

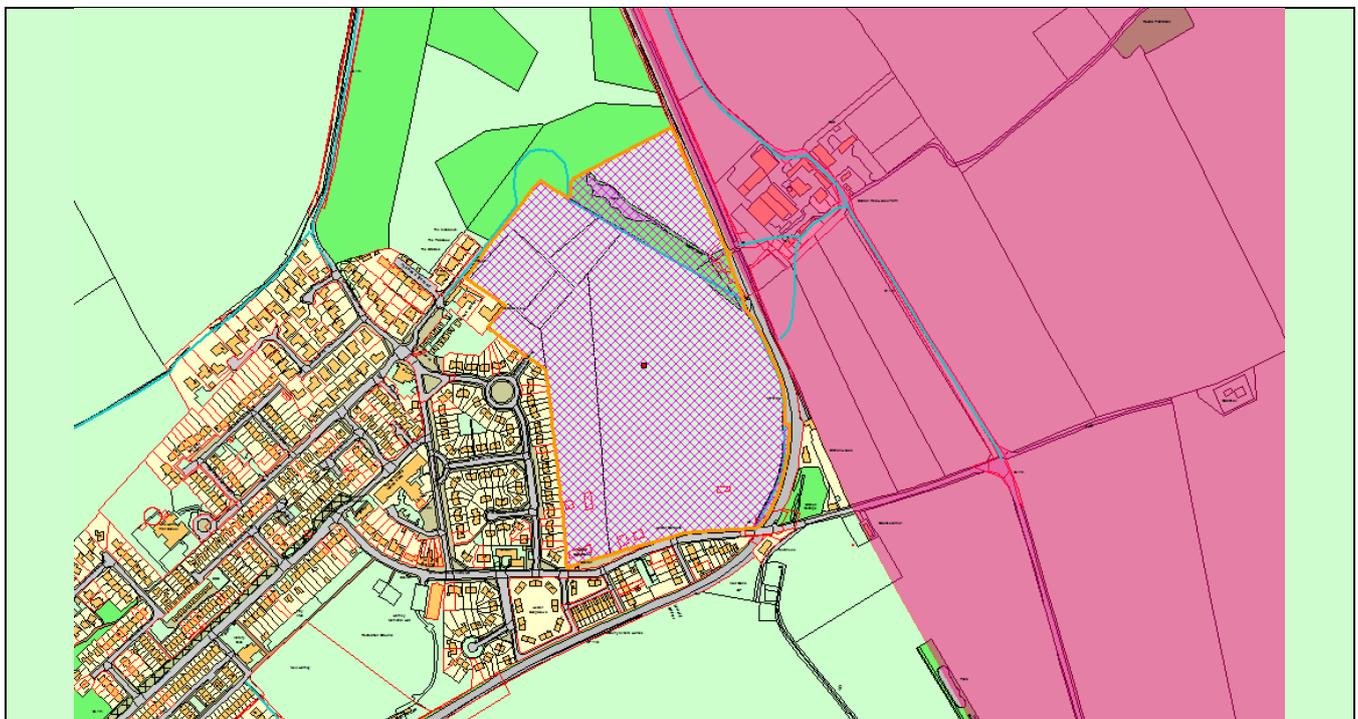


Northumberland County Council

STRATEGIC PLANNING COMMITTEE 5 OCTOBER 2021

Application No:	21/02638/VARYCO		
Proposal:	Variation of condition 15 of planning permission 20/03342/VARYCO to amend construction delivery hours in respect of development for 285 dwellings with associated infrastructure and landscaping.		
Site Address	Land North East Of New Hartley, St Michaels Avenue, New Hartley, Northumberland		
Applicant:	Mrs Amy Ward Barratt Homes North East The Watermark, Gateshead, NE11 9SZ	Agent:	None
Ward	Hartley	Parish	Seaton Valley
Valid Date:	29 June 2021	Expiry Date:	6 October 2021
Case Officer Details:	Name: Mr Geoff Horsman Job Title: Principal Planning Officer Tel No: 01670 625553 Email: geoff.horsman@northumberland.gov.uk		

Recommendation: That this application be GRANTED permission



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1. Introduction

1.1 Given the objections to this application from Seaton Valley Council, Councillor David Ferguson the County Councillor for Hartley Ward and the substantial level of objections from local residents a view was sought from the Chair and Vice Chair of Strategic Planning Committee and the Director of Planning as to whether or not this application should be decided by Strategic Planning Committee or by a senior officer under delegated powers. It was resolved that the application should be decided by Members.

2. Description of the Application Site & Proposal

2.1 The application site comprises land to the immediate north east of the village of New Hartley. The site is bounded to the north, west and south by existing dwellings within the village and to the east by the Northumberland Line beyond which lies open countryside.

2.2 Planning Permission was refused by Strategic Planning Committee in June 2016 for 285 dwellings on the site. An appeal was lodged against this refusal and following a public inquiry the appeal was allowed and planning permission granted in September 2017. Since that time 2 further planning permissions have been granted in March 2019 and April 2021 to amend the scheme originally approved at appeal, although the number of dwellings remains unchanged at 285. Construction work is now underway on site.

2.3 Planning permission is sought under Section 73 of the Town & Country Planning Act to vary condition 15 of the most recent Section 73 revised planning approval (Permission reference: 20/03342/VARYCO).

2.4 Condition 15 covers mitigation relating to construction works and is currently worded as follows:

The Construction Method Statement and other construction work mitigation details approved on the 23 March 2021 under planning application 19/00674/DISCON shall be adhered to throughout the construction period.

Reason: In the interests of highway safety and amenity in accordance with Policies DC11 and DC21 of the Blyth Valley Development Control Policies DPD.

2.5 The applicant wishes to amend the currently agreed construction vehicle delivery hours as specified in the approved Construction Method Statement from 9.30am to 4.30pm to 8am to 6pm Monday to Friday. Such revised construction delivery hours would align with the already agreed construction working hours on site. No deliveries are proposed on Saturdays, although construction work on site is permitted until 1pm on such days.

2.6 The proposed revised wording for Condition 15 is as follows:

The Construction Method Statement and other construction work mitigation details approved on the 23 March 2021 under planning application 19/00674/DISCON shall be adhered to throughout the construction period with the exception of construction deliveries which shall be permitted between the hours of 8am to 6pm Monday to Friday and for the avoidance of doubt no

construction deliveries in respect of the proposed development shall take place outside of these times.

Reason: In the interests of highway safety and amenity in accordance with Policies DC11 and DC21 of the Blyth Valley Development Control Policies DPD.

- 2.7 The applicant has provided reasons as to why they are seeking approval for extended delivery hours.
- 2.8 They are seeking to make this amendment as the delivery hours are impeding the delivery of homes on their New Hartley development. They advise that it is imperative for a site to operate efficiently that materials, mortar etc. are delivered at the start of the working day i.e. 8am on site to ensure a full and productive day of build.
- 2.9 The demand for new houses is seen by the Government as a major driver of economic recovery in light of the pandemic. Barratt as a major national housebuilder is a key player, along with Local Planning Authorities (LPA), in assisting with this economic recovery and ensuring supply meets demand.
- 2.10 In making this request to extend delivery hours the applicant would hope the County Council recognises the opportunity it can play in supporting economic recovery and the Government's commitment to deliver 300,000 new homes by the middle of the decade.
- 2.11 They also ask that the County Council consider their request in light of the Government's recent Written Ministerial Statement (WMS) dated 25th March 2021 which encourages 'a positive and flexible approach to planning enforcement action to support economic recovery and support social distancing'.
- 2.12 Furthermore, they request that the County Council note that Ian Levy, Conservative MP for Blyth Valley sits on the Housing, Communities and Local Government Select Committee. The Ministry of Housing, Communities and Local Government is committed to the delivery of a planning system that '...works speedily and efficiently...so that it can deliver the number of houses that our country needs'
- 2.13 The applicant continues by stating that the current delivery hours are a prime example of how planning needs to change to support housing delivery. They advise that the benefits of extending their delivery hours would be as follows:
 - To support economic recovery
 - Speedier delivery of much needed houses within the village
 - Contributing more quickly to the Government's commitment for 300,000 new homes by the middle of the decade
 - Quicker build means they will be off site quicker – so overall less disturbance for neighbouring residents
 - Allowing developer to construct the houses in timber frame – a sustainable construction method and Modern Method of Construction

- 2.14 The use of Timber Frame requires a full work-day to erect the kit safely and leave it safe upon completion of the work day. As a business the applicant advises that they strive to deliver houses in timber frame, wherever possible, as it delivers many benefits:
- Sustainable construction method, delivering enhanced thermal performance for the new residents of the village
 - A type of Modern Method of Construction (MMC), strongly encouraged by Government and mandatory when building on Government-owned land through Homes England
 - Reduced deliveries of separate Blocks and Floor Joists/Boards – as timber frame comes as one
- 2.15 In the planning balance, the applicant contends that the very limited harm of extending the delivery hours would be outweighed by the benefits it would offer.
- 2.16 The applicant advises that they have proposed routes for construction vehicles that do not take construction traffic through the village and the school is 0.5 miles, 4 streets away from the site. The construction vehicles will therefore have very limited effects on the village, passing only a small number of properties entering the village from The Avenue. They would note on this point, that their delivery route restrictions will of course remain in place, and would point out that their application for more robust pole-mounted directional signage for construction traffic is currently being considered by the Local Highway Authority.
- 2.17 Furthermore in this regard the applicant is open to exploring (and funding) a Temporary Traffic Regulation Order to restrict HGV's from the village, which would be enforceable by the Authority, should this be considered as beneficial by the Local Authority.
- 2.18 The applicant recognises that housebuilding brings with it challenges for neighbouring residents, and they advise that they have proactively engaged with the residents of New Hartley over their concerns and sought to mitigate wherever possible. However, we as a nation face a full-blown crisis in housing supply. The need to deliver many more houses, quickly, well-designed and in the right locations cannot be ignored. They are respectfully requesting an extension to delivery hours on a well-designed site with full planning permission, in a location where demand for the product being offered is high. They recognise that this request will not be welcome by everyone. However, it is clear and recognised by most that more houses, in the right places where people want to live, is paramount. The County Council can play a key role in proactive decision making to ensure the delivery of the much sought after houses, both private and affordable, at New Hartley more quickly and offer new hope for those struggling to take their first steps towards home ownership within the village of New Hartley.
- 2.19 Planning Permission reference 20/03342/VARYCO which this current application seeks to vary is accompanied by a Section 106 Agreement which secures affordable housing provision and off-site highway improvement works. There is no need for a further Section 106 Agreement were this current application to be supported as a clause in the existing Agreement results in any

future Section 73 applications such as this being bound by the terms of that existing Agreement.

3. Planning History

Reference Number: 14/01223/FUL

Description: Proposed development of 286 residential dwellings with associated infrastructure and landscaping

Status: WDN

Reference Number: 14/01224/ADE

Description: Advertisement Consent: A range of fascia signs and elevated flags on entrance to the development

Status: APPRET

Reference Number: 15/01182/FUL

Description: Proposed development of 285 residential dwellings with associated infrastructure and landscaping (amended details received 12/02/16)

Status: REF

Reference Number: 15/01183/ADE

Description: Advertisement consent for a range of fascia signs and elevated flags on entrance to the development

Status: APPRET

Reference Number: 18/02368/VARYCO

Description: Variation of Condition 2 (approved plans) pursuant to planning permission 15/01182/FUL in order to alter the layout and replace Folkstone house type with Maidstone house type.

Status: PER

Reference Number: 19/00674/DISCON

Description: Discharge of Conditions Condition 3: (Site Phasing Plan) Condition 5: (External Lighting) Condition 7 (Landscaping) Condition 9 (Site levels) Condition 11 (Highway maintenance) (Condition 14 (Refuse Storage Statement) 15 (Construction Method Statement) 16 (Surface Water drainage); Condition 17 (drainage feature maintenance), Condition 18: (Construction Phase Drainage Plan), Condition 19 (Lysdon Burn & pond works), Condition 21 (Ground contamination/remediation) Condition 24: (Noise Mitigation Statement) Condition 27 (Biodiversity Management Plan) Condition 28 (Renewables Statement) on approved Planning application (18/02368/VARYCO) (as amended 18/03/2019)

Status: PER

Reference Number: 20/00003/DISCON

Description: Discharge of conditions 17 (surface water drainage), 19 (surface water connection), 30 (highway mitigation) and 31 (highway works) of application 18/02368/VARYCO
Status: CONREF

Reference Number: 20/03342/VARYCO

Description: Variation of conditions 2 (plans), 8 (boundary treatment) and 26 (tree protection) pursuant to planning permission 18/02368/VARYCO In connection with amendment of layout and house types including provision of hipped roofs to all dwellings
Status: PER

Appeals

Reference Number: 16/00062/REFUSE

Description: Proposed development of 285 residential dwellings with associated infrastructure and landscaping (amended details received 12/02/16)
Status: ALLOW

4. Consultee Responses

Seaton Valley Council	<p>Object to variation of the construction delivery hours for a number of reasons.</p> <p>The original timespan for construction delivery hours was agreed at the Planning Inquiry that considered the original controversial application to build 285 homes on this site. The Council would argue that this is a morally binding concession made by Barratt Homes to New Hartley residents and as such should remain in place as its original purpose was to improve highway safety in the village during the construction period.</p> <p>Moving the construction delivery start time to 8am would cause additional traffic hazards for small children walking to school. Experience to date suggests that the developers are unable to control the routes taken by delivery drivers to the site and consequently children walking to school at the west end of the village are also likely to face additional traffic hazards if the start time for deliveries is brought forward.</p> <p>Similarly, bringing the construction delivery time forward will cause queues at the site entrance much earlier in the morning coinciding with school and work traffic leading to further reductions in highway safety in the vicinity of the site,</p> <p>Furthermore the re-introduction of passenger services on the Northumberland Line during the construction period will increase the number of trains using the New Hartley crossing this in turn will lead to additional traffic queues in and around the development, further increasing the risk of accidents as road traffic flows increase between 8am and 9am.</p>
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Highways

No issues arise from the proposal.

When assessing a variation of condition application, the Highway Authority checks that any proposed variation does not have an adverse impact on the safety of all users of the highway or on the wider local highway network.

The information submitted has been checked against the context outlined above we are satisfied with the variation of Condition 15 as described on the application form and shown in detail on the submitted plans will not have an adverse impact on highway safety.

The applicant wishes to seek permission to vary condition 15 of planning permission 20/03342/VARYCO to amend construction delivery hours from 9.30am-4.30pm changing it to 8am - 6pm. No other part of the agreed Construction Method Statement is proposed to be amended as a result of the variation.

The applicant details the reasons as to why the proposed changes are being requested in terms of the delivery of materials to and from the development site. We can find no written evidence that there was a requirement within the application process or the Public Inquiry to impose the currently implemented time restrictions on construction traffic movements to and from the site. The conditions imposed by the Inspector also did not restrict traffic movements to that which the current Construction Method Statement includes.

The existing, and proposed, Construction Method Statement includes a defined route for construction vehicles using St Michaels Avenue to access the A190 The Avenue to minimise the impacts of construction traffic on the village and village amenities. This route and wider construction routes to the A-road network does not pass schools or sensitive areas that would normally warrant a reasonable restriction to avoid school or network peak periods. Therefore, we have no justification for refusing the proposals to vary the hours in highways terms. Had the original Construction Method Statement proposed the hours now proposed, there would also have been no highways objection in conjunction with the routing as detailed above.

We recognise that there are benefits to the network by increasing the times to which construction traffic may arrive and/or depart from the development site in terms of reducing likelihood of vehicles queuing or waiting on the highway and minimising potential conflict between passing vehicles on St Michaels Avenue. This also has the disbenefit of adding construction traffic during the extra operational hours, but, on balance it is considered that the proposed amendments are acceptable. In conjunction with the other restrictions, including the routing via St Michaels

	<p>Avenue, the impacts of construction traffic are appropriately mitigated through the construction period.</p> <p>Therefore, if the Planning Authority is minded to approve this application Northumberland County Council Highways have no objection to the variation of 15 with all previously recommended highways conditions transferred to or amended to compliance conditions on the subsequent VARYCO decision notice.</p>
Network Rail	No objection.
Public Protection	The Environmental Protection Team have considered the impact of varying delivery times to bring them line with the site operating times and have no objection to this application.

5. Public Responses

Neighbour Notification

Number of Neighbours Notified	113
Number of Objections	23
Number of Support	0
Number of General Comments	0

Copies of all representations received are available on the County Council's website.

Notices

Stat Pub & PROW 4th August 2021

News Post Leader 23rd July 2021

Summary of Responses:

23 letters of objection have been received including an objection from Councillor David Ferguson – County Councillor for Hartley Ward within which the application site lies.

Councillor Ferguson objects to the application on the following grounds:

- The currently approved delivery times of 9.30am to 4.30pm were presented by Barratts expert at the Inquiry to mitigate the extra heavy traffic on a single road during peak hours.
- The proposed extended delivery hours will cause more congestion on the roads at peak times and bring school children travelling to school by a variety of methods into the mix.
- Barratts are already starting earlier than their permission allows, causing annoyance and disturbance to local residents. If the times are changed the potential is for noise to begin even earlier.

- Good site management regarding ordering of goods can be done within the existing hours.
- Just because many other sites have delivery times of 8-6 does not mean they are right for this location.
- The argument about poor productivity is negated when they are finished and away by 4 p.m when they could start later and finish later.

The remaining 22 objections raise the following concerns:

- Increased noise pollution;
- Increased air pollution;
- Currently approved construction delivery hours have not been adhered to and concern that if these are extended that those extended hours will not be adhered to either;
- Increased traffic including HGV's and harm to highway safety during the already busy school start times and rush hour periods;
- Increased risk to school children;
- Increased harm to highway safety from delivery vehicles blocking road and footways;
- Use of Northumberland Line likely to commence during construction period and increased delivery hours would further increase disruption adjacent to the level crossing on St.Michael's Avenue related to half hourly train services.
- Deliveries could be accommodated and dovetailed with construction work during the currently approved hours with changes to the company's delivery/construction methodologies.
- Current delivery times proposed by the expert highways witness for Barratts at Public Inquiry and these should be adhered to.
- Number of daily deliveries has been much higher than the numbers predicted by Barratts in their Public Inquiry evidence.
- Delivery hours of 8am to 6pm elsewhere not a justification for such hours on this site due to local circumstances.
- Current working hours of up to 6pm are not fully utilised with work normally finished by 4pm therefore a full working day from 9.30am deliveries could be achievable if construction work continued until 6pm.
- Insufficient evidence to conclude that increased delivery hours would reduce build time on site.
- Objective in amending hours is to increase profit to developer.
- Disturbance to future as well as existing residents.

The above is a summary of the comments. The full written text is available on our website at: <https://publicaccess.northumberland.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QVIGGAQS0MK00>

6. Planning Policy

6.1 Development Plan Policy

Seaton Valley Neighbourhood Plan 2021

Blyth Valley District Local Plan 1999 (BVDLP)

G9 – Development in countryside beyond Green Belt
G10 – Development criteria in the countryside generally
H25 – Housing in countryside beyond Green Belt
E3 – Landscape: General approach
M10 – Road construction outside settlement limits

Blyth Valley Core Strategy 2007 (BVCS)

SS1 – Regeneration and spatial strategy
SS2 Sequential Approach and Phasing
SS3 – Sustainability criteria
H1 – Housing provision
H3 Mix of Housing Development
ENV1 Natural Environment and Resources
ENV2 – Historic and built environment
A3 – Ashington Tyne and Blyth rail line

Blyth Valley Development Control policies DPD 2007 (BVDPD)

DC1 - General Development
DC2 – Planning Obligations
DC5 - Housing Windfall Sites
DC11 - Planning for Sustainable Travel
DC16 - Biodiversity
DC17 - Landscape: General Protection & Restoration
DC19 - Drainage and Flood Risk
DC21 - Pollution Control
DC22 - Noise Pollution
DC23 – Conservation Area
DC27 Design of New Developments

4.2 National Planning Policy

National Planning Policy Framework (2019)
National Planning Practice Guidance

4.3 Other Documents/Strategies

Northumberland Local Plan - Publication Draft Plan (Regulation 19) (Jan 2019) as amended by proposed Main Modifications (June 2021)

STP1 – Spatial Strategy
STP2 – Presumption in favour of sustainable development
STP3 – Principles of sustainable development
STP4 – Climate change mitigation and adaptation
HOU2 – Provision of new residential development
HOU4 – Housing development site allocations
HOU5 – Housing types and mix

HOU6 – Affordable housing provision
HOU9 – Residential development management
QOP1 – Design principles
QOP2 – Good design and amenity
QOP4 – Landscaping and trees
QOP5 – Sustainable design and construction
TRA1 – Promoting sustainable connections
TRA2 – The effects of development on the transport network
TRA4 – Parking provision in new development
ENV2 – Biodiversity and geodiversity
ENV3 – Landscape
ENV7 – Historic environment and heritage assets
WAT2 – Water supply and sewerage
WAT3 – Flooding
WAT4 – Sustainable Drainage Systems
POL1 – Unstable and contaminated land
POL2 – Pollution and air, soil and water quality
INF1 – Delivering development related infrastructure
INF5 – Open space and facilities for sport and recreation
INF6 – Planning obligations

7. Appraisal

- 7.1 In respect of Section 73 applications such as this the planning legislation states that the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.
- 7.2 If a Section 73 application is approved the end result is that a new planning permission is granted in respect of the development in its entirety albeit subject to differently worded conditions.
- 7.3 In assessing applications such as this regard must also be had once again to the merits or otherwise of the proposed development as a whole in planning terms.
- 7.4 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, planning applications should be determined in accordance with the development plan, unless material considerations indicate otherwise. In this case the development plan comprises policies in the Seaton Valley Neighbourhood Plan, the Blyth Valley District Local Plan, the Blyth Valley Core Strategy and Blyth Valley Development Control Policies DPD as identified above. The National Planning Policy Framework (NPPF) (2021) and Planning Practice Guidance (PPG) are material considerations in determining this application. The NPPF states that weight can be given to policies contained in emerging plans dependent upon three criteria: the stage of preparation of the plan; the extent to which there are unresolved objections to policies within the plan; and the degree of consistency with the NPPF. The Northumberland Local

Plan - Publication Draft Plan (Regulation 19) (NLP) was submitted to the Secretary of State for Ministry of Housing, Communities and Local Government on 29 May 2019, and is currently going through the examination process. On 9 June 2021, the Council published for consultation, a Schedule of proposed Main Modifications to the draft Local Plan which the independent Inspectors examining the plan consider are necessary to make the plan 'sound'. As such the plan is at an advanced stage of preparation, and the policies in the NLP - Publication Draft Plan (Regulation 19) (Jan 2019) as amended by proposed Main Modifications (June 2021), are considered to be consistent with the NPPF. The NLP is a material consideration in determining this application, with the amount of weight that can be given to specific policies (and parts thereof) is dependent upon whether Main Modifications are proposed, and the extent and significance of unresolved objections.

7.5 Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the relevant development plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues raised relate to:

- Principle of development
- Residential amenity impacts arising from construction delivery hours amendment.
- Highway safety impacts arising from construction delivery hours amendment.

Principle of Development

7.6 For the purposes of the Seaton Valley Neighbourhood Plan, the application site does not impinge upon any areas of protected open space and therefore there is no conflict with this plan.

7.7 Policy SS1 of the Blyth Valley Core Strategy states that the majority of new development will be promoted in specified areas which include New Hartley – which is categorised as a Village. A similar spatial strategy is outlined within emerging Local Plan Policy STP1.

7.8 Policy SS2 of the Core Strategy sets out a sequential approach to site selection that was intended to prioritise the development of previously developed land and ensure that new development is directed to sustainable locations. As the site is not previously developed land it's redevelopment would not be supported by this Policy. However, although the NPPF does encourage the effective use of land by reusing previously developed sites, it does not set out a strict sequential approach to site selection such as that set out in Policy SS2, thereby limiting the amount of weight that can be attached to this policy in the decision making process, given that the Policy is considered not to be wholly consistent with the NPPF.

7.9 Policy SS3 outlines sustainability criteria that need to be satisfied before permission is granted for new development, including that developments are accessible to homes, jobs, shops, services, the transport network and modes of transport other than the private car. Some of the elements set out in Policy SS3 will be considered further within the report, but in general the proposed

development would be in broad accordance with the sustainability criteria identified within the Policy.

- 7.10 Paragraph 11 of the NPPF provides guidance on how applications should be determined by stating that plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 7.11 NPPF Paragraph 8 provides the key starting point against which the sustainability of a development proposal should be assessed. This identifies three objectives in respect of sustainable development, an economic objective, a social objective and an environmental objective. Paragraph 8 advises that these three objectives of sustainable development are interdependent and should not be considered in isolation. Whether the presumption in favour of sustainable development is successful in this case is dependent on an assessment of whether the proposed development of the site would be sustainable in terms of its economic, social and environmental roles. The following sections assess the key issues in relation to the economic, social and environmental roles of the scheme as well as identifying its potential impacts and benefits in planning terms.
- 7.12 The NPPF advises that housing applications should be considered in the context of the presumption in favour of sustainable development. The NPPF requires Local Planning Authorities to boost significantly the supply of housing. As identified in the Northumberland Strategic Housing Land Availability Assessment (December 2018), the Council can demonstrate a 5-year housing land supply. As a result of the ONS publishing more up-to-date 2019 affordability ratios in March 2020, Northumberland's minimum Local Housing Need has reduced slightly to an annual average 651 dwellings per annum. Consequently, when factoring in the 5% buffer allowance to the requirement, Northumberland's provisionally forecast 5-year housing land supply for 2020-2025 from identified sites and the small sites windfall allowance now equates to about 10.9 years supply against the baseline Local Housing Need. Northumberland has also achieved 197% delivery against its minimum housing requirements for the past three years, in accordance with the Housing Delivery Test. Therefore, in the context of Footnote 7 of the NPPF, the presumption in favour of sustainable development does not apply.
- 7.13 As advised earlier the site already has full planning permission for up to 285 dwellings and having regard to the above planning policies considerations it is not considered that circumstances have changed regarding the acceptability in principle of the proposed development.
- 7.14 This planning application does not propose any changes to the site layout, dwelling numbers, dwelling design, site drainage arrangements, site access design, on-site affordable housing, landscaping or off-site highway works from

the most recent amended planning permission granted in April 2021 under planning permission 20/03342/VARYCO. As such the proposals remain acceptable in terms of housing mix & affordable housing, impact on the character and appearance of the area, residential amenity impacts related to the site layout and dwelling designs, highway safety related to the proposed physical access arrangements, flooding & drainage, contamination & ground stability and ecology

- 7.15 Overall, the principle of development on the site is therefore considered to be acceptable and the site would be a suitable location for new development, subject to other elements of the development being acceptable as discussed later in this report.

Residential amenity impacts arising from construction delivery hours amendment.

- 7.16 With regard to residential amenity matters concerning noise and air pollution, Blyth Valley Development Control Policies DPD (BVDPD) Policy DC11 in relation to planning for sustainable travel states that planning permission for new development will not be permitted unless it meets certain criteria. These include minimising the impact of traffic on the environment, in particular in relation to air quality.
- 7.17 BVDPD Policy DC21 re pollution control states that the Local Planning Authority will seek to minimise the impact of pollution on the environment, including existing land uses, and on proposed development and will support and encourage measures to reduce existing pollution to the lowest practicable levels and where possible, improve air, soil and water quality. Planning permission will not be granted for development liable to generate levels of pollution considered to cause significant harm to either environmental health and general amenity, or the natural environment, in particular to areas considered sensitive for landscape, nature conservation or archaeological value, or the existing air, soil or water quality.
- 7.18 Policy DC22 re noise pollution states that the Local Planning Authority will seek to ensure that, wherever practicable, noise sensitive development and noisy or potentially noisy developments are located away from one another and will impose relevant conditions or seek appropriate planning obligations in relation to new development where separation is not practicable.
- 7.19 Emerging Local Plan Policies STP 5 re health and wellbeing and POL 2 concerning pollution seek to achieve similar objectives.
- 7.20 NPPF paragraph 185 states that development proposals should mitigate and reduce to a minimum potential adverse impacts resulting from noise and avoid noise giving rise to significant adverse impacts on health and the quality of life.
- 7.21 Paragraph 186 re air pollution states that planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or

mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.

- 7.22 The application site and its surrounding locality are not within an Air Quality Management Area or Clean Air Zone.
- 7.23 The Council's Public Protection team raise no objections to the proposed amendment of construction delivery hours. Overall the view of officers is that significant additional harm to residential amenity would not arise by increasing the delivery hours as proposed, bearing in mind that construction work is already permitted to take place on site between 8am and 6pm Monday to Friday and the further existing requirement that delivery vehicles are to access the site via St.Michael's Avenue and The Avenue rather than through the village.

Highway safety impacts arising from construction delivery hours amendment.

- 7.24 Moving onto highway safety matters, BVDPD Policy DC11 regarding planning for sustainable travel as advised above states that planning permission for new development will not be permitted unless it meets certain criteria. These include demonstrating safe and efficient access which allows for the movement of vehicles including service vehicles. The Policy also advises that the requirements of the County Council as Local Highway Authority must be satisfied also.
- 7.25 Emerging Local Plan Policy TRA2 seeks similar objectives.
- 7.26 NPPF paragraph 111 states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 7.27 The number of HGV's visiting the site varies from day to day. Objectors have referred to up to 50 HGV's visiting site in a day, although the applicant's research shows that typically per day there are 16 HGV's arriving at the site and the same number departing the site.
- 7.28 The County Council as Local Highway Authority raise no objections to the proposed amendment of construction delivery hours subject to all other conditions imposed on the most recently approved revised planning permission for the development as a whole being carried over into this proposed planning permission variation. Network Rail likewise raise no objections regarding impact on the nearby level crossing.
- 7.29 Whilst the currently approved delivery hours were suggested by the applicant's Highways Expert at the 2017 appeal Public Inquiry to avoid peak traffic hours on the local road network, the Planning Inspector in allowing the

appeal and granting planning permission did not impose any conditions requiring adherence to those hours. With regard to construction work mitigation a standard condition only was attached requiring the submission of a Construction Method Statement to the County Council for their approval and the details submitted subsequently to discharge this condition included the construction delivery hours as suggested at the Public Inquiry.

- 7.30 Although the currently approved delivery hours were suggested by the applicant's own expert highways witness at the 2017 Public Inquiry, it does not necessarily follow that the alternative delivery hours now proposed are unacceptable. The planning judgement to be made with regard to highways matters in respect of this latest application is whether or not the revised delivery hours would give rise to greater harm than the currently approved delivery hours in terms of highway safety and if so whether or not such increased harm would be unacceptable in highways terms.
- 7.31 As stated earlier the Local Highway Authority raise no objections subject to all other conditions being retained. They acknowledge that extending the construction delivery hours will result in construction traffic visiting the site at peak times. However, the proposed changes also have the potential, in their opinion, to reduce the queuing of construction vehicles on the public highway adjacent to the site by spreading out to a greater extent when delivery vehicles can visit the site and preventing an issue that is arising at present where construction delivery vehicles arriving early and being turned away results in vehicles queuing on the adjacent highway until the 9.30am start time.
- 7.32 It is acknowledged that there have been some breaches of the currently approved delivery hours and the further agreed restriction that prohibits construction delivery vehicles from accessing/egressing the site via the village, with vehicles having to approach/leave the site via St. Michael's Avenue and the A190 The Avenue. These breaches have been investigated by the County Council's Planning Enforcement team and it has been determined that the frequency and duration of the breaches to date is not sufficient to justify the progression of formal enforcement action. Regard has also been had in respect of construction vehicle delivery hours breaches to this current application and the need for this application to be determined before any further consideration is given to formal action in respect of breaches related to delivery hours. Objectors have also raised concern that due to breaches that have taken place to date that if extended construction delivery hours are granted these will be breached also. However, this is not a matter to be taken into account in deciding whether or not to support this current application. If the amended delivery hours were permitted and then breached this would rather be a separate matter for investigation/action by the County Council's planning enforcement team.
- 7.33 Furthermore, the applicant has been proactively engaging with their various suppliers and has put in place measures on site such as placing a staff member at the site entrance gates at key times and installing signage in an effort to ensure that agreed restrictions regarding delivery times and construction vehicle routes are adhered to. They have also been participating in regular meetings of a liaison group that has been set up to respond to the concerns of local residents.

- 7.34 The suggestion by the applicant of a Temporary Traffic Regulation Order to prohibit HGV's from entering the village west of the site is noted. However, it is considered that this would be overly restrictive as it would affect deliveries to other businesses and residents to an unacceptable extent.
- 7.35 It is acknowledged that as the site becomes built out and occupied to a greater extent that there would be an increased risk of conflict between new residents of the development and construction vehicles visiting site, particularly at peak times when new residents are more likely to be coming and going from the site. This is a matter that the developer would need to manage as part of their health & safety responsibilities in operating a construction site adjacent to dwellings.
- 7.36 Overall the proposals are considered acceptable on highway safety grounds.

Other Matters

7.37 Equality Duty

The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers have had due regard to Sec 149(1) (a) and (b) of the Equality Act 2010 and considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

7.38 Crime and Disorder Act Implications

These proposals have no implications in relation to crime and disorder.

7.39 Human Rights Act Implications

The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.

- 7.40 For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights

legislation. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.

- 7.41 Officers are also aware of Article 6, the focus of which (for the purpose of this decision) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision making process as a whole, which includes the right of review by the High Court, complied with Article 6.

8. Conclusion

Overall, the scheme as revised is considered acceptable and it is considered that planning permission should be granted subject to the amended condition 15 as detailed earlier in this report to allow construction delivery hours of 8am to 6pm Monday to Friday. No other changes to the previously approved scheme and conditions are proposed.

9. Recommendation

That this application be GRANTED permission subject to the following conditions:

Conditions/Reason

01. The development hereby permitted shall commence before the expiration of three years from the 20 September 2017.

Reason: To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.

02. The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans and documents. The approved plans and documents for this development are:-

13.1119.02 Location Plan;
1430.01 Rev.A4 - Planning Layout including affordable housing details;
1430.01 Rev A4 - Planning Layout open space locations only (other details on plan not approved);
1430.01 Rev A4 - Planning Layout public right of way location only (other details on plan not approved);
1430.03 Rev.F - Materials Layout;
QD960-03-01 Rev O - Engineering Layout;
QD960-04-01 Rev K - External Works Sheet 1;
QD960-04-02 Rev I - External Works Sheet 2;
QD960-04-03 Rev I - External Works Sheet 3;
QD960-04-04 Rev I - External Works Sheet 4;
QD960-04-10 Rev B - External Works Sheet 5;
QD960-03-02 Rev C - Offsite Foul Sewer Route;
01 Rev E - Alderney House Type Floor Plans & Elevations;
01 - Denby House Type Floor Plans & Elevations;
01 - Denford House Type End Terrace Floor Plans & Elevations;
01 - Denford House Type Mid Terrace Floor Plans & Elevations;

01 - Ellerton House Type End Terrace Floor Plans & Elevations;
01 - Ellerton House Type Mid Terrace Floor Plans & Elevations;
01 - Kenley House Type End Terrace Floor Plans & Elevations;
01 Rev.E - Kenley House Type Mid Terrace Floor Plans & Elevations;
01 - Kingsley House Type Floor Plans & Elevations;
01 Rev A - Maidstone House Type End Terrace Floor Plans & Elevations;
01 Rev F - Maidstone House Type Mid Terrace Floor Plans & Elevations;
01 Rev D - Moresby House Type Floor Plans & Elevations;
01 - Radleigh House Type Floor Plans & Elevations;
01 Rev A - Maidstone House Type End Terrace Floor Plans & Elevations;
01 to 08 - Beadle House Type Plans;
01 Rev A - Windermere House Type Floor Plans & Elevations;
Noise Survey & Impact Assessment Ref: 3933.4 Version C dated 14/09/2020;
Aboricultural Impact Assessment Rev.C dated September 2020;
Arboricultural Method Statement Rev C (development layout not approved);

Reason: For the avoidance of doubt, and in the interests of proper planning.

03. The development shall be carried out in full accordance with the Estate Street Phasing and Completion Plan and overall phasing details approved by the Local Planning Authority on the 23 March 2021 under planning application 19/00674/DISCON.

Reason: For the avoidance of doubt, and in the interests of proper planning.

04. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification), all first floor side elevation windows within the dwellings hereby permitted shall be constructed with obscure glass and shall remain obscure glazed at all times thereafter and no additional window or other opening shall be made at first floor level in the following elevations of the dwellings/plots specified unless an application for planning permission in that behalf is first submitted to and approved in writing by the Local Planning Authority - 1 West, 5 South, 7 East, 8 West, 9 West, 10 East, 15 East, 16 West, 17 South, 40 East, 43 North, 47 North East, 53 South West, 55 East, 60 East, 63 West, 69 South, 70 East, 81 South, 90 East, 93 South East, 97 North West, 98 South West or North East, 99 North West, 103 South East, 107 North West, 109 South East, 114 North East, 115 South East, 121 North West, 122 South West, 135 South East, 142 South East, 159 North East, 161 North West, 164 North West, 165 North East, 167 West, 175 South, 184 West, 187 South, 195 North, 196 West, 206 East, 212 East, 214 West, 215 South, 224 North, 226 East, 227 South, 234 East, 237 North, 243 South, 250 South, 256 North or South, 264 East, 267 South, 280 North or South.

Reason: In the interests of residential amenity in accordance with Policy DC27 of the Blyth Valley Development Control Policies DPD.

05. The development hereby permitted shall be constructed in full accordance with the streetlighting details approved by the Local Planning Authority on the 23 March 2021 under planning application 19/00674/DISCON. All street lighting should be baffled so as not to direct lighting up into the atmosphere.

Reason: In the interests of visual amenity in accordance with Policy DC27 of the Blyth Valley Development Control Policies DPD.

06. Other than in accordance with the works required under condition 27, the level crossing on St Michael's Avenue shall remain unobstructed at all times both during and after construction.

Reason: In the interests of highway safety in accordance with Policy DC11 of the Blyth Valley Development Control Policies DPD.

07. The planting plan for each phase as approved by the Local Planning Authority on the 23 March 2021 under planning application 19/00674/DISCON shall be fully implemented during the first full planting season (November to March inclusive) following the first occupation of any dwelling in that phase.

Reason: In the interests of visual amenity and biodiversity in accordance with Policies DC16 and DC27 of the Blyth Valley Development Control Policies DPD.

08. All garden boundary fences or walls shall include a gap at the base measuring a minimum 13cm x 13cm to allow continued access through the site for hedgehogs.

Reason: In the interests of biodiversity in accordance with Policy DC16 of the Blyth Valley Development Control Policies DPD.

09. The development shall be constructed in full accordance with the levels details approved by the Local Planning Authority on the 23 March 2021 under planning application 19/00674/DISCON.

Reason: In the interests of minimising flood risk in accordance with Policy DC19 of the Blyth Valley Development Control Policies DPD.

10. Prior to the first occupation of any dwelling the car parking area including any garaging indicated on the approved plans for that dwelling shall be hard surfaced, sealed and marked out. Thereafter, that car parking area including any garaging shall be retained in accordance with the approved plans and shall not be used for any purpose other than the parking of vehicles associated with the development.

Reason: In the interests of highway safety and amenity in accordance with Policies DC11 and DC27 of the Blyth Valley Development Control Policies DPD.

11. No dwellings in a phase shall be occupied until the highway works for that phase approved by the Local Planning Authority on the 23 March 2021 under planning application 19/00674/DISCON have been constructed in accordance with those approved details and those streets shall thereafter be maintained in accordance with the management and maintenance details also approved by the Local Planning Authority under planning application 19/00674/DISCON.

Reason: In the interests of highway safety in accordance with Policy DC11 of the Blyth Valley Development Control Policies DPD.

12. Prior to the first occupation of the development details of a Framework Travel Plan in respect of the application site shall be submitted to and approved in writing by the Local Planning Authority. At all times thereafter until implementation of a Full Travel Plan approved under condition 20 below the approved Framework Travel

Plan shall be implemented in accordance with the approved details. This Framework Travel Plan must include:

- a. the contact details of a suitably qualified Travel Plan Co-ordinator;
- b. an implementation programme;
- c. an on-site assessment including details of transport links to the site, on-site facilities and any transport issues and problems;
- d. clearly defined aims and objectives in relation to travel modes; and
- e. clearly defined senior management and staff responsibilities and roles in the implementation of the Framework Travel Plan.

Reason: In the interests of sustainable travel patterns in accordance with Policy DC11 of the Blyth Valley Development Control Policies DPD.

13. 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:

- a. details of and results from an initial residents survey;
- b. clearly specified targets for resident travel mode shares;
- c. an on-going plan for monitoring and reviewing the effectiveness of the Full Travel Plan; and
- d. a scheme providing for a biennial monitoring report until completion of the development to be submitted to the Local Planning Authority regarding the implementation of the Full Travel Plan.

Reason: In the interests of sustainable travel patterns in accordance with Policy DC11 of the Blyth Valley Development Control Policies DPD.

14. The refuse storage facilities in respect of any dwelling approved on the 23 March 2021 under planning application 19/00674/DISCON shall be provided and implemented in full prior to first occupation of that dwelling and shall remain in place at all times thereafter.

Reason: In the interests of highway safety and amenity in accordance with Policies DC11 and DC27 of the Blyth Valley Development Control Policies DPD.

15. The Construction Method Statement and other construction work mitigation details approved on the 23 March 2021 under planning application 19/00674/DISCON shall be adhered to throughout the construction period with the exception of construction deliveries which shall be permitted between the hours of 8am to 6pm Monday to Friday and for the avoidance of doubt no construction deliveries in respect of the proposed development shall take place outside of these times.

Reason: In the interests of highway safety and amenity in accordance with Policies DC11 and DC21 of the Blyth Valley Development Control Policies DPD.

16. Construction of the development hereby permitted shall incorporate surface water drainage infrastructure in full accordance with the details approved on the 23 March 2021 under planning application 19/00674/DISCON. Any new drains in a phase next to network rail operational land shall be constructed and maintained so as not to have any adverse effect upon the stability of any Network Rail equipment,

structure, cutting or embankment. The approved scheme shall be implemented in full prior to the first occupation of any dwelling in the phase to which it relates.

Reason: In the interests of minimising flood risk in accordance with Policy DC19 of the Blyth Valley Development Control Policies DPD.

17. The adoption and on-going maintenance of all surface water drainage features shall be undertaken in full accordance with the details approved on the 23 March 2021 under planning application 19/00674/DISCON.

Reason: In the interests of minimising flood risk in accordance with Policy DC19 of the Blyth Valley Development Control Policies DPD.

18. The disposal of surface water from the development throughout the construction of the development hereby permitted shall be undertaken in full accordance with the details approved on the 23 March 2021 under planning application 19/00674/DISCON.

19. No surface water connection shall be made associated with the development to those parts of the Lysdon Burn, the Lysdon Pond and the Lysdon Pond weir in the ownership of the developer until these features have been surveyed, fully cleared of all debris and other remediation works have been undertaken in full accordance with the details approved on the 23 March 2021 under planning application 19/00674/DISCON.

Reason: In the interests of minimising flood risk in accordance with Policy DC19 of the Blyth Valley Development Control Policies DPD.

20. Prior to the first occupation of any dwelling in a phase within which the existing public right of way lies, the part of that public right of way in that phase shall be re-constructed in accordance with a detailed specification which has first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of promoting pedestrian access in accordance with Policy DC11 of the Blyth Valley Development Control Policies DPD.

21. Prior to the first occupation of any dwelling a full closure report shall be submitted to and approved in writing by the Local Planning Authority. The report shall provide verification that the required works regarding contamination remediation in respect of that dwelling have been undertaken in full accordance with the details approved on the 23 March 2021 under planning application 19/00674/DISCON concerning condition 21 of previous planning 18/02368/VARYCO.

Reason: In the interests of public safety in accordance with Policy DC21 of the Blyth Valley Development Control Policies DPD.

22. If during redevelopment contamination not previously considered is identified, then an additional method statement regarding this material shall be submitted to and approved in writing by the Local Planning Authority. No building shall be occupied until the method statement has been submitted to and approved in writing by the Local Planning Authority, and measures proposed to deal with the contamination have been carried out.

Reason: In the interests of public safety in accordance with Policy DC21 of the Blyth Valley Development Control Policies DPD.

23. No dwelling shall be first occupied unless and until those noise mitigation measures approved on the 23 March 2021 under planning application 19/00674/DISCON have been provided in full in respect of that dwelling and those measures shall remain in place at all times thereafter.

Reason: In the interests of public safety in accordance with Policy DC21 of the Blyth Valley Development Control Policies DPD.

24. No development shall take place unless in accordance with the avoidance, mitigation and enhancement measures detailed within the ecological reports ('New Hartley Habitat & Protected Species Risk Assessment', October 2013, 'New Hartley Mammal Surveys', May 2014, 'New Hartley Great Crested Newt Survey', May 2014, 'New Hartley Biodiversity Plan', February 2016, Penn Associates Ltd.)

Reason: In the interests of biodiversity in accordance with Policy DC16 of the Blyth Valley Development Control Policies DPD.

25. No development shall be carried out other than in accordance with the guidance set out in 'BS5837:2012 Trees in Relation to Design, Demolition and Construction: Recommendations' British Standards Institute, 2012 and Arboricultural Method Statement Rev C.

Reason: In the interests of biodiversity and visual amenity in accordance with Policies DC16, DC17 and DC27 of the Blyth Valley Development Control Policies DPD.

26. The Biodiversity Management Plan approved on the 23 March 2021 under planning application 19/00674/DISCON shall be implemented in perpetuity in respect of the development hereby permitted.

Reason: In the interests of biodiversity in accordance with Policy DC16 of the Blyth Valley Development Control Policies DPD.

27. The highway mitigation works in respect of the St.Michael's Avenue Level Crossing shall be constructed in accordance with the details approved on the 28 April 2020 under planning permission 20/00003/DISCON and shall be implemented prior to the occupation of any dwelling on the site.

Reason: In the interests of highway safety in accordance with Policy DC11 of the Blyth Valley Development Control Policies DPD.

28. The highway works at the A190 / A192 Seaton Delaval roundabout shall be constructed in accordance with the details approved on the 28 April 2020 under planning permission 20/00003/DISCON.

Reason: In the interests of highway safety in accordance with Policy DC11 of the Blyth Valley Development Control Policies DPD.

Date of Report: 15.09.2021

Background Papers: Planning application file(s) 21/02638/VARYCO