



**APPLICATION COM/232618 FOR
DEREGISTRATION OF PART OF COMMON
LAND AT THE SANDS, DURHAM**

**THE DEREGISTRATION AND EXCHANGE
OF COMMON LAND AND GREENS
(PROCEDURE) (ENGLAND) REGULATIONS
2007**

**PROOF OF EVIDENCE
OF HENRY JONES ON BEHALF OF
DURHAM COUNTY COUNCIL**

(Planning)

27 NOVEMBER 2020

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1 INTRODUCTION AND SCOPE OF EVIDENCE

- 1.1 My name is Henry Jones and I am employed by the Council as a Principal Planning Officer on the Strategic Planning Team. I have held this post since February 2018. The Strategic Planning Team covers largescale major development proposals such as non-residential development on sites in excess of 2ha, residential developments of 100 dwellings or more, minerals and waste development, major renewable energy schemes and major transport and infrastructure proposals. My duties primarily involve the handling of largescale major residential and non-residential built development schemes whilst managing the duties of a team of four senior planning officers within the team.
- 1.2 I have a BA (Hons) in Urban Studies and Planning (University of Sheffield 2004) and a diploma in Town and Country Planning (University of Sheffield 2005). I also obtained a Postgraduate Certificate in Public Sector Management Development (Northumbria University) in 2009. In 2007 I was elected to full membership of the Royal Town Planning Institute. This membership remains current and I continue to undertake Continuing Professional Development (CDP) in accordance with the Institute's Code of Conduct.
- 1.3 I understand my duty as an expert witness to the Inquiry and I have complied with and continue to comply with that duty. The evidence which I have prepared and provide for this inquiry is true. I confirm that the opinions expressed are my true professional opinions.
- 1.4 My evidence concerns planning matters relevant to the application for deregistration of part of Common Land at The Sands, Durham.
- 1.5 My evidence will address the following matters;
- my statement of 3rd October 2018;
 - the planning status of the Release Land, the rest of The Sands Common Land and the Replacement Land;
 - alternative sites considered for the Replacement Land
 - details of the planning permission for the new County Council HQ and associated works which includes the Release Land;
 - the planning implications should the development proposed on the Release Land require re-location;

1.6 I make reference to the following key documents and plans:

- County Durham Plan (2020) proposals map extracts [Document 1i]
- City of Durham Local Plan (2004) proposals map extracts [Document 1ii]
- My Statement of 3rd October 2018 [Document 12xvii]
- Planning Permission DM/18/02369/FPA [Document 1iii]
- Planning Permission DM/20/00702/VOC [Document 1iv]
- Application Site Boundary pursuant to Planning Permissions DM/18/02369/FPA and DM/20/00702/VOC [Document 1v]
- Section 211 of the T&CPA 1990 decision notice DM/19/01100/TCA [Document 1vi]
- Open Space Needs Assessment (OSNA) extracts [Document 1vii]
- The Sands – replacement Common Land dated August 2018 document [Document 13]
- Plan extract of Tree Preservation Order PN1-310 Flass Vale TPO [Document 1viii]
- Car Park Layouts [Document 1ix]

2 RELEASE LAND

2.1 The Release Land comprises of the 0.17ha of Common Land at The Sands which itself forms part of a larger overall parcel of Common Land at The Sands, the remains of which extend to 2.74ha.

2.2 In summarising the planning status of the Release Land I have considered Development Plan land allocations and designations or other key planning related site constraints generally considered/borne in mind when considering the planning implications of a development proposal. The relevant Development Plan in force is the County Durham Plan (CDP) adopted October 2020. However, as set out in my statement of 3rd October 2018 the designation (or de-designation) of the site as Common Land would not constitute development requiring planning permission as such having regard to the meaning of development set out within Section 55 of the Town and Country Planning Act 1990.

- 2.3 The Release Land is located within the Durham (City Centre) Conservation Area. The land is underlain with coal, river sand and gravel deposits. The site includes land within both the Coal Authority's defined low and high risk coalfield development areas. The site is located within the Environment Agency's defined Flood Risk Zone 3. The site is located within the defined Durham City Centre (for retail/town centre development planning purposes). The CDP policies and proposals maps demonstrate that the land is located within the 30km wind farm consultation zone with Newcastle Airport. The CDP policies and proposals maps identify that certain development on the land would require consultation with the Met Office in regard to the safeguarded meteorological site at High Moorsley. The site is also located within the highest value land area in regards to the provision of affordable housing under the CDP.
- 2.4 In April 2019 planning permission was granted on the Release Land (and further land adjacent) for the erection of an office headquarters with associated car parking (inclusive of a multi-storey car park), landscaping, highway and infrastructure works and demolition of existing structures (DM/18/02369/FPA).
- 2.5 In June 2020 planning permission was granted for a variation of condition 2 of planning permission DM/18/02369/FPA (Erection of office headquarters with associated works and car parking) to permit installation of PV cells and roof terrace (DM/20/00702/VOC) and this represents the latest planning permission for the development.
- 2.6 Development pursuant to this planning permission has commenced with substantial progress on site. As part of this wider redevelopment, the approved elements of the development located within the bounds of the Release Land itself comprise of the provision of a 56 space surface level car park with associated access, access barriers, parking marker posts, electric vehicle charging points, gas kiosk, sprinkler tank, hard and soft landscaping and lighting. The layout is shown within the Car Park Layouts [Document 1ix].
- 2.7 In the event that the development described above could not take place or partly could not take place on the Release Land, to formalise any amended proposals, then an amended or additional planning permission(s) would be necessary. The precise nature and extent of these would require detailed consideration. For the most modest amendments one option would be for the

applicant to apply for a non-material amendment under Section 96A of the Town and Country Planning Act 1990. Minor material amendments could be sought via an application under Section 73 of the Town and Country Planning Act 1990.

- 2.8 If additional land, beyond the application site boundary (red line boundary), of the development was required then a stand alone planning application for that land would be necessary. Such a route, for instance, would be applicable if the 56 space car park was sought on a parcel of land elsewhere.
- 2.9 Conditions apply to the nearby 277 space Multi Storey Car Park (MSCP) granted planning permission under DM/18/02369/FPA and DM/20/00702/VOC which establish a minimum number of parking spaces which should be allocated for short stay use (136 no.) and which require the submission and approval of a car park management plan so as to define the measures proposed to reserve, allocate or otherwise manage and control the use of the parking spaces. Therefore, any options to reallocate the 56 surface level parking spaces from the Release Land within the 277 MSCP would need to bear in mind these conditions.
- 2.10 Planning permissions DM/18/02369/FPA and DM/20/00702/VOC have each had a series of related non-material amendment and discharge of condition approvals since their grants of planning permission. Further planning history entries related to the development include the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 screening and scoping opinions for the development of May 2018 (SCO/18/00003) and an application under Section 211 of the Town and Country Planning Act 1990 providing notification of proposed works to trees in a conservation area (DM/19/01100/TCA).
- 2.11 A search of the planning register has identified some other planning entries. In December 1974 planning permission was granted for the erection of security fencing around the land (4/74/660). An application for Conservation Area Consent for the demolition of the Royal Observer Corps building previously on the land was granted in May 1994 (CAC/4/94/205).
- 2.12 The rest of The Sands Common Land (the 2.74ha) is located within the Green Belt, an Area of High Landscape Value and Durham (City Centre) Conservation Area. The land is underlain with coal, river sand and gravel deposits and the site includes land within both the Coal Authority's defined

low and high risk coalfield development areas. The site contains land within the Environment Agency's defined Flood Risk Zones 2 and 3. The land is identified within the County Durham Open Space Needs Assessment (OSNA) as an Amenity Green Space. Public Footpath no. 77 (Durham City) crosses a section of the land. The CDP policies and proposals maps demonstrate that the land is located within the 30km wind farm consultation zone with Newcastle Airport. The CDP policies and proposals maps identify that certain development on the land would require consultation with the Met Office in regard to the safeguarded meteorological site at High Moorsley. The site is also located within the highest value land area in regards to the provision of affordable housing under the CDP.

- 2.13 A search of the planning history has identified that on the rest of The Sands Common Land planning permission was granted for a telecommunications mast and associated kiosk in February 2000 (4/99/00756/FPA). In December 2003 planning permission was granted for the temporary change of use of part of the land for use as a car park for a period of two years, including access, surfacing and lighting (4/03/00210/FPA). In August 2012 advertisement consent was granted for temporary street impressions for the annual brass festival on a section of the land (4/12/00647/AD).

3 REPLACEMENT LAND

- 3.1 My statement of 3rd October 2018 is included in full within [Document 12xvii]. In summary, within that statement I firstly highlight that the Replacement Land (the 1.84ha of land east of the Rivergreen Centre, Aykley Heads) was allocated as being within the Green Belt and formed part of an Area of High Landscape Value under the provisions of the adopted Development Plan in force at that time (the City of Durham Local Plan (2004)). The City of Durham Local Plan is no longer the adopted Development Plan, it having been replaced by the County Durham Plan (CDP) adopted October 2020. Despite the change in the Development Plan, the Replacement Land remains within the Green Belt and an Area of High Landscape Value.
- 3.2 I confirm within my statement that the designation of the site as Common Land would not constitute development requiring planning permission.

- 3.3 I highlight within my statement that the site is identified as Natural Green Space within the OSNA. Common Land designation would not affect the characteristics or nature of the land's identification through the OSNA.
- 3.4 In regard to any other planning status information relevant to the Replacement Land, derived from the Development Plan or other key planning related site constraints, the land is underlain with coal, glacial sand and gravel deposits and includes land within both the Coal Authority's defined low and high risk coalfield development areas. The CDP policies and proposals maps include the land as being potentially suitable for micro wind turbine development and demonstrates that the land is located within the 30km wind farm consultation zone with Newcastle Airport. The CDP policies and proposals maps identify that certain development on the land would require consultation with the Met Office in regard to the safeguarded meteorological site at High Moorsley. The site is also located within the highest value land area in regards to the provision of affordable housing under the CDP.
- 3.5. However, as stated, designation of the Replacement Land as Common Land would not in itself constitute development requiring planning permission and therefore there would be no requirement for assessment against the provisions of the CDP or other material planning considerations.
- 3.6 A search of the planning history has identified that a planning application so as to provide two sports pitches on the land was withdrawn in June 1990 (928/4/176).
- 3.7 I have provided advice in regard to alternative replacement land sites which informed Peter Howson in preparation of his report "The Sands – replacement Common Land" dated August 2018. I discuss below matters surrounding the planning status of these alternative replacement land sites below.

Land south of Springfield Park, Flass Vale

- 3.8 This land forms part of the Durham (City Centre) Conservation Area, the Green Belt, an Area of High Landscape Value and a Local Nature Reserve (Flass Vale). The land is underlain with coal, glacial sand and gravel deposits and includes land within both the Coal Authority's defined low and high risk coalfield development areas. The OSNA identifies the land as an Area of Natural Green Space. The CDP policies and proposals maps demonstrate that the land is located within the 30km wind farm consultation zone with

Newcastle Airport. The CDP policies and proposals maps identify that certain development on the land would require consultation with the Met Office in regard to the safeguarded meteorological site at High Moorsley. The site is also located within the highest value land area in regards to the provision of affordable housing. A loss of trees would be necessary to facilitate that the land could be utilised as open meadow/grazing use and due to the site's location within a conservation area notification processes under Section 211 of the Town and Country Planning Act would be necessary.

Land south west of Flassburn Road

3.9 Fractions of the western sections of the site lie within the Durham (City Centre) Conservation Area, the Green Belt and Area of High Landscape Value. The vast majority of the site forms part of a Local Nature Reserve (Flass Vale). The land is underlain with coal, glacial sand and gravel deposits and is located within the Coal Authority's defined low risk coalfield development area. The OSNA identifies the land as forming part of a wider parcel of Natural Green Space. Public Footpath no 123 (Durham City) crosses the site. Sections of the site are covered by a Tree Preservation Order (TPO) (PN1-310 Flass Vale) and a loss of trees would be necessary to facilitate that the land could be utilised as open meadow/grazing use with applications for works to trees covered by a TPO and/or notification under Section 211 of the Town and Country Planning Act necessary as a result. The CDP policies and proposals maps demonstrate that the land is located within the 30km wind farm consultation zone with Newcastle Airport. The CDP policies and proposals maps identify that certain development on the land would require consultation with the Met Office in regard to the safeguarded meteorological site at High Moorsley. The site is also located within the highest value land area in regards to the provision of affordable housing.

3.10 A search of the planning history of the site reveals that applications for various tree removals and works to trees within the TPO have been approved in February 2018 (DM/18/00110/TPO) and March 2019 (DM/19/00222/TPO).

Land at St Giles Well

3.11 This site is within the Durham (City Centre) Conservation Area, Green Belt and an Area of High Landscape Value. Public Footpaths 83, 84 and 85 (Durham City) run along the bounds of the site. The land is underlain with coal, glacial sand and gravel deposits and includes land within both the Coal

Authority's defined low and high risk coalfield development areas. The site abuts land on the Ancient Woodland Inventory (Pelaw Wood) and a Local Wildlife Site (Pelaw Wood). The CDP policies and proposals maps include the land as being potentially suitable for micro wind turbine development and demonstrates that the land is located within the 30km wind farm consultation zone with Newcastle Airport. The CDP policies and proposals maps identify that certain development on the land would require consultation with the Met Office in regard to the safeguarded meteorological site at High Moorsley. The site is also located within the highest value land area in regards to the provision of affordable housing. A loss of trees would be necessary to facilitate that the land could be utilised as open meadow/grazing use with notification processes under Section 211 of the Town and Country Planning Act necessary.

- 3.12 A search of the planning history of the site reveals no entries.

Land at Aykley Woods, Aykley Heads

- 3.13 This site is within the Durham (City Centre) Conservation Area, Green Belt and Area of High Landscape Value. The land is underlain with coal, glacial sand and gravel deposits and is located within the Coal Authority's defined low risk coalfield development area. The CDP policies and proposals maps include the land as being potentially suitable for micro or small wind turbine development and demonstrates that the land is located within the 30km wind farm consultation zone with Newcastle Airport. The CDP policies and proposals maps identify that certain development on the land would require consultation with the Met Office in regard to the safeguarded meteorological site at High Moorsley. The site is also located within the highest value land area in regards to the provision of affordable housing. A loss of trees would be necessary to facilitate that the land could be utilised as open meadow/grazing use with notification processes under Section 211 of the Town and Country Planning Act necessary.

- 3.14 A search of the planning history of the site reveals that planning permission was granted for the formation of a cycle path and associated works on the boundary of the site in May 2004 (4/04/00445/CM). In October 2018 planning permission was granted for the use of a section of the site for storage of construction equipment, associated earthworks and welfare facilities for a temporary period (DM/18/01908/FPA).

Land at Providence Row, Durham

- 3.15 This site is within the Green Belt and Area of High Landscape Value. Public Footpath no 1 (Belmont) passes adjacent to site. The land is underlain with coal, river sand and gravel deposits and is located within the Coal Authority's defined low risk coalfield development area. The site is located within the Environment Agency's defined Flood Risk Zone 3. The CDP policies and proposals maps include the land as being potentially suitable for micro wind turbine development and demonstrates that the land is located within the 30km wind farm consultation zone with Newcastle Airport. The CDP policies and proposals maps identify that certain development on the land would require consultation with the Met Office in regard to the safeguarded meteorological site at High Moorsley. The site is also located within the highest value land area in regards to the provision of affordable housing.
- 3.16 A search of the planning history of the site reveals no entries.

4 SUMMARY AND CONCLUSIONS

- 4.1 This document provides planning evidence associated with the application for the deregistration and exchange of common land. In doing so I highlight that the registration of the Replacement Land as common land in itself does not amount to development requiring planning permission. Nevertheless I present a summary of the planning status of the Replacement Land having regard to matters such as relevant Development Plan allocations and designations and key planning constraints and present a summary of the planning history.
- 4.2 I also undertake the same exercises in relation to the alternative sites considered for the Replacement Land, the Release Land and the rest of The Sands Common Land. I also explain the potential planning implications in the event that those elements of the wider ongoing HQ development located on the Release Land could not take place or partly could not take place.