

**DARLINGTON BOROUGH COUNCIL**

**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 23 February 2011**

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<b>APPLICATION REF. NO:</b>	10/00798/FUL
<b>STATUTORY DECISION DATE:</b>	24 February 2011
<b>WARD/PARISH:</b>	FAVERDALE and WHESOE AND SADBERGE
<b>LOCATION:</b>	Whessoe Grange Farm Burtree Lane
<b>DESCRIPTION:</b>	Hybrid application for erection of data centre with associated access, landscaping and ancillary buildings (Detailed); and construction of access road from Rotary Way (Outline) (Additional information received 8 December 2010; 14 December 2010; additional plans received 13 January 2011; additional highway related information received 14 January 2011; additional Ground Investigation Reports, Ecology Reports, Archaeological Reports and Environmental Reports received 18 January 2011)
<b>APPLICANT:</b>	Lloyds TSB Bank Plc

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**APPLICATION AND SITE DESCRIPTION**

The application site measures approximately 111.5 hectares and comprises an area of agricultural land to the north of Rotary Way and the existing Argos distribution facility, the north of Darlington.

The site is generally rectangular in shape, and it is bounded to the north by Burtree Lane; to the east by the Darlington – Stockton Railway Line; to the west by a small number of agricultural fields and the A1 (M) and to the south by fields surrounding High Faverdale Farm and the Argos Distribution facility located at the northern end of Faverdale Industrial Estate.

The topography of the area is relatively flat, with a difference of approximately 5 metres in height across the entire site with minor undulations throughout. The current vehicular access to the site is from Burtree Lane on the northern boundary.

A number of residential buildings are located within and around the planning application site boundary.

The proposed development involves the construction of four data halls of 13,722sqm each with accompanying internal road layouts, ancillary buildings, access roads and significant landscaping.

The main data hall buildings would be used for the storage of electronic data and there is a requirement for the development to be continuously operational, and therefore also highly secure.

The data hall buildings will be located in two pairs, relatively centrally within the application site. These buildings would be simple curved portal frame warehouse type buildings which will be clad in a mix of materials including flat and profiled panels, louvers, reinforced concrete and glazing to provide a contemporary appearance. Each of the main buildings will be accompanied by external plant compounds, comprising equipment required to ensure the continuous operation of the facility. There will be an internal road network linking the buildings, and providing access to and from the ancillary buildings and main access. Ancillary buildings on the site will include the following: -

- Security Gate House
- Administration Building
- Site Vehicle Storage Shed
- Substation
- Maintenance Building

There will be a series of security fences incorporated within the site. Around each data hall there will be an initial security fence, and then an external double fence line around the perimeter of the operational part of the development. The existing hedgerows and fencing on the perimeter of the application site would be retained where possible.

A key feature of this development is the significant level of landscaping and ecological enhancement works proposed which would cover an area of some 50 hectares. This will involve a large amount of open grassland, new ponds as well as existing and newly planted trees and hedgerows. Much of the landscaping will take place out with the security fences, but within the application boundary line.

The existing vehicle access at Burtree Lane will be retained and improved to allow for all vehicle access to the site during construction and as a secondary means of emergency access post construction. Main access to the site will ultimately be from a new road off Rotary Way to the south.

It is proposed that the development will be built in two phases. The first phase of construction would begin as soon as possible and would involve two of the main data halls (the two northern buildings), all ancillary buildings, all internal roads and all landscaping proposals. The second phase, incorporating the remaining two southerly data halls is expected to be implemented approximately 5 – 7 years after the completion of phase 1 construction. The timescales will be driven by the need for further storage space.

The application has been submitted in a hybrid form with the proposed access off Rotary Way being in outline. The exact position and design of this access road would be secured by the submission of a further detailed application if this submission is approved.

**Environmental Impact Assessment Screening Opinion**

The applicant submitted a request pursuant to regulation 5(1) of the Town and Country Planning Environmental Impact Assessment (England and Wales) Regulations 1999 (SI 1999/293) (the 1999 Regulations) requesting the local planning authority's screening opinion as to whether or not the development is "EIA" development within the meaning of the 1999 regulations.

It is the opinion of the Local Planning Authority, that in consideration of the submitted information, the proposal is development for which an Environmental Impact Assessment is not required as the development, subject to mitigation measures, would not be likely to have significant effects on the environment by virtue of factors such as its nature, size or location.

**Statement of Community Involvement**

A public exhibition was held in accordance with the Council's Statement of Community Involvement document. It was attended by 106 people and feedback was, in general, positive.

**PLANNING HISTORY**

The most recent entries for the site are:

91/00861/OUT In December 1992 planning permission was GRANTED in outline for a business and industrial development (Classes B1, B2 and B8)

95/00702/FUL In January 1996 planning permission was GRANTED for the renewal of planning permission reference number 91/00861/OUT

**PLANNING POLICY BACKGROUND****National Planning Guidance**

Planning Policy Statement 1 – Delivering Sustainable Development

Planning Policy Statement 5 – Planning for the Historic Environment

Planning Policy Statement 9 – Biodiversity and Geological Conservation

Planning Policy Guidance 13 – Transport

Planning Policy Statement 22- Renewable Energy

Planning Policy Guidance 24 – Planning and Noise

Planning Policy Statement 25 – Planning and Flood Risk

**Borough of Darlington Local Plan 1997**

Policy E1 – Keynote Policy for the Protection of the Environment

Policy E2 – Development Limits

Policy E4 – New Buildings in the Countryside

Policy E6 – Protection of Agricultural Land

Policy E7- Landscape Conservation

Policy E11 – Conservation of Trees, Woodlands and Hedgerows

Policy E12 – Trees & Development

Policy E14 – Landscaping of Development

Policy E16 – Appearance from the Main Travel Routes

Policy E17 – Landscape Improvement

Policy E21 – Wildlife Corridors

Policy E23 – Nature and Development

Policy E24- Conservation of Land and other Resources

Policy E25 – Energy Conservation  
Policy E26 – Energy from Renewable Resources  
Policy E27 – Flooding and Development  
Policy E28 – Surface Water and Development  
Policy E29 – The Setting of New Development  
Policy E34 – Archaeological Sites of Local Importance  
Policy E47 – Contaminated Land and Unstable Land and Development  
Policy E48 – Noise Generating/Polluting Development  
Policy E49 – Noise Sensitive Development  
Policy H15 – The Amenity of Residential Areas  
Policy R12 – Access to open land and countryside  
Policy R14 – Recreation Development in the Countryside  
Policy EP8 – Reserve Employment Site  
Policy T2 – Highway and Transport Management – New Development  
Policy T8 – Access to Main Roads  
Policy T12 – New Development – Road Capacity  
Policy T13 – New Development - Standards  
Policy T24 – Parking and Servicing Requirements for New Developments  
Policy T31 – New development and Public Transport  
Policy T36 – Cycle Route Network  
Policy T39 – Conditions for Pedestrians  
Policy T40 – New Development and Lorries

### **Other Documents**

Supplementary Guidance Note – Design for New Development  
Rights of Way Improvements Plan

### **RESULTS OF CONSULTATION AND PUBLICITY**

Seven letters of objection have been received and the concerns can be summarised as follows:

- *The development will take away more of our countryside and will also create more traffic problems in what is already a bottle neck to get into Darlington*
- *Rotary Way is heavily used by commercial vehicles including a high volume of articulated lorries going to and from the industrial estate. This does generate a lot of noise, which continues at all hours of the night. The noise problem is a concern for residential properties in High Grange, especially those running alongside Rotary Way. We feel the current volume of commercial traffic should be addressed in view of a reduction and any plans which result in increased traffic volume should be abandoned*
- *The north west boundary of the proposed site is adjacent to Burtree Lane and very close to the A1 (M). Rotary Way already carries a far amount of traffic from Argos and the various haulage companies on the Faverdale Industrial Estate. Surely access could be provided on to Burtree Lane with a new roundabout onto the A68 which would give direct access onto the A1(M) and at the same time solving the problems caused by the recent closure of access to Burtree Lane off the A68 Northbound*
- *In April 2008 I found several Great Crested Newts (GCNs) on the footpath opposite the farms entrance. I contacted the Council who discovered that the closet recorded location for GCNs was at a pond that was/is present to the right of the field with the current entrance to the farm. I put the two females and one male in the pond. At that time, there were invertebrates and I did see a flash of what looked like a GCN tadpole. I am 100% they were GCNs. I don't see any reference to the pond or GCNs in the application and*

*there are no ponds suitable for GCNs close by not that translocation of amphibious species is entirely successful*

- *This is a housing estate that we live on. We have earned the right to do so with our wages and the taxes we pay. I know it's next to an industrial estate but there has now been enough development. Argos is huge and there is constant noise from the trucks 24 hours a day as well as Aldi and all the other buildings traffic. Adding more buildings and development is not a good idea*
- *Once it is built, the centre could change to something else and have more development added in. There will be traffic of some sort. Its busy enough on West Auckland Road now with the school and West Park and Argos etc. There will be more traffic and noise no matter what you say is going to be going on there*
- *The roundabout will be ruined with another road added in mess, mud, building materials coming and going adding to noise levels with people on this estate working shifts. The rural aspect will be ruined even more*
- *Do you think it is fair to hem a farmer and his house with four huge warehouse buildings positioned all around his farm?*
- *We have a cattle market going up the road just past Burtee Caravans, West Park is still not finished with more houses to go on, and plans to move Mowden Rugby Club to West Park as well. We don't need anymore at West Park and Faverdale*
- *Not all of the proposed site is within the area identified as being suitable for such uses within the development plan.*
- *The majority of the proposed site is used as pasture and there are many mature trees and hedgerows which provide important habitats for native flora and fauna. I also believe that endangered species may exist on and adjacent to the site. I do not believe that important enclaves of open countryside that survive on the urban fringe of the town should be sacrificed just because businesses prefer a location close to the A1, especially when there are alternative / brownfield sites within the Borough.*
- *The farmland which remains following the development of the Argos Centre constitutes a crucial buffer between the ever expanding industrial estate and the High Grange residential estate. It is feared that the proposed development is the 'thin end of the wedge' and if it goes ahead the resulting small size of the remaining agricultural holding will render it economically unviable and that the new access road will facilitate development on the remainder of the farm, directly adjacent to family housing. While I understand that the development plan has allocated all the farm as suitable for development, policies such as EP2 and H15 stress the importance of maintaining an appropriate buffer to residential properties. Unfortunately, the experience of residents following the development of the Argos Distribution Centre has proven that landscaping is no alternative to physical separation when it comes to preventing noise disturbance and adverse effects on visual amenity etc. Despite the Argos Centre being some distance from our home we have suffered significant harm to the enjoyment of our property as a result of noise from the site and lorries parking along Rotary Way directly adjacent to our house. There is a tangible feeling that we are slowly being hemmed in by industrial / commercial development.*
- *The level of landscaping / screen planting does not appear sufficient to mitigate the level of visual intrusion envisaged given the scale of the development proposed.*
- *Since the construction of the Argos distribution centre and the new housing estate etc. on the old works site toward Cockerton, traffic between Junction 58 of the A1 and Cockerton Village is very busy and is gridlocked in the morning and early evening. The existing road network seems unable to cope with existing traffic levels in the area, without the additional volume that would be generated by the proposed development. I*

*believe that further development in the Faverdale area would stretch the existing highway network to breaking point.*

- *During the construction of the Argos Distribution Centre it was discovered that the locality could well have been the location of an important Roman site. I believe that had there not already been so much economic and political investment in the Argos project then the development would not have gone ahead, or at least the site would not have been developed without a much longer archaeological study. It is considered likely that the site now proposed contains further important remains. I did not see a detailed archaeological assessment submitted as part of the application?*
- *I strongly feel that any economic benefits that may accrue from the development of the site will be outweighed by the environmental harm caused as a result of the intensification of industrial / commercial etc. uses on a Greenfield Site adjacent to a residential estate and that there exist more appropriate sites for such development elsewhere within the Borough.*
- *If construction vehicles can use Burtree Lane, then permanent site access can be made via this route*
- *The traffic is already horrific on the A68 into Darlington on a morning*
- *When the whole site is developed, the proposed main access, once built, will not be suitable in any way shape or form and will impact the residents of High Grange even further from noise pollution. Most residents expressed this concern at the public consultation*

## **Consultee Responses**

**Natural England** welcomes the considerable enhancement and mitigation measures being proposed but they have **objected** on the grounds that the application contains insufficient information to demonstrate whether or not the development would have an adverse effect on legally protected species

**The Durham Bat Group** have **objected** to the application on the following grounds

- *The bat survey was carried out in September well after the breeding season was ended. The proposal fails to meet guidelines in terms of its reference to existing data, the timing of the survey and the number of surveyors employed. Durham Bat Group know that there are bats at this site and strongly suggest that unless a proper survey is completed in the breeding season, there is a strong danger that the Local Planning Authority will not be following the PPS 9 guidelines and there is strong risk of an offence under the wildlife protection laws*

**Durham Wildlife Trust** acknowledge that efforts have been made to incorporate positive features for biodiversity within the proposal but they have **objected** to the application on the following grounds

- *Legislation clearly states that protected species surveys cannot be stipulated as a condition to planning approval. Surveys must be carried out prior to the submission of the application so the planning authority has sufficient information to make a judgement on the impact on biodiversity of the proposal before it. It is the Trusts view that full surveys for great crested newts should be conducted in 2011, in line with recognised guidance, and the application resubmitted. Failure to do so will contravene national guidance on biodiversity and the planning system, contravene the Council's own*

*planning policies and could potentially lead to a criminal offence being committed should great crested newts be killed, injured or disturbed*

The **Environment Agency** has raised no objections to the proposed development  
**Network Rail** has no objections to the application but they have requested the imposition of conditions relating to landscaping, fencing and lighting

**CE Electric UK** has no objections to the proposed development

**North Gas Networks** has no objections to the proposed development

**Northumbrian Water** has raised no objections to the application

**Highways Agency** has no objections to the application

**The Ramblers Association** have objected to the proposal as the submission does not provide exact details of any proposed improvements and extensions to the Public Rights of Way

**Durham County Council Archaeology Section** has no objections to the proposed development subject to the imposition of planning conditions relating to a mitigation strategy and building recording methodology

**One North East** welcomes the private sector investment the proposal represents and would also welcome the applicant working with the Council and Local Employment Partnership Scheme to target job opportunities for the long term unemployed. They also urge the local planning authority to give full consideration to finding ways of optimising energy savings and incorporating low or zero carbon energy sources within the development

The **Council's Environmental Health** has raised no objections to the principle of the development subject to the imposition of a number planning conditions

The **Council's Ecology Officer** has no objections to the planning application subject to the imposition of a number of planning conditions

The **Council's Rights of Way Officer** has requested further information on the proposed improvements to the existing Public Right of Way and also requested public access to the surrounding area be extended by creating further links

The **Council's Highway Engineer** has no objections to the proposal subject to the imposition of suitable planning conditions relating to highway improvements

## **PLANNING ISSUES**

### **Brief Overview**

The main function of the development is to provide data storage capacity to serve the needs of financial institutions, large corporate entities and small organisations. This depends on large spaces to house multiple servers contained in racks. These data halls make up most of the usable floor space within the main buildings. The halls themselves are not habitable spaces and are secure areas where personnel movements are restricted. There are ancillary office areas for a small number of staff. The development needs to be operational 24 hours every day and as a result the centres have large mechanical and electrical infrastructures to provide resilience either on or off the national grid. They also use multiple fibre providers to offer diverse and sustainable connectivity to all networks worldwide. The nature of the buildings use and operation requires a low level of staffing, such as maintenance engineers; IT technicians and security operatives on a shift basis. The number for this building will be approximately 20 – 25 people on one shift, up to a maximum of 50 – 60 people at any one time to cater for the overlap in staff while employees change shifts.

The main issues to be considered are whether or not the proposed development is acceptable in the following terms:

- Planning Policy
- Design and Impact upon the Surrounding Area
- Residential Amenity
- Protected Species and Ecology
- Highway Matters
- Archaeology
- Impact upon Rights of Way
- Air Quality
- Contaminated Land
- Flood Risk
- Energy Efficiency
- Job Creation

### **Planning Policy**

The application site lies within, and to the east of an area allocated as a reserve employment site in the Borough of Darlington Local Plan 1997. Policy EP8 (Reserve Employment Site) of the Plan aims to reserve the site for development by up to two large industrial users and not developed on a piecemeal basis. The area to the east outside of the allocated employment land is not allocated for any other uses and is outside of the current development limits as defined by Policy E2 (Developments Limits) within which most new development is intended to be focussed. The application is therefore a departure from this policy within the Borough of Darlington Local Plan and the submission has been advertised accordingly. Whether development is appropriate outside the normal development limits of the urban area very much depends on the specific characteristics of what is being proposed

In terms of the Regional Spatial Strategy (RSS) the site lies within an area of 120 hectares that was identified as a Key Employment Location with potential for distribution and logistics (B8 use)

The purpose of having a supply of different types of employment land in the borough is to allow the Council to provide a choice of sites to meet the needs of a range of occupiers (to help maximise employment opportunities, in sustainable locations and to attract high quality, well paid jobs to the Borough. This reflects the Council's position on the need to provide a larger land portfolio than actual up take.

Taking the above into account there is policy support to develop the land in a way that takes advantage of its locational benefits. In this case the proposed development has very specific requirements, including an extensive, continually operational and highly secure site that cannot be met elsewhere in Darlington. Furthermore whilst part of the site would lie outside the current development limits, the proposal is not to develop the site in an intensive way so that much of the site would remain "green" and would be subject to considerable planting helping assimilate the development into the wider landscape.

The proposal has a number of potential benefits in terms of both direct, indirect and short term job creation. Through a planning agreement the developer proposes that a proportion of construction jobs created will be targeted towards Darlington residents.

### **Design and Visual Impact upon the Surrounding Area**

The four data hall buildings are simple curved portal frame warehouse type buildings which will be clad in a range of materials from flat and profiled panels, louvers, reinforced concrete and



glazing to provide a contemporary appearance. The buildings would have an eaves height of 7 metres rising to 11 metres at the apex. The ancillary buildings comprising the security gatehouses, substations, administration and maintenance buildings are essentially single storey with eaves heights of 4 metres to 6 metres. The layout and position of the data halls within the site has been influenced by a number of issues such as protected species requirements; archaeology requirements and for security reasons.

Due to the nature of the buildings and the information stored within, the site needs to be designed to a high standard of security. A ditch and bank will be created around the application site, inside which there would be an outer security perimeter fence approximately 3 metres in height and an inner security fence approximately 3.4 metres high. There will be a mixture of manual and electrically operated sliding steel security gates and traffic barriers at vehicle access points and the security compounds will incorporate a series of gates, vehicle locks and pedestrian gates. There would be 8 metre high CCTV poles at 40 metre internals along the perimeter fence.

The Council's Supplementary Planning Document – Design for New Development permits buildings measuring between two and five storeys in height in this location and the proposal would accord with this requirement.

The proposed development is located within a rural setting and the design of the buildings and site layout is considered to be compatible with this location. The existing mature trees on the site perimeter would be retained and new trees will be planted to help screen the buildings from outside views particularly those from any nearby properties and to help assimilate the development into the landscape

The extensive landscaping proposals will commence as part of Phase 1 of the development and consists of new planting, water features and a variety of habitats. It is considered that this will compliment the wider landscape character of small scattered, native woodland and hedgerow planting. These proposals would be further established once construction of Phase 2 begins. The visual impacts will be limited to the immediate area around the site and the effects on the wider landscape will be minimal.

It is considered that the proposed development would not have an adverse impact upon the character and visual appearance of the landscape character of the area and the proposed planting will mitigate the visual effects, screening the majority of the development, and helping to ensure that, over time, it sits comfortably in its local context.

### **Residential Amenity**

There are some residential properties and associated farm buildings within and on the edge of the application site. Another significant neighbouring building is the Argos distribution centre situated to the south east of the application site.

Members will note that there are two properties within the boundary of the application site and a further two properties within the secure fenced area of the development. These buildings would be vacated but they would not be immediately demolished due to the prospect of the properties being potential habitats for protected species.

A Landscape and Visual Assessment carried out on behalf of the applicant assessed the impact of the development on the views from the surrounding residential dwellings during both the construction and operational phases. The Assessment which includes the above properties and

also further afield concludes that there will be views across the site from the neighbouring dwellings but once the extensive landscaping has been established, the majority of the development will be screened and the impact will be minimal. Officers would agree with the conclusions of the Assessment.

Each individual data centre will be provided with air cooled water chillers; adiabatic coolers, generators. This type of development is a large consumer of power and there would be two substations serving the site as a whole

For security purposes the facility would have 64 diesel fuelled generators that would provide power in the event of an interruption to the electricity supply. The maximum number of generators operating at any one time will be 32. Other than testing in groups of 8 for 3 hours per month, the generators will only operate in case of a mains failure.

A Noise Assessment has been submitted which considers the impacts of the development on the nearest noise receptors during the construction period and also once it is operational.

Detailed discussions have taken place between the Council's Environmental Health Officer and the developer's consultants in order to assess the noise impacts of the development upon the surrounding area. It is considered that, in principle, the proposal should not have an adverse impact upon the amenities of the nearest dwellings and that appropriate planning conditions can be imposed to secure the submission of further details and to ensure that this is tightly controlled

The site will be a "dark site" in that there will be no floodlighting required for external operations, which would normally lead to a degree of light pollution. Whilst the site is to be operational 24 hours a day, the pedestrian and vehicular movements are limited to a small number of security and operational staff and as such only low level lighting is required.

This low level lighting will be located at internal road junctions, and entrances to buildings for safety reasons and security cameras will be operated using infrared technology not requiring any lighting

### **Protected Species and Ecology**

Works affecting European Protected Species (bats and great crested newts) are subject to close scrutiny and must satisfy derogation tests set in the Conservation of Habitats and Species Regulations 2010. These state that

- The actions are essential for imperative reasons of overriding public interest
- There is no satisfactory alternative
- The action authorised will not be detrimental to the maintenance of the population of the species conserved at a favourable conservation status in their natural range

It is considered that both the first and second tests are met given that this is considered to be an important economic development opportunity and that the site specific requirements mean that there would not be an appropriate alternative site within the development limits for the urban area.

With regard to the conservation of species a survey of the existing trees and hedgerows on the site has been carried out. In order to implement the proposed development there would be some hedgerow removal (approximately 950m) with two trees needing to be removed during the first phase of construction and a further three trees during the final phase of construction. An

extensive amount of landscaping both within and around the secure part of the site would be planted involving a mix of woodland, hay meadows and grasslands. Some 1750 metres of new hedgerow would be planted. These areas would be maintained and managed by the applicant. Officers consider that the amount of proposed landscaping more than compensates for the proposed losses of existing vegetation and as the features will be implemented during Phase 1 of the development it would help to screen the development, assimilate it within its rural locality and provide maximum benefit to biodiversity across the site at the earliest opportunity

An Ecological Management Plan can be secured by the imposition of a planning condition to ensure that the landscaping, habitats and ecological enhancements are managed and maintained in the short and long term.

The application has been accompanied by a number of Reports relating to protected species, habitats and ecology, namely

- *A Desk Top and Extended Phase 1 Habitat Survey* to determine baseline ecological data for the existing site using information from the desk study and an extended Phase 1 habitat survey. The survey found a variety of ecological habitats, bird species listed on the UK Biodiversity Action Plan Priority and Durham Local Biodiversity Action Plan Priority lists and a badger sett. Habitat suitable for protected species such as bats, water voles, barn owls, reptiles and great crested newts were found. The survey concludes by making a list of recommendations for mitigation and enhancements and that further surveys for the protected species should be carried out.
- *The Bat, Great Crested Newt, Barn Owl, Water Vole and Reptile Surveys* is a report based on the findings of inspections of trees and buildings on the site for the aforementioned protected species. Fourteen buildings and 115 trees have the potential to support roosting bats and a further six buildings were assessed to have negligible potential to support roosting bats. No evidence of nesting/roosting barn owls was found but four buildings were assessed as having potential to support roosting/nesting barn owls. No evidence of water voles or reptiles was recorded on the site. The survey concludes with a list of recommendations for mitigation and enhancements for the site but it recognises that, in line with best practice, further surveys for bats and Great Crested Newts must be carried out at the appropriate times of the year (May – August and March to mid June respectively)
- *The Protected Species Strategy* gives a brief outline of how the further surveys and inspections will be undertaken and it concludes that whilst a number of protected species and habitats occur on site, the design of the development and the proposed extensive mitigation and enhancement measures should ensure that the favourable conservation status of the protected species are maintained and enhanced.
- *The Ecology Method Statement* provides a comprehensive plan to deliver an overall net gain for biodiversity as a result of the development and to build commitments made in the Protected Species Strategy and to provide more details on their implementation.

Natural England met the applicant's ecological consultants at pre application stage and is aware of the efforts taken within the design process to avoid risk to protected species based on the information available at that time. Natural England has stated that it welcomes the considerable enhancements and mitigation measures tailored to the site contributing to the Durham

Biodiversity Action Plan. However, it is objecting to the proposals on the basis that the application contains insufficient information to demonstrate whether or not the development would have an adverse impact on any legally protected species.

Durham Wildlife Trust and the Durham Bat Group have also objected to the application on similar grounds.

Essentially, the objections relate to the fact that submitted reports indicate that whilst extensive mitigation measures will be put in place, the extent of the measures are not based on detailed findings of surveys carried out at the correct time of year, which is contrary to planning guidance.

Circular 06/05 – Biodiversity and Geological Conservation – Statutory Obligations and Their Impact within the Planning System complements Planning Policy Statement 9 – Biodiversity and Geological Conservation. The Circular states *“It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted”*

The guidelines contained within the Habitats Regulations 1994 on European Protected Species, Circular 06/05 and Planning Policy Guidance Statement 9 - Biodiversity and Geological Conservation have not been followed due to the site being identified only relatively recently by the developer and therefore the late timing of ecological information being gathered which falls outside of the usual times of year for species surveying, normally April – August. The Local Planning Authority’s legal duty is to consider all evidence regarding protected species, prior to granting of approval. The lack of full survey results has put greater emphasis on the design, existing data collection, site assessment, managing potential risk of harm through mitigation and methodology.

The Council’s Greenspace Manager acknowledges the measures that have been taken by the developer to minimise risk of harm and impact upon the conservation status of the identified protected species. He is satisfied that this will allow the development to operate within a low level of risk. As part of the Ecology Method Statement, a number of scenarios have been created and thought through to respond to potential subsequent survey results and mitigate successfully. These have been managed to a low level of risk, which is considered acceptable. Furthermore the level of enhancement for biodiversity to the conservation status of the protected species present is considered one of the strengths of the application and the Local Planning Authority’s duty to operate under the Natural Environment and Rural Communities 2006 will be achieved.

It is considered that the extensive site area will allow significant mitigation and enhancement measures to be achieved. The Local Planning Authority consider that taking the above considerations into account and that the scenarios outlined in the Ecology Method Statement have been managed to a low risk, the exceptional circumstances referred to in Circular 06/05 would be met in these circumstances and the use of appropriate planning conditions has been recommended. It is considered that the third test of the Regulations cited above would be met in this way.

## **Highway Matters**

The proposed development will have two accesses with the primary access taken from the existing roundabout on Rotary Way to the south of the site, which also provides access to High Faverdale Farm. The secondary point of access to the site would be from Burtree Lane and it is anticipated that this access, once the development is complete, would cater for emergency vehicles in the event of a road closure or technical failure at the primary access point. The northern access off Burtree Lane would be used by construction traffic in connection with Phase 1 of the development. Phase 2 of the development would be constructed and accessed off the new access linking to the Rotary Way/High Grange Roundabout. Once this Phase commences construction, the northern site access would then revert to being the secondary access.

The southern access has been submitted in outline and the detailed design would be dealt with through an application for reserved matters.

A secure compound area will be provided within the site. Delivery vehicles will enter the compound through a series of security checks, and will unload into a secure building, from which on-site transport vehicles will collect and distribute around the site accordingly.

A total of 57 parking spaces would be provided, with two allocated for disabled parking and visitors. Secure and covered parking will be provided with the provision for 10 bicycles. A draft Travel Plan has been submitted with the application which aims, where feasible, to reduce the number of trips made to and from the development by private car and to increase opportunities for walking and cycling to the site.

A Transport Assessment (TA) has been submitted and it states that once the development is operational, there would be a "worst case scenario" of 122 two way daily movements and 32 two way peak hour movements. The TA concludes that the impact of the operational traffic is anticipated to be minimal due to the low numbers of staff working shifts that would arrive on site before 0700 and leave after 1900.

During the high intensity construction period the construction staff numbers are expected to be 1000. In terms of HGV deliveries, it is currently anticipated that 70 daily two way HGV movements would be required. The TA suggests that the likely worst case two way daily movement would be 70 HGVs and 400 cars/small vans and the worst case one way peak hour movement would be 10 HGVs and 400 cars/small vans. It is anticipated that the construction period will be approximately 18 months.

It has been agreed that whilst the construction phase of the development would generate considerably more traffic the development will have minimal impact upon the road network in all of its phases from construction through to operation. A Draft Construction Management Plan has been submitted and has been assessed by both the Council's Highways Engineer and the Highways Authority. It is considered appropriate to impose a planning condition to secure the submission of a formal Plan which shall include details of travel routes and times for HGV vehicles attending the site and other on site operatives; details of construction related staff trip generation and trip generation once in operation; details for the segregation of pedestrians and traffic; road management/maintenance details; details of wheel washing facilities. The Plan would be regularly reviewed upon the commencement of each Phase of the development

It should also be noted that once the site is fully operational, the comings and goings of HGVs typically associated with a storage and distribution activity are not anticipated to feature in this case due to the specific characteristics of the development involved.

The Council's Highways Engineer has raised no objections to the principle of the development but he has requested the imposition of a number of planning conditions. There would be a requirement to create pedestrian links from the south side of Rotary Way and the highway boundary at the access to the site which would be secured by the imposition of a planning condition. It is considered that there is a requirement for two new bus stops and associated footways on Rotary Way and these would need to be secured by a Section 106 Agreement.

The Highways Agency has considered the impacts of the development on the A1 (M) and its slip roads and they have raised no objections to the proposed development

### **Archaeology**

The proposed data centre is located in a landscape of high archaeological sensitivity. Until the 1950s the earthwork remains of Whessoe deserted Medieval village (DMV) were located in what is now known as the 'Village Field'. Furthermore, one of the outbuildings of Whessoe Grange Farm, a listed structure, was postulated to be of Medieval origin. Unfortunately, the earthworks of the DMV and the listed building are no longer present, the former having being bulldozed and the latter demolished.

Elsewhere, previous excavation and survey work carried out during groundworks for the Argos distribution centre to the south of the proposed site demonstrated the presence of remains dateable to a period between the later 1st Century BC and 4th Century AD, some of high status. The features identified during the work included field systems and a series of enclosures, both demonstrably evolving over the time period, and later stone-built structures including an important two roomed building with hypocaust.

Policy E34 (Archaeological Sites of Local Importance) of the Local Plan covers development that affects archaeological remains of local importance. In addition the Planning Policy Statement 5: 'Planning for the Historic Environment' (PPS5) has as its key aim the intention to adopt a holistic approach to the Historic Environment so that "...[it] should be conserved and enjoyed for the quality of life [it] bring[s] to this and future generations..." Government seeks to do this through three key objectives:

- (1) To deliver sustainable development by ensuring that policies and decisions concern the historic environment - critically that they recognise that heritage assets are non-renewable;
- (2) To conserve England's heritage assets in a manner appropriate to their significance;
- (3) To contribute to our knowledge and understanding of our past by ensuring that opportunities are taken to capture evidence from the historic environment and to make this publicly available, particularly where a heritage asset is to be lost. (PPS5 para 7).

PPS 5 also notes that where nationally important heritage assets, whether designated or not, are affected by proposed development there should be a presumption in favour of their conservation. The exception to this is where the available evidence suggests that conservation of the asset is not justified. In this case, if the loss of the whole or a material part of a heritage asset's significance is justified, the significance of the heritage asset should be recorded before it is lost. The guidance that accompanies PPS 5 contains significant information on how the loss of an asset can be mitigated by monitoring, recording and publication. It notes that safeguarding new knowledge about an asset and making it widely accessible is an important exercise of general public benefit.

As per PPS 5, the applicant has submitted, in support of the application, all information

requested by the planning authority in order to make an informed decision on mitigation measures. This information includes a desk-based assessment of the site along with the results of geophysical survey and evaluation trenching. The results of this work have shown less widespread archaeological remains than might have been anticipated. It is worth noting, however, that due to time constraints the evaluation trenching programme was very small scale for a site of this size and there are areas where the site may still possess some, as yet unevaluated, potential. Any mitigation strategy will need to be flexible enough to accommodate this potential.

The geophysical survey did show possible structural traces of the Medieval village in the fields south of Whessoe Grange Farm, and the evaluation trenching here encountered a re-cut Medieval period ditch, strong evidence of a possible enclosure the like of which was shown on the map of 1601. Finds of animal bone and pottery from this ditch suggest close proximity to a settlement and a fragment of human bone raises the possibility of a contemporaneous cemetery in the locale. Together with the results of previous fieldwork from the area and documentary sources, this latest information relating to the Medieval period is seen as further evidence of an inhabited and managed landscape, one that evolved over many centuries with the nucleus of the settlement apparently moving north over time.

Elsewhere, the geophysics showed a large enclosure with internal features. This was not assessed during the evaluation phase as it is not due to be impacted upon by the proposed data centre. Boundary ditches of uncertain date were also located in several trenches. Again, these features will need to be covered by a mitigation strategy for this site.

Several buildings of Whessoe Grange farm are shown on the first edition OS map of c.1865. The present farmhouse is considered to date from at least the mid 19th Century and ought to be recorded as it is due to be abandoned as a residence and is therefore susceptible to loss of condition of the building fabric. Depending on the outcome of archaeological work to the south of the farm, there may also be potential for earlier structures to survive below the existing farm buildings. Obviously there are still some archaeological issues with this development, however the Durham County Council Archaeology Section believe these can best be dealt with through a mitigation strategy document, to be prepared by the client after seeking advice from Durham County Council Archaeology Section and this can be secured through planning condition.

### **Impact on Public Rights of Way**

Footpath No 5 (Archdeacon Newton Parish) runs along the western boundary of the site from Burtree Lane to the existing access point on Rotary Way. It runs alongside a tributary of West Beck.

Policy R12 (Access to Open Land and Countryside) of the Borough of Darlington Local Plan states that public access to the countryside will be encouraged by maintaining and extending the existing network of Public Rights of Way. The adopted Rights of Way Improvement Plan aims to provide a strategy that helps to target resources towards countryside access and it aims to establish new or upgraded routes for walking, cycling and horse riding within the urban fringe in order to promote recreational opportunities.

The applicant has agreed, in principle, to upgrade the existing Footpath to a Public Bridleway and this would be secured by a Section 106 Agreement. Discussions with the applicant are ongoing about the detail of this and Members will be updated at the Planning Committee.

### **Air Quality**

Once the development is constructed, the only routine emissions to atmosphere from the facility will be from the small number of vehicles used for transport by the operators of the facility. Emissions to the atmosphere from construction vehicles; machinery, construction dust, other vehicles using the site and the generators have been assessed. Two Air Quality Assessments have been submitted and they conclude the following;

- Impacts upon air quality and the potential for nuisance to occur during construction is of slight significance and considered unlikely to occur with the use of appropriate mitigation measures;
- The impact on air quality of emissions from road traffic generated by the proposed development is assessed as being negligible
- The impacts on air quality of emissions to atmosphere from construction vehicles is negligible and not of concern to human health
- For routine testing of the standby generators there are predicted to be no exceedences of Air Quality Strategy objectives at the ten specific receptors
- For the emergency generators the predictions show that under at least 80% of meteorological conditions, the short term peak concentrations do not exceed the short term objectives which do allow for a number of exceedences. It is considered that on a risk based approach the impacts on air quality are acceptable

Detailed discussions have taken place between the Council's Environmental Health Officer and the consultants but as there are further issues to be resolved, it is considered appropriate to impose a planning condition to secure the submission of an agreed Air Quality Management Plan

### **Contaminated Land**

The application has been accompanied by various Ground Contamination reports and detailed discussions have occurred between the Council's Environmental Health Officer and the consultants. It is considered appropriate to impose a standard planning condition relating to land contamination

### **Flood Risk**

A Flood Risk Assessment indicates that the majority of the site is within Flood Zone 1 (low probability of flooding) and the area adjacent to the tributary of West Beck on the western boundary is designated as Flood zone 2 and 3 (medium/high probability). There are no formal ponds or reservoirs within the site boundary but there are some formal ponds within 50 metres of the south boundary.

All of the proposed buildings and associated works will be located within Flood Zone 1. There will be a total of 15 new ponds installed as part of Sustainable Drainage Systems and they have been designed in clusters of 3 or 4 in consultation with ecologists. The ponds will be of different shapes, size and depth in order to maximise the potential ecological enhancements on the site. These ponds would be maintained by the applicant. The FRA concludes that the proposed development is at low risk of flooding from all sources of flooding and that the proposed development can be constructed and operated safely and will not increase flood risk elsewhere.

A Waste Water Strategy has been carried out on behalf of the applicant. The Strategy recommends details on sewage treatment and provides an assessment of pollution prevention measures to ensure that all fuel, storage and chemical tank storage are designed in accordance



with Control of Pollution (Oil Storage) (England) Regulations 2001 and Pollution Prevention Guidelines.

The Environment Agency has raised no objections to the proposed development subject to the imposition of a planning condition to secure a surface water drainage scheme for the site which would include details of the construction, management and maintenance responsibilities for the design life of the site.

### **Energy Efficiency**

The Council's adopted Supplementary Guidance Note – Design for New Development states that to help tackle climate change in the long term, developers for non residential developments shall be expected to meet BREEAM standards “Very Good – Outstanding” and that all major developments of more than 1000m<sup>2</sup> of non residential floorspace should secure at least 10% of their energy supply from renewable and decentralised or low carbon sources.

Data Centres are high consumers of energy but with the correct strategy in place, their impact upon the environment can be minimised through cutting edge design, innovation and the adoption of technologies. A Building Sustainability Report has been submitted with the application which concludes “*A holistic approach to Energy and Carbon performance has been designed for this development to reduce the need for the building to consume energy and hence reduce the related CO<sub>2</sub> emissions. The hierarchy of the energy strategy focuses on*

- *Implement BREEAM Sustainability Standards*
- *Incorporate energy efficient design to reduce the overall energy consumption of a development*
- *Consider a variety of renewable and decentralised or low carbon technologies from an early stage<sup>2</sup>*

Whilst this report has been submitted it is considered appropriate to impose planning conditions aiming to reduce CO<sub>2</sub> emissions and achieve the required BREEAM standard.

### **Job Creation**

The development needs to be operational 24 hours every day and requires a low level of staffing, such as maintenance engineers; IT technicians and security operatives on a shift basis. The number for this site will be approximately 20 – 25 people on one shift, up to a maximum of 50 – 60 people at any one time to cater for the overlap in staff while employees change shifts.

The proposal will also create a number of direct and indirect potential employment opportunities and also short term job creation. Through a planning agreement the developer proposes that a proportion of construction jobs created will be targeted towards Darlington residents.

### **Other Matters**

Network Rail has requested the erection of a trespass fence and details of any lighting to be erected on the eastern boundary of the site. In this instance, it would be considered unreasonable to request the developer to erect such a fence as it is considered that the development would not increase the risk of trespass. There are no proposals for lighting in the aforementioned location.

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

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**

The proposed development covers a large site area. It lies partly outside the development limits in the Borough of Darlington Local Plan within which most development would normally be focussed. However, it is within an area identified in the Regional Spatial Strategy as a key employment location and notwithstanding this the specific needs and characteristics of the development and the sensitive site layout and design in this case are considered to make the proposal acceptable in principle.

Natural England and other similar interested bodies objected to the application on the grounds that the surveys for protected species and habitats should have been carried out at the appropriate times of the year and that the subsequent findings should form the basis of any mitigation measures submitted with the proposal. The need for survey work has been acknowledged but extensive mitigation and enhancement measures have been put forward by the applicant to alleviate the risk to protected species which has been accepted by the Council.

The proposal offers opportunities for direct and indirect job creation and over the short term through the letting of construction contracts. It would also potentially benefit the economic well being of the Borough due to the prestige nature and globally significant economic profile of the occupier involved and the potential stimulus for other technology related companies to consider locating in the region.

The extent of the proposed landscaping mitigation measures and low level of lighting within the site will minimise the visual impact of the development upon the surrounding area and its rural setting and also its visual impact when viewed from the neighbouring residential properties.

The proposed development, subject to appropriate planning conditions to secure mitigation measures, will not result in conditions prejudicial to residential amenity (in terms of noise or general disturbance) or highway safety.

Overall this is considered to be a welcome development opportunity

## **RECOMMENDATION**

THE DIRECTOR OF PLACE BE AUTHORISED TO NEGOTIATE AN AGREEMENT UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 TO SECURE THE FOLLOWING:

- The provision of a scheme to ensure that employment and training opportunities are made available for the residents of Darlington during the construction of the development
- A financial contribution towards to the erection of two bus stops and associated footpath links
- A financial contribution for signage to identify cycle way links to the existing cycle network
- A financial contribution for legal and administration costs for parking restrictions on the southern access road

- A financial contribution for upgrading the Footpath No 5 (Archdeacon Newton Parish to a Bridleway status

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

1. In respect of the access road to the site from Rotary Way the approval of the Local Planning Authority shall be obtained with respect to the following reserved matters prior to the access road being commenced: -
  - a) appearance
  - b) landscaping
  - c) layout

The application for approval of reserved matters shall be made to the local planning authority before the expiration of three 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.

2. The access road from Rotary Way shall be begun two years from the final approval of 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.

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

3. Notwithstanding the details secured under condition 1 the access road from Rotary Way shall be constructed to a standard suitable for adoption by the Local Planning Authority prior to the development hereby approved first coming into operation

**Reason** – In the interests of highway safety

4. Access to High Faverdale Farm shall not be obstructed during the construction of the access road from Rotary Way unless otherwise agreed in writing by the Local Planning Authority

**Reason** – To ensure that access to the property is retained at all times

5. Notwithstanding the requirements of condition 1 relating to the outline planning permission for the southern access road the remainder of the development is subject to full planning permission and 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.

6. A phasing plan for the development shall be submitted to, and approved by, the Local Planning Authority prior to the commencement of the development. The development shall be implemented in accordance with that plan, unless otherwise agreed in writing with the Local Planning Authority.

**Reason** - To ensure the development is carried out in accordance with the planning permission and scheme of works and to avoid any detriment to amenity that may be caused by any phase remaining incomplete.

7. The premises shall be used only as a data centre and for no other purpose (including any other purpose within the Town and Country Planning (Use Classes) Order 1987 or any Order revoking or re-enacting that Order) unless otherwise agreed in writing by the Local Planning Authority

**Reason** - The Local Planning Authority is satisfied that the use hereby approved would not result in detriment to adjoining properties or conditions prejudicial to highway safety but would wish to control future changes of use in the interests of amenity and highway safety

8. Following the completion of Phase 1 of the approved development the vehicular access to the site from Burtree Lane shall be used for emergency purposes only, including access to the sub station, unless otherwise agreed by the Local Planning Authority

**Reason** – In the interests of highway safety

9. Prior to the commencement of the development a Construction Traffic Management Plan for each phase agreed under condition 6) shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include details of travel routes and times for HGV vehicles attending the site and other on site operatives; details of construction related staff trip generation and trip generation once in operation; details for the segregation of pedestrians and traffic; road management/maintenance details; details of wheel washing facilities. Upon commencement of the relevant phase of the development the contents of the Plan shall be regularly reviewed (the Plan shall incorporate details of how the Plan will be monitored and managed) and the development shall not be carried out otherwise than in complete accordance with the Plan

**Reason** – In the interests of highway safety

10. A pre and post construction Road Condition Survey (carried out in consultation with Darlington Borough Council Highway Section) of the roadways to be used for the conveyance of construction materials to both Phases of the development shall be carried out , submitted to and agreed in writing by the Local Planning Authority. The Survey shall include methods and timetables for reporting and repairing any damage to the roadways. Such works shall thereafter be implemented in accordance with this.

**Reason** – In the interests of highway safety

11. Unless otherwise agreed by the Local Planning Authority, the development shall not commence until details of improvement works to the Burtree Lane access have been submitted to, agreed in writing by and carried out to the satisfaction of the Local Planning Authority. The details shall include the introduction of a junction and associated visibility splays and details of any remedial and strengthening works to the carriageway and the development shall be carried out in accordance with the approved details

**Reason** – In the interests of highway safety

12. Unless otherwise agreed by the Local Planning Authority, prior to the first occupation of the development a scheme to improve pedestrian and cycle access to the site from Rotary Way shall be submitted to and agreed in writing by the Local Planning Authority. The details shall include pedestrian and cycle links from the south side of Rotary Way to the access and shall be implemented prior to the development being brought into first occupation

**Reason** – In the interests of pedestrian and highway safety

13. All works within the public highway shall be subject to a Road Safety Audit at both design and completion stages. The Audit shall be carried out in accordance with the Road Safety Audit Standard in the Design Manual for Road and Bridges and shall be submitted to and approved by the Local Planning Authority  
**Reason:** In the interests of highway safety
14. Prior to Phase 1 of the approved development becoming operational, a Travel Plan shall be submitted to and approved by the Local Planning Authority and the development shall not be carried out otherwise than in complete accordance with the details contained within the approved Plan  
**Reason:** To encourage the use of sustainable means of transport
15. Notwithstanding the details shown on the approved plans, precise details of a secure cycle parking area shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development and the development shall not be carried out otherwise than in complete accordance with the approved details  
**Reason:** - To ensure that satisfactory levels of cycle parking areas are provided
16. Prior to the operation of any buildings of Phase 1 of the approved development a full Noise Impact Assessment based on the noise data relating to the actual plant and machinery to be installed, including tonal noise assessment, for this Phase shall be undertaken and approved by the Local Planning Authority. Prior to commencing the Assessment the scope of the report including all plant and machinery associated shall be agreed in writing with the Local Planning Authority. The findings and recommendations of the noise assessment shall be implemented in accordance with a timescale to be agreed with the Local Planning Authority. The operation of the plant and machinery shall not commence until the local planning authority has given notice, in writing, that it is satisfied that the level of noise emission from the plant and machinery respectively shall comply with the noise limits contained within conditions 17 and 18.  
**Reason:** In the interests of residential amenity.
17. Prior to the operation of any buildings of Phase 2 of the approved development a full Noise Impact Assessment based on the noise data relating to the actual plant and machinery to be installed, including tonal noise assessment for this Phase shall be undertaken and approved by the Local Planning Authority. Prior to commencing the Assessment the scope of the report including all plant and machinery associated shall be agreed in writing with the Local Planning Authority. The findings and recommendations of the noise assessment shall be implemented in accordance with a timescale to be agreed with the Local Planning Authority. The operation of the plant and machinery shall not commence until the local planning authority has given notice, in writing, that it is satisfied that the level of noise emission from the plant and machinery respectively shall comply with the noise limits contained within conditions 17 and 18.  
**Reason:** In the interests of residential amenity.
18. The Rating Level including any necessary correction for the character of the noise emitted from both phases of development combined shall be at least 5dB(A) below the background noise level at the surrounding residential properties identified in the "Whessoe Grange Noise and Vibration Impact Assessment for Lloyds TSB Bank plc" prepared by Ramboll dated November 2010 when measured in accordance with BS 4142:1997. The background noise level shall be measured and agreed in writing with the

Local Planning Authority prior to the development being brought into operation.

**Reason:** In the interests of residential amenity.

19. The Rating Level, including any necessary correction for the character of the noise, from the testing of generators emitted from both phases of the development combined shall not exceed the background noise level at the surrounding residential properties identified in the “Whessoe Grange Noise and Vibration Impact Assessment for Lloyds TSB Bank plc” prepared by Ramboll dated November 2010 when measured in accordance with BS 4142:1997. The background noise level shall be agreed in writing with the Local Planning Authority prior to the development being brought into operation

**Reason:** In the interests of residential amenity.

20. The testing of generators shall only take place between the hours of 8.00am-6.00pm, Monday to Saturday inclusive, unless agreed in writing with the Local Planning Authority.

**Reason:** In the interests of residential amenity.

21. The Rating Level, including any necessary correction for the character of the noise, from the emergency use of generators in the event of a power failure emitted from both phases of the development combined, shall not be greater than 5 dB (A) above background noise level at the surrounding residential properties identified in the “Whessoe Grange Noise and Vibration Impact Assessment for Lloyds TSB Bank plc” prepared by Ramboll dated November 2010 when measured in accordance with BS 4142:1997. The background noise level shall be agreed in writing with the Local Planning Authority prior to the development being brought into operation

**Reason:** In the interests of residential amenity.

22. Following commencement of the development, a Noise Impact Assessment shall be submitted to and approved by the Local Planning Authority for any additional external equipment to be installed which has the capability of producing noise levels beyond the site boundary of greater than 10 dB(A) below the background noise level ( for example, if the background noise level is 35 dB(A) LA90, any plant producing noise levels beyond the site boundary of 25 dB(A) or greater), The Noise Impact Assessment shall be based on the noise data relating to the actual plant and machinery to be installed, including tonal noise. Prior to commencing the Assessment the scope of the report shall be agreed in writing with the Local Planning Authority. The findings and recommendations of the Noise Impact Assessment shall be implemented in accordance with a timescale to be agreed with the Local Planning Authority. The operation of the plant and machinery shall not commence until the local planning authority has given notice, in writing, that it is satisfied that the level of noise emission from the plant and machinery respectively shall comply with the noise limits contained within conditions 17 and 18.

**Reason:** In the interests of residential amenity.

23. Prior to the commencement of the development a Construction Environmental Management Plan shall be submitted to and approved by the Local Planning Authority. The Plan shall include details relating to the specific noise producing activities expected on site, proposed suitable noise criteria and information to demonstrate that the criteria is achievable, details of any noise monitoring which is considered appropriate, a Code of Construction Practice and a Dust Action Plan and the hours of operation of construction activities. The development shall not be carried out otherwise than in complete accordance with the approved Plan unless otherwise agreed in writing by the Local

Planning Authority

**Reason:** In the interests of residential amenity

24. In the event of a complaint to the Local Authority regarding noise from the development, at the reasonable request of the Local Planning Authority, a noise consultant's report shall be submitted to the Local Planning Authority. The report shall contain an assessment of the noise emissions from the development and show whether the noise limits contained in conditions 16 and 17 of this permission are complied with. In the event of the assessment showing any exceedances of the noise limits, a scheme for the attenuation of noise necessary to meet the limits shall be submitted to, and agreed with, the Local Planning Authority and the agreed attenuation scheme shall thereafter be implemented.

**Reason:** In the interests of residential amenity

25. The development hereby permitted shall not commence until a scheme to deal with contamination of land and/or groundwater, including soil contamination, ground/surface water contamination, landfill gas, leachates and stability as appropriate, has been submitted and approved by the Local Planning Authority. The measures approved in that scheme shall be fully implemented in accordance with a timescale to be approved prior to the operation of the development. The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement specifically and in writing:-

A desk top study, carried out by a suitably qualified person, to identify and evaluate all potential sources and impacts on land and/or groundwater contamination relevant to the site. The scope of the study shall be agreed with the Local Planning Authority before it is commenced and the report shall conform to any such agreed requirements. Two copies of the desktop study and non-technical summary shall be submitted to the Local Planning Authority upon completion of the development.

A site investigation shall be carried out by a competent person to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications. The site investigation shall not be commenced until:

- a) A desk top study has been completed satisfying the requirements of paragraph (a) above.
- b) The requirements of the Local Planning Authority for site investigations have been fully established; and
- c) The extent and methodology have been agreed in writing with the Local Planning Authority.

Two copies of the report on the completed site investigation shall be submitted to the Local Planning Authority on the completion of the development.

A written method statement for the remediation of land and/or groundwater contamination affecting the site shall be determined through risk assessment and agreed in writing with the Local Planning Authority prior to the commencement of the development. The works specified in the Reclamation Method Statement shall be implemented and completed in accordance with the agreed method statement by a

competent person, no alterations to the method statement or associated remediation works shall be carried out without the written agreement of the Local Planning Authority.

Two copies of a completion report ( the 'Validation Report') confirming the objectives, methods, results and conclusions of all remediation works shall be submitted to the Local Planning Authority within 2 months of completion of the development.

Any contamination not considered in the Reclamation Method Statement but identified during the reclamation works should be subject to further risk assessment and remediation proposals agreed 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 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

26. Prior to operation of the development, an air quality impact assessment shall be submitted to and approved in writing by the Local Planning Authority. Any mitigation measures shown to be necessary shall be agreed in writing with the Local Planning Authority and implemented prior to the commencement of the development.

**Reason:** In the interests of residential amenity

27. Should piling be required, a Piling Risk Assessment, which includes details of the piling method to be employed, justification for its choice, means of monitoring vibration and groundwater risk and the impact upon trees shall be submitted to and approved by the Local Planning Authority. The development shall not be carried out otherwise than in complete accordance with the approved details.

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

28. Prior to the commencement of the development a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of the construction, management and maintenance responsibilities for the design life of the site and the development shall not be carried out otherwise than in complete accordance with the approved details

**Reason:** To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system.

29. Prior to the commencement of the development an 'Archaeological Mitigation Strategy' document, prepared in conjunction with Durham County Council Archaeology Section and covering all the requirements of a phased programme of archaeological work shall be submitted to and approved by the Local Planning Authority. This document will incorporate the written scheme of investigation and the strategy shall include details of the following:

- a) Measures to ensure the preservation in situ, or the preservation by record, of archaeological features of identified importance.
- b) Methodologies for monitoring of groundworks where required, and preservation by record of features identified during monitoring.



- c) Methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts.
- d) Post-fieldwork methodologies for assessment and analyses.
- e) Report content and arrangements for dissemination, and publication proposals, including requirements for interim post-excavation assessment reports to be submitted to County Durham HER for each phase of the development.
- f) Archive preparation and deposition with recognised repositories.
- g) A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy.
- h) Monitoring arrangements, including the notification in writing to the County Durham Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.
- i) A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications.

The development shall then be carried out in full accordance with the approved details contained within the Mitigation Strategy document.

**Reason-** To comply with policy E34 of the Borough of Darlington Local Plan 1997 and Planning Policy Statement 5 – Planning for the Historic Environment because the site is of identified archaeological interest.

30. Within 6 months of Whessoe Grange Farm being left unoccupied the implementation of a programme of archaeological work in accordance with a written scheme of investigation (to be included in the overall 'Mitigation Strategy' document) must be secured and cover the following:

- a) Methodologies for Level 2 EH-style building recording of the farmhouse (and any other building/s of historic importance).
- b) A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the approved strategy.
- c) Monitoring arrangements, including the notification in writing to the County Durham County Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.
- d) A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications.

The development shall then be carried out in full accordance with the approved details.

**Reason-** To comply with Planning Policy Statement 5 – Planning for the Historic Environment as the building is of historic significance.

31. Within 6 months of the completion of the archaeological programme of work, agreed with Durham County Council Archaeology Section, a copy of the full post-excavation assessment report synthesising the results for all phases of the development, including any analysis, reporting, publication or archiving required as part of the mitigation strategy, shall be deposited at the County Durham Historic Environment Record. Should it be required, the results of the excavations will also need to be published in an appropriate academic journal or equivalent.

**Reason** - To comply with Planning Policy Statement 5 – Planning for the Historic Environment to make the information as widely accessible to the public as possible.

32. No development shall take place until the Local Planning Authority has approved, in writing, a report by the applicant identifying how at least 10% of their energy supply through the use of renewable and decentralised or low carbon sources will be secured. The carbon savings, which result from this, will be above and beyond what is required to comply with Part L of the Building Regulations. Before the development is occupied the renewable energy equipment shall have been installed and the Local Planning Authority shall be satisfied that their day-to-day operation will provide energy for the development for so long as the development remains in existence. If this target cannot be met, the applicant must submit a report to the Local Planning Authority to demonstrate why the targets should be reduced or possibly waived and if an agreement is reached on this matter, the development shall be carried out in accordance with the submitted report.  
**Reason:** In order to comply with the objectives set out in the North East of England Plan Regional Spatial Strategy to 2021 and the Council's Supplementary Planning Document – Design for New Development for on site renewable sources.
33. Prior to the commencement of the construction of the data centre related buildings a design statement, to secure the appropriate BREEAM standard for the development shall be submitted to and approved by the Local Planning Authority. The development shall not be carried out otherwise in accordance with the approved details.  
**Reason:** In order that the Local Planning Authority are satisfied as to the details of the development and to ensure that the development is carried out in a sustainable manner in accordance with the Council's Supplementary Planning Document 2009 – Design for New Development
34. The development shall be carried out in complete accordance with the "Proposed Data Centre, Land at Whessoe Grange Farm, Darlington – Planting Proposals and Management Schedule" prepared by Gillespies LLP dated November 2010 unless otherwise agreed by the Local Planning Authority  
**Reason –** In the interests of the visual amenity of the surrounding area and fulfilling of the mitigation of the protected species ecology
35. Unless otherwise agreed in writing with the Local Planning Authority the development shall be carried out in complete accordance with the "Whessoe Grange, Ecology Method Statement for Lloyds TSB Bank Plc" prepared by Thomson Ecology dated January 2011 (Report No. 5 Rev. 5) including the prescriptions, procedures and scheduling of the various measures for ecological mitigation and enhancement works  
**Reason:** In order to conserve protected species and their habitats
36. Within a six month period of the commencement of the development an Ecological Management and Maintenance Plan shall be submitted to and approved by the Local Planning Authority and the development shall not be carried out otherwise than in complete accordance with the approved details  
**Reason –** To ensure that habitats and ecological enhancements will be maintained on site
37. An annual monitoring regime for all protected species identified in the Ecology Method Statement and identified habitats within the Ecological Masterplan (Fig 6 of the Ecology Method Statement) shall be submitted within a six month period from commencement of the development, with reports made available to the Local Planning Authority  
**Reason-** To ensure success of the mitigation and ecology enhancement proposals

38. 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.

**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.

39. Prior to the commencement of the development hereby approved details shall be submitted of a scheme to protect the existing trees and hedgerows shown on the submitted plans to be retained. The submitted details shall comprise generally the specification laid down within BS 5837 and shall include fencing of at least 2.3m high, consisting of a scaffolding frame braced to resist impacts, supported by a weldmesh wired to the uprights and horizontals to dissuade encroachment. The agreed scheme of protection shall be in place before the commencement of any work, including demolition operations. The Local Planning Authority shall be given notice of the completion of the protection works prior to the commencement of any work to allow an inspection of the measurements to ensure compliance with the approved scheme of protection.

Notwithstanding the above approved specification, none of the following activities shall take place within the segregated protection zones in the area of the trees:

- a) The raising or lowering of levels in relation to the existing ground levels;
- b) Cutting of roots, digging of trenches or removal of soil;
- c) Erection of temporary buildings, roads or carrying out of any engineering operations;
- d) Lighting of fires;
- e) Driving of vehicles or storage of materials and equipment.

**Reason** - To ensure that a maximum level of protection in order to safeguard the well being of the trees on the site and in the interests of the visual amenities of the area.

40. Notwithstanding the provision of condition 1 the proposed development shall be carried out in all respects in accordance with the proposals contained in the application and the plans submitted therewith and approved by the Local Planning Authority, or as shall have been otherwise agreed in writing by the Local Planning Authority.

**Reason** - To ensure the development is carried out in accordance with the planning permission.

## **SUGGESTED SUMMARY OF REASONS FOR GRANTING PLANNING PERMISSION**

The proposed development covers a large site area. It lies partly outside the development limits in the Borough of Darlington Local Plan within which most development would normally be focussed. However, it is within an area identified in the Regional Spatial Strategy as a key employment location and notwithstanding this the specific needs and characteristics of the development and the sensitive site layout and design in this case are considered to make the proposal acceptable in principle

Natural England and other similar interested bodies objected to the application on the grounds that the surveys for protected species and habitats should have been carried out at the appropriate times of the year and that the subsequent findings should form the basis of any mitigation measures submitted with the proposal. The need for survey work has been

acknowledged but extensive mitigation and enhancement measures have been put forward by the applicant to alleviate the risk to protected species which has been accepted by the Council.

The proposal offers opportunities for direct and indirect job creation and over the short term through the letting of construction contracts. It would also potentially benefit the economic well being of the Borough due to the prestige nature and globally significant economic profile of the occupier involved and the potential stimulus for other technology related companies to consider locating in the region.

The extent of the proposed landscaping mitigation measures and low level of lighting within the site will minimise the visual impact of the development upon the surrounding area and its rural setting and also its visual impact when viewed from the neighbouring residential properties.

The proposed development, subject to appropriate planning conditions to secure mitigation measures, will not result in conditions prejudicial to residential amenity (in terms of noise or general disturbance) or highway safety.

Overall this is considered to be a welcome development opportunity

The following national and local planning policies were taken into consideration

#### **National Planning Guidance**

Planning Policy Statement 1 – Delivering Sustainable Development

Planning Policy Statement 5 – Planning for the Historic Environment

Planning Policy Statement 9 – Biodiversity and Geological Conservation

Planning Policy Guidance 13 – Transport

Planning Policy Statement 22- Renewable Energy

Planning Policy Guidance 24 – Planning and Noise

Planning Policy Statement 25 – Planning and Flood Risk

#### **Borough of Darlington Local Plan 1997**

Policy E1 – Keynote Policy for the Protection of the Environment

Policy E2 – Development Limits

Policy E4 – New Buildings in the Countryside

Policy E6 – Protection of Agricultural Land

Policy E7- Landscape Conservation

Policy E11 – Conservation of Trees, Woodlands and Hedgerows

Policy E12 – Trees & Development

Policy E14 – Landscaping of Development

Policy E16 – Appearance from the Main Travel Routes

Policy E17 – Landscape Improvement

Policy E21 – Wildlife Corridors

Policy E23 – Nature and Development

Policy E24- Conservation of Land and other Resources

Policy E25 – Energy Conservation

Policy E26 – Energy from Renewable Resources

Policy E27 – Flooding and Development

Policy E28 – Surface Water and Development

Policy E29 – The Setting of New Development

Policy E34 – Archaeological Sites of Local Importance

Policy E47 – Contaminated Land and Unstable Land and Development

Policy E48 – Noise Generating/Polluting Development  
Policy E49 – Noise Sensitive Development  
Policy H15 – The Amenity of Residential Areas  
Policy R12 – Access to open land and countryside  
Policy R14 – Recreation Development in the Countryside  
Policy EP8 – Reserve Employment Site  
Policy T2 – Highway and Transport Management – New Development  
Policy T8 – Access to Main Roads  
Policy T12 – New Development – Road Capacity  
Policy T13 – New Development - Standards  
Policy T24 – Parking and Servicing Requirements for New Developments  
Policy T31 – New development and Public Transport  
Policy T36 – Cycle Route Network  
Policy T39 – Conditions for Pedestrians  
Policy T40 – New Development and Lorries

### **Other Documents**

Supplementary Guidance Note – Design for New Development  
Rights of Way Improvements Plan

## **INFORMATIVE TO BE INCLUDED SHOULD PLANNING PERMISSION BE GRANTED**

### **Highway Matters**

The applicant is advised that contact must be made with the Assistant Director: Highways and Engineering (contact Ms. P.Goodwill 01325 388760) to discuss naming and numbering of the development.

The applicant is advised that the highway works at the Burtree Lane access will be subject to a Sec.38/278 Agreement (Highways Act 1980) and the access from Rotary Way will be subject to a separate highway agreement. Contact must be made with the Assistant Director: Highways and Engineering (contact Mr.S.Brannan 01325 388755) to discuss this matter.

The applicant is advised that contact must be made with the Assistant Director: Highways, Design and Projects (contact Mrs.B.Bowles 01325 388774) to discuss introduction of a Traffic Regulation Order on the access road to the development.

### **Environment Agency**

#### **Foul Drainage**

The site lies in an area of high environmental sensitivity as the Magnesian Limestone principal aquifer underlies the site, a section of the site lies within source protection zone 3 of a licensed groundwater abstraction point in Darlington, and the West Beck to the west of the site is relatively small and will have limited capacity to accommodate any effluent discharge. However, from the information provided with the application it is understood that the discharge from the site's proposed foul drainage system appears to be small and low risk. The Environment Agency has no objections to the proposed development in this respect.

If the proposal foul drainage disposal scheme is amended for any reason then they would wish to be reconsulted. This is particularly the case if foul drainage were to be directed to groundwater instead of surface water.

As there are several package treatment plants within one site, the process of applying for a

permit will vary depending on the permitting requirements. Under the terms of the Environmental Permitting Regulations (England and Wales) 2010, anyone intending to discharge volumes of sewage effluent of 5 cubic metres per day or less to surface waters may be eligible for an Exemption, as opposed to a full Environmental Permit. This Exemption would need to be registered by the Environment Agency before any discharge could commence. If the planned discharges for the site meet the requirements for an exemption, then the applicant could apply to exempt each treatment plant as it is installed.

If the proposed foul drainage for the site fails the exemption assessment and/or discharges are above 5 cubic metres per day, then the applicant will need to apply for an Environmental Permit.

The applicant can either apply for a permit for each package treatment plant individually, or make one application for the whole site and then apply to vary the permit to include each package treatment plant as it is installed.

Please note that it is illegal to discharge sewage effluent without either an Exemption registration or an Environmental Permit.

Further guidance on making an application for a permit or exemption is available on the website at:

<http://www.environment-agency.gov.uk/business/topics/water/117485.aspx>

### **Fuel Storage and Distribution**

The proposal includes the distribution of fuel via an underground pipe network. As the site lies in an area of high environmental sensitivity with the Magnesian Limestone principal aquifer underlying the site, it is important to ensure that sufficient pollution prevention measures are put in place to reduce the risk of pollution to groundwater. However, as an Environmental Permit will be required which will cover all of the necessary details associated with the fuel distribution and storage, we will not be requesting further information at the planning stage.

They recommend that the application for the permit includes details of tanking to the underground pipes and proposals for monitoring and/or leak detection systems, to ensure that the risk of pollution to groundwater is minimised. The diesel storage tanks should be bunded and meet the requirements in the oil storage regulations to ensure that the ground is protected if there is a spillage. Advice on above ground oil storage can be found in our Pollution Prevention Guidance 2, which is available on their website at:

<http://www.environment-agency.gov.uk/business/topics/pollution/39083.aspx>

The applicant should contact our permitting officer Darren Anderson for further advice on the underground pipes. Rainwater runoff from the bunded areas and areas around the plant should also be dealt with as part of the Environmental Permit application process.

### **Generators**

The operator must have a valid Environmental Permit before the commissioning of the generators. The Environment Agency is currently in discussion with the applicant's consultant regarding the permitting requirements.

They wish to draw to your attention that stacks may be required to mitigate any potential pollution to air from the proposed generators. They will require further details regarding the potential height of the stacks in relation to the Environmental Permit, although they have no further comments to make at this stage.

**Network Rail****Drainage**

All surface and foul water arising from the proposed works must be collected and diverted away from Network Rail property. In the absence of detailed plans all soakaways must be located so as to discharge away from the railway infrastructure.

**Security of Mutual Boundary**

Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Engineer.

**Trees/Shrubs/Landscaping**

Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. We would wish to be involved in the approval of any landscaping scheme adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below and these should be added to any tree planting conditions:

Acceptable:

Birch (*Betula*), Crab Apple (*Malus Sylvestris*), Field Maple (*Acer Campestre*), Bird Cherry (*Prunus Padus*), Wild Pear (*Pyrus Communis*), Fir Trees – Pines (*Pinus*), Hawthorne (*Crtaegus*), Mountain Ash – Whitebeams (*Sorbus*), False Acacia (*Robinia*), Willow Shrubs (*Shrubby Salix*), Thuja Plicatata "Zebrina"

Not Acceptable:

Alder (*Alnus Glutinosa*), Aspen – Poplar (*Populus*), Beech (*Fagus Sylvania*), Wild Cherry (*Prunus Avium*), Hornbeam (*Carpinus Betulus*), Small-leaved Lime (*Tilia Cordata*), Oak (*Quercus*), Willows (*Salix Willow*), Sycamore – Norway Maple (*Acer*), Horse Chestnut (*Aesculus Hippocastanum*), Sweet Chestnut (*Castanea Sativa*), London Plane (*Platanus Hispanica*).

A comprehensive list of permitted tree species is available upon request.

**Access to Railway**

All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development.

Network Rail is required to recover all reasonable costs associated with facilitating these works.