

**DARLINGTON BOROUGH COUNCIL**

**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 29<sup>th</sup> July 2009**

**Page**

---

<b>APPLICATION REF. NO:</b>	<b>08/01004/OUT</b>
<b>STATUTORY DECISION DATE:</b>	<b>3 April 2009</b>
<b>WARD/PARISH:</b>	<b>EASTBOURNE</b>
<b>LOCATION:</b>	<b>Field at OSGR E429931 N512826, Neasham Road, Darlington</b>
<b>DESCRIPTION:</b>	<b>Outline application for residential development (160 dwellings) (additional travel plan received 28 January 2009)</b>
<b>APPLICANT:</b>	<b>DARLINGTON FARMERS AUCTION MART</b>

---

**CONTEXT TO THE APPLICATION**

This application was placed on the 11<sup>th</sup> March 2009 agenda for consideration alongside the outline planning application for the erection of a livestock market, equine centre and ancillary uses at Humbleton Farm (08/01003/OUTE). Members were minded to grant the Humbleton Farm application, however deferred a decision on this application, requesting further information on the financial linkages between the two applications and report on suggested conditions and legal agreement should the Committee be minded to approve the application. A report, updating Members on the Humbleton Farm application, is also on this agenda for consideration.

This is an updated version of the previous report, which updates Members on the following matters:

- The financial linkages between the two applications at Neasham Road and Humbleton Farm;
- The noise report submitted by the applicants;
- Updated consultation responses from the Highways Agency, Northumbrian Water Council's Environmental Health and Planning and Strategic Policy Sections.
- Conditions and Legal Agreement

Notwithstanding the submission and consideration of the fresh information, the officer recommendation remains that planning permission be Refused

**BACKGROUND TO THE APPLICATION**

This is one of two outline planning applications submitted by Darlington Farmers Auction Mart in connection with their proposal to relocate the existing livestock market from its current site at Clifton Road to a site at Humbleton Farm, approximately 5 kilometres to the north west of Darlington town centre on the eastern side of the A68 at Burtree. The two applications are linked on the basis that the capital receipt realised from the sale of the applicants land at Neasham Road for residential development would, if planning permission is granted, be directed towards the development costs associated with the Humbleton Farm proposal.

Although no application has been submitted at this stage, the applicants also propose that funds from the sale of the existing cattle market site on Clifton Road, which is owned by the Council, would also go towards development costs at Humbleton Farm. This matter is explained further in the section of the report dealing with financial matters.

In accepting that both sites fall outside the limits to development, the applicants have submitted a business case to justify the proposed developments at both sites. Although the majority of information submitted relates to the proposed development at Humbleton Farm, it has nevertheless been submitted in support of both applications as the applicants consider the development at Neasham Road to be 'enabling development' to realise the development proposals at Humbleton Farm. 'Enabling development' means development that would not normally be acceptable but which is acceptable only because it generates the funding needed to bring about another desirable planning objective. Local planning authorities are required to give the utmost scrutiny to the financial case for enabling development and be satisfied that revenue cannot be raised from alternative sources.

The issue of enabling development will be considered in greater detail elsewhere in the report, however by way of summary the applicants' case for enabling development sets out the following:

- Project costs associated with the proposed Agricultural and Equine Centre at Humbleton Farm of £16.9m
- These costs will be met from income from the sale of land at Neasham Road, the existing cattle mart site at Clifton Road and standalone units at Humbleton Farm and from income leasing (i.e. floorspace within the proposed Agricultural and Equine Centre) amounting to £18.6m.
- The appraisal shows a surplus of £1.7m and assumes no bank borrowing.

Having assessed the applicants' case, Officers do not consider that a robust financial case has been presented for the following reasons:

- Income projections from the sale of land have been overstated.
- No allowance has been made for the borrowing of money.
- There is no commitment from the Council that funds from the sale of the Clifton Road site will be made available for the delivery of the proposed Agricultural and Equine Centre.
- There are additional infrastructure costs associated with assembling the Neasham Road site, which have not been taken into account in the financial appraisal.

Officers are not satisfied that the proposed development amounts to 'enabling development' given the concerns regarding the robustness of the financial case and given that any benefit

arising from the proposed development would be limited to a comparatively small number of residents surrounding the existing mart site at Clifton Road. Although the impact of current mart activities on nearby residents cannot be underestimated, it is not considered that in itself would place the proposed development within the terms of being considered enabling development. Consideration of the application must therefore be based on its assessment against planning policy.

Darlington's present cattle market moved from the streets of the town centre to the 1.8ha purpose-built site at Clifton Road in the late 1800s. One of the main advantages of the site apart from its (then generous) size was its proximity to the railway, which carried livestock in and out. Most of the surrounding area, however, was subsequently developed for high density terraced housing and as the preferred means of livestock transport increasingly switched to motor vehicles the market became less and less acceptable environmentally within the area.

There have been a number of attempts to relocate the cattle market during the 1980s and 1990s, the most recent of which was an outline application for a livestock market building and two employees' dwellings together with parking and lairage on 12.4ha of land in DFAM's ownership at Holdforth Grange, Roundhill Road, just south of the A66 bypass. It was accompanied by an application for residential development on 18.2ha of land on the north side of the bypass, adjacent to Neasham Road. The proposals were called in for determination by the Secretary of State and, following a public inquiry and the recommendations of an Inspector, were refused in May 1993.

## **APPLICATION AND SITE DESCRIPTION**

This is an outline planning application for the erection of 160 dwellings on land on the western side of Neasham Road, opposite Darlington Arena. Details of access have been submitted for consideration and while the application form states that landscaping is also a matter for consideration at the outline stage no such details have been submitted with the application. Other matters of appearance, layout and scale are reserved for consideration at a later stage.

The application site is roughly triangular in shape and extends to some 4.7 hectares of agricultural land. Neasham Road forms the eastern boundary of the site and a private access road serving a number of properties known as Railway Cottages forms the northern boundary. Snipe Lane runs in an east-west direction close to the southern tip of the site. Footpath 17 is coincident with Snipe Lane. The Darlington-Middlesbrough railway line runs in an east-west direction approximately 25 metres to the north of the site. The western boundary is formed by a sparse hedgerow, beyond which lies agricultural land. The A66(T) lies approximately 200 metres to the south of the site. A telecommunications mast and associated equipment is located on the eastern edge of the site, adjacent to Neasham Road.

The application proposes that the site would be accessed by the creation of a new vehicular access off Neasham Road, approximately 120 metres to the south of the existing entrance to the football stadium on the opposite side of Neasham Road. The submitted layout plan shows the proposed dwellings arranged around a main spine road through the site and a number of cul-de-sacs off this road. The Design and Access Statement confirms that dwellings will be 2 and 3 storeys in height. An element of affordable housing will be provided on the site. As the site lies

within Eastbourne ward, in accordance with the Affordable Housing SPD, 15% of the houses provided on the site will be affordable.

The following information has been submitted with the application:

- Planning Statement
- Introductory Planning Report
- Flood Risk Assessment
- Design and Access Statement
- Ground Investigation Report Transport Assessment
- Great Crested Newt and Breeding Bird Survey
- Transport Assessment
- Travel Plan
- Statement of Community Involvement
- Financial Appraisal
- Sequential Assessment
- Strategic Options Appraisal

Since the application was submitted, a Noise Report has also been undertaken and submitted.

## **PLANNING HISTORY**

91/00121/MISC – Outline application for residential development and associated landscaping (approx. 17.8 hectares). WITHDRAWN 6.9.1991

91/00622/MISC – Residential development in outline at land adjacent to Neasham Road and A66. REFUSED 12.5.1993 by the Secretary of State who called-in the application.

03/00888/TC – Application for prior approval for the erection of a telecommunications mast. PLANNING PERMISSION NOT REQUIRED 30.9.2003

05/00037/FUL – Replacement of existing 15m high monopole with 22.7m high monopole with associated antennae. GRANTED 8.3.2005

## **PLANNING POLICY BACKGROUND**

The following policies and strategies are relevant to consideration of the application:

### **Development Plan**

*The North East of England Plan – Regional Spatial Strategy to 2021*

- 2 – Sustainable Development
- 4 – The Sequential Approach to Development
- 6 – Locational Strategy
- 7 – Connectivity and Accessibility
- 8 – Protecting and Enhancing the Environment
- 11 – Rural Areas
- 29 – Delivering and Managing Housing Supply

- 30 – Improving Inclusivity and Affordability
- 31 – Landscape Character
- 33 – Biodiversity and Geodiversity
- 35 – Flood Risk
- 36 – Trees, Woodland and Forests
- 37 – Air Quality
- 38 – Sustainable Construction
- 54 – Parking and Travel Plans
- 56 – Accessibility in Rural Areas

*Borough of Darlington Local Plan (1997, with alterations 2001). Saved policies as of 27 September 2007.*

- E2 – Development Limits
- E4 – New Buildings in the Countryside
- E7 – Landscape Conservation
- E11 – Conservation of Trees, Woodlands and hedgerows
- E12 – Trees and Development
- E14 – Landscaping of Development
- E16 – Appearance from Main Travel Routes
- E20 – Sites of Nature Conservation Importance
- E23 – Nature and Development
- E25 – Energy Conservation
- E29 – The Setting of New Development
- E47 – Contamination and Unstable Land and Development
- E49 – Noise Sensitive Development
- H3 – Locations for New Housing Development
- H7 – Areas of Housing Development Restraint
- H9 – Meeting Affordable Housing Needs
- H10 – Affordable Housing in the Rural Area
- H11 – Design and Layout of New Housing Development
- R6 – Open Space Provision in New Housing Development
- R7 – The Design of Open Space Provision
- R12 – Access to Open Land and Countryside
- T8 – Access to Main Roads
- T12 – New Development – Road Capacity
- T13 – New Development – Standards
- T24 – Parking and Servicing Requirements for New Developments
- T31 – New Development and Public Transport
- T37 – Cycle Routes in New Developments

### **National Planning Policy**

Parts of the following Government Planning Policy Statements (PPSs) and Planning Policy Guidance notes (PPGs) are important material considerations:

- PPS1 – Creating Sustainable Communities
- PPS – Planning and Climate Change – Supplement to PPS1
- PPS3 – Housing
- PPS7 – Sustainable Development in Rural Areas

PPS9 – Biodiversity and Geological Conservation  
PPG13 – Transport  
PPS23 – Planning and Pollution Control  
PPG24 – Planning and Noise  
PPS35 – Development and Flood Risk

## **RESULTS OF CONSULTATION AND PUBLICITY**

### **Government Office for the North East**

It would be inappropriate for us to comment on the application itself as the Secretary of State has a quasi-judicial role in the planning process and we must not prejudice the Secretary of State's position. The Council will wish to consider in due course whether it needs to notify the Secretary of State formally of the application in accordance with one or more of her statutory directions, if it is minded to grant planning permission, so that she may consider whether she should intervene.

### **North East Assembly**

The proposal would contribute to RSS objectives of dwelling provision in Darlington but the location on green field land out of the defined settlement is not consistent with the RSS sequential approach to development. However, the site is near to services and jobs accessible by bus, pedestrians and cyclists and incorporates sustainable design and construction methods. Therefore the Council will need to be satisfied that there are no other deliverable or developable sites, which better fulfil the objectives of the RSS.

### **One North East**

Whilst One North East notes the case made by the applicants regarding the 'enabling' element of this housing development proposal in the context of the relocation of the auction mart facility, we also recognise that the housing proposals require a sequential approach to ensure that appropriate justification is provided. The provision of housing on a greenfield site outside of the defined settlements identified in the Council's adopted Local Plan is also contrary to national and regional policy guidance. Clearly the LPA will need to carefully consider the case made for this housing and be satisfied that the applicants have provided sufficient evidence to justify this development. In the event that the LPA is satisfied that the number of units and range of housing are appropriate, it is essential that a satisfactory mix of tenure and type of dwelling together with the quality of housing are secured by the imposition of appropriate conditions at this outline application stage.

The applicants' intention to comply with the Council's requirement for affordable housing is welcomed. The inclusion of affordable housing within the site should result in a range of housing types which, together with an appropriate density, will facilitate the creation of a mixed tenure on the site.

### **Design issues:**

As you are aware the RES promotes the need for quality of place within existing and proposed development. Agency initiatives include delivering developments/regeneration schemes to comply with a set of Quality Design Standards. The aim is to deliver buildings, which are over and above Building Regulation Standards and demonstrate best practice in areas of accessibility, sustainability, whole life costing and general design standards.

Whilst the Agency notes the applicants' intention to set high standards in design stated in the application's supporting information, no specific details are provided as to how this will be achieved.

With the above in mind, in the event that the LPA is minded to approve the application, the Agency requests the LPA to encourage the developer to pursue the highest standards of quality in the development of this site, e.g. relating to the achievement of appropriate Code for Sustainable Homes, Building for Life and Secured by Design standards.

In line with Government objectives<sup>1</sup> to generate 10% of electricity from renewable energy sources by 2010 the application should also provide details regarding the provision of renewable energy measures within the scheme. Subject to the satisfactory resolution of the above policy and design issues together with any environmental or highway issues from the LPA's point of view, the Agency raises no objection to this application.

### **Highways Agency**

Given that the proposals site lies approximately 100 metres north of the A66(T)/Neasham Road junction and that the A66(T) forms part of the Highways Agency's Strategic Road Network (SRN), the traffic impact of the proposals on the A66/Neasham Road junction and other nearby A66(T) junctions is of particular concern. The details of the planning application differ with those specified within Dougal Baillie Associates (DBA) Transport Assessment. It is apparent that DBA has underestimated the size of the proposed site, which has consequences for the estimated traffic impact of the proposals.

In summary, the following matters need to be addressed:

- The maximum level of car parking provision should be agreed between DBA, The Highways Agency and Darlington Borough Council;
  - The trip rates used by DBA are accepted by the Highways Agency for this development, however DBA should re-visit their trip generation so that it is based on 160 residential dwellings rather than 130;
  - DBA should provide an evidence base to justify their proposed trip distribution;
  - Once the number of development trips arising at the A66 have been agreed with the Highways Agency, DBA should compare the number of trips to the 30 and 50 two-way trip thresholds noted within their letter;
  - Should the likely development trips arising at the A66 exceed the 30 two-way trip threshold on any approach to an A66 junction, accident analysis should be undertaken for that Strategic Road Network (SRN) location;
  - Should the likely development trips arising at the A66 exceed the 50 two-way trip threshold on any approach to an A66 junction, operational analysis should be provided by DBA for that location; and
  - In the interest of avoiding abortive work being undertaken, once agreement has been reached with the Highways Agency on the number of development trips arising at the SRN, DBA should fully scope any forthcoming accident/operational analysis with the Highways Agency or the Highways Agency's traffic consultants.
-

*Further comments submitted in respect of the Travel Plan:*

The following amendments should be made to the Travel Plan:

- The number of dwellings referred to in the Travel Plan should be changed from 130 to 160 dwellings;
- The distance to the 13a bus stop on Brankin Road should be amended to state that the site is between 200m and 500m of the bus stop;
- Firm commitment to all Travel Plan measures ‘will’ rather than ‘could’;
- Welcome Packs to include comprehensive information in relation to all sustainable modes of travel and to provided on occupation;
- Details of the railcard to be provided;
- Free bus pass to be provided to new residents for a minimum of one month;
- Travel Plan Co-Ordinator to be in place at least six months prior to occupation and for a minimum of five years post occupation;
- Details of budget and time allocation for Travel Plan Co-Coordinator to be included in the Travel Plan;
- Targets based on the agreed trip generation of the site to be included within the Travel Plan; and
- A clear monitoring strategy to be included in the Travel Plan.

**Natural England**

Based on the information provided, Natural England advises that the proposal is unlikely to have an adverse effect in respect of species especially protected by law, subject to a planning condition requiring that any on site vegetation clearance should avoid the bird breeding season (March to end of August) unless the project ecologist undertakes a checking survey immediately prior to clearance and confirms that no birds are present.

**Durham Wildlife Trust**

Have received information that surveys carried out in 2008 have revealed the presence of great crested newts at Brankin Moor Local Nature Reserve/SNCI. Great crested newts are protected under Schedule 2 of the Conservation (Natural Habitats, etc) Regulations, 1994 (Regulation 38) and Schedule 5 of the WCA 1981. Brankin Moor lies within 500 metres of this development site and in light of this new information, Durham Wildlife Trust objects to this proposed development and requests that further survey work is carried out. The proposed development will further isolate Brankin Moor nature reserve and will increase public use, and therefore public pressure on this site. This should also be taken into account and compensated for before planning permission is granted.

**Environment Agency**Biodiversity

Object to the proposed development in the absence of adequate information on the risks posed by the development and suitable mitigating or compensatory measures, due to the likely impact of the proposed development on the water vole and its habitat. Recommend that planning permission be refused on this basis and will maintain objection until the applicant has supplied information to demonstrate that there are no risks from the development to any water vole populations that may be present. Require a survey of the watercourses to be undertaken to conform the extent of water vole populations at the site and the impacts of the development upon the species and its habitat.



### Flood Risk

Consider the proposed development would be acceptable subject to the imposition of a condition requiring the submission and approval of a scheme for surface water drainage for the site prior to the commencement of development.

### Contaminated Land

In relation to the application in so far as it relates to contaminated land, the Environment Agency only considers issues in relation to controlled waters. Recommend that a condition be imposed requiring the submission and approval of a scheme to deal with the risks associated with contamination of the site. The information currently provided by the applicant is not sufficient to fully address the risks posed by the site to controlled waters receptors. A number of further conditions are also recommended relating this matter.

### Foul Drainage

The application states that foul drainage from the development will be disposed of to the existing mains sewerage system. The Sewerage Undertaker, Northumbrian Water, should be consulted by the local planning authority and be requested to demonstrate that the sewerage and sewage disposal systems serving the development have sufficient capacity to accommodate the additional flows, generated as a result of the development, without causing pollution. Should this not be the case, we must then be re-consulted.

### Sustainable Construction/Renewable Energy Generation

A planning application of this scale should incorporate sustainable construction and renewable energy generation principles. In line with the adopted Regional Spatial Strategy for the North East, we consider the proposed development should incorporate Policies 38 (Sustainable Construction) and 39 (Renewable Energy Generation). The proposed development should be designed to ensure energy consumption is minimised to achieve energy efficient best practice to meet the Code for Sustainable Homes. In addition, we consider the proposed development should have embedded within it a minimum of 10% energy supply from renewable resources.

### *Further comments following receipt of 'Ecology Walkover', September 2006*

Now withdraw our previous objection to the application subject to a condition imposed on any permission granted requiring a scheme for the provision and management of a buffer zone along the watercourse to the south west of the site to be submitted and approved prior to the commencement of development.

### **Durham Constabulary**

Concerned regarding the footpath shown running to the rear of plots 27-36 inclusive. Crime and anti-social behaviour is more likely to occur if pedestrian routes are poorly lit, indirect and away from traffic; streets, footpaths provide access to the rear of buildings and the lack of natural surveillance. It would be safer for children/pedestrians to use the 'primary routes', which will remove the need for under used footpaths.

### **Northumbrian Water**

Recommend that if planning permission is granted that a number of conditions be imposed requiring the diversion of NWL's apparatus (a 600mm public sewer and 39 inch and 48 inch steel water mains cross the site and are shown built over on the application) or the redesign of

the proposal to avoid any building over any of this apparatus. Diversion or relocation of the apparatus may be possible at the applicant's full cost. A condition requiring the submission of a scheme for the disposal of surface water from the development is also recommended.

#### *Further information*

Following concerns expressed by the Environment Agency regarding the capacity of sewerage and sewage disposal systems serving the proposed development, Northumbrian Water has confirmed that the foul sewer is of more than sufficient capacity to deal with the proposed development of 160 houses on the site.

#### **The Ramblers**

We offer no view on the proposed development. The southern boundary of the proposed site is close to Snipe Lane, Bridleway No. 17 Hurworth Parish. If the application is successful, no construction work should affect this Public Right of Way.

#### **CPRE**

Object to the proposals in the strongest possible terms for the following reasons:

- The housing is outside the development limits and is not for agricultural or forestry related purposes;
- It is understood the applicants wish to use the land to raise capital to build a new Mart. We do not believe this is an adequate planning reason to permit housing outside the development limits.
- If housing is permitted outside the development limits it would set a dangerous precedent;
- The road network is already overloaded with traffic from Darlington Football Club, especially on major event days;
- Darlington Football Club has planning permission to hold large music events/concerts. We understand part of the reason this use was given permission was because the trees and railway line were a buffer between the stadium and the housing. There would be no such buffer between the stadium and the housing;
- The development will suffer from noise from the A66;
- The indicative map of possible layout seems to have the dwellings packed closely together.

#### **Northern Gas Network**

No objections to these proposals, however there may be apparatus in the area that may be at risk during construction works.

#### **CE Electric UK**

Plans received showing the location of known of Northern Electric apparatus in the area.

#### **Hurworth Parish Council**

Feel that it is totally out of keeping in a rural setting. Also highways issues are a major issue on a Saturday afternoon football days will be exacerbated by this development. Wish to be present and speak if this is referred to Committee.

#### **Results of Local Consultation**

Notification letters were sent to 502 individual properties. The application was also publicised by 6 site notices posted on and around the site and by an advertisement in the Darlington and

Stockton Times. In response to this consultation, ten letters of objection have been received which raise the following issues:

- *This is an extremely busy road and the last thing needed is traffic from another 160 houses.*
- *There is housing development off Smithfield Road, a busy doctor's surgery, garages and cars trying to negotiate Matalan and Netto car parks as well as the school run traffic. It is nearly impossible to get into town down Parkgate at peak times not to mention on match days.*
- *Cannot believe that there is any need to develop any more land for housing.*
- *Keep hearing that much of the reason for the serious flooding over the last few years in that flood plains being built on but still more and more land is being developed for housing.*
- *Hope that the proposal will be refused unlike the white elephant of the football stadium which is yet another blot on the landscape.*
- *Have lived into this area all my life because of its situation of being the last street before open countryside. If this development goes ahead that will change our situation totally.*
- *There is a discrepancy between the application and the Transport Assessment. The application states 160 houses and the Transport Assessment relates to only 130 houses.*
- *This development will increase traffic volume and noise along Neasham Road in both directions and therefore have an impact on road safety and quality of life.*
- *During the construction period there will be noise and disruption that will have a negative impact for those people who enjoy the nature reserve.*
- *The local services cannot support the extra population in terms of doctor's surgeries and schools.*
- *We do not believe that in the current economic climate, with developments such as Railway View and the Persimmon Homes site nearer to the station struggling to sell, that there is room in the local economy for such a development.*
- *The site could be used in a more environmentally manner to enhance the field. It is not vacant, it does not need to be used by housing when its land properties are so varied, the water table is a significant problem, the idea of subsidence and the problem of gases found in this area of ground are of concern.*
- *Why use the site when there are plenty of brown sites already available. Once the site is developed it cannot be regained. Would there be a problem taking peat from the site.*
- *There have been no accidents at the junction with Neasham Road and the access to Railway Cottages to the knowledge of residents from Railway Cottages.*
- *The way to improve this access would be to have signs and traffic calming and to improve the lane surface due to the increased amount of use it gets resulting from allotment holders and woodland users who also use the access in addition to residents, railway maintenance teams, refuse wagons etc. Who is responsible for the maintenance of this road?*
- *Will the houses be affected if services are disrupted and how long would it take to correct the problem?*
- *How will the lane be? Will it be flanked by 2 – 3 storey housing, probably forming a tunnel effect, when open green space is preferable?*
- *The intersection onto the lane leading into the estate, how will this affect the access for residents and any of the services we require?*

- *Will the proposed closure of the access road to Railway Cottages decrease the issue we have had with the misuse of this lane by fly tippers, drugs, under age drinkers, damage to the woodlands and allotments or will it encourage it further? Would cameras be fitted to monitor behaviour?*
- *Will the proposed exit road for the development be sufficient to cope with the amount of traffic it will create?*
- *Will a 'lock in or out' still be undertaken when large events take place at the stadium or will it further hinder freedom of movement on the road on a more regular basis? This will cause further inconvenience and delays. The stadium was not supposed to affect the immediate locality to such an amount.*
- *How will the water table be affected? It has problems coping as it is. Where will the extra water drainage and sewage be treated? Will the extra flow be let into the existing natural flow?*
- *Sustainable housing of 160 dwellings seems a huge amount of property for such a small area. If these houses are to accommodate vulnerable and in-need people creating a mixed community, this covers a broad spectrum. Combining urban and rural in this area seems a highly charged mix of people.*
- *What is going to happen to the livestock at the stables if our access is closed off?*
- *With all these people moving up here we could do with a fence round the nature reserve. Our road also needs updating and we have no streetlights. Would this be possible as some kind of compensation for all the upset?*
- *The application states that the site is a low flood risk area. Having lived here for 45 years we know that the land is often water logged and the filling in of the pond near the former British Rail canteen contributed to the increase in water available. Further development on the land will push the water elsewhere whatever means of run-off is used.*
- *The one exit/entrance near the private road, which is a blind spot to see traffic coming off the roundabout, is dangerous.*
- *The planning application states many advantages for living in this new estate, nearby schools at Polam Hall and Hurworth House, both high fee paying, private schools, 'many bus services' – where? And dentists, shops, medical services etc which unless cars are used are not convenient because there is only one bus stop nearby with an infrequent service. Thus increasing congestion on Neasham Road with cars.*
- *One reason given for moving the football stadium to the current site was to avoid inconvenience to property around Feethams. If allowed, this housing development is the beginning of reinstating the same problem.*
- *The site is a Greenfield site beyond the development limits as stipulated in the Local Plan. I believe we need to maintain easily accessible countryside for the enjoyment of the general public without the need to travel by car or public transport.*
- *The wildlife include deer and birds of prey from nearby nature reserves need these field systems as part of their habitat.*
- *Believe there is a risk of contamination in the northern end of the site where a large pond was located, which was filled with building materials in the 1970s. The area is still used by DFAM to tip waste material from the Mart.*
- *The application indicates that surface water from the site is to be dealt with by soakaways or if soakaways are not viable, then should be discharged into the minor water course adjacent to the site. This watercourse is already over capacity in wet weather as it already collects surface water from the DFAM arable and to the south of the development. This has already caused damage to the road surface of Snipe Lane and causes flooding in*

*adjoining fields. Investigation of the watercourse where it disappears underground should be undertaken to avoid flooding elsewhere.*

- *The single access opposite to the site opposite the football stadium I believe is dangerous as it is on a 40 mph stretch of road and would involve the movement of a lot more vehicles.*
- *The existing access to the north of the site which the developers say is dangerous is used by few vehicles. I know of no accidents which have occurred there other than HGVs ignoring the height restrictions on the railway bridge.*
- *The removal of hedgerow is stipulated, but no specific measurement of how much is involved, to improve sightlines at the junction. These hedgerows are some of the last surviving in the area from older type of farmland, which once surrounded the town. The horses from the nearby riding establishments would have to negotiate much more traffic than at present.*

## **PLANNING ISSUES**

### **Policy Considerations**

#### *Location of the Proposed Development*

The application site lies outside the limits to development as shown on the adopted Local Plan Proposals Map. It is clearly separated from the main built up area of Darlington by an elevated railway embankment and operational railway line; the bridge carrying the railway line across Neasham Road marks the entrance to the town when approaching it from the south-east.

As such, this application is contrary to Policy E2 of the adopted Local Plan, and would constitute a departure from the development plan.

The presence of the football stadium on the opposite side of the road does nothing to reduce this sense of separation for the urban area. The football stadium building is separated from the urban area by an extensive area of surface parking and beyond that, a mature tree belt that screens the railway embankment and provides access to a Local Nature Reserve and a gypsy site. To the west of Neasham Road and north of the A66 are established urban fringe uses, such as a riding stables and grazing allotments, and within the last five years, a significant part of the land (Geneva Woods) has been designated a Local Nature Reserve.

The application site is not therefore a logical extension to the urban area and the A66 is not becoming the new limit to development for Darlington around its southern and eastern edges, as the applicant suggests in the Design and Access Statement submitted as part of the application

Development of this site for housing would also be contrary to RSS Policy 4, which indicates that in selecting locations for development, priority should be given to previously developed land and buildings within urban areas, then other suitable locations within urban areas, then suitable sites in locations adjoining urban areas, particularly those involving the use of previously developed land. This site is a greenfield site outside the urban area, and its selection for development would only be made if sufficient sites in all the other categories mentioned were not available.

RSS Policy 4 also states that sites should be well related to homes, jobs and services by all modes of transport. The application site is relatively close to a range of services, with a primary school and doctor's surgery being within 1 km of the site, and shops on Neasham Road,

Eastbourne School and the town centre employment area being within 2 km of the site. The only bus service on this part of Neasham Road is the No 20 service to Neasham. The more frequent bus service (13A/B) is only accessible on the north side of the railway bridge at Brankin Drive, but this would be beyond the 300m acceptable walking distance for most residents. The physical restriction of the railway bridge makes the site feel remote, and this may encourage residents to use their car for relatively short journeys.

When Members last considered this report, the Council's latest 'Housing Land Supply in the Borough of Darlington: Demonstrating a 5 Year Supply of Deliverable Sites' document, published in March 2008, indicated that there was only a 2% shortfall (amounting to 55 dwellings) of the total planned additional dwellings (i.e. sites already with planning permission) against the RSS requirements, but this work does not take account of the sharp downturn in the housebuilding activity that is a consequence of a newly weak housing market. More recent evidence of completions suggests that the RSS housing requirement figure will be unachievable in the short-medium term, though this is unlikely to be confirmed until a Darlington Strategic Housing Land Availability Assessment (SHLAA) is completed in March 2009. The SHLAA is likely, though, to identify other more suitable developable and deliverable sites that are available to meet the RSS housing requirement.

The applicant also refers to the award of 'growth area' status to the Tees Valley in support of its application, and pointing to the additional future housing growth that is identified for the area over and above that recognised in the recently approved Regional Spatial Strategy for the North East (RSS). The Tees Valley was awarded Housing Growth Point status last year and has recently been allocated £6.2 million of funding to help bring forward housing delivery across the Tees Valley. Housing Growth Point status committed the sub-region as a whole to offering housing growth that is 20% above the figures identified in the RSS (Examination in Public Panel Report figures) over the period to 2016; it is not necessarily the case that 20% uplift will occur in each local authority area. Moreover, the Programme of Development that was submitted to secure grant funding recognised that the 20% uplift in RSS housing figures was unlikely to be achieved given the downturn in the housing market, and outlined development that could return housing delivery to a level by 2016 that is equivalent to RSS (EIP Panel Report figure) +20%.

In the original Housing Growth Point bid, seven sites within Darlington urban area were identified and these, together with a number of smaller sites of less than 100 dwellings, were Darlington's contribution towards providing the 'at least 19%' uplift in RSS figures (draft submission version) demonstrated in the bid. The application site, being outside the urban area, has never been considered as a priority to bring forward to meet the sub-regional uplift in housing delivery required as part of Housing Growth Point status.

In the light of these factors, my view is that a site of this scale in this type of location is not needed to meet national, regional or sub-regional housing delivery objectives.

#### *Nature of the Proposed Development Site*

The application site is a greenfield site. Because of its size and the number of dwellings proposed, its development would undermine the ability of the Council to contribute towards meeting the target percentage of previously developed land (PDL) to be redeveloped for housing that is set out in the Regional Spatial Strategy (RSS). The RSS target for 2008 was 70% rising to

75% by 2016, and the data from the first three quarters of 2008/09 indicates that the level of completions on PDL in the Borough is currently running at 53%.

#### *Density of the Proposed Development*

The application proposes 160 dwellings on a 4.45ha site. This amounts to a density of 36 dwellings per hectare. This is above the national indicative minimum density of development that is set out in PPS3: Housing, and within the 30-50 dwellings per hectare range that local authorities should be trying to achieve, as set out in RSS Policy 29.

#### *Enabling Development*

In their financial appraisal, the applicants argue that development of this site for housing is required as part of a package to enable the existing Cattle Mart operation to expand into a full Agricultural & Equestrian Centre and be relocated to an edge of town location at Humbleton Farm, creating in the region of 300 jobs. The relocation would free up its existing site on Clifton Road for housing development and resolve disruptive traffic and residential amenity issues in that area.

It is not clear from the limited financial appraisal material submitted in relation to the proposed Agricultural & Equestrian Centre (application reference 08/01003/OUTE) why housing development of the scale proposed at Neasham Road is considered essential to enable that development to proceed. There is no evidence in the submission for the proposed Agricultural & Equestrian Centre that alternative sources of funding the relocation have been considered. It would have been useful to know what other capital-raising avenues have been seriously investigated, before the Council was asked to consider compromising its statutory planning framework to enable another development to proceed. It is also not clear if a smaller housing scheme would be sufficient to enable the relocation to proceed, or whether a smaller relocation scheme could be delivered without requiring the capital expected from a sale of the application site for housing.

Given the downturn in market conditions since the initial and second financial appraisals were made (August and November 2008), and having taken advice from colleagues in the Estates Division, the receipts from land sales that are indicated in both financial appraisals seem optimistic. It is not clear how or if the gap in funding could be filled if the receipts anticipated for the sale of land for housing at the existing Cattle Mart and the Neasham Road site were not realised, and hence, if the relocation of the Cattle Mart is deliverable. If this application is granted, there would be a real possibility of it being developed for housing, but with no consequent progress being made on the relocation of the existing Cattle Mart. (The direction of funds from the sale of the land at Neasham Road towards the redevelopment of the Cattle Market at Humbleton Farm would be secured by Section 106 Agreement, to ensure that the development of the site does not occur in isolation).

#### *Affordable Housing*

If the proposed development is granted planning permission, there will be a requirement to provide 24 dwellings (15%) as affordable housing, in accordance with Policy H9 of the adopted Local Plan and the provisions of the Council's adopted Affordable Housing Supplementary Planning Document. The proposed provision of 30% social rented homes, amounting to 48 dwellings would meet this requirement.

It is considered therefore that in planning policy terms that the scheme is unacceptable, either on its own merits, or as enabling development for the relocation of the cattle mart to Humbleton Farm as part of proposals to create an agricultural and equine centre there, for the following reasons:

- (a) the application is contrary to Policy E2 of the adopted Local Plan, and would constitute a departure from the development plan;
- (b) the proposed development would be contrary to RSS Policy 4, the sequential approach to development;
- (c) because the proposed development would be a major greenfield site, it would adversely affect the Council's ability to contribute to the achievement of sub regional and regional previously developed land targets;
- (d) a site of this scale in this type of location is not needed to meet national, regional or sub-regional housing delivery objectives.
- (e) it is not clear that granting this planning permission will necessarily enable the relocation of the cattle mart and the creation of the proposed Agricultural & Equestrian Centre; a possible outcome could therefore be development of the application site for housing and the retention of the cattle mart in its current Clifton Road location.

*Further comments received from Planning and Environmental Policy*

Since the information for the original committee report (11<sup>th</sup> March 2009) was submitted, the Council has completed and published a strategic housing land assessment (SHLAA). This provides updated information on the five-year supply of deliverable housing sites. The SHLAA concludes that taking into account sites identified as suitable, available and deliverable, there is a five year supply of deliverable sites from 1<sup>st</sup> April 2009.

**The Business Case**

The applicants advise that the proceeds from the sale of the application site for residential development is needed to help meet the shortfall in development costs associated with relocating the cattle market to Humbleton Farm. Reference is made within the application to the proposed development being 'enabling development', that is development that would be unacceptable in planning terms but for the fact that it would bring public benefits sufficient to justify it being carried out, and which could not otherwise be achieved. Guidance on enabling development stems from case law in relation to the restoration of historic buildings and is more usually a tool used as a last resort to secure the long-term future of a place of heritage significance. The public benefits are paid for by the value added to land as a result of the granting of planning permission for its development. In cases where applications for enabling development are made, Local Planning Authorities must give the utmost scrutiny to the financial case for enabling development and must be satisfied that funds would not be available from other streams.

To justify the development, outside of the limits to development, the applicants have put forward a business case to demonstrate the financial model for the relocation of the cattle market. This information takes the form of two financial appraisals prepared in August 2008 and November 2008 respectively, with the latter appraisal submitted to show a 'worst case scenario'.

The November 2008 appraisal shows total expenditure for the development of the Humbleton Farm site as being £16.9m and that these costs will be met by the following:



- Sale of land at Clifton Road - £4.5m
- Sale of land at Neasham Road - £9.5m
- Sale of 12 no. standalone units at Humbleton Farm - £4.1m
- Income leasing from accommodation within the Agricultural and Equine Centre - £544,691 per annum.

This appraisal shows a surplus of £1.7m and assumes no bank borrowing requirement.

The appraisals have been considered by the Council's Estates and Property Manager who advises that the applicants have not justified the assumptions they are making in the appraisal particularly with regard to the values they have attributed to standalone plots and rental levels used for income leasing figures. Furthermore, in the current economic climate, the stated income from sales and leasing is considered to be significantly overstated and moreover the likelihood of sales or leases taking place is in serious doubt. The end result being that construction is unlikely to proceed because there will be a funding shortfall. Should any bank finance be required then this will also adversely affect the current appraisal.

Furthermore, there are other likely costs associated with the proposed development at Neasham Road which have arisen as a result of the application process, which are unlikely to have been accounted for within the development appraisal. The nature of these costs are explained in more detail further in the report and relate to the removal of landfill material from the site, developer contributions towards highways and public transport improvements and increasing primary and secondary school places within the vicinity of the site and the potential diversion of water mains and a public sewer from the site. Such costs will further affect the residual land value of the application site and in turn the viability and the deliverability of the scheme. More fundamentally however there is no commitment from the Council for the funds from the sale of Clifton Road to be made available for the proposed Agricultural and Equine Centre. As such it is not considered that the submitted business case is robust enough to warrant setting aside the fundamental policy objections to the scheme.

Officers are not satisfied that the proposed development amounts to 'enabling development' given the concerns regarding the robustness of the financial case and given that any benefit arising from the proposed development would be limited to a comparatively small number of residents surrounding the existing mart site on Clifton Road. Although the impact of current mart activities on nearby residents cannot be underestimated, it is not considered that this matter is in itself would place the proposed development within the terms of being considered enabling development.

Should Members however be minded to grant planning permission, it is considered prudent to set out the risks associated with such a decision. In the absence of any decision by Members to direct the receipt from the sale of land at Clifton Road towards the Agricultural and Equine Centre at Humbleton Farm, there may be additional pressure placed on the applicant's land at Humbleton Farm for further development to meet the shortfall in development costs.

### **Financial Linkages**

Members requested further information regarding the financial linkages between the two applications, more specifically in terms of how the proposed residential development of the

Neasham Road site would facilitate the deliverability of the proposed Agricultural and Equine Centre at Humbleton Farm. Although the applicants' business case for the proposed developments has been set out in the previous section of this report, Members requested further clarification however on the mechanisms which would be put in place to guarantee that funds from Neasham Road were directed to the proposed development at Humbleton Farm.

In order to ensure that the proceeds from the sale of the application site would be directed towards the proposed Agricultural and Equine Centre, an 'escrow' account would be set up which would hold the funds from Neasham Road until such time as development commenced on the centre. The formation of the account, its management and a schedule of what would constitute acceptable costs to be covered by the account would be secured by Section 106 Agreement. The applicants also advise that monies from the escrow account would be drawn on first before any funds from the sale of Clifton Road are called upon. It is important to note however that there is no commitment from the Council for the funds from the sale of the Clifton Road site to be made available for the delivery of the proposed Agricultural and Equine Centre at Humbleton Farm.

Alongside the formation of the escrow account it would also be necessary to limit construction of the Neasham Road site until such time as the development of the Agricultural Centre had reached an agreed stage. The purpose of this would be to avoid a situation whereby the Neasham Road site, which is beyond the limits to development, is developed in isolation to the proposed Agricultural and Equine Centre.

Notwithstanding the fundamental planning policy objections regarding the proposed development, the proposal does give rise to a number of development control issues, which nevertheless need to be considered as part of the application. The report will now consider the application in the context of the following issues:

- Impact on Visual Amenity
- Impact on Residential Amenity
- Traffic and Highway Safety Issues
- Ecology and Nature Conservation
- Public Rights of Way
- Ground Conditions
- Flooding and Drainage Issues
- Statement of Community Involvement
- Other Issues Raised by Objectors

### **Impact on Visual Amenity**

This is an outline application with matters of appearance, layout and scale being reserved for consideration at a later stage. While it is not possible to give comprehensive consideration to the impact of the proposed development on visual and residential amenity at this stage, an indicative layout plan, together with a Design and Access Statement, has been submitted as part of the application, which does allow some consideration to be given to these matters.

Policy E29 (The Setting of New Development) requires new development, including alterations and extensions to existing buildings, to respect the intrinsic character of its townscape setting in terms of its siting, design, materials, landscaping and the protection of existing townscape

features, including gardens and other open spaces which contribute to the character of the setting, and not to materially detract from the appearance of its surroundings. Policy E16 (Appearance from Main Travel Routes) also states that the appearance of the Borough from the main road network, the railway lines, the Teesdale Way and the proposed recreation routes will be maintained and enhanced by requiring new development to respect its setting, and to incorporate landscaping, which makes a positive contribution to the appearance of its surroundings. Policy E7 (Landscape Conservation) states that development which is acceptable in principle under Policy E2 and development on the edges of built-up areas will be required to respect the character of its landscape setting in terms of its siting, design, materials, landscaping, protection of existing landscape features and relationship to adjoining buildings, having regard to the distinctive landscape characteristics of the locality.

The application site is a parcel of undeveloped, agricultural land at the side of Neasham Road, close to its junction with the A66(T). The topography of the surrounding area is generally flat and open views of the site can be gained south of the railway line, interrupted only by trees and hedgerows, which form boundaries to the large fields, and which characterise the surrounding area. Open views of the site can be gained from Neasham Road and from the public footpath to the south. Views of the site from the A66(T), when approaching the roundabout from the west are presently restricted by an embankment on the northern side of the road and by densely planted trees along the western site boundary. The site becomes more visible either side of the roundabout as the embankment diminishes. Views from the north of the site are limited by the railway embankment and trees and by existing houses on Geneva Crescent and Brankin Road.

The submitted layout plan shows the proposed dwellings arranged around a main spine road through the site and a number of cul-de-sacs off this road. The Design and Access Statement confirms that dwellings will be 2 and 3 storeys in height. The proposed development will be clearly visible from Neasham Road, the railway line and from the public right of way to the south. While views of the site from the A66(T) are presently restricted by an embankment at the side of the road, given that the site is undeveloped, the presence of two and three storey dwellings on the site will be more apparent from the A66(T) once built. While from these aspects the proposed dwellings will largely be seen against the backdrop of the Darlington Arena and the railway line to the north, which forms a physical barrier to the built-up limits of this part of the urban area, the proposal nevertheless represents an unwelcome extension of the built-up area into open countryside, beyond the limits to development.

The application form states that landscaping of the proposal is to be considered at the outline stage. However no formal landscaping proposal has been put forward. The Design and Access Statement states that existing trees and hedgerows will be reinforced and the indicative layout plan shows limited tree planting mainly along the peripheries of the site. It is not considered that the proposed landscaping scheme is sufficient to in anyway soften or assimilate the proposed development into the landscape or the surrounding area. Furthermore, the proposed development is particularly inward facing, with a very weak frontage onto Neasham Road. With the exception of the northern most corner of the site, adjacent to the Railway Bridge, which shows a small number of dwellings facing the road, the indicative layout plan shows gable ends, rear gardens and parking areas abutting this boundary. There is no strong presence or building line facing Neasham Road, which notwithstanding the concerns in principle regarding the proposed development, would have helped integrate it into the surrounding area.

The area south of the railway line, with the exception of the football stadium opposite, is of very different character to the built-up area to the north being open, agricultural land in comparison. It is not accepted that the proposal, regardless of its potential sustainability credentials, would comprise a logical or natural extension to the urban area of the town. Any landscaping of the site would be limited to its periphery and it is not considered that the visual impact of the proposed development could be reduced by landscaping and tree planting to such an extent so as to overcome concerns regarding its impact on the visual amenity of the surrounding area. Similarly the presence of the football stadium opposite cannot justify development in the open countryside, which is otherwise unacceptable in planning policy terms.

### **Impact on Residential Amenity**

Policy H11 (Design and Layout of New Housing Development) requires that the design and layout of new housing will be required to relate well to the surrounding area, respecting its predominant character and density and avoid damage to the amenities of adjoining properties and to provide adequate privacy in the rooms, gardens and other outdoor areas of the proposed dwellings and existing adjacent property.

In terms of impact on existing dwellings immediately to the north of the site, there will be a minimum separation distance of approximately 45 metres between the nearest dwellings on the application site and those existing dwellings to the north on Geneva Crescent. Furthermore the site is separated from the existing dwellings to the north by the Darlington-Middlesbrough railway line and embankment, which will further shield the existing dwellings from the proposed development. As such the proposed development is unlikely to adversely affect the amenities of existing properties to the north of the site.

The indicative layout plan does not provide details of the storey heights of the individual dwellings and as such it is not possible to ascertain whether the proposed layout meets the required separation distances in order to provide each of the dwellings with appropriate levels of privacy and daylight. In some instances it would appear that such separation distances would not be met, with some separation distances between main elevations being as low as 15 metres. (A separation distance of 21 metres is usually considered appropriate between main elevations of two storey dwellings, assuming a level site). The plots appear to have adequate garden and amenity space.

Concern has been expressed by a resident of Railway Cottages to north west of the application site, regarding the impact of the proposed development on the private access road, which runs close to the northern boundary of the site. The concern relates more specifically to the proximity of the proposed houses to the lane, which could potentially create a tunnel effect to the lane. The submitted layout plan is indicative only and no indication as to the storey heights of the properties along the northern boundary of the site has been provided either. Both matters would be considered at the reserved matters stage. With the exception of what appear to be either apartment blocks or terraces of houses in the north east corner of the site, close to the junction of the access road and Neasham Road, the remainder of the properties along this boundary are detached dwellings set back from the access road by between 8 and 10 metres. The properties in the northeast corner are however to be sited closer to the access road, with a separation distance of approximately 5 metres. In the absence of further details regarding the layout and storey heights of the building it is not possible to assess the impact of the proposal on the access lane, however it is considered that as the majority of the properties are to be detached

dwellings set back up to 10 metres from the lane it is unlikely to adversely impact upon users of the lane.

Policy E49 (Noise-Sensitive Development) states that development in locations in which its occupiers would be materially affected by noise will normally be required to incorporate measures to mitigate its effects. There are a number of existing noise sources within the vicinity of the site which have the potential to adversely impact upon the amenities of the proposed dwellings. These include the Darlington Arena directly opposite, which in addition to football matches has permission to hold a limited number of other events, such as concerts, each year; road noise from Neasham Road and the A66(T) to the east and west of the site respectively and noise from the Darlington-Middlesbrough railway line to the north of the site.

The Council's Environmental Health Officer previously expressed concern that the applicants had not considered the impact of noise on the proposed development from these sources and that no noise assessment had been submitted to consider noise at the application stage in accordance with the guidance contained within PPG24, BS7445 and BS4142.

A noise report has now been submitted and considers the impact of noise arising from Neasham Road and the A66(T), the Darlington-Middlesbrough railway line and activities at the Darlington Area opposite, including football matches, music events and activities arising from the hybrid application which Members were minded to grant planning permission for in April 2008, subject to the developer entering into a Section 106 Agreement for uses, which include indoor and outdoor football pitches, leisure facilities, office accommodation etc., upon the proposed residential development.

The report has been considered by the Council's Environmental Health Officer (EHO) who advises that the site is subject to various noise sources including rail traffic noise, road traffic noise from Neasham Road and the A66, telecommunications mast and the Stadium. While these noise sources can be considered individually to assess the affect of noise on any future development they must be also considered collectively. PPG24 – Planning and Noise also recommends that noise exposure should be assessed at the time of application and any increase that may reasonable expected in the foreseeable future. In considering the report, the EHO has taken into account the planning permissions held by the Stadium, some of which have not yet been implemented, and others which are implemented on a small number of occasions. The noise sources have been assessed by White Young Green (WYG) within their report, however noise from the Stadium is to some extent an unknown quantity with planning permission for a number of uses which have not recently taken place or planned for the future. This has prevented the noise consultant from taking noise measurements and carrying out a detailed assessment with regard to the affect of stadium noise on the proposed development site.

The report has demonstrated that noise from road traffic and rail traffic can be mitigated by a high standard of glazing/acoustic ventilation to meet required internal levels. As this is an outline planning application, careful design of the site layout and internal layouts within the residential properties can further minimise the impact of traffic noise by designing kitchens and bathrooms on the side of the property facing Neasham Road and main living and bedroom accommodation on the opposite side. The World Health Organisation (WHO) recommends 'that general daytime outdoor noise levels of 55 dB(A) are desirable to prevent any significant community annoyance'. The WYG report acknowledges the external amenity at all monitoring

locations exceeds the 55dB(A) external amenity due to traffic noise. However, the EHO agrees with the consultants conclusion that external amenity at those properties not adjacent to Neasham Road can be met by noise attenuation either provided by other residential properties on site or by acoustic fence, bund or distance from road/railway etc. Even with the provision of an acoustic fence and properties being set back a minimum distance of 16 metres from Neasham Road, those properties adjacent to Neasham Road would not be able to achieve noise levels less than 55 dB(A) in garden areas.

In terms of noise from the Stadium, the EHO advises that noise monitoring was carried out as part of the noise assessment both prior to and during a Saturday football match. The noise measurements resulted in similar levels to that generated by traffic, however the report notes that in the absence of road traffic noise, noise from the tannoy system, announcements, music and singing could be heard at the measurement location and therefore would be audible in the external garden areas. The EHO advises that the Stadium can hold up to 8 concerts per year, which although subject to certain restrictions, the impact of music from the concerts on the residential amenities of these properties, especially the garden areas, is likely to be significant. The concert noise management plan which forms part of the Section 106 Agreement has not assessed the impact of noise from concerts at this proposed residential development and hence there are no noise levels set for this location.

In addition, the Stadium has permission to hold a number of other sporting and non-sporting events throughout the course of the year, including car boot sales. These uses may also generate noise which will have a detrimental effect of the residential properties. The granting of planning permission may result in Environmental Health recommending the refusal of any events that would have an adverse effect on nearby housing and this may unduly restrict the plans for future uses at the stadium and therefore make this proposed residential development incompatible with the stadium uses. The standard of sound insulation, glazing, acoustic ventilation if installed in all properties will protect residents to some extent from stadium noise but not with regard to gardens. The EHO advises that the various uses for which the stadium has planning permission for will result in future residents of this proposed residential development complaining about noise from the stadium, which may be very difficult to deal with under statutory nuisance legislation.

The WYG report concludes that the adjacent roads, railway line and the stadium will not cause unacceptable noise impact on the proposed development, however taking all noise sources into account the EHO disagrees. The EHO advises that PPG 24 recommends that where residential development falls within Noise Exposure Category C, in this case for road traffic noise, planning permission should not normally be granted and where it is considered that permission could be given, for example where there are no alternative quieter sites available, conditions should be imposed. In this instance the application site is outside the defined development limits for the urban area of Darlington and there are other policy issues, which have resulted in the officer recommendation of refusal.

The application is silent on whether the existing telecommunications mast and associated equipment is to be removed to make way for the proposed development. The mast is not shown on the submitted layout plan however there is no development shown in this area and an area of planting is shown around the compound, which suggests that the equipment may remain. The mast would be within approximately 20 metres of the nearest houses either side. There is no

guidance as such which establishes a minimum distance between such equipment and houses. However the potential impact of telecommunications equipment on health is not a material planning consideration and planning permission could not be refused on this basis.

### **Traffic and Highway Safety Issues**

Access and egress to the site will be from a new access created onto Neasham Road, approximately 120 metres to the south of the existing entrance to the football stadium on the opposite side of Neasham Road. The applicants have also offered to close the existing private access immediately to the south of the railway bridge, which provides access to Railway Cottages. Access to these properties will be provided through the site and a new access point created in the northwestern corner of the site to Railway Cottages. A Transport Assessment and a Travel Plan have been prepared and submitted with the application.

The Highways Agency has considered the application in terms of its impact on the strategic road network, in this case the A66(T). The Highways Agency originally issued a holding direction, directing that planning permission not be granted until such time as the additional transport assessment work is undertaken and a more comprehensive Travel Plan is provided. Further discussions have taken place between the applicants' Transport Consultants and the Highways Agency and a revised Travel Plan has been prepared. On this basis, the Highways Agency has lifted the holding direction and advises that it has no objection, in principle, to the application being granted permission subject to a planning condition requiring the Travel Plan to be implemented and subject to a financial contribution, secured by Section 106 Agreement, towards a programme of Personalised Travel Planning for the future residents of the proposed dwellings.

The Council's Highway Engineer has also considered the application and identifies that the Transport Assessment has incorrectly assessed the development on the basis of 130 dwellings. The Highway Engineer has recalculated the traffic impact based on 160 dwellings and the capacity of Neasham Road would not be exceeded. The predicted flows for the busiest hour would be unlikely to have a significant impact on the wider local highway network. The Highway Engineer has also advised that a right turning facility would need to be provided at the site access and the site layout would be required to provide for a 20mph speed limit, traffic calming and all necessary signage. Such matters would be dealt with by planning condition. In addition it is pointed out that access to the site will be affected by events at the football stadium. Neasham Road is closed for a period of time at the end of a match or event and this can extend to 2 or more hours for larger events. This would prevent access to the housing site for all residents and visitors for a period of time. It is important that prospective occupiers are made aware of this restriction. The housing site would also be required to be included in the Neasham Road Area Residents Parking Scheme (for events at the football stadium) and the developer would be required to fund the inclusion of the site within the scheme.

The Highway Engineer does not consider it necessary to close the existing private access serving Railway Cottages. In any event this is a private access road and the applicants/developer would need to obtain the agreement of all owners and persons with a right of access over the road before it could be closed. Consequently there is no guarantee that closure of the road would take place.

While the Highway Engineer has raised no highway objection to the proposed development, subject to the imposition of appropriate planning conditions, he does advise that he has concerns

regarding the location of the site and its ability to provide sustainable travel choices for residents. In this regard he supports the views of the Transport Policy Section and would agree that the inadequacies would provide a strong reason for refusal.

In considering the application, the Council's Transport Policy Section has concluded that the site is not well located to provide sustainable travel choices for residents and it is likely that this would be a largely car based development. The No. 20 bus service is infrequent and access to more frequent bus services is beyond an acceptable walking distance. The site is not connected to the town by good safe cycling routes and distance to local facilities is such that walking would not be the obvious choice. These inadequacies would provide a strong reason for refusal. A Travel Plan has been submitted latterly and the Transport Policy Officer has submitted further comments. He concludes that having considered the Travel Plan the conclusions set out in his original comments are still relevant and the site is not very sustainable in transport policy terms. If Members are minded to grant planning permission however, he advises that there are a number of improvements, some of which would be provided off-site and funded by the developer, would need to be secured.

### **Ecology and Nature Conservation**

The application site is an area of agricultural land, with existing trees and hedgerow around the periphery of the site. The site itself is not formally designated as being of any ecological importance. Brankin Moor Local Nature Reserve lies to the north east of the site, within 500 metres of the site.

The indicative layout plan shows a number of trees along the southwestern boundary, however no details have been provided of the existing trees and hedgerows on the site and whether these are to be maintained or removed to make way for new tree planting. Although landscaping is indicated on the forms as a matter for consideration at the outline stage, no such details have been submitted with the application. With specific regard to the impact of the proposed development on existing trees on the site the Council's Arboricultural Officer has advised that an Arboricultural Implications Assessment and a Tree Protection Plan will be required.

A Great Crested Newt and Breeding Bird Survey have been submitted with the application. The report is based on the findings of a number of field and desk based surveys of the site undertaken during April and May 2007. The report concludes that water bodies present on the site are not deemed to provide suitable habitat to support a breeding population of great crested newts. A pond located within 500 metres of the survey site, within the grounds of Darlington Football club, contains fish and an abundance of water fowl and so is considered very unlikely to maintain a breeding population of great crested newts (the pond has not however been surveyed). Great crested newts are not therefore considered to be a constraint to development. To enhance the site for great crested newt movement, a 1 –2 metre strip of land, running along the north edge of the site, could be planted with a hedge and a wild flower/grass mixture to provide a potential movement corridor for great crested newts if in future they colonise the close by Local Nature Reserve.

The breeding bird survey stated that 36 bird species were recorded during the survey, of which 10 were found to be holding territory on the site including 2 species (Song Thrush and Dunnock) deemed to be important in terms of their conservation status. The survey confirmed that there are no Schedule 1 birds using the proposed development site. The survey recommends a number



of measures to provide suitable feeding, nesting and roosting habitat for the species of note, which include the retention and planting of species-rich native hedgerows and the planting of mixed scrub.

Natural England has considered the application and considers that the proposal is unlikely to have an adverse effect on protected species, subject to a planning condition relating to the clearance of vegetation from the site. Durham Wildlife Trust have also commented on the application and advise that surveys carried out in 2008 have revealed the presence of great crested newts at Brankin Moor Local Nature Reserve/SCNI. As this site lies within 500 metres of the development site and in light of this new information they object to the proposed development and request that further survey work be carried out. They are also concerned that the proposed development will further isolate Brankin Moor nature reserve and will increase public use of the site.

The Environment Agency has withdrawn its original objection to the proposed development on the basis that no information was submitted with the application to assess the risks posed by the development following submission of a further document 'Ecology Walkover' dated September 2006, which considers the presence of water vole on the site. The Agency now recommends that a planning condition be attached requiring the submission and approval of a scheme for the provision and management of a buffer zone along the watercourse to the south west of the site prior to the commencement of any development on site.

The Council's Countryside Team has considered the application and advises that for an urban fringe site such as this, the highest standards of design and sustainability should underpin any proposed development. These principles should also include a significant regard for the protection, retention and creation of biodiversity within a high quality ecological plan. The proposed development fails in its design to address most of the features, which would be expected in a location of this type, which include the following:

- Sufficient greenspace area within the development area (approximately 20 – 25%), which should consist of internal community space (as already included), enhancement of existing features i.e. hedgerows and watercourse, as well the creation of new areas;
- Connectivity of internally created greenspaces to existing greenspace habitats outside of the development area i.e. connecting the two Local Nature Reserves (Brankin Moor & Geneva Wood) neighbouring the site.
- Access, both internally (possibly within the green buffer areas) and externally from the site should be catered for along a safe wide route which allows specific connection to external links and features, such as any rights of way, the cycle network, nature reserves, etc. This would also be best served by providing safe crossing points for cyclists and pedestrians, e.g. across Neasham Road to Brankin moor.
- The greenspace provision should be multi functional, catering for the enhancement of habitat, especially for any protected and BAP species found in the locality, public access, together with natural play/recreation.

In addition, the Countryside Team has advised that Brankin Moor Local Nature Reserve site (within 200 metres) surveyed positive for breeding Great Crested Newts in 2008. On a recent viewing of the site (February 2009) it was apparent that standing water, of significant depth, was

present sufficient that it might attract and allow Great Crested Newt breeding to occur. Even if the likely success of offspring is questionable the presence and potential harm to Great Crested Newts at the wrong time of year is of concern and therefore would need to be carefully assessed and incorporated into any method statement used to commence works. The development is likely to need to operate under a development Great Crested Newt licence.

### **Public Rights of Way**

Footpath Number 17 runs in an east-west direction immediately to the south of the application site, coincident with Snipe Lane. Although the proposed development will not directly affect the footpath, the Ramblers have advised that construction work should not affect the public right of way.

### **Ground Conditions**

A Ground Investigation Interpretative Report has been submitted with the application. The report has been considered by the Council's Environmental Health Officer who has raised a number of issues regarding the findings of the report. The main concern relates to an area of former landfill on the site, an infilled pond, which covers approximately half of the northern end of the application site and the risk that landfill gas arising from this area poses to any future residential development on the site. The report advises that significant concentrations of methane have been detected in boreholes located within the area of the infilled pond of above 90% and consequently the report concludes that such concentrations of methane make the site unsuitable for development without remediation. The proposed remediation measures would be to remove the made ground/landfill material on the site, which ranges in depths of between 0.7 metres to 4.3 metres.

The Environment Agency has also considered the application so far as it relates to contaminated land and recommend that a condition be imposed requiring the submission and approval of a scheme to deal with the risks associated with contamination of the site. The information currently provided by the applicant is not sufficient to fully address the risks posed by the site to controlled waters receptors. A number of further conditions are also recommended relating this matter.

The Environmental Health Officer has commented further on the application and advises that following discussions with the Environment Agency (EA) regarding the feasibility of removing the made ground and landfill material from the site as a remediation option with regard to risks from landfill gas, the EA would have no objection to this as a remediation option, but would need to be involved in reviewing any remediation scheme for the site. Any remediation scheme would need to be submitted in accordance with the requirements of the EA's suggested land contamination planning condition. The developer should be made aware of the work required and the likely expense with regard to removing the made ground and landfill material throughout the site and be satisfied that this is a viable remediation option, especially in terms of cost.

The Environmental Health Officer has further recommended that the Local Planning Authority obtains written assurances from the developer of their intention to follow White Young Green's recommendation within their Ground Investigation Interpretative Report dated November 2006 to excavate and remove from the site all the made ground, peat and organic clays from the former pond area and backfill with a suitable engineered material prior to the application being determined. The applicants have now written to confirm that they intend to follow the recommendations set out in White Young Green's Ground Investigation Interpretative Report.

### **Flooding and Drainage Issues**

A Flood Risk Assessment (FRA) has been submitted with the application. The site lies within Flood Zone 1, with a less than 0.1% chance of fluvial flooding. Given the size of the application site (4.5 hectares) current Environment Agency Standing Advice states that a FRA is needed to assess surface water runoff generated by the site. Due to the nature of the development the site will have a high concentration of impermeable area. The FRA states that given the existence of minor watercourses through and adjacent to the site, it is proposed to discharge surface water from the development to watercourses. If however there is a local surface water sewer in Neasham Road, which discharges to a larger watercourse than those directly adjacent to the site then it may be preferable for surface water to discharge into the sewer rather than into the small watercourses close to the site. In either case surface water runoff from the site should be attenuated to a Greenfield rate and some on-site attenuation will be required. Foul water will be discharged into existing public sewers. The FRA recommends that finished floor levels are set a minimum of 300mm above surrounding ground level to reduce the risk of overland flooding from the north west of the site.

The Environment Agency has commented on the application and advises that the proposed development is acceptable in terms of flood risk subject to a planning condition requiring the submission and approval of a surface water drainage scheme for the site, based on sustainable drainage principles. The Agency advises that surface water run off should be attenuated to the 1:1 year Greenfield rate or if possible, reduced. The surface water drainage system should be capable of containing run-off arising from the 1:30 year event and the site should be designed so that run-off arising from storms up to the 1:100 year event can be stored within the site boundaries without affecting buildings or overflowing into watercourses.

Northumbrian Water Limited has commented on the application and advises that an existing public sewer and two water mains cross the application site at its southern end and are shown as being built over on the application. Northumbrian Water advises that they will not permit a building over or close to its apparatus. Planning conditions are suggested that require the scheme to be either redesigned to avoid building over the apparatus or else the apparatus diverted or relocated at the applicants' full cost. With regard to the matter of discharging surface water runoff into the public sewer, a condition is suggested requiring the submission of a scheme for the disposal of surface water from the development to be submitted and approved in writing by the Local Planning Authority.

### **Statement of Community Involvement**

As the application falls within the category of major development, the Council's Statement of Community Involvement (SCI) guidelines state that the applicant should undertake pre-application consultation with local residents and stakeholders and to submit the results with the application in the form of an SCI. The application provides the results of a questionnaire undertaken by the applicants and their agents following a consultation exhibition held at the Kings Head, Darlington on 1 November 2006. The exhibition related to the re-development of the existing cattle market site at Clifton Road, the relocation of the cattle market to Humbleton Farm and the development of the Neasham Road site for housing.

The questionnaire related to all three proposals, however in terms of the proposal for the Neasham Road site the results raised the following issues:

- Of those who responded to a question regarding the acceptability of the site for residential development, 100% (14/14) thought the site was suitable for housing.
- The majority of respondents considered the layout, scale, appearance, access and landscaping of the proposals to be acceptable.

A number of concerns were highlighted relating to the following matters:

- Suitable linkages to Darlington need to be considered such as improvements to the bridge under the railway to encourage walking,
- Layout problems with access opposite the football stadium, traffic congestion and noise issues will result.
- Neasham Road and the bridge are too narrow to accommodate the development.
- Resident parking will be required as there will be problems associated with match day parking.
- Access does not appear to be adequate.

In response to the concerns raised, the statement advises that the layout of the proposal has been amended to have vehicular access from the site entrance with the existing lane to be altered to pedestrian access only.

The statement submitted with the application accords with the Council's SCI guidelines insofar as it provides details of the extent of the area consulted, where any event was held and how it was publicised and a summary of all comments received and the issues raised. It is considered that the analysis of the comments received and how the scheme has been amended and if not, why not, is limited and relates only to concerns regarding the access to the site. No explanation has been given as to why other concerns have not been addressed in the scheme. The main concern of the statement is that the event was held more than two years prior to the application being submitted and the responses are therefore considered to be out of date. However the guidelines are advisory only and an application cannot be refused, neither can the applicants be required to undertake further consultation work, on the basis that they have not been adhered to.

### **Other Issues Raised by Objectors**

A number of issues have been raised by objectors to the proposal, which have not been addressed in the main body of the report. One of the issues raised is that local services such as doctors' surgeries and schools cannot support the extra population arising from the proposed development. The Council's Children's Services Department has been consulted on the application and advise that while the nearest primary schools to the Neasham Road site do currently have small pockets of surplus places, this is not at a level that could accommodate any of the proposed housing development. If the development goes ahead without providing additional primary school places there is an extremely high risk that many of the families moving to the area would not be able to obtain a school place or would have to travel significant distances to other parts of the town. Developers would need to make a capital contribution towards either expanding a primary school in the area or major remodelling and expansion works at a number of schools across the area combined with improved access routes to and from Neasham Road. Although there is not as much concern about places in the secondary school sector, increasing primary school places will have a knock-on effect at secondary level eventually and a developer contribution would also be required to increase places at secondary level.

The need for the development in the current economic climate has also been raised. The prevailing economic circumstances are not however considered to be a material planning consideration in determining a planning application. The market will decide if there is a need for the proposed development. If not, then the site would remain unsold and any permission granted would simply lapse.

The matter of service disruption to properties during the construction period and also disruption i.e. noise, dust etc., arising from construction activities has also been raised. It will be the responsibility of any developer to ensure that services to existing properties are maintained, and restored if affected, during the construction period.

The future occupancy of any units of affordable housing on the site would be managed by the Housing Association.

### **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**

Although reference is made within the application to the proposed development being 'enabling development', Officers are not satisfied that the proposed development amounts to enabling development given the concerns regarding the robustness of the financial case and that any benefit arising from the relocation of the existing cattle mart to a new site at Humbleton Farm would be limited to a comparatively small number of residents surrounding the existing mart site on Clifton Road. As such it is not considered that the fundamental policy objections can be set aside in this instance. Furthermore, in the absence of any commitment from the Council that the funds from the sale of the existing cattle mart site at Clifton Road can be directed to the proposed Agricultural and Equine Centre at Humbleton Farm, if planning permission were to be granted this is likely to place additional pressure for further development at Humbleton Farm to meet any shortfall in development costs.

The proposed residential development would be located on a site outside the defined development limits of the urban area of Darlington. The proposed development is also on a major greenfield site, which is not considered to be a sequentially preferable location and would also adversely affect the Council's ability to contribute to the achievement of national, regional or sub-regional housing delivery objectives. Furthermore it is not considered that development of this site is required to meet national, regional or sub-regional housing delivery objectives. As such the development is contrary Policies E2 (Development Limits) and H3 (Locations for New Housing Development) of the Borough of Darlington Local Plan 1997 and Policy 4 (The Sequential Approach to Development) of The North East of England Plan, Regional Spatial Strategy to 2021. The Local Planning Authority is not satisfied that the proposed development meets the criteria for enabling development, which would justify the fundamental policy objections being set aside in this instance.

Notwithstanding the submission of a Travel Plan with the application, the location of the site on the edge of the built limits to Darlington is not considered to be well located so as to provide sustainable travel choices for future residents of the proposed development. It is therefore considered that the proposed development would not be a sustainable form of development as it would be largely a car based development and would be contrary to Policy 4 (The Sequential Approach to Development) of The North East of England Plan, Regional Spatial Strategy to 2021 and advice contained in Planning Policy Guidance Note 13 'Transport' and Planning Policy Statement 7 'Sustainable Development in Rural Areas'.

Should Members be minded to grant planning permission, the application would need to be referred to the Secretary of State for Communities and Local Government (Government Office for the North East) under The Town and Country Planning (Development Plans and Consultation) (Departures) Direction 1999 on the basis that the proposed development consists of more than 150 houses or flats and that because of the scale or nature or the location of the land would significantly prejudice the implementation of the development plan's policies and proposals. The Secretary of State would then determine whether the application should be called-in or direct that the Local Planning Authority may determine the application. In addition, and as Members requested when the application was deferred, a schedule of suggested planning conditions and heads of terms for a Section 106 Legal Agreement is also appended to this report. If Members are agreeable to these conditions and heads of terms, then these would also need to form part of the package of information referred to the Secretary of State.

## **RECOMMENDATION**

THAT PLANNING PERMISSION BE REFUSED FOR THE FOLLOWING REASONS:

1. The proposed residential development, on land located outside the defined development limits of the urban area of Darlington, is contrary to Policies E2 (Development Limits) and H3 (Locations for new Housing Development) of the Borough of Darlington Local Plan 1997. The Local Planning Authority is not satisfied that the proposed development meets the criteria for enabling development, which would justify the fundamental policy objections to the proposal being set aside in this instance.
2. The proposed development, by reason of its isolated location outside of the urban area, is contrary to Policy 4 (The Sequential Approach to Development) of The North East of England Plan, Regional Spatial Strategy to 2021 which indicates that in selecting locations for development priority should be given to previously developed land and buildings within urban areas, then other suitable locations within urban areas, then suitable sites in locations adjoining urban areas, particularly those involving the use of previously developed land. The site is a greenfield site outside of the urban area and its selection for development would only be made if sufficient sites in all other categories were not available. The applicant has not submitted any information to advance a case that this is the most sequentially preferable site.
3. The development of this large, greenfield site for residential purposes on the scale proposed, would undermine the Council's ability to contribute towards meeting the target percentage of previously developed land to be redeveloped for housing as set out in the North of England Plan, Regional Spatial Strategy to 2021.

4. Development of this site in view of its size and location is not, in the opinion of the Local Planning Authority, required to meet national, regional or sub-regional housing delivery objectives.
5. Notwithstanding the submission of a Travel Plan with the application, the proposed residential development site is not considered to be well located so as to provide sustainable travel choices for residents. The existing bus service is infrequent and access to more frequent bus services is beyond an acceptable walking distance. The site is not connected to the town by good, safe cycling routes and distance to local facilities is such that walking would not be the obvious choice. It is therefore considered that the proposed development would not be a sustainable form of development as it would be largely a car based development and would therefore be contrary to Policy 4 (The Sequential Approach to Development) of The North East of England Plan, Regional Spatial Strategy to 2021 and advice contained in Planning Policy Guidance Note 13 'Transport' and Planning Policy Statement 7 'Sustainable Development in Rural Areas'.