

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 258(1)

**THE CITY OF SUNDERLAND (CHAPELGARTH) PUBLIC PATH
EXTINGUISHMENT ORDER 2016**

STATEMENT OF CASE OF SUNDERLAND CITY COUNCIL

1. Background

- 1.1 This is the Statement of Case of Sunderland City Council (“the Council”) in respect of The City of Sunderland (Chapelgarth) Public Path Extinguishment Order 2016 (“the Order”) (attached at Appendix A).
- 1.2 The Order was made by the Council as the local authority on 15th December 2016 pursuant to its powers under Section 258(1) of the Town and Country Planning Act 1990 (as amended) (“the 1990 Act”) and has now been submitted to the Secretary of State for confirmation.
- 1.3 The Order relates to the extinguishment of various public rights of way that affect the land known as the Chapelgarth site (“the Site”) which is located to the south of Weymouth Road in the Doxford area of Sunderland. The Site is identified edged red on the plan attached in Appendix B.
- 1.4 The Site has been owned by the Council since February 1972 and is a major housing development site within South Sunderland. It has been designated as a future housing development site since its inclusion in the City of Sunderland Unitary Development Plan (UDP) adopted in 1998. The Site is allocated as a key site for residential development under saved Policy SA9 of the UDP and is identified as one of the largest single development sites in the city. In addition,

the Site forms part of the South Sunderland Growth Area (“SSGA”) which is identified as a major new growth area for housing development and a location for major development under Policy CS2 of the Preferred Option of the emerging Core Strategy as a major new growth area for housing development and a Location for Major Development (LMD). The SSGA is identified in the Core Strategy as having the capacity to deliver approximately 2,800- 3,300 dwellings (approximately 20% of the City’s housing needs) over a 20 year period.

1.5 The Site is subject to a development agreement dated November 2014 between the Council and Siglion Developments LLP (“Siglion”). Siglion is a corporate joint venture between the Council, Carillion (Maple Oak Limited) and Igloo Regeneration Limited which has been established as a public-private development vehicle in order to act as the promoter and developer of key Council-owned regeneration sites within Sunderland, including the Site.

1.6 The Site was previously held by the Council for housing purposes. However, as the Site is to be developed by Siglion, the Site was appropriated by the Council for planning purposes on 23rd March 2016 pursuant to Section 122(1) of the Local Government Act 1972 (within the meaning of Section 246 of the 1990 Act) in order to facilitate the carrying out of the comprehensive development of the Site as a key housing development site. The extinguishment of the existing rights of way is being sought to facilitate the major development of the Site which is consistent with the planning purposes for which the Site has been appropriated and continues to be held by the Council.

A copy of the report to the Council's Cabinet in respect of the appropriation of the Site for planning purposes is attached at Appendix C together with the Cabinet Resolution.

2. Details of the Proposal

2.1 The planning application (Ref. No. 16/00388/HY4) for the development of the Site was submitted by Siglion on 2nd March 2016 ("the Application").

2.2 The Application was a hybrid planning application for outline planning permission for up to 750 residential units, public open space and internal road network along with up to 1000 sq.m. of ancillary commercial uses including Retail (A1), Financial and Professional Services (A2), Restaurant and Cafes (A3), Offices (B1), Non-Residential (D1) and Assembly and Leisure (D2), together with associated landscaping and car parking.

All matters apart from access were reserved in relation to the outline elements of the proposals.

In addition the Application also sought detailed consent for a first phase of infrastructure which shall include the creation of a new protected right turn junction into the site off Weymouth Road, landscaping and creation of attenuation ponds.

2.3 The Application was subsequently considered by the Council's Development Control (South Sunderland) Sub-Committee on 9th August 2016. The Committee resolved that it was minded to approve the Application subject to the planning conditions and to the completion of an Agreement under Section 106 of the 1990 Act. A copy of the committee report dated 9th August 2016 is attached as Appendix D.

The Section 106 Agreement was subsequently completed (Appendix E) and the planning permission issued on 21st December 2016 ("the Planning Permission"). (Appendix F).

2.4 The Reserved Matters application 16/02356/LR4 for Phase 1 of the Site has subsequently been submitted by Siglion and Miller Homes Limited and was considered by Committee on 11th May 2017 (Reserved matters for up to 160no residential units, public open space, landscaping and internal road networks along with up to 720sqm of local equipped area for play (LEAP) and 2.88ha of Suitable Alternative Natural Greenspace (SANG)). Phase 1 is located within the north western part of the Site and extends to 9.6 hectares of which approximately 4.3 hectares is proposed to consist of public open space (as shown edged red on the Phase 1 plan included in Appendix H).

2.5 Members approved the Phase 1 Reserved Matters application subject to conditions.

The Report to Committee on 11th May 2017 is attached at Appendix G together with the Phase 1 Reserved Matters approval dated 17th May 2017 at Appendix H.

3. The Order

3.1 The Order has been made by the Council pursuant to Section 258(1) of the 1990 Act which provides that:-

“Where any land has been acquired or appropriated for planning purposes and is for the time being held by a local authority for the purposes for which it was acquired or appropriated, then, subject to Section 259, the local authority may by order extinguish any public right of way over the land, being a footpath, bridleway or restricted byway, if they are satisfied

- a) That an alternative right of way has been or will be provided; or*
- b) That the provision of an alternative right of way is not required.”*

3.2 There are currently various claimed public rights of way which run across the Site. They are not recorded on the Definitive Map, but the Council acknowledges their existence. These are identified on the order map reference SUO48294/03 which is appended to the Order (“the Order Map”).

3.3 In order to facilitate the comprehensive development of the Site in accordance with the Planning Permission, it is sought to extinguish all of those existing public footpaths as shown by a continuous bold black line on the Order Map.

These existing footpaths cross the proposed development plots and/or the new highway provision to be constructed on the Site in accordance with the Planning Permission.

- 3.4 The new highway provision, including public rights of way, to be constructed on the Site as part of the development is shown on Regulatory Plan 13 Recreational Routes Drawing Ref: L-1515-PRP-050 which was submitted as part of the Application, and on subsequently approved plans under the Planning Permission, namely Regulatory Plans 944 Reg. 02 Rev A Access, Movement and Streets, 944 Reg. 13 Rev O Recreational Route, and Drawing No. L1515-GAP-002 (Appendix I).
- 3.5 In the case of each existing public footpath on the Site subject to the Order, the Council has analysed whether or not an alternative right of way will be provided as part of the development under the Planning Permission. This detailed analysis is set out in Appendix J.
- 3.6 In summary, the Council is satisfied that in the case of each public footpath as specified in the Order, there will be an alternative right of way provided through the network of new footpaths, multi-user routes and all-purpose highway to be constructed on the Site as part of the development under the Planning Permission. The delivery of the new highway provision as approved under the Planning Permission is secured through Condition 3 of the Planning Permission which requires the development to be provided in accordance with the relevant approved plans, including Regulatory Plan 944 Reg. 02 Rev A Access,

Movement and Streets; Ref 944 Reg. 13 Rev O Recreational Routes and Drawing No. L1515-GAP-002 (Appendix I).

Further, the Council is also satisfied that these alternative rights of way to be provided on the Site as part of the development will also improve the current connectivity across the Site.

3.7 Accordingly, the Council is satisfied that it was appropriate to make the Order pursuant to Section 258(1) of the 1990 Act in order to extinguish the public rights of way as identified on the Order Map.

3.8 The making of the Order was duly authorised by the Council under delegated powers on 21st November 2016 (Appendix K). The Order was subsequently made by the Council on 15th December 2016. Notice of Making of the Order was published on 22nd December 2016 and 60 objections were received.

4. Comments on Objections to the Order

4.1 The list of objections received to the Order and the Council's responses are attached (Appendix L). The Council received 60 objections of which 6 objections have subsequently been withdrawn.

4.2 None of the objections challenge the statutory grounds for the making and confirmation of the Order as contained in Section 258 of the 1990 Act. Further, matters such as land use, panorama and amenity are planning considerations

which have been fully and properly assessed through the statutory planning process in respect of the Application.

4.3 It is apparent from the Planning Permission, with particular regard to the recreational routes and highway network to be provided on the Site, that the development will provide new public rights of way along broadly similar routes to that of the existing rights of way that are proposed to be extinguished, with a vast number of additional routes and greater overall permeability across the Site. The proposed new highway provision will also, as a minimum, provide like for like alternative provision for the rights of way to be extinguished i.e. footpath for footpath, or a higher highway status i.e. multi-user route or all-purpose highway (carriageway and footway), increasing the highway network across the Site and providing links to the wider public rights of way network outside the Site. Key routes around and through the Site will however remain segregated from carriageway, running through green corridors adjacent to retained hedgerow/woodland and/or passing through open space/parks and natural vantage points.

4.4 The Council's written response to the objections dated 6th March 2017 is attached at Appendix M.

5. Conclusion

Having reviewed the objections, the Council has concluded that all the statutory requirements in respect of the Order under Section 258 of the 1990 Act are met, and in particular is satisfied that alternative provision for each of the footpaths subject to

the Order will be provided on the Site as part of the development. Accordingly, the Council considers that the Order should be confirmed by the Secretary of State in accordance with Section 259 of the 1990 Act.

4th August 2017

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