

Annex 2

Darlington Borough Council

Central Park Enterprise Zone

Draft Statement of Reasons

for

Local Development Order

23rd November 2011



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1 Introduction

- 1.1 Central Park is one of the Tees Valley's flagship regeneration schemes seeking to deliver a high quality, mixed use development close to Darlington's Town Centre. The comprehensive scheme, of which the Enterprise Zone forms an important element of will deliver a high quality commercial floorspace and residential development in an environment offering extensive, quality green spaces and public realm.
- 1.2 Central Park is the only Tees Valley Enterprise Zone within Darlington Borough; the Commercial Quarter of this flagship mixed-use regeneration site has been identified as a business rate relief Enterprise Zone site aimed at supporting and facilitating the emerging and fast-growing digital sector. The Commercial Quarter of Central Park is to be known as the Central Park Enterprise Zone.
- 1.3 To aid economic recovery and stimulate growth, the Government is pursuing its programme of Enterprise Zones throughout the country. The Tees Valley Enterprise Zone was announced as part of the Budget in 2011, and its format was agreed between the Government and Tees Valley Unlimited in August 2011. The Zone consists of 12 individual sites that will benefit from a range of incentives including financial, simplified planning rules and high speed broadband. The financial incentives offered will take the form of either business rate relief, worth up to £275,000 over a 5 year period, or enhanced capital allowances to support the growth of existing firms and/or attract significant foreign investment.
- 1.4 The simplified planning regime will be introduced predominantly through the use of Local Development Orders (LDOs). This means that for specific developments that will help deliver the aims of the Enterprise Zone, conventional planning permission will not be required.

Tees Valley Enterprise Zone

- 1.5 The Tees Valley Enterprise Zone proposal is based upon assisting the delivery of the two ambitions set out in the Statement of Ambition:
 - a) Driving the transition to a high value, low carbon economy; and
 - b) Creating a more diverse and inclusive economy.
- 1.6 It is considered that the Tees Valley Enterprise Zone proposal will contribute towards the achievement of these ambitions; it has been tailored to the specific and complex challenges and opportunities within the Tees Valley.
- 1.7 The rationale behind the Tees Valley Enterprise Zone creation is to:
 - a) Use Business Rate Relief for those sites which are aimed at fostering indigenous small and medium sized businesses which form the supply chain of the area's heavy industries such as petro-chemicals, renewable energy and advanced engineering or which are part of the area's emerging and fast growing digital sector; and
 - b) Offer enhanced Capital Allowances to support the petro-chemical, renewable energy production and fabrication and advanced

engineering sectors to modernize and expand their activities and to attract large scale inward investors, particularly foreign direct investment.

Simplified Planning Requirement for Enterprise Zones

- 1.8 One of the conditions attached to the designation of the enterprise zone is that they offer simplified planning rules. The Government is promoting the use of Local Development Orders (LDO) as a means to simplify the process.
- 1.9 LDOs are an existing part of the planning system having been introduced through by Planning and Compulsory Act (2004).
- 1.10 An LDO grants planning permission for a specified type and/or scale of development, subject to conditions where appropriate. They essentially set out the type of development that will no longer need to be subject to a planning application. If the requirements of an LDO are met it can be assumed that the development can proceed without a specific grant of planning permission by the Council. The development permitted through an LDO is only of the type that would be considered as part of the normal planning regime.
- 1.11 The LDO subject to this Statement of Reasons (hereinafter referred to as the 'Order') applies to the Central Park Enterprise Zone; it sets out the type of development that will be permitted to support the aims of the Tees Valley Enterprise Zone. Any development proposal beyond the scope of the Order will need to be considered through the normal planning application process.
- 1.12 The Order does not remove the requirements of other statutory regulation and consent regimes; Listed Building Consent, Advertisement Consent, Hazardous Substances Consent¹ for example will all need to be acquired where appropriate through the existing regimes. In addition it is important to note that the Order does not remove other forms of statutory regulation including the Habitat Regulations, Environmental Impact Assessment and protected species legislation².

¹ This list is not considered exhaustive of all relevant consent regimes.

² This list is not considered exhaustive of all relevant regulation and legislation.

2 Justification for creating Local Development Order

Central Park – The Policy Context

- 2.1 Central Park is one of the Tees Valley's flagship regeneration schemes, seeking to deliver a high quality, mixed use development close to Darlington's town centre. Following an initial masterplanning exercise, development partners were selected through a competitive process to deliver the comprehensive mixed-use scheme in partnership with the Council and One North East (and subsequently Homes and Community Agency). The comprehensive scheme, of which the Enterprise Zone forms an important element, will deliver:
- Up to 600 new homes of various types, including 15% affordable dwellings;
 - 28,000 sqm B1 space, including 2,500 sq m incubator accommodation;
 - Hotel and conference facilities;
 - Community provision and supporting retail and leisure amenities including bars and restaurants;
 - Multi-storey and enclosed surface car parking; and
 - Extensive, high quality green spaces and public realm.
- 2.2 The Central Park vision which underpins the comprehensive scheme is based around a high quality, mixed use development providing people with a healthy life/work balance in an inspirational, successful and vibrant environment which promotes the creation of an active, inclusive and harmonious community, whilst ensuring improvement and enhancement of the existing.
- 2.3 Central Park's location close to the town centre in this thriving Borough, coupled with its proximity to Bank Top Station, a strategic transport interchange, offering the Tees Valley's only station on the East Coast Main Line, is considered to be well placed within the Tees Valley to attract high quality commercial users across a variety of business sectors. The quality aspirations for the site and the scale and significance of open space and public realm throughout the scheme are an essential component to delivering the vibrant and buoyant commercial sector envisaged for Central Park.
- 2.4 The co-location of Darlington College's only campus and the new University of Teesside campus in the north western corner of Central Park are considered to complement the Central Park Enterprise Zone. They have the potential to extend their links into the commercial sector and attract appropriate businesses. The educational quarter on Central Park is seen as another attractor of this Enterprise Zone site, and an essential element of the wider regeneration objectives for the borough.
- 2.5 The importance and significance of Central Park to the Borough and the regenerative benefits it offers, is reflected within the Darlington local Development Framework Core Strategy (adopted May 2011)³, which identifies it as a strategic priority for mixed use development within the Borough, second only to the town centre (see CS1: Darlington's Sub-Regional Role and Locational Strategy).
- 2.6 It is considered that the Enterprise Zone and the simplified planning rules it offers are a key delivery mechanism for the comprehensive Central Park scheme.

³ Hereinafter referred to as the Core Strategy

However, the wider objectives for Central Park are to assist in the regeneration of the borough and Tees Valley, providing high quality homes and employment in an environment offering excellent public realm, open space and transport links. This objective goes beyond the sectors specifically targeted by the Enterprise Zone's financial incentives, as it seeks to deliver high quality employment opportunities across a number of sectors which will require office and other B1 space. For this reason the Council are keen to maximise the benefits of the Order beyond the sector focus of the Enterprise Zone.

- 2.7 As such the Council consider it appropriate to encourage all suitable businesses, including those beyond the Digital Sector to locate on Central Park. This will help ensure a buoyant, thriving business site, is created to maximise the regenerative benefits to the wider Borough and sub-region. Moreover Central Park's location is considered to be well placed within the Tees Valley to attract high quality commercial users across a variety of business sectors from outside the Tees Valley. By making to non-financial incentives of the Central Park Enterprise Zone available to businesses outside the digital sector, the delivery of this objective and the wider regenerative benefits of the scheme to the Borough and sub-region will be maximised.
- 2.8 For these reasons the Council proposes that all development falling within the B1 land use classification (subject to conditions) will be permitted through the Order. It is considered that this is in the best interest of the Central Park development and the regenerative benefits is offers the borough and sub-region.
- 2.9 Central Park is identified in the core strategy as a priority for mixed use development, second only to the town centre. Therefore the Council considers that, to ensure the commercial component of the scheme does not become an isolated or sterile business park, a mix of uses, which keeps Central Park 'alive' throughout the day and into the night, is required. This will be achieved by providing active frontages at key points throughout the Enterprise Zone, specifically through the incorporation of A1(retail), A3 (cafes and restaurants) and A4(drinking establishments) uses within the ground floor spaces of larger developments, providing active frontages throughout the Enterprise Zone. For this reason, it is proposed that the Order will also permit A1, A3 and A4 uses where they form a ground floor use within a larger multi-storey building up to 100 sqm gross floorspace per unit. A maximum of 500 sqm gross floorspace of such uses within the Enterprise Zone has been set. These limits are considered appropriate in line with the thresholds set out in Core Strategy Policy CS9 and in the context of policies CS7, CS8 and the wider mixed use regeneration scheme of Central Park.
- 2.10 Whilst the aspirations for Central Park are to deliver a high quality urban design throughout the entire scheme, the Council has tried to ensure only the essential design components and features are conditioned. These include all development meeting the 'BREEAM Very Good' standard, and compliance with key areas of the Borough wide 'Design of New Development' SPD⁴. It is considered that this is the minimum required to achieve the necessary built quality and environment.
- 2.11 High quality urban design across Darlington as a whole is a priority for the Council, with Central Park being identified as a flagship regeneration scheme

⁴Design of New Development SPD can be viewed at:
<http://www.darlington.gov.uk/Living/Planning%20and%20Building%20Control/Planning%20Services/Planning%20Policy/NewDesignSPD.htm>

which is to set a precedent for future development. As such the Council strongly urges developers to consider the 'Design of New Development SPD' in its entirety during the formulation of design and to strive for development beyond the standard required by conditions in order to deliver the high quality design and environment which is envisaged for Central Park. Developers are encouraged to contact the Council for further advice and guidance in relation to this matter to ensure that proposals are of a high quality, locally distinctive design and as such will contribute towards the aspirations for Central Park.

- 2.12 It is hoped that, in simplifying the planning rules for development within the Central Park Enterprise Zone, it will be an additional incentive for those businesses wishing to relocate to, or expand within the Tees Valley and Darlington in particular, as well as those local businesses wishing to expand. In drafting the Order the Council has endeavoured to ensure that a limited number of details are required for approval; where details are required, it is because site conditions suggest there may be an environmental or amenity issue which needs extra consideration and controls placed upon them to minimise the harm to these features. In addition, there is a requirement to submit details for consideration by the Council before it can confirm that the development complies with the Order in relation to other areas of regulation and statutory duty for example the Environmental Impact Assessment, protected species, national planning policy and the Council's role as Local Highway Authority.
- 2.13 It permits development falling within the B1 land use classification, subject to the requirements set out in Schedules 3 and 4 of the Order. The Order is not the mechanism which will determine whether a development or business would be applicable for the financial incentives; this will be assessed through separate procedures. Nor does the Order automatically qualify a business for the financial incentives on offer. It was however decided that, in order to deliver the maximum benefit through the simplified planning regime, that other sectors should not be excluded as the site is identified in the Central Park Masterplan as suitable for all B1 uses and sectors.

Relationship with Tees Valley Enterprise Zone

- 2.14 The Tees Valley Enterprise Zone was announced by the Government in the 2011 Budget, and comprises 12 sites throughout the Tees Valley. Central Park has been included within this and will benefit from Business Rate Relief status. The purpose of this is to encourage small and medium sized businesses operating within the digital sector to move into Darlington from outside the Tees Valley, and encourage local digital businesses to grow and expand. There are a range of benefits to businesses locating within the Central Park Enterprise Zone site; these include the business rate relief, simplified planning rules and superfast broadband.
- 2.15 The Central Park Enterprise Zone financial incentives are specifically targeting businesses that operate within the digital sector; it will only be businesses within the digital sector which will benefit from the business rate relief package accompanying the Central Park Enterprise Zone.
- 2.16 This incentive is intended to encourage and stimulate businesses within the digital sector, attracting them to Darlington or fostering the expansion of indigenous digital companies. There are three digital focused Enterprise Zone sites across the Tees Valley; it is hoped that by offering a choice of sites with similar incentives, an environment which stimulates the growth of indigenous

businesses and attracts new businesses to the Tees Valley will be created, and assist in the growth of Tees Valley's emerging Digital Sector.

- 2.17 The traditional planning system is often perceived (nationally) to be a barrier to economic growth due to the costs and time associated with preparing and submitting a planning application, with little certainty of the outcome. In being proactive and identifying what development is acceptable within the Central Park Enterprise Zone and making an LDO to reflect this, the Council is seeking to compliment the financial incentives offered through the Enterprise Zone and stimulate economic growth. In removing the need for individual businesses to apply for planning consent, it is considered that the LDO will assist in the creation of an environment within which businesses can start-up and grow.
- 2.18 All three digital focussed Tees Valley Enterprise Zone sites will offer simplified planning through LDOs made by the respective Borough Council. It is anticipated that this shared approach will ensure the three digital sites are equally attractive; this in turn will help minimise the displacement between these three sites and their Borough's.

3 Site Context and Information

- 3.1 In making a LDO, as with determining a planning application, it is important to consider the site history, its description and any constraints, in order to determine the suitability of the proposal and identify the conditions that are necessary to ensure the development is acceptable. The following section, together with the policy context set out in **Section 2**, will help provide the context for the scope of development permitted together with the pre-notification procedure, urban design requirements and conditions which all form part of the Order.

Development Context

- Outline planning permission for the site was granted in 2005, subject to a S106 Agreement which was signed by the selected developer. In 2006 Council, together with other public sector partners (who now fall under the Homes and Communities Agency), undertook a procurement exercise to select developers to bring forward the scheme. A Development Agreement is now in place with the successful consortium. All partners are currently in the process of revising the masterplan for the wider scheme which seeks to deliver the aspirations for the original scheme in the context of the current market conditions and recent economic downturn. As this work is currently on going, it has been considered premature to refer to the masterplan in detail at this time within the Order, however it is considered by the Council that the Enterprise Zone and the Order are complementary to the wider mixed use scheme which will be reflected in the revised masterplan. As such it is anticipated that conformity to the masterplan will be a condition of the Order; the wording of the proposed condition is set out in Schedule 4 of the Order⁵. **Appendix 1** sets out the draft principals of the masterplan and the proposed uses it will include. A masterplan Brief which reflects these will be available from early December 2011.
- 3.2 The concept of Central Park is recognised within Darlington's Core Strategy, acknowledging it as a possible strategic location for mixed use development within the Borough. Policy CS2 identifies that after the Town Centre, Central Park is a priority for new development - residential and employment in particular. Whilst Policy CS 5, which seeks to ensure that there is a sufficient supply of land for employment purposes, the policy identifies that Central Park will deliver up to 10Ha of land for employment purposes between 2011 and 2021. The Central Park Enterprise Zone is intended to satisfy this specific policy requirement.
- 3.3 Darlington College and the University of Teesside have both opened buildings in the north west corner of Central Park, which adds to the mix of uses within Central Park, and provides a great opportunity in terms of the potential links between these regional educational institutions and the businesses who will locate within the Enterprise Zone.

Site Description

- 3.4 Central Park is located between Haughton Road to the north, Yarm Road to the south, the East Coast Main Line to the west and Hundens Lane to the east. In general the site is relatively flat, although there is a small valley running from the

⁵ The masterplan will be subject of its own consultation and is anticipated to be agreed and approved by the Council in February/March. In the interim the Masterplan Brief will accompany the Order, setting out the key principles and concepts for Central Park.

centre of the site towards the north eastern corner which is to be utilised as the main Sustainable Drainage System for the wider development.

3.5 The proposed site boundary is shown in **Figure 1** below, and has been derived at through discussions between public and private sector partners as part of the masterplanning process, will be finalised following stakeholder consultation. The area of potential is set out in Schedule 1 of the Order.

3.6

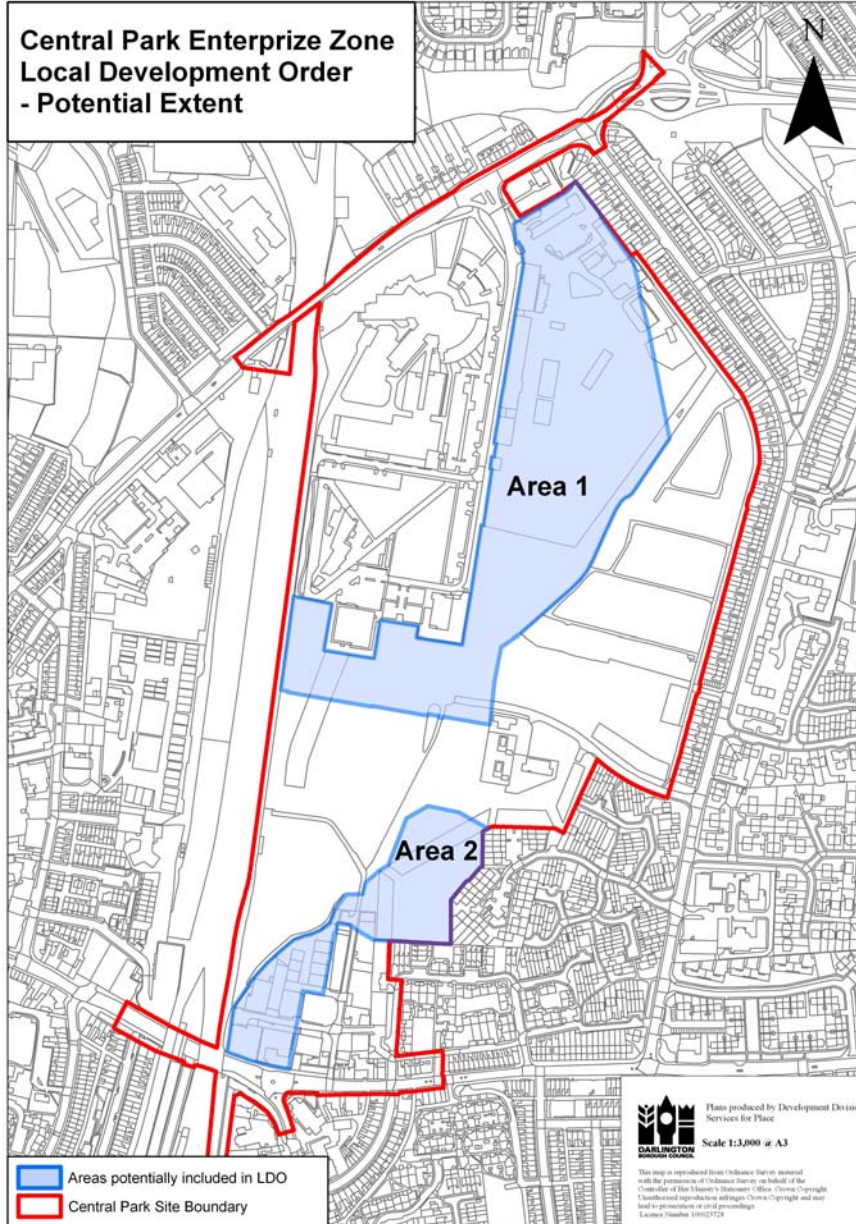


Figure 1 - Proposed Coverage of the Central Park Enterprise Zone Local Development Order

Site Constraints

3.7 The known potential constraints relating to the site are set out below, and represent the information available to the planning authority at the time of preparing the Order. It is strongly recommended that any potential developers

seek clarification regarding these issues prior to commencing development. As previously stated, the Order simply permits development under the planning regulations, it does not remove the need to acquire other appropriate consents or comply with other regulations.

Utilities

- 3.8 The site is not fully serviced. Gas, water and electricity are present at the north and south of the site, but extensions to these services will be required to serve the centre of the site.

Transport and Access

- 3.9 Access to the site in the immediate term will be provided from Haughton Road to the North. The permanent access solution for the access will be delivered off Yarm Road to the south. The Council and partners are working together to assemble the wider site in order to open up the site from the south for the benefit of the Central Park Enterprise Zone and other commercial developments. The location of the junction and infrastructure related works are yet to be finalised, but the general location has been excluded from the Order so that the provision of these items is not prejudiced by the grant of inappropriate planning permissions in this area.

Flood Risk

- 3.10 Central Park falls within flood zone 1; the area is therefore considered to be at low risk of flooding. The Borough's Strategic Flood Risk Assessment does not identify any flooding issues relating to the Enterprise Zone. It does however identify that the main flood risk issue pertaining to the site is the management of surface water run-off. It is intended that the entire scheme managed by way of a Sustainable Drainage System (SUDS). It is anticipated that development within the Enterprise Zone will be linked to the SUDS which serves the wider Central Park development, however should development come forward before this is in place, provisions for appropriate surface water drainage must be made.
- 3.11 As per the requirements of Planning Policy Statement 25: Development and Flood Risk, any development over 1Ha will still need to submit a Flood Risk Assessment for approval by the Local Planning Authority at the 'Pre Notification' stage⁶. The process of 'approving' the FRA means that the development is acceptable on the understanding and agreement that the proposal must conform to and implement the recommendations set out in the approved FRA.
- 3.12 In those instances where the Council is unable to approve the FRA due to insufficient detail or because of the nature and/or severity of the impacts which it identifies, the Council will be unable to confirm that the proposal is in accordance with the Order. Unless the scheme can be amended to reduce the flood risk resulting from the development (principally through drainage and water management), a separate planning application will be required in order for the Council to fully consider the impacts of the development and where necessary secure the appropriate level of off site mitigation required.

⁶ See Section 5 of this Statement of Reasons document for further details

Health and Safety Executive

- 3.13 The Enterprise Zone does not fall within any Health and Safety Executive Consultation Zones. The nearest industrial hazard is the Gasometer, however its Outer Zone Consultation area ends to the north west of Haughton Road.
- 3.14 Although it is not anticipated that the nature of the development permitted will involve the use of hazardous substances, it is important to note that the Order does not remove the need for Hazardous Substance Consent. Therefore should a developer wish to bring forward a B1 use in accordance with the Order, which did include the use of hazardous substances, the developer/operator would need to apply for Hazardous Substance Consent in the usual manner⁷.
- 3.15 The 'Darlington Central' substation is situated to the east of the site. CE Electric UK have confirmed that the site is considered "cold". The earth potential rise for earth vaults has been calculated at 357 volts which is well within the ITU limit of 650 volts. As such it is unlikely that there will be an adverse impact upon the proposed development.

Contamination

- 3.16 Central Park has been subject to a number of previous historical land uses, with the main area proposed for the Enterprise Zone being a former railway plant and foundry. Previous site investigations have indicated made ground consisting of a black ash fill in this area and widespread hydrocarbon and heavy metal contamination. Given the nature of contamination on this site, and previous historical land uses, further site investigations and possible remediated will be required to ensure that the land comprising the Enterprise Zone is suitable for its end use.
- 3.17 The Central Park partners are currently working to gather the relevant information and assessments to fully understand and manage the contamination issues on site. Should these details be available, agreed and accepted, prior to the finalisation of the Order the Statement of Reasons and conditions attached to the Order will be amended to remove the need for survey work to be submitted and be limited to the resulting mitigation measures identified. This will provide increased certainty for potential developers and make the compliance with the Order less onerous from the outset.

Environmental Health – Noise and Air Pollution

- 3.18 Whilst the definition of B1 uses identifies that they must be capable of being undertaken in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit', the external plant often associated with these uses, including air conditioning units, extraction or ventilation often create some disturbance to the amenity of the local area. In addition the proposed A1, A3 and A4 uses also have potential to give rise to noise, fumes and smells which may also give rise to disturbance.
- 3.19 The Central Park Enterprise Zone forms part of a wider mixed use scheme for the area, which includes a number of residential properties and public spaces. In addition, the southern portion of the Enterprise Zone is located in close proximity

⁷ Reference to regs/ regime/ appropriate authority.

to a number of existing residential properties. As such it is important to consider the impact of the proposed uses on these properties and proposed public areas. The aspirations for the wider Central Park scheme seek to create a high quality environment which can be used by residents, employees and visitors alike make it essential that noise, fumes and smells in particular are appropriately controlled in an effort to safeguard this aspiration.

- 3.20 Noise, smells and fumes resulting from external plant can be managed appropriately to limit the impact on residential and local amenity. To ensure that these are designed and located in a manner to minimise the impact upon the surrounding area, the Council's Environmental Health Team can discuss and provide advice on the design, positioning and technical requirements of external plant prior to the proposal being finalised. In order to ensure that any external plant is not of detriment to the local and residential amenity, any proposal which requires external plant must submit details for approval by the Council and implement accordingly.
- 3.21 Hours of operation and delivery (and associated activities) can also cause noise disturbance to residential properties. To protect residential amenity the hours of operation on the scheme have been limited in efforts to minimise noise and disturbance between 2100 and 0700 hours.
- 3.22 The Enterprise Zone is located adjacent to the East Coast Main Line and Yarm Road, which both have the potential to create noise disturbance to the users of the buildings within the Enterprise Zone. The most sensitive of these uses fall within the B1 Class II land use definition. It is important that appropriate measures are put in place to minimise the disturbance which external noise has on the use and operation of the new buildings, to ensure the high quality working environment aspiration for Central Park is achieved.

Habitats, Protected Species and Green Infrastructure

- 3.23 There is a small area of the site designated as a local wildlife site in the local plan. There is a presumption against development of these areas unless the loss of habitat can be adequately compensated for elsewhere. In addition, the site contains habitats which suggest that protected species may be present. Before the Council can grant planning permission, it has to consider the presence of protected species and how they could be affected through the development. There are three particular protected species which may be present on site: Great Crested Newts, bats and the dingy skipper butterfly.
- 3.24 To minimise the potential harm to protected species, the Council will require appropriate survey work to be submitted at the 'Pre-Notification' procedure to enable them to determine whether it is appropriate to incorporate any mitigation measures into the proposal. Natural England has published some standing advice in relation to protected species, which sets out further information on the species in question and advice on the content of surveys required.
- 3.25 The Council is currently working with partners to undertake these habitat and species surveys. If these are complete prior to submission of the Order, the Council intends to remove this aspect of the pre-notification requirement to undertake the surveys and instead attach conditions requiring the identified mitigation measures. This will ensure the Order's pre-notification procedure is less onerous as well as providing developers with more certainty in relation to

how this issue should be addressed and accommodated within their development.

- 3.26 It is however important to note that, despite ecological surveys being undertaken which suggest that protected species are not using the site, it is possible that protected species may be encountered once development commences. If this is the case it is the responsibility of the developer to cease works and seek the appropriate advice before further work can proceed. If protected species are found prior or during the development the Council's ecologist can be contacted for further advice as a first port of call, if the appropriate expertise are not readily available.
- 3.27 Within PPS9⁸ there is a requirement to achieve no net loss of biodiversity levels as a result of new development as well as identify opportunities to enhance biodiversity levels where possible. As the site in its present condition enjoys a comparatively high level of biodiversity, it follows that the recommendations for its development needs to find ways to either, maintain existing habitat, translocate important habitat in an acceptable manner to new locations, either on or off the site or create new habitat that is shown through appropriate design and management proposals, to sufficiently compensate for the disturbance or loss of existing habitat, again either on or off the site. New development can incorporate design features and landscaping which can, even in a highly urban setting, in part mitigate for lost habitat by providing new habitats in a creative way by using these new urban landscapes. Such devices as wetland as a result of a well designed SUDS scheme, transition zones between these features and wet woodland or water meadow, wildflower meadow and woodland, are all perfectly possible elements that can operate in the urban environment. It follows that these then need to be integrated into the wider multifunctional approach to creating meaningful green infrastructure where appropriate habitat is combined with access for adventurous play, sustainable green transport and quiet informal recreation.. The Council is keen to encourage developers to include such features which will contribute towards Darlington's Green Infrastructure. Further advice in relation to this matter can be found in the 'Design of New Development' SPD. Landscaping will form an important component of any proposal on the Central Park Enterprise Zone to ensure the wider design and environmental aspirations are achieved.

Historic Environment

- 3.28 There are no Listed Buildings or Conservation Areas within the Enterprise Zone. The closest Listed Building is St John's Chapel which is situated to the south of Yarm Road. It is a prominent Grade II Listed Building, whose presence adds to the steeples and spires townscape of Darlington. Although it is considered unlikely that development under the Order will affect the setting of the Listed Building, the Council will consider this issue as part of the 'Pre-Notification' and EIA Screening. Where it is determined by the Council's Conservation Officer that the development will have an adverse impact upon the setting of the listed building, the LPA will open negotiations with the developer to identify how this impact could be mitigated through scheme amendments. Circular 01/2006 identifies that a LPA cannot make an LDO which permits development affecting a Listed Building⁹. In those instances where the Council consider that the proposal

⁸ PPS9 – Planning Policy Statement 9: Biodiversity and Geological Conservation (2005)

<http://www.communities.gov.uk/publications/planningandbuilding/pps9>

⁹ As per Regulation 34 (13) of DMPO 2010

will adversely affect the Listed Building and no scheme amendments can be agreed, the Council will be unable to confirm that the proposal complies with the Order. The proposal will therefore have to be the subject of a planning application to gain the appropriate planning consent.

- 3.29 The Council has information pertaining to the history of the site, and this can be made available to developers upon request. In an effort to reflect the site's built, industrial and rail heritage, the Council would encourage developers to consider this heritage in the naming of buildings where possible.
- 3.30 There are no known features of archaeological importance on site, however due care and attention should be paid when developing the site. Should artefacts of interest be located, these should be reported to the County Archaeological Team at Durham County Council.

Safeguarding of mineral resources from sterilisation

- 3.31 Much of the Tees Valley, including Central Park, falls within a minerals safeguarding area, as identified on the 'Deep Resources' Safeguarding plan under Policy MWC4 of the Tees Valley Minerals and Waste Core Strategy (September 2011). The policy seeks to safeguard rare mineral resources from sterilisation through non-mineral related development. Gypsum is the resource identified as being present at Central Park.
- 3.32 Where possible, the policy seeks to ensure that these resources are extracted prior to development to prevent the sterilisation of that resource. The policy will only permit non-minerals related development within these areas where the need for the non-mineral development can be demonstrated to outweigh the need for the mineral resource. The policy only provides that the extraction of the mineral resource should proceed in those circumstances where it will not adversely affect the timing and viability of the non-minerals development.
- 3.33 As the Central Park scheme is a key regeneration priority of sub-regional importance which will deliver high quality new homes, commercial floorspace and open space, it is considered by the Council as local planning authority that the delivery of the scheme outweighs the need for this mineral resource. Moreover, the sites proximity to the East Coast Main Line and the indicated depth of the gypsum mean that extraction prior to development is likely to be a costly operation which will adversely impact upon the timing and viability of the scheme.

4 Description of Development permitted by this Local Development Order

- 4.1 The Order will be made to permit development falling within the use classes A or B1 of the Town and Country Planning (Use Classes) Order 1987 (UCO) with the following limitations:
- No development within Class B1(c) (light industrial) of the UCO is permitted;
 - No development within Classes A2 or A5 of the UCO is permitted;
 - All A1, A3 or A4 development must be located on the ground floor of a building whose principal use is B1 of the UCO;
 - Each A1, A3 or A5 unit does not exceed 100 sqm gross floorspace;
 - The total cumulative floorspace of A1, A3 or A5 does not exceed 500 sqm throughout the Enterprise Zone area.
 - Any development that is considered to be Environmental Impact Assessment development as set out in the Regulations¹⁰ or deemed to be such by the Council in their Screening Opinion¹¹;
 - Any development which has an adverse impact upon a flood risk, protected species, local highway network which cannot be appropriately mitigated through on site works or minor scheme amendments;
 - Any development which is considered to be sui generis¹²; and
 - Development shall be of no more than 15m above ground level, including an external plat or ventilation accommodated on the roof.
- 4.2 A 'Prior Notification to Development under the Central Park Enterprise Zone Local Development Order' procedure (herein after referred to as Pre-notification) must be followed for every proposed development coming forward under the Order, in accordance with the details as set out in **Schedule 3** of the Order. Development cannot be considered lawful development until amongst other things (including other provisions of schedule 3) this Pre-notification has been undertaken and the Council has confirmed in writing that the proposal complies with the Order.
- 4.3 All development brought forward under the Order must comply with the conditions set out in **Schedule 4** of the Order. Given the high aspirations the public sector partners have for the wider Central Park regeneration scheme, any development brought forward under the Order must also reflect the guidance set out in the Design of New Development SPD.

Lifetime of the Local Development Order

- 4.4 The Order will be in place for 3 years; with expected adoption by the Council on 1st April 2012 and expiry on 31st March 2015.

¹⁰ The Town and Country Planning (Environmental Impact Assessment) (England & Wales) Regulation 1999

¹¹ This will be ascertained through the 'Pre-notification' procedure.

¹² ie does not fall within a specific use class within the Use Class Order 1987 (as amended) (UCO)

- 4.5 The Council has three options available to it following the expiry of the Order. They are:
- Revise and re-adopt the Order with the similar conditions and criteria, brought up to date to reflect the latest policy and legislation;
 - Prepare a totally new LDO for the Central Park Enterprise Zone; or
 - Simply return to the established planning regime.
- 4.6 Any development which has commenced under the provisions of the Order, before expiry will be able to be completed and operated in accordance with the requirements and conditions of the Order.
- 4.7 The uses which have been developed and implemented under the Order will be allowed to continue to operate following expiry in accordance with the conditions under which they were permitted – i.e. those set out in the Order.
- 4.8 Following the expiry of the Order, any new development, changes to existing development or changes to the restrictions imposed upon them by the Order's conditions must not take place until the Council has considered whether these changes can be agreed in writing under this conditions of Order by which they were permitted, or whether a planning application is required under the statutory planning regime.

5 Requirements of the Local Development Order

- 5.1 There are two separate requirements of the Order, firstly that the developers complete a Pre-notification procedure and secondly that they satisfy the conditions attached to the Order.

Pre-Notification

- 5.2 In order for development to be permitted under the Order, a Pre-notification procedure must be carried out by the developer. This procedure requires some limited information to be submitted to the Council, including the completion of the Pre-notification form. This form asks for a limited number of details to be provided by the developer to enable the Council to determine whether the proposal satisfies the requirements of the Order. Where the Council concludes that the proposal satisfies the requirements of the Order, it will write to the developer to confirm that the proposal is permitted under the Order; this will occur within 28 days of the receipt of the complete Pre-notification form and associated documentation.
- 5.3 The Pre-notification also requires an EIA Screening Request to be submitted to the Council to enable the Council to determine whether the proposal is deemed to be EIA development. This will require an overview of the development, its location and proposed use; it should also include a deposit copy of the plans and elevations, together with a specification where necessary, to enable the Council to make an informed judgement. If the Screening Opinion provided by the Council identifies that the development constitutes EIA development, development will not be permitted under the Order; a separate planning application will be required. To re-iterate, the Order will not permit any development which is EIA development, either under schedule 1 or under schedule 2 of the regulations.
- 5.4 In addition, in those instances it is considered appropriate (see table 1 below) the following assessments/surveys must accompany the 'Pre Notification' form:
- Flood Risk Assessment – for proposals in excess of 1Ha gross area;
 - Transport Statement or Assessment; and
 - Great Crested Newt, Dingy Skipper Butterfly and/or Bat Survey.
- 5.5 Where the details submitted indicate that there are likely adverse or substantial impacts which cannot be appropriately mitigated through on-site works or via minor scheme amendments, the Council will be unable to confirm that the proposal is in line with the Order. This is because the Order does not permit development which has substantial impacts on the local highway network, protected species or flood risk.
- 5.6 Where the details submitted identify that there are smaller impacts which can be mitigated through on site works and/or scheme amendments, the Council will work with the developer to incorporate these into the proposal. The Council will then confirm that the proposal conforms to the Order on the basis that the findings and recommendations are reflected within the scheme as agreed. It is anticipated that this will reduce the number of separate planning applications required.

- 5.7 The Council is working with its development partners to obtain these assessments in advance of the Order being submitted to the Secretary of State. Where these are available, the Council intends to remove the requirement for individual developers to complete these surveys and assessments and simply require the appropriate mitigation measures via condition. It is intended that this will provide increased certainty to developers in terms of the requirements placed upon them and make the pre-notification less onerous. These changes and conditions will be discussed with the statutory consultees prior to the finalisation and adoption of the Order.

Conditions

- 5.8 In addition to the pre-notification, there are conditions attached to the Order to ensure the impacts of the development are minimised and appropriately managed and/or mitigated. In some instances and where absolutely necessary some conditions require details to be submitted for approval under the Order. It is strongly recommended that these are submitted at the same time as the pre-notification, to enable the Council to agree in writing, all the details in one stage; speeding up the process and removing barriers to delay. These additional details, set out in full in **Schedule 4** of the Order cover the following issues and are not required for every proposal:

- A scheme identifying any associated development falling outside that permitted under the Order;
- External Plant details where appropriate; and
- Extraction and Ventilation details where A3 or A4 uses are proposed;
- External waste and refuse storage where A1, A3 and A4 uses are proposed;
- Internal and/or background noise assessment;
- Surveys and Assessments relating to land contamination.

- 5.9 The Council will be unable to agree these scheme details if they are considered to be of detriment to the local environment or residential amenity. Again, where amendments to these details can be made to minimise these impacts, the Council will enter into negotiations with the developer to achieve a scheme which is appropriate.

- 5.10 The Council has endeavoured to keep the conditions attached to this Order to the minimum required to ensure the development satisfies the aspirations for Central Park and to ensure there is no adverse impact upon the local highway network, environment or amenity.

Urban Design Requirements

- 5.11 As previously stated, great emphasis is placed on achieving a high quality design for the wider Central Park regeneration scheme. In order to ensure that the Enterprise Zone contributes towards achieving the vision and aspirations for Central Park, it is essential that the Order delivers a high quality urban design solution. For this reason the Council has included a number of design related conditions in the Order, including the achievement of BREEAM 'Very Good' for all development brought forward under the Order as an absolute minimum.

- 5.12 The Council has recently adopted a Borough wide Design Guide¹³ which provides detailed localised guidance on design throughout the Borough. It identifies character areas and specific, area based design guidance is provided for each of these areas. Central Park falls within Zone 2: The Outer Town Centre Fringe. The guidance covers a range of urban design issues and identifies the forms and features which are characteristic within each Zone. Whilst the Council encourages all development to reflect the guidance within this document, it has only conditioned those aspects of this guidance it considers essential to delivering the high quality of design it seeks for Central Park.
- 5.13 Urban Design in Darlington as a whole is a priority for the Council, with Central Park being identified as a flagship regeneration scheme which is to set a precedent for all future development. With this in mind the Council encourages developers to enter in to discussions on design early on in the formulation process. The design components conditioned through the Order are an absolute minimum requirement; developers are encouraged to strive beyond these to deliver the high quality design and environment which is envisaged for Central Park.

¹³ Called 'Design of New Development SPD' which can be viewed at <http://www.darlington.gov.uk/Living/Planning%20and%20Building%20Control/Planning%20Services/Planning%20Policy/NewDesignSPD.htm>

6 Policy Implementation, Monitoring and Other Statutory Requirements

Statement of policies LDO will implement

6.1 The Order supports the implementation of existing strategies, plans and policies at national, regional and local level. The relevant policies are listed below:

National Policy

- PPS1: Delivering Sustainable Development (2005)
- PPS4: Planning for Sustainable Economic Growth (2009)
- Draft national Planning Policy Framework (2011);
- Plan for Growth (2011)

Regional Policy

- Regional Spatial Strategy for the North East (2008) – Policies 12, 18, 19 and 38;
- Tees Valley Statement of Ambition (2011);
- Tees Valley Minerals and Waster Core Strategy (September 2011).

Local Policy

- Darlington Core Strategy (May 2011) - Policies CS1, CS2, CS3, CS5, CS7, CS8 and CS9.
- Sustainable Community Strategy: One Darlington – Perfectly Placed; and
- Design of New Development SPD (July 2011);

Monitoring Framework

6.2 The Order will be subject of on-going monitoring to assess its effectiveness in delivering the simplified planning rules which support the enterprise zone as well as a means by which any unintended impacts or outcomes of the Order can be identified. The proposed monitoring framework is set out in **Appendix 2**.

6.3 In addition this monitoring framework will also contribute to assessing the impact and success of the Tees Valley Enterprise Zone, and in turn the Government's policy of Enterprise Zones. It is important to note that this LDO Monitoring Framework is only a single element of this monitoring activity and will only be able to provide information relating to the establishment of the simplified planning rules as opposed to the impact and success of the financial incentives for example.

6.4 The outcomes of the monitoring process in relation to the Order will be reported in the Darlington Local Development Framework Annual Monitoring Report (AMR). Their contribution to the wider Enterprise Zone policy both in the Tees Valley and nationally will be reported through other means.

Other Statutory Requirements

6.5 Whilst the Order grants planning permission for certain types of development within the Central Park Enterprise Zone, it will remain the responsibility of the developers to ensure that all other statutory requirements beyond the scope of the planning system are adhered to.

6.6 Particular attention is drawn to the following legislation¹⁴:

European

- Habitats Directive (92/43/EEC)
- Environmental Impact Assessment (85/337/EEC as amended by Directive 97/11/EC)

National

- Wildlife and Countryside Act 1981
- The Conservation (Natural habitats, &c.) Regulations 1994
- The Town and Country Planning (Environmental Impact Assessment) Regulations 2011

6.7 In addition to above, the Local Development Order does not remove the need to obtain consent under other regimes as appropriate, including¹⁵:

- Listed Building Consent;
- Conservation Area Consent;
- Hazardous Substance Consent; and
- Advertisement Consent.

¹⁴ This list of relevant legislation and regulation is for information only and is not considered exhaustive.

¹⁵ This list of other consent regimes is for information only and is not considered exhaustive. The Developer should be satisfied that no other form of consent is required prior to the commencement of development.

7 Informative

Ref	Matter	Informative
1	Pre-Notification Form	<p>In some instances the Council may be able to recommended changes to the scheme to enable its construction under the Order. Where these changes are material changes amended plans may be required before the Council can confirm that the proposal complies with the Order.</p> <p>Will also assist with monitoring procedures to demonstrate the effectiveness of the LDO.</p>
2	EIA Screening Request	Should the screening opinion find the proposed development is EIA development, it will not be permitted under this Local Development Order, and as such will require a planning application.
3	Flood Risk Assessment (FRA)	<p>The wider Central Park regeneration scheme, including the Enterprise Zone, is likely to be the subject of a new planning permission before the expiry of this LDO. This will include the preparation, submission and incorporation of the FRA for the entire scheme. In these circumstances where this scheme wide FRA accommodates for individual proposals, a separate FRA will not be required, although there may still be the requirement to incorporate and implement a number of the recommendations to minimise flood risk, in accordance with Condition 18. In this circumstance the Council will attach an addendum to the Order identifying that the FRA has been undertaken which incorporates and addresses all the development permitted under this Order.</p>
4	Traffic Generation	<p>In those instances where the information provided indicates that there is a substantial impact upon the Local Highway Network which cannot be appropriately mitigated through on site works a separate a planning application will be required if the development is to proceed, this is to enable the Council to fully consider the acceptability of the development.</p> <p>Where the Council, on the evidence included within the Transport Assessment/Statement identifies that the impact upon the Local Highway Network can be mitigated through on site works, the Council will confirm that the proposal complies with this Order subject to Condition 18 as set out in Schedule 4.</p> <p>The wider Central Park regeneration scheme, including the Enterprise Zone, is likely to be the subject of a new planning permission before the expiry of this LDO. This will include the preparation, submission and incorporation of a full Transport Assessment for the entire scheme. In these circumstances where this scheme wide TA accommodates for individual proposals, a separate TA will not be required, although there may still be the requirement to incorporate and implement a number of the recommendations to minimise the impact on the local highway network, in accordance with Condition 18.</p> <p>In this circumstance the Council will attach an addendum to the Order identifying that the Transport Assessment has been undertaken which incorporates and addresses all the development permitted under this Order.</p>
5	Protected Species	<p>In those instances where the information provided indicates that there is a substantial impact on protected species which cannot be appropriately mitigated through on site works a separate planning application will be required if the development is to proceed, this is to enable the Council to fully consider the acceptability of the development.</p> <p>The wider Central Park regeneration scheme, including the Enterprise Zone, is likely to be the subject of a new planning permission before the expiry of this LDO. This will include the preparation, submission and incorporation of a full protected species surveys for the entire scheme. In these circumstances where this scheme wide protected species surveys accommodates for individual proposals, these separate ecological surveys will not be required, although there may still be the requirement</p>

		<p>to incorporate and implement a number of the recommendations to minimise the impact on the protected species, in accordance with Condition 18. In this circumstance the Council will attach an addendum to the Order identifying that the ecological surveys have been undertaken which incorporates and addresses all the development permitted under this Order.</p> <p>It is the developer's responsibility to ensure that the development complies with the legislation in avoiding damage to habitat or individuals that are covered by European and UK protected species legislation. It is the requirement that the developer follows the appropriate procedure with regards to such matters including obtaining the appropriate licences to work in affected areas and to work within the confines of an approved method statement.</p> <p>Natural England's Full Standing Advice in relation to Protected Species standing advice and background information at: http://www.naturalengland.org.uk/ourwork/planningtransportlocalgov/spatialplanning/standingadvice/advice.aspx.</p>
6	Design	<p>Good design is a priority for all development within Darlington. Central Park is identified as a flagship regeneration scheme which was intended to set the precedent for all future development within the area. The Council encourages developers to strive beyond the requirements of this LDO to deliver development which exceeds the aspirations for the site.</p> <p>The Council encourages all developers to contact the Council and discuss their proposals early in the design formulation process so we can provide guidance on the design process and end product.</p>
7	Renewable Energy	<p>Where developers wish to demonstrate the development is not viable with the imposition of this condition, reference should be made to the 'Renewable Energy Viability Test' set out in the 'Design of New Development' SPD.</p>
8	Masterplan	<p>The masterplan brief is currently being finalised and will be made available by 5th December 2011. The Plan attached in Schedule 1 of the Order will reflect the requirements of this Brief.</p> <p>The final agreed masterplan will be prepared in accordance with this brief and will be agreed and adopted by the Council prior to the adoption of this Order.</p>

Appendix 1 – Draft Masterplan Principals

Central Park is one of the Tees Valley's flagship regeneration schemes, seeking to deliver a high quality, mixed use development close to Darlington's town centre. Following an initial masterplanning exercise, development partners were selected through a competitive process to deliver the comprehensive mixed-use scheme in partnership with the Council and One North East (and subsequently Homes and Community Agency). The comprehensive scheme, of which the Enterprise Zone forms an important element, will deliver:

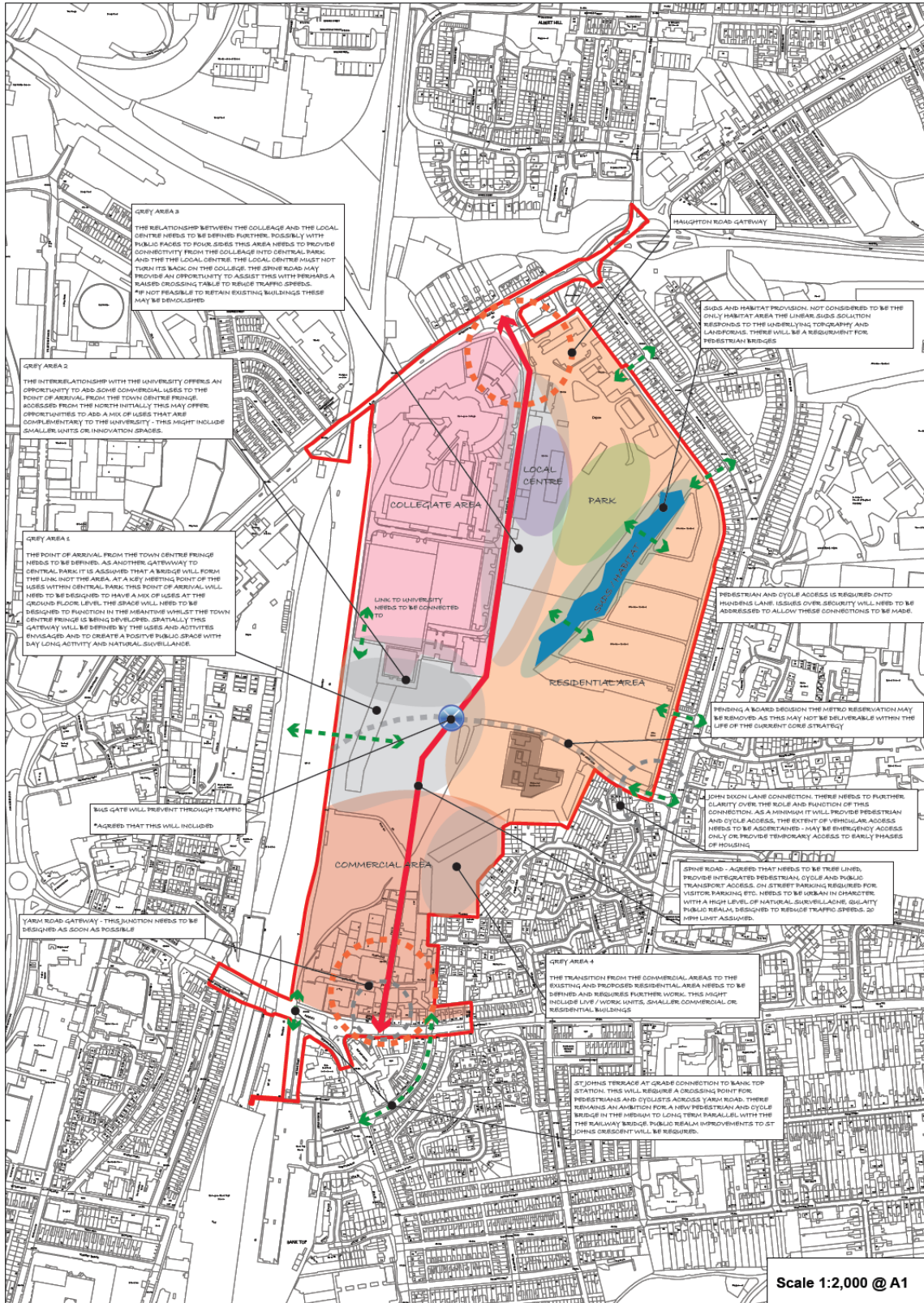
- Upto 600 new homes of various types, including 15% affordable dwellings;
- 28,000 sqm B1 space, including 2,500 sq m incubator accommodation;
- Hotel and conference facilities;
- Community provision and supporting retail and leisure amenities including bars and restaurants;
- Multi-storey and enclosed surface car parking; and
- Extensive, high quality green spaces and public realm.

Central Park Vision – from the Outline Design Principles

- Create a high quality, mixed use development providing people with a healthy live/work balance in an inspirational, successful and vibrant environment which promotes the creation of an active, inclusive and harmonious community, while ensuring improvement and enhancement of the existing;
- Generate a nationally and internationally recognized iconic image that create awareness, improves perceptions and promotes interest in Darlington and the Tees valley City Region encouraging investment, creating jobs and building a flourishing, diverse economy;
- Provide a healthy working and living environment based upon the creation of a strong, inclusive and vibrant community using sustainable transport, movement and travel which compliments LocalMotion;
- Regenerate this area of Darlington providing a high quality environment for employment, leisure and urban living increasing opportunities and facilities to the existing community;
- Create an environment reflective of the Town Centre and its 'pedestrian heart' refurbishment, thereby drawing the town centre beyond its current restrictions to better create links and integration with the train station and college;
- Will be an inspirational, high quality development for Darlington and the Tees Valley providing significant economic, social and environmental benefits setting a precedent for the creation of successful, desirable and responsible mixed-use, sustainable development for new and existing communities.

The revised masterplan will seek to meet these aspirations and deliverables, in line with the Strategic Framework plan shown below. The next stage in preparing the revised masterplan is agreeing a Masterplan brief upon which the masterplan will be based. This will be made available alongside the consultation when it is finalised in early December. This will accompany the Order through its preparation. It is intended that the

final masterplan, which will undergo a separate consultation exercise will be agreed by all Parties prior to the adoption of the Order.



Appendix 2 – Proposed Monitoring Framework

No	Name	Indicators
1	Net floorspace created (total and per building) – by use	B1 – sqm created A1 – sqm created A3 – sqm created A4 – sqm created
2	Area of Land Developed by use class	B1 – ha developed
3	No. of businesses occupying premises (by sector)	Digital Other
4	No. of jobs on site (by sector)	No. of FTE jobs – Digital No. of FTE jobs – Other
5	No. and type of developments permitted through LDO	No. of developments + context
6	No. and type of development requiring separate planning permission	No. of developments + context
7	No. of enforcement actions required due to non-compliance	No. of actions + context