

Examination of Newcastle upon Tyne Development and Allocations Plan 2015 – 2030

Participant: Newcastle Great Park Consortium

Matter 5: People and Place

1.0 Introduction

- 1.1 On behalf of our client, the Newcastle Great Park Consortium, comprising Persimmon Homes and Taylor Wimpey North East, we are pleased to submit this Matter 5 Hearing Statement to the Inspector in relation to the Examination of the Newcastle upon Tyne Development and Allocations Plan 2015 – 2030.

2.0 Design (Policies DM20 – DM22)

Question 5.10: Would the inclusion of climate change measures in Policy DM20 affect development viability?

- 2.1 Yes, the inclusion of climate change measures will affect development viability.
- 2.2 Part 10 of Policy DM20 requires developments to incorporate measures to address the impacts of climate change and adverse microclimatic conditions. However, no details are provided of what this relates to, for example if this relates to flood risk then this is covered by Policy DM26. Such measures will have viability implications and need to be viability tested. It does not appear that this has been taken into account in the Newcastle and Gateshead 'Viability and Deliverability' Report (September 2018) (document reference 166).

- 2.3 The National Planning Practice Guidance (NPPG) states that:

"Assessment of costs should be based on evidence which is reflective of local market conditions. As far as possible, costs should be identified at the plan making stage. Plan makers should identify where costs are unknown and identify where further viability assessment may support a planning application". [Reference ID: 10-012-20180724]

- 2.4 Viability is a key concern and the cost requirements of all policies should be taken into account in viability testing.

Question 5.11: Is it necessary to meet all criteria of Policy DM20 or only those which are relevant and, if not, how would it be established which criteria are relevant?

- 2.5 The Consortium does not consider that it is necessary for all developments to meet all criteria of Policy DM20. The blanket application of this policy to all developments would amount to an onerous and inflexible approach that cannot be justified. This is contrary to the National Planning Policy Framework (NPPF) (February 2019) (para. 35). Indeed, Policy DM20 contains criteria that could be difficult to achieve on some sites for the following reasons:

- Part 5 requires an appropriate mix of uses to be accommodated; however, this may not always be appropriate or relevant to a development;

- Part 7 requires a comprehensive and co-ordinated approach to development; however, this will not be relevant to small scale / minor developments;
- Part 8 requires trees planting to be maximised; however, no justification has been provided and this is not required by national policy;
- Part 10 requires developments to incorporate measures to address the impacts of climate change and adverse microclimatic conditions; however, no details are provided of what this relates to, for example if this relates to flood risk then this is covered by Policy DM26. Such measures could have viability implications and need to be viability tested; and
- Part 11 requires that mechanical plant, refuse and cycle storage are integrated into the design of a building. However, this is not relevant to residential developments.

2.6 Paragraph 6.6.3 states that a range of options should be explored demonstrating appropriate massing and a mix of uses for the site. However, considering a mix of uses may not be relevant to a residential development. Paragraph 6.6.6 refers to buildings being adaptable to other uses; however, this may not be relevant to a residential development.

2.7 The Consortium respectfully requests the following amendments:

Policy DM20

“Development ~~will be required to~~ should deliver high quality and sustainable design by:

- 1. Taking full advantage of positive site features including retaining the best buildings and securing opportunities to improve the character and quality of an area.*
- 2. Demonstrating a positive response to topography, natural and built landscapes.*
- 3. Using materials, colours, tones and textures appropriate to the characteristics of the area.*
- 4. Enhancing the appearance of the city from major movement corridors.*
- 5. Accommodating an appropriate mix of uses, where appropriate.*
- 6. Making efficient use of land by promoting higher densities taking account of the character of the area and location.*
- 7. Taking a comprehensive and co-ordinated approach to development, where appropriate.*
- 8. Incorporating hard and soft landscaping as an integral part of design, ~~maximising tree planting, where appropriate~~, and providing for its long-term maintenance.*
- 9. Providing high quality inclusive spaces and buildings which promote and active and healthy lifestyles;*
- 10. Incorporating measures to address the impacts of climate change and adverse microclimatic conditions, where possible and subject to development viability.*
- 11. Integrating mechanical plant, refuse and cycle storage into the design of non-residential & buildings.*
- 12. Ensuring that development contributes to a reduction in crime and disorder and is resilient to terrorism, delivers safe and secure buildings and spaces.”*

Paragraph 6.6.3

"Development should ensure it is integrated into its surrounding built, natural and historic environments by adding to the overall quality of the area. A range of options should be explored demonstrating appropriate massing and a mix of uses for the site, where appropriate. Buildings should also be flexible so that they can change and adapt over time. In order to achieve sustainable development, proposals should make optimal use of land, particularly in highly accessible locations subject to an assessment of site constraints. The opportunity for high quality hard and soft landscape design will be integral to achieve a successful design."

Paragraph 6.6.6

"High quality design should create buildings and spaces that promote active and healthy lifestyles, can be successfully accessed and used by everyone safely, and ensure that they assess the defence and security threats, can be adaptable to other uses and are resilient to the effects of climate change, where appropriate. This requires consideration as to how buildings and their individual elements are viewed and function together to encourage multiple benefits for all. In considering the design of buildings, development must minimise energy consumption, and the impact upon local microclimatic conditions, including daylight/sunlight, shadowing and wind, where appropriate."

3.0 Residential Amenity (Policy DM23)

Question 5.15: Paragraph 6.9.3 of the supporting text refers to separation distances between residential buildings. Has the Planning/Design Guidance on separation distances been produced?

- 3.1 The Consortium is not aware that the Planning / Design Guidance has been produced.
- 3.2 'Development Control Policy Statement 12 – Spacing Standards' of the Newcastle upon Tyne Unitary Development Plan (adopted 1998) contained some old spacing standards for residential developments. However, these standards are now obsolete. This Policy Statement was not saved in the Secretary of State's Direction dated 31 August 2007 as part of the Local Development Framework and hence this Policy Statement has been deleted.
- 3.3 The details on separation distances are extremely important factors to applicants and developers. This is because separation distances can have a significant impact on site efficiency and assumptions made by developers when bringing forward a policy compliant and viable scheme. It is considered to be inappropriate to reference an SPD in the Development and Allocation Plan in advance of the SPD being prepared.
- 3.4 Any Planning / Design Guidance should be developed with stakeholder and public involvement and should be subject to appropriate consultation through its development and not adopted by the Council without any involvement from the industry pursuant to the Development and Allocations Plan. Given the absence of the SPD, it is respectfully requested that reference to this document is deleted from the DAP.

4.0 Environmental and Health Impacts of Development (Policy DM24)

Question 5.16: Would all criteria of Policy DM24 be applied to every development?

4.1 From reading the wording of this policy, the Consortium considers that its criteria could be applied to every development. However, this is an overly onerous approach. Clearly, the validation requirements should be considered on a site-by-site basis.

4.2 The Consortium requests the following amendments to ensure the Policy DM24 is justified:

- 1. Proposals will be required to demonstrate that there is no unacceptable adverse environmental and health impacts (including cumulative impacts) from the development. To achieve this Where appropriate, development must assess and mitigate the following environmental and health impacts.....*
- 2. If applicable, development must assess the impact of existing noise generating uses on the proposed development and implement a mitigation scheme, where appropriate on the proposed use. There should be no unreasonable restrictions placed on an existing noise generating use arising from a development.*

5.0 Flood Risk and Water Management (Policy DM26)

Question 5.18: Is Policy DM26 justified, effective and consistent with national policy and the CSUCP?

5.1 The Consortium does not consider that this policy is justified, effective and consistent with national policy and the CSUCP.

5.2 The Consortium has the following comments on Policy DM26 and the supporting text:

- Part 1(i) - there can be a need to culvert watercourses and it is not considered that such flexibility should be removed within this policy;
- Part 1 (ii) – the Consortium supports the amendment which removes the reference to green roofs and walls; however, ground conditions may not be suitable for surfaces to be permeable;
- Part 1 (iii) – river restoration and creation of upstream storage areas should only be sought if they are necessary to make the development acceptable in planning terms; otherwise there would be a conflict with the NPPF (para. 56);
- Part 1(iv) – the requirement to minimise development on existing green space where it has the potential to manage flood risk at a catchment scale should only be required if it is necessary to make the development acceptable in planning terms; otherwise there would be a conflict with the NPPF (para. 56);
- Part 2(vi) – with regard to SuDS, reference should be included to where ground conditions are appropriate;
- Part 3 – the need to improve surface and ground water quality and quantity should only be required if it is relevant and necessary; and

5.3 The Consortium therefore suggest the following amendments to ensure a sound Plan:

“1. Development will be required to manage and reduce flood risk by:

- i. avoiding the culverting of watercourses, building over culverts, and where possible, remove existing culverts;*
 - ii. encouraging permeable surfaces and incorporate green infrastructure (where practicable) to reduce surface water run-off within Critical Drainage Areas;*
 - iii. contributing to reducing or delaying run-off within river catchments through river restoration, creation of upstream storage areas, and tree planting, where appropriate and where necessary to make the development acceptable in planning terms; and*
 - iv. minimising development on existing green space where it has the potential to manage flood risk at catchment scale and where this is relevant and necessary to make the development acceptable in planning terms.*
- 2. Development will be required to demonstrate that its surface water drainage strategy, site layout and design will...:*
- vi. provide the most sustainable SuDS techniques from the SuDS Hierarchy, whilst taking into account ground conditions;*
 - 3. Development must ensure it takes the opportunity to protect and improve surface and groundwater quality and quantity and enhances the river environment by undertaking the following if necessary to make the development acceptable in planning terms:....”*

6.0 Protecting and Enhancing Green Infrastructure (Policy DM27)

Question 5.19: Is Policy DM27 justified, effective and consistent with national policy and the CSUCP?

- 6.1 The Consortium does not consider that this policy is justified, effective and consistent with national policy.
- 6.2 The comments in this representation relate specifically to the Strategic Green Infrastructure Network (SGIN) designation on the Policies Map which is shown to run across the southern part of Cell D at Newcastle Great Park. As Cell D is allocated for residential uses under Policy DM5 (site 15).
- 6.3 The green infrastructure provision and open space standards for Cell D have already been agreed and approved by the council when planning permission was granted for the developments on this cell. As such, it is not considered reasonable or necessary for the southern part of Cell D to be subject to this designation. It is assumed this is a drafting error.
- 6.4 To ensure that the most appropriate strategy is provided on the Policies Map for Cell D, the Consortium respectfully request that the SGIN designation is amended to run around the southern boundary of this cell, instead of travelling through this cell. This will ensure a sound plan which is justified through providing the most appropriate strategy, in accordance with the NPPF (para. 35).

Question 5.20: Is the mapping of the Strategic Green Infrastructure Network justified?

- 6.5 The Consortium does not consider that the SGIN mapping is justified for the reasons provided in response to question 5.19.

7.0 Trees and Landscaping (Policy DM28)

5.21 Is Policy DM28 justified, effective and consistent with national policy?

- 7.1 The Consortium does not consider that Policy DM28 is justified, effective and consistent with national policy. Part 1 of Policy DM28 states that development which harms or results in the loss of trees or landscape features will not be permitted unless three criteria can be demonstrated. However, this policy does not differentiate between high or low value trees and landscape features. The trees or landscape features could be of low value, unhealthy, dying or diseased. In such circumstances, their removal and replacement would be preferable.
- 7.2 The NPPF does not include a blanket policy which protects all trees. Instead it advises that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists (para. 175(c)).
- 7.3 Furthermore, there is no requirement in national policy that alternative locations for the development within the site have to be first considered before development can result in the loss of trees or landscape features.
- 7.4 Finally, paragraph 6.14.4 is too onerous because it states that "*trees and landscaping should also be used to mitigate and enhance sites affected by local environmental conditions including air quality, heat islands and wind tunnel effects.*" However, this may not always be possible to achieve on site and instead some flexibility should be retained.
- 7.5 The Consortium respectfully request that the following changes are made to Policy DM28 and its supporting text to ensure a sound Plan:

Policy DM28

"1. Development which would unacceptably harm or result in the loss of high value trees or landscape features (such as ancient woodland and ancient or veteran trees), will not be permitted unless it can be demonstrated that:

i. development cannot be reasonably located elsewhere within the development site;

Paragraph 6.14.4

"Trees and landscaping should also be used to mitigate and enhance sites affected by local environmental conditions including air quality, heat islands and wind tunnel effects, where practical."

8.0 Protecting Open Space (Policy DM30)

Question 5.27: Is Policy DM30 justified, effective and consistent with national policy?

- 8.1 The Consortium does not consider that Policy DM30 is justified, effective and consistent with national policy on the grounds that the standards are overly restrictive, inflexible and do not take into account site-specific circumstances.
- 8.2 There could be cases where it is considered reasonable, due to site specific circumstances, for the distance or walk time to a specific typology to be slightly greater than those provided in the table. Furthermore, the standards do not take into account whether there is a surplus or deficit

of a typology in the wider area, which could in turn mean it is acceptable to adjust the standards in a local area.

- 8.3 The Consortium suggests that the terminology of ‘open space standard’ is changed to ‘open space guidance’ to enable a more flexible approach, which would be based on the appropriate strategy for the area, in accordance with the NPPF (para. 35).

Question 5.29: Is Policy DM30 sufficiently flexible to deal with different site-specific circumstances?

- 8.4 The Consortium has concerns that the policy is not sufficiently flexible to deal with different site-specific circumstances.
- 8.5 Across Newcastle are some large multi-phased sites with approved masterplans and established masterplanning principles. The open space standards for these developments have already been agreed and have been formulated to take into account site specific circumstances, for example ecology. In these circumstances, it would be inappropriate to use policies, adopted after masterplans have been agreed, to retrofit open space standards to these sites. It is therefore important that flexibility is incorporated into Policy DM30, instead of the standards being applied as a rigid formula. As such, the Consortium respectfully request that the policy is reworded to enable a more flexible approach to be applied that allows for site specific circumstances.
- 8.6 The Consortium also considers that paragraph 6.16.9 should be reworded to make it clear that if a change of use of one typology of open space to another is proposed, that any change should not necessarily be to the typology for which there is the greatest deficiency, instead it could be to a typology which improves current provision.
- 8.7 The Consortium respectfully requests that the following changes are made to paragraphs 6.16.5 and 6.16.9:

Paragraph 6.16.5

“The following standards guidance will normally be used when assessing existing provision of open space in terms of quantity and access. This guidance does not apply to sites with planning permission or approved masterplans.”

Paragraph 6.16.9

"The reconfiguration of land identified as open space can be an effective approach to addressing identified deficiencies. The change of use of one typology into another can help secure its future as part of re-provision and may provide windfall opportunities. For this reason consideration will be given to proposals that provide demonstrable improvements in the functional value, accessibility to and public use of open space through its reconfiguration. If there is a deficiency of more than one typology in an area, any change of use does not necessarily have to be to the typology for which there is the greatest deficiency, instead it could be to a typology which improves current provision. Proposals will need to be shown to form part of a deliverable, comprehensive development scheme where open space requirements have been positively considered. This includes where development of open space is proposed where the standards are not met or would be infringed, the loss must be offset by the creation of, or financial contributions towards, an alternative site of at least equal size, accessibility and quality located within the same residential neighbourhood as the development site where possible or where this is not possible, the same ward as the development site, unless an alternative approach can be justified through site-specific circumstances."

Question 5.30: If requiring off-site contributions if open space, sports and recreational buildings could not be delivered on site, should this be addressed in Policy DM30? Is this a reasonable approach?

- 8.8 The Consortium considers that the approach of financial contributions is inflexible and does not take into account site-specific circumstances. This paragraph requires a contribution to be provided where development of open space is proposed and the standards are not met or would be infringed. However, there could be cases where a greater amount of a different typology is proposed when compared to the typology that is being lost. It may also be the case that the different typology would be more important in the local area because there is a deficiency, whilst there could be a surplus of the typology that is being lost.

- 8.9 The NPPF states that:

"Plans should set out the contributions expected from development." (para. 34)

- 8.10 The NPPG states that:

"The role for viability assessment is primarily at the plan making stage. Viability assessment should not compromise sustainable development but should be used to ensure that policies are realistic, and that the total cumulative cost of all relevant policies will not undermine deliverability of the plan." (Paragraph: 002 Reference ID: 10-002-20190509)

- 8.11 Viability is a key concern and the cost requirements of all policies should be taken into account in viability testing.

- 8.12 Suggested amendments to paragraph 6.16.9 are provided in response to question 5.29.

9.0 Provision of Open Space, Sports and Recreational Buildings (Policy DM31)

Question 5.31: Are the open space standards set out in Table 3 to Policy DM31 justified and consistent with national policy?

- 9.1 The Consortium does not consider that Policy DM31 is justified, effective and consistent with national policy on the grounds that the standards are overly restrictive and inflexible.

- 9.2 Although the Consortium recognises the importance of open space and the need to provide different typologies as part of new developments, they consider that the open space standards provided in Table 3 are overly restrictive and inflexible. They consider that the policy should not be applied as a rigid formula, as there are always exceptions which could relate to site specific circumstances such as existing open space typology surpluses or deficits in the wider area or other circumstances such as ecology. As such, it is respectfully requested that the policy is reworded to enable a more flexible approach that takes into account site specific circumstances.
- 9.3 The Consortium suggests that the terminology of ‘standards’ is changed to ‘guidance’ to enable a more flexible approach, which would be based on the appropriate strategy for the area, in accordance with the NPPF (para. 35).
- 9.4 The Consortium also respectfully request that the following changes are made to Policy DM31 and paragraphs 6.17.3, 6.17.6 and 6.17.7:

Policy DM31

“New residential development will be required to contribute to the provision of new open space, enhancements to existing open space and maintenance to meet the council’s open space standards guidance as set out in Table 3, unless an alternative approach is justified and agreed with the Council as a result of site-specific circumstances.”

Paragraph 6.17.3

“New development will be required to provide open space either on-site or make a contribution to improve existing facilities off-site, subject to viability. The requirements for open space will be assessed on the type and size of development and on the existing quantity and access to open space within the local area. Where on-site provision is required, this will be normally be provided in line with the quantity standards guidance for new provision as set out in Table 3. However, there could be exceptions where a variation from this guidance is agreed with the Council due to site specific circumstances. Any alternative approach will need to be justified. Where off-site provision is required, a financial contribution will be sought to improve existing local facilities in line with the council’s priorities set out within the Open Space Assessment, Plan for Playing Pitches¹³, Planning Obligations SPD¹⁴ and in a Green Infrastructure Delivery Framework. The majority of types of housing will be considered eligible for making contributions towards open space to meet the needs of future occupants. Exceptions to this include housing for older persons and student accommodation which will not be required to provide play space.”

Paragraph 6.17.6

“For new development the standards guidance will indicate overall requirements; the precise type, form and location being determined by local circumstances and evidence and guided where appropriate by a masterplan or brief. Table 3 sets out the quantity and accessibility standards. This guidance does not apply to sites with planning permission or approved masterplans.”

Paragraph 6.17.7

"The Open Space Assessment sets out quality standards guidance for the different typologies of open space. Developers providing open space on-site will be required to consult these standards this guidance and ensure that any on-site facilities are provided in line with this guidance, unless an alternative approach is justified due to site specific reasons, such as ecology. Developers will be required to submit design proposals for on-site open space as part of the planning application. A management plan for the open space will also need to be submitted and approved as part of a planning obligation."

Question 5.32: Does Policy DM31 address sports facilities or only sports and recreational buildings? Should sports and recreational buildings and facilities be addressed in detail in Policy DM31?

- 9.5 With regard to sports and recreational buildings, it is does not appear that any evidence has been provided as to the type of buildings that could be sought, and their associated costs. It is recognised that the Council has prepared 'A Plan for Built Facilities in Newcastle' (October 2015) (document number 150); however, this relates to the city-wide provision of swimming pools and sports halls.

Question 5.33: Is Policy DM31 sufficiently flexible to address different site-specific circumstances?

- 9.6 The Consortium does not consider that this policy is sufficient flexible for the reasons discussed in response to question 5.32.

Question 5.34: Has account of the requirements of Policy DM31 been taken in viability testing the Plan?

- 9.7 It is not clear whether the requirements of Policy DM31 has been taken into account in the viability testing. The Council's 'Viability and Deliverability Report' (September 2018) (document numbers 166 and 167) has tested Section 106 Agreement contributions of £2,000 per dwelling, or £4,000 per dwelling for non-urban sites, in the appraisal. These figures were considered by the council to be appropriate averages. However, a breakdown of the individual elements which make up the £2,000 and £4,000 is not provided and hence it cannot be established whether open space contributions are factored in. Viability is a key concern and the cost requirements of all policies should be taken into account in viability testing.

Question 5.35: If requiring off-site contributions if open space, sports and recreational buildings could not be delivered on site, should this be addressed in Policy DM31? Is this a reasonable approach?

- 9.8 The Consortium has concerns about the use of off-site contributions for the reasons discussed in response to question 5.30.
- 9.9 With regard to sports and recreational buildings, it is does not appear that any evidence has been provided as to the type of buildings that could be sought, and their associated costs. Further evidence is required before the Consortium could comment on whether it is appropriate for an off-site contribution to be sought.
- 9.10 The Consortium has concerns that if a Section 106 Agreement contribution is sought for off-site sports and recreational buildings that there could be 'double dipping' with the council's CIL charging. On the council's webpage in relation to 'CIL Frequently Asked Questions', it is stated that the levy could be "used to fund a very broad range of facilities such as play areas, parks

and cultural and sports facilities and gives communities flexibility to choose what infrastructure they need.”