

DATED 7 September 2017

- (1) THE COUNCIL OF THE BOROUGH OF SOUTH
TYNESIDE
- (2) SIEMENS PLC
- (3) MILLER HOMES LIMITED

AGREEMENT

Pursuant to section 106 of the Town and Country Planning Act
1990 relating to Land at South Drive/Victoria Road, West
Hebburn, Tyne & Wear, NE31 1UJ

DATE

7 September

2017

PARTIES

- (1) **THE COUNCIL OF THE BOROUGH OF SOUTH TYNESIDE** of Town Hall & Civic Offices, Westoe Road, South Shields NE33 2RL (the **Council**);
- (2) **SIEMENS PLC** (Company Registration Number 00727817) whose registered offices are Faraday House, Sir William Siemens Square, Frimley, Camberley, Surrey GU16 8QD (the **Owner**); and
- (3) **MILLER HOMES LIMITED** (Company Registration Number SC255429) whose registered offices are Miller House, 2 Lochside View, Edinburgh Park, Edinburgh EH12 9DH (the **Developer**).

INTRODUCTION

- (A) The Council is the local planning authority for the purposes of the Act for the area within which the Land is situated.
- (B) The Owner is the registered proprietor of the Land with freehold title absolute registered at the Land Registry under title numbers TY364146 and TY62828 and possessory title of title number TY539913. The Developer has entered into a contract with the Owner to buy the Site dated 17 February 2017.
- (C) The Owner and Developer submitted the Planning Application to the Council which was registered by the Council on 24 August 2016. The Planning Application seeks Planning Permission for the Development on the Land.
- (D) The Planning Application is awaiting determination by the Council and the Owner and Developer wish to enter into the planning obligations herein specified with the intention that if the Council grants Planning Permission pursuant to the Planning Application the Council will be able to enforce the planning obligations pursuant to section 106 of the Act.
- (E) The Council is satisfied that the obligations in this Deed are necessary to make the Development acceptable in planning terms, directly related to the Development, and fairly and reasonably related in scale and kind to the Development.
- (F) The Council is satisfied and the parties hereto agree that the obligations contained herein comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010.

IT IS AGREED

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Deed, including the introduction and the schedule, the following definitions shall apply unless the context otherwise requires:

The Act

the Town and Country Planning Act 1990 as amended;

Affordable Housing

subsidised housing as defined in Annex 2 of the National Planning Policy Framework (or as subsequently amended or replaced) that will be available to persons who cannot afford to rent or buy housing generally available on the open market;

Affordable Housing Scheme

the scheme for the provision of Affordable Housing on the Land, and as shown on the Masterplan, consisting of:

- (a) 4 x 2 bed Intermediate Units; and
- (b) 9 x 3 bed Intermediate Units,

the type and location of each aforementioned Intermediate Unit being shown coloured in green and marked with a blue circle on the Masterplan; and

- (c) 26 x 2 bed Affordable Rented Units;
- (d) 4 x 3 bed Affordable Rented Units,

the type and location of each aforementioned Affordable Rented Unit being shown coloured in green and marked with a red circle on the Masterplan,

or such other scheme for the provision of Affordable Housing in substitution for it as may be subsequently agreed with the Council in writing prior to the construction of the Affordable Housing Units

Affordable Housing Units

those Dwellings to be constructed as part of the Development in accordance with the Affordable Housing Scheme to be made available either as Affordable Rented Units or Intermediate Units owned and managed by a Registered Provider;

Affordable Housing Release Contribution

a sum to be calculated as follows:

A-B

Where:

A= the Market Value of the Affordable Housing Units at the time that the Affordable Housing Units are offered for sale on the open market on the assumption they are not subject to the restrictions contained in paragraph 1 (Affordable Housing) of Schedule 1 of this Agreement

B= the Market Value of the Affordable Housing Unit(s) at the time that the Affordable Housing Units are offered for sale on the open market on the following assumptions:

- a) The Affordable Housing Units being subject to the restrictions contained in paragraph 1 (Affordable Housing) of Schedule 1 of this Agreement;
- b) The open market being that for Affordable Housing and the willing buyer being a Registered Provider; and
- c) The sale to the Registered Provider containing such terms as are necessary so as to secure the restrictions specified in paragraph 1 (Affordable Housing) of Schedule 1 to this Agreement are complied with.

Affordable Rent

means the rent payable by individual households for the Affordable Rented Units which shall be subject to rent controls that require a rent of no more than 80 (eighty) per cent of the local market rent (inclusive of service charges) in the vicinity of the Land;

Affordable Rented Units

those Dwellings to be provided on the Land in accordance with the Affordable Housing Scheme which are owned and managed by a Registered Provider and subject at all times to an Affordable Rent;

Butterfly Bund

the bank or bund intended to create a habitat for butterflies the location and manner of construction as specified in the Butterfly Management Plan;

Butterfly Management Plan

The document at Appendix 2 and headed "Butterfly Mitigation Strategy and Management Plan Revision 0~~3~~" and dated May 2017;

Chargee

a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security

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documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a Receiver)) of the whole or any part of the Affordable Housing Units or any persons or bodies deriving title through such mortgagee or chargee or Receiver;

Commencement of Development;

the carrying out on the Land or any part thereof by any party of any material operation begun in accordance with the provisions of section 56(4) of the Act pursuant to the Planning Permission other than any works of demolition of a building or site clearance works, construction of a new site access, works relating to the Butterfly Bund and the Habitat Enhancement Works, preliminary drainage works, archaeological works, site or soil investigating, erection of site huts or compounds, erection of hoardings or fences, diversion and laying of services, the temporary display of site notices or advertisements, treatment and/or removal of any demolition material pursuant to the Planning Permission and the words "Commence" and "Commenced" shall be construed accordingly;

Contributions

the Education Contribution and the Ecological Mitigation Contribution and Contribution shall mean either of them;

Completion Period

the Offer Period and such further period following expiry of the Offer Period as may be reasonably required to enable a conveyance of the Affordable Housing Units from the Owner to the Registered Provider;

The Development

development on the land of 334 residential units with associated access, landscaping and open space;

Dwelling

a residential unit to be constructed on the Land pursuant to the Planning Permission;

Ecological Mitigation Contribution

the sum of £13,446.00 to be paid to the Council for:

- (a) the maintenance by the Council of the Habitat Enhancement Areas following completion of the Habitat Enhancement Works;
- (b) the installation or construction by the Council within the LWS in such manner as it sees fit of bins, benches, bollards or other furniture or features; and
- (c) a new public display or information board (or similar) for the Butterfly Bund.

Education Contribution

the amounts specified in paragraph 2 of Schedule 1 to be paid to the Council for:

- (a) the development, re-development, refurbishment, improvement and / or extension of Toner Avenue Primary School, Hebburn, South Tyneside; and / or
- (b) the development, re-development, refurbishment, improvement and / or extension of St Aloysius' Roman Catholic Schools, Hebburn, South Tyneside;

The Expert

an independent person appointed in accordance with the provisions of clause 13 to determine a dispute;

Habitat Enhancement Works

works for the enhancement of the Habitat Enhancement Areas to improve their suitability for priority butterfly species as detailed in the Butterfly Management Plan;

Habitat Enhancement Areas

those parts of the LWS identified as areas for habitat enhancement and hatched in black on the plan at Appendix 2 to Butterfly Management Plan;

Highways Agreement

the agreement to secure the carrying out of improvements to existing highways as follows:

A194 / Mill Lane Junction, A185 / Mill Lane Junction, Mill Lane / Monkton Lane Junction, A185 / Station Road / Hall Road junction, Station Road / Glen Street / Hedgeley Road junction, Glen Street / North Farm Road / A185, A185 / Albert Road junction, Pedestrian Crossing Improvements on the A185, footpaths and cycle areas within Hebburn,

such agreement to be substantially in the form set out in Schedule 4;

Intermediate Units

shall have that meaning ascribed to it in Annex 2 of the National Planning Policy Framework document published by DCLG in March 2012 (or as subsequently amended or replaced) (and such definition includes a unit provided by way of a Shared Ownership Lease or such other intermediate product as agreed in writing with the Council);

Land

the land shown for illustrative purposes edged red on the Plan being land at South Drive/Victoria Road West, Hebburn, Tyne & Wear NE31 1UJ, and registered at the Land Registry under title numbers TY364146 and TY62828 with freehold title absolute, and title number TY539913 with possessory title;

Level Crossing Works Contribution

the sum of £45,906.52 payable to the Council for the provision of the Level Crossing Works;

Level Crossing Works

- (a) the provision of new / improved signage for pedestrians and cyclists at the railway pedestrian crossing adjacent to South Drive, Hebburn; and
- (b) other localised safety improvements including removal of existing trip hazards, installation of anti-trespass guards and relocation of crossing gates to the decision points with associated fence alterations;

in accordance with details and specifications to be agreed between Network Rail and Nexus and approved by the Council;

LWS

the land within the ownership of the Council and designated as the Hebburn Riverside Local Wildlife Site, Hebburn;

Market Housing Units

the units which are general market housing for sale on the open market and which are not Affordable Housing;

Market Value

the value for which the Dwelling(s) should exchange on the date of valuation on the open market between a willing buyer and a willing seller in an arm's length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion;

Masterplan

the masterplan for the Development at Appendix 3 and carrying reference number 544-MIL SD-10.01 Rev AL and showing (amongst other things) the location of each of the Affordable Housing Units by reference to its tenure and house type (including number of bedrooms);

Nexus

the executive body being the passenger transport executive for the North East Combined Authority';

Nomination Agreement

agreement for the Council to nominate Occupiers for the Affordable Housing in the manner set out in Schedule 3;

Occupation

occupation of the Development for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security occupations and Occupied and "Occupy" and "Occupier" shall be construed accordingly;

Offer Documentation

plans, drawings, specifications and other documentation which any Registered Provider would reasonably require in order to make an offer for the Affordable Housing Units;

Offer Price

a price which reasonably permits the Registered Provider to provide the Affordable Housing Units as Affordable Housing in accordance with the tenure, location and type of Dwellings as specified in the Affordable Housing Scheme;

Offer Period

a period of six months from issue by the Owner to a Registered Provider of the Offer Documentation for the Affordable Housing Units;

Plan

the plan at Appendix 4;

Planning Application

the application for Planning Permission given reference number ST/0773/16/FUL by the Council seeking Planning Permission on the Land for the Development;

Planning Permission

the planning permission that may be granted pursuant to the Planning Application substantially in the form set out in Appendix 1;

Practical Completion

the issue of a certificate of practical completion by the NHBC (or equivalent) in respect of the Development;

Protected Tenant

any tenant (and any such tenant's successor in title) who:

- (a) has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit
- (b) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit
- (c) has been granted a Shared Ownership Lease by a Registered Provider (or similar arrangement where a share of the Affordable Housing Unit is owned by the tenant and a share is owned by the Registered Provider) in respect of a particular Affordable Housing Unit and the tenant has subsequently purchased from the Registered Provider all the remaining shares so that the tenant owns the entire Affordable Housing Unit;

Registered Provider

a not-for-profit registered provider of social housing or other such body which is registered as a "Registered Provider" of social housing pursuant to section 112 of the Housing and Regeneration Act 2008;

Shared Ownership Lease

such lease as shall from time to time be in accordance with the Homes & Communities Agency model form of Shared Ownership Lease or such other successor body's model form of lease;

Working Day

any day (apart from Saturday, Sunday, Christmas Day, Good Friday and any statutory bank holiday or other day during the Christmas period on which the Council's offices are closed to the public) on which clearing banks in the City of London are open for the transaction of ordinary business and Working Days shall be construed accordingly.

2. INTERPRETATION

Unless the context otherwise requires:

- 2.1 Words incorporating the singular include the plural and vice versa and words importing any gender include every gender.
- 2.2 References to natural persons are to include corporations and vice versa.
- 2.3 Words denoting an obligation on a party to do any act matter or thing include an obligation to procure that it be done and words placing a party under a restriction include an obligation not to cause permit or suffer any infringement of the restriction.
- 2.4 References in this Deed to statutes shall include any statute amending re-enacting or made pursuant to the same as current and enforced from time to time.
- 2.5 If any provisions of this Deed shall be held to be invalid illegal or unenforceable, the validity legality and enforceability of the remaining provisions will not in any way be deemed thereby to be affected impaired or called into question.
- 2.6 References to "the parties" shall mean the parties to the deed and reference to "party" shall mean any one of the parties.
- 2.7 The Interpretation Act 1978 shall apply to this Deed.
- 2.8 The clause and paragraph headings and the recitals are purely to aid interpretation, are for reference purposes only, and have no binding legal effect. Unless otherwise indicated, references to clauses and Schedules are to clauses of and Schedules to this Deed and references in a Schedule to a Part or paragraph are to a Part or paragraph of that Schedule
- 2.9 Where in this deed a party includes more than one person any obligations of that party shall be joint and several.
- 2.10 No person shall be bound by or shall enforce (as the case may be) any obligations rights and duties contained in this Deed and/or be liable for a breach of this Deed:
 - 2.10.1 after he shall have parted with all interest in the Land or that part in respect of which such obligations rights and duties relate and/or such breach occurred but without prejudice to liability for any subsisting breach which occurred prior to parting with such interest; and
 - 2.10.2 to the extent that such obligation right duty and/or breach relates to any part of the Land in which the person has no interest.
- 2.11 The expressions "the Owner", and "the Council" shall include their respective successors in title and assigns.

3. STATUTORY AUTHORITY AND LEGAL EFFECT

- 3.1 This Deed is made pursuant to section 106 of the Act and all other powers enabling which may be relevant for the purpose of giving validity to this Deed.

- 3.2 Without prejudice to the generality to clause 3.1 this Deed is further made pursuant to sections 111 and 120 of the Local Government Act 1972 and Section 1 Localism Act 2011 insofar as the same may be relevant to the enforcement of the obligations contained therein.
- 3.3 The obligations of the Owner in this Deed are planning obligations for the purposes of section 106 of the Act and are enforceable by the Council as local planning authority.
- 3.4 If the Planning Permission expires (within the meanings of sections 91, 92 or 93 of the Act) or is revoked or otherwise withdrawn before Commencement of the Development, this Deed shall forthwith determine and cease to have effect.
- 3.5 Nothing in this Deed shall be construed as prohibiting or limiting any right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.
- 3.6 Nothing in this Deed shall be construed as restricting the exercise by the Council of any powers exercisable by it under the Act or under any other Act or any statutory instrument, order or bye-law in the exercise of its functions as a local authority.
- 3.7 Except for the obligations contained in paragraphs 1.5 and 1.6 of Schedule 1 which shall apply to the Affordable Housing Units, the obligations contained in this Deed shall not be construed as binding any individual purchaser (or his mortgagee or chargee) or lessee or tenant of any Dwelling to be constructed on the Land pursuant to the Planning Permission.
- 3.8 The obligations contained in this Agreement shall not be construed as binding on or against any statutory undertaker or utility company in relation to any part or parts of the Land acquired by them for their purposes or for electricity sub-stations, gas governor stations or pumping stations or against anyone whose only interest in the Land or any part of it is in the nature of an easement or covenant.
- 4. CONDITION PRECEDENT**
- 4.1 The obligations contained in this Deed shall not be enforceable by the Council until the grant of the Planning Permission and (except where the obligation is stated to or has effect prior to the Commencement of Development) the Commencement of Development save for the provisions of clause 5.1 which shall come into effect on Completion of this Deed.
- 5. COSTS**
- 5.1 The Developer agrees to pay to the Council on the signing of this Deed its reasonable costs of and incidental to the preparation and execution of this Deed amounting to £2,250.
- 6. OBLIGATIONS**
- 6.1 The Owner covenants agrees and declares in respect of the Land as set out in Schedule 1.
- 7. DEVELOPER'S CONSENT**
- 7.1 The Developer acknowledges and declares that this Deed has been entered into by the Owner with its consent and that the interest of the Owner shall be bound by the terms of this Deed PROVIDED THAT the Developer shall otherwise have no liability under this Deed unless it becomes a successor in title to the Owner in which case the Developer too will be bound by the obligations in this Deed as a person deriving title from the Owner.
- 8. THE COUNCIL'S COVENANTS**
- 8.1 The Council covenants with the Owner as set out in Schedule 2.
- 8.2 The Council shall issue the Planning Permission as soon as reasonably practicable following completion of this Deed .
- 9. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**
- 9.1 For the purposes of the Contract (Rights of Third Parties) Act 1999 nothing in this Deed shall confer on any third party any right to enforce any benefit or any terms of this Deed
- 10. LOCAL LAND CHARGES**
- 10.1 This Deed is a local land charge for the purposes of the Local Land Charges Act 1975 and may be registered as such against the Land.

- 10.2 If the Planning Permission expires unimplemented, or is revoked, or if all obligations under this Deed have been discharged then the registered charge shall be treated as having ceased to have effect and the Council shall cancel the registration.
11. **NOTICES**
- 11.1 Any notice consent or approval given under this Deed shall be in writing and shall be delivered personally or sent by pre-paid first class recorded delivery post or special delivery to the recipient at the address stated in this Deed or such other address for service as a party to be served may have previously notified in writing.
- 11.2 In the case of the Council, the address for service shall be upon the Council's Solicitor at the address aforesaid or such other person or such other address for service as shall have been previously notified by the Council to the Owner.
- 11.3 Each notice served in accordance with this clause shall be deemed to have been given or made and delivered if by delivery when left at the relevant address or if by letter 48 hours after posting.
12. **JURISDICTION**
- 12.1 This Deed is governed by and interpreted in accordance with the law of England and Wales.
13. **RESOLUTION OF DISPUTE**
- 13.1 In the event of any dispute arising between the parties, the parties will attempt to resolve that dispute amicably including holding a meeting attended by at least one representative from each party.
- 13.2 If the parties are unable to resolve the dispute amicably pursuant to clause 13.1, one party may by serving notice on all the other parties (the **Notice**) refer the dispute to an Expert for determination.
- 13.3 The Notice must specify:
- 13.3.1 the nature basis and brief description of the dispute;
 - 13.3.2 the clause or paragraph of this Deed pursuant to which the dispute has arisen; and
 - 13.3.3 the name and address of the proposed Expert.
- 13.4 In the event that the parties are unable to agree whom should be appointed as an Expert within 10 Working Days after the date of the Notice then either party may request to the President of the Law Society to nominate the Expert at their joint expense
- 13.5 The Expert shall act as an expert and not as an arbitrator and his decision will (in the absence of manifest error) be final and binding on the parties hereto and at whose cost shall be at his discretion or in the event that he makes no determination, such costs will be borne by the parties to the dispute in equal shares.
- 13.6 The Expert will be appointed subject to an express requirement that he reaches his decision and communicates it to the parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not later than 28 Working Days from the date of his appointment to act.
- 13.7 The Expert will be required to give notice to each of the said parties inviting each of them to submit to him within 10 Working Days written submissions and supporting material and will afford to each of the said parties an opportunity to make counter submissions within a further 5 Working Days in respect of any such submission and material.
14. **CHANGE IN OWNERSHIP**
- 14.1 Save for any individual Dwelling erected on the Land and any disposal to a statutory undertaker/utility company the Owner agrees with the Council to give the Council immediate written notice of any change in ownership of the interest of the Owner in the Land such change in ownership occurring before all the obligations under this Deed have been discharged, such notice to give details of the transferee's full name and registered office (if a

company or usual address if not) together with the area of the land transferred by reference to a plan.

15. **COMMUNITY INFRASTRUCTURE LEVY**

15.1 If after the date of this Deed the Council implements the provisions relating to Community Infrastructure Levy pursuant to the Planning Act 2008 as amended and has a charging schedule that has been approved and taken effect and as a consequence thereof any obligations under this Deed or under any condition attached to the Planning Permission change so that the Owner must pay a sum of money to any person (whether HM Government or to the Council or otherwise) which would duplicate, add to or overlap with any obligation of a party under this Deed then the parties agree that the terms of this Deed may at the election of the party affected be modified to such extent (if any) as is necessary to provide terms which are financially and practically no less advantageous and no more onerous than the terms of this Deed as at the date that they are entered into.

16. **VAT**

16.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

SCHEDULE 1
Obligations of the Owner

The Owner in respect of the Land hereby covenants with the Council with the intent that these are planning obligations for the purposes of section 106 of the Act as follows:

- 1. Affordable Housing**
- 1.1 Not to Occupy or cause or permit Occupation of any Dwelling until the Owner has:
 - 1.1.1 actively marketed the Affordable Housing Units to one or more Registered Providers during the Offer Period;
 - 1.1.2 in respect of an interested Registered Provider, within the Offer Period provided Offer Documentation in relation to the Affordable Housing Units to the Registered Provider and invited the Registered Provider to make a written offer to purchase the Affordable Housing Units at the Offer Price; and
 - 1.1.3 in the event the Registered Provider for whatever reason fails to enter into a contract for the disposal of the Affordable Housing Units, continued during the Offer Period to actively market the Affordable Housing Units and invited written offers from alternative Registered Providers and used all reasonable endeavours within the Offer Period to enter into a contract with such alternative Registered Provider as many times as may be necessary for the disposal of the Affordable Housing Units by the end of the Completion Period.
- 1.2 No more than 35% of the Market Housing Units on the Land shall be Occupied until 30% of the Affordable Housing Units have been constructed in accordance with the Planning Permission and made ready for residential Occupation and written notification thereof has been received by the Council.
- 1.3 No more than 70% of the Market Housing Units on the Land shall be Occupied until 60% of the Affordable Housing Units have been constructed in accordance with the Planning Permission and made ready for residential Occupation and written notification thereof has been received by the Council.
- 1.4 No more than 97.5% of the Market Housing Units on the Land shall be Occupied until 100% of the Affordable Housing Units have been constructed in accordance with the Planning Permission and made ready for residential Occupation and written notification thereof has been received by the Council.
- 1.5 From the date of Practical Completion of the Affordable Housing Units they shall not be used or Occupied other than for Affordable Housing in strict accordance with the Affordable Housing Scheme other than by:
 - 1.5.1 any Protected Tenant or any mortgagee or Chargee or receiver of the Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and their respective mortgagees and chargees; or
 - 1.5.2 any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor or any successor in title thereto.
- 1.6 Not to Occupy or cause or permit Occupation of any the Affordable Rented Units except in accordance with the Nomination Agreement.
- 1.7 In the event that the Owner having complied with its obligations in paragraph 1.1 is unable to secure a transfer of the Affordable Housing Units to a Registered Provider within the Completion Period, to:
 - 1.7.1 notify the Council of that fact within 10 (ten) working days thereof; and
 - 1.7.2 submit evidence of its compliance with paragraph 1.1 to the Council.
- 1.8 In the event that the Council (acting reasonably) confirms in writing that it is satisfied that the Owner has complied with its obligations in paragraph 1.1:

- 1.8.1 the Owner shall be free to dispose of the relevant Affordable Housing Units on the open market as Market Housing Units and the requirements of sub-paragraphs 1.2- 1.6 shall not apply; and
- 1.8.2 the Owner shall pay the Affordable Housing Release Contribution on or before Occupation of 35% of the Market Housing Units or such later trigger as may be agreed in writing with the Council.
- 1.9 None of the provisions of this Deed shall be enforceable against a Chargee of any Registered Provider pursuant to any default under the terms of the Registered Provider's mortgage or charge or their successors in title and any Dwelling they may be interested in shall be free of the obligations and constraints herein given.
- 2. Education Contribution**
- 2.1 The Owner shall pay to the Council the Education Contribution as follows:
- 2.1.1 £700,000 prior to Occupation of the first Dwelling on the Land; and
- 2.1.2 £700,000 prior to Occupation of 121 Dwellings on the Land.
- 3. Highway Funding**
- The Owner shall not Occupy or permit Occupation of any dwellings comprised within the Development without first entering into the Highways Agreement with the Council.
- 4. Ecological Mitigation**
- 4.1 The Owner shall:
- 4.1.1 prior to any of the following: (a) the carrying out any material operation (as that term is defined in section 56(4) of the Act) on the Land; (b) the carrying out of any other preparatory works on the Land related to the carrying out of the Development; or (c) the bringing onto the Land of any vehicles, equipment or apparatus that may potentially result in disturbance of any butterfly habitats on the Land, construct the Butterfly Bund and carry out the Habitat Enhancement Works to the Habitat Enhancement Areas, in each case in accordance with the Butterfly Management Plan;
- 4.1.2 upon notification by the Council that the Butterfly Bund is satisfactorily constructed in accordance with the Butterfly Management Plan:
- (a) maintain the Butterfly Bund for a period of 5 years thereafter in accordance with the Butterfly Management Plan or such other arrangements for maintenance as may be agreed in writing between the Council and the Owner; or
- (b) in the event it fails to comply with its obligations in sub-paragraph 4.1.2(a), to pay to the Council its reasonable costs in maintaining the Butterfly Bund in default, for the period as specified;
- 4.1.3 enter into such licence or licences for access to the LWS as the Council may reasonably require so as to enable the Owner to comply with its obligations contained in sub-paragraphs 4.1.1 and 4.1.2 (including, without limitation, the making good by the Owner of any damage caused by exercise of the rights and indemnifying the Council for any losses it may incur in respect of such damage);
- 4.1.4 pay to the Council the Ecological Mitigation Contribution as follows:
- (a) £6,150.00 prior to Commencement of the Development; and
- (b) £7,296.00 prior to Occupation of the first Dwelling on the Land.
- 5. Level Crossing Works**
- 5.1 No later than 8 weeks after the Commencement of Development to pay to the Council the Level Crossing Works Contribution towards the costs to be incurred by Network Rail and / or Nexus in carrying out the Level Crossing Works.

5.2 To pay the Level Crossing Works Contribution pursuant to paragraph 5.1 by way of electronic transfer, and to provide to the Council no later than 2 working days prior to the date of such transfer confirmation of the intended payment date and details of the bank account from which such transfer will be made.

6. **Notification**

6.1 To notify the Council upon Occupation of the following within the Development:

6.1.1 the first Dwelling; and

6.1.2 each of the following: the 40th, 80th, 120th, and 200th Dwellings.

SCHEDULE 2
Council's Covenants

The Council covenants with the Owner as follows:

1. **Contribution**
- 1.1 To pay each Contribution into a separately identified interest bearing section of the Council's combined accounts as soon as reasonably practicable after receipt.
- 1.2 Not to use any part of the Contribution other than for the purposes for which it was paid (whether by the Council or another party).
- 1.3 In the event that any part of the Contributions has not been spent or committed for expenditure by the Council within five years following the date of receipt of that Contribution the Council shall refund to the party who made the payment any part of the Contributions which have not been spent or committed for expenditure, together with any accrued interest.
- 1.4 To enter into such licence or licences with the Owner in respect of the LWS as may reasonably be required to enable the Owner to comply with its obligations sub-paragraph 4.1.1 and 4.1.2 of Schedule 1.
- 1.5 To pay the Level Crossing Works Contribution to Nexus within 10 working days of receiving such payment.

SCHEDULE 3
Nomination Agreement

1. **BACKGROUND**
- 1.1 This Nomination Agreement comprises part of the requirements of a planning obligation under section 106 of the Town and Country Planning Act 1990 between (1) The Council of the Borough of South Tyneside (2) Siemens PLC and (3) Miller Homes Limited on the date hereof (the 's106 Agreement')
- 1.2 The Council may so far as reasonable and having regard to its overall housing objectives require the Registered Provider to enter into such revised Nomination Agreement in substitution for this Schedule 3.
- 1.3 The Council operates a choice based lettings allocation scheme 'Your Choice'. All nominations shall be made in accordance with this scheme or any replacement scheme.
- 1.4 For the avoidance of doubt it is agreed that this Nomination Agreement shall only bind the Affordable Rented Units and no other Dwelling.
2. **TRUE VOIDS**
- 2.1 "True Voids" Comprise:
 - 2.1.1 voids within new build / newly built rehabilitated schemes;
 - 2.1.2 voids created where a tenant moves to another landlord where no reciprocal arrangements exist;
 - 2.1.3 voids created by the death of a tenant where there is no statutory right to succeed;
 - 2.1.4 voids created because of a transfer to another borough (unless the transfer is due to harassment or domestic violence);
 - 2.1.5 voids created by a tenant buying their own property in the private sector;
 - 2.1.6 voids created by eviction or abandonment of a property; and
 - 2.1.7 voids created because of a permanent decant, unless the property is re-let to a tenant who is being decanted.
3. **NON-TRUE VOIDS**
- 3.1 "Non-True Voids" comprise:
 - 3.1.1 voids created as the result of a tenant transfer where the tenant is moving within the borough in which the previous tenancy was situated;
 - 3.1.2 voids created because of a tenant transfer where the tenant is moving to a void owned by the same Housing Association within the district provided that the cross-borough transfer is being carried out because of racial or sexual harassment, domestic violence or extreme social need where the support of relatives is deemed essential; and
 - 3.1.3 voids created by a decanted tenant who is returning.
4. **NOMINATION RIGHTS**
- 4.1 The Council shall have nomination rights in respect of 100% of new build lets and 50% of any nomination rights to any subsequent True Void lets.
5. **NEW BUILD LETS**
- 5.1 The Registered Provider shall notify the Council in writing of the proposed date of completion of the Development.

5.2 Within 3 months of receipt of the notice referred to in clause 5.1 the Council will provide the Registered Provider with a list of nominations (up to 3 nominations per True Void) sufficient to fill all of the Affordable Housing Units.

5.3 In the event of rejections, by either the Registered Provider or any applicant, the Council will provide further nominations until such time as each of the Affordable Housing Units is first Occupied pursuant to a Council nomination

6. **SUBSEQUENT TRUE VOID LETS**

6.1 The Registered Provider shall serve notice on the Council of a vacant Affordable Housing Unit within 14 days of the Affordable Housing Unit becoming vacant or from when it is first known it will become vacant, whichever occurs first.

6.2 The Registered Provider shall request nominations from the Council using the appropriate request form.

6.3 The Council shall advertise the vacant Affordable Housing Unit and invite applications from people listed on the local housing register.

6.4 The Council shall provide a shortlist of up to three applicants to the Registered Provider.

6.5 The Registered Provider shall decide on whether to approve or refuse the applications nominated by the Council.

6.6 The Registered Provider shall advise the Council of any offer of accommodation following a nomination. On acceptance of the offer the Registered Provider shall notify the Council and confirm the tenancy start date.

6.7 The Affordable Housing Provider shall inform the Council of any reasons for refusal should a refusal be made.

6.8 Should the Council nomination fail then the Registered Provider may offer the property to a person from their own list. This will be classified as a Council nomination provided that applicant is also registered on the Council register. If the applicant is not registered with the Council it shall not be classed as a Council nomination.

6.9 Should the percentage of successful Council nominations fall below 50% to any material extent at any time, the Council and Registered Provider shall adopt a procedure to Council nominations so as to ensure the percentage of successful nominations achieves 50% and in the event of failing to agree such procedure the matter shall be referred for dispute resolution in accordance with clause 13 of the 106 Agreement.

7. **MONITORING**

7.1 The Registered Provider will record details of all lettings made to nominations in the Continuous Recording of Lettings (CORE) as required by the Homes and Communities Agency.

8. **INCUMBRANCES**

The Council hereby acknowledges that the provisions of this Agreement are personal to the Council (and any successor body of the Council) and the Registered Provider (and any successor body of the Registered Provider which is a Registered Provider as defined by the Housing and Regeneration Act 2008) and shall not bind any tenant, leaseholder or other owner or occupier of the Affordable Housing Units or their mortgagees or the Registered Provider or any successor body or its or their successors in title nor any receiver appointed by any such mortgagee nor any successors in title of any such mortgagee of the Registered Provider or of such successor body acting through such receiver

SCHEDULE 4
Highways Agreement

DATED

2017

**THE COUNCIL OF THE BOROUGH OF SOUTH TYNESIDE
AND
[DEVELOPER]**

AGREEMENT

pursuant to Section 278 of the Highways Act 1980 and Section 111 of the Local Government Act 1972 relating to the carrying out of works on existing highways at [•]

**MIKE HARDING
Head of Legal Services
Town Hall and Civic Offices
South Shields**

Ref: []

THIS AGREEMENT is made on

201[]

BETWEEN

- 1) **THE COUNCIL OF THE BOROUGH OF SOUTH TYNESIDE** of Town Hall and Civic Offices, Westoe Road, South Shields NE33 2RL (**the Council**)
- 2) **[•] of [•] (the Developer)**

WHEREAS

- A. The Council is the highway authority for the area in which the Development is situated.
- B. The Developer has the benefit of Planning Permission for the Development in the vicinity of the Roads and has (with other persons) entered into the Planning Obligation for the purposes of making the Development acceptable in planning terms.
- C. To secure compliance with the Planning Obligation the Developer has now requested the Council to execute the works on the Roads as described below for the benefit of the land comprised in the Development.
- D. The Council is authorised by virtue of the 1980 Act Part V to carry out the Highway Works subject to the terms of this agreement the Council is prepared to carry out those works.
- E. This agreement is made pursuant to the 1980 Act Section 278 section 111 Local Government Act 1972 and all other enabling powers.
- F. The Council is satisfied that this agreement will be of benefit to the public.

NOW IT IS HEREBY AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1. In this Agreement:

- 1.1.1. "the 1980 Act" means the Highways Act 1980;
- 1.1.2. "Highway Works" the works to the Roads for which the Council is authorised to execute pursuant to Section 278 of the 1980 Act, as more particularly described in the second column of the Schedule, including incidental Air Quality Monitoring along the A185 corridor;
- 1.1.3. "Planning Obligation" means the planning obligations contained in paragraph [•] of Schedule [•] to an agreement dated [•] entered into by the Council, the Developer and others under section 106 Town and Country Planning Act 1990;
- 1.1.4. "Proper Officer" means the Council's highway engineer or other officer for the time being acting through its Corporate Director of Economic Regeneration;
- 1.1.5. "the Roads" means those publicly maintainable highways listed at column 1 of the Schedule;
- 1.2. words importing one gender shall be construed as importing any other gender;
- 1.3. words importing the singular shall be construed as importing the plural and vice versa;
- 1.4. words importing persons shall be construed as importing a corporate body or a partnership and vice versa;
- 1.5. where any party comprises more than one person the obligations and liabilities of that party under this Agreement shall be joint and several obligations and liabilities of those persons;
- 1.6. the clause headings do not form part of this Agreement and shall not be taken into account in its construction or interpretation;

- 1.7. reference to any recital, clause, sub-clause or schedule without further designation is a reference to the recital, clause, sub-clause or schedule of this Agreement so numbered;
- 1.8. reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended re-enacted or consolidated and all statutory instruments or orders made pursuant to it; and
- 1.9. unless the context otherwise admits, words and phrases defined in the Planning Obligation shall have the same meaning in this Agreement.

2. PAYMENTS TO BE MADE BY DEVELOPER

- 2.1. Subject to the Commencement of the Development the Developer shall make payments to the Council in connection with the Highway Works as follows:
- 2.1.1. £204,093.84 prior to Occupation of the first Dwelling on the Land;
- 2.1.2. £200,000.00 prior to Occupation of 41 Dwellings on the Land;
- 2.1.3. £200,000.00 prior to Occupation of 81 Dwellings on the Land;
- 2.1.4. £200,000.00 prior to Occupation of 121 Dwellings on the Land; and
- 2.1.5. £400,000.00 prior to Occupation of 201 Dwellings on the Land.

- 2.2. The sums referred to in clause 2.1 above do not include sums payable under clause 3 (Legal costs).

3. LEGAL COSTS

- 3.1. The Developer shall on the date of this Agreement pay £250.00 (two hundred and fifty pounds) towards the Council's legal costs incurred in connection with the preparation and completion of this Agreement.

4. INTEREST ON OVERDUE PAYMENTS

- 4.1. If any payment due under any of the provisions of this agreement is not made on or before the date on which it is due ('the Due Date') the party from whom it was due shall at the same time as making the payment pay to the other party interest at 3% above the base rate of Nat West Bank PLC as at the Due Date for the period starting with the Due Date and ending with the date on which payment of the sum on which interest is payable is made.

5. EXECUTION OF WORKS AND CLAWBACK

- 5.1. The Council covenants with the Developer that it will comply with its obligations contained in this Agreement.
- 5.2. The Council covenants with the Developer to design, construct and complete the Highway Works as soon as reasonably practicable having regard to its own programmes of works as may exist from time to time. For the avoidance of doubt this obligation shall not require the Council to consult with the Developer on (or seeks its approval for) the design, construction or completion, or timing of delivery of, the Highway Works.
- 5.3. In the event that any part of the sums payable pursuant to clause 2.1 has not been spent or committed for expenditure by the Council within 5 years following the date of receipt of that particular sum towards the Highway Works, the Council shall refund to the Developer any part of the sum which have not been spent or committed for expenditure, together with any accrued interest.
- 5.4. If the Planning Permission lapses or is revoked, then this Agreement shall lapse and be of no further effect.

IN WITNESS whereof this Deed has been executed on the day and year first before mentioned

**Schedule
Highway Improvements**

Relevant highways	Description of highway works
A194 / Mill Lane Junction	Significant junction improvements as defined as part of major scheme proposals. These will include the signalisation of the roundabout, along with provision of additional carriageway where possible.
A185 / Mill Lane Junction	Junction Improvements to increase the traffic movements at the junction, providing suitable land is available. Traffic Signal Upgrades including CCTV installation, improved traffic loops to monitor the junction and maximise the traffic signal through-put at the junction.
Mill Lane / Monkton Lane Junction Improvements	Introduction of a more formalised roundabout, given the scale of proposed development associated with this application.
A185 / Station Road / Hall Road junction	Traffic Signal Upgrades including CCTV installation, improved traffic loops to monitor the junction and maximise the traffic signal through-put at the junction
Station Road / Glen Street / Hedgeley Road junction	Traffic Signal Upgrades including CCTV installation, improved traffic loops to monitor the junction and maximise the traffic signal through-put at the junction
Glen Street / North Farm Road / A185	Concerns with rat-running between the A185 / Station Road via North Farm Road / Glen Street
A185 / Albert Road junction	Traffic Signal Upgrades including CCTV installation, improved traffic loops to monitor the junction and maximise the traffic signal through-put at the junction
Pedestrian Crossing Improvements on the A185	Consideration to formalised crossing facilities along the key road network. Especially to educational, community facilities.
Pedestrian and cycle routes in Hebburn area	Improvements to walking and cycling routes throughout the Hebburn area, including some or all of the following:- <ul style="list-style-type: none"> • Route Improvements • Signage • Dropped Kerb provision • Cycle Parking

THE COMMON SEAL of THE COUNCIL OF)
THE BOROUGH OF SOUTH TYNESIDE was)
hereunto affixed in the presence of:)

.....
Authorised signatory

EXECUTED as a **DEED** by •)

acting by:

.....
Director

.....
Director/Secretary

APPENDIX 1
Draft Planning Permission



South Tyneside Council

DRAFT NOTICE OF GRANT OF PLANNING PERMISSION Town and Country Planning Act 1990 Town and Country Planning (Development Management Procedure) (England) Order 2015

Contact Name and Address:
Nathaniel Lichfield and Partners
The St Nicholas Building
St Nicholas Street
Newcastle-upon-Tyne
NE1 1RF

Application No: ST/0773/16/FUL
Date of Issue: XXXXXX

FAO: Mr Dominic Smith

In pursuance of their powers under the above mentioned Acts, South Tyneside Council as Local Planning Authority hereby **GRANT** planning permission for the following:

PROPOSAL: Residential development comprising 334 no. residential units with associated access, landscaping and open space

LOCATION: Site of Former Siemens and Narec Clothier Laboratories, South Drive/Victoria Road West, Hebburn, NE31 1UJ

In accordance with your application dated 29 July 2016

SUBJECT TO THE FOLLOWING CONDITION(S) AND REASON(S):

1 Time Limit

The development to which this permission relates must be commenced not later than 3 years from the date of this permission.

As required by Section 91 of the Town and Country Planning Act 1990 and to ensure that the development is carried out within a reasonable time.

2 Approved Plans

The development shall be carried out in accordance with the approved plan(s)
The development shall be carried out in accordance with the approved plan(s) as detailed below

Drg No 544-MIL SD-10.01 Rev AL (Masterplan as Proposed) received 04/05/2017

Drg No 544-MIL SD-10.04 Rev R (Boundary Treatment) received 04/05/2017

Drg No 544-MIL SD-30.24 (Hawthorne House Type) received 15/12/2016

Drg No 3138013 (Waingroves House Type) received 20/12/2016

Drg No 515-MIL SD30.23 (Jura House - Type Brick and Part Render) received 02/08/2016

Drg No 515-MIL SD30.22 (Jura House Type - Brick) received 02/08/2016

Drg No 515-MIL SD30.21 (Buttermere House Type Brick and Part Render) received 02/08/2016

Drg No 515-MIL SD30.20 (Buttermere House Type - Brick) received 02/08/2016
Drg No 515-MIL SD30.19 (Tressell House Type) received 02/08/2016
Drg No 515-MIL SD30.18 (Mitford House Type - Brick and Part Render)
received 02/08/2016
Drg No 515-MIL SD30.17 (Mitford House Type - Brick) received 02/08/2016
Drg No 515-MIL SD30.16 (Stevenson House Type - Brick and Part Render)
received 02/08/2016
Drg No 515-MIL SD30.15 (Stevenson House Type - Brick) received 02/08/2016
Drg No 515-MIL SD30.14 (Bunchan House Type) received 02/08/2016
Drg No 515-MIL SD30.13 (Travers House Type) received 02/08/2016
Drg No 515-MIL SD30.12 (Esk House Type - Brick and Part Render) received
02/08/2016
Drg No 515-MIL SD30.11 (Esk House Type - Brick) received 02/08/2016
Drg No 515-MIL SD30.10 (Larkin House Type) received 02/08/2016
Drg No 515-MIL SD30.09 (Hardwicke House Type) received 02/08/2016
Drg No 515-MIL SD30.08 (Kipling House Type) received 02/08/2016
Drg No 515-MIL SD30.07 (Orwell House Type) received 02/08/2016
Drg No 515-MIL SD30.06 (Tweed House Type) received 02/08/2016
Drg No 515-MIL SD30.05 (Tolkien House Type) received 02/08/2016
Drg No 515-MIL SD30.04 (Yare House Type) received 02/08/2016
Drg No 544-MIL SD30.03 (Apartment Block) received 02/08/2016
Drg No 515-MIL SD30.02 (HT3 House Type) received 02/08/2016
Drg No 515-MIL SD30.01 (HT2 House Type) received 02/08/2016

Any minor material changes to the approved plans will require a formal planning application under S73 of the Town and Country Planning Act 1990 to vary this condition and substitute alternative plans.

In order to provide a procedure to seek approval of proposed minor material change which is not substantially different from that which has been approved.

3 External Materials

Notwithstanding the details shown on Drawing Number 544-MIL SD-10.05 Revision B (Surface and Elevation Treatment Plan), prior to the commencement of any construction works above ground level, samples and details of all external materials for the proposed buildings and hard surfaced areas, including roads, footways and parking bays, shall be submitted to and approved in writing by the Local Planning Authority. All works shall be carried out in accordance with the approved details.

To ensure a satisfactory standard of development in the interests of visual amenity and highways safety in accordance with Policy DM1 of the South Tyneside Local Development Framework.

4 Contaminated Land

Notwithstanding the reports submitted, an investigation and risk assessment must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site.

An addendum gas monitoring risk assessment report which details the results of the outstanding gas monitoring visits should be submitted to the local planning authority for approval. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include (i) a survey of the

extent, scale and nature of contamination; (ii) an assessment of the potential risks to human health, property (existing or proposed) and (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Where this risk assessment indicates that gas protection measures are required an addendum remediation statement shall be submitted to the local planning authority for approval.

To ensure the site is suitable for the proposed end use in accordance with Core Strategy Policy EA5 and Development Management Policy DM1 of the South Tyneside Local Development Framework.

- 5 A Detailed Remediation Strategy for the proposed remedial works shall be submitted to, and approved in writing by the Local Planning Authority prior to commencing remedial works. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. Where remediation of gas has been identified as necessary by the site investigation a verification plan shall be submitted for the proposed gas protection measures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

To ensure the site is suitable for the proposed end use in accordance with Core Strategy Policy EA5 and Development Management Policy DM1 of the South Tyneside Local Development Framework.

- 6 Following completion of measures identified in the approved remediation strategy, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority prior to the site being occupied.

To ensure the site is suitable for the proposed end use in accordance with Core Strategy Policy EA5 and Development Management Policy DM1 of the South Tyneside Local Development Framework.

- 7 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. Sufficient detail should be provided identifying how the unexpected contamination will be dealt with.

To ensure the site is suitable for the proposed end use in accordance with Core Strategy Policy EA5 and Development Management Policy DM1 of the South Tyneside Local Development Framework.

8 Landscape

The development shall not be commenced, with the exception of any contaminated land remediation works, until a soft landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include details of the type, height, species, densities, tree pits, root protection barriers, topsoil depths, and location of all new trees and shrubs as well as any proposed seeding/ turfing. The scheme shall include details of the phasing of landscape works to secure completion of planting, on a phase by phase basis, before respective dwellings are occupied. Any newly

planted tree or shrub that is removed, dies or becomes seriously damaged or diseased within a period of 5 years from the completion of the respective phase, shall be replaced not later than the next planting season after the loss or damage has been identified, by others of similar size and species (unless otherwise agreed in writing by the Local Planning Authority).

In order to soften the visual appearance of the development and to provide any appropriate screening in accordance with Policy DM1 (C) of the South Tyneside Local Development Framework.

- 9 The development hereby approved shall not be commenced, and there shall be no plant, machinery or building materials brought on to the site, until all trees to be retained have been protected by fencing and load bearing cellular confinement cells to BS5837 and as specified in the document "Tree Protection Plan and Arboricultural Method Statement" Revision 09 received on 18 May 2017 and as shown on Drawing Number ECO3 - TPP - 4671 - V10 (Tree Protection Plan) received 18 May 2017. Notices shall be attached to the fencing, stating 'Protected Zone - No Access, Disturbance, Storage or Contamination within Protected Area'. The protective fencing shall be maintained in position and in good order during the carrying out of the operational development hereby approved. Works, including the excavation, removal or deposit of earth or other materials shall not be carried out within any area enclosed by protective fencing without the written prior consent of the Local Planning Authority.

To ensure that the health of retained trees within the site is adequately protected during the period of construction in accordance with Policy DM1 of the South Tyneside Local Development Framework.

- 10 The dwellings hereby approved shall not be brought into use until a schedule of soft landscape maintenance, for a minimum period of 5 years, has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include details of the frequency and operations to be undertaken and arrangements for its implementation with regard to the approved soft landscape scheme, with the exception of the soft landscaping within the rear gardens of the proposed dwellings. The approved soft landscape scheme shall be maintained in accordance with the approved schedule, unless otherwise agreed in writing by the Local Planning Authority.

In order to ensure a satisfactory standard of development in the interests of enhancing the amenity of the area in accordance with Development Management Policy DM1 of the South Tyneside Local Development Framework.

- 11 Flood Risk

Development shall not commence until a detailed scheme, for the off-site works that are necessary to facilitate the disposal of surface water from the development hereby approved, has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and the Lead Local Flood Authority. Thereafter the development shall be carried out in accordance with the approved details.

To prevent the increased risk of flooding from any sources in accordance with Development Management Policy DM1 of the South Tyneside Local Development Framework.

- 12 Notwithstanding the information already provided within the Drainage Strategy Plan (Drawing Number QD1183-00-04 Rev C) received 15 November 2016, no construction shall be commenced upon the hereby approved development until the precise details of a drainage strategy to provide a scheme of surface water drainage for the development has been submitted to and agreed in writing by the Local Planning Authority. This drainage strategy shall include the following information and it shall then be completed on site:

- Include drawings and calculations detailing exceedance amounts from the drainage for extreme storms including 1 in 30 year event and 1 in 100 year event plus 40% climate change;
- Identify that there will be no flooding from a 1 in 30 year event from the drainage on-site, and no internal flooding of any on-site buildings, and no off-site flooding for a 1 in 100 year event plus 40% climate change; where exceedances are indicated overland flow plans shall be submitted;
- Include a timetable for its implementation; and
- Provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

To prevent flooding in accordance with Development Management Policy DM1 of the South Tyneside Local Development Framework.

13 Biodiversity

Prior to any works being undertaken to facilitate the hereby approved development, a detailed methodology shall be submitted to and agreed in writing by the Local Planning Authority for the proposed removal, storage and relocation of turves from within the application site to the proposed off-site butterfly bund. The agreed details must then be carried out on site.

In the interests of safeguarding the Dingy Skipper Butterfly in accordance with both the applicant's Ecological Appraisal Revision 10 received 24 April 2017 and the Butterfly Mitigation Strategy and Management Plan Revision 03 received 8 May 2017, and in accordance with Core Strategy Policy E3 and Development Management Policy DM7 of the South.

14 Metro Line/Railway Safety

The dwellings adjacent to the metro/railway lines hereby approved shall not be brought into use until the proposed tref kerbs have been provided in the locations shown on the Track Protection Plan (Drawing No 544-MIL SD-10.07 Rev A) received 04 May 2017.

In order to ensure a satisfactory standard of development in the interests of the safety of the metro/railway line in accordance with Development Management Policy DM1 of the South Tyneside Local Development Framework.

- 15 No dwelling hereby approved shall be brought into use until details of the proposed pedestrian level crossing safety improvement works to the existing pedestrian level crossing at South Drive as recommended in Section 7.3.5 of the document "Level Crossing Risk Assessment" (March 2017) received on 10 March 2017 (including the removal of existing trip hazards, the relocation of the decision point signage, the installation of anti-trespass guards, the relocation of the crossing gates and the installation of signage advising cyclists to dismount and that dogs are kept on a lead), have been submitted to and approved in writing by the Local Planning Authority. Following the approval of the

improvement works by the Local Planning Authority the improvement works shall then be completed in their entirety in accordance with the approved details prior to the first occupation of any dwelling.

In order to ensure a satisfactory standard of development in the interests of the safety of the metro/railway line in accordance with Development Management Policy DM1 of the South Tyneside Local Development Framework.

16 Highways

A phasing and implementation plan shall be agreed before construction works commence on site, with the exception of any contaminated land remediation works, in respect of the hereby approved vehicular accesses from Victoria Road West and the proposed off-site highway works to Victoria Road West shown on Drawing Number QD1183-20-11 Revision F (Road Markings 1) received 18 May 2017. The development must then be undertaken in accordance with the agreed details.

To provide a satisfactory standard of development in the interests of highway safety in accordance with Development Management Policy DM1 of the South Tyneside Local Development Framework

17 Residential Amenity

The dwellings hereby approved shall be subject to the following glazing enhancement works and shall not be occupied until these works have been completed on site, and once installed these noise mitigation measures must be retained henceforth:

i) With regard to properties along Victoria Road West, the specification of glazing in upstairs and downstairs habitable rooms should mitigate external noise by at least 40dB, to be achieved with a specification of 10mm/12mm/6.4mm PVB.

ii) With regard to properties that adjoin metro line, the specification of glazing in upstairs habitable rooms should mitigate external noise by at least 49dB, to be achieved with a specification of 10mm/200mm/6mm.

iii) With regard to ground floor rooms that adjoin the metro line the glazing should provide a reduction of at least 33dB, to be achieved with a specification of 6mm/12mm/6mm.

iv) With regard to first floor habitable rooms that adjoin the metro line, the glazing should provide a reduction of at least 36dB, to be achieved with a specification of 10mm/12mm/4mm.

To ensure a satisfactory standard of development in the interests of residential amenity in accordance with the "Assessment of Noise Levels and Noise Amelioration Measures" document (Report No. MH/VRW/002) received 25 October 2016 and in accordance with Development Management Policy DM1 of the South Tyneside Local Development Framework.

- 18 No dwelling hereby approved along the boundary with the metro line, the Victoria Industrial Estate and Victoria Road West shall be brought into use until a detailed scheme of acoustic ventilation for each dwelling has been submitted to and approved in writing by the Local Planning Authority, as advised in the "Assessment of Noise Levels and Noise Amelioration Measures" document (Report No. MH/VRW/002) received 25 October 2016.

The approved form of ventilation shall be retained thereafter.

To ensure a satisfactory standard of development in the interests of residential amenity in accordance with Development Management Policy DM1 of the South Tyneside Local Development Framework.

- 19 No construction shall be undertaken on site, with the exception of any land contamination remediation works, until such a time as a phasing and implementation plan for the completion of the proposed noise barrier as shown on Drawing Number 544-MIL SD-10.04 Revision R (Proposed Boundary Treatment) received 04 May 2017 has been submitted and approved in writing by the Planning Authority. The noise barrier must comprise an acoustic fence and earth bund and it shall be constructed at an effective height of 3.5 metres in its entirety and with a mass of 10-12 kg/sq metre adjacent to the boundary with the Tyne and Wear Metro Line and the Victoria Road Industrial Estate. The acoustic fences and earth bunds shall be retained thereafter.

To ensure a satisfactory standard of development in the interests of residential amenity in accordance with Development Management Policy DM1 of the South Tyneside Local Development Framework.

- 20 No demolition, construction or associated works or deliveries of materials shall take place outside the hours of 8am - 6pm Monday to Friday and 9am - 1pm on Saturdays and no such works or deliveries shall be carried out at any time on Sundays or public holidays.

To safeguard the amenity of the nearby residents, in accordance with Development Management Policy DM1 (B) of the South Tyneside Local Development Framework.

- 21 Prior to the first occupation Plot No. 180 (Tolkien House Type) of the development hereby permitted, all windows of the proposed dwelling facing the common boundary with No. 1 Parkside shall be glazed with obscure glass to a level sufficient to protect the privacy of neighbouring occupiers. The form of windows and obscure glazing shall be retained thereafter.

To ensure the protection of privacy for neighbouring occupiers, and in the interests of residential amenity, in accordance with South Tyneside LDF Development Management Policy DM1.

- 22 Visual Amenity - Boundary Treatments

Notwithstanding the provisions of Article 3 and Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development Order 2015 (as amended) (or any order revoking and re-enacting that order with or without modification) no improvement or other alteration shall be carried out nor shall any structure be erected within the curtilage of the dwellings hereby approved, without an application for planning permission having first been made to and approved in writing by the Local Planning Authority.

To retain control over the future development of boundary treatments in the interests of visual amenity in accordance with Development Management Policy DM1 of Local Development Framework

To retain control over the future development of boundary treatments in the interests of visual amenity in accordance with Development Management Policy DM1 of Local Development Framework

23 Levels

Notwithstanding the information already submitted, detailed drawings for each phase of the development hereby approved with the existing and proposed site levels and the finished floor levels of each phase, fixed to a datum point off-site, shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be completed entirely in accordance with the submitted details.

To safeguard the amenities of the area in accordance with Development Management Policy DM1 of the South Tyneside Local Development Framework.

NOTES TO APPLICANT:

- 1 This notice of grant of planning permission should be read in conjunction with the associated planning obligations (s106) agreement between (1) The Council of the Borough of South Tyneside, (2) Siemens PLC and (3) Miller Homes Limited.
- 2 The Council requires the developer to provide to each unit before first occupation a 240l refuse bin and a 240l recycling bin to the Council's specification in order that the council can fulfil its obligation to collect and dispose of household waste. Details of the Council's specifications can be obtained from Waste Services at South Tyneside Council
- 3 In dealing with this application the Council has implemented the requirements of the National Planning Policy Framework (paragraphs 186 & 187) to seek to approve applications for sustainable development where possible.
- 4 Northumbrian Water Ltd have stated that only following the discharge of the condition with regard to the submission and approval of a detailed scheme for the off-site works necessary to facilitate the disposal of surface water from the development hereby approved could an application be made to them for a new sewer connection under Section 106 of the Water Industry Act 1991.
- 5 The Coal Authority have stated that if any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: www.gov.uk/coalauthority
- 6 The Northumbria Police Architectural Liaison Officer would like the applicant to consider applying for SBD (Secured By Design) certification.
- 7 The Council's Environmental Protection Section have advised that the developer should provide the contaminated land reports to on-site workers and they should also consider the document HSE (1991) 'Protection of Workers and the General Public during the Development of Contaminated Land' or other similar guidance during any site works.
- 8 The Council's Countryside Officer has requested that the results of the monitoring survey and any remedial actions proposed as set out in section H.1.6 of the Butterfly report should be submitted to the Countryside Officer for approval. The timing of this monitoring survey should take place in the 3rd year after the implementation of the butterfly habitat establishment works.

- 9 Nexus have advised that an Asset Protection Agreement between Nexus and the Developer may be required with regard to the proposed level crossing improvements. The details of the improvement works must be agreed between the Developer, Nexus and Network Rail and shall be carried out before the first dwelling is occupied.
- 10 Nexus have advised that the Flood Risk Assessment and Drainage Strategy recommends surface water discharge to the west of the site on a route that takes it under the Metro tracks. There appears to be a 450 diameter foul sewer running under the track at this location already. Nexus requires the details of the scheme to be designed and installed with the full agreement of Nexus and the Applicant must enter into an Asset Protection Agreement for the duration of the work. This will include the payment of Nexus' internal costs as well as any external consultants that Nexus may need to employ in order to verify the design.
- 11 NNexus have advised that with regard to the Acoustic fence provided along western site boundary with rail line, no damage to the Nexus Rail boundary fencing should result from the works, the Nexus Rail boundary fence is not to be removed, Nexus Rail maintenance access to the fence is not to be reduced as a result of the works, and Nexus Rail fencing post foundations are not to be undermined with fencing posts staggered not coinciding the Nexus Rail posts.
- 12 Nexus have advised that with regard to the proposed buffer planting, where trees/shrubs are to be planted adjacent to the railway boundary these should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. They would wish to be involved in the approval of any landscaping schemes adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to the Nexus boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Nexus from maintaining its boundary fencing.
- 13 Nexus have advised that they require 24/7 access to South Drive Track Access Point and Pedestrian Level Crossing, and this access is not to be compromised during construction.
- 14 Nexus have advised that Nexus Rail Engineers must to inspect and sign off the proposed trief kerbing works at each location as they are constructed.
- 15 Network Rail have advised that:
 - i) With regard to Asset Protection, the applicant must liaise with Network Rail to ensure safe working adjacent to the operational railway infrastructure and that the development has no adverse impact on property.
 - ii) With regard to drainage, all surface and foul water arising from the proposed works must be collected and diverted away from Network Rail property.
 - iii) With regard to Fail Safe Use of Crane and Plant, all operations adjacent to Network Rail's property, must be carried out in a "fail safe" manner.
 - iv) With regard to Excavations/Earthworks, all excavations/earthworks carried out in the vicinity of Network Rail property/ structures must not interfere with its integrity. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail.

- v) With regard to security of Mutual Boundary, security of the railway boundary will need to be maintained at all times.
- vi) With regard to Network Rail's existing fencing/wall, this must not be removed or damaged.
- vii) With regard to Method Statements/Fail Safe/Possessions, method statements may require to be submitted to Network Rail's Asset Protection Project Manager for approval prior to works commencing on site.

16 Network Rail have advised that:

- i) With regard to OPE, once planning permission has been granted the Asset Protection Project Manager (OPE) MUST be contacted to view any method statements/drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the railway.
- ii) With regard to demolition, any demolition or refurbishment works must not be carried out on the development site that may endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures and must be carried out in accordance with an agreed method statement.
- iii) With regard to Vibro-impact Machinery, where vibro-compaction machinery is to be used, details and a method statement should be submitted for the approval prior to the commencement of works.
- iv) With regard to Encroachment, the developer must ensure that their proposal, both during construction, and after completion, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures.
- v) With regard to Trees/Shrubs/Landscaping, where planted adjacent to the railway boundary these should be positioned at a minimum distance greater than their predicted mature height from the boundary. We would wish to be involved in the approval of any landscaping scheme adjacent to the railway.
- vi) With regard to lighting, where new lighting is to be erected adjacent to the operational railway the potential for train drivers to be dazzled must be eliminated. In addition, the location and colour of lights must not give rise to the potential for confusion with the signalling arrangement on the railway. Details of any external lighting should be provided.
- vii) With regard to access to the Railway, all roads, paths or ways providing access to any part of the railway underta



George Mansbridge
Head of Development Services

Your attention is drawn to the attached schedule of notes which form part of this notice

NOTES

- 1 This certificate is issued under the Town and Country Planning Acts, Regulations and Orders and does not constitute a permission, approval or consent by South Tyneside Council for any other purpose whatsoever. Applications must therefore be made to the appropriate Departments of the Council for any other permission, approval or consent (including Building Regulations approval or approval of South Tyneside Council as ground landlord where appropriate) which may be necessary in connection with the proposed development or anything incidental thereto, or the use to be made of the premises which form the subject of such development.
- 2 You may also require permissions, approvals or consents under other legislation, or from bodies other than South Tyneside Council. This could include works affecting a public sewer, gas main, or electricity line, works within the adopted highway, works affecting a public right of way, property covenants, legislation relating to disabled persons, land drainage consent, waste management consent, scheduled monument consent or works affecting protected habitats or species.
3. Any non-material change to the approved plan(s) that form part of this permission would require the submission of an application for a non-material change under section 96A of the Town and Country Planning Act 1990. Whether changes to a proposed development are considered non-material is a matter for Planning Authority discretion.
- 4 The approved development should be implemented in strict compliance with all of the planning conditions, and in particular any which require details to be approved prior to the commencement of the development. Failure to do so may result in any commencement of development being unauthorised, which could be liable to enforcement action.
- 5 If you wish to change, or not comply with, any of the planning conditions attached to the permission, then you will need to submit a new application for planning permission under section 73 of the Town and Country Planning Act 1990. This does not affect your statutory rights of appeal against any of the planning conditions. This includes if you wish to not comply with a condition attached to a permission which details the approved plan(s), so as to make a minor material change to the approved plan(s). A minor material change is defined as one whose scale and nature results in a development that is not substantially different from that which has been approved.
- 6 Your attention is drawn to your responsibilities under the Chronically Sick and Disabled Persons Act 1970 and the Disability Discrimination Act 1995 relating to disabled persons, to ensure that adequate attention has been paid to their needs. If the proposed development involves new or existing buildings to which the public are to be admitted, or offices, shops, railway premises, factories or educational buildings, provision should be made for the means of access, parking and sanitary conveniences to meet the needs of disabled people. In addition, appropriate signposting of the facilities should be provided. In carrying out these statutory obligations your attention is drawn to the "Code of Practice for Access for the Disabled to Buildings" (BS5810:1979). You are advised to seek professional advice to ensure that you meet your legal obligations under the Disability Discrimination Act 1995, especially with regard to Part III thereof.

APPEALS TO THE SECRETARY OF STATE

7 Only the applicant possesses the right of appeal

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice unless:

- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice [reference no. if applicable], if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice; or
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of service of the enforcement notice, or within 6 months of the date of this notice, whichever period expires earlier.

Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at <https://acp.planninginspectorate.gov.uk>

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

PURCHASE NOTICES

- 8 If permission to develop land is granted subject to conditions, whether by South Tyneside Council as local planning authority or by the Secretary of State for Communities and Local Government, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances the owner may serve a purchase notice on the Council, requiring the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

APPENDIX 2
Butterfly Mitigation Strategy and Management Plan



BUTTERFLY MITIGATION STRATEGY AND MANAGEMENT PLAN

VICTORIA ROAD WEST & HEBBURN RIVERSIDE PARK



MAY
2017

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REPORT VERSION	STATUS	DATE	CHANGES	AUTHOR	PROOF READ	APPROVED
R01	Draft	13.10.16	1 st Issue	MP	EG	JS
R02	FINAL	06.12.16	UPDATED PLANS	MR		
R03	FINAL	07.12.16	UPDATED PLANS	DB		
R04	Draft	23.12.16	LPA Comments	MP	MR	JS

Unless requested otherwise, the information below will be provided to the Environmental Records Centre for the North East (ERIC)

Species	Recorder	Date	Location (6 Fig. NGR)	Abundance	Comment
Dingy skipper	E3	23.05.16	NZ3063	Peak count - 3	-

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A. SUMMARY

E3 Ecology Ltd was commissioned by Miller Homes in October 2016 to complete an offsite butterfly Mitigation Strategy and Management Plan for Victoria Road, Hebburn to support a planning application for the development of residential properties within the site. In consultation with the Local Authority Ecologist it was determined that mitigation proposals for the development would be offsite within the extended area around the adjacent Hebburn Riverside Local Wildlife Site, as it is not possible to provide compensation habitats on site.

Consultation with MAGIC map and the Local Records Centre indicated the presence of one Local Nature Reserve (LNR), seven Local Wildlife Sites (LWS) and one Site of Local Conservation Importance (SLCI) present within 2km of Victoria Rd. West. Two of these, Walker Railway Station LWS and Walker Riverside LWS, have known colonies of dingy skipper. Consultation also identified the following butterfly species within 2km: small heath, dingy skipper and wall.

Survey indicated that the development area comprises a mosaic of blocks of woodland, dense scrub, hard standing, ephemeral short perennial habitat, marshy grassland and semi improved neutral grassland. Ephemeral short perennial vegetation and semi-improved neutral grassland habitats within the site boundaries were noted to include high densities of the larval food plants of the priority species small heath and wall and the priority and local action plan species dingy skipper and grayling. The site was assessed for butterfly species from June-July 2016 adapting the methodology of the UK Butterfly Monitoring Scheme (UKBMS).

An assemblage of thirteen butterfly species were recorded on site, with two of these being of high conservation priority nationally; small heath (Priority species (research only) and a Butterfly Conservation Species of High Priority) and dingy skipper (National Priority species, Butterfly Conservation Species of High Priority and a Durham BAP (Biodiversity Action Plan) species). The peak count for each of these species was five and three respectively. Over the six surveys of the site 208 butterflies were recorded in total. Overall the value of the site to priority invertebrate species is considered to be of Parish value.

As suitable onsite mitigation was not possible, it is proposed to create and manage suitable habitat for priority butterfly species within the neighbouring Hebburn Riverside LWS and council landholding surrounding it. This management plan provides details of locations of proposed mitigation and compensation features as provided within the ecological appraisal survey report and prescriptions for the management of habitats in the long term.

Key mitigation and compensatory measures include:

- A bank / bund will be created within an area of amenity grassland within the extended Hebburn Riverside LWS area (but outside of the LWS boundary). This bank/bund will be seeded and plug planted with larval food plants for priority species and nectar sources suitable to a range of invertebrates. In addition, small turves including bird's foot trefoil plants from the development site, will be identified by the project ecologist and translocated to the butterfly bank with the aim of translocating dingy skipper from the development site to the habitat creation site. The bund will be created prior to the commencement of development on site.
- Existing suitable butterfly habitats within the Hebburn Riverside LWS (to the south of the bund) will be subject to a one-off enhancement programme intended to improve their suitability for priority butterfly species.
- Landscape proposals within the site boundary (onsite mitigation) will include an 'ecological corridor' along the eastern, western and southern boundary. Native planting should be implemented within this buffer and will be designed to enhance structural

diversity, and will include plants bearing flowers, nectar and fruits which are attractive to invertebrates.

- Translocation of turves will be completed in line with a method statement in order to ensure that the work is completed appropriately and that no invasive species such as Japanese knotweed are translocated into the receptor area.

The local planning authority is likely to require the means of delivery of the mitigation to be identified. It is recommended that mitigation and enhancement proposals are incorporated into the master-planning documents.

If you are assessing this report for a local planning authority and have any difficulties interpreting plans and figures from a scanned version of the report, E3 Ecology Ltd would be happy to email a PDF copy to you. Please contact us on 01434 230982.

B. INTRODUCTION

E3 Ecology Ltd was commissioned by Miller Homes in October 2016 to complete a Butterfly Mitigation Strategy and Management Plan for offsite compensation within Hebburn Riverside Local Wildlife Site (LWS) and the extended area around it, to mitigate for the development of land at the neighbouring Victoria Road West.

B.1 BACKGROUND TO DEVELOPMENT

The LWS is located adjacent to the River Tyne in Hebburn, Gateshead at an approximate central grid reference of NZ300639. The extended land holding of the council and area of habitat creation is located to the north of the. The LWS, extended landholding and development site location is illustrated below in Figure 1.

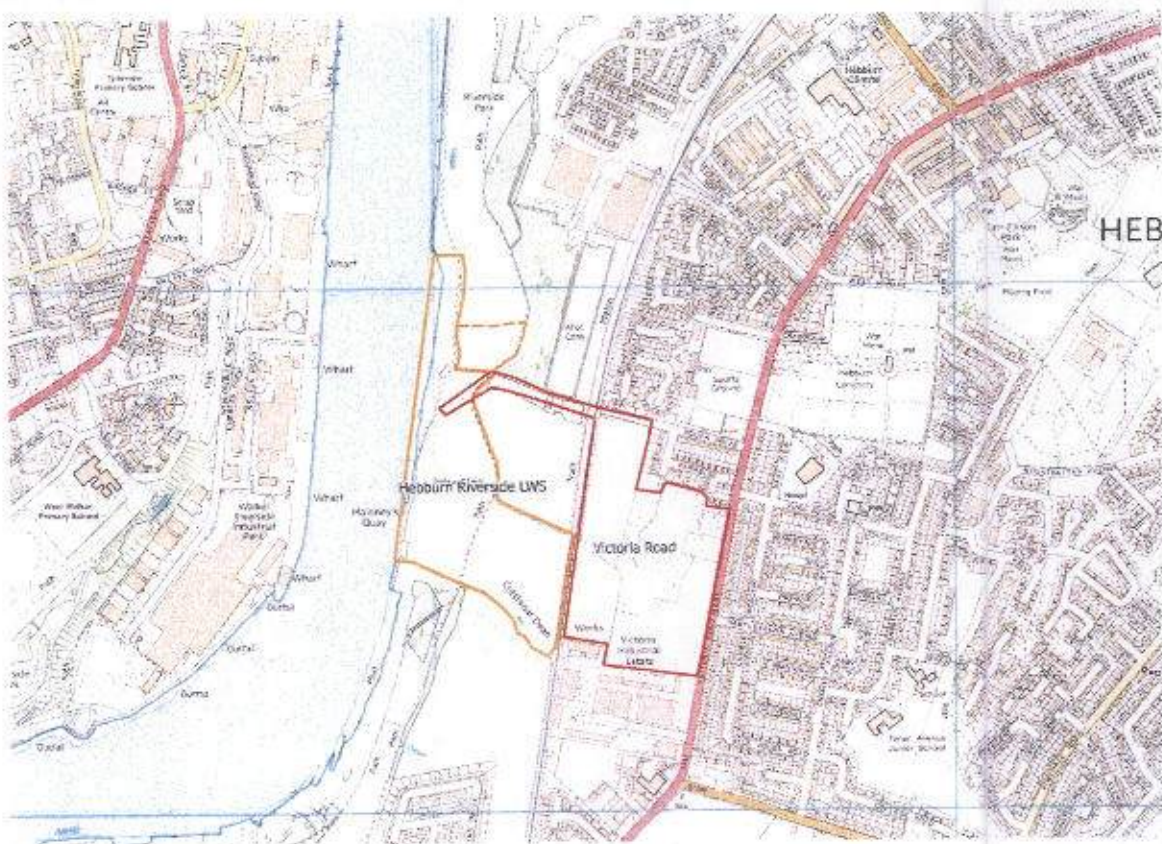


FIGURE 1: SITE LOCATION
(Reproduced from the ordnance survey map under licence)

B.2 CURRENT DEVELOPMENT INFORMATION

It is proposed to develop 334 residential properties within Victoria Rd. west. Plans currently include the creation of two access points along the eastern site boundary with associated visibility splays. Proposals are illustrated below.

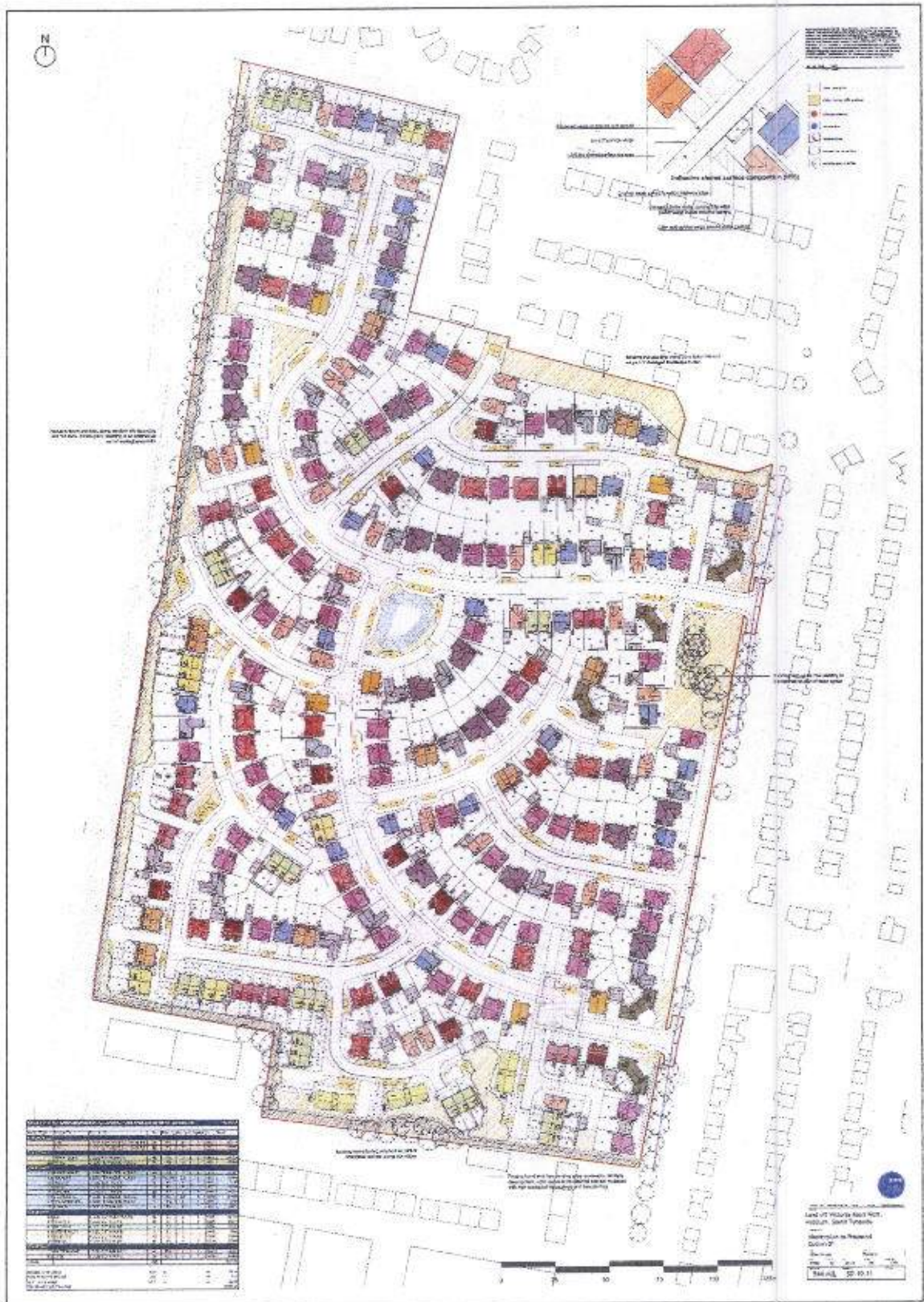


FIGURE 2: DEVELOPMENT PROPOSALS (SD-10.01:POD ARCHITECTS)

B.3 PLANNING POLICY AND LEGISLATIVE CONTEXT

B.3.1 NATIONAL PLANNING POLICY

Table 1 details the key paragraphs from the National Planning Policy Framework (NPPF)¹ relating to the natural environment:

TABLE 1: NATIONAL PLANNING POLICY FRAMEWORK: NATURAL ENVIRONMENT	
Statement	Paragraph
The planning system should contribute to and enhance the natural and local environment by: <ul style="list-style-type: none"> ○ Recognising the wider benefits of ecosystem services; ○ Minimising impacts on biodiversity and providing net gains in biodiversity where possible 	109
Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value.	111
Local planning authorities should set criteria based policies against which proposals for any development on or affecting protected wildlife sites will be judged. Distinctions should be made between the hierarchy of international, national and locally designated sites so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks	113
To minimise impacts on biodiversity, planning policies should: <ul style="list-style-type: none"> ○ Promote the preservation, restoration and re-creation of priority habitats ecological networks and the protection and recovery of priority species populations, linked to national and local targets 	117
When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principals: <ul style="list-style-type: none"> ○ If significant harm resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; ○ Development proposals where the primary objective is to conserve or enhance biodiversity should be permitted; ○ Opportunities to incorporate biodiversity in and around developments should be encouraged; ○ Planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees, found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss 	118
By encouraging good design, planning policies and decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation	125

Section 40 of the Natural Environment and Rural Communities Act 2006, places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity.

Planning Practice Guidance² states:

- *'The National Planning Policy Framework is clear that pursuing sustainable development includes moving from a net loss of biodiversity to achieving net gains for nature, and that a core principle for planning is that it should contribute to conserving and enhancing the natural environment and reducing pollution' (para. 007).*
- *'Information on biodiversity impacts and opportunities should inform all stages of development An ecological survey will be necessary in advance of a planning application if the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate' (para. 016).*
- *'Where an Environmental Impact Assessment is not needed it might still be appropriate to undertake an ecological survey, for example, where protected species may be present' (para. 016).*

¹ National Planning Policy Framework (March 2012), Department for Communities and Local Government.

² Planning Practice Guidance: Natural Environment (www.planningguidance.communities.gov)

- 'Local planning authorities should only require ecological surveys where clearly justified, for example if they consider there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity' (para. 016).
- 'Biodiversity enhancement in and around development should be led by a local understanding of ecological networks, and should seek to include:
 - habitat restoration, re-creation and expansion;
 - improved links between existing sites;
 - buffering of existing important sites;
 - new biodiversity features within development; and
 - securing management for long term enhancement' (para. 017).

B.3.2 PROTECTED SITE LEGISLATION

Details of the legislation surrounding protected sites are provided in the appendices.

B.3.3 PRIORITY SPECIES

Although not afforded any legal protection, national priority species, as listed in Section 41 of the NERC Act (2006), and local and regional priority species, as detailed within the relevant biodiversity action plans, are material considerations in the planning process and as such have been assessed accordingly.

The table below details those butterfly species whose distribution includes the region within which the survey area lies and which are deemed to be a priority at the national level or are listed as local priority species in the relevant local Biodiversity Action Plan. In addition their Butterfly Conservation status is stated along with long term population trends.

Species	National Priority ³	Durham BAP ⁴	Butterfly Conservation Status ⁵	Population Trends ⁶
Dingy Skipper	✓	✓	High	Occurrence trend : -61% Abundance trend : -19%
Green Hairstreak		✓	Medium	Occurrence trend : -30% Abundance trend : -41%
White-letter Hairstreak	✓	✓	High	Occurrence trend : -45% Abundance trend : -96%
Northern Brown Argus	✓	✓	High	Occurrence trend : -27% Abundance trend : -52%
Small Pearl-bordered Fritillary	✓	✓	High	Occurrence trend : -76% Abundance trend : -58%
Dark Green Fritillary		✓	Medium	Occurrence trend : -33% Abundance trend : 186%
Grayling	✓	✓	High	Occurrence trend : -62% Abundance trend : -58%
Wall	✓		High	Occurrence trend : -77% Abundance trend : -87%
Small Heath	✓		High	Occurrence trend : -57% Abundance trend : -54%

³ Listed as species of principal importance within the Natural Environment and Rural Communities Act (2006)

⁴ Durham Biodiversity Action Plan, Durham Biodiversity Partnership (2007)

⁵ As detailed by Butterfly Conservation (www.butterfly-conservation.org)

⁶ Butterfly Conservation, The State of the UK's Butterflies 2015

Species	National Priority ³	Durham BAP ⁴	Butterfly Conservation Status ⁵	Population Trends ⁶
Large Heath	✓		High	Occurrence trend: -58% Abundance trend: 261%

B.4 SCOPE OF STUDY

The scope of the study at Victoria Road West, in terms of the survey area and the desk study area, is based on professional judgement. The scope has been determined based on the site's characteristics, the nature of the surrounding area, the development proposed at the time of reporting and the likely associated zone of influence.

For this site the survey area comprised the red line boundary seen within the accompanying PEA for the site (4671 Victoria Road West PEA R010, E3 Ecology) with, in addition, a 50m buffer around the periphery appraised where access was available. The desk study included an assessment of land-use in the surrounding area and a data search covering a 2km buffer zone (see below for further detail).

B.5 OBJECTIVES OF STUDY

As onsite mitigation for the loss of parish value dingy skipper and invertebrate habitat within the site boundary of Victoria Road West was not possible, the objective of this study was to identify suitable areas within the neighbouring LWS and land around it for offsite mitigation as agreed with the LPA, and to propose habitat creation and enhancement measures within this area.

C. SURVEY AREA AND METHODOLOGY

C.1 SURVEY AREA

Figure 3 illustrates the Victoria Road West, Hebburn Riverside LWS and proposed habitat creation area (extended council landholding) site boundaries whilst, to provide context, Figure 4 illustrates the broad habitats present on site within Victoria Road West and within an approximate 500m buffer zone.



**FIGURE 3: VICTORIA ROAD WEST SITE BOUNDARY (RED)
LOCAL WILDLIFE SITE EXTENT (ORANGE), EXTENDED
LANDHOLDING (ORANGE DASH)
(Reproduced under licence from Google Earth Pro.)**



**FIGURE 4: VICTORIA ROAD SETTING (500M RADIUS)
(Reproduced under licence from Google Earth Pro.)**

The study area has been based on professional judgement using the habitats on site, the surrounding habitats, geographical knowledge of the local area and the nature of the proposed development.

D. BASELINE STUDY OF VICTORIA ROAD WEST

D.1 DESKTOP STUDY METHODOLOGY

Initially, the site was assessed from aerial photographs and 1:25,000 Ordnance Survey maps. Following this, a data request was sent to the Local Records Centre and the Multi Agency Geographic Information for the Countryside (MAGIC) website⁷ was checked for any notable sites.

D.1.1 BASELINE BUTTERFLY SURVEY

D.1.1.1 SURVEY METHODS

A six visit butterfly survey was completed from June-July 2016 focused on areas where potentially suitable habitat for this taxon had been identified. A surveyor walked a transect route, recording all butterflies seen.

The methodology for this transect route is based on that used by the UK's Butterfly Monitoring Scheme (BMS) which in turn is based on techniques assessed by Pollard and Yates (1993)⁸, whereby the surveyor counts the numbers of each species of butterfly seen 2.5m either side and 5m in front whilst walking at a steady pace along the transect in weather suitable for butterfly activity. This has been shown to be an accurate method of assessing change in butterfly distributions and population size over time. Transect walks are undertaken between 10.45am and 3.45pm and only when weather conditions are suitable for butterfly activity: dry conditions, wind speed less than Beaufort scale 5, and temperature 13°C or greater if there is at least 60% sunshine, or more than 17°C if overcast.

D.1.1.2 SURVEY EQUIPMENT

- Close focussing binoculars
- Butterfly net
- ID guide

D.1.1.3 ENVIRONMENTAL CONDITIONS

The table below details the environmental conditions during the butterfly surveys.

DATE	TEMPERATURE	CLOUD COVER	PRECIPITATION	WIND CONDITIONS
14.06.16	15°C	60%	None	WF2 NW
20.06.16	17°C	50%	None	WF2 SW
30.06.16	17°C	80%	None	WF2 SW
08.07.16	22°C	40%	None	WF2 SW
18.07.16	24°C	20%	None	WF0
22.07.16	17°C	40%	None	WF0

⁷ Multi Agency Geographic Information for the Countryside (www.magic.gov.uk)

⁸ Pollard, E., and T. J. Yates. "Monitoring butterflies for ecology and conservation. The British butterfly monitoring scheme. Institute of Terrestrial Ecology and Joint Nature Conservation Committee." (1993)

D.1.1.4 SURVEY CONSTRAINTS

Due to initial access restrictions to the site, the first surveys were undertaken at the end of the dingy skipper flight period and as such, the peak flight period for the site may have been missed.

D.1.1.5 PERSONNEL

The table below details the personnel who undertook the survey work.

Name	Position	Professional Qualifications
Mike Perkins	Graduate Ecologist	BSc MSc
Mark Osborne	Associate Director	BTech (Hons) CEcol MCIEEM
Silas Walton	Ecologist	BSc MSc
Mandy Rackham	Ecologist	BA MSc MCIEEM

Further details of experience and qualifications are available at www.e3ecology.co.uk.

D.2 ASSESSMENT METHODOLOGY

The relative value of the ecological receptors (habitats, species and designated sites) were assessed using a geographical frame of reference. For designated sites this is generally a straightforward process with the assigned designation generally being indicative of a particular value, e.g. Sites of Special Scientific Interest are designated under national legislation and are therefore generally considered to be receptors of national value. The assignment of value to non-designated receptors is less straightforward and as recognised by the Guidelines for Ecological Impact Assessment produced by the Chartered Institute of Ecology and Environmental Management⁹, is a complex and subjective process and requires the application of professional judgement.

When assessing the value of species and habitats, relevant documents and legislation are considered including the lists of species and habitat of principal importance annexed to the NERC Act (2006) and those provided within relevant local Biodiversity Action Plans. Data provided through consultation is also considered. These data sources can provide context at a local, regional and national scale.

The table below provides examples of receptors of value at different geographical scales.

Level of Value	Examples
International	An internationally designated site or candidate site.
	A site meeting criteria for international designation.
	The site is of functional importance** to a species population with internationally important numbers (i.e. >1% of the biogeographic population)
National	A nationally designated site.
	The site is of functional importance** to a species population with nationally important numbers (i.e. >1% of the national population)
Regional	The site is of functional importance** to a species population with regionally important numbers (i.e. >1% of the regional population)
County	A Local Wildlife Site (LWS) or equivalent, designated at a County level
	The site is of functional importance** to a species population of county value (i.e. >1% of the county population)
District	A Local Wildlife Site (LWS) or equivalent, designated at a District level

⁹ Chartered Institute for Ecology and Environmental Management (2016) Guidelines for Ecological Impact Assessment in the UK and Ireland - Terrestrial, Freshwater and Coastal

Level of Value	Examples
	The site is of functional importance** to a species population of district value (i.e. >1% of the district population)
Parish	A species population considered to appreciably enrich the habitat resource within the context of the parish. Local Nature Reserves
Local	A species that contributes to local biodiversity but are not exceptional in the context of the parish.
Low	Habitats that are unexceptional and common to the local area.

** Functional importance defined as 'a feature which, based on professional judgement, is of importance to the day to day functioning of the population, the loss of which would have a detectable adverse effect on that population'.

E. BASELINE VICTORIA ROAD WEST RESULTS

E.1 DESKTOP STUDY

E.1.1 PRE-EXISTING INFORMATION

ORDNANCE SURVEY MAPPING AND AERIAL PHOTOGRAPHY

The land use to the north and west of the site is dominated by residential housing with scattered areas of amenity greenspaces. A small industrial estate is located adjacent to the southern boundary of the site. Land to the west of the site is made up of a mixture of grassland and scrub with the River Tyne ~360m from the western boundary.

The most recent aerial photograph of the development site indicates that habitats on site comprise a mosaic of grassland, bare ground, scrub and small blocs of trees. Historic imagery suggests that the Former Siemens factory (comprising a mix of industrial buildings) was present within the site between 2001 and 2013.

MULTI AGENCY GEOGRAPHIC INFORMATION FOR THE COUNTRYSIDE WEBSITE (WWW.MAGIC.GOV.UK)

The MAGIC website identified the following statutory designated sites within 2km of the development site:

Local Nature Reserves:

- Pelaw Quarry Pond ~600m south east.

E.1.2 CONSULTATION

LOCAL RECORDS CENTRE

The table below summarises the butterfly records provided by the local record centre.

Taxon	Species	No. of Records within 2km	Closest & Date
Butterflies	Small Heath	10	2010 ~1.2km
	Dingy Skipper	17	2010 ~1.2km
	Wall	40	2004 ~400m

In addition, the records centre provided information relating to the following non-statutory designates sites which lie within the search area:

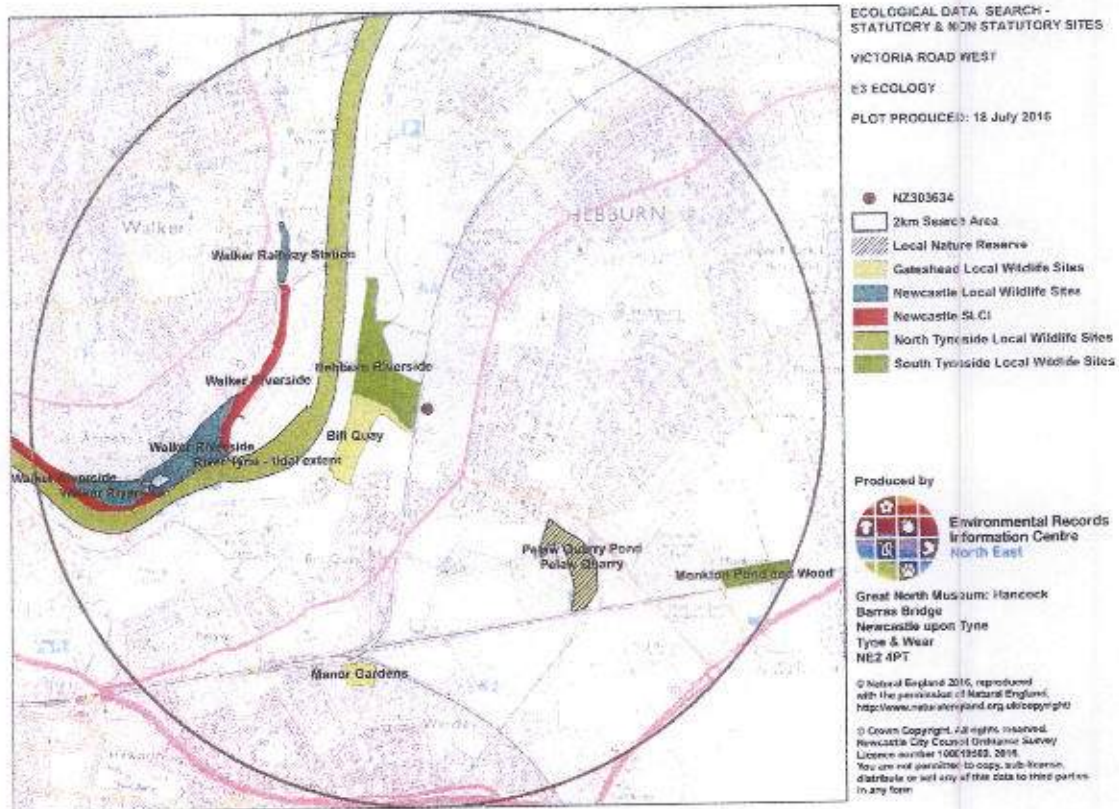


FIGURE 5: DESIGNATED SITES WITHIN 2KM (PRODUCED BY ERIC NE)

Two of these, Walker Railway Station LWS and Walker Riverside LWS, have known colonies of dingy skipper.

E.2 FIELD SURVEY

E.2.1 HABITATS

Survey indicated that the development area comprises a mosaic of blocks of woodland, dense scrub, hard standing, ephemeral short perennial habitat, marshy grassland and semi improved neutral grassland. Ephemeral short perennial vegetation and semi-improved neutral grassland habitats within the site boundaries were noted to include high densities of the larval food plants of the priority species small heath and wall and the priority and local action plan species dingy skipper and grayling. Further information can be found within the accompanying PEA for the site (4671 Victoria Road West PEA R010 E3 Ecology).

The habitats present within the development area and the locations of priority butterfly species are illustrated within the figure below.



FIGURE 6: HABITAT MAP & PRIORITY BUTTERFLY MAP
(REPRODUCED FROM THE ORDNANCE SURVEY MAP UNDER LICENCE)

E.2.2 BUTTERFLY SURVEY RESULTS

The results of detailed butterfly surveys are presented within the table below. Priority species are in bold.

TABLE 7: BUTTERFLY SURVEY RESULTS		
DATE	SPECIES	ABUNDANCE
14.06.16	Large White	3
	Small White	1
	Large Skipper	10
	Small Skipper	2
	Small Heath	6
	Common Blue	4
20.06.16	Large White	1
	Small White	1
	Large Skipper	1
	Dingy Skipper	3
	Small Skipper	10
	Small Copper	3
	Small heath	4
	Common Blue	6
Painted Lady	3	
30.06.16	Small Tortoiseshell	1
	Meadow Brown	2
	Large Skipper	1
	Small Skipper	2

08.07.17	Ringlet	2
	Speckled Wood	1
	Common Blue	3
	Small Tortoiseshell	1
	Meadow Brown	7
	Large Skipper	1
	Small Skipper	5
	Ringlet	48
18.07.16	Small Heath	1
	Common Blue	4
	Large White	2
	Small Tortoiseshell	6
	Meadow Brown	15
	Large Skipper	10
	Ringlet	33
	Small Heath	3
22.07.16	Common Blue	3
	Large White	2
	Small White	1
	Small Tortoiseshell	3
	Meadow Brown	23
	Large Skipper	8
	Small Skipper	72
	Ringlet	18
Common Blue	1	

F. SITE ASSESSMENT

The table below details the peak counts for all species recorded on site and an evaluation of the conservation status of each species.

Species	Peak Count	Butterfly Conservation Priority ¹⁰	Species of Principal Importance ¹¹	Local BAP ¹²	Overview of Regional Status ¹³
Large White	3	Low	-	-	Very common resident
Small White	1	Low	-	-	Very common resident
Large Skipper	10	Low	-	-	Common resident
Small Skipper	72	Low	-	-	Resident, small population first established in Co Durham in 1980s has now spread throughout the county and well into Northumberland
Small Heath	5	High	✓	-	Widespread but declining resident
Common Blue	6	Low	-	-	Common resident

¹⁰ As detailed by Butterfly Conservation (www.butterfly-conservation.org)

¹¹ Listed as species of principal importance within the Natural Environment and Rural Communities Act (2006)

¹² Durham Biodiversity Action Plan, Durham County Council (2007)

¹³ Region taken to be north east England

TABLE 8: EVALUATION OF SURVEY RESULTS

Species	Peak Count	Butterfly Conservation Priority ¹⁰	Species of Principal Importance ¹¹	Local BAP ¹²	Overview of Regional Status ¹³
Dingy Skipper	3	High	✓	✓	Uncommon resident, occurring particularly on former industrial sites.
Small Copper	3	Low	-	-	Resident
Painted Lady	3	Low	-	-	Common migrant
Small Tortoiseshell	6	Low	-	-	Common resident and migrant
Meadow Brown	23	Low	-	-	Very Common resident
Ringlet	48	Low	-	-	Common resident
Speckled Wood	1	Low	-	-	Recently established resident. From initial sightings, mainly in Durham's coastal denes, this species has spread over much of both counties mostly in the years since 2005.

An assemblage of thirteen butterfly species were recorded on site, with two of these being of high conservation priority nationally; small heath (Priority species (research only) and a Butterfly Conservation Species of High Priority) and dingy skipper (Priority species, Butterfly Conservation Species of High Priority and a Durham BAP species). The peak count for each of these species was five and three respectively. Over the six surveys of the site 208 butterflies were recorded in total. The overall value of the site to priority invertebrate species is considered to be of Parish value.

F.1 LIMITATIONS

Due to initial access restrictions to the site, the first surveys were undertaken at the end of the dingy skipper flight period and as such, the peak flight period for the site may have been missed.

G. HABITAT MITIGATION, ENHANCEMENT AND CREATION

In order to mitigate for the loss of parish value dingy skipper and invertebrate habitat and as suitable onsite mitigation was not possible, it is proposed to create and manage suitable habitat for priority butterfly species within the neighboring Hebburn Riverside LWS and land around it. The following three points of habitat mitigation, creation and enhancement proposals should be observed as described below. Details of their locations can be seen below in Figures 7 appendix 2:

1. A bank / bund will be created within an area of amenity grassland within the extended Hebburn Riverside LWS area (but outside of the LWS boundary). This bank/bund will be seeded and plug planted with larval food plants for priority species and nectar sources suitable to a range of invertebrates. In addition, small turves including bird's foot trefoil plants from the development site, will be identified by the project ecologist and translocated to the butterfly bank with the aim of translocating dingy skipper from the development site to the habitat creation site. The bund will be created prior to the commencement of development on site.
2. Existing suitable butterfly habitats within the Hebburn Riverside LWS (to the south of the bund) will be subject to a one-off enhancement programme intended to improve their suitability for priority butterfly species.
3. Landscape proposals within the site boundary (onsite mitigation) will include an 'ecological corridor' along the eastern, western and southern boundary. Native planting should be implemented within this buffer and will be designed to enhance structural diversity, and will include plants bearing flowers, nectar and fruits which are attractive to invertebrates.

G.1 HEBBURN RIVERSIDE LWS AND COUNCIL LANDHOLDING SITE DETAILS

G.1.1 HABITATS

A site walkover to identify suitable areas for enhancement and creation was carried out on 13th October 2016 by Mike Perkins BSc MSc.

DATE	TEMPERATURE	CLOUD COVER	PRECIPITATION	WIND CONDITIONS
13.06.16	12°C	100%	None	1W

The majority of the LWS comprises lowland neutral grassland and scrub with small patches of woodland, grazed semi-improved grassland and an area of amenity grassland. Neutral grassland habitats, where present, contain large amounts of birds-foot trefoil (*Lotus corniculatus*), the larval food plant for dingy skipper, and it is considered likely given the consultation results and the presence of the species at the neighbouring Victoria road west, that these habitats support a population of dingy skipper. However an area of amenity grassland was identified of low suitability for priority butterfly species which was considered suitable for habitat creation. This area bordered the LWS but was outside of it, although it is still within the council landholding. The location of this amenity grassland can be seen in the figure below, whilst the butterfly landscape plan can be seen in Appendix 2.

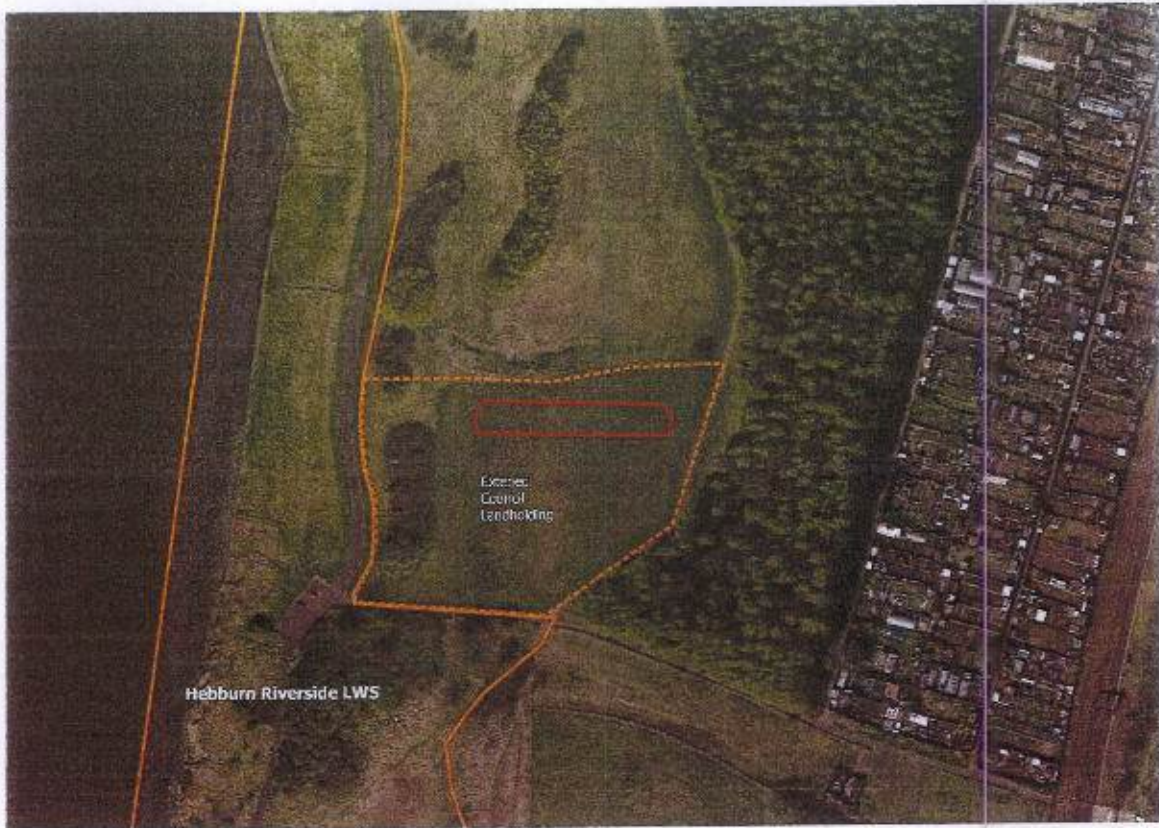


FIGURE 7: AREA OF PROPOSED HABITAT CREATION (CIRCLED RED) (REPRODUCED UNDER LICENCE FROM GOOGLE EARTH PRO.)

G.2 SITE DESCRIPTIONS

G.2.1 AREA OF HABITAT CREATION

A large expanse of managed short sward amenity grassland. Dominated by perennial rye grass (*Lolium perenne*) with occasional dandelion (*Taraxacum officinale*) and daisy (*Bellis perennis*).

G.2.2 AREAS OF HABITAT ENHANCEMENT

Neutral grassland habitat making up the majority of the LWS was considered suitable to support populations of priority species, including dingy skipper. Large amounts of birds-foot trefoil were noted within the sward of these grassland habitats. The habitats however contained relatively little bare ground and are beginning to scrub over.



G.3 BUTTERFLY BANK/BUND CREATION¹⁴

A butterfly bank will create habitat for butterflies of open grassland swards. The aim is to create an area of varied aspects where herbs predominate but where there is also abundant bare ground. Many different designs of bank can be effective, but a "C" shaped structure will ensure that a variety of aspects are created. Within the bank the soil layers are inverted so that the nutrient-rich top-soil is buried. The vegetation will then establish in the nutrient-poor sub-soil and the bank will retain bare ground for longer. The work is best undertaken using earth moving machinery. In this case a 3 tonne excavator and a 5 tonne dump truck is recommended.

G.3.1 TIMING

The construction of the bund will take place prior to the commencement of construction on site.

G.3.2 CONSTRUCTION

1. Remove a rectangular area of top-soil approximately 100 m long by 10 m wide, 30 cm deep covering approximately 0.25ha. Place this top-soil to one side to be used later.
2. Within the scraped rectangular area, dig a "C" shaped narrow trench of 100 to 110 m long by 2 m wide and a further 30 to 100 cm deep. Remove this sub-soil to the side (more than 5 m away from trench) in a separate pile from top-soil.
3. Place the previously removed top-soil into the narrow "C" shaped trench to form the base of the bank. Scrape a strip of soil adjacent to the trench (from both sides) on top of this base, sufficient to raise the height to approximately 60 cm above ground level.
4. Scrape and re-arrange the soil at the ends of the bank to make a sloped fan shape.
5. Place the previously removed sub-soil over the created bank to cap it. Compact the soil. This bank should be approximately 2m wide and 0.7-1m high.
6. Cap the bank and fan shaped end with 5-10cm of stone chipping/rubble, (can be sourced from excavations at Victoria Road West if material is non-contaminated and pollutant free).
7. On the flat, scraped area on the south side of the bank leave a 2 m strip of soil right in front of the bank. Then beyond this soil strip, cover another 2 m (or wider) strip of the scraped area with stone chippings to depth of 10 cm. Also cover a similar area at the back (north side) of the bank with stone chippings to depth of 10 cm.

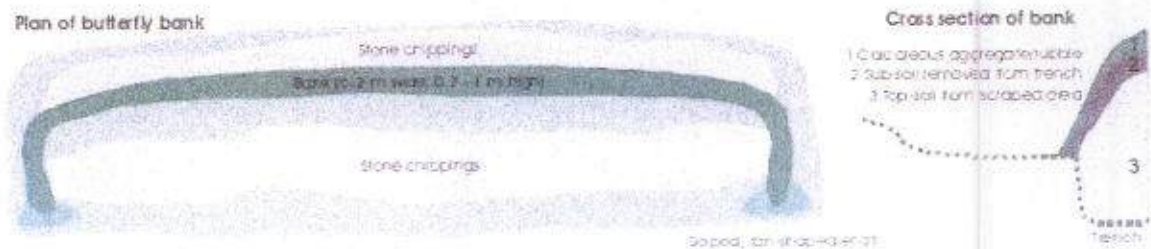


FIGURE 8: PLAN OF BUTTERFLY BANK PROFILE ¹⁵

G.3.3 SEEDING

1. Seed by walking on the top of the bank scattering small pinches of seeds across the top of the bank (20-30 seeds at a time) with a flick of the wrist. By seeding along the top of the bank the growing plants will later drop seeds down the slope and the area will develop a good cover in a highly cost-effective manner.
2. The areas adjacent to the bank, can also be seeded in the same manner.

¹⁴ Adapted from Creating a Butterfly Bank, Butterfly Conservation

¹⁵ Creating a butterfly bank, Butterfly Conservation

- Bird foot trefoil seed should make up ~75% of the species mix, sown at 4g/m².

The following species are amongst those that are recommended for reseeding. These include not only the major larval food plants of several species but also their favoured nectar sources.

Core grass species:

TABLE 10: CORE GRASS SPECIES	
COMMON NAME	LATIN NAME
Common bent	<i>Agrostis capillaris</i>
Red Fescue	<i>Festuca Rubra</i>
Cock's foot	<i>Dactylis glomerata</i>
Yorkshire fog	<i>Holcus lanatus</i>

Core forb species:

TABLE 11: CORE FORB SPECIES	
COMMON NAME	LATIN NAME
Bird's-foot trefoil	<i>Lotus corniculatus</i>
Yellow rattle	<i>Rhinanthus minor</i>
Buttercup sp.	<i>Ranunculus sp.</i>
Fleabane	<i>Pulicaria dysenterica</i>
Kidney Vetch	<i>Anthyllis vulneraria</i>
Wild Marjoram	<i>Origanum vulgare</i>
Mouse-ear hawkweed	<i>Hieracium pilosella</i>
Black knapweed	<i>Centaurea nigra</i>

Forb species include reliable wildflower species that form an important component of diverse butterfly habitats, but which are unlikely to colonise quickly in this location.

Reseeding should be to a maximum of 50% of the area, leaving areas of bare ground and only seeds of local provenance should be used. Food plants will take several years to reach the required size.

The most reliable establishment is obtained from spring to autumn sowings into a warm soil. Seeding by hand can be very effective, scattering small pinches of seed (20-30 at a time) over newly created bare ground. The seed will germinate after two to four weeks when the temperatures are around 15 to 20°C.

Additional sowings may be required in the first few years until the wildflower seed bank increases in the soil.

G.3.4 PLUG PLANTING & TURF TRANSLOCATION

Plug planting allows for a rapid means of adding species diversity, nectar sources and larval food plants to the site. Best practice is to plant several clumps or drifts of one species so that there is plenty available. Bird's-foot trefoil (locally sourced where possible) will be planted in small clumps on the bank consisting of 3-5 plants in areas scattered throughout the bank at a ratio of ~two clumps per 20m². Additional smaller amounts of plants bearing nectar sources will also be planted as detailed in appendix 2. The translocation of small birds-foot trefoil turves from the development site to the bank will provide known high quality habitat and potentially translocate the ovum/early instar stages into this new landscape. **The areas to be translocated will be based on input from the project ecologist.** These will be planted in the same manner as the plug plants, as outlined below:

- Plant within a shallow cup-shaped depression in order to retain water.

2. Plant slightly deeper than normal gardening practices so that the shoot is slightly buried.
3. Match the shape of the hole to the size of the plug.
4. Place stones or aggregate over the planting to reduce the chances of the plugs being disturbed by animals such as rabbits. If the plugs are well watered before the stones are placed then this will limit desiccation and reduce the need for frequent watering. In extreme cases, the young plants can be temporarily protected by wire cages.

G.4 LANDSCAPING OF NEW BUILD

Landscape proposals within the site boundary (onsite mitigation) will include an 'ecological corridor' along the eastern, western and southern boundary. Native planting should be implemented within this buffer and will be designed to enhance structural diversity, and will include plants bearing flowers, nectar and fruits which are attractive to invertebrates, thereby helping to maintain the food resource for bats and wildlife generally.

H. MANAGEMENT PLAN

H.1 BUTTERFLY HABITAT

Management Aims:

1. *To establish and maintain new areas of butterfly habitat following seeding, translocation and plugging, maintaining and enhancing biodiversity of the site.*
2. *To maintain and improve existing butterfly habitat on site.*

Overall aims are to maintain a sparse sward interspersed with plenty of bare ground. Some areas of taller vegetation should be allowed to grow.

H.1.1 INTERPRETATION BOARD

A vandal resistant interpretation board about the butterfly bank will be required to inform users of Hebburn Riverside Park what the feature is. The details of this will need to be submitted to and approved by the LPA. The interpretation board must be installed within 3 months of the completion of the butterfly bank.

H.1.2 CUTTING

A single annual cut using a brush cutter in the autumn can maintain butterfly grassland sites. A long rotation should be implemented with approximately one third of the site cut each year based on input from the project ecologist. All cuttings should be removed from site.

H.1.3 WATERING AND AFTERCARE

No watering should be required of the seeded areas. Plug plants need watering regularly in the months after planting, especially in dry sunny spells. Use of herbicides and fertilisers should be avoided. Plug plants which fail will require replacing.

H.1.4 SCRUB CONTROL

Periodic scrub removal may be necessary although some light, well-spaced scrub can provide valuable shelter, especially on more exposed sites. Scrub can be cut on a rotation of 10-15 years to maintain existing levels of cover. Where scrub reduction is necessary, stumps should be treated with herbicide to prevent regrowth.

H.1.5 SCARIFICATION

in the long-term, it may become necessary to re-create patches of bare ground by scraping small patches free of vegetation. Some tall vegetation should remain untouched, while breeding areas (areas with birds-foot trefoil) should be avoided entirely.

Rotationally creating new scrapes should be carried out every few years to produce a mosaic of early successional stages. Scrapes are an effective method of creating disturbed, low nutrient habitats with a mosaic of early successional herbs and bare ground. Scrapes can be created at a small scale using hand tools or with machinery, by removing topsoil to a depth of around 20cm. The edges should be left as gentle rounded angles to diversify aspect and microclimate.

It is recommended areas earmarked for habitat enhancement within appendix 2, are subject to scarification during the same period as habitat creation at the north of the site. Areas for scarification will be based on input from the project ecologist.

H.1.6 MONITORING

Additional survey work is recommended to ascertain the effectiveness of the new habitat creation. **A single walkover survey in 2018 to evaluate the success of habitat creation/enhancement measures and populations of priority butterfly species is recommended.**

Results of the monitoring survey and any remedial actions proposed must be submitted to the Countryside Officer at South Tyneside Council.

I. MANAGEMENT OF THE SITE

I.1.1 MANAGEMENT OPERATIONS

Site management will be ongoing throughout the year. Management operations will:

- Seek to minimise pollution and the use of chemicals, using alternatives to pesticides, herbicides, peat and artificial fertilisers where possible.
- Seek to develop the wildlife aspects of the site and to promote working methods that are in harmony with, and respectful of, the wildlife of the site.

I.1.2 RESPONSIBILITIES

The initial maintenance of newly created and seeded areas, will be the responsibility of Miller Homes and any contractors appointed by them.

Long-term management operations for the whole of the site after 5 years will pass from Miller Homes to South Tyneside Council.

I.1.3 FINANCIAL RESOURCES

The developers (Miller Homes) of Victoria Road West will be responsible for ensuring that adequate financial resources are available to undertake the necessary management operations on a year-by-year basis for the initial 5 years after completion. After 5 years this will pass to South Tyneside Council.

I.1.4 REVIEW

The management plan must be reviewed on a regular basis, jointly by all interested parties, with all management actions recorded and records retained. This will enable an assessment to be made of success, or otherwise, of the various techniques and operations undertaken at the site.

Revisions to the management plan will be made by mutual agreement of the interested parties. The plan should be flexible in terms of when it is reviewed, in particular responding to changes that arise through internal or external influences that directly affect the management of the site.

APPENDIX 1. STATUTORILY AND NON-STATUTORILY DESIGNATED SITES

A1.i Statutorily Designated Sites

Ramsar Sites

Ramsar sites are designated under the Convention on Wetlands of International Importance, agreed in Ramsar, Iran, in 1971. The Convention recognizes wetlands as important ecosystems and includes a range of wetland types from marsh to both fresh and salt water habitats. The wetlands can also include additional areas adjacent to the main water-bodies such as river banks or coastal areas where appropriate.

Special Protection Areas (SPAs)

SPAs are classified by the UK Government under the EC Birds Directive and comprise areas which are important for both rare and migratory birds.

Special Areas of Conservation

SACs are designated under the EC Habitats Directive and are areas which have been identified as best representing the range and variety of habitats and (non-bird) species listed on Annexes I and II to the Directive. SACs are designated under the Conservation of Habitats and Species Regulations 2010 (as amended) unless they are offshore.

Sites of Special Scientific Interest

SSSIs are designated as sites which are examples of important flora, fauna, or geological or physiographical features. They are notified under the Wildlife and Countryside Act 1981 with improved provisions introduced by the Countryside and Rights of Way Act 2000.

National Nature Reserves (NNRs)

NNRs are designated by Natural England under the National Parks and Access to the Countryside Act 1949 and the Wildlife and Countryside Act 1981 and support important ecosystems which are managed for conservation. They may also provide important opportunities for recreation and scientific study.

Country Parks

Country Parks are statutorily designated and managed by local authorities in England and Wales under the Countryside Act 1968. They do not necessarily have any nature conservation importance, but provide opportunities for recreation and leisure near urban areas.

A1.ii Non-Statutorily Designated Sites

Local Nature Reserves (LNRs)

LNRs are designated under the National Parks and Access to the Countryside Act 1949 by local authorities in consultation with Natural England. They are managed for nature conservation and used as a recreational and educational resource.

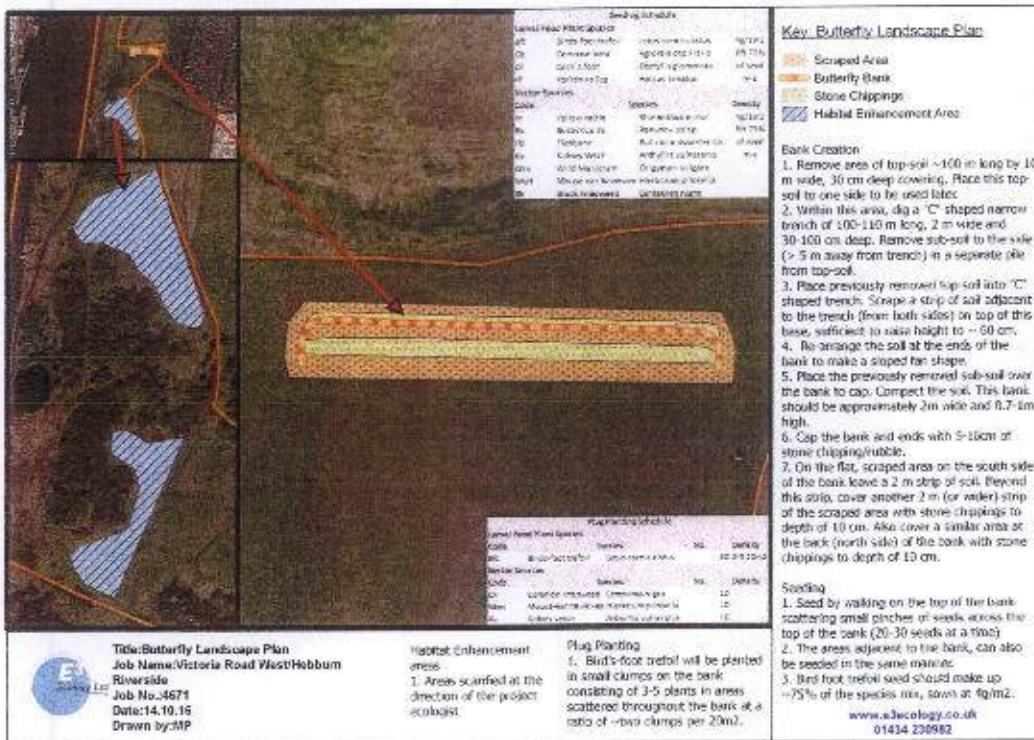
Non-Governmental Organisation Property

These are sites of biodiversity importance which are managed as reserves by a range of NGOs. Examples include sites owned by the RSPB, the Woodland Trust and the Wildlife Trusts.

Local Wildlife Sites (LWSs)

These are sites defined within the local plans under the Town and Country Planning system and are material considerations of any planning application determination. They are designated by the local authority although criteria for designation can vary between authorities.

APPENDIX 2. BUTTERFLY LANDSCAPE PLAN



APPENDIX 3
Masterplan



Acoustic fence provided along western site boundary with rail lines. Existing tree planting to be retained as part of ecological corridor

Indicative shared surface composition (H/S)

LEGEND

1	Asphalt Paved
2	Gravel Paved
3	Grass Paved
4	Concrete Paved
5	Gravel
6	Grass
7	Concrete
8	Gravel/Grass
9	Grass/Gravel
10	Concrete/Grass
11	Grass/Concrete
12	Asphalt/Gravel
13	Gravel/Asphalt
14	Asphalt/Concrete
15	Concrete/Asphalt
16	Grass/Asphalt
17	Asphalt/Grass
18	Grass/Concrete
19	Concrete/Grass
20	Gravel/Concrete
21	Concrete/Gravel
22	Grass/Asphalt/Gravel
23	Asphalt/Gravel/Grass
24	Grass/Concrete/Gravel
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49	Asphalt/Gravel/Concrete
50	Grass/Concrete/Asphalt
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95	Concrete/Grass/Asphalt
96	Gravel/Concrete/Asphalt
97	Asphalt/Gravel/Concrete
98	Grass/Concrete/Asphalt
99	Concrete/Grass/Asphalt
100	Gravel/Concrete/Asphalt

- 20m zone verge to provide 10m offset
- 10m zone verge
- 4.0m zone verge to provide 1.0m offset

- Control lane along highway edge
- Reduced speed zone parking for walkway
- Other walkway zone along site edge

Existing trees along site to be retained as part of landscape buffer

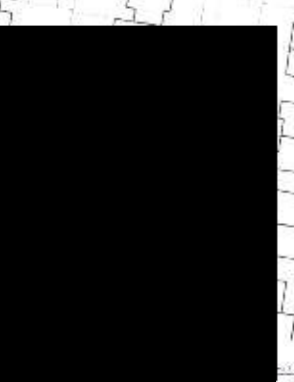
Existing trees to be retained as part of open space

SCHEDULE OF ACCOMMODATION - LAND OFF VICTORIA ROAD WEST, HEBBURN

Group	Area	Description	No.	Total Area (m ²)	Total Area (m ²)	Total Area (m ²)	Total Area (m ²)
APPROACH	A1	2-LEVEL DRIVEWAY	12	12	12	12	12
	A2	2-LEVEL DRIVEWAY	10	10	10	10	
	A3	2-LEVEL DRIVEWAY	10	10	10	10	
RESIDENTIAL	R1	1-LEVEL HOUSE	48	180	180	180	
	R2	2-LEVEL HOUSE	12	120	120	120	
COMMERCIAL	C1	1-LEVEL SHED	20	20	20	20	
	C2	1-LEVEL SHED	10	10	10	10	
TOTAL	T1	TOTAL	102	322	322	322	
	T2	TOTAL	102	322	322	322	

Tree planting retained as part of physical corridor along site edge

Existing trees and tree planting to be retained to facilitate development, open space to be retained and site bordered with high ecological value shrubs and tree planting



Land off Victoria Road West,
Hebburn, South Tyneside
Masterplan as Proposed

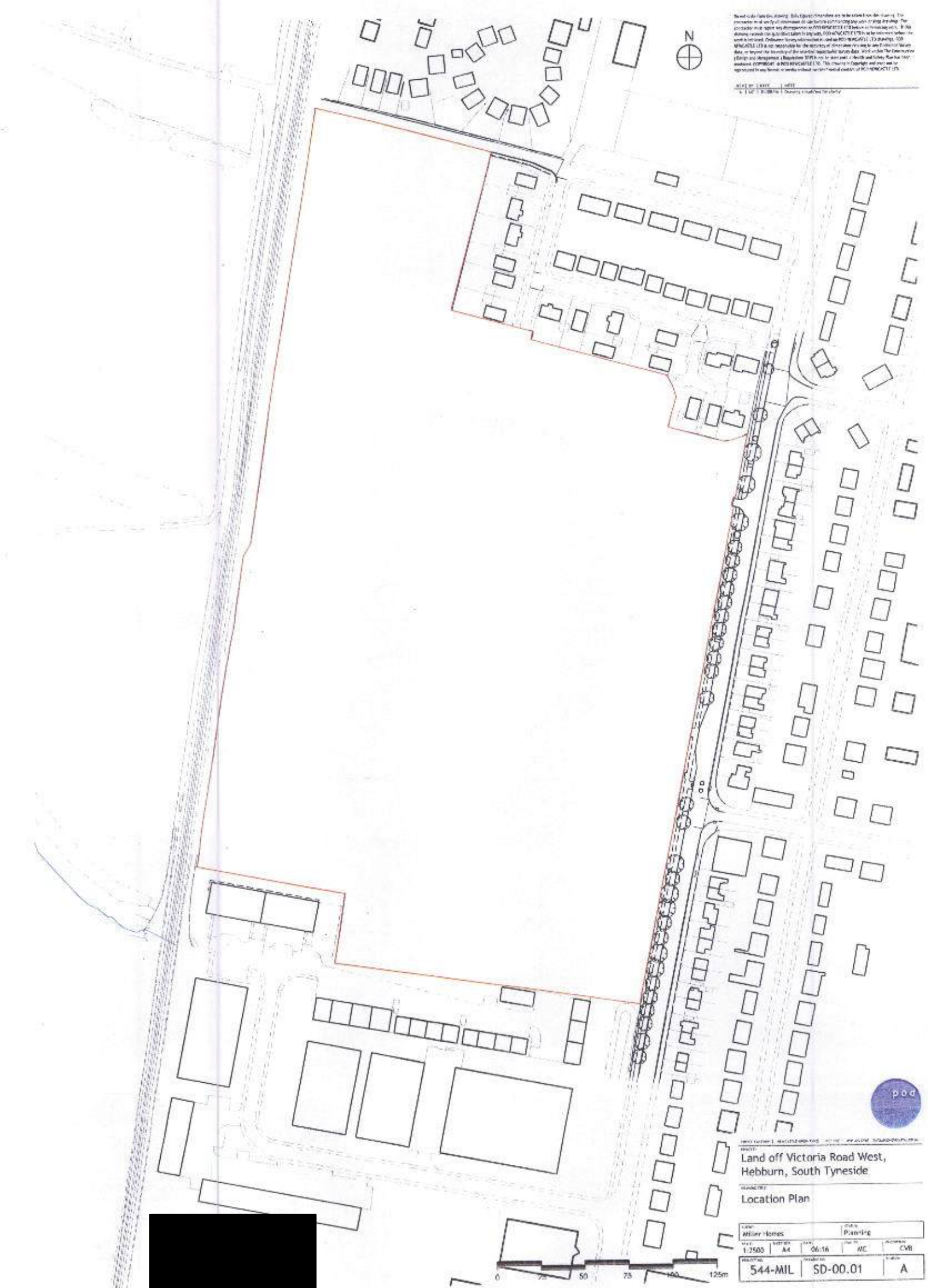
Scale: 1:500

544-MIL SD-10.0 AL



APPENDIX 4
Plan

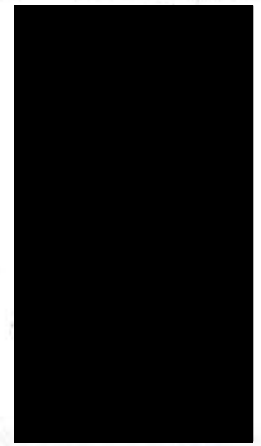
This plan shows the proposed layout of the site. It is intended to provide a general impression of the proposed development. The plan is not intended to be used as a basis for any detailed design or construction. It is intended to provide a general impression of the proposed development. The plan is not intended to be used as a basis for any detailed design or construction.



Land off Victoria Road West,
 Hebburn, South Tyneside

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 544-MIL | SD-00.01 | A

DATE	BY	NO.	REV.	DESCRIPTION
17-05-16	A4	06-16	01	Initial Plan
17-05-16	A4	06-16	02	Revised Plan
17-05-16	A4	06-16	03	Final Plan



IN WITNESS whereof the Council and the Owner have executed this Deed the day and year first before written

THE COMMON SEAL of THE COUNCIL OF THE BOROUGH OF SOUTH TYNESIDE was hereunto affixed in the presence of:



[Redacted signature]

Mayor / Authorised signatory

[Redacted signature]
Head of Legal Services / Authorised Signatory

BAHAZI ATZEL AND NORMAN BAKER
AS ATTORNEYS for

EXECUTED as a DEED by SIEMENS PLC under a Power of Attorney dated 4 October 2016

acting: [Redacted signature]

[Redacted signature]

NORMAN BAKER
AS ATTORNEY for SIEMENS PLC

BAHAZI ATZEL
AS ATTORNEY for SIEMENS PLC

Director

in the presence of

Director/Secretary [Redacted signature]

Witness signature: KAREN FIELDING

Witness Address: Faraday House, Sir William Siemens Square, Frimley, Camberley, Surrey, GU16 8QD

Witness occupation: Senator

EXECUTED as a DEED by MILLER HOMES LIMITED

acting by:

[Redacted signature]

Director

[Redacted signature]

Director/Secretary