbs and the use of shielding or cutting light to avoid light spillage.

Thereafter, the mitigation measures will be implemented, maintained, and retained in perpetuity.

Reason: In the interests of protected species and to comply with the objectives of Part 15 of the National Planning Policy Framework. Required pre-commencement to ensure that biodiversity interests are protected from the outset of development.

- 37) No development shall take place unless in accordance with the approved document 'Biodiversity Net Gain Statement 139-09i, June 2023'.

Reason: In the interests of protected species and Policy 31 of the County Durham Plan and to comply with Part 15 of the National Planning Policy Framework.

- 38) Prior to the first occupation of each dwelling or apartment block on each phase, the bat and breeding bird units as identified for installation shall be erected. The mitigation shall be carried out in accordance with the measures detailed in the 'Biodiversity Net Gain Statement, June 2023' and retained in perpetuity.

Reason: In the interests of protected species and Policy 31 of the County Durham Plan and to comply with Part 15 of the National Planning Policy Framework.

- 39) Prior to the construction of the substation hereby approved, full details of its design, appearance and scale shall be submitted to and agreed in writing by the Local Planning Authority. Once agreed, the substation shall be constructed in accordance with the details approved.

Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

- 40) Prior to the construction of the first dwelling or apartment block on each phase of the development, or part thereof, as indicated on Phasing Plan 'P22-2907.114 Rev B', details of refuse storage facilities and refuse storage plan for that phase of the development shall be submitted to and approved in writing by the Local Planning Authority. The details should be in accordance with the approved 'Design and Access Statement incorporating Design Code (July 2023)' and are to 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 the first occupation of any dwelling in that phase. Thereafter the refuse storage facilities and refuse storage plan shall operate in accordance with approved details.

Reason: In the interests of highway safety in accordance with Policies 6, 21 and 29 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 41) No development of each phase, or part thereof, as indicated on Phasing Plan 'P22-2907.114 Rev B' including ground clearance or remediation works shall commence until a build programme and timetable for the construction of the critical surface water infrastructure has been submitted to and approved in writing by the Local Planning Authority. The programme must include, amongst other matters, details of the outfall structure, control devices, attenuation/storage, temporary control measures during the construction phase and measures to control silt levels entering the watercourse. The order of works to be undertaken must be identified and timescale for delivery. The development thereafter shall be completed in accordance with the details and timetable agreed.

Reason: To ensure that critical surface water infrastructure is in place to adequately deal with and dispose of surface water prior to the construction of the development, in accordance with Policy 35 of the County Durham Plan and Parts 14 and 15 of the National Planning Policy Framework. Required to be a pre-commencement condition to ensure that water infrastructure is in place at an early stage of the development to adequately manage surface water.

- 42) Prior to the construction of any hard surface or building above damp proof course, details of the make, colour and texture of all walling and roofing materials of each dwelling shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

- 43) Prior to the commencement of any hard surface or building on each Phase of development, or part thereof, details showing the existing and proposed site levels, and the finished floor levels of the proposed development and those of existing neighbouring buildings (if any), shall be submitted to and

approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details thereafter.

Reason: In the interests of the amenity of the surrounding areas and neighbouring properties, in accordance with Policy 29 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework. Required as a pre-commencement condition to ensure that the implications of changes in level are properly considered and accounted for in the development.

- 44) Prior to the construction of any hard surface or building above damp-proof course on each Phase of development, or part thereof, full details of all means of enclosure to be erected within the development shall be submitted to and approved in writing by the Local Planning Authority. The submitted details must include details of any retaining walls/structures required including their interaction with other means of enclosure such as garden fences within the site. The development shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

- 45) Prior to the construction of any hard surface or building above damp-proof course on each phase of development, or part thereof, full details of the surface treatment and construction of all hard-surfaced areas shall be submitted to and approved in writing the Local Planning Authority. The development shall be constructed in accordance with the approved details.

Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

- 46) Notwithstanding the provisions of Part 3, Class L of Schedule 2 of the Town and Country Planning (General Permitted Development Order) 2015 (as amended) (or any revocation and re-enactment of that order), the dwellinghouse(s) hereby approved, shall only be used for uses falling within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any revocation and re-enactment of that order) and for no other use.

Reason: In the interests of the amenity of the area in accordance with Policies 29 of the County Durham Plan and Paragraph 63 of the National Planning Policy Framework.

- 47) Garage(s), hardstanding(s)/drive(s) to any dwelling hereby approved, shall be constructed and made available for use before the first occupation of that dwelling. Thereafter they shall be used and maintained in such a manner as to always ensure their availability at all times for the parking of private motor vehicles.

Reason: In the interests of highway safety in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 48) Prior to the construction of the first dwelling for each phase, or part thereof, a scheme detailing the precise means of broadband connection to

that phase must be submitted for approval in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the agreed details.

Reason: To ensure a high quality of development is achieved and to comply with the requirements of Policy 27 of the County Durham Plan and Part 10 of the National Planning Policy Framework.

Conditions relating only to the element of the application for which outline planning permission is sought.

- 49) Application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years beginning with the date of this permission. The development must be begun not later than the expiration of two years from the final approval of the reserved matters.

Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 50) Approval of the details of appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be obtained in writing from the Local Planning Authority before any development is commenced other than remediation works.

Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 51) Prior to the commencement of the park and ride extension hereby approved, details of the height, type, position and angle of external lighting shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall be erected and maintained in accordance with the approved details.

Reason: In the interests of the amenity of nearby residents/appearance of the area in accordance with Policy 31 of the County Durham Plan and Part 8 of the National Planning Policy Framework.

- 52) No development of the park and ride extension hereby approved (other than ground clearance or remediation works) shall commence until a scheme for the provision of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be developed in accordance with the Councils Sustainable Drainage Systems (SuDS) Adoption Guide 2016.

The development thereafter shall be completed in accordance with the details and timetable agreed.

Reason: To ensure that surface and foul water are adequately disposed of, in accordance with Policies 35 and 36 of the County Durham Plan and Parts 14 and 15 of the National Planning Policy Framework.

- 53) The development shall be carried out in full accordance with Chapter 8 of Environmental Statement which requires:

- Suitable mitigation for nesting birds;
- Habitat protection and creation / management; and

- Sensitive lighting design.

Reason: In order to deliver Biodiversity Net Gain in accordance County Durham Plan Policy 41, Policy 7 of the Witton Gilbert Neighbourhood Plan and Part 15 of the National Planning Policy Framework.

- 54) Prior to the occupation of the 200th dwelling, the park and ride extension hereby approved shall be constructed and made available for use.

Reason: To ensure use of sustainable transport mode options in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

## **SCHEDULE 5**

### **Conditions suggested by the Council for Appeal A, B and D**

**(only to be applied if the Secretary of State considers they would meet the tests for conditions, contrary to the recommendation of the Inspector)**

#### Condition requiring footpath/cycleway improvements between the Sniperley Park and Ride roundabout and Sniperley roundabout.

Prior to the occupation of the 300th dwelling a scheme to improve the footpath and cycleway along the A167 between Sniperley Park and Ride roundabout (as identified by the location of G1 on the Define Infrastructure Delivery Plan – Composite – Figure 04) and Sniperley roundabout (as identified by the location of G4 on the Define Infrastructure Delivery Plan – Composite – Figure 04) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme shall be implemented prior to the occupation of the 500th dwelling.

Reason: To ensure that impacts from the development upon highway safety are mitigated in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

#### Condition requiring footpath/cycleway improvements on the A167 between the newly created roundabout and Sniperley Park and Ride roundabout

Prior to the occupation of the 300th dwelling a scheme to improve the footpath and cycleway along the A167 between the newly created roundabout (as identified by the location of G3 on the Define Infrastructure Delivery Plan – Composite – Figure 04) and Sniperley Park and Ride roundabout (as identified by the location of G1 on the Define Infrastructure Delivery Plan – Composite – Figure 04) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme shall be implemented prior to the occupation of the 500th dwelling.

Reason: To ensure that impacts from the development upon highway safety are mitigated in accordance with Policies 5, 21 and 22 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

#### District Heating Condition

A scheme for the provision of a district heating system and a timetable for its implementation shall be submitted and approved in writing by the Local Planning Authority prior to commencement of the first phase. Thereafter the district heating system shall be completed in accordance with the details and timetable agreed.

Reason: To ensure that the Sniperley Park site is served by a sustainable means of energy production in accordance with Policy 5 of the County Durham Plan.



## **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, King's Bench Division, Strand, London, WC2 2LL (0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS**

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### **Challenges under Section 288 of the TCP Act**

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

### **SECTION 2: ENFORCEMENT APPEALS**

#### **Challenges under Section 289 of the TCP Act**

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

### **SECTION 3: AWARDS OF COSTS**

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

### **SECTION 4: INSPECTION OF DOCUMENTS**

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.