

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 16 November 2016

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APPLICATION REF. NO:	16/00750/DC
STATUTORY DECISION DATE:	28 October 2016
WARD/PARISH:	PARK EAST
LOCATION:	Darlington Borough Council Car Park
DESCRIPTION:	Construction of landscaped park with formal walkways, fixed seating and lighting (additional autotrack plans received 20 October 2016)
APPLICANT:	DIRECTOR OF RESOURCES

APPLICATION AND SITE DESCRIPTION

This is a full application under Regulation 3 of the Town and Country Planning General Regulations 1992 for the redevelopment of the surface car park to the rear (east) of Bishopsgate House and the Town Hall to provide a landscaped park with riverside pathways, including new seating, lighting, hard and soft landscaping, to be known as the Riverside Park, encompassing the design principles of creating a civic heart, engaging with the river and retaining and enhancing green infrastructure.

The proposal would involve the loss of approximately 80 no. pay and display car parking spaces, which would be catered for within the Feethams Multi-Storey Car Park, and the provision of a 3.25m wide shared pedestrian/cycle surface linking the Feethams Leisure development to the south with an existing route from Feethams to Leadyard Bridge to the north. A secondary pedestrian route will also be provided to increase accessibility to the edge of the River Skerne. Seating areas will be provided alongside the shared surfaced with lighting and interpretation boards signifying the junctions of the perimeter walls of the Bishops Palace which will remain buried beneath the Riverside Park.

The remaining area between the shared surface and the River Skerne would be landscaped with reinforced grass for events and to maintain access to Northumbrian Water's equipment at the southern end of the site. The wildflower meadow within the churchyard would be extended southwards following the reduction in the height of an existing boundary wall separating the churchyard and car park and the remodelling of this area, including the removal of parking spaces. Existing trees would be retained within the site and additional tree planting is proposed within the landscaped areas and adjacent to the river.

The application site extends to approximately 0.25 hectares and comprises an existing surface car park and riverside area to the east of Bishopsgate House and the Town hall. The River Skerne forms the eastern boundary of the site, beyond which lies St Cuthbert's Way. St Cuthbert's Church, a Grade I listed building, and churchyard are located to the north and the recently completed Feethams Leisure development is located to the south of the site. The Town

Centre Conservation Area boundary lies immediately to the north of the application site, which includes St Cuthbert's Church and churchyard at this point.

PLANNING HISTORY

There is no recent or relevant planning history.

PLANNING POLICY BACKGROUND

The following policies are relevant to consideration of the application:

Darlington Core Strategy Development Plan Document 2011

- CS1 – Darlington's Sub-Regional Role and Locational Strategy
- CS2 – Achieving High Quality, Sustainable Design
- CS7 – The Town Centre
- CS14 – Promoting Local Character and Distinctiveness
- CS15 – Protecting and Enhancing Biodiversity and Geodiversity
- CS16 – Protecting Environmental Resources, Human Health and Safety
- CS17 – Delivering a Multifunctional Green Infrastructure Network
- CS19 – Improving Transport Infrastructure and Creating and Sustainable Transport Network

Saved Policies of the Darlington Local Plan 1997

- E18 – The River Skerne
- T20 – Town Centre Surface Car Parks

National Planning Policy Framework

RESULTS OF CONSULTATION AND PUBLICITY

Highway Engineer – A Construction Management Plan has been submitted and is acceptable. The swept paths submitted demonstrate that a 10m vehicle can gain access to service the NWL equipment along the riverside and from a highways perspective this would be acceptable. The correspondence from NWL does not state that they require the larger 17m vehicle to gain access to the equipment and in meetings held on site with NWL it was stated that reversing with the aid of a banksman would be an acceptable solution given the infrequency of the maintenance.

Conservation Officer – The application site adjoins the churchyard of St Cuthbert's Church (Grade I) and can be regarded as within the 'setting'/adjoining the curtilage. The existing use of the site is as a car park and tree belt to the River Skerne. The park has a contemporary feel in terms of its layout, features and materials, however this is appropriate due to the fact it adjoins the modern office development built onto the Town Hall. It would improve the heritage asset's setting by introducing soft landscaping in place of unattractive hardstanding/car park adjacent to the churchyard. The proposal to introduce a riverside park in place of hardstanding and would enhance the setting of the significant listed heritage asset, and also the Conservation Area. The scheme proposal would not therefore have any adverse impact on the significance of the Grade I listed Church, or its associated gates, gate piers and wall (Grade II listed) or the War Memorial (Grade II listed) within the grounds. The proposed scheme would not impact on views of St Cuthbert's, either in close proximity or long distance. It is considered that the Heritage

Statement submitted with the application that the Riverside Park would have a moderate to substantial positive impact on the significance of the Grade I listed Church. It would also reintroduce the relationship between the River Skerne and the Town Centre Conservation Area.

Durham County Archaeology – Note that a desk based assessment and proposals for mitigation (a Written Scheme of Investigation WSI)) have been submitted with the application. I can confirm that I am happy with the proposals suggested in the WSI, so it can form the basis of the mitigation for the works needed. Recommends that conditions be attached to any permission granted to secure the implementation of a programme of archaeological work in accordance with the WSI.

Historic England – The application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

Environment Agency – No objections to the proposed development. Although the development is within flood zones 2 and 3, it is considered water compatible and we have no objections. It is recommended that the mitigation outlined in Section 4 of the Ecological Appraisal report is adhered to. The impact of lighting on fish movement in the River Skerne needs to be carefully considered and lighting should be designed to minimise any increase in illumination of the river channel. Recommend that any riverside tree planting is of locally native species suitable for the riparian zone. The softer landscaping should not include any species which are likely to be invasive as there would be potential for their spread further along the Skerne and potentially downstream into the Tees.

Design Out Crime Officer, Durham Constabulary – There are chronic anti-social behaviour (ASB) issues in the Churchyard mainly centred around the Memorial Garden. Although the ASB is taking place outside the boundary of the proposal there is concern that the problem could migrate to the new park if these issues are not addressed. That consideration be given to various improvement works to the Churchyard (outside the remit of this application). Also questions whether the wildflower meadow is appropriate; that trees and shrubbery along the riverside be pruned back to increase natural light and surveillance from the main road; street lighting should be provided by columns and not bollards which are prone to damage and that the area be fenced off during construction works. The Linear Park should encourage people to linger in the area and take ownership which will hopefully reduce the opportunity for ASB and nuisance.

Environmental Health Officer (Contamination) – Environmental Health recommend that the application be approved subject to the inclusion of standard contamination conditions (CL1 – CL6).

Northumbrian Water Limited – The application site includes strategic sewerage infrastructure that is owned by Northumbrian Water including a syphon which passes forward flow from a population of around 50,000, alongside associated pumps and other equipment. NWL require vehicular access to these assets for operational and maintenance purposes 24 hours a day throughout the year. We have reviewed the proposed landscape plans and wish to highlight our concerns relating to the proposed access route to our assets, which would involve large vehicles reversing a distance of around 100 metres through the proposed park on a designated pedestrian walkway. The highways health and safety implications of this necessary maintenance activity could be serious and we would strongly advise and recommend that the layout is amended to include provision for a vehicle turning area adjacent to our assets that would avoid the need to reverse operational vehicles through the length of the park. NWL has raised these issues during

pre-application discussions with Darlington Borough Council but we are disappointed to see that our concerns have not been realised on the submitted scheme designs. We would be happy to engage in further discussions to ensure that a suitable and safe means of access to our assets is safeguarded as part of this application.

Three letters of objection has been received which raises the following issues:

- *Object to this application on the grounds that the park is not sustainable. There are other areas of the town that cannot afford to be looked after, the fountain turned off, litter picking reduced, grass cutting reduced and I believe the Council will not be able to afford to look after the development which will lead to excess litter, unsocial behaviour and eventually increased crime. There are other ways for the Council to use this money rather than squandering it in this way;*
- *It is essential that if the development goes ahead that the disabled parking spaces are not closed during the construction work, nor used by contractors for storage of their vehicles etc. If disabled spaces are closed during construction work it will make it unduly difficult for disabled people to attend the Town Hall;*
- *The new multi-storey car park is unusable for many disabled people due to car park machinery and the fact that it is too far away;*
- *Where will the Department for Education staff park and where will people parking in the run up to Christmas park?*
- *It is vital that all surfaces used in the construction are wheelchair friendly, unlike most of the market square and surrounding areas;*
- *The planned seating is unsuitable for older and most disabled people due to the lack of arm rests. Adequate seating is essential if Darlington's increasing ageing population are to have equal enjoyment of the area, many of whom have limited mobility;*
- *The Council has obligations under the Equality Act 2010, including facilitating participation in public life by those with protected characteristics, under the public sector Equality Duty. It also have to ensure it meets the needs of all disabled people;*
- *It is far from clear in the plans that this has been taken account of, and how they will ensure that disabled people can use the planned development. Are there going to be any toilet facilities provided? It is a long way for someone with mobility impairments to reach the nearest current facilities. The planning document states it meets disabled requirements but does not state how;*
- *Historically, the churchyard has always been separated from the present car park (formerly known as Lead Yard) by a boundary. Removal of such a boundary (i.e. the burial of the wall) cannot be done without specific approval. The churchyard is not council property, although the Council has responsibility for its maintenance. Any alterations to any part of the churchyard, including any boundaries, can only be made after the granting of a 'Faculty' by the Chancellor of the Diocese. This section of the car park was originally part of the churchyard. Has the Council researched the terms under which they obtained this land for parking purposes? This could only have been done after the granting of a Faculty. Strongly urge the Council to check the documents concerning this;*
- *Concerned regarding the extension of the 'wildflower meadow'. The planting in the churchyard gives the overall impression of disused and neglected land. The anticipated colour and variety has not materialised and leads to antisocial behaviour;*
- *The car park is of great importance to the church, several funerals have brought over 400 people to the building. Christmas services also attract similar numbers and parking is at a premium for such events. Many of those attending are frightened to use the multi-*

storey car parks, or unable to walk from them to the church. The churchyard is already being misused by those who seek to use it as a 'free car park', which prevents the elderly and infirm from parking within its boundary. The Parochial Church Council (PCC) of St Cuthbert's Church well understands why the Council should wish to remove an unsightly car park, but surely an element of car parking could be retained with attractive landscaping?

- *During this year the amount of anti-social behaviour in the church yard has increased dramatically. This area is designated as an alcohol free zone, however the only signposting is outside the churchyard and very difficult to spot. Sure that it is the Council's intention to attract families to this part of town, something we would all wish to encourage, however these activities are not good for the church or town.*

PLANNING ISSUES

The main issues relevant to consideration of this application are as follows:

- **Planning Policy**
- **Design and Impact on Heritage Assets**
- **Access and Transport**
- **Environmental Impacts**
- **Ecology and Tree Issues**
- **Anti-Social Behaviour**
- **Statement of Community Involvement**
- **Other Matters**

Planning Policy

Core Strategy Policy CS7 (Town Centre) encourages sites within the defined Town Centre boundary to be developed for non-retail purposes such as leisure and entertainment areas. The policy specifically identifies the 'Feethams/Beaumont Street area' as being a locational priority for these types of uses. The Feethams Development Brief (2008) identifies River Skerne corridor to be improved through the redevelopment of the area, with opportunities made to improve the public realm adjoining the riverside through the use of semi-natural planting scheme and landscaping. The Brief also identifies that such spaces should be predominantly green in character, reflecting Darlington's arboreal heritage.

The proposed linear park has been designed to complement recent developments in this area including Feethams Leisure and Bishopsgate House and as such is considered to be acceptable in principle within the terms of Policy CS7 and the Feethams Development Brief.

A small landscaped area to the southern end of the site is designated as open land on the proposals map accompanying the Borough of Darlington Local Plan 1997, however this area was lost as part of development of the Feethams Leisure site. The proposal complies however with the principles of Saved Local Plan Policy E3 (Protection of Open Land) in that it would maintain the usefulness and enhance the appearance and nature conservation interest of the open land system. The principle of the proposed development is therefore acceptable, subject to consideration of the following matters of development management.

Design and Impact on Heritage Assets

Policy CS2 (Achieving High Quality, Sustainable Design) requires that high quality, safe, sustainable and inclusive design will be promoted in all new developments, making efficient use of land, existing buildings and resources and reflecting or enhancing Darlington's distinctive natural, built and historic characteristics that positively contribute to the character of the local area and its sense of place.

Core Strategy Policy CS14 (Promoting Local Character and Distinctiveness) states that the distinctive character of the Borough's built, historic, natural and environmental townscapes, landscapes and strong sense of place will be protected and where appropriate, enhanced, by protecting and improving the distinctive character of Darlington town centre, strategic corridors of the River Skerne and by protecting, enhancing and promoting the quality and integrity of Darlington's distinctive designated national or nationally significant built heritage and archaeology. The National Planning Policy Framework (NPPF) also requires local planning authorities to take account of the desirability of sustaining and enhancing the significance of designated and non-designated heritage assets.

The application site adjoins the churchyard of St Cuthbert's Church, a Grade I listed, building and can therefore be regarded as being within the setting of this listed building. The site also abuts the southern boundary of the Town Centre Conservation Area, which includes the church and churchyard at this point. The application site is also in close proximity to Bishopsgate House, where significant archaeological remains were recorded as part of the redevelopment of this site. Accordingly a Heritage Statement has been submitted with the application which assesses the impact of the proposed development on the significance of these designated and non-designated heritage assets.

Although the proposed park has a contemporary feel, in terms of its layout, features and materials, this is considered appropriate due to its relationship with the modern developments at Bishopsgate House and Feethams Leisure. It is considered to improve the setting of St Cuthbert's Church, a significant heritage asset, by introducing soft landscaping in the form of the wildflower meadow in place of existing hardstanding (car park) adjacent to the churchyard, and also that of the Conservation Area. The scheme proposed is not therefore considered to have any adverse impact on the significance of the Grade I listed church, or its associated gates, gate piers and wall (Grade II listed) or the War Memorial (Grade II listed) within its grounds. The proposal would not impact on views of St Cuthbert's, either in close proximity or in the longer distance. The Heritage Statement concludes that the proposed Riverside Park would have a moderate to substantial positive impact on the significance of the Grade I listed church and would also reintroduce the relationship between the River Skerne and the Town Centre Conservation Area.

A desk based assessment and proposals for archaeological mitigation (Written Scheme of Investigation (WSI)) have been submitted with the application. Durham County Archaeology has confirmed they are satisfied with the proposals suggested in the WSI to form the basis of the mitigation for the works needed and recommend that conditions are attached to secure the implementation of this work.

Access and Transport

Core Strategy Policy CS2 (Achieving High Quality, Sustainable Design) states that high quality, safe, sustainable and inclusive design will be promoted in all new developments. The proposal will result in the loss of approximately 80 no. parking spaces from the existing pay and display car park. These spaces will be accommodated within the Feethams Multi Storey Car Park and as

such there will be no net loss of parking spaces within the Town Centre. Concern has been expressed regarding the potential of the proposal to impact upon disabled parking spaces, particularly during the construction period, however the application site does not include the current disabled parking spaces beneath the committee suite to the front of the Town Hall and to the south side of the Town Hall.

The application site includes strategic sewerage infrastructure owned by Northumbrian Water, located to the west of the River Skerne, close to the Feethams Leisure development, which requires vehicular access for operational and maintenance purposes 24 hours a day, 365 days a year. While the proposal would allow for the infrastructure to be accessed from the northern end of the site via the main pedestrian walkway, Northumbrian Water has raised concern regarding the proposed access arrangements on the basis that this would involve large vehicles reversing approximately 100 metres through the linear park on a designated walkway. They have requested that a vehicle turning area be provided adjacent to the asset to avoid the need to reverse vehicles through the length of the park.

The applicant has advised that the provision of a turning area adjacent to NWL's assets would blight part of the landscaped area to the detriment of the design of the scheme. Swept paths have been submitted which demonstrate that a 10m vehicle can gain access to service the NWL equipment and the Highway Engineer has confirmed that this is acceptable from a highways perspective. Maintenance of access to the assets is essentially a civil matter between the applicant and NWL and this would not warrant refusal of the application.

A Construction Management Plan has been submitted with the application which addresses such matters as working hours and delivery times, access arrangements for vehicles and pedestrians during the construction period, control of dust and dirt on the highway. The Highway Engineer is satisfied with the content of the management plan.

Level pedestrian access will be achieved across the site with no steps and provides gradients on paths that are no greater than 1:20 to ensure that all members of the public can enjoy the Riverside Park. Benches and seat are sited adjacent to the walkways to avoid any obstruction of these areas. The design of the seating has also been amended to include solid bases, to avoid visually impaired people banging their shins on the seat, and also including backs to the seat tops.

Environmental Impacts

Core Strategy Policy CS16 (Protecting Environmental Resources, Human Health and Safety) states that new development should protect and, where possible, improve environmental resources, whilst ensuring there is no detrimental impact on the environment, general amenity and the health and safety of the community. Development which may have an adverse impact on environmental resources should be avoided.

A ground investigation has been undertaken to assess ground conditions and potential contamination on the site. The Council's Environmental Health Officer (Pollution) has identified that further issues need to be addressed following the site investigation and has recommended standard conditions be attached requiring a remediation strategy and validation report to be undertaken and submitted for approval.

The site is located within Flood Zones 2 and 3. A Flood Risk Assessment (FRA) has been submitted with the application to consider the impact of the development both in terms of flood

risk and surface water drainage. The Environment Agency considers the proposed development to be water compatible and therefore raises no objections.

Ecology and Tree Issues

Core Strategy Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity) states that the protection, restoration, extension and management of the Borough's biodiversity and geological network will be delivered by conserving, restoring and enhancing sites and areas identified as having high biodiversity and geodiversity value, ensuring that new development would not result in any net loss of existing biodiversity value by protecting and enhancing the priority habitats, biodiversity features and the geological network through the design of new development, restricting or managing access and use to conserve an area's existing biodiversity value, protecting and enhancing ancient woodland, trees and hedgerows and protecting and improving watercourses, buffer strips and wetland.

Although the majority of the site is covered by the existing surface car park, there are areas of amenity grassland and a small number of trees and ornamental shrubs within the car park and along the east boundaries of the application site. These trees would be retained and additional tree planting is proposed within the landscaped areas and adjacent to the river. An area of wildflower meadow is proposed at the northern end of the site, adjacent to the churchyard.

An Ecological Appraisal has been undertaken and submitted with the application which considers the impact of the proposed development on habitats and protected species. While the appraisal concludes that the development would be unlikely to affect any habitats or protected species, it sets out a series of mitigation measures to include limiting any work undertaken within the bird breeding season and the submission of a lighting strategy.

The Environment Agency has advised that impact of lighting on fish movement in the River Skerne needs to be carefully considered and should be designed to minimise any increase in illumination of the river channel. Additionally any riverside tree planting should be of locally native species suitable for the riparian zone and the softer landscaping should not include any species that are invasive with the potential to spread along the Skerne and downstream into the River Tees. Subject to conditions requiring mitigation works to be carried out and landscaping and lighting proposals to be submitted for approval, the creation of Riverside Park is considered to comply with the requirements of Policy CS15.

Anti-Social Behaviour

While there is a long-standing anti-social behaviour problem associated with St Cuthbert's Churchyard and the surrounding area, the proposed Riverside Park has been designed to encourage people to congregate and spend time in the area which in turn should increase natural surveillance of the area which should hopefully reduce the opportunity for anti-social behaviour and nuisance. This is a view which has been endorsed by Durham Constabulary's Architectural Liaison Officer.

Statement of Community Involvement

Pre-application consultation has been undertaken by the applicants prior to the submission of the application, in accordance with the guidelines set out in the Council's Statement of Community Involvement document. The findings of this consultation event have been set out in the Statement of Community Involvement submitted with this application. Overall the feedback from the pre-application consultation was positive, with the statement setting out how the design of the development has evolved in response to the pre-application consultation.

Other Matters

The issue of the ownership of the wall at the northern end of the application site, which currently encloses car parking spaces at this end of the site and separates the car park from the church yard has been raised by the PCC of St Cuthbert's Church. While this is not a planning matter, this may impact upon the scheme if the wall needs to be retained (it is proposed to be reduced in height and the wildflower meadow extended over this area) and the plans amended accordingly. This matter is currently being investigated and Members will be updated verbally at the meeting.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

The proposed development has 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. The proposed development does not give rise to crime and disorder issues.

CONCLUSION

The development of the site for use as a linear park is consistent with and complimentary to the long term priority for the redevelopment of the wider Feethams area dating back to the adoption of the Feethams Planning and Development Brief in 2008 and identified in Core Strategy Policy CS7 (The Town Centre) adopted in 2011.

It is considered that proposed park is acceptable in terms of its design and proposed materials in the context of the existing natural and built environment and will not have significant adverse impact on the significance of St Cuthbert's Church, a Grade I listed building, the adjacent Town Centre Conservation Area or the archaeological interest of the site. The loss of the existing surface car parking spaces will be accommodated within the Feethams Multi-Storey Car Park and as such there will be no net loss of car parking within the town centre. It is anticipated that environmental impacts will not be significant and where necessary, be minimised by appropriate mitigation measures.

RECOMMENDATION

PURSUANT TO REGULATION 3 OF THE TOWN AND COUNTRY PLANNING GENERAL REGULATIONS 1992, PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 (Standard 3 year time limit)
2. B4 (Details of external materials to be submitted)
3. The development shall be carried out in strict accordance with the mitigation measures set out in the 'Feethams Riverside Construction Management Plan' dated August 2016.

REASON – In the interest of users of the highway.

4. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with the written scheme of investigation submitted with the application (Northern Archaeological Associates WSI NAA 16/83).

REASON – To comply with paragraphs 135 and 141 of the National Planning Policy Framework because the site is of archaeological interest.

5. Prior to the development being beneficially occupied, a copy of any analysis, reporting, publication or archiving as part of a mitigation strategy shall be deposited at the County Durham Historic Environment Record.

REASON – To comply with paragraph 141 of the National Planning Policy Framework to ensure information gathered becomes publicly accessible.

6. CL1 (Phase 1 Preliminary Risk Assessment)
7. CL2 (Phase 2 Site Investigation Strategy)
8. CL3 (Phase 2 Site Investigation Works)
9. CL4 (Phase 3 Remediation and Verification Strategy)
10. CL5 (Any additional contamination)
11. CL6 (Verification and Completion Report)
12. Prior to the commencement of development, or other such timescale as agreed with the Local Planning Authority, details of a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme shall be implemented in accordance with the details as approved.

REASON – In the interest of security and surveillance of the site and to ensure the proposed lighting scheme minimises any increase in illumination of the river channel.

13. No tree or shrub removal shall take place within the bird breeding season (March to September inclusive) unless a nesting bird survey has first been undertaken and submitted to and approved in writing by the Local Planning Authority.

REASON - In the interest of nesting birds.

14. E2 (Landscaping scheme to be submitted)
15. E11 (Tree Protection)
16. B5 (Development in accordance with the approved plans)

INFORMATIVE

The LPA provides further advice and information to assist in complying with the requirements of the land contamination planning condition(s) in Technical Guidance for Developers, Landowners and Consultants,

- YAHPAC "Development of Land Affected by Contamination
- YAHPAC "Verification Requirements for Cover Systems"
- YAHPAC "Verification Requirements for Gas Protection Systems"

The latest editions of each guidance can be found on the Council's website at the following link:

<http://www.darlington.gov.uk/contlandplanningguidance>

THE FOLLOWING POLICIES AND DOCUMENTS WERE TAKEN INTO ACCOUNT IN CONSIDERATION OF THE APPLICATION:

Darlington Core Strategy Development Plan Document 2011

- CS1 – Darlington’s Sub-Regional Role and Locational Strategy
- CS2 – Achieving High Quality, Sustainable Design
- CS7 – The Town Centre
- CS14 – Promoting Local Character and Distinctiveness
- CS15 – Protecting and Enhancing Biodiversity and Geodiversity
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- E18 – The River Skerne
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