



**DARLINGTON**

Borough Council

# Planning Applications Committee Agenda

1.30 pm, Wednesday, 15 May 2024

Council Chamber, Town Hall, Darlington, DL1 5QT

**Members of the Public are welcome to attend this Meeting.**

1. Introductions/Attendance at Meeting
2. Declarations of Interest
3. To Approve the Minutes of the Meeting of this Committee held on 10 April 2024 (Pages 5 - 26)
4. Introduction to Procedure by the Assistant Director, Law and Governance's Representative (Pages 27 - 28)
5. Applications for Planning Permission and Other Consents under the Town and Country Planning Act and Associated Legislation (Pages 29 - 30)
  - (a) Burtree Garden Village Phase 1 (Pages 31 - 104)
  - (b) Rear Of 39 Elton Parade (1 Coach House Lane) (Pages 105 - 116)
  - (c) Land At 1 Briar Close (Pages 117 - 136)
  - (d) 69 Welbeck Avenue (Pages 137 - 146)
6. SUPPLEMENTARY ITEM(S) (if any) which in the opinion of the Chair of this Committee are of an urgent nature and can be discussed at this meeting

7. Questions

**PART II**

8. Notification of Decision on Appeals -

The Chief Executive will report that the Inspectors appointed by the Secretary of State for the Environment have: -

Dismissed the appeal by Mr Benjamin Porte of Clear Channel UK against this authority's decision to refuse permission for the display of 1 no. internally illuminated LED digital advertising display including the removal of 2 No. advertising displays at BP Service Station, High Northgate, Darlington DL1 1UQ (23/01024/ADV) (copy of Inspector's decision enclosed).

**RECOMMENDED – That the report be received.** (Pages 147 - 152)

9. Notification of Appeals -

The Chief Executive will report that: -

- (a) Mr Ryan Beaumont has appealed against this Authority's decision to refuse permission for the erection of a single storey rear extension, dormer window to rear elevation, cycle storage area and erection of boundary wall 2372mm in height with external doors into back lane (part retrospective) description amended by plans and updated planning statement received 08/02/2024) (as amended by plans received 26/01/2024 and 02/02/2024) at 93 Pensbury Street, Darlington, DL1 5LJ (23/00100/FUL).
- (b) Hazelfield Lodge Ltd have appealed against this Authority's decision to refuse permission for Change of use of agricultural land for tourist accommodation including the siting of 3 No. holiday lodges and 3 No. hot tub enclosures with car parking, associated landscaping and gravel pathways including the creation of secondary access. Conversion of store room to form kitchen/office and garage together with landscaping and associated works (Retrospective Application) (amended plans/information received 5th October 2023) at Land to rear of Hazelfield Cottage, Elstob Lane, Great Stainton, TS21 1HP (23/00588/FUL).

**RECOMMENDED – That the reports be received.**

**PART III**

**EXCLUSION OF THE PUBLIC AND PRESS**

10. To consider the Exclusion of the Public and Press –

**RECOMMENDED** - That, pursuant to Sections 100B(5) of the Local Government Act 1972, the public be excluded from the meeting during the consideration of the ensuing item on the grounds that it involves the likely disclosure of exempt information as defined in

exclusion paragraph 7 of Part I of Schedule 12A of the Act.

11. Complaints Received and Being Considered Under the Council's Approved Code of Practice as of 1st May 2024 (Exclusion Paragraph No. 7) – Report of the Chief Executive (Pages 153 - 160)
12. SUPPLEMENTARY ITEM(S) (IF ANY) which in the opinion of the Chair of this Committee are of an urgent nature and can be discussed at this meeting
13. Questions



**Luke Swinhoe**  
**Assistant Director Law and Governance**

**Tuesday, 7 May 2024**

**Town Hall**  
**Darlington.**

**Membership**

Councillors Ali, Allen, Anderson, Bartch, Beckett, Cossins, Haszeldine, Kane, Laing, Lawley, Lee, McCollom, Robinson and Tostevin

If you need this information in a different language or format or you have any other queries on this agenda please contact Paul Dalton, Democratic and Elections Officer, Operations Group, during normal office hours 8.30 a.m. to 4.45 p.m. Mondays to Thursdays and 8.30 a.m. to 4.15 p.m. Fridays E-Mail: [paul.dalton@darlington.gov.uk](mailto:paul.dalton@darlington.gov.uk) or telephone 01325 405805

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## PLANNING APPLICATIONS COMMITTEE

Wednesday, 10 April 2024

**PRESENT** – Councillors Cossins (The Mayor) and Haszeldine (Chair), Allen, Anderson, Beckett, Kane, Laing, Lawley, Lee, McCollom, Robinson and Tostevin.

**APOLOGIES** – Councillor Ali.

**ABSENT** – Councillor Bartch.

**ALSO IN ATTENDANCE** – Councillors Coe and Holroyd.

**OFFICERS IN ATTENDANCE** – Dave Coates (Head of Planning, Development and Environmental Health), Andrew Errington (Lawyer (Planning)), Lisa Hutchinson (Principal Planning Officer), Arthur Howson (Engineer (Traffic Management)), Paul Dalton (Democratic and Elections Officer) and Olivia Hugill (Democratic Officer)

### PA75 DECLARATIONS OF INTEREST

Councillor Robinson declared a Pecuniary Interest in Minute PA77(2) below, as the occupier of an adjoining property, and left the meeting during discussion on this item.

### PA76 TO APPROVE THE MINUTES OF THE MEETING OF THIS COMMITTEE HELD ON 7 FEBRUARY 2024

**RESOLVED** – That the Minutes of this Committee held on 7 February 2024, be approved as a correct record.

### PA77 APPLICATIONS FOR PLANNING PERMISSION AND OTHER CONSENTS UNDER THE TOWN AND COUNTRY PLANNING ACT AND ASSOCIATED LEGISLATION

A1	<p>The approval of the Local Planning Authority shall be obtained with respect to the following reserved matters before the development is begun:-</p> <ul style="list-style-type: none"> <li>(a) layout;</li> <li>(b) scale;</li> <li>(c) appearance;</li> <li>(d) access;</li> <li>(e) landscaping.</li> </ul> <p>Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.</p> <p><b>REASON</b> - To accord with the provisions of Section 92(1) of the Town and Country Planning Act 1990 (as amended).</p>
A2	The development shall be begun two years from the final approval of

	<p>the reserved matters referred to in condition (1) or, in the case of approval on different dates the final approval of the last such matter to be approved.</p> <p><b>REASON</b> - To accord with the provisions of Section 92(1) of the Town and Country Planning Act 1990.</p>
A3	<p>Implementation Limit (Three Years) The development hereby permitted shall be commenced not later than the expiration of three years from the date of this permission.</p> <p><b>Reason</b> - To accord with the provisions of Section 91(1) of the Town and Country Planning Act, 1990.</p>
B4	<p>Notwithstanding any description of the external materials in the submitted application, details of the external materials to be used in the carrying out of this permission (including samples) shall be submitted to, and approved by, the Local Planning Authority in writing prior to the commencement of the development and the development shall not be carried out otherwise than in accordance with any such approved details.</p> <p><b>REASON</b> - In order that the Local Planning Authority may be satisfied as to the details of the development in the interests of the visual amenity of the area.</p>
PL	<p>The development hereby permitted shall be carried out in accordance with the approved plan(s) as detailed below, ^IN;</p> <p><b>Reason</b> - To ensure the development is carried out in accordance with the planning permission.</p>
CL1	<p>Prior to the commencement of the development and any site investigative works a Phase 1 Preliminary Risk Assessment shall be prepared by a "suitably competent person(s)" and submitted to and agreed in writing with the Local Planning Authority. The Phase 1 Preliminary Risk Assessment shall include a Site Inspection and a Conceptual Site Model (CSM) to identify and illustrate all potential contamination sources, pathways and receptors associated with the site and the surrounding environment.</p> <p><b>REASON</b> - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy</p>

	Framework.
CL2	<p>Prior to the commencement of the development and any site investigation works or at a time agreed in writing by the Local Planning Authority a Phase 2 Site Investigation Strategy (Sampling and Analysis Plan) shall be designed and documented by a "suitably competent person(s)" in accordance with published technical guidance (e.g. BS10175 and Land Contamination: Risk Management (LCRM)) and be submitted to and agreed in writing with the Local Planning Authority, unless the Local Planning Authority dispenses with the requirement specifically and in writing. The Phase 2 Site Investigation Strategy (Sampling and Analysis Plan) shall be sufficient to fully and effectively characterise and evaluate the nature and extent of any potential contamination and assess pollutant linkages. No alterations to the agreed Phase 2 Site Investigation Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority.</p> <p><b>REASON</b> - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.</p>
CL3	<p>Prior to the commencement of the development or at a time agreed in writing by the Local Planning Authority a Phase 2 Site Investigation works shall be conducted, supervised and documented by a "suitably competent person(s)" and carried out in accordance with the approved Phase 2 Site Investigation Strategy (Sampling and Analysis Plan). A Phase 2 Site Investigation and Risk Assessment Report prepared by a "suitably competent person(s)", in accordance with published technical guidance (e.g. BS10175 and Land Contamination: Risk Management (LCRM)) and shall be submitted to and agreed in writing with the Local Planning Authority unless the Local Planning Authority dispenses with the requirement specifically and in writing.</p> <p><b>REASON</b> - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.</p>
CL4	<p>Prior to the commencement of the development or at a time agreed in writing by the Local Planning Authority a Phase 3 Remediation and</p>

	<p>Verification Strategy shall be prepared by a "suitably competent person(s)" to address all human health and environmental risks associated with contamination identified in the Phase 2 Site Investigation and Risk Assessment. The Remediation and Verification Strategy which shall include an options appraisal and ensure that the site is suitable for its new use and no unacceptable risks remain, shall be submitted to and agreed in writing with the Local Planning Authority, unless the Local Planning Authority dispenses with the requirement specifically and in writing.</p> <p><b>REASON</b> - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.</p>
CL5	<p>Any contamination not considered in the Phase 3 Remediation and Verification Strategy, but identified during subsequent construction/remediation works shall be reported in writing within a reasonable timescale to the Local Planning Authority. The contamination shall be subject to further risk assessment and remediation proposals agreed in writing with the Local Planning Authority and the development completed in accordance with any further agreed amended specification of works.</p> <p><b>REASON</b> - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.</p>
CL6	<p>The Phase 3 Remediation and Verification works shall be conducted, supervised and documented by a "suitably competent person(s)" and in accordance with the agreed Phase 3 Remediation and Verification Strategy. No alterations to the agreed Remediation and Verification Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority.</p> <p>A Phase 4 Verification and Completion Report shall be compiled and reported by a "suitably competent person(s)", documenting the purpose, objectives, investigation and risk assessment findings, remediation methodologies, validation results and post remediation monitoring carried out to demonstrate the completeness and effectiveness of all agreed remediation works conducted. The Phase 4 Verification and Completion Report and shall be submitted and agreed in writing with the Local Planning Authority within 2-months</p>



	<p>of completion of the development or at a time agreed unless the Local Planning Authority dispenses with the requirement specifically and in writing.</p> <p>The development site or agreed phase of development site, shall not be occupied until all of the approved investigation, risk assessment, remediation and verification requirements relevant to the site (or part thereof) have been completed, reported and approved in writing by the Local Planning Authority.</p> <p><b>REASON</b> - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.</p>
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**(1) POWER PLAY SNOOKER AND POOL, ELDON STREET**

**23/00178/FUL** - Demolition of 2 No. existing buildings and erection of 12 No. residential dwellings (4 No. 3 bed houses and 8 No. 2 bed houses) with parking provision (Bat report received 26th May 2023) (Nutrient Neutrality assessment / budget calculator received 9th October 2023) (Revised drainage strategy received 2nd February 2024).

(In making its decision, the Committee took into consideration the Planning Officer's report (previously circulated), the views of the Council's Highways Engineer, Transport Planning Officer and Environmental Health Officer, the Local Lead Flood Authority, the objections of the Conservation Officer, nine letters of objection received, the view of Darlington Association on Disability, and the views of the Applicant's Agent, an Objector and the Ward Councillor, whom the Committee heard.)

**RESOLVED** – Subject to the completion of an agreement under Section 106 of the Town and Country Planning Act 1990 within six months to secure planning obligations that are appropriate to the development covering:

- i) Highways contribution (improvements to pedestrian infrastructure in Eldon Street) £6000 (to be costed);
- ii) Sustainable transport contribution in line with the SPD. This will be based on £500 per 2 bedroomed dwelling, £750 per 3 bedroomed dwelling.

that Planning Permission be granted subject to the following conditions:

**GENERAL**

- 1. A3 (Standard 3-year time limit)

## APPROVED PLANS

### 2. PL (Accordance with Plans)

#### Site location Plan

4017-HMH-DD-2B4P-DR-A-1010-P02\_2B4PHOUSE Revised 2B4P House Plan

4017-HMH-DD-3B5P-DR-A-1020-P02\_3B5PHOUSE Revised 3B5P House Plan

4017-HMH-DD-SBXX-DR-A-1041-P04\_Rear Elevation Street scene

4017-HMH-DD-SPXX-DR-A-1001-P07\_ Revised Proposed site plan

4017-HMH-DD\_B1XX-DR-A-1040-P06 Revised Street elevations and block plan

## MATERIALS

### 3. B4 External Materials

## AFFORDABLE HOUSING

4. The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
- a) the numbers, type, and tenure of the affordable housing provision to be made.
  - b) The arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing] (if no RSL involved);
  - c) The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - d) The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

**REASON** – The provision of affordable housing within the scheme was given significant weight in the planning balance. To comply with Council housing policy.

## HERITAGE IMPACTS

5. The buildings shall not be demolished until an appropriate programme of historic building recording (level 2) and analysis has been secured and implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The development shall be carried out in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning.

**REASON** - To ensure that an appropriate record is made of the historic building fabric that will be affected by the development.

## **NUTRIENT NEUTRALITY**

6. Prior to the first occupation of the development, a Final Nutrient Credit Certificate, signed by Natural England and the applicant, shall be submitted to the Local Planning Authority.

**REASON** - To ensure the development is nutrient neutral in accordance with the Conservation of Habitats and Species Regulations 2017

## **M4(2) STANDARD**

7. The dwellings hereby approved shall fully meet building regulations category M4(2) adaptable and accessible dwelling standards.

**REASON** – To ensure the development complies with policy H4 of the Darlington Local Plan 2016 – 2036

## **EV CHARGING POINTS**

8. Prior to the first occupation of the development hereby approved details of the type and location of an electrical socket suitable for charging electric vehicles for each property with a dedicated garage or parking space, shall be submitted to and approved by the Local Planning Authority. Thereafter the development shall be undertaken in accordance with the approved details prior to the occupation of the dwellings and maintained as such thereafter.

**REASON** - To accord with Policy IN4 of the Local Plan.

## **LAND CONTAMINATION**

9. Prior to the commencement of the development and any site investigation works, (excluding site preparation and demolition) or at a time agreed in writing by the Local Planning Authority a Phase 2 Site Investigation Strategy (Sampling and Analysis Plan) shall be designed and documented by a "suitably competent person(s)" in accordance with published technical guidance (e.g. BS10175 and Land Contamination: Risk Management (LCRM)) and be submitted to and agreed in writing with the Local Planning Authority, unless the Local Planning Authority dispenses with the requirement specifically and in writing. The Phase 2 Site Investigation Strategy (Sampling and Analysis Plan) shall be sufficient to fully and effectively characterise and evaluate the nature and extent of any potential contamination and assess pollutant linkages. No alterations to the agreed Phase 2 Site Investigation Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority.

**REASON** - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised,

together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

10. Prior to the commencement of each phase of the development (excluding site preparation and demolition) or at a time agreed in writing by the Local Planning Authority a Phase 2 Site Investigation works shall be conducted, supervised and documented by a "suitably competent person(s)" and carried out in accordance with the approved Phase 2 Site Investigation Strategy (Sampling and Analysis Plan). A Phase 2 Site Investigation and Risk Assessment Report prepared by a "suitably competent person(s)", in accordance with published technical guidance (e.g. BS10175 and Land Contamination: Risk Management (LCRM)) and shall be submitted to and agreed in writing with the Local Planning Authority unless the Local Planning Authority dispenses with the requirement specifically and in writing.

**REASON** - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

11. Prior to the commencement of the development (excluding site preparation and demolition) or at a time agreed in writing by the Local Planning Authority a Phase 3 Remediation and Verification Strategy shall be prepared by a "suitably competent person(s)" to address all human health and environmental risks associated with contamination identified in the Phase 2 Site Investigation and Risk Assessment. The Remediation and Verification Strategy which shall include an options appraisal and ensure that the site is suitable for its new use and no unacceptable risks remain, shall be submitted to and agreed in writing with the Local Planning Authority, unless the Local Planning Authority dispenses with the requirement specifically and in writing.

**REASON** - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

12. Any contamination not considered in the Phase 3 Remediation and Verification Strategy but identified during subsequent construction/remediation works shall be reported in writing within a reasonable timescale to the Local Planning Authority. The contamination shall be subject to further risk assessment and remediation proposals agreed in writing with the Local Planning Authority and the development completed in accordance with any further agreed amended specification of works.

**REASON** - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised,

together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

13. The Phase 3 Remediation and Verification works shall be conducted, supervised, and documented by a "suitably competent person(s)" and in accordance with the agreed Phase 3 Remediation and Verification Strategy. No alterations to the agreed Remediation and Verification Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority.

A Phase 4 Verification and Completion Report shall be compiled and reported by a "suitably competent person(s)", documenting the purpose, objectives, investigation and risk assessment findings, remediation methodologies, validation results and post remediation monitoring carried out to demonstrate the completeness and effectiveness of all agreed remediation works conducted. The Phase 4 Verification and Completion Report shall be submitted and agreed in writing with the Local Planning Authority within 2-months of completion of the development or at a time agreed unless the Local Planning Authority dispenses with the requirement specifically and in writing.

The development site or agreed phase of development site, shall not be occupied until all of the approved investigation, risk assessment, remediation and verification requirements relevant to the site (or part thereof) have been completed, reported and approved in writing by the Local Planning Authority.

**REASON** - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

## **CONSTRUCTION IMPACTS**

14. Prior to the commencement of the development, a site-specific Demolition and Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plans shall include the following, unless the Local Planning Authority dispenses with any requirements specifically and in writing:
  - a) Dust Assessment Report which assesses the dust emission magnitude, the sensitivity of the area, risk of impacts and details of the dust control measures to be put in place during the demolition and construction phases of the development. The Dust Assessment Report shall take account of the guidance contained within the Institute of Air Quality Management "Guidance on the assessment of dust from demolition and construction" February 2014.
  - b) Methods for controlling noise and vibration during the demolition and construction phase and shall take account of the guidance contained within

BS5228 "Code of Practice for noise and vibration control on construction and open sites".

- c) Construction Traffic Routes, including parking areas for staff and visitors.
- d) Details of wheel washing.
- e) Road Maintenance.
- f) Warning signage.
- g) Contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

The development shall not be carried out otherwise in complete accordance with the approved Plan.

**REASON** – In the interests of residential amenity and highway safety.

15. No construction or demolition activities, including the use of plant and machinery, as well as deliveries to and from the site, shall take place outside the hours of 08.00-18.00 Monday to Friday, 08.00-14.00 Saturday with no activities on Sunday or Bank/Public Holidays without the prior written permission of the Local Planning Authority.

**REASON** – In the interests of amenity.

## HIGHWAYS

16. Except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any road or any structure or apparatus which will lie beneath the road must take place on any phase of the road construction works, until full detailed engineering drawings of all aspects of roads which affect or form part of the highway network, and a programme for delivery of such works have been submitted to and approved in writing by the Local Planning Authority.

The development must only be carried out in compliance with the approved engineering drawings and programme of delivery.

**REASON** - To secure an appropriate form of vehicular and pedestrian access is constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all highway users.

17. No part of the development to which this permission relates must be brought into use until offsite access works are completed and any internal carriageway and any footway or footpath from which it gains access is constructed to binder course macadam level or block paved (as approved) and kerbed and connected to the existing highway network with any street lighting installed and in operation.

**REASON** - To ensure safe and appropriate access and egress to the premises, in the interests of highway safety and the convenience of all highway users.

18. No part of the development shall be brought into use until the access, parking, maneuvering, and turning areas for all users within the development, have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

**REASON** - To provide for adequate and satisfactory provision of off-street accommodation for vehicles in the interest of safety and the general amenity of the development.

### **TRANSPORT POLICY**

19. Prior to the first occupation of the development hereby approved, details of secure cycle parking shall be submitted to, and approved in writing by the Local Planning Authority. The cycle parking shall be implemented in accordance with the agreed details prior to the occupation of the dwellings and shall be retained as such thereafter.

**REASON** – To encourage the use of sustainable modes of transport to and from the development.

### **FLOODING AND DRAINAGE**

20. The development hereby approved shall not be commenced on site, until a scheme for 'the implementation, maintenance and management of a Sustainable Surface Water Drainage Scheme has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details, the scheme shall include but not be restricted to providing the following details.

- Detailed design of the surface water management system.
- A build program and timetable for the provision of the critical surface water drainage infrastructure.
- A management plan detailing how surface water runoff from the site will be managed during the construction phase;
- A Section 104 adoption agreement entered into before construction.
- Amended Flood Risk Assessment (FRA) & Drainage Strategy.

**REASON** - To ensure the site is developed in a manner that will not increase the risk of surface water flooding to site or surrounding area, in accordance with Policy DC2 of the Darling Borough Local Plan 2016-2036 and the National Planning Policy Framework 2021.

21. The development permitted by this planning permission shall only be carried out in accordance with an amended and approved Flood Risk Assessment (FRA) & Drainage Strategy and the following mitigation measures detailed within the FRA.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) no enlargement, improvement or other alteration of the premises, including any additional structures/building within the curtilage of the site or alterations or removal of the permeable block paving shall be carried out without the prior consent of the Local Planning Authority, to whom a planning application must be made.

**REASON** - The plots contain critical elements of surface water attenuation structures beneath ground. The surface finish proposal above attenuation is “permeable block paving” which is integral to the long-term drainage strategy.

22. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) no enlargement, improvement or other alteration of the premises, including any additional structures/building within the curtilage of the site or alterations or removal of the permeable block paving shall be carried out without the prior consent of the Local Planning Authority, to whom a planning application must be made.

**REASON** - The plots contain critical elements of surface water attenuation structures beneath ground. The surface finish proposal above attenuation is “permeable block paving” which is integral to the long-term drainage strategy.

23. The mitigation measures shall be fully implemented prior to the occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any period as may subsequently be agreed, in writing, by the local planning authority.

**REASON** - To prevent flooding by ensuring the satisfactory storage of / disposal of surface water from the site and to reduce the risk of flooding to the proposed development and future occupants.

24. The buildings hereby approved shall not be brought into use until: -

- Requisite elements of the approved surface water management scheme for the development, or any phase of the development are in place and fully operational to serve said building.
- A Management and maintenance plan of the approved Surface Water Drainage scheme has been submitted and approved in writing by the Local Planning Authority, this should include the funding arrangements and cover the lifetime of the development.

**REASON** - To reduce flood risk and ensure satisfactory long-term maintenance are in place for the lifetime of the development.

## **LANDSCAPE AND MEANS OF ENCLOSURE**

25. A landscaping scheme shall be submitted to, and approved in writing by, the Local Planning Authority prior to any works commencing (excluding demolition and site



access work) and, upon approval of such schemes, it shall be fully implemented concurrently with the carrying out of the development, or within such extended period as may be agreed in writing by, the Local Planning Authority, and thereafter any trees or shrubs removed, dying, severely damaged or becoming seriously diseased shall be replaced, and the landscaping scheme maintained for a period of five years to the satisfaction of the Local Planning Authority.

**REASON** - To ensure a satisfactory appearance of the site and in the interests of the visual amenities of the area and to achieve Biodiversity Net Gain.

26. The boundary treatment for each dwelling as specified on the submitted drawing (4017-HMH-DD-SPXX-DR-A-1001-P07\_) shall be in place prior to the occupation of the dwellings hereby approved.

**REASON** – In the interests of visual and residential amenity

## **ECOLOGY**

27. The development shall not be carried out otherwise than in complete accordance with the recommendations set out within the Ecological Appraisal (Land off Eldon Street, Darlington, OS Ecology, May 2023) unless otherwise agreed in writing by the Local Planning Authority.

**REASON** - To ensure that any impacts on biodiversity and ecology are mitigated and that appropriate enhancement works, and biodiversity net gain are secured.

**Note:** Should the 106 Agreement not be completed within the prescribed period without written consent of the Council to extend this time, the minded to approve status of the permission shall be considered to be a refusal on the grounds that the application has failed to provide adequate mitigation measures to provide a satisfactory form of development in accordance with the requirements of Darlington Local Plan 2016-2036, without any further reference to the Planning Committee.

## **(2) GARAGES TO THE REAR OF 63 WOODLAND ROAD, VANE TERRACE**

**23/00956/FUL** - Demolition of garage block (four garages) and construction of 1 no. two bed residential dwelling (Use Class C3) incorporating the existing two storey dovecote and the creation of a courtyard/garden, together with the provision of a footpath for pedestrian access and installation of street lighting (additional information received 9 February 2024; Nutrient Calculator and Provisional Nutrient Certificate received 15 February 2024; Bat and Bird Breeding Survey received 29 February 2024).

(In making its decision, the Committee took into consideration the Planning Officer's report (previously circulated), the views of the Council's Street Lighting Engineer, Environmental Health Officer, Highways Engineer and Ecology Officer, Natural England, Northern Gas Networks, six letters of objection received, and the views of the Applicant's Agent, whom the Committee heard.)

**RESOLVED** – That Planning Permission be granted subject to the following conditions:

1. A3 – Implementation Limit (Three Years)
2. The development hereby permitted shall be carried out in accordance with the approved plans and documents, as detailed below:
  - a) Drawing Number 21-33/P002C Proposed Plans & Elevations
  - b) Drawing Number 21-33/P-LP – Location Plan

**REASON** – To ensure the development is carried out in accordance with the planning permission.

3. Prior to the first occupation of the development hereby approved, a Final Nutrient Credit Certificate, signed by Natural England and the applicant, shall be submitted to the Local Planning Authority

**REASON** - To ensure the development is nutrient neutral in accordance with the Conservation of Habitats and Species Regulations 2017

4. A lit footway, as shown indicatively on drawing 23066-LE-00-01-DR-D-0001P02, shall be constructed, completed and available for use prior to the first occupation of the dwelling hereby approved.

**REASON:** To ensure that the dwelling has appropriate access, with particular regards to pedestrians and people with mobility issues in accordance with policies IN1 and IN2 of the Darlington Borough Local Plan.

5. Prior to any demolition works and the commencement of the development, a site specific Demolition and Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan[s] shall include the following, unless the Local Planning Authority dispenses with any requirement[s] specifically and in writing:
  - a. Dust Assessment Report which assesses the dust emission magnitude, the sensitivity of the area, risk of impacts and details of the dust control measures to be put in place during the demolition and construction phases of the development. The Dust Assessment Report shall take account of the guidance contained within the Institute of Air Quality Management “Guidance on the assessment of dust from demolition and construction” February 2014.
  - b. Methods for controlling noise and vibration during the demolition and construction phase and shall take account of the guidance contained within BS5228 “Code of Practice for noise and vibration control on construction and open sites”.
  - c. Construction Traffic Routes, including parking areas for staff and visitors.
  - d. Details of wheel washing.
  - e. Road Maintenance.
  - f. Warning signage.

The development shall not be carried out otherwise in complete accordance with the approved Plan.

**REASON** - In the interests of residential amenity and highway safety.

6. Prior to the removal of any ridge tiles and roofing on the existing building, a Toolbox Talk and Method Statement provided by an ecologist shall be submitted to and approved in writing by the Local Planning Authority. The development must not be carried out otherwise than in complete accordance with the approved Statement.

**REASON** - In the interests of biodiversity and to protect habitats and protected species.

7. Should a bat or bats be uncovered by the removal of the roof of the existing buildings, all works in that area must cease immediately and the developer must contact a suitably qualified ecologist for advice in consultation with the local planning authority.

**REASON** - In the interests of biodiversity and to protect habitats and protected species.

8. No building shall be constructed above damp proof course level until details of a scheme of ecological enhancements have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a minimum of two bat features and two bird nesting features (either or both swift and house sparrow features), and the details shall include, but not be limited to, plans to show the location of the integrated features. The development shall not be carried out otherwise than in complete accordance with the approved details which shall be retained in situ for the lifetime of the development.

**REASON** - To ensure the development complies with policies ENV7 and ENV8 of the Darlington Local Plan 2016 – 2036

9. No building shall be constructed above damp proof course until a landscaping scheme, incorporating native and/or wildlife friendly ornamental species has been submitted to, and approved in writing by, the Local Planning Authority and, upon approval of the scheme, it shall be fully implemented concurrently with the carrying out of the development, or within such extended period as may be agreed in writing by, the Local Planning Authority, and thereafter any trees or shrubs removed, dying, severely damaged or becoming seriously diseased shall be replaced, and the landscaping scheme maintained for a period of five years to the satisfaction of the Local Planning Authority.

**REASON** - To ensure a satisfactory appearance of the site and in the visual and ecological interests of the area.

10. No building shall be constructed above damp proof course level until details of the external materials to be used in the carrying out of this permission have been submitted to, and approved by, the Local Planning Authority. The details shall include bricks, roof tiles, cills and headers, windows, doors, rainwater goods, railings, gates, brick bond, rooflights and the development shall not be carried out otherwise than in complete accordance with the approved details.

**REASON** - In order that the Local Planning Authority may be satisfied as to the details of the development in the interests of the visual amenity of the area and the West End Conservation Area

11. No building shall be constructed above damp proof course until precise details of cycle parking have been submitted to and approved in writing by the local planning authority. The agreed parking provision shall be made available for use prior to the occupation of the development and retained in situ for the lifetime of the development.

**REASON** - In order to encourage the use of sustainable modes of transport

12. No building shall be constructed above damp proof course until precise details of refuse storage and disposal have been submitted to and approved in writing by the local planning authority. The agreed scheme shall be made available for use prior to the occupation of the development and retained in situ for the lifetime of the development.

**REASON** - In order to prevent the storage of refuse in the public highway and in the interests of the amenity of the area.

13. No construction or demolition activities, including the use of plant and machinery, as well as deliveries to and from the site, shall take place outside the hours of 08.00-18.00 Monday to Friday, 08.00-14.00 Saturday with no activities on Sunday or Bank/Public Holidays without the prior written permission of the Local Planning Authority

**REASON** - In the interests of residential amenity.

14. The two garages shown within the land edged in red on Drawing Number 21-33/P-LP – Location Plan shall be retained permanently and made available for parking purposes associated with the dwelling hereby approved only and shall not be used for any other purpose without the prior written permission of the Local Planning Authority.

**REASON** - To ensure that the development retains appropriate parking provision on the interests of highway safety.

15. An electrical socket suitable for the charging of electric vehicles shall be installed into one of the retained garages prior the first occupation of the dwelling. The socket shall be a minimum single phase 13 amp socket and shall be retained for the lifetime of the development.

**REASON** - To ensure the development complies with Policy IN4 of the Darlington Local Plan 2016 – 2036.

16. The first floor bedroom window formed in the south elevation of the dwelling hereby approved shall be obscure glazed and shall not be repaired or replaced other than

with obscured glazing.

**REASON** - To prevent overlooking of the neighbouring dwelling.

17. All repointing, repair or rebuilding works to the Dovecote and the construction of the new dwelling hereby approved shall be undertaken using lime mortar only.

**REASON** - In order to safeguard the visual appearance and character of this building of local historic interest and the West End Conservation Area.

18. The dwelling hereby approved shall meet Category 2 requirements (accessible and adaptable dwellings) of Building Regulations Approved Document M: Volume 1 (Access to and use of dwellings) unless otherwise agreed in writing by the Local Planning Authority

**REASON** - To ensure the development complies with Policy H4 of the Darlington Local Plan 2016 – 2036.

**NOTE:** Councillor Robinson left the meeting during the discussion and subsequent vote on this item.

**(3) LAND AT FORMER 25 GATE LANE, LOW CONISCLIFFE**

**22/00021/OUT** - Outline application with all matters reserved for the erection of 3 no. dwellings (Provisional Nutrient Certificate received 22 September 2023; additional Nutrient Statement and amended Nutrient Calculator received 17 October 2023; Provisional Nutrient Certificate received 3 January 2024).

(In making its decision, the Committee took into consideration the Planning Officer's report (previously circulated), the views of the Council's Highways Engineer, Ecology Consultant, Environmental Health Officer and Transport Policy Officer, Northern Gas Networks, Natural England, and three letters of objection received).

**RESOLVED** – That outline Planning Permission be granted subject to the following conditions:

1. A1 - Outline (Reserved Matters)
2. A2 - Outline (Implementation Time)
3. The development hereby permitted shall be carried out in accordance with the approved plans, as detailed below.
  - a. Drawing Number Site – A001 Location Plan

**REASON** – To ensure the development is carried out in accordance with the outline planning permission.

4. The planning application made in pursuance of condition 1 shall not propose more than three dwellings.

**REASON** - For the avoidance of doubt.

5. Notwithstanding the details contained within the Nutrient Neutrality Statement dated 10 July 2023 submitted in support of the planning application, precise details of the water efficiency measures to ensure the daily water usage per person per day does not exceed 105 litres shall be submitted to and approved in writing by the Local Planning Authority, prior to the commencement of the development. The details shall include details of the appropriate permanent fittings and they shall be installed within each dwelling prior to their occupation and retained in place for the lifetime of the development.

**REASON** - To ensure the development is nutrient neutral in accordance with the Conservation of Habitats and Species Regulations 2017

6. Prior to the first occupation of the development hereby approved, a Final Nutrient Credit Certificate, signed by Natural England and the applicant, shall be submitted to the Local Planning Authority.

**REASON** - To ensure the development is nutrient neutral in accordance with the Conservation of Habitats and Species Regulations 2017.

7. The planning application made in pursuance of condition 1 shall be made for dwellings which are a maximum 2.5 storeys in height

**REASON** - In the interests of the visual appearance of the street scene, residential amenity and to accord with the Council's adopted Supplementary Planning Document: Design for New Development (2011).

8. The planning application made in pursuance of condition 1 shall include, but not be limited to, the following details:

- a) Cycle parking provision for the dwellings (one cycle space per bedroom).
- b) Electric Vehicle Charging provision for each dwelling (one single phase 13 amp socket).
- c) Precise details of all boundary treatments for the site.
- d) Precise materials for in-curtilage driveways including a sealed material for the first 3.0m measured from the highway boundary.
- e) Precise details of in-curtilage parking including the number, location and dimensions of each space.
- f) Details of refuse and recycling storage
- g) Details of any external lighting
- h) Precise details of proposals for biodiversity net gain (landscaping/bat and bird boxes) measures
- i) Precise details of vehicle access including dropped kerbs, pavement crossings and where appropriate removal of redundant crossing points and reinstatement of footways.

**REASON** - in order to ensure a satisfactory form of development which accords with

the Darlington Local Plan (2016 – 2036) and the Low Coniscliffe and Merrybent Neighbourhood Plan.

- 9 The planning application made in in pursuance of condition 1 shall be for dwellings which comply with Category 2 requirements (accessible and adaptable dwellings) of Building Regulations Approved Document M: Volume 1(Access to and use of dwellings). The planning application shall include details as to how the requirements will be met and the development shall not be carried out otherwise than in complete accordance with the approved details.

**REASON** - In order to comply with policy H4 (Housing Mix) of the Darlington Local Plan 2016 – 2036

- 10 CL1 - Phase 1 Preliminary Risk Assessment
- 11 CL2 - Phase 2 Site Investigation Strategy
- 12 CL3 – Phase 2 Investigation Works
- 13 CL4 - Phase 3 Remediation and Verification Strategy
- 14 CL5 - Construction/Remediation works.
- 15 CL6 - Phase 4 Verification and Completion Report
16. No construction or demolition activities, including the use of plant and machinery, as well as deliveries to and from the site, shall take place outside the hours of 08.00 – 18.00 Monday to Friday, 08.00 – 14.00 Saturday with no activities on Sunday or Bank/Public Holidays without the prior written permission of the Local Planning Authority

**REASON** – In the interests of residential amenity

17. Prior to the commencement of the development, a site-specific Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include the following, unless the Local Planning Authority dispenses with any requirement[s] specifically and in writing:
  - a. Dust Assessment Report which assesses the dust emission magnitude, the sensitivity of the area, risk of impacts and details of the dust control measures to be put in place during the construction phase of the development. The Dust Assessment Report shall take account of the guidance contained within the Institute of Air Quality Management “Guidance on the assessment of dust from demolition and construction” February 2014.
  - b. Methods for controlling noise and vibration during the demolition and construction phase and shall take account of the guidance contained within BS5228 “Code of Practice for noise and vibration control on construction and open sites”.
  - c. Construction Traffic Routes, including parking areas.

- d. Details of Contractor Parking and Compound, if necessary
- e. Pedestrian Routes
- f. Details of wheel washing, if necessary
- g. Road Maintenance, if necessary
- h. Warning signage.

The development shall not be carried out otherwise in complete accordance with the approved Plan.

**REASON** - In the interests of highway safety and the amenity of the surrounding area.

## **PA78 NOTIFICATION OF DECISION ON APPEALS**

The Chief Executive reported that the Inspectors appointed by the Secretary of State for the Environment had:-

- a) Dismissed the appeal by Mr Rod Farrow against this Authority's decision to refuse permission for the erection of 2 no. residential dwellings with associated access, hard standing and private amenity space (revised scheme) (Addendum to Noise Assessment received 19 December 2022; amended Planning Statement received 21 March 2023; Nutrient Calculator and Provisional Nutrient Certificate received 26th July 2023) at 42 Durham Road, Coatham Mundeville, Darlington DL1 3LZ (22/01271/FUL).
- b) Allowed an appeal by Mr Robert Flannigan (Appeal A) and dismissed an appeal by Mr Mitchell Flannigan (Appeal B) against an enforcement notice issued by Darlington Borough Council in relation to the unauthorised stationing of four caravans for residential use at land on the northeast side of Neasham Road, Hurworth Moor, Darlington.

**RESOLVED** – That the report be received

## **PA79 NOTIFICATION OF APPEALS**

The Chief Executive reported that:

- a) Clear Channel UK had appealed against this Authority's decision to refuse permission for Display of 1 no. internally illuminated LED digital advertising display including the removal of 2 No. advertising displays at BP Service Station, High Northgate, Darlington, DL1 1UW (23/01024/ADV).
- b) Ian Robert Hodgson had appealed against this Authority's decision to refuse permission for Felling of 1 no. Cypress tree protected under Tree Preservation Order (No.3) 1962 (T52) at 67 Milbank Court, Darlington, DL3 9PF (22/01281/TF).

**RESOLVED** – That the report be received.



**PA80 TO CONSIDER THE EXCLUSION OF THE PUBLIC AND PRESS**

**RESOLVED** - That, pursuant to Sections 100A(4) and (5) of the Local Government Act 1972, the public be excluded from the meeting during the consideration of the ensuing item on the grounds that it involves the likely disclosure of exempt information as defined in exclusion paragraph 7 of Part I of Schedule 12A to the Act.

**PA81 COMPLAINTS RECEIVED AND BEING CONSIDERED UNDER THE COUNCIL'S APPROVED CODE OF PRACTICE AS OF 27 MARCH 2024 (EXCLUSION PARAGRAPH NO. 7)**

Pursuant to Minute PA74/Feb/2024, the Chief Executive submitted a report (previously circulated) detailing breaches of planning regulations investigated by this Council, as at 27 March 2024

**RESOLVED** - That the report be noted.

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When the time comes for the application to be considered, the Chair will use the following running order:

[This order may be varied at the Chair's discretion, depending on the nature/complexity of the application. The Chair will endeavour, however, to ensure that the opportunity to make representations are made in a fair and balanced way.]

- Chair introduces Agenda item;
- Officer explains and advises Members regarding the proposal;
- Applicant or agent may speak (to a maximum of **five** minutes);
- Members may question applicant/agent;
- Up to **three** objectors may speak (to a maximum of **five** minutes each);
- Members may question objectors;
- Up to **three** supporters may speak (to a maximum of **five** minutes each);
- Members may question supporters;
- Parish Council representative may speak (to a maximum of five minutes);
- Members may question Parish Council representative;
- Ward Councillor may speak (to a maximum of five minutes);
- Officer summarises key planning issues;
- Members may question Officers;
- Objectors have right to reply;
- Agent/Applicant has right to reply;
- Officer makes final comments;
- Members will debate the application before moving on to a decision;
- Chair announces the decision.

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**BOROUGH OF DARLINGTON**

**PLANNING APPLICATIONS COMMITTEE**

**Committee Date – 15 May 2024**

**SCHEDULE OF APPLICATIONS FOR CONSIDERATION**

**Background Papers used in compiling this Schedule:-**

- 1) Letters and memoranda in reply to consultations.**
- 2) Letters of objection and representation from the public.**

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**Index of applications contained in this Schedule are as follows:-**

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<b>Address/Site Location</b>	<b>Reference Number</b>
Burtree Garden Village Phase 1	22/01342/FULE
Rear Of 39 Elton Parade (1 Coach House Lane)	23/00957/FUL
Land At 1 Briar Close	22/00118/FUL
69 Welbeck Avenue	24/00219/FUL

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## DARLINGTON BOROUGH COUNCIL

## PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 15 May 2024

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<b>APPLICATION REF. NO:</b>	22/01342/FULE
<b>STATUTORY DECISION DATE:</b>	17 May 2024
<b>WARD/PARISH:</b>	Harrowgate Hill/ Whessoe Parish Council
<b>LOCATION:</b>	Burtree Garden Village Phase 1 Burtree Lane
<b>DESCRIPTION:</b>	Hybrid planning application for full planning permission for Demolition of the existing non designated agricultural buildings/structures; Burtree Garden Village Strategic Access Road from Rotary Way to Burtree Lane internal links to future development and development cell access arrangements, parking, associated hard and soft landscaping, public open spaces, SUDS, drainage infrastructure (inclusive of pumping station) and Burtree Village Park (excluding school playing field), temporary construction and/or maintenance access and any other associated infrastructure and outline planning permission (with all matters reserved, excluding principal access for development cells) for, development of up to 750 dwellings Use Class C3 (inclusive of up to 75 retirement/extra care dwellings C2 and/or C3) and community facilities comprising a school (Class F1.a) and sports pitch provision (Class F2), Nursery (Class E) , public house (sui generis), retail/health care/office spaces (Class E), Community Hall (Class E and/or Class F2), local convenience retail/temporary sales office (Class E and/or F2), Business Incubator Units (Class E), community spaces within development cells and any associated parking, drainage, SUDs, hard and soft landscaping, open spaces, additional private drive access and other associated infrastructure for outline cells. For the avoidance of doubt planning permission is hereby granted separately and

severably for site infrastructure landscaping and development cells identified on plan references Early Delivery and Infrastructure Phase Plan 1015-P5 & Land Use Parameters Plan Phase 1 1019-P4 (Additional Otter & Water Vole Survey 06.03.23, Wintering Bird Survey 24.05.23, SUDS basin plans 24.08.23, Bird Hazard Management Plan 29.09.23, additional and amended reports and plans 17.11.23, amended FRA and plans 19.12.23, WSI and amended plans 20.12.23, amended plan 29.01.24, amended plans 09.02.24, CMP and CEMP 15 February 24, amended reports 7 & 12.03.24, Nutrient Neutrality information received 18 March 2024)

**APPLICANT:**

Hellens Land Limited and Homes England

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**RECOMMENDATION:**

**THAT PLANNING PERMISSION BE GRANTED SUBJECT TO:**

- (1) THE DEVELOPER OF THE LAND CURRENTLY WITHIN THE OWNERSHIP OF DARLINGTON BOROUGH COUNCIL ENTERING INTO AN AGREEMENT PURSUANT TO SECTION 111 OF THE LOCAL GOVERNMENT ACT 1972 TO ENSURE THAT THE DEVELOPER ENTERS INTO A SECTION 106 AGREEMENT UPON THE LAND COMING INTO THEIR OWNERSHIP.**
  - (2) THE APPLICANT/OWNER FOR THE REMAINDER OF THE APPLICATION SITE ENTERING INTO A SECTION 106 AGREEMENT.**
  - (3) THE PLANNING CONDITIONS SET OUT IN THE REPORT**
- 

**Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received, and other background papers are available on the Darlington Borough Council website via the following link:**

**<https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RN8Z5FPMP200>**

**APPLICATION AND SITE DESCRIPTION**

1. The Burtree Garden Village site is located on the north western edge of Darlington, south of Burtree Lane and to the north of Rotary Way and High Grange housing estate. The Tees Valley (Bishop Auckland) Railway Line lies to the east and the A68 and part of the A1(M) on the western boundary.
2. Burtree Garden Village was awarded Garden Communities status by the Ministry of Housing, Communities and Local Government in 2019 because the vision for design



quality and placemaking was assessed as being strongly aligned with Garden Community Principles and offered an opportunity for accelerated delivery.

3. The wider Burtree Garden Village site (approx. 178 hectares) is currently in agriculture use, mainly for grazing and arable crops. The planning application site (approx. 50.59ha) which forms Phase 1 of the Garden Village project is irregular in shape and sits within the centre of the Garden Village site. The application site is characterised by agricultural fields, hedgerows and two farmsteads with an access from Rotary Way to the south. The farmsteads are High Faverdale Farm and Whessoe Grange Farm which includes a Grade II Listed Manor House wall. A further property, Quess How, is located within the Garden Village boundary but excluded from the planning application.
4. A watercourse passes through the western half of the wider allocation area from north to south intersecting the application site at its western extent. An existing Right of Way passes through the south of the site from Rotary Way heading through the wider allocation and towards Burtree Lane in the north.
5. The planning application is a hybrid planning application which can be split as follows:
  - Full planning permission for the demolition of the existing non designated agricultural buildings/structures; the creation of the Burtree Garden Village Strategic Access Road from Rotary Way to Burtree Lane with internal links to future development and development cell access arrangements, parking, associated hard and soft landscaping, public open spaces, SUDS, drainage infrastructure (inclusive of pumping station) and Burtree Village Park (excluding school playing field), temporary construction and/or maintenance access and any other associated infrastructure
  - Outline planning permission (with all matters reserved, excluding principal access for development cells) for, development of up to 750 dwellings Use Class C3 (inclusive of up to 75 retirement/extra care dwellings C2 and/or C3) and community facilities comprising a school (Class F1.a) and sports pitch provision (Class F2), Nursery (Class E), public house (sui generis), retail/health care/office spaces (Class E), Community Hall (Class E and/or Class F2), local convenience retail/temporary sales office (Class E and/or F2), Business Incubator Units (Class E), community spaces within development cells and any associated parking, drainage, SUDs, hard and soft landscaping, open spaces, additional private drive access and other associated infrastructure for outline cells.
6. The application has been submitted as a hybrid planning application to facilitate the delivery of parts of the proposed development early by the applicant, whilst others would be delivered by third party developers in due course. In short, the delivery strategy is to deliver strategic infrastructure up front and provide a development ready and serviced site ready for multiple housebuilders to submit details for their individual development cells and deliver homes from the north (on land owned by the applicant) and south (on land owned by Darlington Borough Council).

7. It is this strategy for the up-front delivery of a substantial strategic access road and associated pedestrian and cycle links and green spaces which will enable the accelerated delivery of new housing establishing the critical mass required to deliver community facilities and establishing a sense of place within the new community at the earliest possible opportunity. Subsequent phases of the Burtree Garden Village allocation (the remaining 1,250 dwellings and 200,000 sqm of employment likely delivered in phases 2 and 3 and via separate planning applications) also relies on the delivery of the strategic infrastructure which will provide access from the centre of the site to the east and west.

#### **Statement of Community Involvement**

8. A Statement of Community Involvement document has been submitted in support of the planning application which states that two rounds of community consultation were held, one in 2017 and the other in 2020. In 2020, approximately 1,200 households were invited to provide feedback on the proposed development. Of those contacted, 19 completed response forms were received, providing a range of comments and suggestions relating to the scheme. The key concerns were focused on the development of greenfield land, concerns over the lack of services as well as concerns over traffic and road infrastructure.

#### **Environmental Impact Assessment**

9. The development has been assessed in the context of Part 10b of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017 ("the EIA Regulations"). As the proposed development falls above the screening thresholds of more than 1 hectare in size and given the scale of the wider strategic site, an Environmental Statement (ES) has been prepared in order to assess any likely significant effects from the development on the environment by virtue of its nature, size and location. The Environmental Statement has been submitted in support of the planning application and provides factual conclusions on likely environmental effects of the proposed development including consideration of the cumulative impact of the delivery of the wider allocation, requisite mitigation and whether residual effects post mitigation are considered significant. The application was advertised and consulted upon in accordance with the Regulations 2017. The topics that the Assessment considered were:

- a) Population and Economics
- b) Built Heritage
- c) Archaeology
- d) Landscape and Visual Impact
- e) Flood Risk and Drainage
- f) Water Quality and Nutrients
- g) Transport and Access
- h) Air Quality
- i) Biodiversity
- j) Noise

- k) Agricultural Land
- l) Climate Change and Greenhouse Gas Emissions

### **Planning Obligations**

**10.** Given the application site is part owned by Darlington Borough Council there is a need for the Council to make a cabinet resolution whereby it resolves to comply with the planning obligations relating to the development of the site pursuant to the Planning Permission and referred to in paragraph 175 of this report. The cabinet resolution will mirror the wording of a Section 106 Agreement and the Council will resolve to make the payments and comply with the on-site deliverables required in relation to the site. The cabinet resolution will also include a resolution by the Council that it will not dispose of any part of the site without requiring the person to whom the disposal is made to enter into a Section 106 Agreement in the same terms as the cabinet resolution (adjusted in the event that the disposal relates to part only of the site). The applicant/developer who owns the remainder of the application site will enter into a Section 106 Agreement in the usual manner.

### **MAIN PLANNING ISSUES**

**11.** The main issues to be considered here are whether or not the development is acceptable in the following terms:

- a) Planning Policy
- b) Impact on non-designated Heritage Assets (Archaeology)
- c) Loss of Agricultural Land
- d) Nutrient Neutrality
- e) Impact on the Character and Appearance of the Area
- f) Design and Layout
- g) Highway Safety
- h) Residential Amenity
- i) Flood Risk and Drainage
- j) Climate Change
- k) Air Quality
- l) Noise
- m) Land Contamination
- n) Impact on the Setting of Heritage Assets
- o) Impact on Existing Trees and Landscaping
- p) Impact on Footpaths and Public Rights of Way
- q) Ecology
- r) Affordable Housing
- s) Sport Provision
- t) School Places
- u) Developer Contributions/Viability Assessment

### **PLANNING POLICIES**

**12.** The relevant national and local development plan policies are as follows:

### **Darlington Local Plan (2022)**

SD1: Presumption in Favour of Sustainable Development  
SH1: Settlement Hierarchy  
DC1: Sustainable Design Principles and Climate Change  
DC2: Flood Risk & Water Management  
DC3: Health & Wellbeing  
DC4: Safeguarding Amenity  
DC5: Skills & Training  
H1: Housing Requirement  
H2: Housing Allocations  
H3: Development Limits  
H4: Housing Mix  
H5: Affordable Housing  
H11: Greater Faverdale  
E2: Employment Allocations  
ENV1: Protecting, Enhancing & Promoting Darlington's Historic Environment  
ENV2: Stockton Darlington Railway  
ENV3: Local Landscape Character  
ENV4: Green & Blue Infrastructure  
ENV5: Green Infrastructure Standards  
ENV7: Biodiversity & Geodiversity & Development  
ENV8: Assessing a Development's Impact on Biodiversity  
IN1: Delivering a Sustainable Transport Network  
IN2: Improving Access and Accessibility  
IN3: Transport Assessments and Travel Plans  
IN4: Parking Provision including Electric Vehicle Charging  
IN6: Utilities Infrastructure  
IN8: Broadband Infrastructure  
IN10: Supporting the Delivery of Community and Social Infrastructure

### **Other relevant Documents :**

Greater Faverdale Burtree Garden Village Design Code SPD (2022)  
Design of New Development SPD (2011)  
Planning Obligations SPD (2013)  
First Homes Policy Position Statement (2022)  
National Planning Policy Framework 2023

### **RESULTS OF TECHNICAL CONSULTATION**

13. The Council's Highways Engineer, Sustainable Transport Officer, Environmental Health Officer, Public Rights of Way Officer, Education Department, Climate Change Officer, Ecology Officer have raised no objections to the principle of the development subject to the imposition of planning conditions and planning obligations to be secured via a Section 106 Agreement.

14. Following confirmation that their requested financial contribution has been agreed and will be included within the Section 106 Agreement, Highways England removed their holding objection and issued a 'no objection' response.
15. Historic England have confirmed that they do not need to respond to the planning application.
16. Northumbrian Water, the Lead Local Flood Authority and the Environment Agency have raised no objections subject to the imposition of planning conditions.
17. The Archaeology Team from Durham County Council have raised no objections subject to the imposition of planning conditions.
18. The Air Traffic Engineering Manager from Teesside Airport has raised no objections subject to the imposition of planning conditions.
19. Northern Gas Networks have raised no objections.
20. Network Rail have no objections to the planning application.
21. NHS Tees Valley Clinical Commissioning Group have requested a financial contribution to improve existing medical facilities in the local area.
22. Sport England, who are a non statutory consultee for this application have objected to the planning application on the grounds that the proposal does not include indoor sports provision which could lead to pressures on existing facilities.
23. Natural England have raised no objections subject to the imposition of planning conditions and nutrient neutrality mitigation measures being secured via appropriate legal mechanisms.

## RESULTS OF PUBLICITY AND NOTIFICATION

24. Following the Council's notification and publicity exercises which involved **295** notification letters, the erection of **13 Site Notices** and adverts in the local press, **twelve letters of objection have been received from seven properties**. The objections can be summarised as follows:
  - *This will result in the loss of a greenfield site used for farming.*
  - *Wildlife, congestion and air quality will get worse for residents.*
  - *Increase in traffic and noise.*
  - *Increased flood risk for High Grange Estate*
  - *Increased traffic on Junction 58 on the A1 (M) down to Cockerton village*
  - *Adverse impact on habitats for mammals, migratory and native birds, insects*
  - *Irreplaceable and environmental impacts on High Faverdale Farm including a natural pond.*
  - *Loss of hedgerows and trees including black poplars*

- *Mitigation does not guarantee preservation and habitats and protected species will be destroyed.*
- *Greenspace around High Faverdale Farm will be lost which provides recreational opportunities for exercise and relaxation.*
- *High Faverdale Farm is one of the very few remaining councils owned small farms for rent in the UK and it is an important economic asset in its own right.*
- *The development will have an adverse impact on flora and fauna.*
- *The development will result in farmland with a rich history being lost.*
- *A68 West Auckland cannot cope with traffic volumes at present.*
- *The existing roads cannot cope.*
- *There are enough new developments being built at West Park*
- *The increase in traffic will lead to increase in pedestrian safety.*
- *The Statement of Community Involvement exercise and documentation is misleading.*
- *The development will result in dangerous tailbacks on Junction 58*
- *There are brownfield sites that need developing rather than this greenfield site.*
- *Residents should be encouraged to use the Burtree Lane access to the estate.*

25. A comment has been received relating to the planning application being confusing due to the hybrid nature of the submission and the extent, nature and duplication of the submitted plans. Members are advised that hybrid planning applications are not uncommon for major development proposals on land of this scale and where they have not been submitted by a particular housebuilder/developer. For this type of application not all details can be provided at this stage and will be subject of future Reserved Matters submissions. Also, there is always duplication of plans and reports due to the planning application having to be supported by an Environmental Statement which covers a wide variety of topics, some of which are also included within the planning application.

26. A comment has been received on future impacts the commercial development which fall within Phase 2 of the wider Burtree Garden Village scheme. As this planning application relates to Phase 1 of the scheme and the commercial units fall outside of the site boundary, the comments cannot be taken into consideration when determining this planning application.

27. **One letter of support** has been received stating:

- *We need direct access from Faverdale Industrial Estate to Burtree Lane/North Road.*

28. The Friends of Stockton and Darlington Railway have submitted comments which relate to the wider Masterplan for Burtree Garden Village and the phases which lie outside of this planning application site boundary.

29. Whilst appreciating the complexity of the planning application Whessoe Parish Council have objected to the planning application on the following grounds

- a) *Impact on loss of wildlife*
- b) *Flood risk*
- c) *Traffic flow*

## **PLANNING ISSUES/ANALYSIS**

### **a) Planning Policy**

30. Planning law (S.38(6) of the Planning and Compulsory Purchase Act 2004) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (2023) supports the plan led system providing that planning decisions should be “genuinely plan-led” (NPPF para 15).
31. Policy H1 of the Local Plan sets a minimum housing requirement of 492 net additional dwellings per annum over the plan period to 2036. The site and wider area are allocated in the Local Plan as a mixed use urban extension and therefore the proposal would contribute towards the achievement of the housing requirement.
32. Establishing development limits where development within will be acceptable subject to compliance with other relevant national and local policies. The site is located within the development limits of the main urban area; therefore, the proposal accords with policy H3 of the Local Plan.
33. Policy H2, E2 and H11 of the Local Plan allocate the application site and the wider area (site reference 185 Greater Faverdale) for mixed use development which will contribute towards meeting the Boroughs quantitative and qualitative need for housing and employment over the plan period. The allocation is identified to support a development of approximately 2,000 homes and approximately 70 hectares gross (49 hectares net) of employment land for E(g), B2 and B8 use classes. It is estimated that 750 homes will be delivered during the plan period in the Local Plan housing trajectory (policy H2). The scheme needs to satisfactorily address the requirements and deliver the necessary infrastructure set out in the site specific policy H11.
34. The development of Greater Faverdale must be carried out in accordance with the principles and requirements set out within the site specific policy H11 and figure 6.3 the Greater Faverdale Masterplan Framework of the Local Plan. Policy H11 outlines that a comprehensive masterplan and infrastructure phasing plan that informs the mix of uses, layout, scale, design, provision of local and strategic infrastructure including social and community facilities and phasing of the proposed development, and which incorporates the key principles for the development as set out in policy H11, shall be prepared prior to the submission of any planning application relating to this site. The masterplan shall be led by the applicant(s), informed by community consultation and should be based on a strong understanding of the characteristics of the site and its surrounds. The masterplan should also have regard to the strategic design requirements established in the Greater Faverdale Design Code.

35. Policy H11 also sets out that development is expected to extend beyond the plan period and any proposal in advance of a plan review which exceeds 750 dwellings or 24 hectares (net) of employment land would need to carry out a review of all associated infrastructure requirements. This planning application does not exceed these thresholds.
36. Officers can confirm that, in accordance with Policy H11 of the Local Plan, the Burtree Garden Village Masterplan Document (April 2024) and infrastructure phasing plan has been agreed by the Local Planning Authority.
37. To ensure that the development is built out in an appropriate and sustainable way, planning conditions have been recommended to ensure that the infrastructure (the spine road) is constructed concurrently from the south and north and that no dwellings are occupied in the northern outline development cells until the infrastructure has been completed. This is to ensure the sustainable infrastructure is brought forward at the earliest stage and to ensure the Phase 1 development has appropriate sustainable connectivity to existing nearby services and facilities. This is also reflected in the agreed Masterplan document.

**b) Impact on non-designated Heritage Assets (Archaeology)**

38. The planning application has been supported by various archaeological written scheme of investigations reports which have been considered by the Archaeology Team at Durham County Council. The reports set out a programme of archaeological mitigation work in relation to the proposals that have been submitted in detail and outline. The findings of the reports are considered to be acceptable and appropriate planning conditions have been recommended. The development would accord with policy ENV1 of the Local Plan in this regard.

**c) Loss of Agricultural Land**

39. The western part of the Burtree Garden Village site (120 hectares) was allocated in the 1997 Local Plan as an Employment Reserve Site. Planning permission (ref 10/00798/FUL) has previously been granted for the erection of a data centre with associated access and landscaping on the site. This development proposal covered much of the application site and the wider Burtree Garden Village allocation. A Section 106 Agreement was never agreed for the data centre scheme and the application was “disposed of” in 2021 ahead of the allocation of the site for a mixed use development. It is clear from the previous local plan allocation and planning history that the application site has been previously earmarked for non agricultural uses.
40. An assessment of the sites agricultural land classification reveals that the majority of land within the site is classed as non-Best and Most Versatile land (BMV land). Subgrade-3b (non-BMV) land covers 33.05 ha (65.3 %) of the site, with 14.38 ha Subgrade 3a (28.4 %) and 0.44 ha Grade 2 (0.9 %) BMV land comprising the remaining agricultural land. There is also 2.75 ha (5.4 %) of non-agricultural land present within the site.



41. The effects regarding the loss of agricultural land were considered and recognised within the Local Plan Sustainability Appraisal when allocating the site for the proposed redevelopment purposes under the Darlington Local Plan.
42. Furthermore, a range of environmental measures have been incorporated into the proposed development to reduce likely impacts on the environment, including soils. Areas of soil within BMV agricultural land have been retained in the creation of the Burtree Village Park and grazing will be retained for as long as possible until it is necessary to commence development.
43. Industry standard practices for the handling, and storage of soils including DEFRA's code of good practice guidelines, and standard working methods and techniques will be used to protect soil resources. Where soil is stored on land within the applicant's control, this would be subject to the associated environmental permits that would be required.

**d) Nutrient Neutrality**

44. The application site is located within the River Tees Catchment Area and is therefore subject to the guidance issued by Natural England on the 16th of March 2022 in respect of the unfavourable condition of the Teesmouth and Cleveland Coast Special Protection Area (SPA), Ramsar Site and associated Sites of Special Scientific Interest.
45. The information provided by the applicant on nutrient neutrality is considered sufficient to enable the Local Planning Authority as the competent authority to fully consider the impacts of the development proposal on Teesmouth and Cleveland Coast SPA/Ramsar. The submitted nutrient budget calculators and supporting statements demonstrate that the proposals will increase the nitrogen arising from the development pre-2030 and consequently it cannot be ruled out at the screening stage that this development will not have a likely significant effect on the Teesmouth and Cleveland Coast SPA/Ramsar. An appropriate assessment needs to be undertaken.
46. The applicant has used the updated Natural England's Nutrient Budget Calculator tool published in January 2024 for the River Tees catchment to establish a nutrient budget for the proposal. This takes in to account the designation of the Tees Catchment as a sensitive catchment area for nitrogen under section 96c of the Water Industry Act (1991).
47. This means sewerage undertakers now have a duty to ensure wastewater treatment works serving a population equivalent over 2,000 are upgraded to meet specified nutrient removal standards of 10 mg/litre by 1 April 2030. This duty applies to Stressholme Wastewater Treatment Works which wastewater from this proposed development will be drained to. Competent Authorities are required to assume that these upgrades will take place when assessing the nutrient impact of proposals. So, the updated calculator establishes a pre2030 total annual nutrient load to be mitigated based on the current Stressholme wastewater treatment works nutrient removal standard of 27mg/litre along with a total annual nitrogen load to be mitigated post 1

April 2030 based on the future Stressholme wastewater treatment works nutrient removal standard of 10mg/litre.

48. The assumptions and inputs used by the applicant within the calculators are now, following revision, considered to be satisfactory by the Competent Authority and are an accurate reflection of the site and its location.
49. The proposal is for 750 dwellings and the total post 2030 annual nitrogen load to mitigate is 0kg per year. The total pre-2030 annual nitrogen load to mitigate is 746.01kg per year. The applicant has presented three scenarios demonstrating how through the use of a restrictive planning condition they consider varying amounts of housing could be delivered on the site pre-2030 without resulting in an increase in nitrogen adversely affecting the Teesmouth and Cleveland Coast SPA. These are:
- Scenario 1 – Land Use Change on-site only – 272 units  
Scenario 2 – Mitigation Land all classified as Lowland Grazing – 479 units.  
Scenario 3 – Mitigation Land with 2 fields classified as Arable – 508 units.
50. These scenarios are set out in further detail in the Nutrient Balancing Assessment and Mitigation Appraisal Addendum (March 2024). The applicant, recognising the need for a precautionary approach to nitrogen output, whilst also enabling development to proceed broadly in line with the anticipated development trajectory, confirmed they would be happy for the Appropriate Assessment to be run on the basis of Scenario 2 where land to the east of the application site, and within their ownership, has been identified as mitigation land. This is the approach that has been followed by the Competent Authority.
51. This calculation demonstrates that this scenario would result in mitigation of 323.12 kg total nitrogen per year being created if the mitigation land was fallowed and planted with cover crops. The Nutrient Budget for Scenario 2 shows that the total pre-2030 annual nitrogen load to mitigate for 479 dwellings is 322.69 kg total nitrogen per year. So, this does demonstrate that this would ensure that the additional nutrient impact of this scenario could be mitigated.
52. Following consideration of Scenario 2 the Competent Authority considers that this an appropriate mitigation strategy and does demonstrate that sufficient mitigation is available and can be secured which will ensure that 479 dwellings can be occupied pre-2030 and ensure the proposed development will not result in an increase in nitrogen reaching the Teesmouth and Cleveland Coast SPA.
53. As this mitigation strategy is developed on the basis of only up to 479 of the 750 dwellings being occupied pre the 1 April 2030 a restrictive condition has been recommended that ensures no more than 479 dwellings shall be occupied prior to 1 April 2030.

54. As the mitigation land is located outside the application site red line boundary, the land identified for nutrient mitigation will need to be secured by a Section 106 legal agreement. This will also need to include a mechanism which ensures that the mitigation land has been fallowed and agricultural production has ceased, and the necessary mitigation is in place at stages where the mitigation is required. As the residential element of this application is applied for in outline and as this is a large-scale development that is expected to be built out by different developers in separate phases/cells a mechanism is proposed which would require, prior to the occupation of the first dwelling in each phase/cell the precise nutrient mitigation scheme to be submitted to and approved by the Competent Authority in consultation with Natural England. For example, evidence will need to be produced to the Local Planning Authority that agricultural production on that mitigation land parcel serving the relevant phase/cells has ceased and a management plan has been provided setting out how the applicant will ensure it remains ceased until 1 April 2030. It should also require an annual report to be provided demonstrating continued adherence to this mitigation strategy.
55. As the nutrient impact of the proposal has been calculated taking account of the greenspace that will be provided within the site red line boundary, the Landscape Ecological Management Plan and Open Space and Management Plans have been amended to ensure that there would be no use of fertilisers and a planning condition has been recommended to requests details of disposing of dog waste.
56. The Appropriate Assessment has found that using conditions and an appropriate legal mechanism there is a sufficient likelihood that mitigation measures can be secured at the necessary points in time to adequately mitigate the effects of the proposal and ensure the proposed development will not result in an increase in nitrogen reaching the Teesmouth and Cleveland Coast SPA. So, it can be concluded that the proposal will not adversely affect the integrity of the Teesmouth and Cleveland Coast SPA and meets the relevant Habitat Regulations, subject to conditions and legal mechanism requirements as set out above.
57. In accordance with Regulation 63 of the Conservation of Habitats and Species Regulations (2017) Natural England have been consulted. Natural England have raised no objections subject to ensuring the mitigation measures are secured by appropriate planning conditions and legal agreements.

**e) Impact on the Character and Appearance of the Area**

58. As stated, the site forms part of the Greater Faverdale Strategic Site allocation (Policy H11). The site is predominantly arable farmland, with utilities corridors, hedgerows with mature trees including veterans and some pasture farmland. There are no designated landscapes or sites of landscape / natural value within or in proximity of the site. Overall, the site and the immediate surrounding area are of medium-low landscape value when taking into account the presence of surrounding large buildings, the existing urban edge of Darlington, the nearby strategic transport corridors and overhead power lines.

59. The proposed development will include street trees to create avenues along the link road, high quality areas of open space, landscape enhancements, SUDs basins and swales and well connected green infrastructure. The development includes lower building heights at appropriate locations and the outline development cells are offset from the site boundaries to allow for woodland planting. Hedgerows and small trees would be incorporated into public and private amenity areas.
60. The Environmental Statement submitted in support of the planning application states that in the long term the proposed development would not result in significant impacts on the character, quality or distinctiveness of the landscape, or to important features or views. The proposals have incorporated appropriate measures to mitigate adverse landscape and visual effects and contribute, where possible, to the conservation or enhancement of the local landscape. Any Moderate and Major adverse effects from isolated viewpoints such as existing farmsteads, the existing PROW, Burtree Lane and Rotary Way, particularly during construction will reduce to become insignificant over time once landscape planting matures. Over time effects often reduce to be become moderate or minor adverse.
61. It is considered that the proposed development would accord with policies DC1 and ENV3 of the Local Plan in this regard.

**f) Design and Layout**

62. The Greater Faverdale Burtree Garden Village Design Code Supplementary Planning Document was adopted in July 2022 which sets out the strategic design requirements that need to be applied in developing a successful scheme for Burtree Garden Village. The Burtree Garden Village Masterplan has been agreed with the Local Planning Authority and this planning application has been developed in accordance with the design principles set out in these documents.
63. The proposal would create a residential neighbourhood offering a wide range of house types, new community facilities, access to public open space and recreational opportunities.
64. The elements that have been submitted in detail, which include the Strategic Access Road from Rotary Way to Burtree Lane with associated internal links to future development cells, associated hard and soft landscaping, public open spaces, SUDS, drainage infrastructure (inclusive of pumping station) and Burtree Village Park include extensively landscaped areas to create strong areas of green infrastructure to retain and enhance the existing landscape features.
65. Whilst the development cells are currently in outline and will be subject to future Reserved Matters submissions, the supporting documents and the Design and Access Statement states that any future proposals will have active street frontages into all streets, pedestrian routes and open spaces, linear streets connecting to open spaces

and squares of varying sizes, an environment not dominated by vehicles, well overlooked public realm areas, landmark buildings and a range of parking options.

66. The development would include a Village centre comprising a community building/village hall, a small retail centre, allotments. This area would sit to the north east of the Neighbourhood Centre which comprises a retirement living complex, the primary school and associated playing fields. This Centre is located quite centrally within the Phase 1 development. A third element is the Village Gateway which is a mix of residential units, open space and a Public House, which may incorporate the existing High Faverdale Farm building.
67. Overall, the layout and future development proposals would adopt the "Garden Village" approach creating a well connected neighbourhood providing a good choice of community facilities (policy H11).
68. Planning conditions have been recommended to ensure that the outline development cells include an appropriate mix of housing types, sizes and tenures and also that 45% of all new dwellings to meet building regulations category M4(2) adaptable and accessible dwelling standards and 9% to meet M4 (3 a or b) wheelchair user dwellings standard which are requirements of policy H4 of the Local Plan.
69. It is considered that the layout and design principles set out in Phase 1 of the wider Burtree Garden Village allocation will create a development that creates a sense of place with a distinctive character which accords with the objectives of the Design Code SPD, the Masterplan and the Design Vision Guide and Parcel Code (March 2024) as well as policies DC1 and H11 of the Local Plan.

**g) Highway Safety**

70. The proposed development is to have two points of vehicular access, connected by a 6.7m wide access road running north to south within the site. The access road is referred to as the Burtree Garden Village Access Road [BGVAR], connected to the north via a new roundabout on Burtree Lane and to the south via the existing roundabout between Rotary Way and the High Grange Housing estate.

*Local Highway Network*

71. A full transport assessment (TA) has been prepared to provide an assessment of the transport related impacts associated with this major hybrid planning application and identify where appropriate any mitigation measures required.
72. The proposed village hub facilities including the public house, retail units, community hall and primary school are designed to serve the proposed Garden Village development and have potential to reduce the overall need to travel by the future residents to/from the wider area. As such, it is considered that these village hub facilities would not materially affect the operational performance of the surrounding road network. This approach has been agreed with the Local Highway Authority and National Highways.

73. For the residential dwellings, the trip generation has been based on the existing trip rates derived from ATC survey data of the High Grange housing estate on the south side of Rotary Way opposite the proposed development. The derived trip rates have also been compared with the relevant category obtained from the TRICS database and are found to be slightly higher.
74. With a bus gate in place, it is expected that 292 dwellings will be accessed from the northern roundabout on Burtree Lane, with the remaining 458 dwellings (including 58 retirement/extra care flats/apartments) and other amenities to be accessed from the southern roundabout on Rotary Way. Local junction assessment work has been undertaken to assess the traffic impact of the proposed development. The Operational Assessment showed that with or without the bus gate, the proposed new site access junctions and the surrounding road network will operate efficiently under the future year assessment scenarios in 2036, end of Darlington Local Plan period. It has also been demonstrated that the proposed development traffic can be accommodated at the A1(M)/A68 interchange (Junction 58) whilst remaining below the normal practical reserve capacity threshold.
75. The TA concludes that the traffic generated can be accommodated on the local highway network is does not present a 'severe' impact. Whilst the local plan traffic modelling work undertaken established that the local plan allocations can be delivered without severe impact to the local and strategic highway network, this is subject to the timely delivery of mitigation schemes as identified in the Local Plan Infrastructure Delivery Plan (IDP). Funding for the required works is to be secured via a variety of funding methods, including developer contributions. The Local Highway Authority has established an IDP funding contribution model to fairly apportion costs relative to the scale and impact of each development. Contributions for Burtree Garden village site is £1,410.33 per dwelling based on 750 dwellings across the site. The total therefore is £1,057,744.87 (at 2023 prices) indexed to All In Tender Price Index published by the Building Cost Information Service. This figure is based on modelling work carried out as part of the agreed Local Plan and IDP and would seek mitigation for the development traffic impact from the site on the A68 corridor. The contribution would be secured via the Section 106 Agreement.

#### *Internal Layout*

76. The internal spine road, estate and access roads and junction layouts are broadly in compliance with the appropriate design standards (DMRB spine road) and Tees Valley Design Guide for other internal roads as far as is reasonably required for planning approval. It is however important to note that any planning approval granted does not infer highways approval, given that detailed Section 38/278 Technical Approval will be needed post planning approval, where all detailed aspects of design will be reviewed and subject to a Stage 1/2 road safety audit as part of the design review and TA process.
77. As the development cells are in outline, no detail can be provided at this stage to show how each cell will be built out and connected to the highway infrastructure. However, appropriate planning conditions have been imposed to ensure that future

developments are brought forward in accordance with an agreed phasing plan and developed to acceptable highway safety standards.

78. The applicant is aware of the detailed, technical highway comments that have been made by the Council's Highways Engineer during the determination process of this planning application.

#### *Strategic Highway Network*

79. An Agreement has been reached between the developer and National Highways for a separate financial contribution for offsite highway works on the Strategic Road Network in particular towards works at the A66 Little Burdon roundabout which has been identified as part of the network which may experience a material impact as a result of Phase 1 of the Burtree Garden Village. The contribution equates to £240,853.73 (at 2023 prices) indexed to All In Tender Price Index published by the Building Cost Information Service. This would be secured by the Section 106 Agreement.

#### *Sustainable Travel*

80. As stated in paragraph 36, to ensure that the development is built out in a sustainable way, planning conditions have been recommended to ensure that the infrastructure (the spine road) is constructed concurrently from the south and north and that no dwellings are occupied in the northern outline development cells until the infrastructure has been completed. This is to ensure the Phase 1 development has appropriate sustainable connectivity to existing nearby services and facilities in the interim period before the community and neighbourhood uses are brought forward which will be on a demand basis.
81. Whilst a primary school is included within Phase 1 of the Garden Village, which will, over time, reduce travel requirements to schools which are outside of the application site, there is a requirement for a Safe Route to School from the development in the interim. West Park Academy and Mount Pleasant Primary School are within 2miles of the application site and Wyvern Academy and Longfield Academy are within 3miles. The site is located within an acceptable proximity to the surrounding primary and secondary schools and the walking route to/from them are considered to be suitable. However, it has been agreed to include as part of the package of off site highway works, improved crossing facilities at the Whessoe Road/Elmtree Street junction, including the provision of physical buildout area and tactile paving to assist the safer crossing of Whessoe Road which forms part of the route to and from Longfield Academy. Appropriate planning conditions have been imposed to ensure that appropriate cycle parking provision is secured within the outline development cells along with good cycle path connectivity

#### *Bus Service*

82. A financial contribution has been agreed to provide a bus service within the development which equates to £150,000 per year for five years and this would be secured by the Section 106 Agreement. Appropriate planning conditions have also been recommended to secure a public transport route through the development and details of bus stops.

*Travel Plan*

83. Appropriate planning conditions have been recommended to ensure that Travel Plans are submitted for each outline development cell having regard to the approved Area Travel Plan that has been submitted in support of the planning application. The financial aspects associated with implementing the Travel Plans would be secured through appropriate mechanisms within the Section 106 Agreement.
84. It is considered that, subject to the imposition of appropriate planning conditions and financial contributions, the proposed development would be acceptable in highway terms and would comply with policies DC1, H11, IN1, IN2, IN3 and IN4 of the Local Plan in this regard

**h) Residential Amenity**

85. The application is scarcely populated, containing High Faverdale Farm and Whessoe Grange Farms which will be incorporated into the development or demolished and a further property, Ques How, which is located within the Garden Village boundary but excluded from the planning application.
86. Ques How would be located in part of the site that is primarily residential with a potential village hall/community building located to the south. The grounds of this property are quite extensive and should ensure that appropriate separation distances are achieved with any new dwellings. Consideration has been given to the impacts of a site compound to this property. Other planning conditions are recommended to ensure that the impacts of the non residential elements (noise/lighting etc) are mitigated to protect the future occupants of the development. Sections k) to l) if this report consider noise, air quality and land contamination in further detail.
87. The planning application has been supported by a Construction Management Plan in relation to the elements that have been submitted in detail and this Plan is considered to include appropriate mitigation measures to protect the amenities of the local area. A planning condition has been imposed to ensure that Plans are also submitted in support of any development proposals for the cells that are currently in outline.
88. In accordance with Policy DC3 of the Local Plan, a Health Impact Assessment has been submitted. The Assessment shows that taking into consideration the mitigation measures adopted as part of the proposed development, no material adverse human health impacts are predicted during construction or operation of the proposed development. The development meets the relevant criteria for a Garden village and exceeds the requirements for publicly open spaces. The development also provides opportunities to improve local health and wellbeing circumstance and to helping people live independent healthy lives for longer while reducing health inequalities. On this basis, the proposed development would support the delivery of a new healthy and vibrant community.



89. It is considered that the proposed development accords with policies DC3, DC4 and H11 of the Local Plan in this regard.

**i) Flood Risk and Drainage**

90. The majority of the application site and the wider allocation is in Flood Zone 1 and is at low risk of flooding. Parts of the wider allocated area that sit adjacent to an existing watercourse are located in Flood Zones 2 and 3 however, this only affects the south west part of the application site. A Flood Risk Assessment and Drainage Strategy has been produced in accordance with the Local policies DC2 and H11 and National Planning Policy Framework 2023. The Strategy concludes that with appropriate mitigation the site and proposed development has a low risk of flooding from tidal and fluvial flooding, overland flows, groundwater and sewers.

91. Surface water is to discharge, via a network of source control and SuDS features, to the existing water courses within the development site at various outfall locations to mimic the natural drainage patterns as close as is practicably possible. Flows are to be restricted to the greenfield rate of 5.12l/sec/ha.

92. Foul water from Phase 1 is to discharge to the existing off-site NWL manhole 9202 located to the south east of the site which is supported by Northumbrian Water

93. The planning application has been subject to consultations with the Environment Agency, Northumbrian Water and the Lead Local Flood Authority and they have raised no objections to the proposed development subject to the imposition of appropriate planning conditions.

94. A planning condition has been recommended to secure the precise details of a bridge crossing with Phase 1 as part of later Reserved Matters submissions. The bridge would need to meet local highway requirements and consider flood models and the natural flow of the watercourse.

**j) Climate Change**

95. There is an Energy Strategy for the Garden Village which looks to ensure that the development includes low carbon homes with manageable running costs. Measures include air source heat pumps, high levels of built fabric efficiency, Solar PV, waste water heat recovery which are all commended. An appropriate planning condition has been recommended to secure climate change details for each outline development cell. The development would accord with policy DC1 of the Local Plan in this regard.

**k) Air Quality**

96. Chapter 11 of the Environmental Statement covers air quality and looks at the impacts on local air quality as a result of the construction phase associated with the proposed development as well as the impact on air quality in the operational phase of the development as a result of increased road traffic, considering both existing and proposed sensitive receptors.

97. The assessment has identified in relation to the infrastructure phase (access road and associated infrastructure including SUDS, drainage and soft landscaping) that the dust emission magnitude falls into the medium definition for earthworks, construction and trackout and the risk of dust soiling and human health effects prior to mitigation ranges from negligible to medium risk and site-specific mitigation will be required to ensure effects from these activities will not be significant.
98. In relation to the construction phase assessment associated with the proposed residential dwellings and community facilities (which also assumes infrastructure is in situ once they are occupied and become operational) the dust emission magnitude falls into the large definition (given the scale of the development) for earthworks, construction and trackout.. A dust management plan will be incorporated into a Construction Environmental Management Plan.
99. In relation to the operational phase of the development the assessment has considered the changes in air quality (as a result of road traffic) given a number of scenarios and has used air dispersion modelling to assess nitrogen dioxide and fine particulate matter concentrations. The assessment has calculated that for both existing and proposed receptors pollutant concentrations are predicted to be below the relevant annual mean objectives and limit values and all predicted changes in pollutant concentrations are considered negligible (for all seven scenarios considered, including worst case). The chapter concludes that the proposed development will not lead to an unacceptable risk from air pollution, nor will it lead to any breach of national objectives as required by national policy and it considers there are no material reasons in relation to air quality why the proposed development should not proceed.
100. Travel Plans are to be implemented for the development to encourage alternative travel options (as opposed to private car use) which will also be beneficial in terms of air quality, and dwellings are to be provided with sockets to facilitate electric vehicle charging points to encourage future uptake of electric vehicles.
101. It is considered that the proposed development and the outline development cells can be developed in accordance with the requirements of Policy DC4 in this regard.

## **I) Noise**

102. The Noise Chapter included in the Environmental Statement looks at the potential impact of noise on the proposed development site, including from the existing noise environment (road traffic - from Rotary Way (to the south), Burtree Lane (to the north), industrial noise - from Argos and Aldi) ; noise from the construction phase of the development itself and noise from future traffic (including the wider masterplan area and all committed development in the area included in the Local Plan)
103. The initial assessment puts forward some potential mitigation referencing that good acoustic design should be followed (in accordance with ProPG: Planning & Noise, New Residential Development, 2017) by looking at factors such as spatial separation (from noise sources), site layout and plot orientation, noise barriers, façade mitigation. As the

residential development is in outline further noise assessment work is required at detailed design stage based on finalised site layout for each cell. There are future noise sources (i.e., proposed as part of the development itself) that have not yet been considered but will need considering in terms of the impact on residential development on this site, such as the Public House, the school, sports pitches, local shops etc. Appropriate planning conditions have been recommended to secure appropriate mitigation measures for the elements within the outline development cells.

104. The planning application has been supported by a Construction Environmental Management Plan and a Construction Management Plan which have been found acceptable by the Environmental Health Officer.

105. Appropriate planning conditions have been recommended and it is considered that the proposed development and the outline development cells can be developed in accordance with the requirements of Policy DC3, DC4 and H11 of the Local Plan in this regard.

#### **m) Land Contamination**

106. The application has been supported by two reports on land contamination. These cover the wider masterplan area. The majority of the site has been agricultural land since pre-1850s, with a number of farms on the site, as well as a former moated site/village field and a railway line running along the eastern site boundary. A former landfill is identified in the surrounding area, as well as a former ironworks, brickworks and an infilled claypit. Tanks have been noted on the farms on site as well as sacks of fertiliser and pesticides, and some fly tipped waste. There are a number of sources of potential contamination which may pose a risk to future site users. The reports include a review of previous intrusive site investigation works (associated with previous development proposals on the site) including groundwater/ground gas monitoring that took place.

107. From soil samples tested none exceeded relevant assessment criteria. However, parts of the site were inaccessible including areas where suspected asbestos containing materials were noted. Preliminary gas monitoring results conclude that the site falls within Characteristic Situation 1 (CIRIA C665) where no gas protection measures are required but given the changes to the development proposals since these works and as parts of the site were not accessed, further gas monitoring is considered necessary to fully assess the ground gas regime at the site based on the latest development proposals. The groundwater monitoring results identified some exceedances and further sampling/analysis is also recommended in relation to ground and surface water.

108. Appropriate planning conditions relating to land contamination have been recommended and it is considered that the proposed development and the outline development cells can be developed in accordance with the requirements of Policy DC1 in this regard.

#### **n) Impact on the Setting of Heritage Assets**

109. The application site contains the Grade II Listed “Manor House Ruins and Wall” to the south east of Whessoe Grange Farmhouse. Whessoe Grange Farm and High Faverdale Farm, also within the application site are non designated heritage assets. The former Medieval Settlement of Whessoe Village is located within the wider Burtree Garden Village allocation but beyond the boundary of this planning application.
110. Whessoe Grange Farmhouse is unoccupied and in a state of decay and may deteriorate without remedial action, however it is only of local significance and of low sensitivity. High Faverdale Farm (local significance and low sensitivity) are occupied and maintained. The listed wall is of regional significance.
111. The Grade II listed building will be incorporated into the development associated with gardens and community use so that it can be preserved for and enjoyed by future generations, and this is much commended. The details will be subject to future Reserved Matter submissions.
112. The farmhouse at Whessoe Grange Farm and the buildings at High Faverdale Farm, which is the most prominent and significant, may be incorporated into the development, for example, High Grange Farm may be retained and incorporated into the public house/eatery within the Neighbourhood hub. Whessoe Grange Farm may also be retained and incorporated into the proposed development. The details will be subject to future Reserved Matters applications but if it is not possible to retain the non designated heritage buildings, their loss would be mitigated by a schedule of recordings in line with Historic England guidelines which would be secured by a planning condition.
113. Their loss, if necessary, would be considered as “less than substantial” harm and in accordance with policy ENV1 of the Local Plan and the National Planning Policy Framework, any identified harm would be weighed against the public benefits that would be derived from the proposed development. The harm is outweighed by the sustainability benefits associated with the modern replacement neighbourhood centre and community buildings in an individual sense and the wider strategic benefits of delivering the associated wider Local Plan allocation, which seeks to develop a sustainable community for the future and deliver the facilities required to support the planned growth in housing.
114. The Chapter on Built Heritage within the supporting Environmental Statement advises that there will be no operational impact deriving from the infrastructure phase of the proposed development on the Whessoe Grange listed building and Whessoe Grange Farmhouse.
115. Operation of the link road will have an effect on the setting of High Faverdale Farmhouse and associated historic farm buildings prior to their demolition. This is because the road is immediately adjacent to and crosses in front of the principal elevation of the farmhouse. The immediate rural setting of the farm to the west of the house will be removed. However, the magnitude of impact is considered to be Low, and

the significance of the environmental effect Minor Adverse. The effect may be temporary where the farmhouse is subsequently demolished, after which the effect will be removed.

116. Where the proposed development results in the demolition of Whessoe Grange Farmhouse and High Faverdale farm buildings, the assets will be removed in their entirety. The effect will therefore be direct, permanent and irreversible. The magnitude of impact is therefore Very High but as the non-designated assets are of Low sensitivity the significance of the environmental effect is considered to be Minor Adverse following implementation of the above mitigation.

117. Due to the demolition of the majority of the listed building at Whessoe Grange Farmhouse, the ability to understand the former function, date and character of the remaining structure within its former complex has been almost entirely removed, and the setting does little to add to its significance. By retaining the walls within a community setting away from dense development and to the north of Burtree Village Park, the development reflects the former rural setting whilst bringing the remains into communal use. This ensures their future survival and enables them to be interpreted and appreciated by the public. This is of benefit to their significance, and comprises a Medium magnitude of impact, such that the significance of the environmental effect will be Moderate Beneficial.

118. The historic Stockton and Darlington Railway route is located to the east of the wider Burtree Garden Village allocation and beyond the site boundary of this planning application.

**o) Impact on Existing Trees and Landscaping**

119. Trees which were located on and immediately adjacent to the site have been assessed and surveyed, including one hundred and fifty-two individual trees, twenty-three tree groups, two woodlands and fifty-four hedgerows. The riparian woodland on the banks of the Dene Beck stream was recorded as tree groups G7 and G8, with the more significant trees recorded as individual trees.

120. There are a number of hedgerows throughout the site, predominantly single species and comprised of mature hawthorns, some of which have been previously laid. Mature and veteran trees can be found occasionally growing within these hedgerows.

121. Many of the hedgerows are suffering from intense sheep grazing pressure, with their bases often devoid of foliage. Additionally, a significance number of the trees, including some of the veteran ash trees also have basal and surface root damage, synonymous with intense grazing. Soil compaction around the stem bases was also observed. The Dene Beck stream is located on the south-western part of the site, with a number of mature and veteran trees within the stream's riparian zone, including a number of mature crack willows, elms, sycamore and ash and two rare mature native black poplar trees. In the southwestern part of the site are two rare mature native crab apple trees. Another native crab apple is located within hedgerows on the eastern part of the site. A

small woodland copse is located in the northern part of the site adjacent to Whessoe Grange Farm.

122. Two mature native black poplar trees are located just outside the Phase 1 site's western boundary. This sub-species is the rarest large growing native 'timber' tree species in the UK. Three other black poplar trees were found during the survey, one of which was lost due to the 2021/2022 storms. Following a specialised survey in 2023, it has been confirmed that all four black poplar trees within the Phase 1 site are the native cultivar with one being a rare female specimen.
123. A significant number of veteran trees, predominantly ash species, are scattered throughout the rest of the site, with high concentrations located to the south and south-west of High Faverdale Farm. Forty-two veteran trees were recorded during the survey, which includes nine 'Transitioning Veterans', which are trees which have veteran features which over time will develop further veteran features therefore developing into full veteran trees. Transitioning veterans have been allocated a veteran buffer zone, along with the other full veteran trees as these are still within the NPPF definitions of a veteran tree.
124. The road and drainage design footprints and landscaping strategy have gone through several iterations in order to eliminate impacts on trees and hedgerows, especially on the veteran trees. Where the impacts on trees (especially veteran trees) couldn't be eliminated due to design requirements for footway widths, the road layout on Burtree Lane and drainage requirements to cope with expected surface water volumes, careful thought has gone into how the impacts could be minimised to ensure where possible the retention of trees and thus avoiding any loss or deterioration of habitat, through the specification of the most appropriate mitigation measures.
125. In order to facilitate the proposed scheme, it will be necessary to remove seven individual trees, which includes three veteran trees (their decaying wood habitat is to be retained and relocated elsewhere on Site), parts of seven tree groups and part of one woodland. Additionally, four hedgerows are proposed to be removed in their entirety and parts of a further twenty-two sections of hedgerows totalling 704m<sup>2</sup> in length.
126. The total loss of tree canopy cover to enable the Phase 1 detailed design development (roads, road bridge, SUDS basins and drainage runs) to be implemented equates to 7.3% of the Phase 1 site's total tree canopy coverage. The total loss of hedgerows equates to 12% of the Phase 1 site's total hedgerows length. The losses of these trees and hedgerows are considered to be low from an amenity and ecosystem service benefits perspective, when considering the extent of tree canopy cover and hedgerows to be retained and the extent of new planting proposed.
127. The trees and hedgerows that are to be retained on the site will be protected during the proposed works with two types of protective fencing, with the type specified depending upon the closeness and type of development to be undertaken nearby.

128. Paragraph 186 of the National Planning Policy Framework 2023 states, development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists. Examples given of exceptional circumstances are, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat. This approach is also set out in policy ENV7 of the Local Plan.
129. It is noted that the highest concentration of veteran trees is at the south of the site, around the Dene Beck watercourse and bounding Rotary Way. These veteran trees are retained and form part of the landscape and biodiversity strategy for the proposed scheme which secures a net increase in habitat and hedgerow. The development also presents an opportunity to include these trees within a Biodiversity Management Plan.
130. The proposed development does result in the removal of three veteran trees, including the loss of two of the identified trees on Burtree Lane to facilitate the roundabout at the northern end of the site. A third veteran tree would be lost due to the design of eastern and western connections within the Masterplan in order to deliver the wider allocation including the need to cross the Dene Beck watercourse at an appropriate point which runs from north to south across the entire allocation.
131. With regard to the removal of trees on the site, this is offset by the planting of approximately 195 street trees within the proposed landscape masterplan (the public open space includes 433 trees taking the proposed planting to 633 trees in total). Furthermore, all compensation measures associated with the removal of veteran trees will be delivered on site and in addition to the wider landscape strategy which delivers a net gain and enhancement to biodiversity to habitat and hedgerow from the up-front delivery of the strategic road through to completion of the development.
132. In this instance, there are wholly exceptional reasons for the loss of the veteran trees given their loss relates to the delivery of strategic infrastructure identified within the Local Plan which forms part of a wider strategy for the delivery of the north Darlington orbital route. This strategic infrastructure together with the wider Garden Village proposal will deliver public benefits that outweigh the limited deterioration or loss of habitat. A separate, suitable compensation strategy has also been identified for their loss. The proposed landscaping scheme has been developed to enhance both the natural and built environment of the development. Planning conditions have been recommended for tree protection measures and management plans for the veteran trees and black poplar trees that will be retained. The proposal would comply with policies DC1, ENV4, ENV7 and H11 of the Local Plan and the National Planning Policy Framework 2023 in this regard.

**p) Impact on Footpaths and Public Rights of Way**

133. The existing recorded Public Right of Way (Archdeacon Newton Public Footpath No 5) runs north-south through a proposed landscaped area, across the proposed strategic road and through areas required for SUDs features and across tree root protection areas (and buffer zones). To enable the proposed development to be carried out in accordance with the approved plans, it is necessary to stop up the existing recorded PRow from Rotary Way, in order to deliver the proposed development. The physical obstacles that the proposed scheme would introduce along the alignment of the existing footpath would render it incapable of being passed and repassed.
134. There is a need for the applicant to pursue a stopping up application through Sections 247 (and 248) of the Town and Country Planning Act via the Department for Transport, due to the necessity to stop up the recorded route in order to be able to implement the permission.
135. As part of the stopping up application, a new dedicated footpath will be provided through the site. The new alternative route has been designed to follow the existing recorded route, where possible. Importantly, the dedication of a new route will allow for continued pedestrian access through the site, providing a new route that is slightly deviated from the existing route.
136. The Council's Public Rights of Way Officer has confirmed that the applicant has been in discussions to agree the proposed route. The general orientation of the existing route is to be preserved with some small alterations. Whilst the route will no longer travel through the countryside, work has been undertaken to ensure that the proposed route will travel through a greener area of the site as much as possible. Work will also focus on the removal of existing furniture to improve accessibility and improving the surface. The Council's Public Rights of Way Officer has raised no objections to the planning application.
137. The proposed development would accord with policies IN1, IN4 and H11 of the Local Plan in this regard.

**q) Ecology**

138. The planning application has been supported by a Preliminary Ecological Appraisal (PEA) and appropriate protected species surveys.

*Bats*

139. Bats are likely to be impacted by the construction both directly and indirectly throughout the construction and operational phases of the development, through factors such as roost loss, foraging habitats being lost or disturbed, and lighting onsite, amongst other things. Considerations for retention of as much hedgerow habitat and trees as possible have been made; and where loss of these features is present, there are long term plans to increase these habitats across the wider site. Loss of habitats is likely to be a short term issue, with longer term benefits overall for bats. Due to the presence of bat roosts within Faverdale Farm buildings and one tree, a European Protected Species Licence (EPSL) will be required to undertake lawful demolition of the buildings.



The bat roosts are considered of low conservation value for common species – brown long-eared bat, common pipistrelle, and soprano pipistrelle.

140. A sensitive lighting design scheme for bats will be required to be submitted for this project to allow the Local Planning Authority to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

#### *Badgers*

141. Badgers are considered absent onsite due to the lack of records returned by Environmental Records Centre North East (ERIC), and the lack of signs of badger during the various Appraisal works. However, should signs of badger be observed in future surveys, a full badger survey would be required.

#### *Otters and Water Voles*

142. Otter and water vole surveys were conducted to establish likely presence/absence of otter and water vole along water courses or areas adjacent to the water courses; to determine likely impacts of the proposed development; to determine levels of activity and distribution; to assess if further surveys were required; to inform any mitigation measures; and to inform whether a European Protected Species Licence for otter or site-specific licence for water vole was required. Alongside the surveys a desktop study was conducted which returned limited and mostly outdated records
143. During the surveys, no field signs of otter were recorded on any of the appropriate habitat within the site boundary. The survey findings and historic data records suggest that otters are considered unlikely to be resident on site although their occasional passage along the stream corridor cannot be discounted. The stream is considered to be only marginally suitable for water vole, at best. Water voles are considered likely to be absent from site. The retention of the stream and associated marginal vegetation would allow a functional corridor for the passage of any commuting otters through the site.
144. Notwithstanding the above, a further otter survey report has been submitted which relates to five weeks of trail camera monitoring of an area of the Beck upstream and downstream of the proposed crossing point. The trail camera deployment was in response to otter spraint being observed in October 2023 upstream of the proposed location. The otter survey again resulted in no otters being recorded, however, an American mink was recorded onsite. It can, once again, be concluded that whilst otters appear not to be resident onsite, their occasional passage along the riparian corridor cannot be discounted.
145. As a result, a precautionary approach has been adopted and will be undertaken whilst working within 30m of the watercourse. This may be supported by a working method statement and “toolbox” talk if required. If works are proposed within 30m of the watercourse, a walkover of the riparian corridor within the site boundary and 200m either side will be required to check for otter presence.

#### *Great Crested Newts*

146. As the development will be subject to a Natural England Great Crested Newt District Level Licence (DLL) no on-site mitigation for great crested newts will be required under the DLL. Under DLL any ponds lost to development will be mitigated for with the provision of new ponds within Strategic Opportunity Areas (SOA), as identified on the DEFRA website. The presence of an Ecological Clerks of Works during construction will minimise the risks to GCN.

#### *Wintering and Breeding Birds*

147. Overall, the impacts to specific bird species are low in the long term, though there is likely to be initial short term impacts whilst construction onsite occurs. Due to the wider habitat network the individual birds are likely to be absorbed within the adjacent habitats. Barn owls have the potential to be impacted by the new access road, and displacement from foraging habitat, increasing their encounters with road traffic overall. Installing barn owl boxes onsite, which may encourage a larger population to utilise the site and consequently increase the road mortality would not be appropriate.

#### *Drainage Basins*

148. There would be approximately 15 SUDS basins of varying sizes with permanent water retention created across the site. The design of the SUDS allows functionality and ecological benefit, linking habitats and increasing biodiversity across the site. Surrounding the SUDS are reedbeds and wetland areas which assist with carbon capture, nutrient runoff and increasing habitat for wildlife, in particular great crested newts (GCN) and other amphibians. The SUDS will create breeding habitat for protected species such as GCN and for other wildlife including dragonflies and other invertebrates, which will increase the food availability for birds and bats. The SUDS will act as replacement habitat for the loss of two ponds through the development; and whilst the ponds will be lost initially, the SUDS will mitigate this and there will be no permanent loss of water bodies across the site.

#### *Culverts*

149. Culverts can have many damaging effects on the riparian ecosystem as a whole.

150. The planning application has also been supported by a Construction Environmental Management Plan; a Landscape and Ecology Management Plan and an Open Space and Landscape Management Plan which are considered to be acceptable by the Council's Ecology Officer and the Environment Agency. Overall, subject to the imposition of appropriate planning conditions to secure mitigation measures, the proposed development is considered to not have an adverse impact on protected species and habitats and would accord with policy E7 and H11 of the Local Plan in this regard.

#### *Biodiversity Net Gain*

151. An increase in woodland planting, changes to planting to include an increase in native planting and species diversity, amendments to hedgerows and lines of trees, and alteration of Sustainable drainage systems (SuDS) have occurred since the application was first submitted. A BNG Metric Version 4.0 has been submitted in support of the

planning application. The headline results demonstrate an uplift in Habitat Units of 23.88%, Hedgerow Units of 38.36%, and watercourse units of 14.39%. The Council's Ecology Officer is satisfied that the units meet the trading standards, and that habitats proposed for each unit type are achievable and realistic for the development. A Biodiversity Offsetting Assessment and Biodiversity Management and Maintenance Plan is aligned correctly with the BNG Metric 4.0 and the Biodiversity Management and Maintenance Plan (BMMP). The proposed development would accord with policies E7, E8 and H11 of the Local Plan in this regard.

**r) Affordable Housing**

152. Policy H11 of the Local Plan states that the Garden Village needs to provide a mix of housing types and tenures including 20% affordable housing. The development proposals for Phase 1 have been the subject of a robust viability assessment in accordance with Policy H5 of the Local Plan which states that assessments must be submitted when an applicant considers that the provision of affordable housing would make a scheme unviable. The fundamental issue in considering assessments is whether a development is made unviable by the extent of affordable housing along with other planning obligations and requirements. The assessment shows that in order for the Phase 1 land to be released for residential development from north to south, significant infrastructure works are required to be delivered upfront and the costs are substantial. Such costs are shown to have a detrimental impact on the viability of Phase 1, including the delivery of affordable homes within Phase 1 through the planning process.

153. However, given Homes England, who have a broad remit encompassing site delivery, affordable housing provision, driving design quality and Garden Village delivery, are joint applicants to this application with Hellens Land Limited also being a Registered Provider of Social Housing, Members are advised that the applicants and landowners are actively exploring means of alternative funding outside of the planning process to enable the delivery of affordable housing in this Phase 1 development.

154. In summary, it is not possible to secure AH in line with policy due to the infrastructure cost burden of delivering a key (and substantial) piece of infrastructure upfront which:

- serves a role in the wider improvement of the road network in Darlington as per the Council's Infrastructure Delivery Plan,
- unlocks the wider strategic allocation providing delivery certainty for a large element of the Council's long term housing delivery pipeline,
- maximises opportunities for accelerated delivery and
- deeply embeds high quality landscape led design principles that the masterplan seeks to secure.

155. However, the applicants and all landowners within the Phase 1 development are keen to deliver affordable housing at a policy equivalent level through other mechanisms outside of the usual Section 106 approach and preparatory measures have been taken to advance these discussions as far as is possible in advance of planning so that

equivalent provision can be confirmed as soon as possible after the viability case has been accepted and the Ph1 application approved.

156. The viability assessment provides robust evidence to justify and demonstrate why Phase 1 cannot provide affordable housing through the planning process in accordance with Policy H5 of the Local Plan. However, it is highly important to note the approach that the applicant is hoping to take to ensure that the application maximises the positive affordable housing outcomes that can be secured when the delivery strategy of the site is considered holistically.

**s) Sport Provision**

157. Whilst the outline element of the proposed development includes the provision of a primary school, community hall and playing fields which will be the subject of a Community Use Agreement, these elements will be brought forward at later stage subject to demand as the residential elements progress. Sport England consider that the increase in population resulting from this development will generate additional demand and pressure on existing sports facilities thereby creating deficiencies in facility provision. Sport England acknowledge the inclusion of the school playing fields and the Community Use provision as well as the viability assessment findings, but they consider that there is a lack of other sports provision such as an indoor sports hall or swimming pool and the proposal does not make appropriate provision for the sporting needs of its residents.

158. Where a shortfall is identified, financial contributions have previously been secured to improve existing facilities to mitigate the impact of the increase in population created by a particular proposal. In this instance, the viability assessment shows that such a request would not be viably possible, which has been accepted by Officers.

159. The proposed school depending on its size may be able to provide indoor sports activities for the wider community outside of school hours, but this cannot be confirmed at this early stage. This is also the case with regard to the proposed community hall. There is a substantial amount of recreational space embedded within the design of this first phase, including a Village Park and a network of greenways and cycle routes. It is also noted that there are a variety of existing indoor and outdoor sports facilities in Darlington which would help to spread any potential impact of this proposal on such facilities.

160. Notwithstanding the above, Members are advised that Sport England are a recommended non statutory consultee on major housing developments as opposed to their statutory consultee role on applications affecting playing fields. Sport England have acknowledged this and whilst they have objected for the reasons set out above, their comments can carry limited weight. The proposed development does include proportionate sports facilities on site including a primary school and playing fields as required by Policy H11 of the Local Plan and other community facilities which could possibly be designed to cater for additional sport facilities and having taken account of

the outcome of the viability process, it is considered that the proposal would accord with policy IN10 of the Local Plan in this regard.

**t) School Places**

161. A primary school and nursery and sports pitches would form part of the Neighbourhood Centre within phase 1 of the Burtree Garden Village allocation which meets the requirements of policies H11 and IN10 of the Local Plan. It has been agreed between the applicant and the Council that there is no requirement for financial contributions toward secondary education given the level of capacity and accessibility of existing secondary schools in Darlington.

162. The delivery of the primary would need to be established over the course of the development being brought forward and a planning condition has been recommended which sets the land aside for such purposes for a time period of 15 years. The associated sports pitches would be subject to a Community Use Agreement. A review mechanism would form part of the Section 106 Agreement.

163. In the interim period, the Transport Assessment and Sustainable Movement Strategy submitted in support of the planning application demonstrates that pedestrian access to existing facilities is still achievable utilising proposed pedestrian and cycle links associated with the strategic road and the proposed off-site highway improvements at Elm Tree Street via Faverdale Black Path (the Safe Route to School). West Park Academy (Primary) and Mount Pleasant Primary School are within a 2 mile walking distance from the northern gateway to the site at Burtree Lane. Wyvern Academy and Longfield Academy (Secondary schools) are located within 3 miles. In addition to pedestrian and cycle routes, bus services provide a service between West Park and Darlington via Rotary Way.

**u) Developer Contributions/Viability Assessment**

170. Where a relevant determination is made which results in planning permission being granted for development, a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- a) Necessary to make the development acceptable in planning terms.
- b) Directly related to the development; and
- c) Fairly and reasonably related in scale and kind to the development.

171. Under the provisions of the Local Plan and the SPD on Planning Obligations, a development of this nature would trigger planning obligations towards sustainable transport, public transport, sports provision, affordable housing as well as off site highway works. As stated in paragraph 152, the proposals have been subject of a robust viability assessment which shows that the development would become unviable if the development was to contribute to all such planning obligations due to the substantial costs associated with the infrastructure works which are required to be delivered upfront. However, the assessment factored in the costs for the offsite highway works to both the local and strategic highway networks and for the bus

extension (public transport) which were considered to be critical contributions to make this proposal acceptable in highway safety and sustainable development terms. The applicant has also agreed to the financial contributions associated with the implementation of travel plans.

172. It has not been possible to secure obligations relating to sport provision (as set out in paragraphs 157 to 160); further sustainable transport requests beyond the previously agreed Safe Route to School improvements on Elmtree Street/Whessoe Road junction.
173. The NHS also requested a contribution towards improving existing healthcare facilities in the local area. Whilst policy DC3 of the Local Plan has supporting text relating to the Council working with Clinical Commissioning Groups to support the provision of additional health facilities in the locality of application sites, the policy itself does not continue to state that a developer will be expected to make a financial contribution, which means that the local planning authority are not able to secure this particular planning obligation, especially without robust evidence being presented to justify the request. Notwithstanding the policy position, healthcare facilities are proposed within the Neighbourhood centre (as required by Policy H11).
174. The delivery of affordable housing within Phase 1 is set out in paragraph 152 of this report
175. The outcome of the viability assessment exercise is that the following planning obligations can be secured and have been agreed with the applicant:
- a) £1,057,744.87 towards off site highway improvements on the A68 corridor
  - b) £240,853.73 towards off site highway improvements to the A66 Little Burden Roundabout
  - c) £750,000 towards half hourly bus service.
  - d) Travel Plan contributions based on:
    - £2850 Travel Plan Monitoring fee
    - Travel Plan Personalised Travel Advice based on £300 per dwelling and £100 per full time employee
    - Travel Plan Implementation Bond based on £200 per dwelling and £50 per full time employee
176. In terms of other obligations which do not require a financial payment, these would comprise
- a) Mechanisms for the transfer of the school site,
  - b) Details of the offsite nutrient neutrality mitigation and
  - c) Methods of securing Biodiversity Net Gain

## **THE PUBLIC SECTOR EQUALITY DUTY**

177. In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. The proposed infrastructure elements, which is primarily the link road, will include crossing points at appropriate places to aid connectivity for persons with mobility issues. The proposals within the development cells will be submitted for future considerations as Reserved Matters submissions and opportunities will arise to ensure that buildings and footways provide suitable access and facilities for people with mobility issues (policy IN2)

## **SECTION 17 OF THE CRIME AND DISORDER ACT 1998**

178. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

## **CONCLUSION AND RECOMMENDATION**

179. Policy H2, E2 and H11 of the Local Plan allocate the application site and the wider area (site reference 185 Greater Faverdale) for mixed use development which will contribute towards meeting the Boroughs quantitative and qualitative need for housing and employment over the plan period. As required by Policy H11 a comprehensive masterplan and infrastructure phasing plan for the Burtree Garden Village has been agreed with the local planning authority. This planning application which is for Phase 1 of that wider allocation has been designed having full regard to the design principles, key characteristics and objectives of these agreed documents as well as all other local development plan policies and the National Planning Policy Framework 2023.

180. The application is Environmental Impact Assessment development under Schedule 2, Section 10(b) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. An Environmental Impact Assessment (EA) has been undertaken and an Environmental Statement (ES) has been submitted with the application which has been advertised and consulted upon in accordance with the 2017 Regulations. The impacts of the matters for consideration in the ES have been fully taken into account by the Local Planning Authority.

181. The proposal includes key strategic infrastructure to link Rotary Way and Burtree Lane and measures have been put in place to ensure that this significant piece of infrastructure is brought forward at the earliest stage to ensure the Phase 1 development has appropriate sustainable connectivity to existing nearby services and facilities. Furthermore, measures are in place to ensure that the development is occupied from the south and no occupations occur in the northern cells until the

infrastructure has been completed to ensure that the development is brought forward in a sustainable way.

182. Whilst the development cells are in outline, it has been shown that the layout and design of the residential and non residential developments will be done in a way which adopts and reflects the “Garden Village” approach and creates a well-connected, attractive neighbourhood within a landscaped setting providing a good choice of community facilities as set out in Policy H11 of the Local Plan.
183. Whilst detailed proposals for the development cells will be submitted in the future as Reserved Matters, measures have been secured to ensure the development will include an appropriate mix of house types and sizes. Buildings of a scale and design which is appropriate to the location and Garden Village design ethos of the site would be provided along with excellent footway and cycleway connections; a safe and attractive accessible development, appropriate amenity protections and enhancements for residential properties, ecological and biodiversity enhancements and sustainable drainage systems.
184. Robust justifications have been provided and agreed for the removal of veteran trees and the potential demolition of non designated heritage assets. There will be a need to stop up an existing Public Right of Way and create a new dedicated route which has been agreed in consultation with the Council’s Public Rights of Way Officer.
185. Nutrient neutrality and biodiversity net gain have both been mitigated for and achieved and will be secured by planning conditions and as part of a Section 106 legal agreement.
186. Financial contributions towards offsite highway improvements requested by the Council and National Highways have been agreed along with a contribution towards public transport.
187. A viability assessment has shown that the development would not be viable if all planning obligations were secured due to the substantial costs involved in constructing the infrastructure up front. but the priority contributions have been secured in agreement with Officers. Affordable housing could be secured by other means outside of the planning process which is being explored by the applicant.
188. The development has been designed and considered in accordance the local development plan and the National Planning Policy Framework 2023 along with the Design Code SPD and Masterplan (Policy H11). Appropriate planning conditions have been recommended and they are listed below along with the agreed planning obligations.



**THAT PLANNING PERMISSION BE GRANTED SUBJECT TO:**

- (1) THE DEVELOPER OF THE LAND CURRENTLY WITHIN THE OWNERSHIP OF DARLINGTON BOROUGH COUNCIL ENTERING INTO AN AGREEMENT PURSUANT TO SECTION 111 OF THE LOCAL GOVERNMENT ACT 1972 TO ENSURE THAT THE DEVELOPER ENTERS INTO A SECTION 106 AGREEMENT UPON THE LAND COMING INTO THEIR OWNERSHIP. AND**
- (2) THE APPLICANT/OWNER FOR THE REMAINDER OF THE APPLICATION SITE ENTERING INTO A SECTION 106 AGREEMENT TO SECURE THE FOLLOWING (THIS TO BE COMPLETED WITHIN SIX MONTHS)**

- a) £1,057,744.87 towards off site highway improvements on the A68 corridor
- b) £240,853.73 towards off site highway improvements to the A66 Little Burden Roundabout
- c) £750,000 towards half hourly bus service.
- d) Travel Plan contributions based on:
  - £2850 Travel Plan Monitoring fee
  - Travel Plan Personalised Travel Advice based on £300 per dwelling and £100 per full time employee
  - Travel Plan Implementation Bond based on £200 per dwelling and £50 per full time employee
- d) Mechanisms for the transfer of the school site,
- e) Details of the offsite nutrient neutrality mitigation and
- f) Methods of securing Biodiversity Net Gain

**THAT UPON SATISFACTORY COMPLETION AND SIGNING OF THE AGREEMENTS, PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS AND REASONS:**

**HOWEVER, SHOULD THE AGREEMENTS NOT BE COMPLETED WITHIN THIS PRESCRIBED PERIOD WITHOUT WRITTEN CONSENT OF THE COUNCIL TO EXTEND THIS TIME, THE MINDED TO APPROVE STATUS OF THE PERMISSION SHALL BE CONSIDERED TO BE A REFUSAL ON THE GROUNDS THAT THE APPLICATION HAS FAILED TO PROVIDE ADEQUATE MITIGATION MEASURES TO PROVIDE A SATISFACTORY FORM OF DEVELOPMENT IN ACCORDANCE WITH THE REQUIREMENTS OF DARLINGTON LOCAL PLAN 2016-2036, WITHOUT ANY FURTHER REFERENCE TO THE PLANNING COMMITTEE**

**GENERAL PLANNING CONDITIONS RELATING TO THE WHOLE SITE**

1. The development hereby permitted (including demolition) shall be built in accordance with the approved Plans and documents for the full planning consent (listed at Condition 27 )and in general accordance with the approved Plans (including Parameter Plans) and documents in relation to the outline planning consent (listed at condition 44). This is unless a further planning application specific to one or more of the severable

phases/areas and/or development cells shown on the following approved plans is submitted and approved by the Council in substitution for that part of the approved development.

- Phase 1 - Hybrid Planning Application Plan 1017 Rev P4
- Early Delivery and Infrastructure Plan 1015 Rev P5
- Indicative Areas Plan 007 Rev P5
- Land Use Parameter Plan 1003 Rev P4
- Landscape Strategy Plan NT15003-006 Rev J
- Access and Movement Plan 1007 Rev P4

If such further planning application is approved, the remaining severable areas may still be developed as approved in this Planning Permission, it being intended that this Planning Permission should permit each severable area separately and severably from the others.

REASON – For the avoidance of doubt

2. The conditions associated with the planning consent can be discharged in whole or in part for each individual development cell as identified on the Land Use Plan and Indicative Areas Plan.

REASON – For the avoidance of doubt

#### **MASTERPLAN AND DESIGN CODE**

3. The development hereby approved should come forward in general accordance with the Burtree Garden Village Masterplan Document dated April 2024 (or any subsequent update approved by the Local Planning Authority) produced by IP Planning Limited unless otherwise agreed in writing with the local authority.

REASON: In order to achieve a satisfactory form of development.

4. The development hereby approved should come forward in accordance with the design principles and key characteristics within the Developer Design Guide and Parcel Code Rev P10 dated March 2024 prepared by ID Partnership

REASON: To ensure the development accords with the vision, objectives and strategic design principles of the Burtree Garden Village

#### **SUSTAINABLE DEVELOPMENT**

5. The construction of the spine road and associated infrastructure will commence simultaneously from the south and the north as shown within the Indicative Sustainable Delivery Sequence of the agreed Masterplan (Section 11.2 of Burtree Garden Village Masterplan Document Rev P6 April 2024 and produced by ID Partnership), or any subsequent update approved by the local authority.

REASON: To ensure the sustainable infrastructure is brought forward at the earliest stage to ensure the Phase 1 development has appropriate sustainable connectivity to existing nearby services and facilities.

6. No dwellings in outline development cells A to J and P shall be occupied until all the work contained within the defined Infrastructure Delivery Boundary as shown within the Indicative Sustainable Delivery Sequence of the agreed Masterplan (Section 11.2 of Burtree Garden Village Masterplan Document Rev P6 April 2024 and produced by ID Partnership or any updated document agreed with the Local Planning Authority) have been completed unless otherwise agreed in writing by the Local Planning Authority

REASON: To ensure the sustainable infrastructure is brought forward at the earliest stage to ensure the Phase 1 development has appropriate sustainable connectivity to existing nearby services and facilities.

#### **DEMOLITION OF NON DESIGNATED HERITAGE ASSETS**

7. Prior to the commencement of any work requiring demolition of existing agricultural buildings at High Faverdale Farm or Whessoe Grange Farmhouse as shown on Drawing Number 1000 Rev D1, Level 2 recordings of the buildings subject to demolition shall be submitted to and approved in writing by the Local Planning Authority prior to the demolition of the relevant buildings. For the avoidance of doubt, separate building recordings can be submitted to enable the demolition of High Faverdale Farm and Whessoe Grange Farmhouse separately.

REASON – To ensure that non designated heritage assets are appropriately recorded prior to any work requiring demolition in accordance with Policy ENV1 of the Darlington Local Plan and the National Planning Policy Framework 2023

#### **ARCHAEOLOGY**

8. Prior to the commencement of development associated with outline cells Archaeological Investigations in the form of evaluation trenching should take place for the relevant cell in accordance with the Written Scheme of Investigation 22390 V3 received in October 2023. For the avoidance of doubt, the Written Scheme of Investigation identifies separate evaluation projects for the infrastructure phase and outline development cells as identified in this planning consent. Evaluation trenching for the infrastructure phase is complete.

REASON - To safeguard any Archaeological Interest in the site, and to comply with the National Planning Policy Framework

#### **PUBLIC RIGHTS OF WAY**

9. Any footpaths provided in the development shall be carried out in accordance with Movement and Access Plan ref. N81-2724 1007 Rev P4

REASON: To assist with any Stopping Up application through Sections 247 (and 248) of the Town and Country Planning Act 1990 (as amended)

10. The Phase 1 Landscape Strategy ref. NT15003-006 Rev J and Detail Landscape PRoW Plan ref. NT15003-128 Rev B shall be implemented in accordance with the submitted details.

REASON: To assist with any Stopping Up application through Sections 247 (and 248) of the Town and Country Planning Act 1990 (as amended)

#### **TRAVEL PLAN**

11. Notwithstanding the approved Area Travel Plan framework, the Area Travel Plan Coordinator (TPC) will be appointed 1 year prior to occupation of dwellings or non-residential buildings and confirmation will be provided to the local authority. The approved Area Travel Plan Framework for Burtree Garden Village dated November 2023 and produced by SAJ Transport Consultants shall be added to the Modeshift Stars Community / Modeshift Stars Business/Residential site, and the Framework Travel Plan shall be continued in accordance with the details contained therein, including the submission and approval of annual reviews until the five years post completion of the site, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To deliver sustainable transport objectives including a reduction in private vehicular journeys and the increased use of public transport, walking, wheeling and cycling and comply with policy IN3 of the adopted Darlington Local Plan.

#### **TREES**

12. The development hereby approved shall not be carried out otherwise than in complete accordance with the recommendations within the approved Arboricultural Impact Assessment (including its appended Tree Protection Plan) for Burtree Garden Village Version 4 produced by Wardell Armstrong dated February 2024 unless otherwise agreed in writing by the Local Planning Authority

REASON – In the interests of good arboricultural practice

#### **LANDSCAPE MANAGEMENT PLANS**

13. The development hereby approved shall not be carried out otherwise than in complete accordance with the objectives and recommendations set out within the submitted Landscape and Ecology Management Plan for Burtree Garden Village Version 3 produced by Wardell Armstrong dated April 2024 and the Open Space and Landscape Management Strategy Version 4 produced by Wardell Armstrong dated April 2024 unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interest of achieving a satisfactory form of development

#### **ECOLOGY AND BIODIVERSITY NET GAIN**

14. The development hereby approved shall not be carried out otherwise than in accordance with the requirement of the District Newt License

REASON – In the interests of protecting habitats and protected species.

15. All site clearance works such as clearance of tall grassland and other such vegetated habitats suitable for nesting birds including tree and hedgerow removals shall be carried out outside of the nesting season, which is defined as running from March to August, inclusive. If this is not feasible for any reason, a nesting bird survey must be carried out by a suitably qualified ecologist shortly prior to and within 48 hours of the start of works to ensure no active nests are present. In the event that any active nests are found during this survey or at any point during the works, a suitable exclusion zone should be put around the nest, with no work taking place in this area until such time as the nest can be confirmed as no longer active.

REASON – In the interests of protecting habitats and protected species.

16. The development hereby approved shall not be carried out otherwise than in complete accordance with the submitted Updated Biodiversity Offsetting Assessment for Burtree Garden Village Phase 1 Version 2 produced by Wardell Armstrong dated February 2024 unless otherwise agreed in writing by the Local Planning Authority

REASON – To ensure the development complies with policies ENV7 and ENV8 of the Darlington Local Plan

17. As set out in the submitted Update Bat Survey Report for Burtree Garden Village Version 1 by Wardell Armstrong dated December 2022 prior to the commencement of any works impacting upon or requiring removal of buildings or trees with bat roost potential, a Mitigation Licence shall be obtained by a suitably, qualified ecologist who can demonstrate a good knowledge of bat mitigation/licensing.

REASON - In the interests of protecting habitats and protected species.

18. The development hereby approved shall not be carried out otherwise than in complete accordance with the Avoidance, Mitigation and Compensation and Enhancement measures set out in Sections 5.3 and 5.4 of the submitted Update Bat Survey Report for Burtree Garden Village Version 1 by Wardell Armstrong dated December 2022 unless otherwise agreed in writing by the Local Planning Authority

REASON - In the interests of protecting habitats and protected species.

19. Prior to the commencement of any works within 30m of The Dene Beck watercourse, a Working Method Statement checking for the presence of Otters shall be submitted to and approved in writing by the Local Planning Authority. The Statement shall set out, but not be limited to, that if works are proposed within 30m of the watercourse, a walkover of the riparian corridor within the site boundary and 200m either side will be carried out to check for otter presence and the walkover should be no less than 48hrs prior to the commencement of operations. The development shall not be carried out otherwise than in complete accordance with the approved Statement unless otherwise agreed in writing by the Local Planning Authority

REASON - In the interests of protecting habitats and protected species.

20. The development hereby approved shall not be carried out otherwise than in complete accordance with the submitted Biodiversity Management and Maintenance Plan for Burtree Garden Village Version 3 produced by Wardell Armstrong dated February 2024 unless otherwise agreed in writing by the Local Planning Authority

REASON - To ensure the development complies with policies ENV7 and ENV8 of the Darlington Local Plan

21. Prior to the first use of the infrastructure hereby approved or the first occupation of the development whichever is earliest, a Veteran Tree Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in complete accordance with the agreed Plan unless otherwise agreed in writing by the Local Planning Authority

REASON – To protect the veteran trees to be retained on site.

22. Prior to the first use of the infrastructure hereby approved or the first occupation of the development whichever is earliest, a Black Poplar tree survey and Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in complete accordance with the agreed Plan unless otherwise agreed in writing by the Local Planning Authority

REASON - To protect the Black Poplar trees to be retained on site.

23. Prior to the first use of the infrastructure hereby approved or the first occupation of the development whichever is earliest, precise details of a scheme for the erection of owl boxes shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in complete accordance with the agreed Plan unless otherwise agreed in writing by the Local Planning Authority

REASON: - In the interests of protecting habitats and protected species

#### **FLOOD RISK AND DRAINAGE**

24. The development shall not be carried out otherwise than in complete accordance with the submitted Flood Risk and Drainage Strategy Report (Parts 1 to 4 Burtree Garden Village Revision G prepared by Portland Consulting Engineers). These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

REASONS - To reduce the risk of off-site flood risk and flooding elsewhere and to reduce the risk of flooding to the proposed development and future occupants.

25. The development shall not be carried out otherwise than in complete accordance with the submitted SUDs Management and Maintenance Plan Rev B dated December 2023 and produced by Portland Consulting Engineers unless otherwise agreed in writing by the Local Planning Authority.

REASONS - To reduce the risk of off-site flood risk and flooding elsewhere and to reduce the risk of flooding to the proposed development and future occupants.

26. The development of strategic infrastructure, development cell access and strategic landscaping shall be implemented in line with the drainage scheme contained within the submitted document entitled "Flood Risk Assessment and Drainage Strategy Report Revision G" dated "December 2023". The drainage scheme hereby approved shall ensure that foul flows from phase 1 discharge to the public foul sewer at manhole 9202.

REASON: To prevent the increased risk of flooding from any sources in accordance with the National Planning Policy Framework

#### **FULL PLANNING PERMISSION CONDITIONS**

27. The development hereby permitted shall be commenced not later than the expiration of three years from the date of this permission.

REASON - To accord with the provisions of Section 91(1) of the Town and Country Planning Act, 1990.

28. The development hereby permitted shall be carried out in accordance with the following approved plans:

- Drawing Number 1000 D1 Demolition Plan
- Drawing Number 001 01 Rev B Road Layout Sheet 1 of 8
- Drawing Number 001 02 Rev C Road Layout Sheet 2 of 8
- Drawing Number 001 03 Rev B Road Layout Sheet 3 of 8
- Drawing Number 001-04 Rev B Road Layout Sheet 4 of 8
- Drawing Number 001 05 Rev C Road Layout Sheet 5 of 8
- Drawing Number 001-06 A Road Layout Sheet 6 of 8
- Drawing Number 001-07 A Road Layout Sheet 7 of 8
- Drawing Number 001-08 A Road Layout Sheet 8 of 8
- Drawing Number 001 09 Rev A Road Layout Burtree Lane
- Drawing Number 001 10 Rev A Road Layout Rotary Way West
- Drawing Number 001 11 Rev A Road Layout Rotary Way Roundabout
- Drawing Number 001 12 Road Layout Rotary Way East
- Drawing Number 002 01 Rev E Longitudinal Sections Sheet 1 of 12
- Drawing Number 002 02 Rev D Longitudinal Sections Sheet 2 of 12
- Drawing Number 002 03 Rev C Longitudinal Sections Sheet 3 of 12
- Drawing Number 002 04 Rev C Longitudinal Sections Sheet 4 of 12
- Drawing Number 002 05 Rev C Longitudinal Sections Sheet 5 of 12
- Drawing Number 002 06 Rev C Longitudinal Sections Sheet 6 of 12
- Drawing Number 002 07 Rev D Longitudinal Sections Sheet 7 of 12
- Drawing Number 002 08 Rev C Longitudinal Sections Sheet 8 of 12
- Drawing Number 002 09 Rev C Longitudinal Sections Sheet 9 of 12
- Drawing Number 002 10 Rev B Longitudinal Sections Sheet 10 of 12
- Drawing Number 002 11 Rev C Longitudinal Sections Sheet 11 of 12
- Drawing Number 002 12 Rev B Longitudinal Sections Sheet 12 of 12
- Drawing Number 004 01 Rev B Section 38 Road Construction Details Sheet 1 of 4
- Drawing Number 004 02 Rev B Section 38 Road Construction Details Sheet 2 of 4
- Drawing Number 004 03 Rev B Section 38 Road Construction Details Sheet 3 of 4
- Drawing Number 004 04 Rev B Section 38 Road Construction Details Sheet 4 of 4
- Drawing Number 006 01 Rev C Kerb and Surface Finishes Layout Sheet 1 of 11
- Drawing Number 006 02 Rev C Kerb and Surface Finishes Layout Sheet 2 of 11
- Drawing Number 006 03 Rev C Kerb and Surface Finishes Layout Sheet 3 of 11
- Drawing Number 006 04 Rev E Kerb and Surface Finishes Layout Sheet 4 of 11
- Drawing Number 006 05 Rev D Kerb and Surface Finishes Layout Sheet 5 of 11
- Drawing Number 006 06 Rev D Kerb and Surface Finishes Layout Sheet 6 of 11
- Drawing Number 006 07 Rev B Kerb and Surface Finishes Layout Sheet 7 of 11
- Drawing Number 006 08 Rev B Kerb and Surface Finishes Layout Sheet 8 of 11
- Drawing Number 006-09 B Proposed Roundabout Burtree Lane Kerb and Surface Finishes Road Construction Details
- Drawing Number 006 11 Rev O Kerb and Surface Finishes Layout Sheet 11 of 11
- Drawing Number 006 10 Rev A Existing Roundabout Rotary Way



- Drawing Number 007 02 Rev C Section 38 Layout
- Drawing Number 007 03 Rev A Contour Plan
- Drawing Number 014 01 Rev C White Lining Layout Sheet 1 of 8
- Drawing Number 014 02 Rev C White Lining Layout Sheet 2 of 8
- Drawing Number 014 03 Rev C White Lining Layout Sheet 3 of 8
- Drawing Number 014 04 Rev C White Lining Layout Sheet 4 of 8
- Drawing Number 014 05 Rev B White Lining Layout Sheet 5 of 8
- Drawing Number 014 06 Rev B White Lining Layout Sheet 6 of 8
- Drawing Number 014 07 Rev B White Lining Layout Sheet 7 of 8
- Drawing Number 014 08 Rev A White Lining Layout Sheet 8 of 8
- Drawing Number 014 09 Rev A Existing Roundabout Rotary Way White Lining
- Drawing Number 014 10 Proposed Roundabout Rotary Way White Lining
- Drawing Number 015-01 Visibility Splay Layout Phase 1 Infrastructure Sheet 1 of 5
- Drawing Number 015-02 Visibility Splay Layout Phase 1 Infrastructure Sheet 2 of 5
- Drawing Number 015-03 Visibility Splay Layout Phase 1 Infrastructure Sheet 3 of 5
- Drawing Number 015-04 Visibility Splay Layout Phase 1 Infrastructure Sheet 4 of 5
- Drawing Number 015-05 Visibility Splay Layout Phase 1 Infrastructure Sheet 5 of 5
- Drawing Number NT15003-124 D Detailed Planting Plan Sheet 1 of 8
- Drawing Number NT15003-124 D Detailed Planting Plan Sheet 2 of 8
- Drawing Number NT15003-124 D Detailed Planting Plan Sheet 3 of 8
- Drawing Number NT15003-124 D Detailed Planting Plan Sheet 4 of 8
- Drawing Number NT15003-124 D Detailed Planting Plan Sheet 5 of 8
- Drawing Number NT15003-124 D Detailed Planting Plan Sheet 6 of 8
- Drawing Number NT15003-124 D Detailed Planting Plan Sheet 7 of 8
- Drawing Number NT15003-124 D Detailed Planting Plan Sheet 8 of 8
- Drawing Number NT15003-128 B Detail Landscape PROW Plan
- Drawing Number NT15003-006 I Phase 1 Landscape Strategy
- Drawing Number NT15003-008A SUDS Basin 1 Planting
- Drawing Number NT15003-008A SUDS Basin 2 Planting
- Drawing Number NT15003-008A SUDS Basin 3 Planting
- Drawing Number NT15003-008A SUDS Basin 4 Planting
- Drawing Number NT15003-008A SUDS Basin 5 Planting
- Drawing Number NT15003-008A SUDS Basin 6 Planting
- Drawing Number NT15003-008A SUDS Basin 8 Planting
- Drawing Number NT15003-008A SUDS Basin 9 Planting
- Drawing Number NT15003-008A SUDS Basin 10 Planting
- Drawing Number NT15003-008A SUDS Basin 12A Planting
- Drawing Number NT15003-008 A SuDS Basin Detailed Planting Plan Basin 13
- Drawing Number NT15003-008 A SuDS Basin Detailed Planting Plan Basin 14
- NT15003-008A SUDS Basin 15 Planting
- Drawing Number TS/DBC/2023028/CA/2 ELV Toucan Civils Element
- Drawing Number TS/DBC/2023028/CA/3 ELV Toucan Loops Element
- Drawing Number TS/DBC/2023028/CA/1 ELV Toucans Signals Element

- Drawing Number 005-34 Pumping Station Compound and Access Layout and Levels
- Drawing Number 015-06 Proposed Roundabout Burtree Lane Proposed Forward Visibility on Approach (SSD)
- Drawing Number 015-07 Proposed Roundabout Burtree Lane Proposed Forward Visibility Measured at Entry
- Drawing Number 015-08 Proposed Roundabout Burtree Lane Visibility to Right Along Circulatory Carriageway Measured at Give Way Line
- Drawing Number 015-09 Proposed Roundabout Burtree Lane Visibility to Right Along Circulatory Carriageway Measured 15m Give Way Line
- Drawing Number 015-10 - Proposed Roundabout Burtree Lane Proposed Circulatory Visibility
- Drawing Number 015-11 Proposed Roundabout Burtree Lane Proposed Geometric Design
- Drawing Number 015-12 Existing Roundabout Rotary Way Proposed Visibility
- Drawing Number 015-13 Existing Roundabout Rotary Way Proposed Geometric Design
- Drawing Number 015-14 Proposed Roundabout Burtree Lane Proposed Forward Visibility on Approach (SSD)
- Drawing Number 017-01 16.5m HGV Tacking Phase 1 Infrastructure
- Drawing Number 017-02 Bus Stop Tracking Phase 1 Infrastructure
- Drawing Number 017-03 Refuse Tracking Phase 1 Infrastructure Sheet 1
- Drawing Number 017-04 Refuse Tracking Phase 1 Infrastructure Sheet 2
- Drawing Number 017-05 Refuse Tracking Phase 1 Infrastructure Sheet 3
- Drawing Number 017-06 Refuse Tracking Phase 1 Infrastructure Sheet 4
- Drawing Number 017-07 Refuse Tracking Phase 1 Infrastructure Sheet 5
- Drawing Number 017-08 Refuse Tracking Phase 1 Infrastructure Sheet 6
- Drawing Number 017-09 Refuse and Bus Tracking Phase 1 Infrastructure
- Drawing Number 017-10 HGV Tracking Burtree Lane Sheet 1
- Drawing Number 017-11 HGV Tracking Burtree Lane Sheet 2
- Drawing Number 017-12 HGV Tracking Burtree Lane Sheet 3
- Drawing Number 017-13 Refuse Tracking Burtree Lane Sheet 1
- Drawing Number 017-14 Refuse Tracking Burtree Lane Sheet 2
- Drawing Number 017-15 Refuse Tracking Burtree Lane Sheet 3
- Drawing Number 017-16 10m Rigid Tracking Burtree Lane Sheet 1
- Drawing Number 017-17 10m Rigid Tracking Burtree Lane Sheet 2
- Drawing Number 017-18 10m Rigid Tracking Burtree Lane Sheet 3
- Drawing Number 017-19 Large Car Tracking Burtree Lane Sheet 1
- Drawing Number 017-20 Large Car Tracking Burtree Lane Sheet 2
- Drawing Number 017-21 Large Car Tracking Burtree Lane Sheet 3
- Drawing Number 017-22 HGV Tracking Rotary Way Sheet 1
- Drawing Number 017-23 HGV Tracking Rotary Way Sheet 2
- Drawing Number 017-24 HGV Tracking Rotary Way Sheet 3
- Drawing Number 017-25 Refuse Tracking Rotary Way Sheet 1
- Drawing Number 017-26 Refuse Tracking Rotary Way Sheet 2

- Drawing Number 017-27 Refuse Tracking Rotary Way Sheet 3
- Drawing Number 017-28 10m Rigid Tracking Rotary Way Sheet 1
- Drawing Number 017-29 10m Rigid Tracking Rotary Way Sheet 2
- Drawing Number 017-30 10m Rigid Tracking Rotary Way Sheet 3
- Drawing Number 017-31 Large Car Tracking Rotary Way Sheet 1
- Drawing Number 017-32 Large Car Tracking Rotary Way Sheet 2
- Drawing Number 017-33 Large Car Tracking Rotary Way Sheet 3
- Drawing Number NT15003-129 Temporary Landscape Street Barriers
- Drawing Number 005-01 Drainage Construction Details
- Drawing Number 006 10 Rev A Existing Roundabout Rotary Way
- Drawing Number 014 09 Rev A Existing Roundabout Rotary Way White Lining
- Drawing Number 014 10 Rev O Proposed Roundabout Rotary Way White Lining
- Drawing Number 1027 P2 Revised PROW Plan
- Drawing Number 1018 P2 Illustrative Masterplan Parameter Plan
- Drawing Number 1024 P1 Illustrative Masterplan Parameter Plan Phase 1
- Drawing Number 1008 P2 Indicative Phasing Plan
- Drawing Number 1003 P4 Land Use Plan (Context Masterplan Parameters)
- Drawing Number 1016 P2 Site Location Plan
- Drawing Number 1001 P1 Topographical Survey Plan
- Drawing Number 1002 P1 Aerial Plan
- Drawing Number 010 P2 Ownership Plan
- Drawing Number 1005 P3 Building Storey Heights Plan
- Drawing Number 1006 P3 Density Parameter Plan
- Drawing Number 007 P5 Indicative Areas Plan (Context Masterplan Parameters)
- Drawing Number 1015 P5 Early Delivery and Infrastructure Plan (Phase 1)
- Drawing Number 1027-P2 Proposed PROW Plan

REASON: To ensure that the development is carried out in accordance with the detailed planning permission

## HIGHWAYS

29. The completion of all highway works submitted in detail (access road and associated access points) , including any phasing, must be carried out in complete accordance with the Infrastructure South and North Schedules/Programmes contained within Appendix 10 and 11 of the submitted Construction Management Plan for Burtree Garden Village Version 2.0 dated February 2024 and produced by Environmental Monitoring Solutions Limited unless otherwise agreed in writing by the Local Planning Authority

REASON - To ensure safe and appropriate access and egress to the premises, in the interests of highway safety and the convenience of all prospective highway users.

30. The following schemes of off-site highway mitigation measures must be completed in accordance with the approved plans and prior to the first occupation of any dwelling or other building:

- a) Delivery of a safe means of vehicular, pedestrian and cycle access via the construction of a 4th arm on the existing roundabout:
- b) Delivery of additional offsite footway and cycling crossing facilities and associated carriageway works on Rotary Way which connect to existing pedestrian and cycleway infrastructure:
- c) Completion of a signalised pedestrian/cycle crossing on Rotary way:
- d) Completion of required carriageway resurfacing, signing, lining, lighting, and drainage works associated with the above mitigation works.
- e) Completion of access to pumping station and associated works off Rotary Way including earthworks, fencing and gates (gates must not open outward over the adopted highway).

An independent Stage 2 Road Safety Audit for the offsite highway works, carried out in accordance with GG119 - Road Safety Audits or any superseding regulations must be submitted to and approved in writing by the Local Planning Authority and any design proposals must be amended in accordance with the recommendations of the submitted Safety Audit prior to the commencement of works on site. A programme for the delivery of that scheme and its interaction with delivery of the other identified schemes must be submitted to and approved in writing by the Local Planning Authority prior to construction works commencing on site. Each item of the off-site highway works must be completed in accordance with the approved engineering details and programme

REASON - To ensure safe and appropriate access and egress to the premises, in the interests of highway safety and the convenience of all prospective highway users.

31. The following schemes of off-site highway mitigation measures must be completed in complete accordance with the approved plans and prior to the first occupation of any dwelling and any other building:
- a) Construction of a new roundabout access at Burtree Lane with associated works,
  - b) Construction of improved crossing facilities at the Whessoe Road/Elmtree Street junction
  - c) Construction of offsite pedestrian links to nearby infrastructure
  - d) Completion of required carriageway resurfacing, signing, lining, lighting, and drainage works associated with the above mitigation works.

An independent Stage 2 Road Safety Audit for the offsite highway works, carried out in accordance with GG119 - Road Safety Audits or any superseding regulations must be submitted to and approved in writing by the Local Planning Authority and any design proposals must be amended in accordance with the recommendations of the submitted Safety Audit prior to the commencement of works on site. A programme for the delivery of that scheme and its interaction with delivery of the other identified schemes must be submitted to and approved in writing by the Local Planning Authority prior to construction works commencing on site. Each item of the off-site highway works must be completed in accordance with the approved engineering details and programme.

REASON - To ensure safe and appropriate access and egress to the premises, in the interests of highway safety and the convenience of all prospective highway users.

32. The point closure details shown on Drawing Number NT15003 – 129 shall be installed prior to the first use of the infrastructure and must remain in place to prevent through traffic until such a time as required offsite highway mitigation works are completed as identified in the Darlington Local Plan to the satisfaction of the Local Highway Authority.

REASON: In the interests of highway safety and to ensure the expeditious movement of traffic on the local highway network.

33. Notwithstanding the requirements for a Stage1/2 RSA at submission of detailed design. Prior to the use of infrastructure further independent Stage 3 & 4 Road Safety Audits must be carried out in accordance with GG119 - Road Safety Audits or any superseding regulations. Audits Shall Cover all off-site highway works on Rotary Way and Burtree Lane as well as the internal highway infrastructure submitted in detail (spine road) as part of this application (22/01342/FULE). The design proposals must be amended in accordance with the recommendations of the submitted Safety Audit within a timescale to be agreed in writing with the Local Planning Authority.

REASON: to ensure that the design is appropriate in the interests of the access, safety, and convenience of highway users.

#### **BUS SERVICE INFRASTRUCTURE**

34. Prior to the first use of the infrastructure hereby approved, a public transport route within the development shall be submitted to and approved by the Local Planning Authority, in order to facilitate future provision of a safe and appropriate bus service.

REASON: A bus service route is required to ensure that 80% of the site is served by a regular (half hourly) bus service, for access to key services, such as employment, health services, education, leisure and main shopping areas, in accordance with Local Plan, Policy IN 2

#### **LAND CONTAMINATION**

35. Any contamination not considered in any previous site investigation for the infrastructure phase but identified during subsequent construction/remediation works shall be reported in writing within a reasonable timescale to the Local Planning Authority. The contamination shall be subject to further risk assessment and remediation proposals agreed in writing with the Local Planning Authority and the development completed in accordance with any further agreed amended specification of works.

REASON - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land

contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework

36. Any other Remediation and Verification works for the infrastructure works resulting from condition 35 shall be conducted, supervised and documented by a "suitably competent person(s)" and in accordance with an agreed Phase 3 Remediation and Verification Strategy or other strategy. No alterations to the agreed Remediation and Verification Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority. Where necessary for the infrastructure phase (unexpected contamination) a Phase 4 Verification and Completion Report shall be compiled and reported by a "suitably competent person(s)", documenting the purpose, objectives, investigation and risk assessment findings, remediation methodologies, validation results and post remediation monitoring carried out to demonstrate the completeness and effectiveness of all agreed remediation works conducted. The Phase 4 Verification and Completion Report shall be submitted and agreed in writing with the Local Planning Authority within 2-months of completion of the development or at a time agreed unless the Local Planning Authority dispenses with the requirement specifically and in writing. Where applicable, the development shall not be brought into use until all of the approved investigation, risk assessment, remediation and verification requirements relevant to the site (or part thereof) have been completed, reported and approved in writing by the Local Planning Authority.

REASON: The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled and the Local Planning Authority wishes to ensure that the proposed development can be implemented and occupied with adequate regard to environmental and public protection

#### **LANDSCAPING SCHEME**

37. Any trees or shrubs within the approved landscaping scheme that are removed, dying, severely damaged or becoming seriously diseased shall be replaced, and the landscaping scheme maintained for a period of five years to the satisfaction of the Local Planning Authority.

REASON - To ensure a satisfactory appearance of the site and in the interests of the visual amenities of the area.

#### **BIRD HAZARD MANAGEMENT PLAN**

38. The development hereby approved shall not be carried out otherwise than in complete accordance with the submitted Bird Hazard Management Plan for Burtree Garden Village Version 2 produced by Wardell Armstrong dated September 2023 unless otherwise agreed in writing by the Local Planning Authority

REASON: It is necessary to manage the flat roofs to minimise its attractiveness to birds which could endanger the safe movement of aircraft and the operation of Teesside Airport.

#### **GENERAL AMENITY**

39. The infrastructure phase of the development hereby approved in detail shall not be carried out other than in complete accordance with the submitted Construction Environmental Management Plan by Environmental Monitoring Solutions dated February 2024 Version 2 and Appendices, and Construction Management Plan by Environmental Monitoring Solutions dated February 2024 Version 2.0 and Appendices, unless otherwise agreed in advance and in writing with the Local Planning Authority.

REASON – In the interest of residential amenity and highway safety

40. Construction work, including the use of plant and machinery (including generators) as well as deliveries to and from the site, shall not take place outside the hours of 08.00 - 18.00 Monday - Friday, 08.00 -14.00 Saturday with no working on a Sunday and Bank/Public Holidays without the prior written permission from the Local Planning Authority.

REASON – In the interests of the amenity of the area

#### **ARCHAEOLOGY CONDITIONS**

41. Development of the infrastructure phase as defined in the full planning consent shall take place in accordance with the targeted Strip Map and Record Written Scheme of Investigation 23334 submitted in December 2023. For the avoidance of doubt the programme of archaeological work is only necessary in the areas identified on Figure 2 of Strip Map and Record Written Scheme of Investigation 23334

REASON - To safeguard any Archaeological Interest in the site, and to comply with the National Planning Policy Framework

42. The infrastructure phase subject to full planning consent shall not be brought into use until any necessary post investigation assessment has been completed in accordance with the approved Strip Map and Record Written Scheme of Investigation 23334 for the infrastructure phase. The provision made for analysis, publication and dissemination of results, and archive deposition, should be confirmed in writing to, and approved by, the Local Planning Authority.

REASON - To safeguard any Archaeological Interest in the site, and to comply with the National Planning Policy Framework

#### **OUTLINE PLANNING PERMISSION CONDITIONS**

43. The submission of reserved matters pursuant to this outline permission shall demonstrate general accord with the following plans, parameter plans and documents:

- Drawing Number 1019 P3 Land Use Parameter Plan Phase 1
- Drawing Number 1020 P3 Movement and Access Plan Phase 1
- Drawing Number 1021 P3 Density Parameter Plan Phase 1
- Drawing Number 1022 P3 Building Storey Heights Plan Phase 1
- Drawing Number 1018 P2 Illustrative Masterplan Parameter Plan
- Drawing Number 1024 P1 Illustrative Masterplan Parameter Plan Phase 1
- Drawing Number 1006 P3 Density Parameter Plan
- Drawing Number 1017 P4 Hybrid Planning Applications Plan
- Drawing Number 1023 P4 Indicative Areas Plan (Phase 1)

REASON: For the avoidance of doubt.

44. Details of the appearance, landscaping, layout, any secondary means of access where applicable and scale for each outline development cell hereby permitted (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development within that part of the site is commenced. The development shall be carried out as approved.

REASON: To accord with the provisions of Section 92(1) of the Town and Country Planning Act 1990.

45. Applications for approval of the reserved matters shall be made to the local planning authority not later than fifteen years from the date of this permission.

REASON: To accord with the provisions of Section 92(1) of the Town and Country Planning Act 1990.

46. The development hereby permitted in outline shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of the approval of the last of the reserved matters to be approved, whichever is the later

REASON: To accord with the provisions of Section 92(1) of the Town and Country Planning Act 1990

47. The application(s) made pursuant to condition 45 shall not propose more than up to 750 dwellings Use Class C3 (inclusive of up to 75 retirement/extra care dwellings C2 and/or C3) and community facilities comprising a school (Class F1.a) and sports pitch provision (Class F2), Nursery (Class E), public house (sui generis), retail/health care/office spaces (Class E), Community Hall (Class E and/or Class F2), local convenience retail/temporary sales office (Class E and/or F2), Business Incubator Units (Class E),



community spaces within development cells and any associated parking, drainage, SUDs, hard and soft landscaping, open spaces, additional private drive access and other associated infrastructure for outline cells unless otherwise agreed in writing by the Local Planning Authority

REASON: For the avoidance of doubt.

## **NUTRIENT NEUTRALITY**

48. No more than 479 of the dwellings hereby permitted shall be occupied prior to the 1st April 2030, the statutory deadline requiring Stressholme Wastewater Treatment Works to operate at the technically achievable limit of 10mg/litre for nitrates<sup>1</sup>. Should the technically achievable limit of 10mg/litre for nitrates be operationally achieved before this statutory deadline, details to confirm this shall be submitted to, and approved in writing, by the Local Planning Authority in consultation with Northumbrian Water and Natural England. Thereafter the remaining dwellings can be occupied. For the avoidance of doubt, should 479 dwellings be delivered in advance of the upgrade to Stressholme Wastewater Treatment Works to operate at the technically achievable limit of 10mg/litre, details of the additional mitigation to facilitate the occupation of additional dwellings would be required to be submitted to and agreed in writing, by the Local Planning Authority in consultation with Natural England

REASON: To ensure the development is nutrient neutral in accordance with the Conservation of Habitats and Species Regulations 2017 (as updated, amended and superseded).

49. Prior to the occupation of the first dwelling or building within the outline development cells, precise details of the type and location of dog waste bins shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in complete accordance with the approved details which shall be installed prior to the first occupation of each development cell.

REASON: To ensure the development is nutrient neutral in accordance with the Conservation of Habitats and Species Regulations 2017.

## **HIGHWAYS**

50. Except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any road or any structure or apparatus which will lie beneath the road must take place on any of the road construction works within the outline development cells, until full detailed engineering drawings of all aspects of roads and sewers for that development cell, including any structures which affect or form part of the highway network, swept path analysis and a programme for delivery of such works have been submitted to and approved in writing

by the Local Planning Authority. The development must only be carried out in compliance with the approved engineering drawings.

REASON: - To secure an appropriate highway constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all highway users.

51. No development within the outline development cells must be brought into use until the carriageway and any footway or footpath from which it gains access is constructed to binder course macadam level or block paved (as approved) and kerbed and connected to the existing highway network with any street lighting installed and in operation. The completion of all road works, including any phasing, must be in accordance with a programme submitted to and approved in writing with the Local Planning Authority before any part of the development is brought into use.

REASON - To ensure safe and appropriate access and egress to the premises, in the interests of highway safety and the convenience of all prospective highway users.

52. In relation to each non residential cell identified on the Land Use Parameter Plan P4, there must be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) at Burtree Garden Village until full details of the following have been submitted to and approved in writing by the Local Planning Authority:

- a) vehicular, cycle, and pedestrian accesses.
- b) vehicular and cycle parking.
- c) vehicular turning arrangements including measures to enable vehicles to enter and leave the site in a forward gear, and where appropriate.
- d) loading and unloading arrangements.

No part of the development cell must be brought into use until the vehicle access, parking, manoeuvring, and turning areas for all Non-Residential development have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

REASON: To ensure appropriate on-site facilities in the interests of highway safety and the general amenity of the development.

53. Prior to the commencement of development of each outline development cell, precise details of vehicular parking for that cell shall be submitted to and approved in writing by the Local Planning Authority. The design and level of provision shall accord with the Tees Valley Design Guide & Specification for Residential Development or any successor.

REASON: To ensure adequate and satisfactory provision of off-street parking accommodation for vehicles, in the interest of highway safety and the general amenity of the development.

54. No dwelling within the outline development cells must be occupied until the related parking facilities associated with that dwelling have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

REASON: To ensure adequate and satisfactory provision of off-street parking accommodation for vehicles, in the interest of highway safety and the general amenity of the development.

55. Prior to the first occupation of development within each outline development cell, precise details of cycle parking and storage provision for each dwelling within that cell shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking details shall include the number, location and design of the cycle stands in accordance with the guidance contained within Cycle Infrastructure Design - Local Transport Note 1/20 July 2020 and shall be in place prior to the occupation of each dwelling.

REASON: In order to promote sustainable modes of transport

56. Except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any road or any structure or apparatus which will lie beneath the road must take place on in any outline development cell, until full detailed phasing plans of the internal highway which affect or form part of the highway network, and a programme for delivery of such works have been submitted to and approved in writing by the Local Planning Authority for the relevant development cell. Details shall include roads, turning and access provision (noting principal vehicular access is approved in full for each cell), footway and cycleway links between cells and to bus stops, Safer Routes to Schools and surrounding highway infrastructure highway. The routes shall be high quality, safe (including lighting, to national standards) and easily accessible to local amenities in accordance with guidance contained within the Cycle Infrastructure Design – Local Transport Note 1/20 July 2020. Any new and improved/modified walking and cycling infrastructure must be delivered in a comprehensive and timely manner to ensure the continuity of routes is maintained throughout the construction phase. The development must only be carried out in compliance with the approved engineering drawings and phasing plan.

REASON: To ensure safe and appropriate access and egress and turning facilities to all premises, in the interests of highway safety and the convenience of all prospective highway users.

57. Any garaging (integral or otherwise) within the outline development cells shall be retained permanently and made available for parking purposes associated with the dwelling hereby approved only and shall not be used for any other purpose without the prior written permission of the Local Planning Authority.

REASON: To ensure that the development retains appropriate parking provision on the interests of highway safety

58. There must be no access or egress by any vehicles between the highway and in curtilage driveway until visibility splays providing clear visibility of 2.0 metres x 2.0 metres measured down each side of the access and the back edge of the footway of the major road have been provided for the relevant development cell. In measuring the splays, the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.

REASON: In the interests of highway safety.

## **TRAVEL PLANS**

59. Further to the approved Area Travel Plan, all individual occupier Travel Plans (TP) for the relevant cells shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority, prior to the first occupation of each outline development cell hereby approved. The individual occupier Travel Plan shall be added to the Modeshift Stars Community / Modeshift Stars Business/Residential site, and the Travel Plan shall be continued in accordance with the details contained therein, including attaining Good standard within 12 months of the occupation of the phase of development and the submission and approval of annual reviews until five years post completion of the cell, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To deliver sustainable transport objectives including a reduction in private vehicular journeys and the increased use of public transport, walking, wheeling and cycling and comply with policy IN3 of the adopted Darlington Local Plan.

## **ROAD BRIDGE**

60. Notwithstanding the details of the Phase 1 road bridge shown on drawing titled "Section Through and Plan onto Proposed Phase 1 Road Bridge" within Appendix O of the Flood Risk and Drainage Strategy Report (Parts 1 to 4 Burtree Garden Village Revision G prepared by Portland Consulting Engineers), precise details of the Phase 1 Road bridge shall be submitted to and approved in writing by the local planning authority in consultation with the Environment Agency prior to or as part of any development commencing within Cell N. The bridge design must consider matters including, but not limited to:

- a) accord with DMRB CD 350 'The design of highway structures' or any successor.
- b) accommodate footway and cycle provision in accordance with LTN 1/20
- c) accommodate sufficient carriageway width and design rating to accommodate the requirements of a bus route.
- d) The modelled flood levels provided by the Environment Agency when designing the finished road level and underside of the bridge deck.
- e) The nature of the bridge supports.

REASON: to ensure that the design is appropriate in the interests of the access, safety, and convenience of highway users and flood risk

## LAYOUT

61. No building or structure of the development hereby permitted shall exceed 149m Above Mean Sea Level (AMSL).

REASON: Development exceeding this height would penetrate the Instrument Flight Procedures (IFP's) surrounding Teesside Airport and endanger aircraft movements and the safe operation of the aerodrome.

62. Prior to the commencement of development on an individual outline development cell, details of finished floor levels for development within that cell should be submitted to and agreed in writing with the Local Planning Authority. The development will be developed in accordance with these approved details.

REASON: In the interests of the visual appearance of the development and the amenities of the future occupants of the development

63. Prior to or at the same time as a Reserved Matters application relating to layout for any individual outline development cell, precise details of the housing mix, types, sizes and tenures shall be submitted to and approved in writing by the Local Planning Authority for each development cell having regard to the most up to date Strategic Housing Market Assessment or other relevant evidence. The outline development cells shall not be carried out otherwise than in accordance with the agreed details.

REASON: To ensure that the development has regard to local needs as set out in Policy H4 of the Darlington Local Plan

## CLIMATE CHANGE/SUSTAINABILITY

64. Prior to the commencement of development within each outline development cells, precise details of energy efficiency measures and low carbon technologies for the relevant development cell shall be submitted to and approved in writing by the Local Planning Authority. The details should have regard to the submitted Energy Strategy November 2022 produced by Wardell Armstrong and include but not be limited to the consideration of the use of local and sustainable materials, permeable surfacing

materials, the planting of native species within landscaping schemes, solar panels. The development of the relevant development cell shall not be carried out otherwise than in complete accordance with the approved details.

REASON: In order to comply with Policy DC1 of the Darlington Local Plan

65. Prior to the first occupation of each outline development cell, details of the type and location of an electrical socket suitable for charging electric vehicles for each dwelling with a dedicated garage or parking space for the relevant cell, shall be submitted to and approved by the Local Planning Authority for the relevant cell. Thereafter the development of the relevant development cell shall be undertaken in accordance with the approved details prior to the occupation of the dwellings and maintained as such thereafter.

REASON - To accord with Policy IN4 of the Local Plan.

## **ECOLOGY**

66. Prior to the commencement of development within the outline cells, precise details of the locations of bird boxes and bat boxes/tiles/features within the buildings for the relevant cell shall be submitted to and approved in writing by the Local Planning Authority. A total of 25% of buildings suitable for artificial nesting provision within the development hereby approved as a whole shall include such ecology features. Each cell shall not be carried out otherwise than in complete accordance with the approved details which shall remain on situ for the lifetime of the development. Where buildings or cells are not suitable for provision this will be agreed with the local planning authority , otherwise it is expected that each cell will contribute toward the 25% target.

REASON: In the interests of ecological enhancements for the development

## **EXTERNAL MATERIALS**

67. No buildings within the outline development cells shall be erected above damp proof course level until samples and details of the external materials to be used in the construction of those buildings in that cell have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.

REASON: In the interests of the visual amenity.

## **HOUSING MIX**

68. The proposals within the outline development cells hereby approved shall comprise 45% of all new dwellings meeting building regulations category M4(2) adaptable and accessible dwelling standards and 9% meeting M4 (3 a or b) wheelchair user dwellings standard. Precise details of how this will be achieved for a relevant cell shall be

submitted to and approved in writing by the Local Planning Authority prior to the commencement of the each of the development cells and the development shall not be carried out otherwise than in complete accordance with the approved details.

REASON – To ensure the development complies with policy H4 of the Darlington Local Plan 2016 – 2036.

### **PLAY AREAS**

69. Prior to the occupation of the dwellings in each development cell, details shall be provided on the precise number, design and location of children’s play areas within the development and details of the play equipment that would be provided. A programme for delivery associated with development cells shall also be provided to match the phasing of the development and the development shall not be carried out otherwise than in complete accordance with the approved details.

REASON: In the interests of the character and appearance of the proposed development.

### **BROADBAND CONNECTIVITY**

70. Prior to the any commencement of development within the outline development cells, above damp proof course level, a statement shall be submitted to and approved in writing by the Local Planning Authority detailing the measures necessary for providing broadband connectivity, including ducts, to each premises within the development cell hereby approved. The approved infrastructure shall be laid out in accordance with the details as approved at the same time as other services during the construction process and be available for use on the first occupation of each building and thereafter be so maintained for the lifetime of the development.

REASON - To ensure that the development is provided with high quality broadband services enhancing its attractiveness, in accordance with Policy IN8 of the Local Plan.

### **BUS SERVICE INFRASTRUCTURE**

71. Prior to the construction of each outline development cell, precise details of the location and infrastructure design of bus stops serving that cell shall be submitted to and approved in writing by the Local Planning Authority. The details shall also include off-site bus stop provision on Rotary Way and the agreed scheme shall be fully implemented to an adoptable standard and available for use within a timeframe to be agreed by the Local Planning Authority.

REASON: To ensure that sustainable travel options are available to future occupiers and a bus service can be operational within the development

### **EDUCATION LAND**

72. The land allocated for education purposes (approx. 1.2ha) and the associated playing fields as shown on the approved plans (Cell SC1) shall be retained for such purposes for a time period of fifteen years from the commencement of the development unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure that land is allocated for such purposes in the event of a school with associated playing fields being required.

## ROAD TRAFFIC NOISE CONDITIONS

73. For each outline residential development cell within the development hereby approved, prior to or at the same time as a reserved matters application a detailed noise impact assessment and scheme of noise mitigation for the protection of proposed residential properties from road traffic noise from the A1(M), A68, Rotary Way, Burtree Lane and the new strategic access road, compiled by a suitably qualified and experienced acoustic consultant, shall be submitted to, for approval in writing by, the Local Planning Authority. The noise impact assessment shall consider the proposed layout, orientation and design of the dwellings based on good acoustic design\* and the scope of the assessment shall be agreed in writing with the Local Planning Authority prior to the submission of the assessment.

- a) The noise impact assessment shall demonstrate via calculations that the following internal and external noise levels in respect of residential properties are not exceeded:
- a) Internal noise levels for bedrooms shall not exceed 30dB LAeq(8 hour)\*\* and 45dB LAFmax\*\*\*
  - b) Internal noise levels for living rooms shall not exceed 35dB LAeq(16 hour)\*\*
  - c) External noise levels within garden areas shall not exceed 55dB LAeq(16 hour)\*\* unless otherwise agreed in writing with the Local Planning Authority

\*A good acoustic design process should be followed in accordance with Professional Practice Guidance on Planning & Noise New Residential Development, May 2017.

\*\* LAeq(8 hour) nighttime 8 hours between 23:00 and 07:00 and LAeq(16 hour) daytime 16 hours between 07:00 and 23:00. In relation to garden areas, where possible the desirable level of 50dB LAeq(16 hour) shall not be exceeded.

\*\*\* Justification shall be included in the noise impact assessment on the external LAFmax used to calculate the façade mitigation required and internal noise levels.

- b) The detailed scheme of noise mitigation shall include the following:
- d) Details of the sound insulation, alternative forms of ventilation and any other works to be provided for the proposed residential properties to achieve the internal and external noise levels as specified above.



- e) The details (height, density), design and location of any acoustic barrier(s)/bund(s) to be installed to achieve the internal and external noise levels at the proposed residential properties as specified above.
  - f) A plan identifying the proposed residential properties which require noise mitigation, and the noise mitigation measures to be installed.
- c) The requirements of this condition shall be approved prior to commencement of the development of the associated outline residential cell or parts of the condition can be dispensed with if it is demonstrated and agreed in writing with the Local Planning Authority that no adverse noise impacts from a particular source(s) will arise for the particular cell(s) of the development.

The development of the residential cell(s) to which the noise impact assessment and scheme of noise mitigation relates shall not be carried out otherwise than in complete accordance with the details so approved and thereafter shall be retained and maintained for the duration of the development. All works required by the scheme to achieve the internal and external noise levels at a residential property shall be completed prior to the occupation of that particular property.

REASON – To safeguard the amenities of the proposed development.

#### **SCHOOL DEVELOPMENT CONDITION**

74. Prior to or at the same time as a reserved matters application for the school/nursery development, a detailed noise impact assessment and scheme of noise mitigation measures compiled by a suitably qualified and experienced acoustic consultant, shall be submitted to, for approval in writing by, the Local Planning Authority. The noise impact assessment shall consider the layout, orientation and design of the school/nursery development and the scope of the assessment shall be agreed in writing with the Local Planning Authority prior to the submission of the assessment. The noise impact assessment and scheme of noise mitigation measures shall include details of noise levels, calculations and proposed sound insulation and mitigation in respect of:
- a) Protecting external areas of the school from excessive road traffic noise (having regard to Building Bulletin 93 (2015))
  - b) The impact of noise on the proposed residential development(s)/retirement village from external plant, machinery and equipment associated with the school development. The rating level of noise emitted from external plant, machinery or equipment whether operating individually or when all plant is operating simultaneously, shall not exceed the daytime and night-time background sound level at any residential property when measured and assessed in accordance with BS4142 'Method for rating and assessing industrial and commercial sound' unless otherwise agreed in writing by the Local Planning Authority. The background sound

level to be used in the BS4142 Assessment and noise sensitive receptors shall be agreed in writing with the Local Planning Authority.

- c) Minimising the impact of noise on the proposed residential development(s)/retirement village from the use of music rooms, halls or equivalent noise generating facilities associated with the school development.
- d) Minimising the impact of noise from playgrounds, playing fields and/or sports pitches (having regard to intended frequency and pattern of usage).

The approved details, findings and noise mitigation measures shall be implemented prior to the occupation of the school development/prior to the plant, machinery or equipment first becoming operational and thereafter shall be retained and maintained for the duration of the development.

REASON – To safeguard the amenities of the proposed development.

### **PUBLIC HOUSE CONDITION**

75. Prior to or at the same time as a reserved matters application for the public house development, a scheme of noise mitigation measures, shall be submitted to, for approval in writing by, the Local Planning Authority. The scheme shall demonstrate how layout, orientation and design of the public house has been carefully considered in relation to protecting the proposed residential development from noise, taking into account the following:

- a) The location of any external drinking areas/beer gardens/smoking areas/play areas, using the building itself to act as a screen between these and the nearest residential areas.
- b) The location of entrance doors, and consideration of double doorway systems with an intervening lobby.

REASON – To safeguard the amenities of the proposed development.

### **SPORT PITCHES CONDITION**

76. Prior to the commencement of the development of any sports pitch(es), a detailed noise impact assessment and scheme of noise mitigation measures compiled by a suitably qualified and experienced acoustic consultant, shall be submitted to, for approval in writing by, the Local Planning Authority. The noise impact assessment shall consider the proposed layout, orientation and design of the pitch(es) and the scope of the assessment and criteria/noise levels to be met shall be agreed in writing with the Local Planning Authority prior to the submission of the assessment. The noise impact assessment and scheme of noise mitigation measures shall include details of noise levels, calculations and proposed mitigation in respect of:

- a) Minimising the impact of noise on the proposed residential development(s) and shall include intended hours of use (to be agreed) and details (height, density), design and

location of any acoustic barrier(s) to be installed, as well as details of any other mitigation.

The approved details, findings and noise mitigation measures shall be implemented prior to first use of any sports pitch(es) and thereafter shall be retained and maintained for the duration of the development.

REASON – To safeguard the amenities of the proposed development.

77. Prior to the first use of any sports pitch(es) to be available for Community use, a Community Use Agreement prepared in consultation with Sport England shall be submitted to and approved in writing by the Local Planning Authority and a copy of the completed approved agreement shall be provided to the Local Planning Authority. The Agreement shall apply to the sports pitch(es) and include details of pricing policy, hours of use, access by non-school users, management responsibilities and a mechanism for review, and anything else which the Local Planning Authority in consultation with Sport England consider necessary in order to secure the effective community use of the facilities. The development shall not be used at any time other than in strict compliance with the approved Agreement.

REASON – To ensure that the sports pitches are available for the use of the community in accordance with Policy IN10 of the Local Plan

78. No means of amplification of sound shall be permitted relating to the sports pitch(es) including the use of loud speakers and public announcement systems without the prior written approval of the Local Planning Authority.

REASON - To safeguard the amenities of the proposed development.

#### **EXTERNAL LIGHTING CONDITION**

- ~~79.~~ Prior to occupation/use of each outline cell associated of the development hereby approved, a scheme and assessment relating to any proposed external lighting\* associated with that outline cell of the development undertaken by an independent qualified assessor, shall be submitted to the Local Planning Authority prior to installation unless the Local Planning Authority dispenses with the requirement specifically and in writing. This should include:

- a) Times of operation of the proposed lighting units.
- b) A description of the proposed lighting units including height, type, angling and power output for all lighting.
- c) Drawing(s)/contour plans showing the luminance levels (both horizontal and vertical) of the lighting scheme to demonstrate that no excess light falls into the curtilage of sensitive neighbouring properties.

d) The Environmental Zone which the site falls within, in accordance with the Institution of Lighting Professionals Guidance on the Reduction of Obtrusive Light, to be agreed with the LPA. The relevant light sensitive receptors to be used in the assessment to be agreed with the LPA in advance of the assessment.

e) Details of the Sky Glow Upward Light Ratio, Light Intrusion (into windows of relevant properties) and Luminaire Intensity.

f) The limits for the relevant Environmental Zone relating to Sky Glow Upward Light Ratio, Light Trespass (into windows) and Luminaire Intensity, contained in Table 2 (Obtrusive Light Limitations for Exterior Lighting Installations) of the Institute of Lighting Professionals Guidance on the Reduction of Obtrusive Light shall not be exceeded.

\*excludes any external lighting associated with residential properties

REASON - To safeguard the amenities of the proposed development.

## **FLOOD RISK AND DRAINAGE**

80. The development shall not be carried out otherwise than in complete accordance with the submitted Flood Risk and Drainage Strategy Report (Parts 1 to 4 Burtree Garden Village Revision G prepared by Portland Consulting Engineers). These mitigation measures shall be fully implemented prior to occupation for the relevant development cells and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

REASONS - To reduce the risk of off-site flood risk and flooding elsewhere and to reduce the risk of flooding to the proposed development and future occupants.

81. A Water framework Directive (WFD) assessment should be submitted to, and approved in writing by, the local planning authority prior to the occupation of dwellings or other non-residential buildings. The assessment shall include the following elements:

- a) An assessment of the impact on the Water Framework Directive (WFD) from the increase of foul drainage.
- b) An assessment of the total volume of foul drainage that will be generated by the development.

REASON: The Water Environment (Water Framework Directive) Regulations 2017 and the Northumbria River Basin Management Plan requires the restoration and enhancement of water bodies to prevent deterioration and promote the recovery of water bodies. It specifically states that no waterbody should deteriorate in status and should aim to achieve Good Status or Good Ecological Potential as soon as is reasonably practical. Any proposed plan or development should not contradict the Northumbria River Basin Management Plan 2015. Without this condition, the impact could cause deterioration of the WFD status.

82. The development hereby approved shall not be commenced on each outline development cell site, until a scheme for 'the implementation, maintenance and management of a Sustainable Surface Water Drainage Scheme has first been submitted to and approved in writing by the Local Planning Authority for the relevant development cell. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details for that cell, the scheme shall include but not be restricted to providing the following details.

- a) A build program and timetable for the provision of the critical surface water drainage infrastructure.
- b) A management plan detailing how surface water runoff from the site will be managed during the construction phase.

REASON: To ensure the site is developed in a manner that will not increase the risk of surface water flooding to site or surrounding area, in accordance with Policy DC2 of the Darlington Borough Local Plan 2016-2036 and the National Planning Policy Framework 2023.

83. The development of the outline development cells hereby approved shall not be commenced on site, until a scheme for 'the implementation, maintenance and management of a Sustainable Surface Water Drainage Scheme has first been submitted to and approved in writing by the Local Planning Authority for the relevant development cell. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details for that cell, the scheme shall include but not be restricted to providing the following details.

- a) Detailed design of the surface water management system.
- b) Details of adoption responsibilities

REASON: To ensure the site is developed in a manner that will not increase the risk of surface water flooding to site or surrounding area, in accordance with Policy DC2 of the Darlington Borough Local Plan 2016-2036 and the National Planning Policy Framework 2023.

84. The building hereby approved shall not be brought into use within a relevant development cell until:-

- a) Requisite elements of the approved surface water management scheme for the development cell are in place and fully operational to serve said building.
- b) A Management and maintenance plan of the approved Surface Water Drainage scheme has been submitted and approved in writing by the Local Planning Authority for the relevant cell, this should include the funding arrangements and cover the lifetime of the development.

REASON: To reduce flood risk and ensure satisfactory long-term maintenance are in place for the lifetime of the development.

85. The development shall not be carried out otherwise than in complete accordance with the submitted Flood Risk and Drainage Strategy Report (Parts 1 to 4 Burtree Garden Village Revision G prepared by Portland Consulting Engineers). The drainage scheme shall ensure that foul flows from phase 1 discharge to the public foul sewer at manhole 9202.

REASON: To prevent the increased risk of flooding from any sources in accordance with the National Planning Policy Framework

## **LANDSCAPING**

86. Any trees or shrubs which form part of a landscaping scheme to be submitted as part of a future Reserved Matters submission and which are removed, dying, severely damaged or becoming seriously diseased shall be replaced, and the landscaping scheme maintained for a period of five years to the satisfaction of the Local Planning Authority.

REASON - To ensure a satisfactory appearance of the site and in the interests of the visual amenities of the area.

## **LAND CONTAMINATION**

87. Prior to the commencement of each outline development cell of the development and any site investigation works for that cell or at a time agreed in writing by the Local Planning Authority a cell specific Phase 2 Site Investigation Strategy (Sampling and Analysis Plan) shall be designed and documented by a "suitably competent person(s)" in accordance with published technical guidance (e.g. BS10175 and Land Contamination: Risk Management (LCRM)) and be submitted to and agreed in writing with the Local Planning Authority, unless the Local Planning Authority dispenses with the requirement specifically and in writing. The Phase 2 Site Investigation Strategy (Sampling and Analysis Plan) shall be sufficient to fully and effectively characterise and evaluate the nature and extent of any potential contamination and assess pollutant linkages. No alterations to the agreed Phase 2 Site Investigation Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority.

REASON - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

88. Prior to the commencement of each outline development cell or at a time agreed in writing by the Local Planning Authority a Phase 2 Site Investigation works shall be

conducted, supervised and documented by a “suitably competent person(s)” and carried out in accordance with the approved Phase 2 Site Investigation Strategy (Sampling and Analysis Plan) for the relevant cell. A Phase 2 Site Investigation and Risk Assessment Report prepared by a “suitably competent person(s)”, in accordance with published technical guidance (e.g. BS10175 and Land Contamination: Risk Management (LCRM)) and shall be submitted to and agreed in writing with the Local Planning Authority unless the Local Planning Authority for the relevant cell dispenses with the requirement specifically and in writing.

REASON - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework

89. Prior to the commencement of each outline development cell or at a time agreed in writing by the Local Planning Authority a Phase 3 Remediation and Verification Strategy shall be prepared by a "suitably competent person(s)" to address all human health and environmental risks associated with contamination identified in the Phase 2 Site Investigation and Risk Assessment for the relevant cell. The Remediation and Verification Strategy which shall include an options appraisal and ensure that the site is suitable for its new use and no unacceptable risks remain, shall be submitted to and agreed in writing with the Local Planning Authority, unless the Local Planning Authority for the relevant cell dispenses with the requirement specifically and in writing.

REASON - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

90. Any contamination not considered in the Phase 3 Remediation and Verification Strategy for the outline development cells but identified during subsequent construction/remediation works of any phase or individual development cells shall be reported in writing within a reasonable timescale to the Local Planning Authority. The contamination shall be subject to further risk assessment and remediation proposals agreed in writing with the Local Planning Authority that that phase or cell and the development completed in accordance with any further agreed amended specification of works.

REASON - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to

ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

91. Where necessary (unexpected contamination) for an individual outline development cell, a Phase 4 Verification and Completion Report shall be compiled and reported by a "suitably competent person(s)", documenting the purpose, objectives, investigation and risk assessment findings, remediation methodologies, validation results and post remediation monitoring carried out to demonstrate the completeness and effectiveness of all agreed remediation works conducted for the relevant cell. The Phase 4 Verification and Completion Report shall be submitted and agreed in writing with the Local Planning Authority within 2-months of completion of the development or at a time agreed unless the Local Planning Authority dispenses with the requirement specifically and in writing. Where applicable, the development site or agreed phase or individual cell of development site, shall not be occupied or brought into use until all of the approved investigation, risk assessment, remediation and verification requirements relevant to the site (or part thereof) have been completed, reported and approved in writing by the Local Planning Authority.

REASON - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site which has been landfilled. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

#### **GENERAL AMENITY**

92. Prior to the commencement of each outline development cell a site-specific Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority for the relevant cell. The plan shall include the following, unless the Local Planning Authority dispenses with any requirement[s] specifically and in writing:
- a) Dust Assessment Report which assesses the dust emission magnitude, the sensitivity of the area, risk of impacts and details of the dust control measures to be put in place during the construction phase of the development. The Dust Assessment Report shall take account of the guidance contained within the Institute of Air Quality Management "Guidance on the assessment of dust from demolition and construction" February 2014.
  - b) Methods for controlling noise and vibration during the construction phase and shall take account of the guidance contained within BS5228 "Code of Practice for noise and vibration control on construction and open sites" 2009.
  - c) details of any temporary construction access to the site including measures for removal following completion of construction works.
  - d) wheel and chassis underside washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway.
  - e) the parking of contractors' site operatives and visitor's vehicles



- f) areas for storage of plant and materials used in constructing the development clear of the highway.
- g) measures to manage the delivery of materials and plant to the site including routing and timing of deliveries and loading and unloading areas.
- h) details of the routes to be used by HGV construction traffic and highway condition surveys on these routes.
- i) protection of carriageway and footway users at all times during demolition and construction
- j) protection of contractors working adjacent to the highway
- k) details of site working hours.
- l) erection and maintenance of hoardings including decorative displays, security fencing and scaffolding on/over the footway & carriageway and facilities for public viewing where appropriate.
- m) an undertaking that there must be no burning of materials on site at any time during construction.
- n) removal of materials from site including a scheme for recycling/disposing of waste resulting from demolition and construction works.
- o) details of the measures to be taken for the protection of trees. 16. details of external lighting equipment
- p) details of any ditches to be piped during the construction phases.
- q) a detailed method statement and programme for the building works; and
- r) contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

The development shall not be carried out otherwise than in complete accordance with the approved Plan.

REASON – In the interests of amenity and highway safety

93. Construction work, including the use of plant and machinery (including generators) as well as deliveries to and from the site, shall not take place outside the hours of 08.00 - 18.00 Monday - Friday, 08.00 -14.00 Saturday with no working on a Sunday and Bank/Public Holidays without the prior written permission from the Local Planning Authority.

REASON – In the interests of amenity

94. If piled foundations are proposed, prior to commencement of that building or structure, details of the piling method including justification for its choice, means of monitoring vibration and groundwater risk assessment, if necessary, in accordance with recognised guidance shall be submitted to and agreed in writing by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved details.

REASON - In the interests of amenity

## **ARCHAEOLOGY CONDITIONS**

95. Prior to the commencement of development associated with outline cells Archaeological Investigations in the form of evaluation trenching should take place for the relevant cell in accordance with the Written Scheme of Investigation 22390 received in October 2023. For the avoidance of doubt, the Written Scheme of Investigation identifies separate evaluation projects for the infrastructure phase and outline development cells as identified in this planning consent. Evaluation trenching for the infrastructure phase is complete.

REASON - To safeguard any Archaeological Interest in the site, and to comply with the National Planning Policy Framework

96. No development shall commence on any outline development cell of the development until a subsequent and cell specific written scheme of investigation is submitted to and approved in writing by the Local Planning Authority. Each development cell specific written scheme of investigation should be prepared in accordance with 'Standards For All Archaeological Work In County Durham And Darlington' and should identify a programme of any further archaeological mitigation (including recording or watching briefs) deemed necessary for that phase of development as a result of the evaluation trenching undertaken under WSI 22390 (October 2023). The programme of archaeological work will then be carried out in accordance with the approved scheme of works. For cells or works where a programme of archaeological mitigation is not necessary this will be agreed in writing with the Local Planning Authority

REASON - To safeguard any Archaeological Interest in the site, and to comply with the National Planning Policy Framework

97. No part of an outline cell of the development subject to further archaeological mitigation (as identified in a phase/cell specific written scheme of investigation) shall be occupied until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation for that cell of the development. The provision made for analysis, publication and dissemination of results, and archive deposition, should be confirmed in writing to, and approved by, the Local Planning Authority

REASON – To safeguard any Archaeological Interest in the site, and to comply with the National Planning Policy Framework

## **PUMPING STATION CONDITIONS**

98. Prior to or at the same time as a reserved matters application, details of any foul pumping station/waste water treatment works within any outline development cell shall be submitted to and approved in writing by the Local Planning Authority

REASON: In the interests of the visual appearance of the development

99. Prior to or at the same time as a reserved matters application a detailed noise impact assessment and scheme of noise mitigation for the protection of residential properties from noise associated with any foul pumping station and/or mitigation strategy proposed in relation to nutrient neutrality compiled by a suitably qualified and experienced acoustic consultant, shall be submitted to, for approval in writing by, the Local Planning Authority. The scope and methodology used in the assessment including source noise levels, noise sensitive receptors, background sound levels shall be agreed in writing with the Local Planning Authority prior to the submission of the assessment. Any mitigation measures shall be implemented prior to occupation of any residential properties and thereafter shall be retained and maintained for the duration of the development.

N.B There may be an option to dispense with satisfying the requirements of the condition if no noise impacts will arise from the mitigation strategy proposed in relation to nutrient neutrality or if there are no likely impacts to be reported in relation to development cells and agreed in writing by the Local Planning Authority

REASON – In the interests of the amenity of the development

100. Prior to or at the same time as a reserved matters application an odour impact assessment and scheme of works for the protection of residential properties from odour associated with any foul pumping station/wastewater treatment works and/or mitigation strategy proposed in relation to nutrient neutrality, compiled by a suitably qualified and experienced consultant, shall be submitted to, for approval in writing by, the Local Planning Authority. The scope and methodology used in the assessment shall be agreed in writing with the Local Planning Authority prior to submission of the assessment. The assessment shall follow the Institute of Air Quality Management Guidance on the assessment of odour for planning. Any scheme of works shall be implemented prior to occupation of any residential properties and thereafter shall be retained and maintained for the duration of the development.

N.B There may be an option to dispense with satisfying the requirements of the condition if no odour impacts will arise from the mitigation strategy proposed in relation to nutrient neutrality. or if there are no likely impacts to be reported in relation to development cells and agreed in writing by the Local Planning Authority

REASON - In the interests of the amenity of the development

## **INFORMATIVES**

### **Flood Risk Matters**

Please see attached Environment Agency response.

### **Lead Local Flood Authority**

To facilitate the proposed road crossing over the existing ordinary watercourse the applicant must apply for land drainage consent. Outfalls within Phase 1 - S236, S77a, S197 and S173 will also require land drainage consent as will any future watercourse crossings or outfalls required

in the planned phases. A land drainage consent is a separate application that could take up to 8 weeks for completion and no works on the watercourse can proceed until consent has been approved by the Lead Local Flood Authority

At Reserved Matters stage all Cell layouts must be designed to ensure sufficient space to allow access for basin maintenance, it is noted that Basins 8, 9 & 10 do not incorporate a 3m maintenance strip around the entirety of the basin.

## **Highway Matters**

### *Other Permissions required from the Local Highway Authority*

Applicants are reminded that in addition to securing planning permission other permissions may be required from Darlington Borough Council as Local Highway Authority. These additional permissions can include but are not limited to: Agreements under Sections 278, 38, and 184 of the Highways Act 1980; permissions through New Roads and Streetworks Act 1991 and Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 (as amended and including all instruments, orders, plans, regulations and directions). Further information on these matters can be obtained from the Local Highway Authority. Other permissions may also be required from third parties. It is the applicant's responsibility to ensure all necessary permissions are in place at the appropriate time.

### *Detailed Plans of Road and Footway Layouts*

It is recommended that in order to avoid abortive work, discussions are held between the applicant, the Local Planning Authority and the Local Highway Authority before a draft layout is produced and any detailed planning submission is made. To assist, the Local Highway Authority can provide a full list of information required to discharge this condition. It should be noted that approval to discharge the condition does not automatically confer approval for the purposes of entering any Section 278/38 Agreement with the Local Highway Authority.

### *Delivery of off-site highway works.*

Notwithstanding any valid planning permission for works to amend the existing highway, there must be no works in the existing highway until an Agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and Darlington Borough Council as the Local Highway Authority. To carry out works within the highway without a formal Agreement in place is an offence and is likely to risk abortive works.

### *Street Naming and Numbering*

It is recommended that prior to the commencement of the development, the applicant is advised that contact be made with the Assistant Director: Highways, Design and Projects (contact Mrs. P. McGuckin 01325 406651) to discuss naming and numbering of the development.

### *Street Lighting*

Design An appropriate street lighting scheme and design to cover the new highways and any proposed amendments to the existing lighting should be submitted and approved in writing by the Local Planning Authority. Contact must be made with the Assistant Director: Highways, Design and Projects (contact Mr M. Clarkson 01325 406652) to discuss this matter.

*Traffic Regulation orders (Speed Limit)*

The applicant is advised that contact be made with the Assistant Director : Highways, Design and Engineering (contact Mr. C. Easby 01325 406707) to discuss amended speed limits within public highway and the introduction of New Traffic regulation Orders in connection to 20mph and 30mph speed limits within the development.

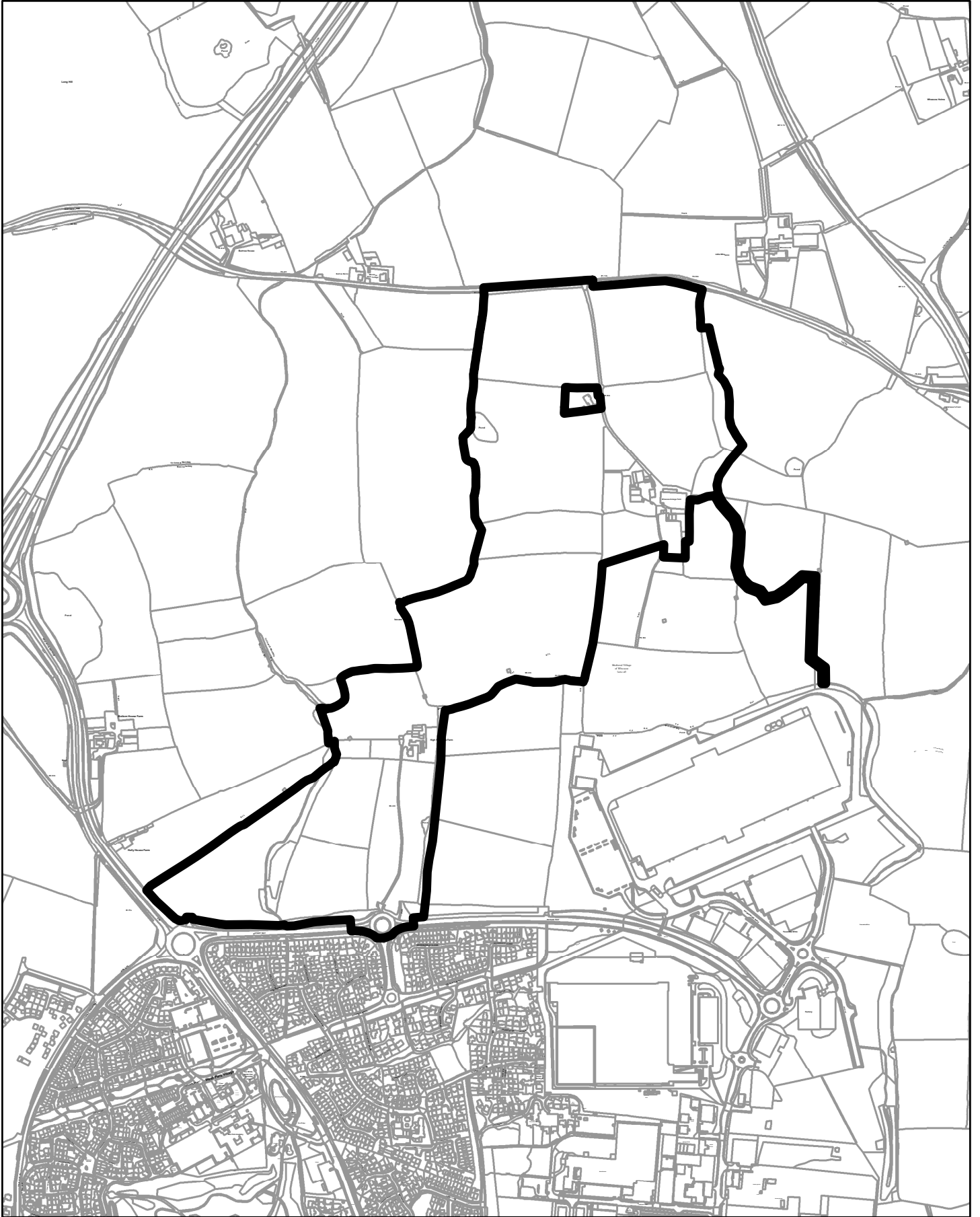
*Projections over Footways*

The developers are advised to ensure that any projection overhanging the footway is securely fixed and no part is less than 2.4 metres above the footway level and no closer than 0.5 metres to the edge of the carriageway.

*Doors and Windows Opening over the Highway*

The developers are advised to ensure that any doors and windows on elevations of the building(s) adjacent to the existing and or proposed highway are constructed and installed such that they do not open over the public highway for a height of 2.4 metres from the level of the adjacent highway. Above 2.4 metres no part of an open door or window must come within 0.5 metres of the carriageway. Any future replacement doors and windows should also comply with these dimensions.

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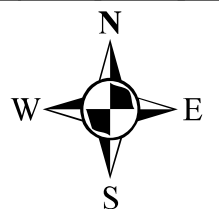


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## DARLINGTON BOROUGH COUNCIL

### PLANNING APPLICATIONS COMMITTEE

**COMMITTEE DATE: 15 May 2024**

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<b>APPLICATION REF. NO:</b>	23/00957/FUL
<b>STATUTORY DECISION DATE:</b>	18 <sup>th</sup> December 2023 Extension of Time Agreed 17 <sup>th</sup> May 2024
<b>WARD/PARISH:</b>	PARK WEST
<b>LOCATION:</b>	Rear Of 39 Elton Parade (1 Coach House Lane) Darlington DL3 8PJ
<b>DESCRIPTION:</b>	Application submitted under Section 73 of the Town and Country Planning Act 1990 for the variation of condition 2(materials) and 3(approved plans) attached to planning permission 19/01182/FUL dated 05 March 2020 to permit render to elevations in place of timber cladding, opaque glazed balustrade to Juliet balcony and window alterations including addition of opaque glazing to window on north elevation (as amended by plans received 19/12/2023 and details for highway works including creation of footpath using bitmac and street lighting as amended by plan received 24/01/2024 and 24/04/2024)
<b>APPLICANT:</b>	Mr Clemmet

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**RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS PERMISSION** (see details below)

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**Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received, and other background papers are available on the Darlington Borough Council website via the following link:**

<https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=S1L0V0FPFYW00>

#### **APPLICATION AND SITE DESCRIPTION**

1. The principal of the building of a two-bedroomed detached dwelling has already been established and this application under Section 73 of the Town & Country Planning Act 1990

is to vary the approved plans condition attached to planning permissions 18/00981/FUL and 19/01182/FUL by permitting the following changes:-

- addition of Antique White render to the external elevations in place of timber cladding;
  - add an opaque glazed balustrade to the Juliet balcony rather than one with clear glazing;
  - addition of opaque glazing to a window on the north elevation rather than clear glazing;
  - slight change in position of window on side elevation which serves the lounge to take into account internal floor levels;
  - and changing the material for the previously agreed footpath from paving slabs to bitmac and changes to entrance lane including the addition of bitmac and tactile paving.
2. It is also proposed to add a single phase 13-amp socket on the east elevation for vehicle charging.
3. The proposal has been amended since it was first submitted in that the balustrade for the Juliet balcony is to be made from opaque glass (level 5) rather than iron railings, the stair window on the north elevation is to have opaque glazing, and these changes will be secured and retained by planning condition. It is also proposed to add a single phase 13-amp socket on the east elevation. Whilst the colour of the external render has changed from 'Earth Taupe' to 'Antique White'.

#### **MAIN PLANNING ISSUES**

4. The main planning issues associated with this planning application are:
- a) Planning Policy;
  - b) Impact on the General Character and Appearance of the Surrounding Area;
  - c) Impact on Heritage Assets;
  - d) Residential Amenity;
  - e) Highway Safety, Parking Provision and Accessibility.

#### **PLANNING POLICIES**

5. The following local development plan policies are relevant:

**Darlington Local Plan 2016 – 2036**

SD1: Presumption in Favour of Sustainable Development

SH1: Settlement Hierarchy

ENV1: Protecting, Enhancing and Promoting Darlington's Historic Environment

DC1: Sustainable Design Principles and Climate Change

DC3: Health and Wellbeing

DC4: Safeguarding Amenity

IN1: Delivering a Sustainable Transport Network

IN2: Improving Access and Accessibility

IN4: Parking Provision including Electric Vehicle Charging

6. Other Relevant Documents

The National Planning Policy Framework 2023 (NPPF)

West End Conservation Area Character Appraisal

## **RESULTS OF TECHNICAL CONSULTATION**

7. The Council's Highways Engineer has no objections to the amended proposal. Northumbrian Water, and Northern Powergrid were consulted and have not commented, whilst Northern Gas Networks have no objections.
8. Darlington Association on Disability has commented on the application and is in support of the use of bitmac.

## **RESULTS OF PUBLICITY AND NOTIFICATION**

9. One letter of objection has been received in regard to the original proposal, however this has been withdrawn as their concerns have been addressed by the addition of the opaque balustrade to the Juliet balcony.
10. Eleven letters of objection have been submitted in regard to the amended proposal and their comments can be summarised as follows:-
  - Previously agreed flagstone footpath would be more in keeping with the locality;
  - Scoria blocks play an important role and are suitable for both pedestrian and vehicular traffic; are more durable than bitmac and are more in keeping with the surrounding Victorian properties;
  - Use of bitmac to this lane would set a precedent; is not an appropriate material and would be to the detriment of the conservation area;
  - Would not be in keeping with the other lanes that lead off Elton Parade;
  - Proposed footpath would narrow the lane, making it extremely difficult for residents to access their garages;
  - Objects to the addition of 'buff blister tactile paving';
  - Do not understand why No. 39 needs a completely different type of access and works are unnecessary;
  - Input required from the Conservation Officer;
  - Artist's impression should be submitted to indicate final look;
  - Residents have to keep within the character of the conservation area, therefore the same should apply to the Highways Department.
11. Councillor Heather Scott has also objected, in support of residents, in that Elton Parade is a unique street in a Conservation area and replacing scoria blocks with bitmac is totally inappropriate and the area must be protected against further deterioration.

## **PLANNING ISSUES/ANALYSIS**

### **a) Planning Policy**

1. Planning law (S.38(6) of the Planning and Compulsory Purchase Act 2004) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (2023) supports the plan led system providing that planning decisions should be "genuinely plan-led" (NPPF para 15).

2. The application site is within the limits of development for the urban area as identified by the Policies Map of the Darlington Borough Local Plan (2016 – 2036). Development within the limits identified on the Policies Map will be acceptable in principle subject to compliance with other relevant national and local policies (policy H3).

#### **b) Impact on the General Character and Appearance of the Surrounding Area**

3. Policy DC1 sets out that development should reflect the local environment and create an individual sense of place with distinctive character; that the detailed design will respond positively to the local context, in terms of its scale, form height, layout, materials, colouring, fenestration and architectural detailing; safeguards or enhances important views and vistas and the layout of the development maximises opportunities for natural surveillance.
4. The general character of the area is predominantly residential, and this section of Elton Parade are a mix of two and 2.5 storeys buildings which are either semi-detached or part of a terrace, with one detached bungalow and which have been built in a palette of materials including different coloured render and brick.
5. As stated, the principal of the building of a two-bedroomed detached dwelling has already been established and the modest external alterations which include changes to the fenestration and the addition of the electrical charging point are considered to be acceptable.
6. And whilst acknowledging that changing the cladding of the external elevations from timber to 'Antique White' render is a highly visible change, the use of render is not an alien feature within the street scene and this colour of render has been chosen as it closely matches a neighbouring property and will therefore blend in more with the surrounding properties than the previously approved timber cladding.
7. Whilst any impact created by the addition of the footpath and street lighting will be considered under sections c) and e) of the report.
8. It is considered that the proposed external changes to the previously approved dwelling are acceptable in general design terms and would not significantly harm the character and appearance of the local area and would comply with policy DC1 of the Local Plan.

#### **c) Impact on Heritage Assets**

9. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that local planning authorities pay special attention to preserving or enhancing the character and appearance of conservation areas.
10. Policy ENV 1 of the Local Plan states that when considering proposals affecting all designated heritage assets such as conservation areas, great weight will be given to the asset's conservation. Proposals should conserve those elements which contribute to such asset's significance, including any contribution made by their setting in a manner appropriate to their significance irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm. Proposals resulting in less

than substantial harm to designated heritage assets will be permitted only where this harm is clearly justified and outweighed by the public benefits of the proposal.

11. Proposals resulting in substantial harm to or total loss of the significance of a designated heritage asset (or an archaeological site of national importance) will only be permitted where this is necessary to achieve substantial public benefits that outweigh the harm or loss, or all of the following apply:
  - a. the nature of the heritage assets prevents all reasonable uses of the site.
  - b. no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation.
  - c. conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
  - d. the harm or loss is outweighed by the benefit of bringing the site back in to use.
12. In addition, proposals affecting a conservation area, involving the alteration, extension or change of use of a building or construction of any structure should preserve and enhance those elements identified in any conservation area appraisal as making a positive contribution to the significance of that area. Special attention should be given to:
  - a) existing architectural and historic character and associations by having regard to the positioning and grouping, form, scale, massing, detailing of development and the use of materials in its construction; and
  - b) character created by them; and historic plot boundaries and layouts; and
  - c) the setting of the conservation area.
12. Policy ENV1 of the Local Plan is consistent with the requirements set out in the National Planning Policy Framework 2023.
13. The planning application has been supported by a basic Heritage Statement which sets out that the use of 'Antique White' render is more in keeping with the surrounding properties and would be a safer alternative given the changes to Building Regulations. And that the proposed changes to the fenestration would have a limited impact on the character and appearance of the West End Conservation Area.
14. Darlington Borough Council's Conservation Consultant has raised no concerns in regard to the proposed minor external changes to the dwelling as they have already been considered in previous applications.
15. This application also looks to alter the previously approved access to the property in respect of surfacing materials. And as part of the 2018 application, the Heritage Officer commented that the existing scoria blocks should not be removed. However, permission was given on the basis that the required footway would necessitate the removal of some of the scoria blocks to the rear lane, which was limited to the width of the footpath, with the remaining blocks being retained and on the basis that this was similar to other examples in the West End Conservation Area. Consent was therefore granted to alter part of the existing back lane footpath from the existing scoria blocks to paving.

16. The current proposals look to alter this element by replacing the previously approved paving with bitmac and the reasoning for the works is to provide a suitable and safe highway access which is supported by the Councils Highways Engineer and Darlington Association on Disability Access given that it provides convenient and safe access for pedestrians and people with mobility issues.
17. The significance of the back lanes lies in them being historic circulation routes which allow access to the rear of properties for garaging, storage etc and as secondary circulation routes to the main connecting streets. And scoria blocks are a traditional street finish that were predominantly used in the north Yorkshire/Durham area in areas of high traffic being a locally available material. They are a finite resource being a byproduct of historic industry in the area. And in many instances, they have been removed or tarmacked over, largely because such works are permitted development under the Highway Act, and changes in traffic movements and the need for level access has often seen them disappear from traditional streetscapes.
18. Darlington's West End Conservation Area Character Appraisal which was adopted in March 2010 sets out that scoria blocks are a distinctive feature of back lanes in this area. However, it also acknowledges that for most purposes' scoria blocks are an unsuitable material for the public realm in new development as they are slippery when wet.
19. Darlington Borough Council's Conservation Consultant is of the opinion that the loss of the traditional street finish from the entrance and rear lane would result in a degree of harm to the character of the conservation area. This harm would be at the lower end of less than substantial for the purposes of the NPPF. The proposed works could set an undesirable precedent for future works as the use of black top surfacing as replacement to traditional materials such as scoria blocks could gradually erode the character of the conservation area, particularly in more visible locations such as the entrances to the lanes.
20. However, our Heritage Consultant has concluded that the Local Planning Authority (LPA) has already accepted in principle the partial loss of the historic surfacing material through the granting of the paved access. And that the resultant heritage impacts in the change in materiality from paving to tarmac needs to be considered in line with the conservation policies set out in ENV1 of the local plan and paragraph 206 of the NPPF. And whether the public benefits of creating a safe level access provides a clear and convincing justification and public benefits as required by paragraphs 206 and 208 of the NPPF and that this will need to be considered by the Local Planning Authority (LPA) in the planning balance.
21. Whilst the Consultant questions whether the footpath could be suitably achieved by other means, there have been other approvals recently granted for residential development, elsewhere within the West End Conservation Area, which has involved the need to create a footpath in existing cobbled lanes and it is considered that the principle of a footway in this location can be supported on heritage grounds.
22. As stated above, there is a need to create a lit footway along a back lane in order for the development to comply with local development plan policies. Whilst acknowledging that the loss of a section of scoria blocks within the lane would result in a degree of harm to the character of the conservation area, the level of harm is at the lower end of less than substantial for the purposes of the NPPF. Significantly, the proposed footway would have a

surface that would provide a fully accessible footway for those with disabilities and would be of value to the wider community which would be of public benefit, which on balance would outweigh the identified harm and would therefore accord with policies DC1, IN2 and IN4 of the Local Plan and the NPPF.

**d) Residential Amenity**

23. Policy DC4 of the Local Plan states that development should be sited, designed and laid out to protect the amenity of existing users of neighbouring land and buildings and the amenity of the intended users of the new development.
24. The external changes to the dwelling will not raise any amenity issues.
25. As stated, there is a need to create a lit footpath along the lane in order for the proposed dwelling to comply with local development plan policies. And two small lighting columns are to be installed in the proposed footpath (Isaro Pro Small 12 LED 350mA) and both the Council's Street Lighting Engineer and Environmental Health Officer have confirmed that these are acceptable and therefore the level of illumination would not raise any amenity concerns. It is also worth noting than no objections have been received in this regard.
26. Overall, it is considered that the proposed development would not have an adverse impact on the amenity of existing dwellings and would accord with Policies DC3 and DC4 of the Local Plan.

**e) Highway Safety, Parking Provision and Accessibility.**

27. The proposed dwelling is to be accessed via an existing back lane located off Elton Parade and presently the access is used by both pedestrians and vehicular traffic with a scoria block surface devoid of footway provision. And the primary purpose of a public highway is to provide a safe and accessible network for all modes of transport with pedestrian access being the first priority in hierarchy of users.
28. It is acknowledged that the existing carriageway may function as a 'shared surface' the lane does not meet current Design Guide criteria of widths, being lit, or having traffic calming features at its entrance which help to control speed by design and having a surface suitable for persons with mobility issues.
29. Existing scoria blocks within the back lane are to be removed and a bitmac footway is to be created which is approximately 1.2m wide with a bull nosed dropped kerb and 25mm nominal upstand which will give a clear demarcation of what is footway and what is carriageway. And whilst concerns have been raised in regard to the narrowing of the lane, the remaining back lane having a standard vehicular width of 2.7m.

Concerns have also been raised on why there is a need for a footway. This is needed for the development to have good and safe connectivity for pedestrians and people with mobility issues and is a requirement set out in policies IN1 and IN2 of the Local Plan. Policy DC1 sets out that proposals should provide suitable and safe vehicular access, whilst Policy DC3 sets out that new development should be easily accessible. The need for a development to

include a footpath and lighting within scoria back lanes has been highlighted as part of previous approvals given elsewhere within the Borough including:-

- 06/00584/FUL - Buildings to The Rear Of 33 & 35 Larchfield Street
- 07/00623/FUL - Garages and Adjoining Land Fife Road - Cleveland Avenue Back Street
- 16/01036/FUL - Land at Rear 37 Larchfield Street
- 17/00220/OUT - Land Off Montrose Street
- 17/00945/FUL - Garages and Garden to Rear Of 38 Langholm Crescent.

30. Concerns have also been raised on why works to the entrance of the site are required, in particular to the 'buff blister tactile paving' these works will provide a continuous sealed route from the public highway and whilst the works are not within the submitted red line boundary are part of the footway works which are required in line with policy to provide a good and safe connectivity for pedestrians and people with mobility issues.
31. The Highways Engineer would also like to highlight that should the Council as Local Highway Authority wish to change the surface of a back lane from historic scoria block, then we are able to do so as part of our statutory duty of maintenance and planning permission is not required for works within the highway boundary.
32. It is also worth noting that the inclusion of a footway made from bitmac on a site within the West End Conservation Area was recently approved at Planning Committee on the 10<sup>th</sup> of April 2024 (Planning Ref. 23/00956/FUL), following an appeal decision where the Planning Inspector upheld that the Councils reason for refusal was reasonable in that a footway is a necessity for a safe and accessible route to a residential dwelling.
33. Furthermore, a lit and level route is needed for equitable access for persons with mobility impairment and both the Highways Engineer and the Darlington Association on Disability Consultee are of an opinion that an historic scoria blocked surface is not suitable for the needs of such persons, for the reasons given below and as such a bitmac surface is required:-
- Scoria blocks are a very difficult and hazardous surface for many disabled people to travel over as a pedestrians given that they can become slippery when wet;
  - Uncomfortable to travel over for a powered wheelchair or scooter use and are a difficult material to manoeuvre over for manual wheelchair users.
34. The proposed footway design accommodates the need to maintain vehicle access and is therefore not detrimental to vehicle access. Whilst the footway is to be constructed to withstand the imposed loads of vehicle wheels, with the 25mm kerb upstand enabling vehicle overrun as required by occasional access of larger vehicles.
35. Darlington Borough Council's Highways Engineer has therefore raised no objection to the amended proposal as the proposed footway will provide a safe and accessible route to a



residential dwelling for pedestrians and people with mobility issues.

36. The proposal would accord therefore accord with policies DC1, DC3, IN2 and IN4 of the Local Plan.

### **CONCLUSION AND RECOMMENDATION**

37. The proposed minor alterations to the dwelling are considered to be acceptable and will sustain the significance of the West End Conservation Area. The changes would not raise any amenity or highway issues and would accord with policies DC1, ENV 1, DC4 and IN4 of the Darlington Local Plan 2016-2036 and the requirements of the NPPF 2021.
38. Whilst the removal of the scoria blocks and the creation of the footpath would harm a small part of the West End Conservation Area, the creation of the footway would provide an appropriate permeability and connectivity for pedestrians and for those with disabilities which would also be of value to the wider community and this would be a public benefit which would outweigh the identified harm The development would therefore accord with policies DC1, DC3, IN2 and IN4 of the Local Plan and the NPPF and accordingly.

### **PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS**

1. The development hereby permitted shall be commenced no later than 19 April 2025

REASON – Due to the planning application being submitted under Section 73 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be constructed in accordance with the external materials/finishes as set out in the application, unless otherwise agreed, in writing, with the Local Planning Authority.

REASON - In the interests of maintaining the visual amenity of the development in accordance with the requirements of Policy DC1 of the Darlington Borough Local Plan 2016-2036.

3. The development hereby permitted shall be carried out in accordance with the approved plans, as detailed below:

Planning Amendments (Elevations) Drawing No. 4521-01 Rev D dated Apr 24  
Planning Amendments (Floor Plans) Drawing No. 4521-02 dated Oct 23  
Block Plans Drawing No. 4521-03 Rev A dated Oct 23  
Proposed Footway Drawing No. 4521 04 (A)

REASON – To ensure the development is carried out in accordance with the planning permission.

4. The obscure glazed windows formed in the north and south elevations of the property, as shown on drawing number 4521-01 Rev D dated Apr 24 shall not be repaired or

replaced other than with obscure glazing.

REASON – In the interest of residential amenity.

5. The opaque glass balcony balustrade formed in the west elevation of the property, as shown on drawing number 4521-01 Rev D dated Apr 24 shall not be repaired or replaced other than with the glass which has the same level of agreed glass transparency (Level 5).

REASON – In the interest of residential amenity.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), no enlargement, improvement or other alteration of the premises, including any additional structures/building within the curtilage of the site, shall be carried out without the prior consent of the Local Planning Authority, to whom a planning application must be made.

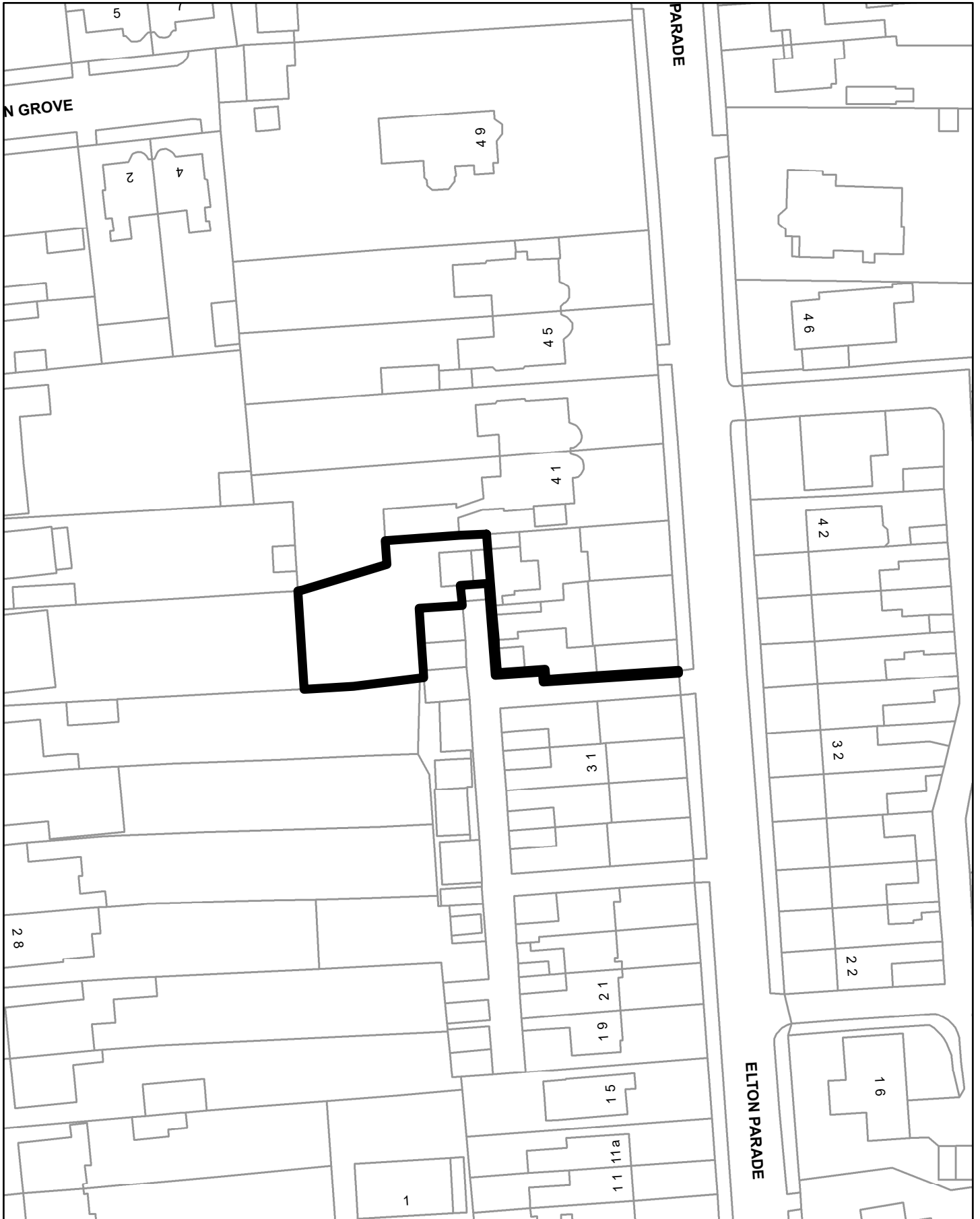
REASON - In order not to prejudice the amenities of the adjoining properties and in order that the Local Planning Authority is able to exercise control over future development of the site.

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## **INFORMATIVES**

### **Highways**

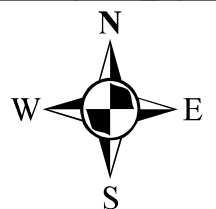
The Developer is required to submit detailed drawings of the proposed off-site highway works to be approved in writing by the Local Planning Authority and enter into an agreement under Section 278 of the Highways Act 1980, before commencement of the works on site. Contact must be made with the Assistant Director: Highways, Design and Projects (contact Mr Steve Pryke 01325 406663) to discuss this matter.



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**Planning Ref No: 23/00957/FUL**

DARLINGTON BOROUGH COUNCIL



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## DARLINGTON BOROUGH COUNCIL

### PLANNING APPLICATIONS COMMITTEE

**COMMITTEE DATE: 15 May 2024**

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<b>APPLICATION REF. NO:</b>	22/00118/FUL
<b>STATUTORY DECISION DATE:</b>	17 May 2024
<b>WARD/PARISH:</b>	Park West
<b>LOCATION:</b>	Land At 1 Briar Close DARLINGTON DL3 8QX
<b>DESCRIPTION:</b>	Erection of 1 no. two bed residential dwelling incorporating attached double garage, hard standing, temporary siting of 1 no. static caravan, new pedestrian and vehicular access, means of enclosure and associated works (Revised Scheme) (Amended plans received 1 March 2022; amended plans, nutrient calculator and Provisional Nutrient Certificate received 22 November 2023; amended plans received 18 March 2024 and 9 April 2024)
<b>APPLICANT:</b>	Robert Burnside

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### **RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS**

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**Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received, and other background papers are available on the Darlington Borough Council website via the following link:**

<https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=R6Z8YFPKLS00>

### **APPLICATION AND SITE DESCRIPTION**

1. The application site is triangular piece of land located to the north of No 1 Briar Close. The site is bound by dwellings on Briar Close to the west and north and by dwellings that form The Willows housing development to the east. The existing boundary treatment for the site comprises a set of double gates on the north boundary; fencing belonging to the occupiers of The Willows development along the east boundary; a low

picket fence on the south boundary and a low hedge on the western boundary adjacent to the highway (Briar Close).

2. Trees have been removed from the site, a hardstanding area has been created across part of the site, water and electric points have been installed and gates have been erected at the northern end of the site which are currently unauthorised.
3. In August 1987, a planning application (ref no 8/87/228/DM) was granted for the erection of a bungalow and private garage on the application site and Council records showed that foundation excavations for the garage had been carried out in 1992 and were then backfilled in 1996. On this basis, an application for a Certificate of Lawfulness (Proposed Development) under Section 192 of the Town and Country Planning Act 1990 (ref no: 03/00978/LU) concluded that works had begun on site within the required time period (then 5 years) to ensure that planning permission 8/87/228/DM remained valid.
4. Members are advised that the applicant has been advised it is highly unlikely that the Certificate of Lawfulness decision can still be relied upon to continue and implement the 1987 proposal due to the works that have subsequently been carried out on the site (for example, the laying of hardstanding area) resulting in the abandonment of the said approval. This has not been challenged.
5. This planning application is to redevelop the site with a dwelling comprising a kitchen/dining room, study and lounge and attached garage on the ground floor and two bedrooms and a dressing room within the roof space. Vehicular and pedestrian access to the site would be located at the southern end of the site and new two metre high close boarded fencing would be erected on the north, east and south boundaries with the existing hedge on the west boundary being retained along with a one metre high fence. The hardstanding area would be replaced by a landscaped garden/lawn and the double gates at the northern end of the site would be removed and replaced by the two metre high fencing. The removal of the gates would be secured through a planning condition.

#### **MAIN PLANNING ISSUES**

6. The main issues to be considered here is whether the proposed development is acceptable in the following terms:
  - a) Planning Policy
  - b) Impact on the General Character and Appearance of the Surrounding Area
  - c) Residential Amenity
  - d) Highway Safety, Parking Provision and Accessibility
  - e) Land Contamination
  - f) Ecology
  - g) Flood Risk and Drainage
  - h) Siting of a caravan
  - i) Nutrient Neutrality

## PLANNING POLICIES

7. The relevant local development plan policies are as follows:

- SD1: Presumption in Favour of Sustainable Development
- SH1: Settlement Hierarchy
- DC1: Sustainable Design Principles and Climate Change
- DC2: Flood Risk & Water Management
- DC3: Health & Wellbeing
- DC4: Safeguarding Amenity
- H3: Development Limits
- H4: Housing Mix
- H8: Housing Intensification
- ENV4: Green and Blue Infrastructure
- ENV7: Biodiversity and Geodiversity and Development
- ENV8: Assessing a Development's Impact on Biodiversity
- IN2: Improving Access and Accessibility
- IN4: Parking Provision including Electric Vehicle Charging
- IN6: Utilities Infrastructure

### Other relevant Documents

Supplementary Planning Document – Design of New Development (2011)  
National Planning Policy Framework 2023

## RESULTS OF TECHNICAL CONSULTATION

8. The Council's Highways Engineer, Environmental Health Officer and Ecology consultant have raised no objections to the principle of the proposed development.
9. Natural England have raised no objections to the proposed development.
10. Northern Gas Networks have raised no objections.

## RESULTS OF PUBLICITY AND NOTIFICATION

11. Following the Council's notification exercises on the planning application, twenty seven letters of objection have been received from eleven addresses. The objections can be summarised as follows:

- *The layout is not for a bungalow but a large two bed house.*
- *The development is not in keeping with the area.*
- *There are habitable windows within 2 metres of my rear garden fence (with Romanby Close) which will impact on my privacy within the garden.*
- *The application is contrary to Backland Development policy (H8) on the Local Plan*
- *The application would be contrary to Safeguarding Amenity policy (DC4) of the Local Plan*
- *No information relating to finished floor levels and there is a difference in ground levels between application site and gardens on Romanby Close*
- *Drastically reduced greenspace*

- *Drainage/Flooding concerns*
- *Noise impact*
- *Impact on free and safe flow of traffic*
- *Impact no highway safety.*
- *Visually dominant and overbearing on neighbouring dwellings on Romanby Close and Briar Walk*
- *The Design SPD states that buildings should be a minimum of 2m of the edge of a development plot.*
- *First floor windows will overlook neighbouring properties.*
- *No details have been provided on the static caravan.*
- *The proposal is an overdevelopment of the site.*
- *Details are required for construction traffic.*
- *The applicant has removed all trees from the site and laid out hardstanding, destroying the site.*
- *A new 2m high fence on the boundary would increase the height of fencing with Romanby Close to approx. 2.4m due to the differences in ground level. This will be overbearing.*
- *There would be undue shadowing of rear gardens.*
- *Inadequate Construction Management Plan which makes no reference to the Party wall Act, how properties will be protected from piling; the erection of scaffolding, falling debris; dust, surface water run-off, pollution.*
- *The development is in close proximity to a narrow single track road resulting in an imposing impact on the immediate area.*
- *The construction phase will be a year of dirt and disruption to residents.*
- *The separation distance between the proposed dwelling and existing dwellings on Briar Close does not meet the 21m requirement in the Design SPD*
- *There will be an increase in traffic flow.*
- *The development would alter the character of Briar Close*
- *A precedent may be set for further development of the site to encroach toward the common boundary or develop as a house impacting on outlook and privacy.*
- *We don't agree with the comments made by the Council's Highways Engineer on highway safety, vehicular and pedestrian access and lack of a footpath on the site frontage.*
- *Fencing has been attached to my boundary fence without my permission.*
- *Downstairs windows will look into my rear garden above fence line.*
- *This busy single road is used by pedestrians, not from the immediate area, walking their dogs.*
- *In the last six years, two large properties have been built on the site of the old Golf course with the associated disruption and traffic and vans using the lane daily. Is this more upheaval?*
- *There is nothing in the Design SPD that states by having obscure glazing, the 21m proximity distance does not have to be met.*
- *The proximity distance to No 1 Briar Close does not meet the Design SPD requirements.*
- *The building line of the proposal is set 4 metres behind No 1 Briar Close contrary to the houses on the street.*



- *Policy H8 states that Backland Development will not normally be permitted if it has significant impacts on items listed in the policy.*
  - *The use of obscure glazing shows that this is not a development site.*
  - *The proposed access is unsafe.*
  - *The Nutrient Neutrality calculations based on 1.1 occupancy rate cannot be supported.*
  - *Briar Close is a substandard road and should not be further impacted upon or damaged by these proposals.*
  - *Briar Close, which is a single track lane, is not acceptable for further development due to the existing number of houses and lack of safe footpath.*
  - *The development will result in Briar Close no longer being a single side development and there needs to be a new footpath along the length of the development boundary.*
  - *How is biodiversity net gain being considered?*
12. Comments have been received relating to there being a covenant on the land stating that no other dwelling can be erected on the land. The comments state that the covenant was enforced in 2006 and still exists. Members are advised that the presence of a restrictive covenant is not a consideration material to the grant of planning permission. The planning authority should not take the covenant into account or seek to analyse the covenant's true meaning and legal effect.
13. Comments have been also made on the accuracy of the plans during the determination process which has resulted in amended plans being submitted on a number of occasions. The architect has advised officers that the site survey plans and architectural plans that are being presented to Members are accurate and the positions of neighbouring fencing and the post and rail fence are accurate.
14. Comments have been made over the applicant erecting a gated entrance at the north of the site. As stated in paragraph 4 of this report, the gates do not form part of the development proposals that are being presented to Members of the Planning Applications Committee and would be removed in order to complete the development.

## **PLANNING ISSUES/ANALYSIS**

### **a) Planning Policy**

15. Planning law (S.38(6) of the Planning and Compulsory Purchase Act 2004) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (2023) supports the plan led system providing that planning decisions should be "genuinely plan-led" (NPPF para 15).
16. The proposed development is located within the development limits of the main urban area of Darlington as established in Policy H3 of the Local Plan. The proposed development therefore accords with Policy H3, which seeks to achieve the locational strategy for new development in the Borough by establishing development limits within

which development will generally be acceptable in-principle, subject to compliance with other relevant national and local policies.

17. In this case, the proposed development would be situated on land that has historically been garden within the curtilage of No 1 Briar Close. As garden development, the main relevant Local Plan policy is Policy H8. However, it should be noted that Policy H8, Section B is written predominately with the intention of resisting inappropriate rear residential garden/backland development of new dwellings, since this type of relationship between properties can result in poor levels of amenity and issues with vehicle access. As the proposed bungalow is located to the side of the existing property, and would front on to Briar Close, the principle of the proposed development raises less concerns in this regard.
18. It should be noted that the intention of Policy H8 is also to safeguard a range and choice of housing, including properties with larger than average gardens at the upper end of the property market, and to maintain local character, biodiversity, and amenity space. Therefore, the position set out in the supporting text for the policy, is that the Council will resist proposals for developments on garden land. However, Policy H8 does state that a limited scale of garden development may be acceptable providing it does not have a significant adverse impact upon the following, which will be considered as part of this Report along with all other material planning considerations:
  - a) Rear garden land which contributes either individually or as part of a larger swathe of green space to amenity of residents or provides wildlife habitats.
  - b) The privacy of existing homes and gardens of neighbours or occupiers of the new development.
  - c) Vehicular access or car parking – both in terms of highway safety or visual, noise or light impact on neighbours.
  - d) Existing trees, shrubs, and other wildlife habitats.

**b) Impact on the General Character and Appearance of the Surrounding Area**

19. Briar Close comprises five dwellings (Nos 2 to 6 Briar Close) on the west side of the street and No 1 Briar Close and the application site on the east side of the street. No 1 Briar Close is a single storey bungalow fronting onto the single access road. The other properties on the west side of the road are a mix of single and two storey detached dwellings, with No 6 Briar Close being a recent addition and which formed part of the redevelopment scheme of the former Blackwell Golf clubhouse. There is a variation of house designs and materials within Briar Close. The Willows is a modern housing development comprising two storey detached dwellings.
20. The proposed development is for a single storey dwelling with living accommodation within the roof space and an attached garage to the side. The dwelling would be constructed from red brickwork with natural red clay pantiles and timber windows and doors. The dwelling is of a simple design under a dual pitched roof with a mix of rooflights and dormer extensions in both the rear and front roof slopes of the main dwelling and adjoining garage.

21. The proposed dwelling would front onto Briar Close, set behind the retained hedge with amenity space to the front and primarily to the side (north). The front elevation of the dwelling would be positioned behind the front elevation of No 1 Briar Close, the adjacent dwelling.
22. The application site is identified within the Council's Supplementary Document on Design for New Development (Design SPD) as being within Character Zone 4 – Outer Suburbs. The Design SPD advises that developments of between one and 2.5 storeys are generally acceptable within the Outer Suburbs Character Zone. Site context is also a material planning consideration, but the Design SPD advises that detached buildings set within their own grounds and defensible space would be acceptable and the inclusion of dormer extensions on pitched roofs with the design of the development and the use of brick to reflect local context is also supported by the Design SPD.
23. A planning condition has been recommended to secure the precise details of the materials.
24. The scale, style and height (approx. 5.6m) of the dwelling would be compatible with the other neighbouring single storey dwellings, especially No 1 Briar Close which adjoins the application site on the east side of the road.
25. The Design SPD does advise that a detached dwelling should be a minimum of 2m from the edge of a development site. The proposed dwelling would not accord with this requirement as the rear elevation of the property would be approximately 1.1m from the new boundary fencing on the eastern boundary. It is not possible for the proposal to meet this requirement due to the elongated shape of the site and the need to address proximity distances with neighbouring dwellings. However, the dwelling does sit comfortably within the extents of the application site taking into account the land to the side which will form its garden area. Site context and constraints are also a material planning consideration when assessing the compliance of a development with the Design SPD.
26. The land in question has been greatly altered by the applicant following the removal of trees and the creation of the partial hardstanding area. Prior to such works, the land was side (not rear) garden land, and it would have contributed, in visual terms, to amenity of residents and provided wildlife habitats. However, the trees were not covered by a tree preservation order and the site is not within a conservation area resulting in there being no need for the applicant to have obtained consent from the Council to remove them. The land was a private garden and would remain so as part of this development and the submitted landscaping scheme will reintroduce some greenspace back into the street scene.
27. It is considered that the proposed dwelling is suitably designed and does comply with many aspects of the Design SPD, but it would not be possible to fully comply with guidance due to the site context and the need to address other considerations.

28. A planning condition has been recommended to secure the precise details of an enclosures and gate, if one is proposed, alongside and across the vehicular access in the interests of the visual appearance of the site.
29. Having considered the guidance within the Design SPD and the site context, the principle of redeveloping the site and the proposed property itself would not have an adverse impact on the character and appearance of the wider street scene, and it is considered that the development would generally accord with policies DC1 and H7 of the Local Plan in this regard.

**c) Residential Amenity**

30. The application site is bound to the east, south and west by dwellings that have direct views across the application site.
31. The Council's Design SPD contains guidance on the minimum proximity distances between buildings that should be met to ensure an acceptable level of privacy is achieved for occupants of both existing and proposed dwellings. The guidelines are based on distances between habitable windows and also habitable to non habitable windows taking into account any differences in finished floor levels.
32. Policy DC4 of the Local Plan states that the visual dominance and overbearing effects of a development are a material planning consideration. However, the planning system is not necessarily intended to protect an outlook that a resident may enjoy at a particular point in time but to maintain an outlook that meets or maintains an acceptable standard of amenity.
33. The Willows housing development lies to the west of the application site and the rear garden fences of these properties run alongside the site boundary. The properties have quite extensive gardens to the rear and the dwellings are approximately 26m from the rear elevation of the proposed dwelling which exceeds the proximity distance requirement between habitable windows (21m) which will give both occupants adequate privacy within the dwellings.
34. The submitted plans show that the proposed dwelling would be constructed on ground that is slightly higher than the rear gardens of these dwellings. A new 2m high boundary fence would be constructed within the application site, alongside the existing boundary fence erected as part of The Willows development. The fence would be constructed on land that is higher than the neighbouring gardens increasing the overall fencing height when viewed from The Willows by approximately 0.5m. The rear elevation of the proposed dwelling includes a kitchen door and window; a stairwell window, a bathroom window; a lounge window and a garage window at ground floor level. Of these openings, only the lounge and kitchen windows would serve habitable rooms. The submitted plans show that the proposed fencing along the east boundary of the site will provide adequate screening of these openings and doors to minimise any loss of privacy issues relating to the gardens of the dwellings on The Willows development.

35. The increase in the height of the fence line (approximately by 0.5m) across the east boundary would not have such an adverse visual impact to refuse planning permission on amenity grounds, given that the fence is some distance from the rear of the nearest properties at The Willows. A condition is recommended to ensure the fencing is erected prior to the occupation of the dwelling to maintain privacy levels.
36. The proposed rooflights in the rear roof slope which would provide natural light to a stairwell, a bedroom, a dressing room and bathroom within the roofspace are positioned so that there is not a clear, direct view from them across The Willows development. All windows within bathrooms would be fitted with obscure glazing and this would be secured via a planning condition.
37. The dining room and kitchen will have openings in the north elevation of the dwelling which open onto the proposed garden and there are two dormer extensions in the same elevation at first floor level. These are bedroom and bathroom openings. The bathroom window would be fitted with obscure glazing (secured by a planning condition) and the direct view from the habitable windows would be north facing over the proposed garden. There would be indirect views east and west, but these would not be so adverse to maintain an objection on amenity grounds.
38. No 1 Briar Close is located to the south of the site and has a habitable window in its north elevation facing across the site. The existing picket fence currently provides no substantial visual screen but the submitted plans show that a close boarded fence will be erected on this shared boundary which will provide privacy between the two sites. The southern elevation of the proposed building, which is an external garage wall, would not have any window openings facing onto No 1 Briar Close and so there will be no privacy impacts with this dwelling. It is considered that the 11m distance, with the aforementioned boundary fence between the gable elevations of the two dwellings is acceptable and the proposed dwelling will not be dominant or overbearing when viewed from the habitable window belonging to No 1 Briar Close.
39. The dwelling directly opposite the proposed dwelling is No 2 Briar Close which is a detached dwelling with three habitable windows in its front elevation which face the application site. The property is set back from the back edge of the footway with an open garden and driveway to the front. The proposed dwelling would have three habitable windows in the front elevation at ground floor level (dining room, study and lounge) and a bedroom room window at first floor. The submitted plans show that the dining room and bedroom windows would be fitted with obscure glazing (secured by a planning condition) although it should be noted that these rooms would also be served by other clear openings on other elevations.
40. As the aforementioned windows are obscured, they are exempt from amenity considerations which is common practice adopted by the Council when assessing a proposal against the guidelines set out in the Design SPD. The next habitable window is the first dormer extension and the study window. Plans submitted in support of the planning application indicate that the proximity distance to this window is 21m whilst

the occupant of No 2 Briar Close states that the dwelling would need to be 21.8m away from the front elevation of No 2 Briar Close having taken into account any differences in finished floor levels to accord with the Design SPD.

41. Having considered the submitted plans, the site context and the comments that have been made, the proposed development will not adversely impact upon the privacy levels of existing dwellings even if it is not fully compliant with the Design SPD by approximately 0.8m
42. Views from the rooflights and dormer extensions do not give rise to any issues relating to overlooking or loss of privacy and are therefore considered to be acceptable.
43. The impact of a development upon the outlook of a neighbouring property is a material planning consideration. The proposed dwelling would be separated from dwellings on the opposite side of Briar Close by the road and footway and the amenity spaces to the fronts of the dwellings. It is considered that the proposed dwelling would not be overbearing when viewed from these properties and the retained hedge would give some softening to the visual appearance of the proposed development.
44. It is acknowledged that the proposed dwelling would be approximately 1.1m from the shared boundary of the properties on The Willows and it will be built on ground approximately 0.5m higher. There is a gabled feature within the rear elevation but the most visually prominent part of the dwelling, above the fence line, would be the roof of the dwelling and garage which is pitched away from the shared boundary. The dwelling is single storey, albeit with accommodation in the roofspace and the garden area to the side would retain openness across the full length of the boundary. It is acknowledged that the outlook from these properties will be changed from a piece of open land, but the dwelling has been designed to minimise such impacts and would maintain an acceptable standard of amenity for the dwellings.
45. The rear gardens are south west facing, and some overshadowing will occur, but the extent of overshadowing is not considered to be so adverse to recommend the planning application be refused on such grounds.
46. The planning application has been supported by a Construction Management Plan providing information relating to the hours of construction, control of dirt and dust on the public highway etc. However, precise details on construction traffic routes, site compound, hours of deliveries have not been provided. It is considered appropriate to impose a planning condition to secure the submission of a Management Plan. However, such plans would not cover issues such as the Party Wall Act requirements or safety measures to protect neighbouring dwellings from scaffolding or falling debris as these are matters covered by under health and safety and civil legislation and are not for consideration as part of the planning application.
47. Overall, it is acknowledged that the proposed development is not fully compliant with the Design SPD but with the use of appropriate planning conditions to secure obscure

glazing where appropriate, and having taken account of the size and scale of the development and site context, the proposed development would not result in conditions so prejudicial to the amenities of neighbouring dwellings to recommend the application be refused on such grounds.

**d) Highway Safety, Parking Provision and Accessibility**

48. The unauthorised gates on the northern end of the site do not form part of the planning application and therefore their acceptability or otherwise, in highway safety terms is not a material planning consideration.
49. The traffic generation from one single additional dwelling is not considered to have any detrimental impact on the local highway network or demonstrate the 'severe impact' required to warrant refusal under National Planning Policy Framework guidance. A review of the past 5 years of recorded police accident statistics demonstrates that there is no accident history within Briar Close or within its near proximity. As such there are no existing road safety concerns which are likely to be exacerbated by this proposal.
50. The proposed site layout demonstrates improved vehicular and pedestrian access, with pedestrian connectivity available directly from the footway located opposite on the western side of Briar Close to the internal driveway. Visibility from the proposed vehicle access is also improved with the recommended visibility splays of 2.4m x 4.5m being demonstrated on plan from the edge of the driveway in order to provide intervisibility and make a vehicle exiting the site more conspicuous to approaching drivers. Whilst the access does require some localised removal of the hedge and fence, it is otherwise retained and to be maintained at a height which does not exceed 1.0m in line with recommendations.
51. The site has sufficient parking provision both on the in-curtilage driveway and within the integral garage which also offers secure cycle parking and EV Charging (policy IN4). The proposed site layout plan would suggest that the driveway material is to be herringbone block paving and as such would satisfy the requirements of a 'sealed' material to ensure gravel or other similar loose material is not deposited within the highway. Any gates must also be prohibited from opening outwards over the public highway in the interests of highway safety. Provision is made for refuse storage within the site ensuring bins will not be placed within the highway other than for collection.
52. There is no available land or reasonable justification to request the provision of a footway on the opposite side of Briar Close. The carriageway is already narrow and to do so there would be a need to reduce the existing carriageway in width which would not be acceptable. As the dwelling has a direct footway link, local plan policy requirements for safe pedestrian access have been met.
53. There are no highway objections to the proposed development and the scheme would accord with policies DC1, IN4 and H7 of the Local Plan in this regard.

**e) Land Contamination**

54. The application has been accompanied by a Screening Assessment Form which is an appropriate way of assessing the possible risks of contaminated land on a small-scale development like this with no obvious history of past contaminative land use. Having looked at this form and searched the historical maps of the area Environmental Health do not anticipate that contaminated land will be an issue at the site and there is no need to attach any conditions relating to potentially contaminated land to any approval. The development would accord with policy DC1 of the Local Plan in this regard.

**f) Ecology**

55. In line with the policies ENV7 and ENV8 of the Local Plan, the proposed development will be expected to minimise the impact on and provide net gains for biodiversity. In this case, the most appropriate method of enhancement to increase biodiversity is through the installation a minimum of integrated bird boxes to the proposed dwelling. Further enhancement would be secured through the landscaping scheme. These measures can be secured by planning conditions as recommended by the Council's ecology consultant. The proposed development would comply with policies EN7, EN8 and H7 of the Local Plan.

**g) Flood Risk and Drainage**

56. The planning application site within Flood Zone 1 and surface and foul water would be disposed via the existing mains sewer (Policy DC2).

**h) Siting of a Caravan**

57. The Planning Statement submitted in support of the planning application states that the static caravan would be positioned on site during the construction phase and, upon being suitable for habitation, will be removed.

58. In the majority of cases, a caravan can be temporarily located on a site and lived in if used in connection with development taking place on the land, such as building a new home. The position of councils does vary, however, so where an applicant plans to live on site during the build, it is advisable to include a caravan as part of the planning application for the property. A planning condition is recommended which ensures that the caravan is to be removed from the site prior to occupation of the dwelling.

**i) Nutrient Neutrality**

59. The application site is located within the River Tees Catchment Area and is therefore subject to the guidance issued by Natural England in respect of the unfavourable condition of the Teesmouth and Cleveland Coast Special Protection Area (SPA), Ramsar Site and associated Sites of Special Scientific Interest. The Natural England Teesmouth and Cleveland Coast Special Protection Area/Ramsar Evidence Pack August 2022 (TIN204) confirms that this protected area is currently in an unfavourable condition due to nutrient enrichment, which includes pollution from nitrates, including Nitrogen.

60. The applicant has submitted a nutrient budget calculator and Provisional Nutrient Credit Certificate. This information is considered sufficient to enable the Local Planning



Authority as the Competent Authority to fully consider the impacts of the development proposal on Teesmouth and Cleveland Coast SPA/Ramsar.

61. The submitted nutrient budget calculator demonstrates that the proposals will increase the nitrogen arising from the development and consequently it cannot be ruled out at the screening stage that this development will not have a likely significant effect on the Teesmouth and Cleveland Coast SPA/Ramsar.
62. The applicant has used Natural England's Nutrient Budget Calculator tool for the River Tees catchment to establish a nutrient budget for the proposal. This proposal for one dwelling would increase the total annual nitrogen load arising by 1.56kg per year. Whilst the submitted plans include the provision of a static caravan it is understood this is only to be on-site during construction of the dwelling and will be removed from site when the dwelling is completed. It is therefore considered acceptable to treat the proposal as 1 net additional dwelling. A condition is however required to ensure that the static caravan is removed from site upon occupation of the dwelling to avoid two residential accommodation units being occupied on the site.
63. As a nitrogen surplus would arise, the applicant has accepted that mitigation would be necessary in order to avoid likely significant effects. Informed by the Nutrient Budget Calculator Tool the applicant proposes to mitigate this nitrogen surplus by purchasing 1.56 credits from the Natural England Tees Catchment credit scheme which is equivalent to the surplus nitrogen of 1.56kg that needs to be mitigated. The applicant has provided a countersigned provisional credit certificate obtained from Natural England which is sufficient evidence for this form of mitigation to be considered robust and achievable and appropriately located within the Tees catchment. A pre-occupation condition will be required to ensure that the required and necessary mitigation is secured and in place. The condition sets out that prior to the occupation of the static caravan or proposed dwelling, whichever is sooner, the final signed credit certificate must be provided to the Local Planning Authority demonstrating that the credits have been purchased and the necessary mitigation secured.
64. This Appropriate Assessment has found that the proposed mitigation measures would adequately mitigate the effects of the proposal and ensure the proposed development will not result in an increase in nitrogen reaching the Teesmouth and Cleveland Coast SPA. So, it can be concluded that the proposal will not adversely affect the integrity of the Teesmouth and Cleveland Coast SPA and meets the relevant Habitat Regulations, subject to condition as set out above.
65. In accordance with Regulation 63 of the Conservation of Habitats and Species Regulations (2017) Natural England have been consulted and they have raised no objections subject to the imposition of the aforementioned planning condition.

#### **THE PUBLIC SECTOR EQUALITY DUTY**

66. In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the

exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. The proposal involves a pedestrian access to the front and the submitted plans indicate that development would be constructed in accordance with Category 2 of the Building Regulations (accessible and adaptable dwellings) (Policy H4 of the Local Plan).

#### **SECTION 17 OF THE CRIME AND DISORDER ACT 1998**

67. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

#### **CONCLUSION AND RECOMMENDATION**

68. The application site is within the development limits for the urban area and therefore its redevelopment for residential purposes would be supported in planning policy terms subject to compliance with other local and national planning policies. In this instance the application has been assessed against the requirements of Policy H8 as garden development and other development plan policies and the Design SPD.

69. The proposal raises no issues in relation to highway safety and parking, ecology, drainage, land contamination and nutrient neutrality has been achieved through the purchasing of nutrient credits from Natural England.

70. The overall design and scale of the dwelling is considered to be acceptable in terms of its impact on the street scene and it complies with many aspects of the Design SPD guidance except a requirement for a building to be a minimum distance of 2m from the edge of a site which cannot be achieved due to the elongated and linear nature of the application site and the need to address proximity distances.

71. Privacy issues have been addressed by the use of boundary fencing and the fitting of obscure glazing into habitable rooms (which will still benefit from having other non-obscured openings). It is acknowledged that the separation distance between the development and No 2 Briar Close may not fully comply with the Design SPD. However, overall these relatively modest breaches of the guidelines are considered to have a minimal impact on privacy issues and will not result in significant impacts to justify a reason to refuse the planning application.

#### **THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS**

1. A3 – Implementation Limit (Three Years)
2. The development hereby permitted shall be carried out in accordance with the approved plans and documents, as detailed below:

- a) Drawing Number 21070 02C – Proposed Elevations
- b) Drawing Number 21070 03E – Site Plans
- c) Drawing Number 21070 01C – Proposed Plans
- d) Drawing Number 21070 04C – Block Plan
- e) Drawing Number 21070 08D – Landscaping Plan
- f) Drawing Number 21070 07B – Proposed Site Sections
- g) Drawing Number 21070 09 – Proposed House Sections

REASON – To ensure the development is carried out in accordance with the planning permission.

3. Prior to the first occupation of the static caravan of the dwelling hereby approved whichever is sooner, a Final Nutrient Credit Certificate, signed by Natural England and the applicant, shall be submitted to the Local Planning Authority

REASON: To ensure the development is nutrient neutral in accordance with the Conservation of Habitats and Species Regulations 2017

4. The static caravan shall be removed from the site prior to the first occupation of the proposed dwelling hereby approved.

REASON: To ensure the development is nutrient neutral in accordance with the Conservation of Habitats and Species Regulations 2017

5. Prior to any demolition works and the commencement of the development, a site specific Demolition and Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan[s] shall include the following, unless the Local Planning Authority dispenses with any requirement[s] specifically and in writing:
  - a. Dust Assessment Report which assesses the dust emission magnitude, the sensitivity of the area, risk of impacts and details of the dust control measures to be put in place during the demolition and construction phases of the development. The Dust Assessment Report shall take account of the guidance contained within the Institute of Air Quality Management “Guidance on the assessment of dust from demolition and construction” February 2014.
  - b. Methods for controlling noise and vibration during the demolition and construction phase and shall take account of the guidance contained within BS5228 “Code of Practice for noise and vibration control on construction and open sites”.
  - c. Details of Hours of Construction
  - d. Details of Hours of Deliveries
  - e. Construction Traffic Routes, including parking areas for staff and visitors, if required
  - f. Details of construction traffic access point into the site

- g. Details of site compound
- h. Details of wheel washing.
- i. Road Maintenance.
- j. Warning signage.

The development shall not be carried out otherwise in complete accordance with the approved Plan.

REASON: In the interests of residential amenity and highway safety

6. Notwithstanding any description of the external materials in the submitted application, and prior to the dwelling being built above damp proof course, details of the external materials to be used in the carrying out of this permission shall be submitted to, and approved, in writing, by the Local Planning Authority. The details shall include but not be limited to brickwork, roof tiles, windows, doors and the development shall not be carried out otherwise than in accordance with any such approved details.

REASON - In order that the Local Planning Authority may be satisfied as to the details of the development in the interests of the visual amenity of the area.

7. Prior to the dwelling hereby approved being constructed above damp proof course precise details of the means of enclosure on either side of the vehicular access shall be submitted to and approved in writing by the Local Planning. The details shall include but not be limited to the design, height and materials for the enclosure. If the details include gates, precise details of the gates must also be provided, and the gates must not open outwards over the public highway. The development shall not be carried out otherwise than in complete accordance with the approved details.

REASON – In the interests of the visual appearance of the development and in the interests of public and pedestrian safety

8. The dwelling hereby approved shall not be constructed above damp proof course level until precise details of a scheme of ecological enhancements have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include bird nesting features, and the details shall include, but not be limited to, plans to show the location of the integrated features. The development shall not be carried out otherwise than in complete accordance with the approved details which shall be retained in situ for the lifetime of the development.

REASON: To ensure the development complies with policies ENV7 and ENV8 of the Darlington Local Plan 2016 – 2036

9. The ground floor dining room and first floor bedroom windows formed in the west elevation of the dwelling hereby approved shall be obscure glazed as shown on Drawing Number 21070 02C and shall not be repaired or replaced other than with obscured glazing.

REASON - To prevent overlooking of the nearby properties.

10. Further to condition 9, all windows within bathrooms and ensuite bathrooms (including windows, dormer extensions and rooflights) within the dwelling hereby approved shall be obscure glazed and shall not be repaired or replaced other than with obscured glazing.

REASON - To prevent overlooking of the nearby properties.

11. No additional flank windows or other glazed openings shall be formed in the south facing wall/elevation of the dwelling hereby approved without the prior written consent of the Local Planning Authority.

REASON - To protect the amenities of the neighbouring residential property against increased overlooking with resultant loss of privacy.

12. The existing double gates erected on the north boundary of the application site shall be removed within one month of the completion of the dwelling hereby approved.

REASON: To ensure that the development is carried out in complete accordance with the approved plans

13. The boundary fencing shown on the approved plans shall be erected on all boundaries prior to the first occupation of the dwelling hereby approved and shall not be repaired or replaced other than in accordance with the approved plans.

REASON: In the interests of residential amenity

14. The bin stores shown on the approved plans shall be in place and available for use prior to the first occupation of the dwelling hereby approved. The bin store shall be retained in situ for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority

REASON; In the interest the general amenity of the development and local area

15. The electric vehicle charging point shown on the approved plans shall be a single phase 13-amp socket (minimum requirement) and shall be in place and available for use prior to the first occupation of the dwelling hereby approved. The electric vehicle charging point shall be retained in situ for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority

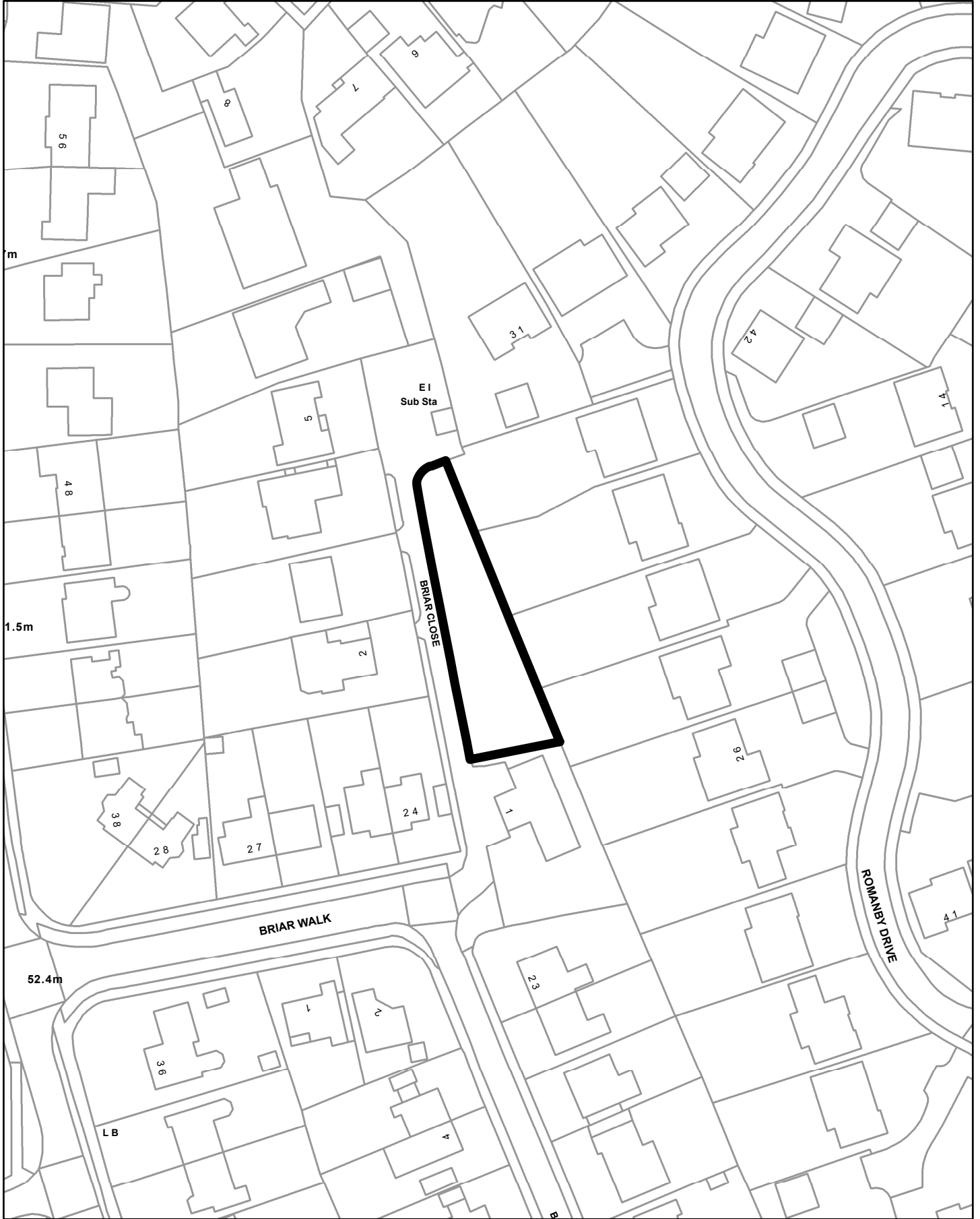
REASON: In order to ensure the development complies with Policy IN4 of the Darlington Local Plan 2016 – 2036.

16. The submitted landscaping scheme shall be fully implemented concurrently with the carrying out of the development, or within such extended period which may be agreed in writing by, the Local Planning Authority and thereafter any trees or shrubs removed, dying, severely damaged or becoming seriously diseased shall be replaced, and the landscaping scheme maintained for a period of five years to the satisfaction of the Local Planning Authority.

REASON - In the interests of the visual amenities of the area.

#### **INFORMATIVES**

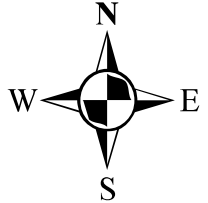
Prior to the commencement of the development the applicant is advised that contact be made with the Assistant Director: Highways, Design and Projects (contact Mrs. P. McGuckin 01325 406651) to discuss naming and numbering of the development.



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**Planning Ref No: 22/00118/FUL**

DARLINGTON BOROUGH COUNCIL



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## DARLINGTON BOROUGH COUNCIL

## PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 15<sup>th</sup> May 2024

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<b>APPLICATION REF. NO:</b>	24/00219/FUL
<b>STATUTORY DECISION DATE:</b>	25 <sup>th</sup> April 2024 (Extension of Time agreed 17 <sup>th</sup> May 2024)
<b>WARD/PARISH:</b>	HAUGHTON AND SPRINGFIELD
<b>LOCATION:</b>	69 Welbeck Avenue Darlington
<b>DESCRIPTION:</b>	Erection of part single storey, part two storey rear extension incorporating alterations to the existing ground floor side extension including new pitched roof, together with the formation of 2 no. car parking spaces within front boundary (re-submission)
<b>APPLICANT:</b>	Lauren Amy Vogwill

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**RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS**

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**Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received, and other background papers are available on the Darlington Borough Council website via the following link:**

<https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=S9MCEYFP0C200>

**APPLICATION AND SITE DESCRIPTION**

1. This application is a re-submission of a previously approved scheme, 23/00909/FUL, which was granted on 20<sup>th</sup> November 2023. This proposal is to build exactly the same as the previously approved extension. This application has been re-submitted due to the incorrect ownership certificates being signed on the original application.
2. Likewise, the previously granted application for a lawful development certificate, 23/00964/PLU, for the use of the property as a single dwelling (Use Class C3) to a 5 person

HMO (Use Class C4) was resubmitted due to incorrect details on the application form. The replacement application, 24/00221/PLU, was submitted and subsequently granted on 15<sup>th</sup> April 2024.

3. The application property is a south east facing semi-detached two storey dwelling located on the north side of Welbeck Avenue close to its junction with Fryer Crescent. It is set within an average sized plot for the area. The surrounding area is predominantly residential in character.

4. Planning permission is sought for a part single storey, part two storey extension at the rear, alterations to the existing ground floor side extension to include a new pitched roof and the formation of two car parking spaces within the front boundary. A detached wooden shed will be sited in front of the existing side extension to create a secure cycle store. The property is a three bedroomed dwelling and the proposal will provide an additional first floor bedroom and the internal alterations will create a further ground floor bedroom, providing five bedrooms in total.

5. The proposed ground floor extension will project 3.3m and will be 6.5m wide. The first floor element of the extension will be set off the boundary with the adjoining property by 1.45m and will project 3.3m and be 5.4m wide. The single storey part of the proposal will project 3.3m and will be 2.6m wide. The single storey extension will have a mono pitched roof with eaves at 2.5m and the roof at 3.8m. The two storey part of the proposal will have a hipped roof with eaves the same height as the original dwelling and the ridge set lower than the original house roof. The single storey element will have two velux rooflights. The ground floor will provide a kitchen/breakfast/dining area and the first floor will provide a bedroom with en-suite.

6. The existing flat roofed side extension will be altered internally to provide a kitchen and utility. The proposal includes the installation of a utility room window in the front elevation and building a dual pitched roof over with eaves at 2.5m and the ridge at 3.8m.

7. A secure cycle storage unit will be sited in front of the existing side extension. The storage unit will be a purpose built timber shed measuring 1.8m x 0.9m with either a mono or pitched roof with eaves at 2.1m and the ridge at 2.3m.

8. The existing low front boundary wall will be removed, and the existing garden area will be redeveloped to create two in-curtilage parking spaces. The surface for the parking area will be gravel with a hard surface within 1.0m of the public highway.

9. The materials for the proposals will be facing bricks with concrete tiles to match the existing dwelling. The shed will be timber and the paving will be gravel with a hard surface within 1.0m of the public highway.

10. It is intended that once extended the property will be used as a 5-bed HMO. This has been established by the certificate of lawful development application and is not a matter for consideration as part of this application which considers the proposed extensions and alterations to the property only.

11. Following the original grant of planning permission for this extension, building work had started. The applicants have ceased building work until the outcome of this current application.

### **MAIN PLANNING ISSUES**

12. The main issues with this application are:

- a) Impact on the character and appearance of the property;
- b) Impact on residential amenity
- c) Highway safety
- d) Other matters

### **PLANNING POLICIES**

13. Relevant planning policies include those seeking to ensure that new development: -

- Promotes good design to create attractive and desirable places to live, work and invest and follows the design principles of the Design of New Development SPD (DC1)
- Is sited, designed and laid out to protect the amenity of existing users of neighbouring land and buildings and the amenity of the intended users of the new development (DC4)
- Provides suitable and safe vehicular access and parking arrangements (INV4)

### **RESULTS OF TECHNICAL CONSULTATION**

14. The Highway Officer raises no highway objection to the proposal.

### **RESULTS OF PUBLICITY AND NOTIFICATION**

14. Two properties in Welbeck Avenue, two properties in Feetham Avenue and one property in Bangor Grove (owner of the property) were consulted. A total of 4 objections have been received, which raise the following issues. It should be noted that no objections were received to the original application. The main points of objection were:

- The sole owner of the property objects due to the applicant not being the current owner of the property; (apparently this will change on 8<sup>th</sup> August 2024 and the correct certificates have now been signed);
- The current owner withholds permission for any construction on the premises;
- As the owner, he knew nothing of the original proposal and the original application was fraudulent;
- Parking and highways safety obstructions and concerns;
- Overlooking and loss of privacy to my property;
- Shading and loss of light to the rear of my property due to how close the extension is to my windows, blocking out natural light;
- Additional noise;

- Parking issues on a busy cut through road from Salters Lane to Whinfield Road and extra cars above the two allocated parking spaces from the future tenants;
- Drainage and sewer problems from already problem drains;
- Privacy from overlooking into rear garden which should be a private place for the home owner to relax and enjoy;
- Foul Sewage / drainage issues / current issues
- Concern of damage and future leaks to my current adjoining flat roof.
- Parking is an issue on the street and is already a cause for concern for safety reasons due to vehicles obstructing the view when pulling out of my driveway along with vehicles parked on foot paths obstructing walkways for prams and wheelchair users.
- If the property is increasing its occupancy to a 5-bedroom property and only 2 parking spaces, this will result in an additional 3 cars obstructing the walkways / highways and increasing the safety risk / obstruction;
- The kitchen and utility area moving closer to my property, this may cause additional noise from the property with also the increased number of people living there.
- If these works do go ahead, I request a condition that the walls are insulated, and sound proofed to the adjoining property for the increased activity/noise that would emanate from the HMO
- Already have issues with the joint drainage system from both properties based on current state (x2 3-bedroom houses) that required to be cleared every 6 months based on the current usage. With the increase of tenants within this property, this will only get worse;
- Changing of the current adjoining flat roof to a pitch roof, can there be a guarantee that no damage or disruption will be caused to my current flat roof and also the possibility of leaks / defects in the future to my roof.

## **PLANNING ISSUES/ANALYSIS**

### **(a) Impact on the character and appearance of the property**

15. The proposed extension is considered to be fairly large in terms of its scale and footprint relative to the application property which itself is a fairly modest semi-detached dwelling. In this instance the application property is situated within an average sized plot for the area and is surrounded by similar dwellings.

16. The proposed extensions have been designed so as to appear in keeping with and suitably subservient to the main dwelling, with the two-storey extension incorporating a hipped roof which will sit beneath the main ridge of the dwelling, with the single storey element adjoining the two-storey extension to the rear having a mono-pitched roof. The single storey extension to the side of the property is to have a pitched roof and maintains a set back from the front of the property. All extensions are to be constructed of matching brick and tiles.

17. The rear extensions will not be readily visible from views outside of the site. While the single storey side extension will be visible from Welbeck Avenue due to its scale, design and use of matching materials, it will not be a prominent feature when viewed from this aspect. Space to the front of properties is used either as private garden or for off-street parking and

therefore the formation of two parking spaces in this area together with space for bin and cycle storage is acceptable in visual terms. Overall, the proposal is considered to be acceptable in terms of its impact on the character and appearance of the application property and surrounding area and complies with Policy DC1.

### **(b) Impact on residential amenity**

18. The rear extension has been designed as a part two-storey, part single-storey extension with the single storey element being located closest to the common boundary with the adjoining property, 67 Welbeck Avenue, to limit the impact of the proposal on this property. Although the single storey extension would result in a slight infringement of the 45-degree code, by 0.3 metres, this is not considered significant given its single storey form and the presence of a high boundary fence between the two properties.

19. The side and rear extensions do not adversely impact upon amenities of the neighbouring property to the other side or rear. None of the proposed windows will impact on the neighbouring properties in terms of loss of privacy due to overlooking. The proposal would not result in any significant detrimental impacts in terms of light, outlook and overlooking to neighbouring residential properties and complies with Policy DC4.

### **(c) Highway Safety**

20. Two in curtilage parking spaces are to be provided which meet the advised minimum dimensions of 2.7x5.5m to ensure that spaces are practical to use, and of sufficient depth so vehicles will not overhang the footway. The Tees Valley Design Guide (TVDG) advises that dwellings of four or more bedrooms should have three in curtilage parking spaces. Whilst the conversion to a five-bed dwelling does present a shortfall of 1 space, when compared to the existing situation of a three-bed dwelling with no in curtilage parking, this offers overall betterment and as such the proposed level of parking is accepted.

27. Whilst not referred to as part of the application, all rooms feature an ensuite and as such the dwelling could potentially be occupied as a house of multiple occupation (HMO) under permitted development. There is no specific guidance on parking provision for HMO conversions within the Tees Valley Highway Design Guide instead, reasonable consideration must be given to the potential impact of the application, which may be permitted as it is not considered to have a material adverse effect on residential amenity or highway safety, due to adequacy of car parking.

28. It is known that car ownership rates are generally low among persons living in shared houses. Census data for Darlington shows that car ownership rates are an average of 47% within shared households across the Borough. It would therefore not be unreasonable to conclude that car ownership rates of HMO residents would be at a similar level. Based on average car ownership levels rounded to 50%, this would equate to a requirement of 2.5 parking spaces, for a five-bed HMO.

29. Whilst the increase in dwelling size and bedroom numbers does present a small intensification of use of the current level, this is a very minor increase in additional daily vehicle movements, with two in curtilage parking spaces being secured to mitigate any additional parking requirements. The Highway Engineer advises that the application would not warrant refusal on highway safety or residential amenity grounds due to a shortfall of parking, subject to conditions requiring the construction of a dropped pavement crossing to facilitate the proposed off-street parking spaces, to ensure the parking remains available at all times, and to ensure the parking area is constructed using a sealed surface. The proposal therefore complies with Policy IN4.

#### **(d) Other matters**

30. A number of matters raised by objection relate to the use of the property as a HMO and associated issues, and also to matters relating to the ownership of the property. As previously advised, the use of the property as a HMO has been dealt with by the associated application for a lawful development certificate and as such these matters are not for consideration as part of this application.

31. This application is a resubmission of an identical application but with the correct ownership certificates (certificate B) now completed. Whether or not the owner of the property gives permission for the works to be undertaken is equally not a matter for consideration at this time. Officers are satisfied that the correct ownership certificate has now been completed however the granting of any planning permission does not override the need for the applicant to obtain the property owner's permission to carry out the works. This is a civil matter between the two parties.

#### **THE PUBLIC SECTOR EQUALITY DUTY**

34. In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

#### **SECTION 17 OF THE CRIME AND DISORDER ACT 1998**

35. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

#### **CONCLUSION AND RECOMMENDATION**

38. The development accords with relevant Local Plan policies in that it respects the character and appearance of the host property and relates well to the surrounding area, and does not

give rise to any issues of highway safety subject to planning conditions. The development does not raise any issues that would not be capable of being dealt with by standard conditions.

**THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS**

1. A3 Implementation Limit (3 years)
2. The materials used in the external surfaces of the extension hereby permitted shall match those used on the existing building.

REASON - In the interests of maintaining the visual amenity of the development in accordance with the requirements of Policy DC1 of the Darlington Borough Local Plan 2016-2036.

3. Prior to occupation of the extension, a lawful means of vehicle access should be provided in the form of a dropped pavement crossing, to be constructed as part of a Section 184 Agreement issued by the Highways Authority.

REASON - In the interests of highway safety.

4. No part of the proposed extension shall be occupied until the related parking facilities have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

REASON - To provide for adequate and satisfactory provision of off-street accommodation for vehicles in the interest of safety and the general amenity of the development.

5. In order to ensure that no loose material is pulled onto the highway the first 1m of the drive within the property is constructed in a sealed material (i.e. not loose gravel)

REASON - In the interests of highway safety.

6. No additional flank windows or other glazed openings shall be formed in the eastern walls of the extension hereby approved without the prior written consent of the Local Planning Authority.

REASON - To protect the amenities of the neighbouring residential property against increased overlooking with resultant loss of privacy.

7. The development hereby permitted shall be carried out in accordance with the approved plans, as detailed below:

- Drg. No. 23.124- 01 – Existing Ground Floor Plan
- Drg. No. 23.124- 02 – Existing First Floor Plan

- Drg. No. 23.124- 03 – Existing Gable Elevation
- Drg. No. 23.124- 04 – Existing Front and Rear Elevation
- Drg. No. 23.124- 05 – Proposed Ground Floor Plan
- Drg. No. 23.124- 06 – Proposed First Floor Plan
- Drg. No. 23.124- 07 – Proposed Front Elevation
- Drg. No. 23.124- 08 – Proposed Rear Elevation
- Drg. No. 23.124- 09 – Proposed Gable and Boundary Return Elevation
- Drg. No. 23.124- 10 – Proposed Block Plan

REASON – To ensure the development is carried out in accordance with the planning permission.

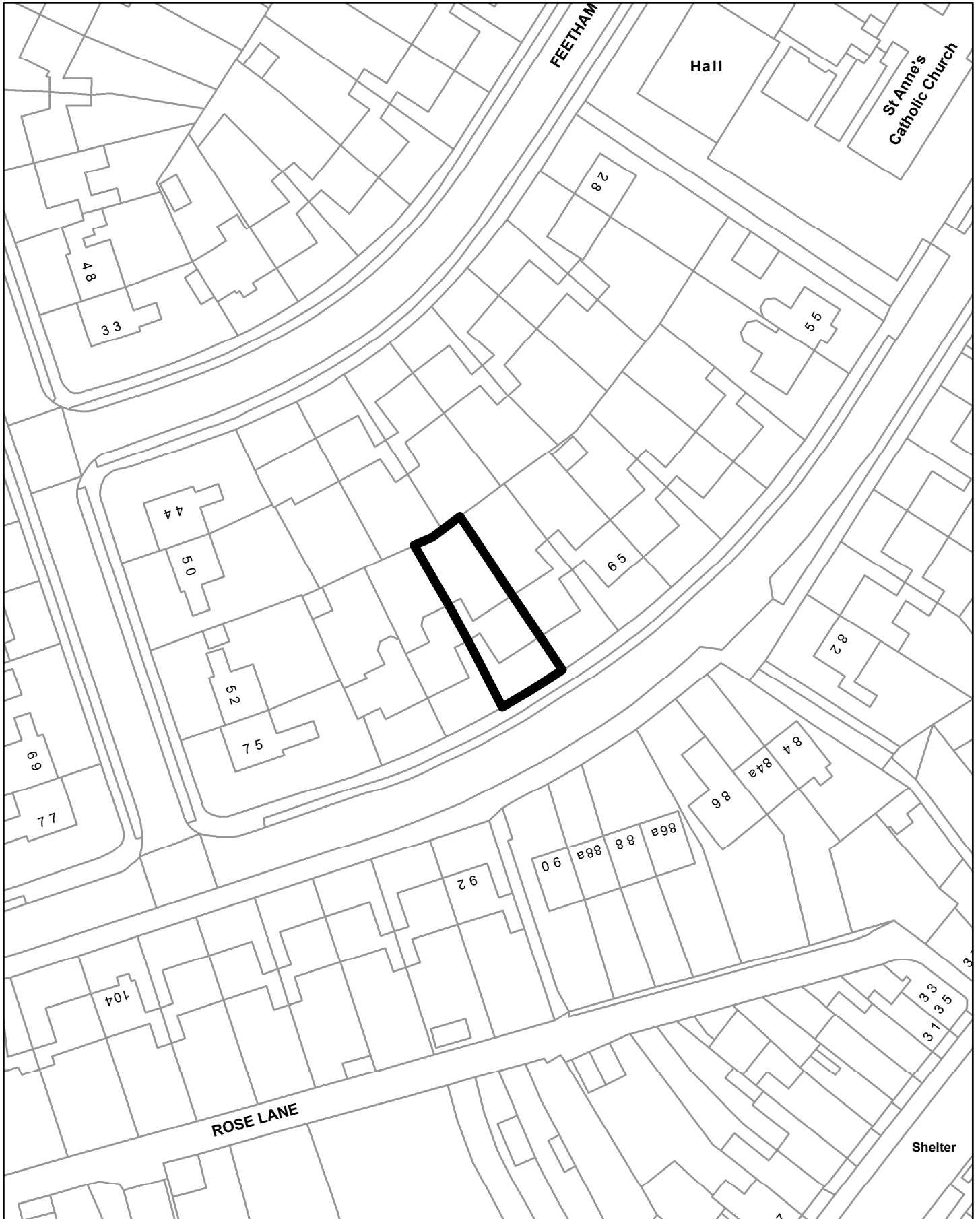
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## **INFORMATIVES**

### **Section 184 Crossover**

The applicant is advised that works are required within the public highway, to construct a new vehicle crossing; contact must be made with the Assistant Director: Highways, Design and Projects (contact Mrs Lisa Woods 01325 406702) to arrange for the works to be carried out or to obtain agreement under the Highways Act 1980 to execute the works.

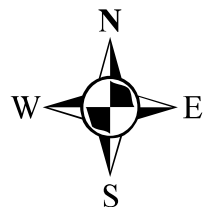




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**Planning Ref No: 24/00219/FUL**

DARLINGTON BOROUGH COUNCIL



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## DARLINGTON BOROUGH COUNCIL

### APPEAL AGAINST REFUSAL FOR PLANNING PERMISSION

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<b>APPLICATION REF. NO:</b>	23/01024/ADV
<b>APPEAL REF. NO:</b>	Appeal Ref: APP/N1350/Z/24/3337593
<b>LOCATION:</b>	Petrol Filling Station High Northgate Darlington DL1 1UQ
<b>DESCRIPTION:</b>	Display of 1 no. internally illuminated LED digital advertising display including the removal of 2 No. advertising displays
<b>APPLICANT:</b>	Clear Channel UK

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**ASSISTANT PLANNING OFFICER: PATRICIA BASTON**

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#### **BRIEF SUMMARY:**

1. The main issues are the effect of the proposed advertisement on the visual amenity of the area, with particular regard to the preservation or enhancement of the Northgate Conservation Area (CA).

#### **KEY POINTS TO NOTE:**

2. The appeal site is a small part of the edge of the forecourt of a petrol filling station comprising grass and bushes adjacent to a neighbouring terrace and 2 small free-standing internally illuminated advertisement panels would be removed under the proposal.

#### **REASON(S) FOR REFUSAL:**

3. The proposed advertisement is considered to be an unnecessary form of advertising and would appear incongruous and over dominant within the existing street scene and would be unsympathetic to the historic character and appearance of the Northgate Conservation Area. The advertisement would amount to less than substantial harm to a designated heritage asset with no evidence of public benefit. The proposal would also be contrary to Policy DC4 (Safeguarding Amenity) of the Darlington Local Plan 2016-2036 and the National Planning Policy Framework 2023.

#### **APPEAL DISMISSED:**

4. The display of an internally illuminated 48-sheet 'D-Poster' (digital) advertisement would harm the significance of the Conservation Area which is a designated heritage asset and would be detrimental to the interests of visual amenity.

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## Appeal Decision

Site visit made on 10 April 2024

by **L N Hughes BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 April 2024

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**Appeal Ref: APP/N1350/Z/24/3337593**

**BP Service Station, High Northgate, Darlington DL1 1UQ**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr Benjamin Porte of Clear Channel UK against the decision of Darlington Borough Council.
  - The application Ref is 23/01024/ADV.
  - The advertisement proposed is the installation of internally illuminated 48-sheet 'D-Poster' (digital) advertisement.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The Council's original decision notice cited incorrect legislation, and subsequently a revised decision notice was issued, of the same date. The appellant has confirmed willingness to proceed on this basis, and for the avoidance of doubt, I find this has not prejudiced any parties.

### Main Issue

3. The main issue is the effect of the proposed advertisement on the visual amenity of the area, with particular regard to the preservation or enhancement of the Northgate Conservation Area (CA).

### Reasons

4. The site is a small part of the edge of the forecourt of a petrol filling station, comprising grass and bushes adjacent to the neighbouring terrace. It also hosts 2 small free-standing internally illuminated advertisement panels, which would be removed under the proposal.
5. The site lies within the Northgate CA, and so I have a statutory duty under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing its character or appearance. In accordance with the Advertisement Regulations, I have taken into account the provisions of the development plan so far as they are relevant to visual amenity. Section 16 of the Framework requires great weight to be given to the conservation of designated heritage assets, and Policy ENV1 of the Darlington Local Plan 2016-2036 (LP) (2022) aligns closely with this approach.
6. The Northgate CA Character Appraisal (2007) identifies that Northgate and High Northgate form the historic linear spine of the CA. Its significance lies in

their alignment along the former Great North Road, linking pre-industrial Darlington with its pioneering first publicly-owned passenger-carrying railway, which represented a major step in the industrial revolution. At the southern end of Northgate are the houses built for the Quaker railway founders, and at the northern end around North Road Station remains some of the earliest railway-led urbanisation in the world, with numerous buildings dating from the 1830s and 1840s. That the appeal site's immediate character incorporates the busy and wide carriageway and junction, is to some extent integral to the CA's formation through this early industrial development.

7. The site is also directly adjacent to the blank gable of a historic terrace. Its siting within this central part of the CA which generally comprises more modern and commercial buildings, gives it increased architectural importance in the streetscene. My site visit also identified that this building has undergone recent restoration to highlight its historic features. The Council states that the physical character of the area is improving through regeneration and grant improvements. The openness of the appeal site allows for an appreciation of this terrace, and as such contributes to the CA's significance.
8. The petrol filling station does not contribute positively to the townscape character, including its signage and canopy somewhat dominating the immediate environment. However, the existing advertisements on the appeal site itself are relatively unobtrusive, and its greenery provides limited but welcome softening of the hard landscaping in this part of the CA.
9. The proposal is for a '48 sheet' freestanding and internally illuminated digital advertisement, on a black plinth. It would be substantial, matching the first floor level of the terrace and extending almost its whole depth. It would be stark and incongruous against the backdrop of the white gable. Although the Planning Practice Guidance (PPG) advocates siting advertisements in industrial or commercial areas, it would extend and reinforce the modern commercial character of the petrol filling station, rather than that of the historic buildings as the main significance of the CA. It would also remove the greening effect of the existing vegetation.
10. Notwithstanding the existing petrol filling station and canopy lighting and illumination, during the hours of low natural light or darkness the advertisement's overall prominence and incongruity would be further heightened due to its illumination and changing images. This would be despite the technology used to vary its illumination levels, intended to give a similar effect to an illuminated poster or vinyl advertisement. I acknowledge that the proposed illumination appears in line with the Institute of Lighting Professionals' guidance, including that it would respond to changes in daylight with restricted maximum brightness, have no moving content, and a set frequency of image change. However, these aspects would not sufficiently mitigate the harm.
11. The advertisement would face onto traffic travelling along one of the busiest arterial routes into Darlington. This prominence and negative impact on visual amenity would therefore be magnified by the amount of passing views, at both medium and short range. Overall, the proposed advertisement would lead to harm to the significance of the CA as a designated heritage asset, and have a harmful effect on the visual amenity of the area.

12. In accordance with the Regulations, I have taken into account the provisions of the development plan so far as they are relevant, being the LP Policy ENV1 which amongst other matters, specifically requires that proposals should preserve and enhance those elements identified in any CA appraisal as making a positive contribution to the significance of that area. Furthermore, the Framework paragraph 135 requires developments to add to the overall quality of the area, be visually attractive, and be sympathetic to local character and history including the surrounding built environment. Section 16 of the Framework also requires the avoidance or minimising of any conflict between a heritage asset's conservation and any aspect of the proposal. Given that I have concluded that the proposal would harm visual amenity, the proposal conflicts with these policies and guidance.

### **Other Matters**

13. The Council cites the LP Policy DC4 in its reason for refusal. The officer report notes that this seeks to protect the amenity of existing users of neighbouring land and buildings, and that given the advertisement's siting, scale and illumination together with the moving images, would form an intrusive feature that would be detrimental to the amenity of neighbouring occupiers. However, no specific occupiers have been identified as being affected, and so this does not appear to be directly related to public safety. Although noting that it would be sited next to a signalised junction and a busy petrol station, the Council has not directly refused the proposal with regards to its impact on public safety, subject to the imposition of various conditions were the appeal to be allowed. I also find that there would be no impact on public safety, and I therefore find that Policy DC4 is not relevant in this instance.

14. The appellant has suggested sustainability benefits such as the reduction in reliance on non-renewable resources, and personnel visits. They also reference support from the Framework for outstanding or innovative designs which promote high levels of sustainability, and changes and innovations offered by new technology. However, the Regulations state that advertisements should be subject to control only in the interests of amenity and public safety, and alongside the Framework and the PPG, there is no indication that any of these suggested benefits can be taken into account. For the same reasons, I have not taken into account the Council's suggestion that the proposal would be an unnecessary form of advertising.

### **Conclusion**

15. For the reasons given above I conclude that the display of the internally illuminated 48-sheet 'D-Poster' (digital) advertisement would be detrimental to the interests of visual amenity, and therefore the appeal is dismissed.

*L N Hughes*

INSPECTOR

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of the Local Government Act 1972.

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