

FORMER WESTGATE POLICE STATION, NEWCASTLE UPON TYNE

APPEAL REFERENCES:

APPEAL A: APP/M4510/W/20/3263625 (East)

APPEAL B: APP/M4510/W/20/3263441 (West)

CLOSING STATEMENT

ON BEHALF OF WEST END RESIDENTS' ASSOCIATION

RULE 6 PARTY

1. At the start of these proceedings, the Appellant pleaded with the inquiry not to condemn the site to disuse in a Micawber approach to planning. It is our submission, that rather than the Local Authority having misplaced optimism—i.e. that something will turn up. However, it is the appellant who is approaching the application with misplaced pessimism by suggesting that the site is fit for nothing better than drive-through that is patently unwanted, flats that are uncomfortable and a car park which for much of its time will be unreachable. We urge you not to impose these regressive developments on this site. Instead of approaching this as a difficult problem to be solved (to adopt Mr McGregor's description of the development), it should be approached as an opportunity to be realised.
2. However, since Mr Tucker is a Dickens fan, may I remind the inquiry of the quote from Mr Jaggers the lawyer to Pip in *Great Expectations*, "Take nothing on its looks; take everything on evidence. There's no better rule." It is to that evidence, I now turn.
3. I will cover
 - a. Fallback Options
 - b. Location

- c. Landscape, Biodiversity and Design (briefly)
- d. Traffic
 - i. Servicing, Car Parking and Potential conflicts
 - ii. Traffic projections
 - iii. The inherent dangers of the Westgate Road / Dunholme Road junction
 - iv. Pedestrian movements and profile
 - v. The scope of the road safety review
- e. Living Conditions
 - i. Overlooking / Privacy
 - ii. Noise
 - iii. Litter
- f. Health and Wellbeing
 - i. Policy background
 - ii. Profile of the Area
 - iii. The risks of high fat / sugar food
 - iv. The alleged wellbeing benefits
 - v. Air Quality
- g. Sustainability
 - i. Increase in road use
 - ii. Climate Change
- h. The Planning Balance
 - i. NPPF
 - ii. The Local Plan

Fallback Options

4. In terms of fallback options, we wholeheartedly endorse the view of Mr Edwards that permitted development rights are not a realistic prospect. Indeed, they are a speculative prospect. The entire site served the role of a Police Station and all uses such as ancillary office space, the servicing yard and the gym within the site were supportive of that. The distinction that the Appellant draws between the upper floors and the ground floor is artificial and perverse.
5. The Appellant is quite right to consider the implications of not redeveloping the site and we do not criticise the appellant for that; however, there is also the considerable risk of condemning the site to inappropriate development for the next 50 years. If a lesson can be drawn from the imposing and blocky police station it is that ill-thought development that prioritises function over form has a lasting and adverse legacy of a miserable compromise between the perceived need to do something with this site urgently and the ugly and unsustainable option offered by the Appellant.
6. At the outset, it is worth noting that despite suggesting that Newcastle City Council have approached this application on the basis that it will leave the site condemned to disuse, the Appellant is not running a viability case.

Location

7. The site is in a predominately residential area:
 - a. To the South there are residences and they continue down parallel streets and mews.
 - b. To the West there is Angel Heights—previously a home for nurses and more recently a home for asylum seekers whose character is residential in the detailing, function and design despite its mass.

- c. To the East there is accommodation and very minor mixed use including modest accountants and a visa office. The remainder of Bentinck Road is residential.
- d. To the North, the CAV site which will contain a significant residential element (planning permission pending).

Landscape, Biodiversity and Design

- 8. As the Rule 6 Party has adopted the Local Authority regarding Landscape, Biodiversity and Design, we shall only make limited comment.

Design

- 9. With regards to Design, we benefited from the submissions from local residents including Dr Webb, who reminded the inquiry on the opening day that there was no good reason that the people of the West End of Newcastle should be denied excellent design on the basis of their relatively modest standing.
- 10. In addition, we adopt the view of Mr Cullingford who spoke on the first day:

The design does not reflect the guidance in the NPPF, create a sense of place or reflect its context. It is a standard Burger King box, albeit in a different colour and cladding. The example pictured in the Design and Access Statement sits on the Anchor Retail Park at Hartlepool beside dual carriageways (demonstrating that the proposed design is not 'bespoke,' as the appellant claims). The pretence that such a prototype should be plonked down in Westgate Road demonstrates the absence of 'good design.' The structure would be substantially more prominent than the existing 2-storey building; it would stand 1.9m taller at the height of the 3rd storey windows at the adjacent 4-storey administrative block and its façade would be some 5m further forward and closer to the roadside. It would obscure views of the roofs and houses, now evident behind

the building (particularly when viewed from the site of the old General Hospital opposite) and its contrasting dark colour would emphasise its intrusive and incongruous presence.

11. We support the Newcastle's view that the design of the Burger King will be anodyne and represent an 'anywhere' place that detracts rather than adds to the character of the local area. The design takes minimal cues from local features (if at all) and will amount to an incongruent and unpleasant addition to the streetscape. Given that the Police Station itself is acknowledged as functional and unloved and not in keeping with the rich urban tapestry of the area, it is somewhat surprising that the Appellant seeks to justify their design by reference to it. As has been emphasised many times throughout this inquiry, Westgate Road operates as a gateway in that it beckons, introduces and welcomes visitors to Newcastle—placing an anodyne and incongruent drive-through will quite simply be an eyesore which will undermine visual amenity and serve as a poor introduction to the city.

12. Given these design shortcomings, we invite the Inspector to find that the application does not accord with Policy CS15 which requires high quality design which contributes to the character and setting and Policy DM20 which requires development to contribute to major movement corridors.

Landscaping and Biodiversity

13. The Rule 6 Party adopts the view of Newcastle City Council and particular the evidence of Mr Jones that additional trees would support the character of the area. In addition, we note the observations of Mr Cullingford in his statement to the inquiry:

the provision of more generous landscaping would provide a far better reflection of the character, as well as the trees and green spaces of the Listed and locally listed buildings nearby.

Indeed, the Rule 6 Party is somewhat perplexed by the suggestion that a development whose largest feature is a concreted car-park would add to the landscaping of the Westgate movement corridor. Any planting would be fragmented and this would not amount to a beautiful, people friendly and welcoming environment.

14. Accordingly, we invite the inspector to find a breach of policy DM28 (which requires protection and enhancement of Landscaping).

15. It is worth noting, that the benchmarked standard of landscaping adopted by the Appellant is the status quo despite the relatively recent removal of trees and shrubbery. We therefore encourage the inspector to adopt the situation now as the benchmark for all other considerations including noise, overlooking and traffic.

16. With regards to Biodiversity, we defer to those more qualified to address the technical requirements.

Traffic

17. The development will have unacceptable traffic impacts with regards to Highway Safety. Whilst we address the impacts of the schemes separately, the traffic impacts must be assessed cumulatively. Finally, sight must not be lost of the consequences of a collision—some collisions may be comparatively rare, but the impact may be life-changing. Nor should it be lost that in an appeal characterised by disagreement, it is a rare point of agreement that this development will result in an adverse material increase in serious road traffic collisions with the prospect of at least four serious collisions in the next decade.

18. I will briefly cover Car Parking, Servicing and Potential conflicts for each site, traffic projections, the Westgate Road, Dunholme Road and site access junction (which should be treated

as a single junction given its close proximity to the junction with Westgate Road). I will then briefly touch upon pedestrian access.

Site A - Parking

19. Parking in back lane is inherently difficult and will likely result in fouling the pavement or hitting the pillars. Moreover, the challenges of negotiating Back Lane when cars are parked will result in cars mounting pavements and having to negotiate blind spots whilst pedestrians may be walking through Back Lane.¹

Site A - Servicing from Back Lane

20. At the moment, there is no clear plan for assessing the servicing arrangements from Back Lane. It is patently obvious, however, that a large refuse vehicle will not be able to pass down Back Lane particularly when residents cars are lawfully parked. This will further inhibit the free movement of both vehicles and pedestrians. Neither, there has been no assessment of the impact of transporting the large refuse containers down to either end of Back Lane and how that will inhibit pedestrian and vehicle sight lines. The large containers will either have to block the pavement or the street. Refuse vehicles regularly parked at either end of Back Lane will further impede access to the lane.

Site A - Servicing on site

21. With regards to servicing of Site A—the multi-use space. Any servicing arrangements on site will have to negotiate the car park of Site B. This is particularly worrying given that the site operating hours of at least one of the commercial sites overlaps with the proposed servicing of Site B. This means that there could be a large vehicle attempting to leave or enter the Site A car park whilst a larger vehicle is parked or manoeuvring in the Site B car park.
22. The nature of the development on Site A will generate a range of traffic that will be beyond the Appellants control—Amazon

¹ Mr McGillivray's evidence starting at paragraph 3.89 and Mr Moore's witness statement at paragraphs 27 to 33.

delivery drivers, postal deliveries, supermarket deliveries. Even if these vehicles can theoretically navigate the car park of Site A according to sweep diagrams, the drivers will be unfamiliar with the layout and the proposed reversing manoeuvres will bring vehicles into close contact with either the proposed landscaping, pedestrian route or cycle parking. There remains a real possibility for conflict and blockage especially if two service vehicles arrive at the same time. Moreover, any servicing vehicle is likely to have 'swing-out' and use the wrong side of the carriageway within the carpark. The risk of conflict is obvious as a parked car attempt to leave their space. Finally, in terms of the vehicles servicing the site, there remains the possibility of a larger vehicle than that modelled arriving at the site such as a furniture delivery or equipment delivery for the dentist. Accordingly, the servicing arrangements are far from satisfactory and ultimately unacceptable in road safety terms.²

Site B - Servicing

23. The extent that the Appellant has attempted to force through an inappropriate scheme onto the site becomes obvious once the servicing arrangements for the drive through take-away are considered.
24. The servicing arrangements depend on a number of variables that are not entirely within the Appellant's control:
 - a. First, the large delivery vehicle must arrive no earlier than 7am and leave no later than 8am. The length of time that the vehicle will remain on site is at this stage a matter of conjecture but it will only take a limited problem to occur for the servicing arrangements to breakdown.
 - b. Second, essentially the entire car park must be clear as the servicing manoeuvre fouls ten of the car park's fourteen spaces.

² Mr McGillivray's evidence at paragraph 3.116

- c. Third, no vehicles seeking to leave Site A must interfere with the complex manoeuvre. This is despite the fact that the retail units may be operational or receiving deliveries at this time and between 7am and 8am is a perfectly appropriate time for residents of Site A to be leaving for work.
 - d. Fourth, deliveries and refuse collection successfully delivering and collecting within the same hour.
 - e. Fifth, there is the potential for interaction between pedestrians (including school children heading towards the retail units) and manoeuvring vehicles.
25. In addition, as large servicing vehicle exits the Site B car park it is likely to traverse Dunholme Road blocking the highway. This servicing arrangement is not only unworkable it is unsafe. The turning of the vehicle gives rise to multiple conflicts especially as vehicles attempt to leave or enter the Site A car park.
26. However, there is a real probability that given the challenges with servicing the site, the servicing vehicle will then have to park on Dunholme Road and then have to use Back Lane, Lynnwood Avenue or South down Dunholme Road to return to the highway network. It is agreed by the parties, that this would be an unacceptable arrangement and Mr Moore has provided consistent evidence that these roads could not accommodate such traffic safely.³

Site B - Day to Day operation within the site

27. Even if the figure of a queue of nine is used, there will be a tailback of cars into the car-park. Unlike slow moving traffic within a typical car park such as a supermarket, this queue will be essentially a fixed presence for sustained periods of time as cars queue for the drive through. Taking the Appellant's figures that

³ Mr Moore's witness statement at paragraphs 15 onwards.

each order can take upto 4 minutes to negotiate the length of the drive-through, the potential for essential stationary traffic is real.

28. Arising from this essentially stationary line of traffic, the potential for conflicts is obvious, as cars either attempt to enter or leave their car parking space which will involve crossing 'the carriage way' within the car park; if the queue bends round to the order point as is likely to happen, egress from site A is blocked; there is no robust worked out plan for a car to use a 'grill' or 'holding' space. In short, the potential for exasperated motorists to make a mistake whilst hungry, frustrated that their food is cooling or just exasperated at the length of waiting to make a potentially serious mistake is real and should weigh heavily against this ill-thought through proposal.⁴

Site B - Day to Day operation onto Dunholme Road

29. Unfortunately, the traffic impacts of the scheme are likely to spill out onto the wider road network. An indecisive customer at the order point could very easily lead to a queue spilling out onto Dunholme Road which realistically only has capacity for two vehicles turning left from Dunholme Road into the access. The possibility of a rear end shunt is obvious; as discussed below the junction between Dunholme Road and Westgate Road is ill-suited to additional traffic given the blind spots and the gradient up Dunholme Road. Cumulatively, these characteristics make the location ill-suited for a drive-through that could lead to queued traffic.
30. In addition, traffic leaving the site will likely tail back into the drive-through further clogging up its operation. As Mr Moore testified, a courteous motorist will sit back from the give-way line to allow the large number of pedestrians to cross and this reduces the capacity of Dunholme Road/Westgate Road junction to two; a third vehicle leaving the site will block the southern carriage way

⁴ See Mr McGillivray's appendix 2 for his rebuttal for an indication of the likely conflicts.

giving rise to a further source of conflict and a motorist travelling too fast after accelerating to overcome the gradient of Dunholme Road or driving too fast to find a gap in Westbound traffic on Westgate Road may result in a collision.

31. These scenarios demonstrate the inherent unsuitability of the placement of the access so close to the existing junction and the Rule 6 party agree with Mr McGillivray's findings on this point.⁵

Traffic Projections

32. As Mr Kitchener acknowledged in cross-examination, the assessment of road safety is inextricably linked to the traffic generation. The traffic projections fed into the capacity assessments as well as the road safety review.

33. As Mr Kitchener acknowledged in cross-examination, they are narrow in scope. Weekend traffic projections rely on TRICS data from a single site with data which is over six years old. Most importantly, the TRICS data has not been agreed with Newcastle Planning Authority and the assumptions made have not been agreed. This at the very least should give the Inspector reason to question whether these traffic projections are sufficiently robust to assess whether a development is acceptable in highway safety terms.

34. Regardless of the source, the traffic projections as presented are narrow in scope with only a mean average presented for consideration with no indication of spread. There is no indication of how much traffic deviates from this mean and how many days would involve substantial increases in traffic beyond the purported capacity of the car park and drive through. The importance of accurate and robust traffic projections is all the more important given the inherent limitations of the junction between Dunholme Road and Westgate Road and it is to that I now turn.

⁵ Paragraph 3.53 to 3.62 of Mr McGillivray's witness statement

Dunholme Road / Westgate Road Junction

35. The biggest increase in risk, however, will arise from the Dunholme Road / Westgate Road junction. In many instances, traffic using this junction will either triple or quadruple.⁶
36. The inquiry will recall that Mr Moore took us through all four manoeuvres involved in the Dunholme Road / Westgate Road junction calling upon his experience as an airline pilot to discuss potential hazards. The inquiry will recall that in three out of the four manoeuvres he found that the manoeuvre was inherently hazardous. The inquiry will also recall that Mr Moore (and fellow neighbours) undertook bus surveys and pedestrian counts to present the inquiry with the fullest picture of the day to day use of the junction.
37. Turning Right from Westgate Road into Dunholme Road involves waiting in the central carriageway blocking traffic to the rear causing aggrieved drivers from the rear who stopping seconds later after being held at the traffic lights. Then to turn right, the driver must wait for a gap in the Westbound traffic whilst their sight is obscured by parked buses (often two) as well as straining over their shoulder to look for any pedestrians who are approaching from the West. These pedestrians can be obscured from high sided vehicles turning West out of Dunholme Road. As was demonstrated on one of the videos shown by Mr Moore this can result in traffic sitting stationary in the Westbound lane as pedestrians emerge from behind the bus and clear the junction.
38. Turning Left from Westgate Road into Dunholme Road also involves looking beyond a parked buses, where pedestrians can emerge unexpectedly. The dangers of this manoeuvre were vividly laid bare when Mr Moore described the near-miss incident he witnessed.

⁶ Mr Moore's statement at paragraph 33 as amended in evidence in chief.

39. For both manoeuvres into Dunholme Road they are faced with a rising gradient for which they must accelerate.
40. Turning Right from Dunholme Road into Westgate Road is also hazardous as traffic is obscured by parked buses, pedestrians and the bus stop itself. This invariably involves nudging out and giving rise to a potential conflict with a Westbound vehicle. In addition, high sided vehicles such as vans turning left out of Dunholme road obscure the view of oncoming Eastbound traffic.
41. It is into this context that the appellant wishes to add further traffic and in our submission, this is highly unacceptable. The junction only functions within the bounds of an acceptable safety standard as a lightly used residential junction which is used by cautious local residents who are familiar with its layout and risks. This development will change the character to one which is frequently used despite the obvious safety implications. The risk of increasing traffic on this junction should be obvious before considering the pedestrians using the junction.

Pedestrian profile

42. This junction is heavily used by pedestrians.⁷ But it is also used by young people using the buses—unfortunately, as Mr Kitchener acknowledged, young people are more at risk when crossing roads especially when they are playing with their ‘phones or travelling in groups. Both of which are likely to happen as they disembark from the bus.
43. I have spoken earlier about the inappropriateness of having the access so close to the existing junction; however, that has a further regrettable impact. As Mr Moore identified, there is a credible risk that pedestrians may travel in a direct line from western corner of the Dunholme Road / Westgate Road junction to the entrance of the drive through—this means that they will be an additional ingredient within the cars manoeuvring within the car

⁷ Mr Moore’s tables at page 17 of his Witness Statement

park and Dunholme Road. The opportunity for conflicts is obvious and further weighs against the proposals.

Road Safety Review

44. The Road Safety Review is narrow in scope. It is not informed by at least the following:
 - a. Conflicts within the site
 - b. Increase in traffic on Lynnwood Avenue
 - c. Increase in traffic on Bentinck Road
 - d. Pedestrian profile.

Moreover, the site visit which informed the Road Safety Review took place before 'Freedom Day' and before we returned back to 'normal.'

45. In addition, as Mr Moore has identified, the Road Safety Review fails to detail the exact nature of the risks consistently and misses out key features such as pedestrian blind spots.
46. Accordingly, as both Mr Kitchener and Mr Moore testified it is possible that this Road Safety Review has underappreciated the risk presented by this development.
47. Regardless, the Road Safety Review projects an 'adverse material increase' in the number of conflicts. The Review projects under four headings that there will be a further serious incident within the next three to ten years. That is at least four further serious incidents within the decade. There is also a greater likelihood and frequency of less serious incidents like minor shunts. Compared to the one serious incident in the last five years that can only be described as a 'significant' increase and thus unacceptable.
48. Any increase in road traffic will inevitably result in an increase in road safety impacts. It is certainly not the position of the Rule 6 Party that the site should be sterilised because of the junction, but as Mr Cullingford observed there are alternatives

which do not result in such intensive road use. In contrast, this development's very *raison d'être* is to capture and attract traffic.

Living Conditions –

Overlooking / Privacy

49. The issue of overlooking can be dealt with swiftly. The site visit to residents' gardens and the site made it apparent that overlooking from the tower will be severe. Residents of the new build conversion will have direct line of sights into resident's gardens, kitchens, dining rooms and bedrooms. Indeed, their main outlook will be the private space of existing residents. The overlooking and invasion of privacy will be consistent, persistent and insistent.
50. The impact of this compromised privacy was vividly explained by Mr Gany, a resident of Lynnwood Avenue where he simply stated that 'we will no longer have the freedom to use our house and garden the way we had in the past.'⁸
51. Whilst the Rule 6 party believes that the baseline for assessing overlooking and privacy is the present (non)use, the impact of considering the use of ancillary staff at the police station is minimal. First, the Freedom of Information request does *not* demonstrate that the Police Station was bustling busy and continuously occupied—the Appellant's approach to the headcount contained in the FOI request makes no allowances for leave, shift patterns or the simple fact that a majority of staff would be 'on the beat'
52. The inquiry will recall Ms Jubb's evidence that the clerical staff rarely looked out of the window and for the vast majority of the time had the blinds pulled. Privacy and overlooking was not an issue.

⁸ Mr Gany's Opening Statement, paragraph 11.

53. Regardless of the use by previous staff, the addition of residences overlooking in the evening and weekend will be unprecedented development and will compromise the previous enjoyment at leisure times. Overlooking will affect numerous properties across the Lynnwood Avenue and will deny those residents a key facet of their amenity—the ability to relax free from observation.

Noise

54. Regardless of what benchmark is adopted, the Police Station whilst visually obtrusive was inobtrusive when it came to noise. First, with the exception of the occasional Saturday night hijinks there is extremely limited evidence that the operation of the police station and holding of criminals actually resulting in horns blaring, calling out or shouting. Moreover, the evidence of Ms Jubb was that her amenity was rarely interrupted by the operational police station. Indeed, she was oblivious to the fact that they moved out. Second, the Police Station functioned as a substantial noise barrier which shielded the residents from adverse noise.

55. The development, in contrast will remove this substantial noise barrier and replace it with a suboptimal arrangement. The gap between drive-through and the retained tower will funnel numerous noise generating activities towards the residents on Lynnwood Avenue especially the upper floors who will have a direct line of sight (and audibility) of the drive-through. For example, those residents will have direct hearing of car doors slamming, car alarms, radios blaring as well as the comings and goings. The Appellant states that in line with W.H.O. guidance it is not necessary to assess noise at such heights—however, that guidance dates from 2000 and 2009 and is therefore pre-lockdown and does not reflect the wider sensitivity of rooms in light of lifestyle changes. Regardless, the interests of teenagers studying, children sleeping and home offices has not been fully appreciated.

56. It is perhaps in the area of servicing that the evidence presented so far is at its most inadequate; despite there being a sound sensitive habitable room only 6m from the refuse servicing site for site A, the Appellant has provided *no* evidence regarding the noise impacts of this obviously noise generating activity. Similarly, the south facing servicing arrangements for Site B have not been fully considered.

57. In addition, the sound survey undertaken is narrow in scope. There has been an overly narrow focus on decibel readings and an underappreciation of the character of the noise. The Rule 6 party adopts Ms Wallis's observations at paragraph 7.26:

Research indicates that residents become attuned to steady state noise such as road traffic and that over time, perceived audibility diminishes and is not considered to be prominent. However, different types of noise source, such as those associated with the operation of a drive through takeaway and restaurant, can give rise to different impacts and responses. Such noise sources are not steady state; the duration, type, frequency and time of occurrence occur at a range of different times and for different of times, some, for example, the condensers, continuously throughout day and night, cutting in as and when needed to maintain temperature in the freezer / chiller units throughout the night . Such intermittent noise is more likely to disturb and cause annoyance.

58. Accordingly, the development will have a severe impact on residents' amenity as they are interrupted by seemingly arbitrary, conflicting and loud noises.

59. Whilst not key to the Rule 6 Party's case, the Rule 6 Party note that residents of the Site A flats will only possess an acceptable level of noise amenity if their windows are closed leading them to the invidious choice of either having their flats overheat or the near constant interruption of unacceptable noise.

Litter

60. The local residents have to their credit formed a local litter picking group and it appears at this stage to be equivalent to cleaning the Augean stables since litter is endlessly replaced by more litter. It is to this context, that the Appellant proposes the addition of a further litter source. Moreover, this litter will be 'beacon' litter—that is brightly coloured packaging that attracts more litter. Accordingly, this development will result in a step-change in litter unless adequately mitigated.

61. At this stage the proposed mitigation is unclear since it involves a litter pick over an undefined area. Regardless, drive-through litter travels. Many of the residents comment that much of the litter they pick up has travelled in cars and been discarded once drivers park. The increase in litter is another factor that weighs against this proposal.

Health and Wellbeing

Fast-Food

62. Before embarking upon our submissions regarding the addition of a further fast food takeaway we would like to make a few contextual observations:

- a. We have no intention of entering into the sterile debate regarding the effect of the Supplementary Planning Document except to say that the pedantic and legalistic interpretation adopted by the Appellant runs rough-shod over the discretion allowed for in policy CS13.
- b. There is a surfeit of fast-food outlets in the area. Dr Scott counted 16 Hot Food Takeaways and noted that there were a higher number of takeaways in Newcastle generally than the national average.⁹

⁹ <https://www.theguardian.com/inequality/2017/jul/25/large-rise-takeaway-shops-highlights-dominance-fast-food-deprived-areas-england>)

- c. Mr Moore's survey and the testimonies of local residents Dr McAlpine, Ms Kirkwood and Ms Chowdry all testify to that the bus stops are frequently used by young people.
- d. Ms Chowdry confirmed that a halal diet did not preclude unhealthy food.
- e. The site is deprived: In 2019, out of 317 local authorities in England, Newcastle was ranked in 32nd place regarding deprivation. It had gone up from 42nd place in 2015. Within Newcastle, the four wards of Elswick, Arthur's Hill, Scotswood & Benwell and Wingrove were ranked in the worst five. These wards are impoverished wards within an impoverished area.
- f. The British South Asian community is more susceptible to diabetes and this is reflected in the lower BMI required to access specialist healthcare.

63. It is into that context, that the developers propose to add a *further* fast-food outlet. Given that the link between impoverishment, diabetes and poor diet is uncontested, this development is not policy compliant. Specifically, paragraph 92C of the NPPF requires development to 'enable and support healthy lifestyles, for example through the provision of access to healthier food'.

64. There is an inherent tension within the Appellant's argument. On one hand, they argue that the fast-food market will be cannibalised meaning that the dietary impact will be minimal since those who already eat fast food will just eat elsewhere but on the other hand they claim that there will be a net increase in jobs even though the market will be cannibalised. This is somewhat inconsistent position and undermines the health benefits that can be ascribed to new jobs.

Air Quality

65. With regards to air quality, we are grateful for the work undertaken by the Appellant. However, we retain reservations. Any increase in traffic will have a negative impact on air quality and breathlessness is a deeply distressing symptom. Moreover, as Dr Scott explained poor air quality is increasingly recognised as having a role to play in all chronic lung diseases. So any increase in vehicle emissions is likely to worsen the distressing symptoms of breathlessness for those suffering from these regrettably common illnesses.

Sustainability

66. We consider that the development as proposed is not sustainable; notwithstanding the jobs created (which are likely to cannibalise the existing fast-food market), a drive through which is likely to serve beef as its primary product is not environmentally sustainable. First, as Mr Hedley acknowledged beef generates greenhouse gases. Second, a drive-through encourages car use which will remain dependent predominately on petrol and diesel for a substantial number of years. Instead of capturing criminals, this site will capture traffic and release carbon.

Planning Balance

67. For the reasons discussed above and adopting the evidence of Mr Edwards, we consider that this development is in breach of the following policies in the local plan should therefore be refused.

Issue	Local Policy	Reason
Design	CS15 and DS20	Inappropriate design or mediocre character which fails to take cues from local feature. Will not serve as a gateway.

Landscape	CS18, DM27 and DM28	Insufficient and fragmented landscaping
Traffic	CS13, DM12 and DM14	Inadequate mitigation of highway impacts, unworkable servicing and unworkable car parking.
Living Conditions	CS14 and DM23	Serious adverse noise impacts. Repeated, consistent and multiple incidents of overlooking.
Health and Wellbeing	CS14	The introduction of a further fast food restaurant will compound the challenges of addressing childhood obesity and will not enhance or protect the health of the local population.

68. In addition, the Rule 6 Party advances the following reasons for referral which the Appellant's acknowledged would be breached if there was sufficient evidence.

Health and Wellbeing	CS14	Any increase in traffic will result in deterioration of air quality which will have a materially adverse impact on health.
Living Conditions	DM23.2.v	An increase in litter (especially beacon litter) will result in a deterioration of the

		environment and result in compromised residential amenity.
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69. Dealing very briefly with the purported benefits of the scheme. They are, in our submission, of slight (and at most) moderate weight.

- a. There will be an investment, but that for the reasons above will be at great cost in terms of health and wellbeing, highway safety impacts and adverse impact on amenity in the form of noise and overlooking.
- b. There will be jobs. However, the construction jobs which make up the majority of the generated jobs will be temporary and at the moment there is no condition that they will be locally sourced.
- c. The remaining jobs will be predominately part-time and predominately low-skilled. Moreover, when compared to the large number of jobs (c.200) that the Police Station could supposedly support, this small number of part-time and low-skilled jobs can appear like a missed opportunity.
- d. Finally, the drive-through will in the appellant's words have a cannibalisation effect and abstract income, tax revenue and jobs from other local fast-food takeaways. Its net impact will be marginal at best and this greatly diminishes the weight that these purported benefits attract.

70. Whilst jobs are always welcome, this development (especially the Drive-Through) will 'lock-in' an inappropriate development that will arrest rather than progress the improvement of the area. Given that all policies attach full weight, the purported benefits do not outweigh the severe and legion impacts of the scheme.

71. In short, we should not be generating more traffic, we should not be tolerating more serious car accidents, we should not be encouraging unhealthy food and the West End deserves better design. Therefore, this development should be refused as a marker of the fact that we have reached peak car-use, peak collisions, peak calories and peak carbuncles.

Conclusion

72. For all of these reasons, we respectfully request that permission is declined for both appeals.

Joseph Thomas
Landmark Chambers