

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 16 December 2009

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APPLICATION REF. NO:	09/00731/OUT
STATUTORY DECISION DATE:	15 January 2009
WARD/PARISH:	HARROWGATE HILL
LOCATION:	Land at Former Corus Site, Whessoe Road Darlington
DESCRIPTION:	Outline application for residential development
APPLICANT:	St Modwen Ventures Limited

APPLICATION AND SITE DESCRIPTION

This application is a resubmission following a previous refusal of planning permission (See Planning History) by Members of the Planning Committee in June 2009 for a residential development on the site. Since the previous application, further discussions have taken place between the applicant and officers and revised supporting documentation has been submitted with this new application in relation the financial viability of the site and the ecological impact of the development on protected species.

This outline planning application is for a residential development consisting of approximately 250 dwellings, consisting of a mixture of 2, 3 and 4 bed family houses and a small number of 1 and 2 bed apartments. The site measures 7.26 hectares. The application seeks approval for the means of access only. All other matters such as appearance, layout and landscaping are reserved for future submissions. However, an Illustrative Masterplan has been submitted to show how the site could be developed.

The application site is immediately bounded by Whessoe Road to the east and by the Darlington to Bishop Auckland railway line to the west. A timber merchant forms the northern boundary, whilst to the south are employment uses on Whessoe Road. The site is split into two main areas approximately two-thirds down the Site by Elmtree Street.

Corus vacated the northern part in late 2007. Since that time and despite extensive marketing to achieve their re-use, the buildings had become increasingly derelict and costly to maintain due to ongoing vandalism. They were demolished in September 2008. This part of the site (between the timber merchants in the north and Elmtree Street in the south) is largely flat. Part of the frontage to Whessoe Road is formed by a large retaining wall. Adjacent to the site, there are a number of employment uses, including a joiners and a printers. St George's Bridge Club lies adjacent to the south-eastern corner of the Site.

The southern part of the site continues to be occupied in part by Tinsley Trailers, a small subsidiary company of Corus. Tinsley Trailers currently employ 36 staff at the site. The lease has a mutual break in 2012 and it is possible that either the applicant or Tinsley Trailers will take advantage of their ability to terminate at that time. Therefore it is likely that the entire site will be vacant within 3 years.

This part of the site (between Elmtree Street in the north and the commercial uses on Whessoe Road to the south) is also largely flat but lies some metres above Whessoe Road and Elmtree Street at its north-eastern corner. It is contained by a large and imposing retaining wall fronting Whessoe Road. The site is level with Whessoe Road at its south-eastern corner. The buildings comprise large industrial brick-built warehouse units, currently used in part for the manufacture of trailers. The remains of railway sidings leading into these warehouse units can also be seen on site.

The development is one that falls within the thresholds set out in Schedule II of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulation 1999 (SI/1999/293) (the "1999 Regulations"). As required by the 1999 Regulations, the Local Planning Authority is required to adopt a formal opinion as to whether or not an Environmental Impact Assessment (EIA) is required for the development. This process has been undertaken and, having taken into account the criteria set out in Schedule 3 to the 1999 Regulations, the Local Planning Authority has determined that the proposal does not constitute EIA development.

The application has been accompanied by the following documents:

- Financial Appraisal
- Employment Land Assessment
- Design and Access Statement
- Phase 1 Geo Environmental Audit
- Transport Assessment
- Travel Plan
- Noise Assessment
- Ecological Appraisal
- Great Crested Newt Mitigation Strategy
- Tree Assessment Report
- Flood Risk and Run Off Assessment

In addition to the above, and prior to the submission of the planning application, the applicants carried out a public consultation event. The details of the event are contained within a Statement of Community Involvement document, details of which will be considered within the main body of the report.

PLANNING HISTORY

The most relevant planning entry is:

09/00173/OUT In June 2009 outline planning permission was REFUSED for a residential development

PLANNING POLICY BACKGROUND

The following National Planning Guidance documents are relevant:

Planning Policy Statement 1: Delivering Sustainable Development
Planning Policy Statement Planning Policy Statement 1 Supplement: Planning and Climate Change;
Planning Policy Statement 3: Housing;
Planning Policy Guidance 4: Industrial, Commercial Development and Small Firms;
Consultation Planning Policy Statement 4: Planning for Sustainable Economic Development;
Planning Policy Guidance 13: Transport; and
Planning Policy Guidance 17: Open Space, Sport and Recreation

The following policies of the North East of England Plan Regional Spatial Strategy to 2021 (July 2008) are relevant:

Policy 2	Sustainable Development
Policy 4	The Sequential Approach to Development
Policy 6	Locational Strategy
Policy 7	Connectivity and Accessibility
Policy 8	Protecting and enhancing the Environment
Policy 12	Sustainable Economic Regeneration
Policy 20	Key Employment Locations
Policy 24	Delivering Sustainable Communities
Policy 29	Delivering and Managing Housing Supply
Policy 28	Gross and Net Dwelling Provision
Policy 30	Improving Inclusivity and Affordability
Policy 33	Biodiversity and Geodiversity
Policy 36	Trees, Woodlands and Forests
Policy 38	Sustainable Construction
Policy 39	Renewable Energy Regeneration
Policy 54	Parking and Travel Plans

The following policies within the Borough of Darlington Local Plan are relevant:

E2	Development Limits
E3	Protection of Open land
E11	Conservation of Trees, Woodlands and Hedgerows
E12	Trees and Development
E14	Landscaping of Development
E15	Open Land In New Development
E17	Landscape Improvement
E20	Sits of Nature Conservation Importance
E23	Nature and Development
E24	Conservation of Land and Other Resources
E25	Energy Conservation
E29	Setting of New Development
E45	Development and Art
E46	Safety and Security
E47	Contamination and Unstable Land and Development

H3	Locations for New Housing Development
H4	New Housing Development in and Around the Town Centre and Other Centres
H9	Meeting Affordable Housing Needs
H11	Design and Layout of New Housing Development
H14	Accessible Housing
R1	Designing For All
R6	Open Space Provision in New Residential Development
R7	The Design of Open Space Provision
R13	Recreation Routes and New Development
EP2	Employment Areas
EP5	Other Uses in Employment Areas
T12	New Development – Road Capacity
T13	New Development – Standards
T24	Parking and Servicing Requirements for New Developments
T31	New Development and Public Transport
T37	Cycle Routes in New Development
T39	Conditions for Pedestrians

The following policies within the Darlington Open Space Strategy 2007 – 2017 are relevant:

Policy 6	Overall Standards of Provision
Policy 19	Open Space Provision associated with New Development
Policy 20	Securing appropriate Open Spaces and Their Maintenance
Policy 22	Design of Open Spaces

The following Supplementary Guidance Notes are also relevant

Affordable Housing
Commuted Sums from New Housing Developments for Existing Equipped Play Areas
New Design

RESULTS OF CONSULTATION AND PUBLICITY

Results of Consultation and Publicity Exercise with Local Residents

Fletcher Joinery (Whessoe Road) have objected to the planning application stating that they wish for their concerns raised on the original application (ref no: 09/00173/OUT) to be reconfirmed. They also state that *“We would require an undertaking that the noise generated by our workshop would not be held against us if the application goes through and houses are built around us. This land was originally designated for industrial development not housing, hence our move to this location”*.

The concerns that were raised by Fletcher Joinery about the previous application were as follows:

“Approaches were made by this company on at least two occasions to purchase this land for further development of the workshop and or car parking facilities. We approached Corus in the first instance who were apparently in the process of the selling the land (2002). In 2004 we approached St Modwen Developments who were the owners at that time, again to no avail. We didn't even receive a reply to our letter. We are of course still interested and are therefore

astounded that we have been told that the land has been put up for residential development due to not being able to sell the land otherwise;

This is a joinery shop which uses sawing, cutting and planing machines, all of which are extremely noisy and require operators to wear high density ear protection. We also have a dust extractor, which is externally mounted which apart from being noisy would be facing one of the proposed dwellings

The workshop operates from 8am to 4:30pm on a daily basis and also on weekends. On occasions work carries through until the early hours of the following morning

There is normally a lot of congestion on this road at 9am to 10am and 3:30pm to 5:3pm due to parents taking children to school and the working population en route, not to mention our deliveries. Traffic is heavy around our premises due to the number of timber wagons and glass lorries who deliver to us everyday, also hardware deliveries and postal deliveries and our own vans coming and going to various clients

Finally, the main reason we relocated to these premises from Haughton was because this was industrial designated land and not for housing development”

Consultation Responses

Northern Gas Networks have raised no objections to the proposed development

The **Durham Constabulary Architectural Liaison Officer** has raised issues over the layout of the development as *“There is medium level of risk that that this site will suffer offences of burglary, car crime and anti social behaviour. Certain aspects of the proposed layout will increase the opportunity for these offences to take place, therefore they need to be addressed”*

The **North East Planning Body** have stated that the reuse of previously developed land reflects locational and housing policies within the North East of England Plan Regional Spatial Strategy (RSS). However, the Council must be fully satisfied that residential development in this location will not lead to a loss of important employment land in order to be in general conformity with RSS policies. The development also needs to incorporate renewable energy measures and the Council must ensure that any potential adverse impacts on ecology or transport are suitably mitigated. The proposal is in general conformity with the RSS provided these issues are addressed.

The **Durham Wildlife Trust** has stated *“Given that a licence is to be applied for covering works on the northern section of the site, the Trust would have expected to see further information presented by the applicant, such as expected timetable for the development, to provide planners with sufficient information to apply the three tests required by the Habitats Regulations. As stated in PPS 9, the planning authority is the competent authority and must ensure that protected species are taken into account as detailed in regulation 3(4) of the Habitats Regulations.*

Given the proximity of the southern section of the site to the great crested newt breeding ponds the Trust would have expected that a licence would also be required for works in the southern section. This is particularly pertinent given that the physical barrier between the sites (railway embankment) is at its lowest in the southern section. The Natural England online risk assessment for developments where great crested newts are an issue could perhaps provide the applicant with guidance on this issue. Although the southern section of the site offers poor terrestrial

habitat for foraging newts, the buildings and drains on site could provide hibernation opportunities, and as referred to above, the lack of a timetable for the development does not allow the planning authority to assess if hibernation is a factor that should be considered.

The Trust is puzzled as to the choice of location for the habitat improvements proposed in mitigation. Why not locate them near to the known breeding ponds where they are most likely to be beneficial to the existing newt population.”

Network Rail has raised no objections to the development, in principle, but they have raised some requirements for the security and safety of the site once development is underway and also completed.

Northumbrian Water have raised no objections to the proposed development subject to the imposition of planning conditions relating to building over or diverting NWL apparatus and the submission of a scheme showing how surface water runoff would be dealt with.

The **Highways Agency** has no objection in principle to the proposed development but they have requested the imposition of a planning condition relating to the implementation of the submitted Travel Plan.

The **Durham County Council Archaeology Officer** has no objections to the application subject to the imposition of a planning condition, which allows an archaeological assessment of the site to take place prior to any remediation works commencing

The **Environment Agency** has no objections to the proposed development subject to the imposition of conditions relating to surface water drainage systems and land contamination.

Natural England is satisfied that it is unlikely that the development would have an adverse impact on bat species. Following the submission of an amended Great Crested Newt Mitigation Strategy (Rev C), they are also satisfied that the development, subject to planning conditions, will not have an adverse impact on Great Crested Newts.

Consultation Responses from Council Officers

The **Visual and Public Arts Officer** has welcomed involvement in the proposed development.

The **Senior Arboricultural Officer** agrees that the existing trees are young to semi mature age and would fall within Category C of BS5837 (low quality and value). New tree planting would be expected as part of the reserved matters application for landscaping. He has requested that a contribution is made by the developer for tree planting within North Park.

The **Highways Engineer** accepts the conclusions of the Transport Assessment. He has also raised no objections to the locations of the accesses onto Whessoe Road and he has requested the imposition of a number of planning conditions, informatives and Heads of Terms for a Section 106 Agreement.

The **Transport Policy Section** considered the submitted Residential Travel Plan as part of the previous application and have stated that the Plan makes a fair attempt to provide the structure to encourage travel choice for residents. They reaffirm the need for a further crossing facility on Whessoe Road and have requested that four bus tops on Whessoe Road are upgraded.

The **Housing Renewal Officer** has accepted the findings of the independent report from Sanderson Weatherall and the offer of 10% affordable housing provision for the application site.

The **Environmental Health Officer** has raised no objections to the proposed development subject to the imposition of planning conditions relating to a noise barrier fence, contaminated land, an Odour Impact Assessment, piling, hours of operation, and a Dust Action Plan.

PLANNING ISSUES

Since the previous application (ref no: 09/00173/OUT) was refused, further discussions have taken place between the applicant and officers and revised supporting documentation has been submitted with this new application. The following issues must be taken into consideration when determining this application

- Planning Policy
- Loss of Employment Land
- Suitability of the Site for Housing
- Need for Additional Housing Land
- Affordable Housing
- Highway Matters
- Design and Layout of the Development
- Open Space Requirements
- Noise
- Contaminated Land
- Odour
- Biodiversity
- Impact upon Trees
- Archaeology
- Flood Risk and Drainage
- Renewable Energy Requirements
- Statement of Community Involvement
- Commencement of the Development
- Section 106 Agreement

Planning Policy

The application site falls within the development limits as defined by Policy E2 (Development Limits) of the Borough of Darlington Local Plan. The site is also identified as an existing employment area and Policy EP2 indicates that it would be suitable for business (B1) use, and general industrial (B2) and/or warehousing (B8).

Loss of Employment Land

In view of the above planning policy designation, consideration needs to be given as to whether or not the site is still needed to meet identified and projected employment land needs. The applicant has prepared an Employment Land Assessment, which concludes that the site would be difficult to let or convert for other business occupiers due to the age, condition and specification of the buildings. There have been failed attempts to seek occupiers through marketing campaigns. The Assessment states that as a site for new employment development, it is not considered commercially attractive when compared to competing sites that are coming forward in the area that benefit from better road access and visual prominence. As a result of its

constrained form, poor access and proximity to residential and community uses, the Assessment states that it offers a less advantageous location than other competing employment sites identified by the Council.

To reinforce the Assessment, analysis of the demand for and supply of employment land has revealed that:

- There is substantial supply of commercial property, particularly industrial property in the Darlington area;
- There is a large supply of employment land being allocated through the planning system, substantially more than what is required to meet average levels of take up over a 25 year planning period –therefore there is a surplus of land supply;
- A large portion of the borough's employment land portfolio is provided at Faverdale, in close proximity to Whessoe Road, which offers a more attractive location for commercial use, which is likely to undermine the potential for employment re-use of the Whessoe Road site, making it surplus to requirements;
- The applicant owns and controls development of the Faverdale site nearby (which has recently been granted outline planning permission for B1, B8 and B2 uses). The applicant intends to bring this development forward in the short to medium term, which will impinge on the viability of the application site.

The Council's Principal Planning Policy Officer has commented, "*The applicants have provided satisfactory evidence that their efforts to market the sites and premises for B1, B2 and B8 have been unsuccessful, which is attributed to the fact that the buildings on site are not suitable for many modern needs, the proximity to residential uses constrains the range of uses the site could accommodate and that the site is not as accessible to industrial traffic as many other suitable and available sites within the Borough.*"

The applicants have also submitted an Employment Land Assessment with their application, which officers also had sight of at pre-application stage. The assessment includes a comprehensive commercial property market assessment. Taking account of the information that the Council holds dating from 2006 (an Employment Land Review prepared by King Sturge) and more up to date anecdotal information, the market assessment seems credible and I would find it difficult to disagree with its conclusions at this time.

The applicants' Employment Land Assessment also includes an analysis of employment land and supply in Darlington. They conclude that there is currently a very substantial supply of employment land provision in the Borough, and that regarding future requirements, the 302 ha proposed for the period until 2026 in the Council's LDF Core Strategy: Preferred Options is an over-estimate of future demand, based on the evidence of take up levels from 2000-2006 set out in the Council's LDF Annual Monitoring Report.

The Council is currently undertaking work to update the evidence on employment land take up levels, as part of a comprehensive Employment Land Review. Until, this work is complete it is difficult to argue against the conclusions of the applicants' assessment, which is based on evidence provided in a Council publication. However, what Council's own ELR work will look at more closely is the range and choice of sites that allocated sites and sites with planning permission offer. Whilst the current economic downturn is likely to be reducing the take up of employment land in the Borough in the short term, there is no evidence to suggest that this will be sustained over the longer term. Indeed, the work that the Council is doing with partners to

bring forward employment land at Faverdale and other locations within the Borough will help to ensure a suitable and attractive supply of employment land is available in the Borough when the current economic downturn begins to ease.”

Based on the information provided by the applicant and the information currently held by the Council, the loss of this site for employment purposes will not have an adverse impact on meeting the borough's identified and projected employment land needs.

Suitability of the Site for Housing

Policy H3 (Locations for New Housing Development) of the Local Plan states that new housing development will normally be approved within the development limits. The proposed site is wholly within the limits to development of the main built up area of Darlington.

National, regional and local planning policies are clear that suitable locations for housing are those which offer a good range of facilities, with good access to jobs, key services and infrastructure. Most of the proposed site is close to local shops and a District Centre at its southern end, and there is other community infrastructure, e.g. Longfield Secondary School, Harrowgate Hill Primary School and North Park nearby.

The majority of the site is not currently in use and is previously developed land (PDL). Planning Policy Statement 3 – Housing (PPS 3) indicates that priority for development should be given to PDL, in particular vacant and derelict buildings. As regards the buildings that are currently in use, PPS3 also indicates that industrial sites should be considered as options for accommodating housing growth.

There would be no planning policy objections, in principle, to the application site being used for residential purposes.

Affordable Housing

Policy H9 (Meeting Affordable Housing Needs) of the Local Plan states that the Council will seek to negotiate with developers for an element of affordable housing on new housing sites within development where a local need has been identified.

The Affordable Housing Supplementary Planning Document (SPD) elaborates on Policy H9 of the Local Plan. Under the provisions of the SPD, the application site is located within the Darlington North Sub Area, where the local need for affordable housing has been identified as High. The affordable housing target for a development of 15 dwellings or more, in this Sub Area, is that 30% of the dwellings are “affordable”.

In this instance, a housing development of 250 dwellings would have a target of 75 affordable dwellings. At present, the application has been submitted with no affordable housing provision.

The SPD states the affordable housing targets may, exceptionally be reduced or possibly waived if it can be demonstrated that there are unforeseen costs associated with the development that, taken together with the provision of affordable housing would render the project unviable. It is expected that developers have considered the financial implications of providing affordable housing when purchasing the land for development, as they would for all significant foreseeable costs like highway works, remediating contamination, flood mitigation, piling, demolition and planning obligations.

Appendix 6 of the SPD states that in circumstances where a developer considers there are exceptional unforeseen costs and that the provision of affordable housing would make a scheme unviable, the onus is on the developer to demonstrate this. The developer must provide financial evidence to an independent agent or consultant chosen by the Council but paid for by the developer, whose role it would be to assess the information and provide the Council with a report capable of publication, indicating whether the costs attributed to items are reasonable. This report would form the basis as to whether or not an affordable housing target for a particular site can be reduced or waived.

The previous application (ref no: 09/00173/OUT) was refused on the grounds that insufficient information had been provided to allow the Council to give consideration to reducing or waiving the affordable housing provision. Since this application was determined, discussions have continued between the applicant, officers and an independent agent (Sanderson Weatherall)

The final report from the Sanderson Weatherall states *“the fundamental conclusions to be drawn from the revised development appraisals is that in today’s difficult market the proposed scheme of development for the subject site is not viable”*.

The Report continues, *“ In the current poor economic climate, it is clear that the proposed development scheme is hardly viable and can make no significant contribution towards affordable housing. However, it is fair to say that this position may have changed radically by the time the Corus lease has terminated and the site has been remediated, services and made ready for development. So whilst the current proposed scheme is not viable, there is potential (but no guarantee) for profitability in the future. If there is a significant improvement to the residential property market, in the form of rising rather than falling new house prices, there may be scope for a contribution towards affordable housing at that time. In which case, a planning permission granted “at the bottom of the market” without an affordable housing condition, has the potential to become very valuable when the market improves.*

Based on St Modwen’s appraisal, no developer would proceed with the current scheme without a reasonable expectation of an improvement to the market in the next couple of years. If they can secure a planning permission with no affordable housing condition, based on the current “snapshot” of the poor housing market, they will be able to reap the benefit of that planning permission, at some time in the future, at which time the scheme may very well be able to afford such an affordable housing condition.

It is a matter for the Council to decide how this difficulty might be addressed, but I can conclude my current involvement, as independent valuer, by stating that the current proposed scheme for the development of the subject site, based on the current poor state of the residential market is insufficiently profitable to allow for any contribution towards affordable housing.”

The applicant has fulfilled the requirements of the Council’s adopted Affordable Housing Supplementary Planning Document, for schemes where waiving or reducing affordable housing requirements is being sought.

However, the applicant acknowledges the concerns Members and officers may have with schemes that do not propose to provide any affordable housing. Therefore, notwithstanding the conclusions of the independent report and despite the proven lack of viability for the development, the applicant has offered 10% of the total number of dwellings on site to be affordable housing. The exact number and mix of dwellings that are to be affordable would be

determined at the reserved matter submission stages. It is proposed that the affordable dwellings would be split 50:50 between social rented and shared equity homes.

The Council's Housing Renewal Officer has accepted the findings of the independent report. This offer has been made by the applicant despite the findings of the independent report by Sanderson Weatherall and officers suggest that it should be accepted, as securing affordable housing within residential developments is a vital objective of the Council. Securing 10% of affordable housing on the site will help the Council to meet at least some of the identified high affordable housing needs in this area. The Tees Valley Strategic Housing Market Assessment 2009 confirmed that the affordable housing targets in the SPD are still valid.

Officers consider that accepting the 10% provision of affordable housing is a more reasonable and straight forward option than imposing a planning condition or obligation in a Section 106 Agreement to allow for the percentage of affordable housing to be renegotiated if there is a marked change in market conditions.

Highway Matters

The planning application is in outline with only the means of access into the site considered. The Illustrative Masterplan includes five vehicular access points (in the form of priority junctions) to the site from Whessoe Road. The proposed development comprises 250 dwellings with parking proposed at a level of 2 spaces per 2/3 bed units, 3 spaces per every 4 bed unit and 1.5 spaces per apartment. The spaces would be provided within the development and take the form of off street parking spaces (both on drive and garages) and parking courts to the rear of dwellings.

A Transport Assessment accompanied the application and it concludes that the traffic impact of the proposed development during the weekday AM and PM peak hours highlights that mitigation is only required at the Whessoe Road/Longfield Road priority junction. This junction would need to be converted to a mini roundabout. It is proposed that a Toucan crossing be provided on Whessoe Road to aid pedestrians and cyclists crossing in the vicinity of the existing pedestrian/cycle routes close to Elmtree Street/Honeypot Lane. Footpath and cycle links would be provided across the development linking it into the existing network.

The Council's Highways Engineer accepts the conclusions of the Transport Assessment, which state that the only mitigation measures required would be at the Whessoe Road and Longfield Road junction. He also accepts that there is a requirement for a safe crossing point on Whessoe Road for pedestrians and cyclists. The proposed location of the accesses into the site off Whessoe Road is considered to be acceptable. The applicant has agreed to secure the highway improvement works via a Section 106 Agreement.

The submitted Travel Plan does make a fair attempt to provide the structure to encourage travel choice for residents. In addition, the submission also makes the point that the detailed layout will include

- Walking/cycling routes within the elongated housing site and that it will provide connections to existing off site routes. The future design should also seek to achieve some of the following:
- Permeability for pedestrians and cyclists
- Highway safety measures/traffic calming/pedestrian and cycle friendly infrastructure
- Site speed limits

- Restrictions on car movements within the site
- Parking restraint
- Minimising intrusion from parking
- Inclusion of areas for social exchange recreation, seating, play and biodiversity.

The Travel Plan makes the point about the poor quality of the existing bus stops, most of which do not have shelters etc. There is an opportunity to upgrade the bus stop infrastructure at the developers' expense and because the site is so elongated, there are 4 bus stops that could justifiably benefit from upgrading. These are: west side of Whessoe Road close to the junction with Longfield Road, the pair of stops adjacent to Elmtree St on either side of Whessoe Road and the stop on the west side of Whessoe Road close to the junction with Westmoreland St. This upgrading may involve adjusting the location of the stops to provide a more even distribution, and will include erecting new shelters, constructing raised kerbs as necessary, bus stop flags, timetable cases and real time information. The Section 106 Agreement can also secure funding for these improvement works to the bus shelters.

The Highways Agency has no objections to the proposed development provided that it is carried out in accordance with the contents of the submitted Travel Plan.

It is considered that, subject to the imposition of suitable planning conditions and highway improvement works, the proposed access arrangements for the development and its impact on the existing road network are satisfactory,

Design and Layout of the Development

The application is in outline and the layout of the development would be the subject of a reserved matter application. An Illustrative Masterplan shows how the application site could be developed for 250 dwellings at a site average of 39 dwellings per hectare. The Design and Access Statement states that the majority of the development would be two storeys, with the exception of the apartment blocks, which would be three storeys. The current topography of the site and the existing imposing retaining wall fronting Whessoe Road would be substantially altered by the development. The ground levels would be amended and the retaining wall removed to enable the development to fully integrate with the scale of the existing surrounding area. The development would create a street frontage onto Whessoe Road, with the buildings facing onto the highway.

Landscaping would also be reserved for later approval, however the proposed development will provide 0.086ha of open space and a "Green Link" route would run through the site in a north south direction with a potential for any public art to be incorporated into the scheme. The boundary with the railway line would be reinforced and enhanced with screen planting.

Policies E29 (The Setting of New Development) and H11 (Design and Layout of New Housing Development) of the Local Plan set the principles for the layout and design of new development. The overriding principle is that new development should respect the intrinsic character of its setting in terms of siting, design, materials used and open spaces. Policy H11 sets out the criteria, which the design and layout of new housing development will be required to meet.

The Council's Urban Design Officer has been involved in the design of layout of the development and he is satisfied that an appropriate layout can be achieved on the site, broadly equivalent to that shown on the Illustrative Masterplan. The relationship of the buildings to the

existing and new street would provide natural surveillance and the challenges of the differences in site levels appear to have been dealt with appropriately.

The density of dwellings per hectare for both parts of the site are generally in accordance with PPS3 and the Council's Supplementary Planning Document "The Design for New Development".

The Architectural Liaison Officer has offered some general advice on the layout of the development in relation to potential crime and security issues. As the layout of the development is purely indicative, at this stage, the ALO comments have been forwarded to the applicant for their consideration. The issues raised by the ALO would be given more consideration at the reserved matter application stage for the layout of the site.

Open Space Requirements

The development would incorporate 0.086ha of open space and a "Green Link" route running through it in a north south direction.

Under the provisions of the Supplementary Planning Document on Commuted Sums from New Housing Developments for Existing Equipped Play Areas and the Darlington Open Space Strategy 2007 – 2017, officers would seek to secure funding through a Section 106 Agreement for the enhancement of play equipment within the local area and for the equivalent capital sum of providing open space off site rather than within the development. Based on the information supplied within the application these contributions would amount to approximately £122,500 (excluding maintenance costs) and £130,119 respectively.

As previously mentioned, the site has been confirmed, by an independent assessor, as unviable if the Council requested the provision of affordable housing on the site and consequently other Section 106 contributions. Again, despite the conclusions of the independent report and the proven lack of viability for the development, the applicant has offered a financial contribution of £25,000 towards upgrading and enhancing North Park, which is adjacent to the application site.

The applicant has confirmed that this is an offer made despite the findings of the independent report and if officers or Members wish for this financial contribution to be increased, that would result in the reduction of the affordable housing, provision being offered. Officers consider that, on balance, the benefits of securing the affordable housing provision at 10% outweighs the need to secure the above financial contributions and therefore officers suggest that the offer of £25,000 should be accepted.

Noise

The Council's Environmental Health Officer has met the applicant's Noise Consultant on site and assessed the proposed development from various noise sources. The main objective was to ensure that noise levels within the dwellings meet the criteria specified in BS 8233, which is the code of practice for sound insulation and noise reduction for buildings. Also, noise levels in gardens should also meet certain criteria.

Road Traffic Noise. The site is affected by noise emissions from Whessoe Road. The consultant has stated that the final mitigation strategy would be developed during the detailed design stage and that the appropriate glazing, trickle vents and roof constructions would be selected.

Railway Noise. The site runs adjacent to a railway line, which is in use predominantly during the day time according to information provided by the noise consultant. The noise measurements taken over 24 hours by the consultant (unattended measurements) confirm that elevated noise levels are predominantly day time, with only one train time tabled over the night time period. The noise consultant has provided assurances that the required internal noise levels can be achieved, as for road traffic noise.

*North Yorkshire Timber(NYT)*The noise is mainly day time and the consultant has stated mitigation measures would be adopted for this northern boundary which would reduce the noise levels associated with the operation of NYT to an acceptable standard with regard to the design aims specified in BS 8233.

The Kings Centre. Noise from this potential source is intermittent and is more difficult to quantify. However, it would be reasonable to assume that there may be some noise from this location and hence design noise mitigation measures for dwellings in the vicinity of the centre will be required. The noise consultant has agreed to this approach.

Fletchers Joinery. The Noise Consultant has carried out a BS 4142 assessment on this source. This shows a rating level of around 17 dB(A) above the background noise level at night, and around 10 dB(A) above the background during the day time. The main audible noise sources during the site visit were the extract fan and the compressor. The BS 4142 assessment shows that complaints would be likely if dwellings were to be situated in the vicinity of Fletcher Joinery, without noise mitigation measures being implemented. The Environmental Health Officer would not recommend that houses are allowed to be built on any part of this site subjected to levels greater than 5 dB(A) above the background noise level. This would mean that the noise would need to be reduced at source, or else a buffer zone would need to be provided on the site in order to locate dwellings sufficiently far away from the noise source. Therefore, the Environmental Health Officer will be recommending that a condition is attached to any permission which is granted requiring the 5 dB(A) above background criteria to be complied with, together with the BS 8233 criteria for internal noise levels and garden areas.

Proposed Faverdale Business Park. Planning conditions were recommended relating to the proposed Business Park to the west of the application site to ensure that an acceptable standard of noise is achieved at the residential development. In addition, noise mitigation measures will be required for dwellings due to railway noise, and this will further improve the noise environment associated with the Business Park.

The Council's Environmental Health Officer has raised no objections to the development subject to the imposition of suitable planning conditions.

Contaminated Land

The application site is split into two main areas by Elmtree Street, and each part can be identified as the "North Works" and the "South Works". The site would be developed on the basis of two phases as the "South Works" are still occupied and will be until 2012 at the earliest. In addition, the applicant wishes to commence the site preparation works in advance of the submission of reserved matters for each phase.

The application includes a Phase 1 Geo-environmental Audit of the site carried out by Halcrow, dated March 2009. This report identifies various past uses across the site and associated potential contamination sources such as cooling ponds, railway sidings, a substation, 2 historical clay pits

and 2 possible areas of unknown backfill. The report rightly identifies that further detailed Phase 2 site investigation works and associated risk assessments concerning soil quality testing, gas monitoring, and groundwater monitoring will be required. Following this Phase of the investigation, a Remediation Strategy will be required to ensure that the development is safe for its intended use of residential with gardens.

The Environmental Health Officer has recommended that the planning condition relating to contaminated land be attached to any grant of planning permission.

Odour

The application identifies a commercial property called MT Print to be 11 meters to the north of the site. Printers would use inks etc which may produce odour. If this is the case, the odour could have the potential to affect the residential properties on the development site. Therefore, the Environmental Health Officers has suggested that the applicant should be asked to address this point and provide an assessment of the odour emissions from the printers and assurances that odour will not affect the residential properties, with justification for the conclusions. If such an assessment and assurances cannot be given, then the Council would need to consider the need for a buffer zone within the site to set properties back from the odour source a sufficient distance to ensure that the dwellings were not affected by odour. There are other odour sources on Whessoe Road, opposite the site, which also need to be taken into consideration.

The Environmental Health Officer has recommended that a planning condition be imposed requesting the submission of an Odour Impact Assessment

Biodiversity

In relation to the previous application, the applicant had not been able to resolve the objection that had been raised by Natural England in relation to bats and Great Crested Newts by the time it was heard by Members of the Planning Committee. The applicant's ecologists have carried out further work following the refusal of planning permission and a Great Crested Newt Mitigation Strategy and Ecological Appraisal have been submitted with this application.

Natural England is satisfied that the proposal is unlikely to have an adverse impact on bat species subject to the timing constraints and other precautionary measures outlined in the ecological appraisal.

Following the submission of a revised Great Crested Newt Mitigation Strategy, Natural England are satisfied that the development, subject to the imposition of planning conditions relating to survey work deadlines, working method statements and habitat enhancements, is acceptable.

Natural England have also highlighted that the site may offer some nesting opportunities for breeding birds, in scrub or immature woodland areas and any in site vegetation clearance should avoid the bird breeding season.

In relation to the comments made by the Durham Wildlife Trust, Natural England has noted that the ecologist intends to apply for a European Protected Species License for the northern part of the site, but not the southern area. Natural England have confirmed that need for such a license is a decision to be made by the ecologist and should be based on their professional opinion as to whether the works can be carried out without risk of harm to Great Crested Newts using the site.

Natural England are also satisfied that the habitat improvements shown in the Mitigation Strategy are located in an appropriate area and close enough to the existing breeding areas in the locality.

Impact upon Trees

The Tree Assessment Report, which accompanies the planning application, identifies 11 individual trees and 3 groups of trees on the site and provides an appraisal of their quality. It states that the existing trees on the site are not of a high quality. It further states that tree losses are expected as a result of the development but that mitigation can be secured via a landscaping plan detailing replacement planting of trees. It is noted that landscaping is a Reserved Matter and these details can be provided at the appropriate stage.

The Council's Senior Arboricultural Officer agrees that the existing trees are young to semi mature age and would fall within Category C of BS5837 (low quality and value). New tree planting would be expected as part of the reserved matters application for landscaping. He has requested that a contribution is made by the developer for tree planting within North Park, which could occur through the monies offered by the applicant and secured by the Section 106 Agreement.

Archaeology

The development site lies directly adjacent to the original line of the Stockton and Darlington Railway, which opened in 1825. Given the importance of the Railway, it is important for the developer and the local planning authority to have an understanding of the potential impact of the proposed development on any buried archaeological resources relating to the earlier use of the site. This is especially important, as the remediation works for the site will most likely have the greatest impact on the buried remains.

The Archaeology Officer from Durham County Council has recommended that a planning condition be imposed to ensure that an assessment is carried out in advance of the remediation works and on the basis of the results of the assessment a second condition requiring recording of any extant buildings which are of historical interest prior to demolition and monitoring during the remediation works in areas identified by the assessment.

The wording of these conditions still has to be agreed and Members will be updated verbally at the Planning Committee.

Flood Risk and Drainage

The application site is located outside of any flood envelope and can therefore be classified as being within Flood Zone 1, which is an area with low probability of flooding. A Flood Risk Assessment was submitted with the application. The Environment Agency has no objections to the application, subject to the imposition of conditions relating to flood risk and foul drainage.

Northumbrian Water has also raised no objections to the application subject to the imposition of suitable planning conditions relating to building over or diverting NWL apparatus and the submission of a scheme for surface water runoff.

Renewable Energy Requirements

Policy 39 (Renewable Energy Regeneration) of the North East of England Plan Regional Spatial Strategy to 2021 (July 2008) and the Council's SPD on Design for New Development indicates that planning proposals should facilitate the generation of at least 10% of the region's

consumption of electricity from renewable sources within the region by 2010 and to aspire to a further increase in renewable regeneration to achieve 20% of regional consumption by 2020. Policy 38 (Sustainable Construction) requires that, in advance of local targets being set, new major development should secure at least 10% of its energy supply from decentralised and renewable energy or low carbon sources.

The submission does not include any information on how the development would comply with RSS policies 38 and 39 or the SPD on New Design for Development, but this issue can be resolved by imposing an appropriate planning condition

Statement of Community Involvement

As the application falls within the category of major development, the Council's Statement of Community Involvement (SCI) guidelines suggest that the applicant should undertake pre-application consultation with local residents and stakeholders and to submit the results with the application.

In this instance, the applicant consulted 710 local residents and businesses and local ward members informing them of the proposed development and the opportunity to attend a consultation event. A notice was also placed in the local press. The event took place at St George's Bridge Club in December 2008.

A total of 37 people attended the event and 97% were in favour of the proposed development. The one negative comment in the feedback from the residents related to the impact that the development may have on the existing highway network. Suggestions were also received from residents about how the development could be improved and as a result the Illustrative Masterplan was revised to improve footpath and cycle links to and from the site and a pedestrian crossing has been provided.

The SCI carried out by the applicant fully complies with the requirements expressed in the Council's guidelines.

Commencement of the Development

During discussions with the applicant, they have clearly indicated that they are committed to an early implementation of the scheme and this would help deliver the new housing required in Darlington as set out in the RSS and contribute to the achievement of the objectives of accelerated housing delivery set for Tees Valley as a whole, through its award of Housing Growth Point Status in 2008.

The application site is split into two main areas by Elmtree Street, and each part can be identified as the "North Works" and the "South Works". The site would be developed on the basis of two phases as the "South Works" are still occupied and will be until 2012 at the earliest. In addition, the applicant wishes to commence the site preparation works in advance of the submission of reserved matters for each phase. The purpose of this being to demonstrate to Members that the applicant is dedicated to bring the site forward for development as soon as possible, with the added benefit of providing an attractive "ready to go" development site for house builders.

It is considered imposing a condition to allow for the remediation works to be implemented prior to the submission of reserved matter applications is a clear intention that the site will be brought forward and developed and it is an acceptable alternative measure to reducing the submission and implementation timescales.

The suggested planning conditions have been drafted to reflect the phasing of the development and to allow the site preparation works to commence to make the site the attractive and marketable.

Section 106 Agreements

For a development of this scale and in this location, the Council would seek to secure the following through a Section 106 Agreement:

- 30% affordable housing provision;
- A financial contribution to enhance an equipped play area in the locality
- A financial contribution for off site open space provision
- Any highway improvement works deemed necessary to mitigate the impact of the increased traffic movements from the development.

In this instance, the independent report from Sanderson Weatherall concludes that, in the current economic climate, the proposed scheme is hardly viable and can make no significant contribution towards providing affordable housing and consequently other Section 106 contributions that would normally be requested by the Council. The applicant has agreed to provide the highway improvements outlined in the Transport Assessment, submitted with the application and to upgrade the existing bus stops on Whessoe Road.

Despite the findings of the independent report by Sanderson Weatherall on the viability of the development, the applicant has offered 10% affordable housing (based on the actual number of dwellings permitted at reserved matters stage) and £25,000 towards enhancing North Park, which is adjacent to the application site. Whilst the offer is a reduction in the amount of affordable housing and financial contributions, officers suggest that the offers made by the applicant should be accepted. As a result, the proposed Heads of Terms for a Section 106 Agreement would be to secure the following:

- 10% of the total number of dwellings on site to be affordable housing. This is based on the actual number of dwellings approved at the Reserved Matters stage;
- Off site highway works to provide improved pedestrian/cycle crossing facilities on Whessoe Road by the provision of toucan crossing or suitable alternative
- A contribution for upgrading existing bus stops on Whessoe Road and providing street lighting;
- Improvement works to mitigate the impact of increased traffic at the Whessoe Road/Longfield Road junction;
- Legal and advertising costs for the introduction of 20mph zones within the development;
- A sum of £25,000 to enhance North Park.

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

This is a resubmission following a previous refusal of planning permission for residential use on the application site. The site lies within development limits identified in the development plan but it is also identified as an existing employment area. The applicant has submitted a Employment Land Assessment and the loss of this site for employment purposes will not have an adverse impact on meeting the borough's identified and projected employment land needs. The use of the site for residential purposes is considered as an acceptable alternative use and whilst, the application is in outline, the design and layout of the development accords with the relevant policy in the development plan. The development respects the amenity and general character of the area. The application is not considered to raise any issues in relation to car parking provision, highway safety or crime prevention.

The applicant has fulfilled the requirements of the Council's Supplementary Document on Affordable Housing and the independent report on the submitted financial appraisal confirms that based on the current poor state of the residential market the proposed development is insufficiently viable to sustain affordable housing and other financial contributions normally requested via a Section 106 Agreement. However, despite the lack of viability, the applicant has offered both 10% affordable housing provision and a financial contribution for the enhancement of North End Park and it is considered that, in such circumstances, the offers should be accepted. Further work has been carried out to resolve the outstanding issues relating to noise and ecology and the proposed development, on balance is considered appropriate in this location. The following national, regional and local planning policies and documents were taken into consideration:

National Planning Policy

Planning Policy Statement 1: Delivering Sustainable Development

Planning Policy Statement Planning Policy Statement 1 Supplement: Planning and Climate Change;

Planning Policy Statement 3: Housing;

Planning Policy Guidance 4: Industrial, Commercial Development and Small Firms;

Consultation Planning Policy Statement 4: Planning for Sustainable Economic Development;

Planning Policy Guidance 13: Transport; and

Planning Policy Guidance 17: Open Space, Sport and Recreation

North East of England Plan Regional Spatial Strategy to 2021 (July 2008):

Policy 2 Sustainable Development

Policy 4 The Sequential Approach to Development

Policy 6 Locational Strategy

Policy 7 Connectivity and Accessibility

Policy 8 Protecting and enhancing the Environment

Policy 12 Sustainable Economic Regeneration

Policy 20 Key Employment Locations

Policy 24 Delivering Sustainable Communities

Policy 29 Delivering and Managing Housing Supply

Policy 28 Gross and Net Dwelling Provision

Policy 30 Improving Inclusivity and Affordability

Policy 33 Biodiversity and Geodiversity

Policy 36 Trees, Woodlands and Forests

Policy 38 Sustainable Construction

Policy 39 Renewable Energy Regeneration

Policy 54 Parking and Travel Plans

Borough of Darlington Local Plan 1997:

- E2 Development Limits
- E3 Protection of Open land
- E11 Conservation of Trees, Woodlands and Hedgerows
- E12 Trees and Development
- E14 Landscaping of Development
- E15 Open Land In New Development
- E17 Landscape Improvement
- E20 Sites of Nature Conservation Importance
- E23 Nature and Development
- E24 Conservation of Land and Other Resources
- E25 Energy Conservation
- E29 Setting of New Development
- E45 Development and Art
- E46 Safety and Security
- E47 Contamination and Unstable Land and Development
- H3 Locations for New Housing Development
- H4 New Housing Development in and Around the Town Centre and Other Centres
- H9 Meeting Affordable Housing Needs
- H11 Design and Layout of New Housing Development
- H14 Accessible Housing
- R1 Designing For All
- R6 Open Space Provision in New Residential Development
- R7 The Design of Open Space Provision
- R13 Recreation Routes and New Development
- EP2 Employment Areas
- EP5 Other Uses in Employment Areas
- T12 New Development – Road Capacity
- T13 New Development – Standards
- T24 Parking and Servicing Requirements for New Developments
- T31 New Development and Public Transport
- T37 Cycle Routes in New Development
- T39 Conditions for Pedestrians

Darlington Open Space Strategy 2007 – 2017:

- Policy 6 Overall Standards of Provision
- Policy 19 Open Space Provision associated with New Development
- Policy 20 Securing appropriate Open Spaces and Their Maintenance
- Policy 22 Design of Open Spaces

Supplementary Guidance Notes

- Affordable Housing
- Commuted Sums from New Housing Developments for Existing Equipped Play Areas
- New Design

RECOMMENDATION

THE ASSISTANT CHIEF EXECUTIVE (REGENERATION) BE AUTHORISED TO NEGOTIATE UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT TO SECURE THE FOLLOWING:

- 10% of the total number of dwellings on site to be affordable housing. This is based on the actual number of dwellings approved at the Reserved Matters stage;
- Off site highway works to provide improved pedestrian/cycle crossing facilities on Whessoe Road by the provision of toucan crossing or suitable alternative
- A contribution for upgrading existing bus stops on Whessoe Road and providing street lighting;
- Improvement works to mitigate the impact of increased traffic at the Whessoe Road/Longfield Road junction;
- Legal and advertising costs for the introduction of 20mph zones within the development;
- A sum of £25,000 to enhance North Park.

AND THAT PLANNING PERMISSION THEN BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. In respect of the land to the north of Elmtree Street/Honeypot Lane (described as Phase 1 (“North Works”) and shaded green on Drawing 8416-P010), details of the following reserved matters (excluding site remediation and restoration) shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of the development:

- 1) appearance
- 2) landscaping
- 3) layout
- 4) scale

Applications for the approval of reserved matters relating to Phase 1 shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

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

2. In respect of the land to the south of Elmtree Street/Honeypot Lane (described as Phase 2 (“South Works”) and shaded blue on Drawing 8416-P010), details of the following reserved matters (excluding site remediation and restoration) shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of the development:

- 1) appearance
- 2) landscaping
- 3) layout
- 4) scale

3. Applications for the approval of reserved matters relating to Phase 2 shall be made to the Local Planning Authority before the expiration of seven years from the date of this permission.

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

4. The development shall be begun no later than the expiry of two years from the final approval of the reserved matters for each phase referred to in conditions (1 and 2) or, in the case of approval on different dates, the final approval of the last

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

5. Prior to the submission of the reserved matters for each phase of development, a scheme for on-site preparation works (including (where appropriate) demolition and commencement of remediation) for that phase shall be submitted to and approved in writing by the Local Planning Authority.

REASON - In the interests of general amenity.

6. Notwithstanding any description of the external materials in the submitted application, details of the external materials to be used in the carrying out of this permission (including samples) shall be submitted to, and approved by, the Local Planning Authority in writing prior to the commencement of each phase of development and the development shall not be carried out otherwise than in accordance with any such approved details.

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

7. Prior to the commencement of each phase of development, or such other period as may be agreed with the Local Planning Authority, the details of any walls, fencing or other means of enclosure shall be submitted to, and approved by, the Local Planning Authority. The approved means of enclosure shall be erected prior to the approved development being brought into use, or within any approved phase of the development prior to that phase of the development being brought into use.

REASON - In the interests of visual and/or residential amenity.

8. In submitting details of the reserved matter (3) (layout) in respect of each phase of development, the provision of a sculpture or piece of art or craftwork shall be agreed with the Local Planning Authority and it shall be erected on the site as an integral part of the development or within six months of any part of the development being occupied.

REASON - In the interests of the appearance and character of the site and to comply with Darlington Borough Council's policy relating to Art in the Environment.

9. All works within the public highway shall be subject to a Road Safety Audit at both design and completion stages. The Audit shall be carried out in accordance with Road Safety Audit Standard (HD19/03) in the Design Manual For Road and Bridges (DMRB) and shall be submitted to and approved in writing by the Local Planning Authority

REASON - In order that the Local Planning Authority may be satisfied as to the details of the development and in the interests of highway safety

10. In submitting details of the reserved matter (3) (layout) in respect of each phase of development, precise details of the Green Link and the footpath/cycleway network

through the approved development shall be submitted to an approved by the Local Planning Authority. The details shall include street lighting details and landscaping proposals. The development shall not be carried out otherwise than in complete accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority

REASON - In the interests of enhancing the ecology and the permeability of the residential development.

11. In submitting details of the reserved matter (3) (layout) in respect of each phase of development, precise details of traffic calming measures within the development shall be submitted to and approved by the Local Planning Authority. The development shall not be carried out otherwise than in complete accordance with the approved details

REASON – In the interests of highway safety

12. In submitting details of the reserved matter (2) (landscaping) for each phase of the development an Arboricultural Implications Assessment, an Arboricultural Method Statement and a Tree Protection Plan shall be submitted to and approved by the local planning authority. The development shall not be carried out otherwise than in accordance with the approved details

REASON - In order to achieve a satisfactory form of development

13. Notwithstanding the details shown on the approved plans, the visibility splays at the junctions with Whessoe Road shall be 2.4m x 43m unless otherwise agreed in writing by the Local Planning Authority

REASON –In the interests of highway safety

14. Notwithstanding the details shown on the approved plans, the visibility splays within the residential development shall be 24m x 25m unless otherwise agreed in writing by the Local Planning Authority

REASON -In the interests of highway safety

15. At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low carbon energy sources (as described in the glossary of Planning Policy Statement: Planning and Climate Change, December 2007). Details and a timetable of how this can be achieved, including details of physical works on site, shall be submitted to and approved by the local planning authority prior to the commencement of each phase of the development. The development shall not be carried out otherwise than in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

REASON -To promote a sustainable development in accordance with planning policy.

16. In submitting details of the reserved matter (3) (layout) in respect of each phase of development, account should be taken of any sewers crossing the site to avoid building over or close to the apparatus of Northumbrian Water. Where development would affect its apparatus, development should not commence until a detailed scheme for the diversion of its apparatus or redesign of the proposal to avoid building over by the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water. The development shall not be carried out otherwise than in accordance with the approved details unless otherwise agreed in writing by the local planning authority

REASON-There is a 675mm sewer and a 1050mm sewer crossing the site. Northumbrian Water will not permit a building over or close to its apparatus.

17. The development shall be carried out in accordance with “St Modwen Ventures Limited Whessoe Road Residential Development Travel Plan 2009” dated March 2009 by Halcrow Group Limited.

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

18. Prior to the commencement of building works for each phase of development, a surface water drainage scheme for the each phase of development, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a schedule of works, and shall subsequently be implemented in accordance with the approved schedule and details before the development is completed. The scheme shall also include details of how the scheme shall be maintained and managed after completion

REASON - To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system and to ensure that discharge of surface water from the site does not increase the risk of flooding from sewers in accordance with the requirements of PPS25 “Development and Flood Risk and complies with the Hierarchy of Preference contained within Revised Part H of the Building Regulations 2000

19. Prior to the commencement of on site preparation works for each phase of development approved by this planning permission (Or such a date or stage in development as may be agreed in writing with the Local Planning Authority) a scheme to deal with contamination of land and/or groundwater, including soil contamination, ground/surface water contamination, landfill gas, leachates and stability as appropriate, shall be submitted and approved by the Local Planning Authority and the measures approved in that scheme have been fully implemented. The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement specifically and in writing:-

- (a) A desk top study, carried out by a suitably qualified person, to identify and evaluate all potential sources and impacts on land and/or groundwater contamination relevant to the site. The scope of the study shall be agreed with the Local Planning Authority before it is commenced and the report shall conform to any such agreed requirements. Two copies of the desktop study and non-technical summary shall be submitted to the Local Planning Authority upon completion of the development.
- (b) A site investigation shall be carried out by a competent person to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications. The site investigation shall not be commenced until:
 - (i) A desk top study has been completed satisfying the requirements of paragraph (a) above.

- (ii) The requirements of the Local Planning Authority for site investigations have been fully established; and
- (iii) The extent and methodology have been agreed in writing with the Local Planning Authority.

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

- (c) A written method statement for the remediation of land and/or groundwater contamination affecting the site shall be determined through risk assessment and agreed in writing with the Local Planning Authority prior to the commencement of the development. The works specified in the Reclamation Method Statement shall be implemented and completed in accordance with the agreed method statement by a competent person, no alterations to the method statement or associated remediation works shall be carried out without the written agreement of the Local Planning Authority.
- (d) Two copies of a completion report (the 'Validation Report') confirming the objectives, methods, results and conclusions of all remediation works shall be submitted to the Local Planning Authority within 2 months of completion of the development.
- (e) Any contamination not considered in the Reclamation Method Statement but identified during the reclamation works should be subject to further risk assessment and remediation proposals agreed with the Local Planning Authority and the development completed in accordance with any further agreed amended specification of works.
REASON - The site may be contaminated as a result of past or current uses and/or is within 250 metres of a site, which has been landfilled, and the Local Planning Authority wishes to ensure that the proposed development can be implemented and occupied with adequate regard to environmental and public protection

20. Prior to the commencement of on site preparation works for each phase of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted and approved in writing by the Local Planning Authority:

- 1) A preliminary risk assessment, which has identified:
- 2) All previous uses
- 3) Potential contaminants associated with those uses
- 4) A conceptual model of the site indicating sources, pathways and receptors
- 5) Potentially unacceptable risks arising from contamination at the site

A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

The site investigation results and the detailed risk assessment (b) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

REASON - The information provided with the planning application indicates that the site has been subject to a potentially contaminative land use (a steel works). The environmental setting of the site is sensitive as it lies on the Magnesian Limestone – a major aquifer. This condition will ensure that the risks posed by the site to controlled waters are assessed and addressed as part of the redevelopment.

21. Prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.
REASON - To confirm the risks to controlled waters have been appropriately addressed.
22. If during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the Local Planning Authority for an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.
REASON - Unidentified contamination may be present which may represent a risk to controlled waters.
23. The development shall be carried out in accordance with “St Modwen Ventures Limited Land off Whessoe Road, Darlington – Great Crested Newts Mitigation Strategy Rev C” by FPRC dated November 2009, unless otherwise agreed in writing by the Local Planning Authority
REASON - In the interests of protected species and habitat creation
24. Notwithstanding the details shown on the approved plans, the proposed development shall include the creation of habitats for protected species. Details of the habitats shall be submitted to and approved by the Local Planning Authority prior to the commencement of the building works for each phase of the development. The development shall be carried out in accordance with the approved details and within a timescale to be agreed with the Local Planning Authority
REASON - To enhance the biodiversity of the proposed development in accordance with the Council’s Design For New Development Supplementary Planning Document
25. An appropriate working method statement for Great Crested Newt for any areas of the site not covered by a European Protected Species License shall be submitted to, and

approved by, the Local Planning Authority, prior to the commencement of building works.

REASON - In interests of protected species and habitat creation

26. No dwelling shall be constructed on any part of the site which is subjected to a Rating Level due to industrial or commercial noise, measured in accordance with BS4142 1997, of greater than +5 dB(A) above the background noise level. The background noise level to be used shall be agreed with the Local Planning Authority prior to commencement of the development. Detailed noise assessment reports shall be submitted to show that the required Rating level will be complied with at each housing plot, prior to commencement of development of each phase.

REASON - In the interests of residential amenity

27. Prior to the commencement of building works for each phase of development, a detailed assessment of the noise levels due to road traffic, railway traffic and industrial/commercial sources shall be carried out in relation to that phase and a scheme of noise attenuation measures shall be submitted to, and agreed in writing by, the Local Planning Authority to achieve the following noise levels within dwellings, which shall not be exceeded;

Less than 35 dB(A) LAeq within living rooms

Less than 30 dB(A) LAeq and 45 dB(A) LAMax,F within bedrooms

Less than 55 dB(A) LAeq in garden areas.

Calculations shall be submitted to, and agreed in writing with, the Local Planning Authority to show that the above noise limits will be complied with. The housing plots for which such calculations are required shall be agreed with the Local Planning Authority.

REASON - In the interests of residential amenity

28. Prior to the construction of any dwellings within 50 metres of the rear boundary of Fletcher Joinery, The King's Centre and the northern boundary of the site, a scheme of noise mitigation measures to meet the requirements of conditions 26) and 27) above shall be submitted to and agreed in writing with the Local Planning Authority. No dwelling within that part of the site shall be occupied until any agreed noise mitigation measures for that dwelling have been complied with.

REASON - In the interests of residential amenity

29. Construction and demolition activities shall be restricted to between 08:00 to 18:00 hours Monday to Friday, 08:00 to 14:00 hours Saturday and no working on Sundays and Bank Holidays unless otherwise agreed by the Local Planning Authority

REASON - In the interests of residential amenity

30. Before the commencement of any works on each phase of the development a scheme for controlling dust emissions shall be submitted and agreed in writing with the local planning authority. The scheme shall include information on measures to be taken to prevent and minimise dust emissions, monitoring procedures and procedures for dealing

with complaints. The scheme shall be implemented in accordance with the agreed details and reviewed at the request of the Local Planning Authority

REASON - In the interests of residential amenity

31. If piling is to take place on site, details of the piling method including justification for its choice, means of monitoring vibration and groundwater risk assessment if necessary in accordance with recognised guidance shall be submitted and agreed in writing by the local planning authority. The development shall be carried out in accordance with the agreed piling method

REASON - In the interests of residential amenity

32. Prior to the commencement of building works on each phase of the development, an Odour Impact Assessment shall be submitted to and approved by the Local Planning Authority. The Assessment must consider all potential sources of odour surrounding the sites and based on the findings of the Assessment, development should not be permitted on any part of the site, which is affected by odours to a significant extent. The development shall not be carried out otherwise than in complete accordance with the approved details.

REASON - In the interests of residential amenity

33. The proposed access arrangements shall be carried out in all respects in accordance with the proposals contained in the application and the plans submitted therewith and approved by the Local Planning Authority, or as shall have been otherwise agreed in writing by the Local Planning Authority.

REASON - To ensure the development is carried out in accordance with

SUGGESTED SUMMARY OF REASONS FOR GRANTING PLANNING PERMISSION

This is a resubmission following a previous refusal of planning permission for residential use on the application site. The site lies within development limits identified in the development plan but it is also identified as an existing employment area. The applicant has submitted a Employment Land Assessment and the loss of this site for employment purposes will not have an adverse impact on meeting the borough's identified and projected employment land needs. The use of the site for residential purposes is considered as an acceptable alternative use and whilst, the application is in outline, the design and layout of the development accords with the relevant policy in the development plan. The development respects the amenity and general character of the area. The application is not considered to raise any issues in relation to car parking provision, highway safety or crime prevention.

The applicant has fulfilled the requirements of the Council's Supplementary Document on Affordable Housing and the independent report on the submitted financial appraisal confirms that based on the current poor state of the residential market the proposed development is insufficiently viable to sustain affordable housing and other financial contributions normally requested via a Section 106 Agreement. However, despite the lack of viability, the applicant has offered both 10% affordable housing provision and a financial contribution for the enhancement of North End Park and it is considered that, in such circumstances, the offers should be accepted. Further work has been carried out to resolve the outstanding issues relating to noise and ecology and the proposed development, on balance is considered appropriate in this location. The following national, regional and local planning policies and documents were taken into consideration:

National Planning Policy

Planning Policy Statement 1: Delivering Sustainable Development

Planning Policy Statement Planning Policy Statement 1 Supplement: Planning and Climate Change;

Planning Policy Statement 3: Housing;

Planning Policy Guidance 4: Industrial, Commercial Development and Small Firms;

Consultation Planning Policy Statement 4: Planning for Sustainable Economic Development;

Planning Policy Guidance 13: Transport; and

Planning Policy Guidance 17: Open Space, Sport and Recreation

North East of England Plan Regional Spatial Strategy to 2021 (July 2008):

Policy 2	Sustainable Development
Policy 4	The Sequential Approach to Development
Policy 6	Locational Strategy
Policy 7	Connectivity and Accessibility
Policy 8	Protecting and enhancing the Environment
Policy 12	Sustainable Economic Regeneration
Policy 20	Key Employment Locations
Policy 24	Delivering Sustainable Communities
Policy 29	Delivering and Managing Housing Supply
Policy 28	Gross and Net Dwelling Provision
Policy 30	Improving Inclusivity and Affordability
Policy 33	Biodiversity and Geodiversity
Policy 36	Trees, Woodlands and Forests
Policy 38	Sustainable Construction
Policy 39	Renewable Energy Regeneration
Policy 54	Parking and Travel Plans

Borough of Darlington Local Plan 1997:

E2	Development Limits
E3	Protection of Open land
E11	Conservation of Trees, Woodlands and Hedgerows
E12	Trees and Development
E14	Landscaping of Development
E15	Open Land In New Development
E17	Landscape Improvement
E20	Sits of Nature Conservation Importance
E23	Nature and Development
E24	Conservation of Land and Other Resources
E25	Energy Conservation
E29	Setting of New Development
E45	Development and Art
E46	Safety and Security
E47	Contamination and Unstable Land and Development
H3	Locations for New Housing Development
H4	New Housing Development in and Around the Town Centre and Other Centres
H9	Meeting Affordable Housing Needs
H11	Design and Layout of New Housing Development
H14	Accessible Housing

R1	Designing For All
R6	Open Space Provision in New Residential Development
R7	The Design of Open Space Provision
R13	Recreation Routes and New Development
EP2	Employment Areas
EP5	Other Uses in Employment Areas
T12	New Development – Road Capacity
T13	New Development – Standards
T24	Parking and Servicing Requirements for New Developments
T31	New Development and Public Transport
T37	Cycle Routes in New Development
T39	Conditions for Pedestrians

Darlington Open Space Strategy 2007 – 2017:

Policy 6	Overall Standards of Provision
Policy 19	Open Space Provision associated with New Development
Policy 20	Securing appropriate Open Spaces and Their Maintenance
Policy 22	Design of Open Spaces

Supplementary Guidance Notes

Affordable Housing

Commuted Sums from New Housing Developments for Existing Equipped Play Areas

New Design

INFORMATIVES TO BE INCLUDED SHOULD PLANNING PERMISSION BE GRANTED**Highways**

The applicant is advised that highway works will be required to be the subject of a Sec.38/278 Agreement and contact must be made with the Assistant Director: Highways and Engineering (contact Mr.S.Brannan 01325 388755) to discuss this matter.

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

The applicant is advised that contact must be made with the Assistant Director: Highways and Engineering (contact Mrs.B.Bowles 388774) to discuss introduction of 20mph zones.

Network Rail

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

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur.

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

Because of the nature of the proposed developments we consider that there will be an increased risk of trespass onto the railway. The Developer must provide a suitable trespass proof fence adjacent to Network Rail's boundary (minimum approx. 1.8m high) and make provision for its future maintenance and renewal. Network Rail's existing fencing / wall must not be removed or damaged.

Method statements may require to be submitted to Network Rail's Territory Outside Parties Engineer at the below address for approval prior to works commencing on site.

Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. "possession" which must be booked via Network Rail's Territory Outside Parties Engineer and are subject to a minimum prior notice period for booking of 20 weeks. **Generally if excavations/piling/buildings are to be located within 10m of the railway boundary a method statement should be submitted for NR approval.** The developer should be aware that the bridge over the road on Elmtree Street close to the development has limited clearance and should this route be used during the construction phase we would request that we be informed of abnormal loads with a minimum of 6 weeks notice. There may also be a requirement for crossing protection measure to be put in place at the applicant's expense.

Consideration should be given to ensure that the construction and subsequent maintenance can be carried out to any proposed buildings or structures without adversely affecting the safety of, or encroaching upon Network Rail's adjacent land, and therefore all/any building should be situated at least 2 metres from Network Rail's boundary. This will allow construction and future maintenance to be carried out from the applicant's land, thus avoiding provision and costs of railway look-out protection, supervision and other facilities necessary when working from or on railway land. The Developer should be aware that any development for residential use adjacent to an operational railway may result in neighbour issues arising. Consequently every endeavour should be made by the developer to provide adequate soundproofing for each dwelling. Please note that in a worst case scenario there could be trains running 24 hours a day and the soundproofing should take this into account.

Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. We would wish to be involved in the approval of any landscaping scheme adjacent to the railway.

Where new lighting is to be erected adjacent to the operational railway the potential for train drivers to be dazzled must be eliminated. In addition the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. Detail of any external lighting should be provided as a condition if not already indicated on the application.

Northumbrian Water

The applicant should contact Maurice Dunn and Peter Heppell at Northumbrian Water (0191 4196577 and 0191 4196616 respectively) to discuss the need to divert Northumbrian Water apparatus

Environment Agency

For redevelopment of Brownfield sites surface water run off should be attenuated to no more than existing volumes and rates so as not to cause or exacerbate flooding elsewhere. Please note this should be based on the actual existing discharge from the site, not the theoretical discharge that would result if the drainage network was in pristine condition. Furthermore, the proposal should use mimic the existing site's discharge point(s) so as to mimic the existing discharge regime as much as possible. Guidance on the preferred methods for estimating discharge rates is provided in the Interim Code of Practice for SUDs.

Surface water run-off should be controlled as near to its source as possible through a sustainable drainage approach to surface water management (SUDs). This approach involves using a range of techniques including soakaways, infiltration trenches, permeable pavements, grassed swales, ponds and wetlands to reduce flood risk by attenuating the rate and quantity of surface water run-off from a site. This approach can also offer other benefits in terms of promoting groundwater recharge, water quality improvement and amenity enhancements. Approved Document Part H of the Building Regulations 2000 sets out a hierarchy for surface water disposal, which encourages a SUDs approach.

In accordance with Approved Document Part H of the Building Regulations 2000, the first option for surface water disposal should be the use of SUDs which limit flows through infiltration e.g. soakaways or infiltration trenches, subject to establishing that these are feasible, can be adopted and properly maintained and would not lead to any other environmental problems. For example, using soakaways or other infiltration methods on contaminated land carries ground water pollution risks and may not work in areas with a high water table. Where the intention is to dispose to soakaway, these should be shown to work through an appropriate assessment carried out under BRE Digest 365.

The Environment Agency recommends that developers should:

- 1) Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination.
- 2) Refer to the Environment Agency Guidance on Requirements for Land Contamination Reports for the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, e.g. human health.
- 3) Refer to their website at www.environment-agency.gov.uk for more information.

The recovery, treatment and disposal of contaminated soils and groundwater are regulated by waste legislation and require an Environmental Permit.

Treatment of contaminated soil by mobile plant requires a mobile treatment licence. Soil may be

re-used on-site as part of a soil recovery operation by registering an exemption with the Environment Agency or by obtaining an Environmental Permit.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

It is recommended that developers should refer to the Environment Agency's: Position statement on the Definition of Waste: Development Industry Code of Practice and website at www.environment-agency.gov.uk for further guidance.

Contaminated soil that is excavated, recovered or disposed of, is controlled waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes:

- i) Duty of Care Regulations 1991
- ii) Hazardous Waste (England and Wales) Regulations 2005
- iii) Environmental Permitting Regulations 2008

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed off site operations is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. In relation to the proposed development, in so far as it relates to land contamination, the Environment Agency only considered issues relating to controlled waters.

With regards to the impact to groundwaters, the report includes the following statement " Soakaway drainage may be possible within the Ford Formation subject to ground investigation." In the absence of further information the following advice is relevant:

The Groundwater Regulations 1998 require that substances falling within List 1 (the most toxic and persistent substances) must not enter groundwater and the entry of substances in List 2 (less toxic but nevertheless polluting substances) must be limited so as to avoid pollution. It is an offence under these regulations to dispose or tip for the purpose of disposal any of these substances where they might result in a discharge to groundwater unless authorised. Such an offence would be treated as contravening s85 of the Water Resources Act 1991.

The applicant will also need to fulfil the requirements of the Water Framework Directive and its Daughter Directive on Groundwater. These refer to hazardous pollutants with requirements to limit pollution in relation to a wider range of substances.

The Water Resources Act 1991, s85 makes it an offence to cause or knowingly permit poisonous, noxious or polluting matter to enter controlled waters unless you are in possession of a discharge consent or other relevant permit. Controlled waters include all water below the surface of the ground. This legislation is not restricted to any listed substances.

Discharge consents issued under the WRA1991 constitute authorisations for the purposes of the Groundwater Regulations provided the relevant conditions have been applied.

Natural England

The applicant shall carry out further survey works for protected species if the proposed development does not commence within 18 months of the original surveys to ensure that situation has not altered in the intervening period.