

## ADDENDUM 09.03.17

### Item No: 5.2

<b>Application No:</b>	<b>16/01889/FUL</b>	Author :	Aidan Dobinson Booth
Date valid:	25 November 2016	☎:	0191 643 6333
Target decision date:	24 February 2017	Ward:	Weetslade

Application type: full planning application

**Location: Land East Of Salters Lane Longbenton NEWCASTLE UPON TYNE**

**Proposal: Residential development of 200 new homes (including 50 new affordable homes, access, gardens, car parking, landscaping and amenity space and associated infrastructure)**

Applicant: Avant Homes and Mr G Oliver, Avant Homes (North East) Investor Colima Avenue Sunderland Enterprise Park Sunderland SR5 3XB

Agent: George F White LLP, FAO Miss Stephanie Linnell 4-6 Market Street Alnwick NE66 1TL

**RECOMMENDATION:** Minded to grant legal agreement req.

#### 1. Manager of Environmental Health (Pollution)

##### 1.1 Objection.

1.2 The site is located between the A189 and the East Coast Mainline, with Camperdown Industrial Estate located immediately beyond the rail line at a distance of approximately 75 metres. Historically complaints have been received regarding tonal noises from Entek, a large 24 hour operating Part A factory. The housing will be adjacent to the rear yard containing a large amount of external plant including 2 large silos approximately 100 metres from housing.

1.3 I have viewed the additional noise report submitted by the applicant that has considered noise monitoring data between the 13<sup>th</sup> and 20<sup>th</sup> January 2017. Twenty four hour noise monitoring for a week was carried out at monitoring location 4 to the north eastern boundary of the site adjacent to Entek. This was unattended noise monitoring that was unable to determine the identification of Entek noise activities and there was no discernible change to noise between the traffic and plant noise. The noise report does not also identify any tonal noise issues from Entek noise activities. A visit by environmental health on the 10<sup>th</sup> January 2017 observed distinctive hissing and tonal noise during a delivery of material to the silos at Entek. I therefore consider the industrial noise was distinctive although not observed by general noise monitoring by applicant.

1.4 The objector Entek have provided their own noise report to identify the noise levels from activities carried out on their industrial site. Noise monitoring was carried out for a period of just less than 48 hours at two unattended monitoring locations. Attended noise monitoring was also carried out to categorise the noise from specific activities and plant. This report concludes that the hammer mill is intermittent in its use and the compressors have associated tonal noise in the 40 hertz frequency range. I also note that the tank of the HGV is hammered with a mallet to remove the last of the load. I would be concerned about maximum noise levels from such impact noise affecting sleep if occurring at night. Noise monitoring at the boundary close to silos indicated levels of 60-65 dB(A). If character corrections are applied noise levels would be greater than +10 dB above the background. The applicant has indicated for location 5 the night time background was assessed as in the region of 38 dB(A), which I consider would be representative of the background for the proposed residential area adjacent to Entek if the residential development proceeded.

1.5 The applicant's noise report does not suggest that there is any tonality arising from Entek and have concluded that noise levels can be mitigated with appropriate glazing and passive ventilation. The applicant has considered this and has re-orientated residential properties of plots 91 to 96 and 100 to 106 so that habitable living is on the screened side of the property. This will afford mitigation against industrial noise for those housing plots. Other housing plots within the proposed site will then be partially screened from Entek. However, any plots with line of sight of Entek on the north eastern boundary will still be subject to industrial noise, specifically housing plots 42 to 47 and 76 to 81. The overall background noise level for the residential site will be lowered as

the housing plots will screen road traffic noise and therefore the noise arising from Entek will be more dominant and considered to give rise to significant adverse impacts for residential amenity.

1.6 The applicants consultant has shown that provided residential windows are closed, the internal noise levels caused by industrial noise from Entek can meet BS8233. However, if residents choose to open windows then the internal noise levels will not be achieved and complaints will arise as noise levels are likely to give rise to significant adverse impacts. If residents in properties located to the north east boundary of the site, specifically plots 42 to 47 and 76 to 81 choose to open windows within habitable rooms that are not screened from Entek, if they wish to enjoy a reasonable amenity during the night period, then they will be subject to industrial noise. Passive acoustic ventilators would not be considered appropriate for those properties located adjacent to Entek due to the continuous industrial noise and mechanical ventilation will be required to enable residents to have reasonable amenity during the night period, without recourse to open windows.

1.7 BS8233 specifies standards for good habitable living. This is based on road traffic noise rather than industrial noises and the internal noise levels for habitable rooms can be achieved with the appropriate standard of glazing. Residents opening windows where the noise is considered anonymous in nature such as road traffic noise may not give rise to sleep disturbance. I consider that where properties are exposed to industrial noise then residents' sleep may be affected if windows are open. The noise report outlines that the internal noise levels for the habitable rooms will comply with the requirements of BS8233. However, BS4142:2014 also indicates that the determination of noise amounting to a nuisance is beyond its scope. Therefore if residents choose to open windows at night for those not screened from Entek then there is likelihood for residents to complain due to the industrial noise arising from Entek and potential for severe adverse impacts on residents quality of life and potentially result in statutory nuisance action to be taken against the business. The applicant in letter dated 13<sup>th</sup> February 2017 defines statutory nuisance and refers to the World Health Organisation guidance noise levels for dwellings. The noise levels referred to within the letter are based on anonymous noise and the daytime noise level for external gardens of 55 dB LAeq is the level considered to be the onset of serious annoyance. Industrial noise arising from Entek would not be considered to be anonymous noise and if complaints were received regarding the industrial noise, statutory action may be taken. Entek operations would currently not be considered to meet

best practice and the business operations could potentially be constrained via statutory nuisance action, such as restrictions on permitting night time deliveries, measures implemented to mitigate plant noise etc. The National Planning Policy Framework indicates that new development should be protected against a significant adverse impact and that existing businesses should not have unreasonable restrictions put on them because of changes in nearby land uses.

1.8 I would therefore recommend refusal of this application as the development will result in an unacceptable quality of life for the residential properties and have a potential impact on the operation of the business as a result of additional restrictions being put on them as a result of the development, that is contrary to The National Planning Policy Framework.

1.9 The external and internal noise levels as specified in BS8233 is based on steady noise e.g. traffic and not industrial noise. Although the external noise levels for gardens can be mitigated through the provision of screening and orientation of the housing to achieve external noise levels to meet the requirements of the World Health Organisation guidelines for community noise, residents amenity will be affected by the low frequency tonal noise from Entek.

1.10 However, if minded to approve I would suggest the following conditions:

1.11 Prior to occupation, the details of the acoustic glazing and ventilation system must be submitted to the Local Planning Authority for approval and agreed and thereby implemented, to ensure the minimum glazing system, as stipulated in Appendix 7 of noise report number NT12341/002b are provided to habitable rooms to ensure bedrooms meet the good internal standard of 30 dB LAeq,T at night and prevent the exceedance of Lmax of 45 dB(A) and living rooms meet an internal equivalent noise level of 35 dB LAeq,T in accordance to BS8233:2014.

1.12 Prior to occupation, the ventilation scheme for habitable rooms must be submitted for approval in writing and thereafter implemented to ensure an appropriate standard of ventilation that meets as a minimum System 3 of Table 5.2 of Approved Document F.

Mechanical ventilation, with an extract vent in each habitable room, must be provided as a minimum for properties with habitable rooms located to the North East boundary of the site with line of sight of Entek. For other properties an alternative passive acoustic ventilation will be considered adequate. The ventilation to meet the requirements of Building Regulations with windows closed.

### 1.13 HOU04

1.14 Piling activities if required at the site to be restricted to the hours 10:00 - 14:00 hours Monday to Saturday only.

### 1.15 SIT03

1.16 Details of the acoustic screening to be provided to all garden areas must be implemented in accordance to the boundary treatment plan drawing no 793-AVA and thereafter retained to ensure reduction of external noise levels to 55dB LAeq.

### 1.17 Planning Officer Comments

1.18 Environmental Health had considered all of the revised information put forward by the applicant and also that from the objector (Entek). Their objection related primarily to 12 plots, which are plots 42-47 and 76-81, which face towards Entek. Unlike plots 91 to 96 and 100 to 106, these plots would have had habitable rooms facing towards Entek.

1.19 Environmental Health therefore recommended refusal of the application, as it would have resulted in an unacceptable quality of life for residential properties and have a potential impact on the operation of Entek as a result of additional restrictions being put on them as a result of the development, which is contrary to the advice in NPPF.

1.20 The applicant has however submitted amended plans which relate to plots 42-47 and 76-81. They are proposing that on these plots they use the same housetypes as those on plots 91-96 and 100-106 and therefore they would not have habitable room facing towards Entek.

1.21 Environmental Health has been re-consulted on these latest additional amended plans and their further comments will be reported to Planning Committee.

## 2. Biodiversity Officer

2.1 No objections.

### 2.2 Wintering and Breeding Bird Survey

2.3 A breeding bird survey of this site found the arable fields and hedgerows supported approximately 55 territories of 25 species with six of these listed as National Priority Species:- Dunnock, bullfinch, grey partridge, linnet, skylark

and song thrush. Wintering bird survey recorded 31 species of which seven are found on the Birds of Conservation Concern list:- linnet, mistle thrush, redwing, skylark, song thrush, woodcock and yellowhammer. The species assemblages found were assessed as being typical of the habitats and the area and of up to district importance.

2.4 The development will result in the loss of open arable habitat supporting single territories of skylark and grey partridge. Mitigation cannot be provided on-site through landscape planting for these birds, however, an off-site contribution has been agreed which will allow habitat to be created/enhanced for these birds off-site at Weetslade Country Park.

2.5 The breeding and wintering bird survey recommends a number of measures to mitigate for the loss of farmland habitat and the impacts on a range of farmland birds, most of which utilise surrounding hedgerows. These include a range and number of bird boxes to be erected within boundary habitat and incorporated within the development. I raised some concerns previously about the maturity of landscaping within the site to support these nest boxes, therefore, it is important that some nesting features are incorporated within the new buildings as well as appropriate trees within or adjacent to the site.

2.6 Additional recommendation to mitigate the impacts on breeding and wintering birds included diverse wildflower grassland, a range of native trees and shrubs to provide nesting habitat and SUDs features that will include a range of habitats encouraging wetland species such as reed bunting.

2.7 The revised 'Landscape Strategy Masterplan' revision C (DWG No: NT12341) has outlined existing hedgerows on site that will be gapped up as well as new hedgerow planting that will be created around the whole boundary of the site. This will provide habitat for breeding birds around the boundaries of the site and the gapping of hedges will also improve existing hedges.

2.8 A SUDS area is shown on the plan that has no detail other than to show the location of the SUDs, structural woodland planting and some trees. I assume this area will also contain the diverse wildflower grassland shown on the key, although this is unclear as the plan does not show where the diverse grassland is going to go. This detail needs to be provided and I suggest that a revised landscape plan is conditioned as part of this application.

### 2.9 Bat Survey

2.10 Activity recorded during transect surveys was typically very low and concentrated around the field margins with predominantly common pipistrelle foraging along the hedgerow and trees. No foraging was recorded within the centre of the site with only noctule occasionally recorded commuting overhead. The site was considered to be of low value to bats given its small

size, and similar and better quality habitats available in the surrounding area. Boundary hedgerows and trees are considered to be of local value to bats as a foraging and commuting resource.

2.11 The bat report concluded that the scheme would result in the loss of low value bat foraging habitat with the potential loss of boundary features of value to bats as well as impacts from increased lighting at the site particularly around the boundaries. It recommended the following mitigation measures:-

- Retention of hedgerow and boundary features
- Inclusion of 20 bat boxes within the site
- Low impact lighting
- Landscaping planting designed to enhance structural diversity, including plants bearing flowers, nectar and fruits which are attractive to invertebrates, thereby helping to maintain the food resource for bats and wildlife generally.
- Hedgerow management and habitat creation will be designed to generate a diversity of ecotones, sheltered areas, wetlands and linear connections with tall hedges where possible

2.12 Hedgerows are being maintained and enhanced around the site and include new hedgerow creation that will provide native mixed hedgerows around almost the entire periphery of the site. Provision of bat features will need to consist of a mixture of bat boxes on trees as well as features such as bat slates and bat bricks incorporated into the new buildings and this will need to be conditioned as part of the application.

2.13 Landscaping is shown to provide woodland structure planting, native trees, hedgerows, SUDs and wildflower grassland, which will benefit foraging bats. However, more detail needs to be provided on this as the landscape plan is still vague and this should be conditioned as part of the application.

#### 2.14 Landscaping

2.15 I am pleased to see existing and new native hedgerows to be provided around the boundary of the site. However, the species mix and percentage mixes of species is not entirely appropriate. Hornbeam and Beech should be removed from the mix and replaced with blackthorn and guelder rose and percentage mixes agreed with the approval of Newcastle Airport. This should be amended through a revised landscape strategy that is conditioned.

2.16 Native trees and structural woodland planting are also shown on the plan which will provide mitigation for breeding birds and foraging bats. However, some of the trees for open spaces and the green corridor are not appropriate and need to be amended. The structural planting mix also requires amending to reflect more of a lowland native woodland (W10) planting mix with

appropriate densities for each species. A revised landscape strategy will need to be conditioned as part of the application to agree these changes with the Local Authority.

2.17 Creation of diverse wildflower grassland is mentioned in the reports and shown on the Landscape Masterplan key but not shown on the plan itself so I cannot see where this habitat will be created. It is important that diverse wildflower grassland is created within the site to provide appropriate mitigation for the scheme and the ideal location for this is within the SUDs area. The submission of a revised landscape strategy will ensure the agreement of the extent and location of this habitat.

2.18 The SUDs location is identified on the Landscape Masterplan (Revision C), however, there is no detail on this area. I would expect to see this detail on a detailed landscape plan that is conditioned as part of the application.

2.19 I have no objection to the above application subject to the following conditions being attached to the application:-

#### 2.20 Conditions

- A revised and detailed landscape plan must be submitted to the Local Authority for approval prior to works commencing. Details should be provided on SuDS, native woodland and shrub planting, hedgerows, wildflower grasslands and native trees.
- 35 bird nest boxes (various designs) must be provided within the new development. 20 of these boxes should be provided on trees within or adjacent to the site and 15 on new buildings. Details of the location and types of bird box must be submitted to the Local Authority for approval prior to works commencing.
- 20 bat features (10 schwegeler bat boxes on trees and 10 bat slates/bricks within new buildings) must be provided as part of the scheme. Details of the location and design of these bat features must be submitted to the Local Authority for approval prior to works commencing.
- A S106 contribution for off-site mitigation at Weetslade Country Park for skylark and grey partridge must be provided.
- A detailed Lighting Strategy must be submitted to the Local Authority for approval prior to works commencing. High intensity security lights will be avoided and any lighting in areas identified as being important for bats will be low level (2m) and low lumen. Light spillage to areas used by foraging or commuting bats should be less than 2 lux. Where security lights are required, these will be of minimum practicable brightness, be set on a short timer and will be motion sensitive only to larger objects.



- A badger checking survey will be carried out before the onset of works to confirm the presence/absence of any new setts within a 30m buffer of the site. Details of the survey to be provided to the Local Authority for approval prior to works commencing.
- A detailed SUDs scheme must be submitted to the Local Authority for approval prior to works commencing.
- A checking survey for riparian mammals must be undertaken prior to any works being undertaken that are associated with the SUDs scheme and may impact the watercourse.
- Any vegetation clearance/tree felling will be undertaken outside of the bird nesting season (March to August inclusive) unless a checking survey by a suitably experienced ornithologist confirms the absence of active nests immediately prior to works commencing.
- The roots and crowns of adjacent trees will be protected throughout the development through the provision of adequate construction exclusion zones in accordance with the guidance given by BS5837:2012.
- Any excavations left open overnight will have a means of escape for mammals that may become trapped in the form of a ramp at least 300mm in width and angled no greater than 45°.
- Marshy grassland adjacent to south east corner of the site will be retained and protected through development works.
- Details of footpath links from the scheme onto the adjacent waggonway and an assessment of any associated impacts on trees/vegetation must be submitted to the Local Authority for approval prior to development commencing.

### 3. Senior Manager Regeneration

#### 3.1 Objection.

3.2 I acknowledge that this has been allocated as Safeguarded land under the current UDP, and as such it has been reserved for future development beyond the plan period. In addition I note the land has again been safeguarded under the emerging Local Plan at Policy S1.7. This of course does not specify what is appropriate development on this site vis a vis its impact on adjoining land uses.

3.3 The application site is juxtaposed between the Camperdown Industrial Estate to the east and the strategic employment site, Indigo Park to the west. The A189 runs between the employment land allocation to the west and this site. My main concern relates to the impact that a sensitive use such as residential will have sandwiched between 2 important employment sites. There is evidence from around the borough of noise related complaints from new residential developments which have been allowed in close proximity to established employment land. Indeed, a recent proposal for residential

development adjacent to Backworth Business Park was recently dismissed on appeal because of the potential negative impact introducing residential uses would have on the established potato factory. I am concerned that if permitted the proposal will increase the likelihood of a negative impact on the operations of businesses, new and proposed, on both Camperdown industrial estate and may prejudice attracting new employment uses on Indigo Park, and also in attracting external funding to support the delivery of the site. Indigo Park is a Council priority to establish new job opportunities in this very important strategic corridor.

3.4 I therefore believe the proposal is contrary to Policy LE1/5 of the UDP.

### 3.5 Planning Officer Comments:

3.6 Policy LE1/5 is not a saved policy. The Secretary of State issued a Direction under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004 in respect of policies in the North Tyneside Unitary Development Plan (2002). Those policies not listed in the Direction expired on the 27<sup>th</sup> September 2007. Policy LE1/5 was not listed and therefore has expired. Members should not attach any weight to this policy, as it is no longer part of the development plan.

## 4. Design Officer

4.1 No objections.

4.2 The revisions made to the scheme largely address my previous comments.

4.3 The site is self contained and is bound by A-roads and the East Coast Railway line. Beyond the railway line is an industrial estate. The layout has considered these constraints and the layout shows landscaped boundaries around the site which will contribute towards an improved environment within the site.

4.4 The layout has a clear central route through the site with opens space to one side of it that is well landscaped to enhance the overall street scene. Pedestrian routes onto the wagonway are frequent and will be easily accessible for residents.

4.5 All house types provide a well designed front or side elevation to the street which contributes to an active and attractive street scene. All boundary treatments are well designed to enhance the appearance of the street, particularly where there are rear garden boundaries facing the street.

4.6 Surface treatments have also been reconsidered and there is now more of a mix of materials with shared drives proposed to be concrete blocks. Most visitor car parking on the roads is still identified as being tarmac which will not contribute towards a well balanced and attractive street scene.

#### 4.7 Planning Officer Comments

4.8 The latest revision in terms of surface treatment shows that that shared private driveways will be concrete paving setts. Along the main tarmac roads the visitor parking would be differentiated from the main carriageway through the use of tarmac with chippings and is considered to be acceptable.

### 5. Newcastle International Airport

5.1 No objections.

5.2 Newcastle International Airport (NIA) has an outstanding objection to application 16/01889/FUL on the basis of the proposed make-up of the site's proposed landscaping, and the lack of a 'bird strike risk assessment' to determine if the development as a whole would increase the risk of a bird strike with aircraft serving NIA. Since these comments were submitted the applicant has amended the site's proposed landscaping scheme and provided a 'bird strike risk assessment' as requested.

5.3 The amended landscaping scheme has reduced the proportion of species which provide a food source and/or roosting habitat for hazardous bird species to a level acceptable to NIA. It is also welcomed that the species which do provide for bird foraging are dispersed throughout the development.

5.4 NIA have reviewed the submitted Bird Strike Risk Assessment and are satisfied with the conclusion that the development will not increase the risk of a bird strike with aircraft arriving/departing the airport, based on the identified frequency of standing water in the SUD basin and the drain down time of less than 24 hours, as well as the aforementioned landscape plan.

5.5 Considering the above, NIA wish to withdraw their outstanding objection to application 16/01889/FUL, and have no further concerns regarding aerodrome safeguarding.

### 6. North Tyneside Five Year Housing Land Supply

6.1 This Addendum updates Planning Committee on the latest position regarding the Five Year Housing Land Supply Assessment for North

Tyneside. Committee will be aware that following submission of the emerging Local Plan in June 2016 an independent Planning Inspector held hearings as part of an Examination in Public during November and December of 2016. This has been followed by consultation on Main Modifications to the Local Plan, for which the consultation period closed on Wednesday March 8<sup>th</sup>.

6.2 One of the proposed Main Modifications to the Local Plan recently consulted upon alters the housing requirement for North Tyneside and the calculation of the Borough's Five Year Land Supply. These changes have been undertaken in accordance with advice provided by the independent Planning Inspector for the emerging Local Plan. The Council has received objection from elements of the house building industry including the Home Builders Federation to the Main Modifications in relation to the assessment of housing land supply. These objections will require review by the Council and will be forwarded to the Planning Inspector for his final consideration.

6.3 However, following conclusion of this consultation the most up to date assessment of housing land supply, informed by the December 2016 SHLAA Addendum identifies the total potential 5-year housing land supply in the borough at 5,174 new homes (a total which includes delivery from sites yet to gain planning permission). This represents a surplus against the Local Plan requirement (or a 5.56 year supply of housing land).

6.4 It is important to note that this assessment of five year land supply includes over 2,000 homes at proposed housing allocations within the emerging Local Plan. The potential housing land supply from this proposal is not included in the assessment that North Tyneside has a 5.56 year supply of housing land. However, North Tyneside Council remains dependent upon approval of further planning permissions to maintain its housing land supply and achieved the level of delivery anticipated.

6.5 Although the Council can demonstrate a five year supply of deliverable housing sites, this figure is a minimum rather than a maximum. Further planning permissions that add to the supply of housing can be granted which add to the choice and range of housing. Paragraph 49 of NPPF makes it clear that housing applications should be considered in the presumption in favour of sustainable development. Therefore the issue for Members is whether this development is sustainable? If it is then it follows that planning permission should be granted, unless the impacts significantly and demonstrably outweigh the benefits.

## 7. Conclusion

7.1 The proposal would be contrary to policies E21 and E21/1 of the Unitary Development Plan. However, we are now significantly beyond the plan period, which expired in 2006 and therefore those policies can only be given limited weight. The proposal would also be contrary to policy S1.7 of the emerging North Tyneside Local Plan, which also designates this site as safeguarded land. However, notwithstanding this, the conflict would be clearly outweighed by the significant benefits of the proposal with regard to the provision of market and affordable housing. Therefore on balance it is recommended that subject to conditions and a S106 Agreement planning permission should be granted.