

**DARLINGTON BOROUGH COUNCIL**

**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 11 March 2009**

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<b>APPLICATION REF. NO:</b>	<b>08/01003/OUTE</b>
<b>STATUTORY DECISION DATE:</b>	<b>24 April 2009</b>
<b>WARD/PARISH:</b>	<b>SADBERGE AND WHESSOE</b>
<b>LOCATION:</b>	<b>Humbleton Farm, West Auckland Road, Burtree</b>
<b>DESCRIPTION:</b>	<b>Erection of an agricultural centre to include replacement livestock market and equine centre and ancillary uses (in outline). (Additional travel plan received 28 January 2009)</b>
<b>APPLICANT:</b>	<b>DARLINGTON FARMERS AUCTION MART</b>

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**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 on the eastern side of the A68 at Burtree. The two applications are linked, and therefore fall to be considered together, on the basis that the capital receipt realised from the sale of the applicants land at Neasham Road for residential development, if planning permission is granted, would be directed towards the development costs associated with the Humbleton Farm proposal. Consequently the associated outline planning application for residential development at land at Neasham Road (08/01004/OUT) is also on this agenda for consideration.

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 forms a separate issue and is not for consideration as part of this scheme.

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. The submitted information, which comprises a financial appraisal, a sequential assessment and a strategic options appraisal, which looks at other sites considered for the relocation of the livestock market, will be considered in detail in both reports.

## APPLICATION AND SITE DESCRIPTION

Public Footpath No. 7 runs in an east-west direction through the site, coincident with the existing access track.

This is an outline application for the development of a 49.8 hectare site located to the east of the A68 West Auckland Road on the site of the existing Humbleton Farm. Details of access have been submitted for consideration at this stage, with matters of appearance, landscaping, layout and scale being reserved for consideration at a later stage. The application relates to the following:

- A building to accommodate an agricultural and equine centre over three floors, to accommodate three sales rings and associated pens and holding areas, a sales hall, restaurant and bar, a number of letting units and office and conference facilities, together with car and lorry parking areas (including an overspill car parking area) and an external sales area on land in the north west area of the application site, to the east of the A68;
- A biogas plant;
- A speciality business park, comprising 16 no. individual plots for 'mart related uses' such as livestock haulage contractor, farm tool and machinery repair area, local farm produce outlet, veterinary practice, seed and fertiliser merchant etc;
- A lairage compound and 6 no. open lairage paddocks;
- An outdoor ménage and trot and gallop area for horses;
- A storage and attenuation pond;
- landscaping and tree planting around the periphery of the site;
- a new roundabout and access from A68 with internal circulation routes; and
- retention of land and buildings at Humbleton Farm for operational use, to include residential accommodation for an on-site DFAM employee.

The application is one that falls to be considered under the Environmental Impact Assessment Regulations. An Environmental Assessment (EA) has been undertaken and an Environmental Statement (ES) has been submitted with the application. The ES considers the impact of the development under the following headings:

- Planning Policy
- Geology and Ground Conditions
- Water Environment
- Ecology and Nature Conservation
- Landscape and Visual Impacts
- Cultural Heritage
- Traffic and Transport Assessment
- Noise
- Air Quality
- Socio Economic Assessment

In addition to the ES, the following information has also been submitted:

- Transport Assessment and Travel Plan
- Flood Risk and Drainage Assessment
- Planning Statement

- Design and Access Statement
- Ground Investigation Report
- Geotechnical and Ground Contamination desk top assessment
- Sequential Assessment
- Financial Appraisal
- Strategic Options Appraisal
- Introductory Planning Report
- Statement of Community Involvement

## **PLANNING HISTORY**

75/00430/MISC – Continued use of land for the purpose of tipping. GRANTED 15.9.1976

76/00581/SU – Diversion of overhead electricity feeder. GRANTED 13.10.1976

78/00008/DM – Renewal of planning permission 8/75/00430/DM granted 15.9.76 for the continued use of the land for the purpose of tipping. GRANTED 24.5.1978

84/00416/CM – Proposed use of land for tipping waste material. UNDETERMINED

88/00571/CM – Proposed infilling of land by waste disposal and restoration to agriculture. REFUSED 27.2.89

90/00306/DM – Erection of a hotel/motel in outline. REFUSED 1.8.90

## **PLANNING POLICY BACKGROUND**

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

### **Development Plan**

*RSS: The North East of England Plan, Regional Spatial Strategy to 2021:*

Policy 2 - Sustainable Development

Policy 8 - Protecting and Enhancing the Environment

Policy 10 - Tees Valley City-Region

Policy 11 - Rural Areas

Policy 16 - Culture and Tourism

Policy 24 - Delivering Sustainable Communities

Policy 25 - Urban and Rural Centres

*Saved Policies of the Borough of Darlington Local Plan:*

Policy E2 - Development Limits

Policy E16 - Appearance from Main Travel Routes

Policy R15 - Horse-Related Development

Policy R24 - Leisure Facilities

Policy EP15 - Development Outside Employment Areas

Policy S1 - New Shopping Development

Policy S2 - Safeguarding the Town Centre

**National Planning Policy**

Parts of the following Planning Policy Statements (PPS) and Guidance notes (PPG) are significant material considerations:

PPS1 - Creating Sustainable Communities (2005)

PPG4 - Industrial, Commercial Development and Small Firms (1992)

PPS6 - Planning for Town Centres (2005)

PPS7 - Sustainable Development in Rural Areas (2004)

PPG13 - Transport (2001)

PPG16 – Archaeology and Planning (1990)

**RESULTS OF CONSULTATION AND PUBLICITY****Government Office for the North East**

The content of the environmental statement is at present a matter for the local planning authority. However, the Secretary of State for Communities and Local Government reserves the right to require further information at a later date. This might be necessary, for example, in relation to any appeal against refusal of planning permission or non-determination of a planning application, or if it is decided in the circumstances of the case to call-in the planning application.

**North East Assembly**

The agricultural mart and directly related uses reflect RSS objectives. However, the location of other proposed uses such as the local farm produce outlet and tool and machinery hire cannot. The proposal incorporates some sustainable design and construction methods but should ensure at least 10% of its energy supply from decentralised and renewable or low carbon sources, unless not viable, to be fully consistent with the RSS. Overall, the proposal is therefore not in conformity with the RSS.

**One North East**

From the information provided it is unclear as to what extent the applicants considered other sites in terms of preferable sequentiality in respect of the main auction mart and agricultural/equine elements of the proposals. Whilst the applicants provide evidence of why those uses included in the application which are classed as 'town centre' uses cannot be located in other centres or edge of centre locations, the issue of how essential these other uses are to the success of the auction mart and agricultural/equine centre are not as fully explored in the supporting information.

Whilst the Agency acknowledges the benefits of the principle of relocating the auction mart out of the town centre for the reasons outlined above, clearly the LPA must be satisfied that the application site is sequentially preferable to other sites not only in terms of the main auction mart and agricultural/equine centre elements of the proposals but also in terms of the additional commercial uses, many of which may be more suited to an industrial/commercial site.

**Provision of green energy and heat biogas plant:**

The application makes reference to the provision of the above plant within the proposals. Providing a clean, secure and stable energy supply is presently a key challenge and a key opportunity for the region's economy. Efficient use of low carbon energy is the key policy driver that the Agency is promoting through its plans and programmes to support businesses and other users to reduce the impacts of a presently volatile energy market and grasp the economic opportunities it represents.

The Agency welcomes the applicants' intention to incorporate Biogas fuel within the development. Biogas is a renewable fuel and as such it qualifies for renewable energy subsidies and can play a role in delivering the UK commitment to generate 15% of total energy demand for energy by 2020.

The following key issues should be considered when assessing the viability of a Biogas plant in the

UK :

- the fuel/feedstock should come from a local source;
- a noise assessment should be completed as part of a wider impact assessment considering dust, smell and fumes from the plant; and
- the local community should be engaged with the potential benefits to the local economy from setting up a plant.

The applicants do not appear to have addressed these issues in the submitted information. In the event that the LPA is minded to approve the application this aspect of the development should be controlled by appropriate conditions to ensure its satisfactory delivery.

In any event, in line with Government objectives<sup>1</sup> to generate 10% of electricity from renewable energy sources by 2010 the application should provide specific details regarding the provision of renewable energy measures within the scheme.

Training centre:

The application makes reference to the provision of a training centre, although no details are given.

The RES recognises the importance of developing appropriate skills training programmes to meet the region's employment requirements and we welcome the applicants' intention to include a training centre within the development. However, the Agency would urge the LPA to clarify with the applicants their intention regarding this element of the development perhaps with a view to requiring an appropriate skills training programme to be a requirement of the development.

Design issues:

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. With this in mind, if minded to approve, the Agency would request the LPA to encourage the developer to pursue the highest standards of quality in the development of this site, e.g. achievement of appropriate BREEAM, Building for Life and Secured by Design standards.

Clearly, as indicated above, there remain issues relating to adequate sequential evidence for the relocation of the auction mart to this particular site, the appropriateness of the type and scale of the proposed additional uses in this location and the other matters of detail. Subject to the resolution of these issues, together with any environmental and highway issues, to the satisfaction of the LPA, the Agency raises no objection to this application. We would urge the LPA to control issues relating to the satisfactory delivery of the design quality and renewable energy elements proposed by the scheme through the imposition of appropriate conditions or by legal agreement.

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**Highways Agency**

The Highways Agency has considered the submitted Transport Assessment and Travel Plan in detail. In summary, the following matters need to be addressed before the Agency can advise on the impact of the proposed development:

Transport Assessment

- Information on development phasing;
- Information on proposed parking provision (including both car and cycling);
- Methodology of trip generation calculation and justification; and
- Analysis of the junction with the Burtree Lane diversion but without the development;
- Further details regarding the diversion of Burtree Lane, as part of the development.

Travel Plan

- The scope of the Travel Plan (TP) is unclear;
- There is no consideration of how travel by customers, visitors and deliveries will be handles;
- No commitment is demonstrated to the TP or sustainable travel;
- Accessibility by sustainable modes in poor;
- Suggested TP measures are weak and must be improved;
- Clarification is required on the Travel Plan Co-ordinator role. It is unclear if the developer is committed to funding this role;
- The TP time period is unacceptable – the TP will not cease after 5 years;
- The targets are currently unrealistic and unacceptable. Trip generation targets must be set out along with triggers for mitigation;
- No monitoring information is provided and this must be provided within this Travel Plan Framework.

**Durham Constabulary – Traffic Management Officer**

In principle we lend our support to the relocation of the Mart to Humbleton Farm and would wish to see the drawings for the proposed roundabout and accompanying signage schedule. We object to the diversion of Burtree Lane on road safety grounds as the encouragement to divert to this route is inappropriate. We, in company with Darlington Borough Council, currently object to this route being used as a diversion route for road closures in the vicinity with the recommended diversions being via the A6072 and the A1(M) with exempt traffic only being signed via Burtree Lane, on the odd occasion when this is required. On a general note we are disappointed that given the close proximity of the A6072 (60mph), the A68 (60 and 70mph) and the A1(M)(70mph) that there is no reference within the documentation as to the security which will be utilised to ensure that as far as was possible the escape of livestock onto surrounding roads will be prevented.

**The Ramblers**

Oppose the application for the following reasons:

- While accepting the need for a cattle mart, this solution is not the answer. The proposed development is on a massive scale and involves a mainly Greenfield site in open country. In addition it is proposed to fund some of this development by the sale of a second separate Greenfield site off Neasham Road. Surely there are sufficient Brownfield sites in and around Darlington for the mart? The large scale of the development could be reduced to a more suitable level which could be accommodated and at the same time obviate the need to sell off a second Greenfield site at Neasham Road.

- As the limestone is an aquifer there could be pathways for pollutants to enter groundwater beyond those considered in the survey work referred to in Chapter 6, Volume 2 of the Environmental Statement (ES). Further boreholes are needed across the site to establish the sub-glacial topography and its relationship to pathways via glacial sands, gravels and other permeable deposits.
- It is stated in Chapter 6 and other chapters of the ES there are recommendations that further work needs to be carried out into several aspects of the site. This work should not be completed before any decision on the application is made.
- The serious problem regarding the presence of Japanese Knotweed on site is not fully addressed. Simply fencing it off while a strategy is developed and work on site goes forward is not a feasible position, especially as regards contamination of the Burtree Gate Marsh Nature Reserve and other areas.
- There appear to be several on-going investigations and strategy developments to be completed, and several items superseded and amended. Of especial concern is the fact that strategies for dealing with on-site pollution from existing landfill and projected contamination due to on-site activity are not fully completed. Surely planning permission should be withheld until all factors are dealt with.
- The size and location of the development raises great concerns. A development the size of a small village is not desirable in this position and further expands urban/semi-urban areas. This infilling of green spaces between urban and industrial environments between Darlington, Heighington, Aycliffe etc is contrary to national and local policies.
- There is a great deal of concern from my organisation, other groups and local people that this development will have an adverse effect upon the local environment and infrastructure if its surrounds. In our current economic difficulties going ahead with the development may produce a huge 'white elephant'. The development may also open the way for an extension of the site or development of nearby sites, taking up more countryside.

## **CPRE**

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

- If the proposal was for a like for like development with an agricultural style set of buildings which settled naturally into the countryside we would be only too happy to support it. However this application is for a massive, industrial scale development, totally out of keeping with the locality. The area is not allocated as employment land.
- The proposed buildings are totally out of keeping with the locality in design, mass and scale. The selection of orange as one of the predominant colours is unduly obtrusive and indicative of a lack of sensitivity to the area. The proposed extensive use of expansive sheet glass areas is also out of keeping. The height of the buildings is significant and will add to the high visibility of the development.
- The site is elevated which will render the buildings highly visible over a very large area. If the development were to be a suitably designed mart it could be located so as to be hidden by the rolling countryside in the vicinity. But the large number of buildings proposed for the site and their size mean this impossible and it will result in a highly visible development, which will have a negative impact on the landscape.
- Should permission be granted we believe there should be a condition limiting business to agricultural and forestry uses only.
- Deeply concerned that if permission is granted, even with a condition restricting use to agricultural and forestry uses, non-agricultural/forestry uses will become part of the development. There is a precedent within the Borough at the football club.

- The survey of the geology and ground conditions in the non-technical summary say more site investigations are needed, particularly in the former tip areas and the new areas. When are these to be done? Why are the results not part of the application? Does this not require further investigation before the application can be fully considered? Further gas and water monitoring are also recommended. When is this work to be done? Why are the results and their consequences not part of the application?
- The non-technical summary notes 'the proposed development would result in notable changes in the landscape quality of the development site'. It is said that mitigation will deal with this, but we fail to see how the visual impact of such a large development in open countryside on an elevated site can be mitigated effectively.
- In the archaeological report the history seems to be of just Darlington in general and not the proposed site in particular. It seems to be a desktop only survey and recommends field walking the site. Has this work been done?
- The treatment of waste, particularly wastewater, gives us cause for concern. The amount of effluent, which will be produced, can be expected to be significant, but the application says the method for disposal of wheel cleaning water and surface water is still under consideration. The method should be decided and submitted as part of the application. It is noted there is to be a biogas digester. Has a risk assessment of its operation been carried out? Why is that assessment not part of the application? Where is the residue from the digester to go? All this could be particularly important, as the south part of the site is a minor aquifer.
- What will the water demand be and is the local supply adequate? This is of particular importance as there will be periods when a large number of stock will be on the site and water demand can be expected to be high on these occasions. Security of supply will matter as livestock must have water to ensure good animal welfare. Cleaning of the site to minimise smell and nuisance will also be important and require adequate water supply.
- In our view this is an incomplete application. Numerous reports recommend further investigations. We have not identified this additional work in the application. The lack of a comprehensive, full cycle, pollution and waste disposal plan is particularly worrying/
- Darlington desperately needs a new mart, but whilst this may be a suitable location the proposals are for a totally unsuitable development in our opinion. It is effectively an industrial/business park dropped into the countryside in a manner unsympathetic to the locality and contrary to the Borough of Darlington Local Plan.

Additional comments:

- The application is in outline only. We believe it should be a full application as too many important factors need to be resolved for the development to succeed, e.g. waste and pollution control;
- In the geotechnical report 10 of the 19 boreholes were reported as 'made ground'. Will the land support the proposed buildings? Will different foundations to those usual be required? Will the foundations needed cost more than estimated? Will the 'made ground' have any other impact? When the Co-op supermarket was built in Neasham Road the builders hit methane gas and it had major implications for the project. How much of the site is affected by 'made ground'? We did not identify a map of borehole sites, but on the basis the boreholes will be scattered around the site a number of the proposed buildings can be expected to be on the 'made ground'. There is concern the development could be permitted and once detailed planning and building begin unforeseen problems will arise which change the viability of the project and cause it to be abandoned;



- We believe the application is incomplete. Various reports in the application recommend further work. We have not identified that this work has been done and not found any such work in the application. We consider it unfair that Darlington Borough Council should be expected to make a decision without key data, such as ground work surveys, archaeological results and full waste control documentation;
- We consider there should be some control over the development to ensure the mart is built and ready for use before the existing mart ceases use. It should also be built either at the same time as building works for any of the other buildings or before building works begin on any of the other buildings;
- It is noted in the 'Financial Appraisal' in the income section there is a sum of £4.5 million listed as 'land sale of Darlington Market'. Surely the Clifton Road site is owned by Darlington Borough Council! At the moment Darlington Borough Council is proposing wide ranging cuts in event the smallest of services, such as village public toilets and the Mayor's Charity Shop to save money. If the site were to sell, and for £4.5 million, neither of which is certain in this period of economic downturn, it is surely not in a position to pass on any proceeds to the Mart. If the Mart does have this £4.5 million it must surely be able to build a like for like Mart and still have change so will not require all the additional extra business units proposed. If the £4.5 million is not available is the development viable? If it is not viable it certainly should not be receiving planning permission.
- The more we investigate this application the more we find it wanting. Darlington does desperately need a new mart, but not this proposed development. We consider it under pressure to accept this inappropriate proposal and trust it is able to resist and refuse permission.

### **Environment Agency**

#### Foul Drainage

Object because the application has been submitted with insufficient information to enable adequate consideration of the proposed means of foul drainage to be made. DETR Circular 03/99 puts the onus on applicants to demonstrate that non-mains sewage disposal systems will not cause adverse impacts on the environment, amenity and public health. Until a satisfactory assessment of the likely impact of the foul drainage proposal on the environment has been submitted to and commented on by the Environment Agency, recommend that planning permission should not be granted.

#### Flood Risk

Recommend that a planning condition be attached requiring the submission and approval of a surface water drainage scheme for the site prior to the commencement of development.

#### Contaminated Land

Information submitted with the application relating to contaminated land have been assessed and meet the requirements of a Preliminary Risk Assessment (PRA) required under PPS23 'Planning and Pollution Control'. The reports indicate that there is potential for contamination to be present in parts of the site due to historic land uses (i.e. old tip in south of the site). As such, and in order to fully assess and address all of the risks to controlled water receptors within the vicinity of the site a number of planning conditions are recommended.

### Biodiversity

A planning condition requiring the submission of a scheme for the provision and management of a buffer zone adjacent to the water course to the south of the site is recommended, to protect an important wildlife corridor.

### Environment Management and Permitting

A planning condition requiring that all surface water drainage from parking areas and hard standings should pass through an oil interceptor.

## **Natural England**

### Bats

Based on the information provided, Natural England advises that the above proposal is unlikely to have an adverse effect in respect of species especially protected by law. However, the local planning authority may wish to attach an informative based on the information in ODPM Circular 06/2005 Part IV B and C if planning permission is granted, to make the applicant aware that such species may be present in the general area and the legal protection afforded to this species.

The bat survey '*Humbleton Farm Bat Survey, December 2007, WYG,*' identified 2 common pipistrelle roosts in the roof of the farmhouse at Humbleton Farm. It also noted an area of foraging activity approximately 30m (east) of the farm. Although foraging areas are not especially protected by law, the loss of this area of feeding habitat could adversely affect the continued ecological functionality of the roosts within the farmhouse. Natural England would therefore advise the Local Planning Authority to seek the inclusion of habitats which will provide suitable alternative foraging sites for bats within the overall management plan for the site, should this area be lost to the development.

Additionally, although the farm buildings are not being altered as part of the development, there is the potential for increased disturbance during the construction and post construction phases. Contractors on site should be advised of the presence of bats in the area and what action should be taken in the event that a bat is discovered during works.

Natural England would advise that the developer should ensure that lighting, both during and post construction, should be designed so as to avoid disturbance and foraging bats on site. This should include avoidance of high-intensity lighting where possible and avoiding illuminating roost entrances and foraging features.

### Amphibians

The report '*Humbleton Farm, Darlington, Ecology Walkover, October 2006, WYG,*' notes that there are no ponds on site, and that the two field drains within the development boundary are '*largely unsuitable for breeding amphibians (GCN).*' The ecologist also concluded that the surrounding habitat was unsuitable and such species are unlikely to be present.

### Otter and Water Vole

The report '*Humbleton Farm, Darlington, Ecology Walkover, October 2006, WYG,*' noted no suitable streams or waterbodies on site that would support such species. The ecologist has therefore concluded that such species are unlikely to be present within the development area.

### Reptiles

The report '*Humbleton Farm, Darlington, Ecology Walkover, October 2006, WYG,*' noted no evidence of such species on site. The ecologist has stated that the site does not provide many

areas suitable for shelter or hibernation, and has concluded that the habitat is '*considered to be unsuitable for reptile habitation.*'

### Badgers

Possible signs of badgers were found in area 4, to the west of the main development area (*Humbleton Farm, Darlington, Ecology Walkover, October 2006, WYG, page 9*), but no evidence of badgers was found within the area to be developed. However, this work was undertaken in October 2006, and there remains the possibility that the situation within the main site may have changed in the intervening period. Natural England would therefore advise that, prior to work commencing on site, a further checking survey should be made for this species, by the project ecologist. Should evidence be found, the ecologist can advise on a suitable course of action to minimise the risk of damage to any setts, or harm to any badger using the site.

### Breeding Birds

The report '*Breeding Bird Survey Humbleton Farm, Darlington, November 2007, WYG,*' notes that there are several UK Red list and BAP species present within the development site area.

Under Section (I) of the Wildlife & Countryside Act 1981, it is an offence to kill, injure or take any wild bird or disturb, damage or destroy the nest whilst it is in use or being built, or take or destroy the egg of any wild bird.

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 breeding birds are present.

### General comments

Natural England notes that the proposals for the site development include the provision of a bio-gas digester, to include primary and secondary digesters and digestate storage vessels. There is insufficient information in the proposal for Natural England to provide comment on the likely impacts on protected species or habitats from this aspect of the development. We would therefore suggest that the Local Planning Authority seek to satisfy itself that this aspect of the proposals will have no adverse impacts on important habitats or species within the site itself, or the wider area, prior to determining the application.

The issues raised in this correspondence represent Natural England's advice at the planning application stage and considers potential harm to populations of protected species from the proposed development. The later decision on a licence application (if required) is a more detailed assessment and usually requires additional survey information, population assessment and specific details relating to the likely effectiveness and workability of the mitigation proposals before works can proceed.

### **Northumbrian Water**

Northumbrian Water has no objection to the proposed development. There are no public sewers in this area.

### **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 Northern Electric apparatus in the area.

**Coatham Mundeville Parish Meeting**

Do not object to the relocation of the Mart but to the scale of the site and ancillary uses.

**Results of Local Consultation**

Notification letters were sent to 19 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, 86 letters of objection has been received which raise the following issues:

- *Would be extremely concerned if they were to take water from the existing supply, which is on a private line. It would certainly not be adequate for the proposal.*
- *Will the Bio Plant have any effect on the environment i.e. produce any smell and where will the waste be deposited? What noise will it create and will it be run 24 hours a day, seven days a week?*
- *The development is on green belt land and must not be approved.*
- *Have concerns over the use of a biogas heat plant in the area.*
- *This is clearly unsuitable in nature, extent and location and contrary to Government guidelines for development outside urban areas.*
- *Concerned about the impact of the Biogas heat plant and the way in which any such development will affect the already congested roads in the area.*
- *Object to the development on a number of issues most notably the Biogas Heat Plant in terms of the lack of information on the environmental impact, also the potential increase in traffic and the general proposed size of this development, there is surely already a massive area which is the Aycliffe industrial site not to warrant further development.*
- *The size is now twice the original proposal. The Metro Centre has an acreage similar to the development site.*
- *Increase in traffic together with proposed caravan site on land to the south east of Swan House Roundabout.*
- *There is little known information available as to the safety protocols if there is a breach of emissions from the plant.*
- *The proposed ancillary uses i.e. local farm produce shop, tool and machinery hire etc will not necessarily create new jobs as most businesses will relocate from other sites.*
- *The development will generate noise 7 days per week commencing early morning to late evening.*
- *In 1993 approval was sought for a similar but much smaller proposal on land adjacent to Neasham Road on the A66. The proposal went to appeal and the reasons were DBC's own planning policy is framed to prevent intrusion into the countryside; the detrimental effect of the proposed development on the character and appearance of the surrounding areas; and have other sites been thoroughly evaluated? Significant money has been spent trying to encourage the developers to relocate to Faverdale Industrial Estate, land which is already designated for industrial use.*
- *In refusing planning permission in 1993, the Inspector commented that 'the impact from the erection of this building, its associated paraphernalia, the numerous vehicles parked on the land for at least 3 days of the week and the activities surrounding its use would be extreme. In no sense could the development be regarded as compatible or in character with the countryside.'*

- *The developers and planning officers acknowledge that the development is outside the boundaries set for new developments in the New Town Planning Document.*
- *It goes against Government guidelines for development outside urban areas.*
- *This is an area of High Landscape Value seen from the A68 one of the main tourist routes between England and Scotland.*
- *Out of town developments do nothing for the environment by encouraging more and more people into cars and at the same time adding another nail in the coffin for Darlington Town Centre. Once green fields are concreted over we, and future generations, have lost them forever.*
- *What evidence does the developer have proving the need for this development to be where it is proposed to be and on the scale it is proposed to be? If it is only the case of wanting the auction mart moved then there are already very suitable brown field sites available that should be and must be used at all costs prior to contemplating the loss of any more green field areas.*
- *The traffic management report is based on mart activities. This large development will attract more traffic than the mart and a large proportion of this traffic will approach from the south.*
- *No traffic survey or monitoring has been conducted to assess the impact on the traffic flow at the Swan House roundabout or on the A6072.*
- *The local community was very much against the initial plans put forward over a year ago. The present proposal appears to go a great deal further not only in respect of the acreage of the site but now the inclusion of a Biogas Plant.*
- *This would appear to be the size of a small township, situated in a very prominent position on a greenfield site in an area of high landscape value. Other sites are available, namely Faverdale Industrial Estate where it would have much less impact on the surrounding countryside.*
- *How long before plans are put forward for housing using the excuse that it is necessary to have people living on site for security reasons?*
- *As we know from publicity in the local press, cattle marts are very noisy places even when used only a few days a week. We are given to believe that this will be in use possibly 7 days a week.*
- *The A1 should be regarded as a natural barrier between the Borough's urban and rural areas. If not, sooner or later Heighington and Newton Aycliffe will become another suburb of Darlington. This proposal establishes a precedent for ribbon development along the A68, west of the A1, which is completely unacceptable. The Council has already designated the area as 'rural' and should maintain that status.*
- *The development contravenes many of the Borough's own policies Policy E1 (Keynote Policy for the Protection of the Environment), Policy E8 (Area of High Landscape Value), Policy E10 (Protection of Key Townscape and Landscape Features), Planning Policy Statement 7 (Sustainable Development in Rural Areas) and the Council's 'Draft Supplementary Planning Document – Design of New Development'.*
- *Understand that Biogas plants have not had much success nor is there any great experience in operating them.*
- *Have other sites been thoroughly evaluated? Significant money has been spent trying to encourage the developers to relocate to Faverdale Industrial Estate, which is already designated for industrial use.*
- *Modern livestock auction arts have been developed in commercial or semi-industrial areas in Carlisle, Cockermouth, Hexham, Penrith, Skipton, Thirsk and York which are viable without the wide range of non-agricultural activities proposed for Humbleton Farm.*

- *The proposed location is in the open countryside with no urban network to support it. There is no adequate infrastructure to serve the development. It would be totally dependent on the motor vehicle and rural bus network.*
- *Part of the site is an old local authority tip which was covered over years ago with soil. No capping of today's standards was in place thirty years ago. More investigation is needed to make safe the prospect of methane gas leaks.*
- *Concerned that once building work starts unforeseen problems arise which change the viability of the project and cause it to be abandoned.*
- *The site has not been approved for a Waste Development Site in the Minerals and Waste Development Plan.*
- *The application site is within a Nitrate Vulnerable Zone. This restricts movements of waste matter onto farm land which includes food waste.*
- *Our Durham landscape is world renowned. We must act to preserve it so future generations can enjoy its beauty and prevent it being spoilt forever. This development will industrialise a rural environment.*
- *Have seen at first hand the developer's site north of Aberdeen and it is an enormous sprawling area.*
- *No mention has been made of the huge car boot sales which are held every week at the Aberdeen site.*
- *It is inconceivable that this site will be viable unless it is used on the maximum number of days.*
- *Why do we always have to defend our village from these documents which keep being presented to the Council when there are plenty of other venues available in much more suitable areas?*
- *A development of this scale and intensity cannot be described or considered 'agricultural use'. The development proposals are reliant upon a range of urban uses and it would logically follow that the scale and the ancillary urban facilities that the development proposes are needed to underpin the development.*
- *Can find no substantiating evidence from the applicant that he has tested other sites or in fact tested a smaller development primarily related to cattle/livestock sale.*
- *The requirement to locate the cattle market from its existing location near the station is to some degree understandable however the existing site is approximately 3.5 acres and a similar development should be considered. There has been no justification in the application that can support a development of a green field site of this scale of some 38 times the area of the existing facility.*
- *There is no supporting evidence from the developer to show alternative assessments or a sequential test that would justify departing from current planning policy. The proposed application does not provide any material considerations to outweigh the current development plan policies and the policy presumption against development in the open countryside.*
- *Aware that Darlington Borough Council have certain obligations to seek alternative accommodation for the existing cattle mart before the existing site can be redeveloped. The local authority planning department must not be influenced by this but must apply current planning policies to determine the validity of the application before them. If this is done and the policies are rigorously applied the recommendation from the officers must be for the application to be refused.*
- *Urge the planning committee also to refuse the application on the basis that it contravenes current planning policies in particular the scale of development is incomprehensible and*

*its impact on the countryside, general amenity, transport and general infrastructure would be detrimental and catastrophic.*

- *Contrary to Local Plan Policies E5, E7, E10, E16 and T52.*
- *Concerned that the local planning authority has accepted an outline application for such a massive and intrusive development. The local authority should declare the application invalid and seek a full planning application with detailed plans, elevations, sections, heights directly scaled and proportioned, computer generated images showing the impact of the development on the countryside. The submission should include spatial layouts together with full details of every aspect of the development.*
- *It is in the public interest that this detail is provided and should be available in the public domain now. The full planning application must be the route forward as such a high impact development and controversial proposal cannot reasonably be determined on the basis of an outline application. Such determination is not in the interest of the public or indeed the authority.*
- *If you want to encourage tourists to Darlington keep the rural, tranquil atmosphere that visitors from more commercially oppressed areas come to seek.*
- *The application does not show the necessity for the ancillary uses to which the site is to be put.*
- *The proposed development would commit DBC to support an uneconomic development far in excess of that envisaged by a simple relocation of the Livestock Mart at a time when the number of Livestock Markets is reducing (now 125 from 269 in 1987 in England and Wales) and livestock numbers are falling.*
- *No proof has been given of the profitability of DFAM nor its proposed forecast of profitability in the future. DFAM should have shown their strong position in livestock marketing and their plans for expansion instead of relying on ancillary businesses proposed by the developers.*

## **PLANNING ISSUES**

The comments of the Council's Planning and Environmental Policy Section are reiterated in full below:

### **The Nature of the Proposal**

The proposed development comprises a number of components on an extensive and irregularly-shaped 50 hectare site which is presently farmed:

- a covered livestock mart or 'agricultural and equine centre'. With its associated parking, internal roads, external sales, lorry wash and landscaping areas and a covered lairage building this would extend to around 13.7ha;
- a 12ha 'specialist business park' made up of fifteen plots for 'associated agricultural services and facilities';
- areas for future expansion of the business park amounting to around 6ha;
- a biogas energy and heat plant taking up about 2ha;
- a balancing pond of some 3.2ha;
- open lairage areas totalling 9.7ha;
- an outdoor ménage of 0.26ha;
- a trot and gallop run; and
- the existing buildings and immediate curtilage of Humbleton Farm, which would be retained and adapted to uses ancillary to the mart.

The applicants own the site, together with almost as much land again immediately to the east, some of which is indicated to be planted up to help screen the development.

The **agricultural and equine centre** is the key use from the applicants' point of view, being intended to replace the long-established cattle mart at Clifton Road in Darlington. Its focal point would be a large, almost-rectangular building with a footprint of around 17,000sqm (1.7ha). It would be about 150m long by 105-130m wide, and up to 10.8m high. Including accommodation on two upper floors the building would have a total floorspace of 22,000sqm. It would be located in the north-west part of the site, adjacent to the A68.

Half of the building footprint would be occupied by covered pannage for livestock. There would be three sale rings (with seating two-storeys high) and a separate sales hall. In addition to facilities associated with the running of the livestock mart (concourse, toilets, restaurant, bar and administrative offices) the proposal is for there to be a number of units on the ground and first floors for letting to other businesses. These are shown on the submitted drawings as having a total floorspace of 1,986sqm but supporting statements give a figure of 1,825sqm. The latter states that these will all be occupied by class A2 financial and professional services like solicitors, banks and "other services wholly ancillary to the auction mart use", and that the unit sizes would range from 60 to 240sqm.

The applicants describe the present cattle market in Clifton Road as "the largest prime cattle market in the UK" and say that its relocation will "build its status nationally to be the biggest, best and most successful animal mart in the UK". The present mart holds auctions on two days a week (Mondays and Thursdays) for cattle and sheep. As its new title suggests, the intention is that new market would also hold auctions for horses, a trade once carried out in Darlington but discontinued some years ago. In all, livestock auctions would be held three days of the week.

Although the emphasis in the applicants' supporting statements is on the use of the centre for livestock sales and ancillary services there are indications that other activities of appeal to the general public are intended to take place. Reference is made in particular to the fact that "The scheme would also serve as a new multi purpose conference centre and exhibition centre". The applicants say they have modelled the Humbleton Farm proposal on the Thainstone Centre, near Aberdeen, which opened in 1988. This is described by its operators as "an ideal venue for conferences, trade exhibitions, seminars, concerts, dances and other social functions". In addition to livestock sales, "a large indoor and outdoor market attracting up to 250 car boots and 120 stalls on a Sunday, vehicle auctions on Monday and Thursday evenings, furniture and antique auctions on Tuesday" are held there. According to the present applicants, Thainstone also accommodates "an IT training and consultancy service, and even a barber and a physiotherapist".

The **specialist business park** and its proposed future extension would occupy most of the site south-east of the agricultural centre, including the rest of the site adjacent to the A68. The plots are intended to be sold; the eventual fifteen occupiers are not known at this stage but the applicants anticipate they would span a range of use classes including A1 (shop), B1 (offices), B2 (general industrial), B8 (storage or distribution), D1 (non-residential institution) and sui generis uses. An indicative list is given of the proposed business types as follows: livestock haulage contractor; farm tool and machinery repair; training centre; agricultural machinery sales; local farm produce outlet; tool and machinery hire; tractors, trailers and other towed units; farm contractors, large machine hire; agricultural building specialists; fencing, gates, temporary farm



barriers; veterinary practice; saddlery, harness and other equine goods; blacksmith and farrier; farm supplies; and seed and fertiliser merchant.

The final areas for each are not yet determined but the applicants anticipate that each plot would measure 0.81ha (2 acres) and would provide each occupier with their own customer parking area, external display areas where relevant, and a building of 820sqm floorspace. The indicative drawings suggest the latter would be two-storeys high, with heights of 9.2m. They would accommodate 220sqm for “ancillary sales”, 200sqm for administration and 400sqm for internal storage and display. The future expansion area could accommodate another four similar-sized plots.

The **biogas plant**, positioned on the eastern edge of the site, is intended to be an economic solution to providing energy and heat for the site in a way which meets Government targets for sustainability. Up to 45,000 tonnes a year of animal and food waste would be used to generate power and heat and to produce biofertiliser as an end-product. The latter would be spread on adjacent farmland and is said to be odour-free. There is no mention of importation of waste in most of the supporting statements but the Transport Assessment estimates that there would be up to 14 lorries a day bringing in waste if there was.

The above three components would constitute a combined developed area of 34ha. Of the remaining areas, the open lairage would consist of a series of six paddocks and a field. Lairage for the Clifton Road market is provided on other land in the applicants’ ownership at Holdforth Grange, Roundhill Road, in countryside south of the town near Neasham Road, south of the A66 bypass. On-site lairage cannot be provided at the Clifton Road market but, the applicants say, European regulations on the care and husbandry of animals are more stringent for new markets. On-site lairage would avoid the need for double-handling of stock, extra labour, vehicles and cost. No explanation is provided for the trot and gallop run and ménage but they are presumably linked to the proposed horse sales.

### **Background to the Relocation of Darlington’s Mart**

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.

Moves to relocate the cattle market began in the 1980s. The Council proposed an 8.1ha site on the edge of the built-up area in the A66 Bypass (Neasham Road Area) Planning Statement in 1986 and deemed planning permission was granted in 1987. However, the proposal was formally deleted from the Statement in 1989 and the permission lapsed. (The site is now that of The Arena, the home of Darlington FC.)

In 1988, a major mixed development proposal by Indecon Ltd, including provision of a new site for the mart, was granted planning permission on the eastern edge of the town. The southern part of the site was subsequently developed by Morrisons, as Morton Park, but the northern part, owned by Durham Cathedral, where the cattle market was proposed remained undeveloped and the permission lapsed.

The most pertinent previous proposal was that by Darlington Farmers Auction Mart Co. Ltd (DFAM) in 1991 (ref. 8/91/622/DM). This was an outline application for a livestock market building (incorporating 'agricultural related business units' not exceeding 1,000sqm) and two employees' dwellings together with parking and lairage on 12.4ha of the land in DFAM's ownership at Holdforth Grange. 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. Part of the latter was (and is) in DFAM ownership and is the subject of the present linked planning application for residential development by the applicants. As today, the applicants said the two applications were inexorably linked: the finance for the new mart could only be raised if the land north of the bypass was sold for residential development.

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. The Inspector's main conclusions (focusing here mainly on the mart application) were as follows:

- the residential development would be an unacceptable intrusion into the open countryside, contrary to national and local policies; no special need was demonstrated;
- the market building would have a considerable mass, and with its parking and service areas would cover a majority of the 12.4ha site;
- it would not be an agricultural building for the purposes of exemption from the policy constraint on new development in the countryside. Even with its lairage it would not be part of a productive agricultural process in its own right;
- the impact from the building, its paraphernalia, the parking and all the activity surrounding the use would be extreme. In no sense could the development be regarded as compatible, or in character, with the countryside;
- it had proved very difficult to find a suitable site for this building within the town. The [development plan] accepts that some developments may be unsuitable within towns but it does not follow that they would be appropriate in the countryside. 'Within town' would not include sites at the edge of or adjoining the built-up area;
- the building possessed many of the same characteristics as an industrial building;
- there [was] substantial conflict between these proposals and the development plan and significant harm would result to the appearance and character of the area;
- it remained to assess whether the circumstances of the case could outweigh the objections to it. The benefits would have to be very substantial as the harm itself would be very substantial;
- the benefits to be derived from moving the market from its present site would be profound and immediate. The application site was within the applicants' ownership and there were therefore no acquisition costs. It was a good location from the point of view of those who would use it;
- the research [into alternative sites was not] fully comprehensive. Some sites seemed to have been abandoned for no greater problems than those that existed at Roundhill Road;
- in conclusion, the factors in favour of the application were outweighed by three clear objections:
- firstly, the local plan process was the correct vehicle for reaching decisions of this kind. To approve the housing development would have far reaching effects on the future of land within the area;
- secondly, neither scheme was acceptable for substantial reasons. The undoubted benefits would be outweighed by the harm;

- thirdly, the search for an alternative site had not been exhaustive and had tended to concentrate on sites which offered the easiest solution. Land ownership considerations have been afforded too much weight.

### Comparison of the 1991 and Present Proposals

There are clearly a number of similarities between the 1991 application and the present one, and some significant differences.

Both sites are in open countryside on land owned by DFAM, and both are dependent on finance being raised from obtaining permission for residential development elsewhere. Both sites are served by major A routes and are/were said to be a good location for the people who would use it. Both the Council and DFAM (as well as nearby residents) keenly want(ed) to remove the mart from Clifton Road and a number of alternative sites were investigated. Both applications included 'agricultural related business units' within the mart building and had lairage attached, plus land owned by DFAM adjacent to but outside the application site.

The first main difference is the size of the two proposals. The Humbleton Farm application site, at 50ha, is four times larger than the 12.4ha site at Holdforth Grange (which was described at the time by DFAM as "generous"). Even after deducting the open areas (pond, lairage, ménage, trot and gallop run) and existing buildings the developed area of the new site would be almost three times the size of the earlier one, at around 34ha.

The area taken up by the agricultural and equine centre and its associated areas, at 13.7ha, would in itself be bigger than the Holdforth Grange site, which included some lairage. The new mart building is also correspondingly larger than previously, with a footprint of 17,000sqm against 10,000sqm and a height of up to 10.8m as opposed to 9m.

The increase in size does not appear to reflect greater proposed livestock throughput than was expected in 1991. As today, the Clifton Road mart was said then to be successful: "within the top ten in the country". However, it seems to have been much busier than at the present time (it operated three days a week compared with the present two) with consequently higher volumes of livestock forecast at the replacement mart. The 1991 application expected the then "approaching 200,000" transactions per annum at the old mart to be unchanged at Holdforth Grange. In comparison, the Transport Assessment for the present application shows 71,500 cattle and sheep being traded at Clifton Road in 2005 and forecasts a 20% daily increase on that at the new mart. Officers calculate that if the proposed third market day attracted similar trade to the existing days then total annual livestock throughput would rise to 129,000 - still well down on 1991. The different throughputs are reflected in lower forecasts for mart-related vehicle flow: daily traffic in and out at a Holdforth Grange mart was forecast in 1991 to be 390 vehicles, whereas mart flows at Humbleton Farm are forecast to be 127 on a Thursday and just 46 on a Monday. (Additional flows would be generated by non-mart related uses at Humbleton Farm.)

It is now proposed to include 1,825sqm of letting space for related businesses within the building compared with 1,000sqm in 1991. The earlier application made no reference to other activities being conducted within the mart building whereas the indications today are that extensive use would be made for conferences, exhibitions, etc.

The next main difference is the proposed provision now of a specialist business park, to be occupied by a wide range of uses. Including the future expansion area, this would cover some

18ha of land. (The 1991 application had originally included additional buildings for business units but was amended to remove them and use the land for lairage.)

The introduction of a biogas plant, a ménage and a trot and gallop run are further differences. The former would seem to be a response to increased environmental concerns and the latter uses to the intention - not expressed in 1991 - for the mart to conduct trade in horses.

Another, perhaps only slight, difference is in the catchment area from which most of the mart's trade would be drawn. In 1991, DFAM said that farmers were attracted to Darlington's mart from "far and wide, principally from within the valleys of the Tees, Swale and Wear" (ie. north-west, west and south-west). Today the "bulk" comes to Darlington "southwards down the A1 turning off at junction 58 ... or down the A68 and over junction 58" (ie. from the north and north-west).

### **Main Planning Policy Issues**

Under planning legislation, where the development plan contains relevant policies planning decisions should be taken in accordance with them unless other material considerations indicate otherwise. The main issues in this case are therefore:

- to what extent does the proposal accord with relevant planning policies for the use of the site and for the location of the uses proposed?
- if the proposal does not accord with relevant policies, are other material considerations of sufficient weight to justify permitting it?

### Assessment Against Planning Policy

The Borough of Darlington Local Plan contains no policies or proposals specific to the site. It lies well outside the nearest defined development limits, for Darlington and Heighington; that is, it is within countryside. The A68 is identified on the Plan Proposals Map as part of the Borough's main road network, as also are the A1(M) and Burtree Lane. The Plan further states that the A68 as a particularly important tourist route through the Borough, leading to Weardale, Northumberland and Scotland, along which the Council will support and encourage environmental improvements.

There is a long-standing presumption in national and local planning policy that most new development should take place within the development limits of built-up areas, in particular towns. The Government's PPS7 states that: "New building development in the open countryside away from existing settlements, or outside areas allocated for development in development plans, should be strictly controlled; the Government's overall aim is to protect the countryside for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and so it may be enjoyed by all".

RSS Policy 10 contains a more specific countryside requirement pertinent to the application: that planning proposals should ensure that strategic gaps are maintained to prevent settlements from coalescing and prevent urban sprawl, including "between Darlington and surrounding towns and villages".

Darlington's Local Plan Policy E2 is consistent with these policies, saying that: "Most new development will for the plan period be located inside the development limits defined on the Proposals Map". It identifies exceptions as being "development for agricultural or forestry operations, and small scale development beneficial to the rural economy or to the needs of rural

communities, the operational development of water, drainage and other utility service providers, and development for countryside-related sports or recreation activities". These will be permitted "provided that unacceptable harm to the character and appearance of the rural area is avoided".

None of the E2 exceptions apply to the proposed development, with the exception of the open lairage and, possibly, the trot and gallop and ménage, which in another context could constitute countryside-related sports or recreation activities and accord with Plan Policy R15 (Horse-Related Development). The applicants say that the proposal would be appropriate due to its "agricultural nature" and the requirement to occupy a relatively large area of land but the claim is not accepted on a number of grounds: firstly, a large proportion of the development and activities would not be agricultural in nature (eg. the business park, conferences and exhibitions). Secondly, as the Holdforth Grange Inspector concluded, the mart building itself could not be regarded as an agricultural building; a view confirmed by an Inspector determining a proposed new mart at Thame, Oxfordshire in 2008. And thirdly, the "requirement" for such a large area of land is not proven, particularly as it has inflated considerably since the applicants made their proposal for the much smaller site at Holdforth Grange, which at the time was considered itself to be "generous". The applicants state that a large area of adjacent agricultural land is needed to enable the fertiliser produced by the biogas plant to be spread nearby but that seems to be something which is desirable but not essential: the Transport Assessment estimates that only five lorry loads a day would leave the site if the fertiliser was not used within or adjacent to it. Similarly the requirement for such extensive on-site lairage appears to be desirable but not essential: much less was proposed at Holdforth Grange and lairage could in any case be provided on adjacent or nearby land rather than on-site as appears to be the practice at some other marts, notwithstanding the disadvantages of double-handling.

Even if the mart building was accepted as agricultural, it would fail the second requirement of Policy E2, that the development should not harm the character and appearance of the rural area. The Holdforth Grange Inspector found that, even with landscaping, the impact from a mart building there would cause significant harm to the appearance and character of the area and that was a much smaller development than the present proposal. This is 70% larger, taller and in a more sensitive and open, rural location, on probably the main tourist route in the Borough and further removed from built-up areas. In this respect it would also conflict with Local Plan Policy E16, which states that the appearance of the Borough from the main road network will be maintained and enhanced, and with PPS7, which says that development in rural areas should be in keeping and scale with its location, and sensitive to the character of the countryside. The proposed mart building would meet none of these requirements.

The extent and scale of the other built elements of the development, together with the degree of activity (traffic movements, parking, external storage and display, lighting, advertising and other paraphernalia) that would be generated both by them and by the mart building when in use for non-agricultural mart events, would also conflict with Policy E16 and PPS7 in their impact on the character and appearance of the rural area. The business park, with its proposed extension, would run from the site boundary with Discover Leisure caravans north-westwards alongside the A68 as far as the site for the mart proper: together the business park and mart would present almost continuous built development along the whole 1,000m of the application site. They would also extend some 370m back into the site. Landscaping along the main road frontage, where it is proposed near the mart building, would be unlikely to adequately screen the massive bulk of that development; very little such landscaping, however, is indicated to be provided alongside the business park. The impact on the area would be compounded by the development combining

with the Discover Caravans and Burtree Inn sites to form an almost-continuous 1200m-long developed frontage.

The proposed non-mart uses and activities would conflict with a number of other planning policies. The applicants claim that many, if not most, of these are ancillary to the mart function but in reality in planning policy terms only the very few which are directly related to the operation of the livestock mart would qualify. These are facilities such as the restaurant, bar and mart administration offices. The class A2 letting units within the mart which would be occupied by the likes of auctioneers, banks, land agents, NFU representative, insurance brokers and others would also qualify provided that their trade was principally with users of the livestock mart and the scale of the units occupied was appropriate to that. Given that no more than 1,000sqm of floorspace was identified for such businesses at Holdforth Grange, and that the amount of comparable floorspace at Clifton Road is very modest, it is questionable whether the full 1,825sqm of letting units would satisfy the tests of being ancillary. Those that would not would be subject to normal planning policies.

Activities within the mart building and on its associated external areas which were not part of the livestock function would also not be ancillary, no matter how much DFAM might rely on them to help finance the livestock operation. That is, the planned use for conferences and exhibitions, and the kind of other uses which take place at Thainstone - such as seminars, concerts, dances and other social functions, general markets and car boot sales, vehicle, furniture and antique auctions - are subject to normal planning control, as are the uses at the proposed business park. Many of these - retail, leisure, entertainment facilities, offices, concert halls and conference facilities - are identified in PPS6 as main town centre uses.

The Government's key objective in PPS6 is to promote and enhance the vitality and viability of town centres by, amongst other things, focusing such development within them and encouraging a wide range of services in a good environment, accessible to all. Developers putting forward proposals for main town centre uses outside existing centres and not in accordance with an up-to-date development plan are required to demonstrate the need for development, that there are no more central sites for it (the 'sequential' test), that there are no unacceptable impacts on existing centres, and that the location is accessible by a choice of means of transport.

The applicants have attempted to demonstrate that the 'town centre type' elements of the proposal meet the PPS6 tests and say that the proposal would not "unduly" threaten the town centre. However, their evidence is unpersuasive. All of these uses are separable from the livestock mart, and most from each other, and could be accommodated within the town centre or in other more sequentially-preferable locations within the Borough. A remote, countryside site such as this is at the lowest point in the sequential hierarchy, which places firstly centres, then edge of centre locations and then accessible out-of-centre sites with close links to a centre above locations such as Humbleton Farm. In terms of its poor accessibility to these uses by means other than private vehicle, the proposal also conflicts with PPG13. In development plan terms, it would conflict with a number of policies including Local Plan policies R24 (which aims to safeguard and enhance the role of Darlington, in particular the town centre, as a focal point for leisure facilities) and S1 (which permits retail development only in specified circumstances, which would not be met here) and RSS policies 16 (Culture and Tourism) and 25 (Urban and Rural Centres).

The 'non town centre type' activities within the business park are employment uses which are normally expected to locate within the employment areas of towns. Local Plan Policy EP15

states that in a countryside location development for use classes B1, B2 and B8 will be permitted only if it is “so related to agriculture or to other rural activity that its location in the countryside is reasonably required”. There is no evidence from either the earlier relocation proposals or from livestock marts elsewhere (see below) that a business park of such diversity and size is required as part of the operation of a mart. Some marts in more rural areas than Darlington Borough have limited associated provision but given the proximity of available sites and premises within the employment areas of Darlington there is no justification (other than financial) for the proposed provision at Humbleton Farm. Although PPS7 aims to develop “competitive, diverse and thriving rural enterprise” it affirms that sustainable patterns of development should be promoted, focusing most development in, or next to, existing towns and villages, preventing urban sprawl and discouraging the development of 'greenfield' land.

#### Assessment Against Other Material Considerations

The applicants accept that the proposed development would be a departure from the development plan but argue that the relocation of the mart is a special case. The main non-policy considerations they raise are: that the Council has been looking to remove the existing mart from Clifton Road for many years; that the new Humbleton Farm centre would make a significant contribution to the local economy through the three interlinked building projects (here, at the proposed housing development at Neasham Road and at a redeveloped Clifton Road site) and the employment on-site of 300 people; that other locations have been considered and found inappropriate; and that a number of other modern auction marts which have been built in similar locations. These considerations are addressed below.

**Relocation from Clifton Road** The long-standing wish of the Council to remove the existing cattle market is well-known and outlined above. In parallel with the identification of a replacement mart site in the mid-80s the Inner Darlington Local Plan allocated the Clifton Road land for new housing development in 1987; its replacement, the Borough of Darlington Local Plan, reaffirmed this in 1997. The Holdforth Grange Inspector said that “to describe the market as a bad neighbour is a serious understatement” and “the benefits to be derived from moving the market from its present site would be profound and immediate”. Relocation of the cattle market is undoubtedly a factor to be given great weight in determining this application.

**Economy and Employment** Construction jobs would clearly be created by the development of this and the two proposed housing sites. However, as the residential projects would contribute to the Borough’s planned future total housing provision rather than add to it, there is no reason to believe there would be a net increase in overall employment as a result of them. Short-term construction jobs would be created by the development of the application site but no more than if the components of the proposal were provided in more appropriate locations within the Borough.

The applicants say that approximately 300 full-time employees would work on the application site when up and running. They have provided no information on how many would be existing employees at Clifton Road but the 1991 application said that 69 people worked there so the net increase is assumed here to be around 230. Some of these may be employed in the expanded livestock mart operations, although given the efficiencies that can be expected from a state-of-the-art, modern mart these are assumed to be few in number. The proposed non-mart activities within the new mart building - conferences, exhibitions, etc - would create additional jobs on the site but at the expense of the existing locations for such uses, many of which are likely to be within the Borough. The majority - perhaps as many as two-thirds - of the 300 jobs are likely to be within firms occupying the business park. The strong possibility is that most of these firms

already exist elsewhere in the area - most on more appropriate, accessible sites - and would simply relocate to Humbleton Farm, albeit expanding their operations in some instances.

Thus, although some new, long-term jobs would be created by the proposal the likelihood is that these would be much more modest in number than claimed by the applicants, would stem not so much from the livestock mart but from the additional activities and uses proposed on the site and would be at the expense of more sustainable, appropriate locations. The employment consideration can therefore be only given modest weight.

**Alternative Locations** In respect of alternative possible sites for Darlington's mart, as will be clear from earlier sections a search has been ongoing by the Borough Council and DFAM, on and off, for more than twenty years. Some sites have received planning permission but not proceeded, Holdforth Grange was refused planning permission by the Secretary of State and other sites have been discounted for various reasons. The applicants have submitted details of several of these with this application although they effectively come down to two new sites identified by themselves (Greystone Farm and Swan Farm) and two by the Council (Yarm Road industrial area and Faverdale). 'Their' new sites are operational farms, immediately adjacent to and directly opposite Humbleton Farm, neither of whose owners were willing to sell to DFAM. In planning terms these would have offered no advantages to the present site and would have raised exactly the same concerns. DFAM also revisited the possibility of development at Holdforth Grange, but in addition to its failed planning history the company decided it was now the wrong location for its client base which comes "predominantly from north of the Borough". The Yarm Road industrial area was also dismissed for the latter reason, with the company restricting their search to the A68 corridor.

In practice, the applicants have restricted their search to that part of the A68 west of the junction with the A1(M). Their submission sets out reasons for discounting a site on the edge of the built-up area of Darlington at Faverdale including that: the development would be inappropriately located on an industrial estate; a suggested Council-owned site is too small at a "mere" 24ha (elsewhere said to be 27ha), not being able to accommodate a trot and gallop run, lairage, attenuation pond and biogas plant; there would in any case be "prohibitively high land costs" because the Council would be obliged to secure best consideration for its assets; other land, in private ownership, would also be "completely unviable" because of the price the landowners would want; there would be "prospective" amenity issues because of the proximity of housing; and there would be a requirement for market traffic to cross over junction 58 on the A1(M) which is "presently operating over capacity" and would likely result in the Highways Agency "demanding significant sums of money" towards the required solution. Having said all of this the applicants go on say that Faverdale "is a site which DFAM do not wish to entertain even if it were possible on grounds of size and cost".

The latter statement effectively renders the applicants' case against location at Faverdale down to: the inappropriateness of an industrial estate (or, more accurately, edge of industrial estate) site; proximity to housing; and capacity problems and solutions at junction 58. The first two objections amount to DFAM saying that a site on the edge of a town is unacceptable and that only a countryside site can be considered. This argument is totally at odds with planning policy and with actual practice, as instanced by modern livestock mart developments (see below). A two-part response can be given on the junction issue. Firstly, that traffic generated by the livestock mart itself would be modest, with the vast majority of forecast peak time trips being caused by non-mart activities, many of which would be as unacceptable at Faverdale as Humbleton Farm. Secondly, locating west of the junction rather than east of it on the grounds of



associated infrastructure costs would be not giving due weight to proper locational planning: carried to its extreme, logistics companies, etc, could argue that they too should locate in the countryside rather than in the built-up area, such as at Faverdale.

The search for alternative sites carried out by the applicants can be seen to be have been partial and inflexible, with the only sequentially-preferable site considered (Faverdale) being dismissed on insubstantial grounds.

**Location of Other Marts** The claim that other modern marts have been developed in similar locations to Humbleton Farm does not bear scrutiny. The applicants listed marts but provided few details of them. Officers have traced information on those below: they are almost all on the edge of towns, within 300m of housing and/or employment areas. Their land-take and associated facilities also appear, with only one exception, to be considerably less. Although a number host town centre uses and activities most of the developments predate the tightening of the 'town centre first' approach to planning or, in one case, are actually on the edge of the town centre. None contain a business park of the scale and nature proposed at Humbleton Farm. Nor do any - even the most modern - appear to have such extensive on-site lairage areas (most appear to have none), or ménage, trot and gallop runs or biogas plants.

*Thainstone*, in north-east Scotland, is the model for Humbleton Farm and appears to be the only one whose size approaches that of Humbleton Farm, albeit perhaps half the size. Although in countryside, it is not in such open countryside as the Humbleton Farm site, being close to and between the built-up areas of Inverurie and Kintore. As detailed earlier, it contains a very wide range of uses. Pertinently, it is over 20 years old and predates the Holdforth Grange decision, reducing its applicability in present planning policy terms.

*Skipton's* mart is of similar age, built in 1989. It is on the edge of the town, 100m from housing and a college, and only a mile from the centre. It incorporates some agricultural-related businesses within its modest developed site (including parking areas) of around 5ha.

The auction mart at *Penrith*, which opened in the early 1990s, was cited as a model for the Holdforth Grange proposal but has a site smaller than that, at around 8ha. It is on the edge of the town (albeit separated from it by the M6 motorway), 200m from office development and three-quarters of a mile from the town centre.

*Bakewell's* cattle market relocated in 1998 from the town centre to an 'agricultural business centre'. Although nominally on the edge of the town it is in fact within 200m of its previous site - in planning terms 'edge-of-centre'. It is said to be one of the UK's top five livestock markets, holding 75 auctions a year involving 300,000 animals (predominantly sheep). Despite this level of throughput, the developed area, including parking, is less than 5ha.

The new auction mart at *Cockermouth* opened in 2002 and forms the core of the Lakeland agricultural business centre. The latter occupies a site of about 6.5ha, of which the mart takes up about 4ha. As with the other marts mentioned here it has good road access, being adjacent to the A66. It is on the edge of the town, within 200m of a housing area but separated from it by the main road.

*Shrewsbury* cattle market relocated to a new site just outside the town's eastern bypass in 2006. Its area is given as 10ha but that appears to include land alongside the main road developed for a

hotel, pub and filling station. The site is on the edge of town, the mart being about 300m from the nearest housing.

*Thirsk's* new auction mart also opened in 2006. It is part of the Thirsk Rural Business Centre which occupies a site of around 8ha on the outskirts of the town, near the junction of the A19 and A168. It is 500m from the edge of the built up area.

The applicants' claim for comparability with these other modern marts is consequently not accepted and can be given little weight in favour of the application. To the contrary, these examples point to appropriate sites being on the edge of built-up areas.

#### Conclusion on Planning Policy Issues

The proposal would not accord with relevant planning policies for the use of the site or for development in the countryside. Because of this, and the considerable scale and wide-ranging nature of the development, it would represent a major departure from the development plan.

Nor would the proposal accord with policies for the location of the uses proposed, some of which should be sited within the town centre or other central, accessible locations and others, particularly those proposed for the business park, within the employment areas of the built-up area. The livestock mart use itself should be located on the edge of town, on a site with good access to the main road network, unless it can be demonstrated that no alternative sites exist or can be brought forward.

The applicants have failed to demonstrate satisfactorily the latter, having adopted an inflexible approach both to the range of uses which need to be located alongside the mart - inflating its land-take excessively - and to the geographical area in which to search for alternative sites.

Of the other material considerations put forward by the applicants only the removal of the existing cattle market from its Clifton Road site can be given weight. That weight is undoubtedly substantial, as it was at the time of the Holdforth Grange decision, but the harm that would be caused by the much more extensive and ambitious Humbleton Farm proposal, in its much more sensitive location, is even greater than in that case. In the absence of a comprehensive, more flexible site search - which strips out unrelated uses whose primary purpose is to finance the livestock mart development and ensure its ongoing profitability - then officers' recommendation must be to refuse this proposal.

#### **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. Enabling development is more usually a tool used as a last resort to secure the long-term future of a place of heritage significance and the public benefits are paid for by the value added to land as a result of the granting of planning permission for its development.

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 income from the sale of land (which includes the Neasham Road site and the Council's land at Clifton Road) and income leasing (i.e. floors space within the agricultural centre at Humbleton Farm) to be £18.6m. 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. 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.

The Council is 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.

Notwithstanding the concerns in principle 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:

- Landscape and Visual Issues
- Traffic and Highway Safety Issues
- Ecology and Nature Conservation
- Archaeology and Cultural Heritage
- Water Environment (including Flooding and Drainage)
- Public Rights of Way
- Ground Conditions
- Noise

- Air Quality
- Statement of Community Involvement
- Other Issues Raised by Objectors

### **Landscape and Visual Issues**

This section of the Environmental Statement (ES) considers the landscape and visual impact of the proposed development. While the submitted application is in outline only, the applicants are required to provide indicative details of the scale and layout of the proposed development, shown on the submitted elevation, site section and layout plans, to enable an assessment to be made of the landscape and visual issues associated with the proposed development. A Design and Access Statement has been prepared. The layout, appearance, scale and landscaping of the site are matters 'reserved' for later consideration.

Policy E2 (Development Limits) states that development outside of the defined development limits, which is accepted as being necessary in an open countryside location, will be permitted provided that unacceptable harm to the character and appearance of the rural area is avoided. 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 protecting features and buildings which contribute positively to the character and appearance of their surroundings; requiring new development to respect its setting and to incorporate landscaping wherever appropriate, which makes a positive contribution to the appearance of its surroundings.

The submitted layout and elevation plans provide indicative details of the Agricultural and Equine Centre in terms of its size, layout and external appearance, together with details of the layout and height of the proposed green energy and heat biogas plant. The proposed Agricultural and Equine Centre would be a three-storey building with a maximum height of approximately 11.2 metres. The external appearance of the building reflects its differing functions with the pens area of the building having a distinctly agricultural appearance with the use of rendered walls, timber cladding and profiled roof. The concourse, office and ancillary areas will be of a contemporary design, using a mix of render, composite and timber cladding together with glazing systems to the walls. The proposed Bio-Gas plant will comprise a series of tanks ranging in height from 8 metres to a maximum height of approximately 16 metres. The Design and Access Statement advises that the proposed business park element would comprise one and two storey buildings of a contemporary design to complement the Agricultural and Equine Centre, although no indicative details of these building has been submitted with the application.

Although details of landscaping are 'reserved' for consideration at a later stage, the ES states that a number of mitigation measures have been taken into account in assessing the impact of the proposed development. Such measures include retaining existing hedgerow field boundaries on the site's perimeter, retaining where possible existing mature vegetation and trees within the site and on its boundary to limit potential landscape and visual impacts, significant areas of landscape structure planting to be incorporated around the proposed Agriculture and Equine Centre in order to mitigate potential visual impacts (no details submitted), significant areas of new woodland planting located to the north/north west of the Green Energy and Heat Biogas plant and extending south towards the proposed storage and attenuation pond area and new woodland planting located to the north of the open lairage area and trot and gallop run.

The ES considers the landscape and visual impact of the proposed development on a total of 20 receptor locations within a 3 kilometre radius of the application site and concludes that the

proposed development would result in notable changes in the landscape quality of the development site as a consequence of the proposed development and that there would also be notable changes in the visual amenity of the site within the study area as a result of the proposed development. There would also be notable changes in the visual amenity of the site within the study area as a result of the development. The ES also concludes that the impact would be only partially offset by the proposed landscape planting mitigation, which has been developed to address the impacts as far as is practicable. The proposed development would result in an adverse impact on the landscape and visual amenity of the study area during the initial development and establishment period that will reduce in the longer term as a result of the proposed landscape planting proposals.

Even if were accepted that the proposed Agricultural and Equine Centre and associated development was agricultural, it is considered that the proposed development would fail the second requirement of Policy E2, that it should not harm the character and appearance of the rural area. The Holdforth Grange Inspector found that, even with landscaping, the impact from a mart building there would cause significant harm to the appearance and character of the area and that was a much smaller development than the present proposal. This is 70% larger, taller and in a more sensitive and open, rural location, on probably the main tourist route in the Borough and further removed from built-up areas. In this respect it would also conflict with Local Plan Policy E16, which states that the appearance of the Borough from the main road network will be maintained and enhanced, and with PPS7, which says that development in rural areas should be in keeping and scale with its location, and sensitive to the character of the countryside. The proposed mart building would meet none of these requirements.

The extent and scale of the other built elements of the development, together with the degree of activity (traffic movements, parking, external storage and display, lighting, advertising and other paraphernalia) that would be generated both by them and by the mart building when in use for non-agricultural mart events, would also conflict with Policy E16 and PPS7 in their impact on the character and appearance of the rural area. The business park, with its proposed extension, would run from the site boundary with Discover Leisure caravans north-westwards alongside the A68 as far as the site for the mart proper: together the business park and mart would present almost continuous built development along the whole 1,000m of the application site. They would also extend some 370m back into the site. Landscaping along the main road frontage, where it is proposed near the mart building, would be unlikely to adequately screen the massive bulk of that development; very little such landscaping, however, is indicated to be provided alongside the business park. The impact on the area would be compounded by the development combining with the Discover Caravans and Burtree Inn sites to form an almost-continuous 1200m-long developed frontage.

The Council's Urban Design Officer has also considered the application and advises that he considers the design of the development to be of insufficient quality for the following reasons:

- *The frontage development proposed will be visually intrusive and have an impact upon the inherently open character of the surrounding landscape where, outside villages, development is sporadic and set back from the road. The development will be highly visible from the road. There is no pedestrian connection from either pavement, footpath or buses into the site, which is designed to be dominated by car parking and vehicle movements over almost the whole area.*
- *This is a substantial development comprising a number of smaller units adjoining the central mart building. This appears to be an extensive building on plan and at an*

*equivalent storey height of 3 – 4 storeys. This large mass is insufficiently broken up and the roofline appears to reflect this too.*

- The drawings indicate a hard industrial type building that imposes itself upon the site and the landscape. The materials described as timber cladding and a glazing system appear badly represented and for example the finish of the timber is not clear. I am concerned that the elevational composition only further emphasises the scale of the building.*
- Through PPS1 we are required to resist buildings not specifically designed for the context and this appears very similar to the Scottish (Thainstone) mart by the same developer with minor cosmetic changes. This does not reflect local distinctiveness and as such is not an appropriate design response. Would need to see a much more thorough site analysis and contextual and characterisation study to be satisfied with the rigour of the design process.*
- Concerns over the Design and Access Statement. The assertion that this development is in character with local farm buildings is fanciful. Do not agree that the articulation achieves a reduction in the scale and height. Any reserved matters must be in accordance with the emerging Design of New Development.*

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

Access to the site will be by a new roundabout on the A68. The indicative layout plan also includes a road, which will link the A68 and Burtree Lane, past the proposed business park. A Transport Assessment and Travel Plan have been prepared and submitted with the application.

The Highways Agency has considered the submitted Transport Assessment (TA) and Travel Plan (TP) and has requested additional information before they can advise on the impact of the proposed development.

The Council's Highway Engineer has considered the application and advises that the principle of providing a new roundabout to access the proposed development is acceptable and a Grampian condition would be required to secure the works. He also advises that there is a scheme approved to close the gaps in the section of the A68 between the A1(M) junction 58 and Swan House roundabout (A68/A6072) which will remove the right turn facility at the Burtree Lane/A68 junction. The Highway Engineer does not consider the proposal to create a link road from the A68 to Burtree Lane, via the proposed business park, to be acceptable as it is considered to be a 'rat run' and would encourage access to the site from Burtree Lane. This is also supported by Durham Constabulary's Traffic Management Officer.

He further considers that the Transport Assessment (TA) indicates that the proposed junction onto the A68 would operate well within capacity. Sensitivity tests carried out prior to the submission of the application have demonstrated that there would be no significant impact on the highway network on the A68 corridor or on the A6072. The relocation of the site from the town centre will have a beneficial effect in highway terms, removing HGVs from town centre roads and Clifton Road in particular. There is a concern in relation to the impact on Junction 58 of the A1(M) this is however a matter for the Highways Agency.

While the Highway Engineer advises that he would raise no highway objections to the proposal, on the understanding that the route onto Burtree Lane was removed from the proposal, he does advise that he would support the views of the Transport Policy Section in relation to sustainable travel. He considers access to the site by all sustainable travel modes to be very poor and the TA in no way provides any comfort. The inadequacies would provide a strong reason to recommend

refusal and he would support such a view. He has also commented on the Travel Plan submitted latterly and advises that the document does nothing to allay the concerns in relation to the development.

In considering the application, the Council's Transport Policy Section has concluded that from the point of view of sustainable travel, the site is poorly provided for and would not be a suitable location to satisfy government guidance that the site should be accessible on foot, bicycle and public transport in that order of priority. As a result, this would be strong reason to refuse planning permission for the development. Walking to the site is not an option due to distance, lack of footpaths and various psychological barriers. Cycling to and from the site would involve using very busy roads where traffic is fast moving and safety fears would deter such trips. Public transport is limited to 2 bus services that at peak times provide 3 buses an hour in each direction. The walking routes to and from the bus stops are at present ill defined and potentially dangerous because of crossing the A68. Comments on the recently submitted Travel Plan also conclude that even with the requisite financial contribution to the secure the measures set out in the Travel Plan, such measures will only have limited impact.

### **Ecology and Nature Conservation**

This chapter of the ES considers the likely impact on the proposed development on the ecological resource of the site. The application site does not include any statutory or non-statutory designations within its boundary. There are three Sites of Nature Conservation Interest (SNCI) within 2kms of the site boundary. An ecological walkover, breeding bird survey, Japanese Knotweed Survey and Bat survey have been undertaken and submitted with the application. The findings of these surveys are presented in the ES.

Local Plan Policy E23 (Nature and Development) states that development should be so designed as to minimise its adverse effects on wildlife and habitat. Any unavoidable loss or irretrievable disruption of habitat identified prior to or during the construction of proposals should be compensated for by creating comparable conditions within the application area or by agreement elsewhere in the locality. Development, which would materially harm any protected species, either directly or indirectly through loss or damage of habitat, will not be permitted.

One of the key principles of PPS 9 'Biodiversity and Geological Conservation' is that planning decisions should aim to prevent harm to biodiversity and geological conservation interests, Where a planning decision would result in significant harm to biodiversity and geological interests which cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused.

During the construction phase, the ES advises that the proposed development will impact upon the Burtree Gate Marsh SNCI. Existing surface water drains on the development site flow into Burtree Gate Marsh SNCI and construction activities with the potential to affect surface water flow and quality have the potential to affect the SNCI. The ES advises that in order to prevent any changes in the flow of surface waters entering the SNCI, a temporary drainage system for the site will be installed prior to and during construction so that additional runoff created by the development does not enter the SNCI directly. It is also indicated that two sections of hedgerows would be lost to the scheme. The ES considers however that as proposed landscaping includes extensive hedgerow planting, the impact of this is considered to be temporary until the proposed hedgerow planting is established.

In terms of impacts on breeding birds, the breeding bird survey results conclude that the site supports small populations of ground nesting BAP species on the grassland areas and also a number of common and BAP species within the hedgerows, trees and buildings. The proposed construction phase will result in the permanent loss of approximately 60% of the grassland and arable fields present on the site. Approximately 40% of the hedgerows present on the site will be removed. The loss of suitable nesting habitat caused by vegetation removal during the construction period will constitute a significant negative impact. The ES advises that the proposed landscaping to be undertaken during the construction phase (details of which are not known at this stage) will mature to replace lost habitats and as such considers the impact to be short-term and temporary. Clearance of vegetation will occur outside the bird breeding season.

The bat roosts identified in the existing farmhouse will not be affected by the construction phase as the farmhouse will remain unaltered. The ES further considers that daytime noise from on-site construction is unlikely to affect the small numbers of roosting bats. The proposed hedgerow removal will result in the loss of some linear foraging habitat although this will be replaced by new hedgerows planted on the site.

The presence of Japanese Knotweed on the site has the potential to spread during the construction phase. The ES advises that prior to development, measures will be adopted to control the species to ensure legal compliance during the construction phase.

In terms of operational impacts, all drainage from the site will pass through the attenuation pond and drain (at greenfield rates) into the drainage network via West Beck. Treated runoff from the site will flow into the existing drainage network off site and into the SNCI. The ES considers that the design of the attenuation system will prevent disturbance to the SNCI and concludes that there will be no impact on the SNCI in this respect.

The ES also considers that there will be no impact on hedgerows during the operational phase, other than trimming of hedgerows and vegetation which could affect nesting birds. Lighting on the site could potentially impact upon foraging bats. In terms of mitigation during the operational phase, the ES advises that an Ecological Management Plan will be implemented to run for 3 years post construction. The Management Plan will also specify the locations of a number of bird and bat boxes around the site.

This aspect of the application has been considered by Natural England who advise that it is that noted an area of foraging activity approximately 30m (east) of the farm. Although foraging areas are not especially protected by law, the loss of this area of feeding habitat could adversely affect the continued ecological functionality of the roosts within the farmhouse. Natural England would therefore advise the Local Planning Authority to seek the inclusion of habitats which will provide suitable alternative foraging sites for bats within the overall management plan for the site, should this area be lost to the development.

Additionally, although the farm buildings are not being altered as part of the development, there is the potential for increased disturbance during the construction and post construction phases. Contractors on site should be advised of the presence of bats in the area and what action should be taken in the event that a bat is discovered during works. Natural England advise that the developer should ensure that lighting, both during and post construction, should be designed so as to avoid disturbance and foraging bats on site. This should include avoidance of high-intensity lighting where possible and avoiding illuminating roost entrances and foraging features.



Natural England also advises that there is insufficient information in the proposal for them to provide comment on the likely impacts on protected species or habitats from the proposed Biogas plant. They suggest that the Local Planning Authority seek to satisfy itself that this aspect of the proposals will have no adverse impacts on important habitats or species within the site itself, or the wider area, prior to determining the application.

The Environment Agency has also considered the application with regard to biodiversity and suggested that a planning condition be attached requiring the submission of a scheme for the provision and management of a buffer zone of no less than 2 metres from the bank top of the watercourse to the south of the site. They consider that land alongside watercourses is particularly valuable for wildlife and it is essential this is protected.

The Council's Countryside Section has also considered the application and consider, in summary, that the environmental approach to biodiversity within this scheme has been that low or restricted levels of biodiversity presently found on an area of previously intensively farmed agricultural land results in the proposals having a net gain for biodiversity. This is not sufficient premise to dismiss the potential to seek substantial gain where possible. This area of development is set in a rural location., prior to the last 3 decades of more intensive agricultural use this area would have enjoyed much higher levels of biodiversity interest. It is these previous high levels of biodiversity that schemes such as this should aspire to. As this is an agricultural showpiece, we would expect to see examples of top quality environmental management where biodiversity is given a high priority with regards to the way it complements modern farming practice.

### **Archaeology and Cultural Heritage**

Policy E34 (Archaeological Sites of Local Importance) states that where such sites exist or are thought to exist within a potential development site, the developer will be required to carry out an archaeological field evaluation. Proposals which could affect remains of local importance will be permitted where they allow for the preservation in situ of the remains or, where the Council decides that such preservation is not justified, that appropriate measures are made for the excavation and recording of the remains and the publication of the results. Planning Policy Guidance Note 16 (Archaeology and Planning) also advocates the preservation of archaeological remains in situ.

The archaeological desk based assessment of the site submitted with the ES considers the impact of the proposed development on any known archaeological remains within the application site. There are no designated or undesignated sites of national archaeological, architectural or historic importance within the application site. There are however a number of Scheduled Ancient Monument sites and listed buildings within the vicinity of the application site, however the ES concludes that neither of these would be affected by the proposed development. To the south of the application site is a site recorded on the Durham County Council County Sites and Monuments Record (SMR) as crop mark ring ditch (SMR1534)

In terms of construction impacts, the assessment considers that although the site is relatively sparse of recorded archaeological sites this in itself constitutes a development risk in as much as what hitherto unknown archaeology may be present on the site. The assessment considers that the farm itself is of interest as it appears to have been built on an earthwork platform and central to a possible field boundary that is present on the 1859 map. This may indicate some form of early settlement boundary with the current farm sited on top on earlier earthwork platform. The ring ditch to the south of the site is of possible prehistoric provenance, although no

archaeological investigation has proved this to be the case. If any subsequent geophysical survey proves this to be the case it would suggest there is likely to be a prehistoric settlement and/or activity in the area dating from the Bronze Age to the late Iron Age. Such a site would rarely exist in isolation and would indicate that such further sites may exist in the immediate area. Without the benefit of more detailed investigations the potential for archaeology on the site and its boundaries must be regarded as moderately high.

To mitigate against the impact of the proposed development on archaeological interest on the site, the ES advises that a percentage of the site should be subject to field walking in the first instance to identify any areas, which may indicate activity within the application site. In addition, a geophysical survey should be carried out in areas that yield notable scatters with subsequent targeted trial trenching to evaluate the extent of any anomalies identified. The field in which the ring ditch is present should be entirely subject to geophysical survey to gauge the extent of the known and recorded ring ditch. The assessment also recommends that any fieldwork be carried out in advance of development, in accordance with an agreed Written Scheme of Investigation (WSI).

Durham County Council's Archaeology Department has been consulted on the application. Their views are awaited and will be reported verbally at the meeting.

### **Water Environment (including Flooding and Drainage)**

This section of the ES considers the effects of the proposed development on the water regime at the site and covers the potential effects on surface and groundwater during construction and operation, as well as addressing drainage and flooding issues. The site lies within Flood Zone 1, with a less than 0.1% chance of fluvial flooding. As the application site is greater than 1 hectare in area, current Environment Agency Standing Advice states that a FRA is needed to assess surface water runoff generated by the site. A Flood Risk Assessment (FRA) has therefore been submitted with the application.

Planning Policy Statement 25 'Development and Flood Risk' sets out stringent restrictions on development within, or adjacent to, a floodplain. It also places emphasis on the requirement from a Flood Risk Assessment (FRA) to be a fully integral part of the Environmental Impact Assessment (EIA) process and sets out the requirement to maximise the control of surface water run-off at source through the promotion of sustainable urban drainage systems (SUDS). Planning Policy Statement 23 'Planning and Pollution Control' provides guidance on the consideration of the potential impacts of a development in terms of pollution control, including surface and groundwater pollution.

Local Plan Policy E27 (flooding and Development) of the Local Plan states that development will not normally be permitted. Policy E28 (Surface Water and Development) states that new development will be expected to make provisions for handling surface water run-off without increasing flooding risks.

The majority of the site is currently open farmland with 100% permeability and therefore subject to Greenfield run-off of 3.5 l/s/ha. The only exception being the hard standing and roof area associated with the farmstead. The FRA advises that the impermeable surfacing of the proposed development site has been estimated as being 66% of the overall site area, approximately 35.36 hectares. It advises that surface water from the site will be collected in a piped system and discharged into an existing watercourse, a drain located to the south of the site, to the north of Long Hill. This watercourse is a tributary of West Beck and currently receives all land drainage

and overland flows from adjacent arable fields and those within the application site. The enhanced Environment Agency Flood Map shows that there are properties at risk of downstream flooding and the Environment Agency confirm that they require surface water flows on the site to be attenuated to a greenfield runoff rate of 3.5 l/s/hectare. As such it is proposed to install an attenuation pond on land at the southern end of the application site to receive surface water flows from the development site. The pond would be constructed on approximately 3.23 hectares of land and would also be developed as a wildlife/recreation pond. The pond has been designed to be equal to normal agricultural run-off rate (3.5 l/s/hectare) and will have a controlled discharge into the existing watercourse through a boggy field to the south, prior to discharging into West Beck via an existing culvert under the A1.

The Environment Agency (EA) has considered this aspect of the application and recommends that a planning condition be attached to any permission granted requiring that development shall not commence until a surface water drainage scheme for the site, based on sustainable drainage principles, an assessment of the actual Greenfield run-off regime, including an implementation schedule has been submitted to and approved by the Local Planning Authority.

In terms of foul drainage, the FRA advises that there are no existing foul or combined sewers in the vicinity of the site. The existing septic tank serving Humbleton Farm will be removed and flows will be discharged into the foul drainage for the new development. The ES advises that solid waste from animal holding areas will be collected and disposed off site to local farms. Liquid foul effluent will be collected from wash down flows from animal holding areas and wheel washing facilities; foul flows from showers, toilets and kitchen facilities within the Agricultural and Equine Centre; foul flows from showers, toilets and kitchen facilities from the commercial units within the main site; and foul flows from the Humbleton Farm buildings. As there are no adopted sewers in the vicinity of the site, the ES sets out a number of options for the disposal of foul flows, which include on site treatment using a small, self-contained, package sewage treatment works, the installation of a new pumping station to transfer flows to the nearest/most-appropriate public sewer or the installation of an adopted foul gravity sewer. No further information has been submitted with the application on this matter.

The Environment Agency has considered this aspect of the ES and objects to the application on the basis that the application has been submitted with insufficient information to enable adequate consideration of the proposed means of foul drainage to be made. DETR Circular 03/99 puts the onus on applicants to demonstrate that non-mains sewage disposal systems will not cause adverse impacts to the environment, amenity and public health. Until a satisfactory assessment of the likely impact of the foul drainage proposal on the environment has been submitted to and commented on by the Environment Agency they recommend that planning permission be refused.

### **Public Rights of Way**

Public Footpath Number 7 runs in an east-west direction through the site, coincident with the existing access track. The application proposes that the existing access track will be upgraded to provide the main entrance into the site. A roundabout to the south of the existing farmhouse and buildings will also be provided to serve the proposed 'business park' to the south of the site. The ES provides little information to demonstrate how the proposed development will impact upon the public right of way during both the construction and operational phases of the development, other than to advise that the public right of way will require temporary diversion for the duration of the construction works, although details of the diversion are not known. Consideration as to the impact of the proposed development, once operational, on the amenities of users of the right

of way network needs to be given. Presently the right of way network passes through open countryside, interspersed with existing farmsteads, however the proposed development will result in a marked change to the nature of the area surrounding Footpath Number 7 and to a lesser extent other public rights of way within the vicinity of the application site.

The Ramblers have objected to the application on the basis of a lack of information in this regard.

### **Ground Conditions**

This section of the ES considers the proposed development in the context of both existing and potential land contamination. A Ground Investigation Interpretive Report has also been submitted with the application. A desk-top study, site walkover and an intrusive ground investigation have been undertaken to establish the baseline conditions at the site, including potential sources of contamination. The findings of this survey work are presented in the ES.

The application site is currently in agricultural use. A former registered landfill site is located in the south of the site. The report advises that the License is known to have been surrendered in 1977. Based on the existing and former uses of the site, the report identifies a number of potential on-site sources of contamination arising from the use of pesticides and herbicides on agricultural land, hydrocarbon contamination from vehicles and machinery using the site, contamination relating to unknown fill material on the former tip area on the southern part of the site, asbestos containing materials in the tip area and hazardous ground gas emissions from the tip area.

The ES states that evidence of oil-based contamination was encountered in the former tip area and gas monitoring in this area also identified elevated carbon dioxide emissions. It concludes that further investigative works are recommended in this area, including further contamination testing and gas/groundwater monitoring and the development of a remediation strategy for the site agreed by the Environment Agency and the Council, as Local Planning Authority.

However, the ES also concludes that since the Ground Investigation Interpretive Report was undertaken in 2006, the overall size of the application site has increased by approximately 20 hectares and no site investigation works have been carried out for these areas. The ES advises that these be carried out prior to any development taking place. Furthermore, the submitted report does not contain any appendices or drawings referred to in the main body of the report.

Both the Environment Agency and the Council's Environmental Health Officer have considered this aspect of the application. The Environment Agency recommends a number of planning conditions be imposed to any permission granted relating to assessing and remediation of contamination of the site. The EA also advise that the environmental setting of the site is sensitive as it lies on the Magnesian Limestone major aquifer and is located within a groundwater Source Protection Zone (SPZ).

The Council's Environmental Health Officer has advised that in the absence of the appendices and drawings accompanying the Ground Investigation Interpretive Report he is unable to assess the report fully. However, the report advises that a number of additional works are required in the former tip area prior to construction and as such he suggests that a planning condition relating to contaminated land be attached to any permission granted to ensure that these works are carried out. He does however raise a number of concerns regarding the submitted report and requests that these be raised with the applicants' agent.

**Noise**

Local Plan Policies E48 (Noise-Generating/Polluting Development) and H15 (The Amenities of Residential Areas) are applicable to this section of the ES. Planning Policy E48 states that planning permission will not be granted for development which, by reason of the emission of noise or other pollutant, would be materially harmful to the amenities of existing or proposed residential or other pollution-sensitive areas. Policy H15 also states that permission will not be granted for the establishment, enlargement or material intensification of non-residential uses, which would unacceptably conflict with the quiet enjoyment of dwellings in particular. Planning Policy Guidance Note 24 (Planning and Noise) 2004 outlines the considerations to be taken into account in determining applications for both noise-sensitive development and for those activities, which will generate noise. It also introduces the concept of noise exposure categories for residential development and recommends appropriate levels for exposure to different sources of noise.

The ES considers the impact of the proposed development in terms of the impact of noise from both the construction and operational phases. There are a number of potentially sensitive receptors located within the vicinity of the application site, which include a number of residential properties within 300 and 650 metres of the site boundary. Noise monitoring has been undertaken at these locations to establish existing daytime and night-time background noise levels.

In terms of construction noise, the ES lists noise mitigation measures which should be employed during the construction phase in order to minimise construction impacts. The Council's Environmental Health Officer has considered this aspect of the application and advises that in order to ensure that noise emissions are controlled during the construction phase, he recommends that a condition be attached requiring the submission and approval of a Construction Noise Management Plan. He also suggests that a condition be attached restricting noise from construction activities at any of the noise receptors outside certain hours.

In terms of operational noise, the ES states that at this stage it is difficult to quantify the potential for noise impacts associated with general activities at the site due to the limited information on the operational phase of the development being unavailable. For example, the end users of the proposed business units are not known and no details of plant and machinery etc are available. In view of this the noise consultant has used the background noise levels to calculate the level at which complaints would be unlikely, according to guidance contained in BS4142. This is a level of 10 dB(A) LAeq below the background noise level, with a 5 dB tonal correction. The resulting noise levels are set out in the ES. The ES concludes that if the noise levels are not exceeded then the operational impact of the development will be limited, however further assessment is recommended once the detailed layout of the site is known at the detailed design stage. If noise levels are exceeded, then mitigation measures will be developed with the Council's Environmental Health Officer.

The Council's Environmental Health Officer has considered this aspect of the application and advises that a planning condition be attached requiring that site operations comply with the noise levels set out in the ES. He further advises that the applicant should confirm that the noise limits specified in the ES can be complied with and that a Noise Impact Assessment should be undertaken when details of the layout, plant and machinery to be installed is known to show whether any noise mitigation measures are necessary in order to comply with the stipulated noise limits at the identified receptors. The ES identifies Humbleton Farm house as being a sensitive receptor, however it is understood that this is to be occupied in connection with the proposed

Agricultural and Equine Centre. It may be unfeasible for the noise limit to be achieved at this location and the ES recognises this. A Noise Management Plan covering loading/unloading activities and vehicle reversing alarms to be submitted and approved by the Local Planning Authority.

The ES advises specific noise monitoring for the proposed Biogas plant, to determine the level of noise attributable to the process, has not been undertaken.

### **Air Quality**

Once more Local Plan Policies E48 (Noise-Generating/Polluting Development) and H15 (The Amenities of Residential Areas) are applicable to this section of the ES. This section of the ES considers the impact of the proposed development on air quality at both the construction and operational phases.

The Council's Environmental Health Officer has considered the submitted information and advises that the construction phase of the development has the potential to release problematical dust emissions if not properly controlled. He therefore recommends that a condition is attached to any permission which may be granted, requiring details of a Dust Action Plan to be submitted to, and agreed with the Local Planning Authority. As details of the plant and machinery to be installed at the site have not been provided to the consultant carrying out the air quality assessment, it has not been possible to conduct a full air quality assessment to show what the impact of the development will be on air quality. It is recommended that a condition be attached requiring an Air Quality Assessment covering all relevant site operations to be submitted and agreed with the Local Planning Authority. This should include all relevant pollutants and should include an assessment of odour emissions where necessary. Although not fully adopted in regulations, the assessment should also contain an assessment of PM2.5 particulate matter emissions.

Certain operations at the site have the potential to produce odour if not properly controlled. Therefore, a condition is suggested requiring details of an Odour Management Plan to be submitted and agreed with the Local Planning Authority. This should detail all the necessary controls required in order to minimise any odour emissions from the site. It should also address the issue of the disposal of waste from the Biogas Digester, as this may be odorous and could cause odour problems if spread on fields in the locality, or elsewhere, near odour sensitive receptors. As a safeguard a condition should be attached to any permission prohibiting any odour emissions from the site being detectable by the relevant Local Authority Officer at any of the Odour Sensitive Receptors listed in Table 13.9 of section 13 of the Humbleton Farm Environmental Statement. It should be noted that Barrons Caravans has not been considered as an Odour Sensitive or dust sensitive receptor, which is a significant omission in my opinion. Therefore, it should be added to the sensitive receptors listed in Tables 13.8 and 13.9.

The issue of odour possibly affecting businesses within the development itself has not been considered in the Environmental Statement. This could be a potential problem and it is recommended that the applicant be asked to consider this matter and provide a response. The Appendices referred to in the report are not included and the applicant should be requested to provide them. It is stated that the Biogas Plant will be classified as a Part A1 process under the Environmental Permitting Regulations in which case the permit will be regulated by the Environment Agency. Although the Environment Agency has been consulted on the application, they have not commented on this aspect of the proposed development.

### **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 SCI also advises that open nights were held in Heighington and Faverdale on 6 June 2008 to discuss the Humbleton site only.

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

- 89% of respondents agreed that the mart should relocate to Humbleton Farm.
- 87% of respondents thought that the site was acceptable for the relocation of the mart.
- The majority of respondents considered the layout of the site to be acceptable; ten respondents thought the scale of the proposals was acceptable, two disagreed and one offered no comment; access was thought to be acceptable by ten of the respondents, two disagreed and one offered no comment; eleven respondents thought the landscaping was acceptable.

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

- Sustainable travel options are limited, although appreciate the majority of users will arrive by car, van or other motorised forms of transport;
- The A68 experiences a number of accidents. Relocation could add to these problems;
- Appearance issues i.e. effect of development on the character of the area.

In response to the concerns raised, the statement advises that the access to the site will be constructed to approved highway standards and the construction of a new roundabout will make a positive contribution to highway safety. Structural landscaping is proposed to soften the impact of the centre on the surrounding countryside together with design befitting its current location. The overall design of the proposed mart takes into account the functional needs of the occupier and will be built on sustainable principles to high standards.

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 the 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. The main concern of the statement is that the consultation event was held more than 2 years prior to the application being submitted and responses are therefore considered to be out of date. While the SCI indicates that further events were held in Heighington and Faverdale in June 2008 there appears to be no information relating to the outcome of these events. 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**

The majority of issues raised by objectors to the application have been addressed within the main body of the report. However a number of objectors have raised concerns regarding the proposed

Biogas plant, principally on the basis that insufficient information regarding its operation and potential impacts in terms of noise and odour pollution and potential impact on biodiversity of the site.

The proposed Biogas plant is to be located on an approximately 2 hectare parcel of the application site, immediately to the east of the existing farmhouse. An indicative layout plan of the Biogas plant shows that the site will comprise a series of tanks, the largest being 16 metres in height, surrounded by landscape planting. The Design and Access Statement advises that the proposed Biogas Digester, or Green Energy plant, is a key component of the scheme. The digester will treat biodegradable organic wastes, in this instance food chain wastes, in the absence of oxygen. The principal products are a nutrient-rich bio fertiliser that can be used as a fertiliser and soil improver and also biogas, which is rich in methane and can be used to generate electricity and heat. It is proposed that the biogas will be used to fuel a combined heat and power plant, which will produce approximately 1.5 megawatts of renewable electricity. The electricity will be used in the Auction mart and other business premises with the surplus exported to the national grid. In addition the plant will produce approximately 1 megawatt of surplus heat energy, which will be supplied to the district heating system.

The application also advises that the fertiliser will be piped out to surrounding agricultural land, rather than being removed by lorry. The Strategic Options Appraisal submitted with the application also advises that the Biogas plant requires a total of 600 hectares of suitable farmland in order to disperse the liquid in a cost effective manner. It advises that there are 1212 hectares of surrounding farmland. Since the liquid can only be dispersed at certain times of the year, sufficient on-site storage is also required.

Limited information regarding the construction and operation of the proposed biogas plant has been provided with the application however some consideration of the potential impact of the proposed Biogas plant has been given within the Environmental Statement.

The air quality chapter of the ES recognises that the Biogas plant has the potential to impact upon air quality. It advises that the proposed biogas digester plant will be classified as a Part A1 process under the Environmental Permitting (England and Wales) Regulations (2007) and as such will be required to operate in accordance with the conditions of an Environmental Permit, as issued by the Environment Agency (EA). The Permit will include stated emission limits for various pollutants produced by the process as well as best practice guidelines for fugitive dust and odour control. Compliance with these conditions must be demonstrated through continuous and periodic monitoring requirements in order to limit potential air quality impacts in the surrounding area to acceptable levels.

In addition the biogas digester will be regulated under Part 2 activities, section 1.1 Part A(1)(b)(iii) for combustion activities burning any fuel manufactured from, or comprising of any other waste, in an appliance with a rated thermal input of 3 or more megawatts. However no information is currently available regarding the rated thermal input of the biogas plant and therefore no quantification, or assessment of the impact of emissions arising from the biogas plant, are presented in this chapter of the ES.

The ES also advises that a number of design measures are to be incorporated into the biogas digester facility, in order to prevent the unabated release of odour. These systems include the process and pasteurisation of all feedstock to ensure all pathogens are eliminated and designing the biogas digester as a wholly internally closed system to prevent any odorous emissions.



However as detailed design drawings of the biogas digester plant have not been made available, the biogas digester's operation has not been considered in the ES. While the Environment Agency has not specifically commented on the proposed biogas plant in its response, the developer will be required to apply for an operating permit under the above Regulations, which will then be regulated by them.

In terms of noise, the ES advises that an assessment of the biogas plant to determine the noise levels attributable to the operation of the plant has not been carried out. The Council's Environmental Health Officer has advised that a Noise Impact Assessment be carried out once the location of all plant and machinery, including the proposed biogas plant, is known. The results of the assessment will then determine whether mitigation measures are necessary in order to comply with the stipulated noise limits at the identified noise receptors.

Natural England has advised that the ES has not considered the likely impact of the biogas plant on protected species or habitats from this aspect of the development. They advise that further information should be sought in this regard.

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

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

### **CONCLUSION**

The proposal would not accord with relevant planning policies for the use of the site or for development in the countryside. Because of this, and the considerable scale and wide-ranging nature of the development, it would represent a major departure from the development plan.

Nor would the proposal accord with policies for the location of the uses proposed, some of which should be sited within the town centre or other central, accessible locations and others, particularly those proposed for the business park, within the employment areas of the built-up area. The livestock mart use itself should be located on the edge of town, on a site with good access to the main road network, unless it can be demonstrated that no alternative sites exist or can be brought forward.

The applicants have failed to demonstrate satisfactorily the latter, having adopted an inflexible approach both to the range of uses which need to be located alongside the mart - inflating its land-take excessively - and to the geographical area in which to search for alternative sites.

Of the other material considerations put forward by the applicants only the removal of the existing cattle market from its Clifton Road site can be given weight. That weight is undoubtedly substantial, as it was at the time of the Holdforth Grange decision, but the harm that would be caused by the much more extensive and ambitious Humbleton Farm proposal, in its much more sensitive location, is even greater than in that case. In the absence of a comprehensive, more flexible site search - which strips out unrelated uses whose primary purpose is to finance the livestock mart development and ensure its ongoing profitability - then officers' recommendation must be to refuse this proposal.

Insufficient information has been submitted with the application regarding the proposed foul drainage arrangements and as such the Environment Agency consider that they cannot advise that the proposed non-mains drainage sewage disposal systems will not cause adverse impacts on the environment, amenity and public health. The Agency therefore recommends that the application be refused on this basis.

Notwithstanding the submission of a Travel Plan with the application, the site is not considered to be well located so as to provide for sustainable choices for users of the site. It is therefore considered that the proposed development would not be a sustainable form of development as it would largely be 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'.

Officers also have serious concerns regarding the design of the proposed Agricultural and Equine Centre with specific regard to its scale, siting and design and its impact on the character and appearance of wider landscape. However the application is in outline only and matters of layout, appearance, scale and landscaping of the site are not for consideration at this stage, being reserved matters. As such this cannot form a reason for refusal at outline stage.

There are also a number of matters upon which further negotiation would be required should Members be minded to grant the application. In summary those issues include:

- Further work on the Transport Assessment and Travel Plan as required by the Highways Agency;
- Further information regarding foul drainage arrangements as required by the Environment Agency;
- Further information regarding the potential impact of the proposed Biogas plant on protected species, as requested by Natural England;
- The removal of the proposed link from the site to Burtree Lane as requested by the Council's Highway Engineer;
- Inclusion of suitable alternative foraging sites for bats within the overall management plan for the site, if existing foraging areas lost to development;
- Details of proposed environmental management proposals and how public right of way through the site is to be affected by the proposed development, as requested by the Council's Countryside Section;
- Further site investigation works, noise monitoring and air quality work to address the concerns of the Council's Environmental Health Officer;

Officers have not undertaken such negotiations given the fundamental policy objections to the scheme.

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, by reason of its scale or nature or the location of the land, would significantly prejudice the implementation of the development plan's policies and procedures. 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.

## RECOMMENDATION

THAT PLANNING PERMISSION BE REFUSED FOR THE FOLLOWING REASONS:

1. The proposal would be a major and unacceptable intrusion into open countryside, an unsustainable form of development which would have a severely detrimental impact on the character and appearance of the rural area, a harmful effect on the appearance of the Borough from an important tourist route and would contribute to urban sprawl in a strategic gap between Darlington and surrounding settlements, contrary to the policies at national level in PPS1, PPG4 and PPS7 and in the development plan at policies 2, 8, 10, 11, 16 and 24 of the North East of England Plan (Regional Spatial Strategy) and policies E2 and E16 of the Borough of Darlington Local Plan.
2. The proposal would provide a number of main town centre uses in an out-of-centre location which is poorly accessible by a range of means of transport without demonstrating satisfactorily the need for such uses, that there are no more central locations for them and that there would be no unacceptable impacts on existing centres, contrary to the policies at national level in PPS6 and PPG13 and in the development plan at policies 2, 16 and 25 of the North East of England Plan (Regional Spatial Strategy) and policies R24, S1 and S2 of the Borough of Darlington Local Plan.
3. Within its business park, the proposal would provide a number of class B1, B2, B8 and sui generis employment uses in a countryside location which would not be so related to agricultural or other rural activity or necessary to sustain the rural economy as to be required there and which would normally be expected to be located within built-up areas, contrary to the policies at national level in PPG4 and PPS7 and in the development plan at policy 10 of the North East of England Plan (Regional Spatial Strategy) and policy EP15 of the Borough of Darlington Local Plan.
4. The benefits from relocating the existing cattle market from Clifton Road, Darlington would be substantial but this is insufficient a material consideration to outweigh the considerable harm that would be caused by permitting such an extensive and wide-ranging development, which goes beyond being simply a replacement livestock mart, in such a sensitive location, in the absence of more convincing evidence that no alternatives to this form of development in this location exist.
5. Notwithstanding the submission of a Travel Plan with the application, the proposed development site is not considered to be well located so as to provide sustainable travel choices for residents. Walking to the site is not an option due to distance, lack of footpaths and various psychological barriers. Cycling to and from the site would involve using very busy roads where traffic is fast moving and safety fears would deter such trips. Public transport is infrequent and the walking routes to and from the bus stops are at present ill defined and potentially dangerous because of crossing the A68. 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'.
6. The application has been submitted with insufficient information to enable adequate consideration of the proposed means of foul drainage to be made. Without such information an assessment of whether or not the proposed non-mains sewage disposal systems will cause adverse impacts on the environment, amenity and public health cannot be made.

