

Planning Applications Committee Agenda



**1.30 pm Wednesday, 20 March 2019
Committee Room No. 2, Town Hall,
Darlington. DL1 5QT**

Members of the Public are welcome to attend this Meeting.

1. Introductions/Attendance at Meeting
2. Declarations of Interest
3. To approve the Minutes of the meeting of this Committee held on 20 February 2019 (Pages 1 - 4)
4. Introduction to Procedure by the Assistant Director, Law and Governance's Representative
5. Applications for Planning Permission and Other Consents under the Town and Country Planning Act and Associated Legislation (Pages 5 - 6)
 - (a) Mowden Hall, Staindrop Road, Darlington (Pages 7 - 38)
 - (b) Field At OSGR E425124 N514093, Gate Lane, Low Coniscliffe (Pages 39 - 76)
 - (c) Field to the East of Oak Tree Inn, Yarm Road, Oak Tree, Middleton St George, Darlington (Pages 77 - 86)
6. Field at OSGR E435307 N513463 Yarm Road, Middleton St George, Darlington (Pages 87 - 130)
7. SUPPLEMENTARY ITEM(S) (if any) which in the opinion of the Chair of this Committee are of an urgent nature and can be discussed at this meeting
8. Questions

PART II

9. Notification of Decision on Appeals –

The Director of Economic Growth and Neighbourhood Services will report that, Inspectors, appointed by the Secretary of State for the Environment, have :-

Dismissed the appeal by Mr J Singh against this Authority's decision to refuse permission for a change of use of ground floor of dwelling house (Use Class C3) to local convenience store (Use Class A1) with living accommodation above and erection of single storey rear extension to form part of shop and associated internal and external alterations (Revised scheme) at 201 Greenbank Road, Darlington, DL3 6EY (Ref: 18/00672/FUL)
(Copy of Inspector's decision letter enclosed)

RECOMMENDED – That the report be received.
(Pages 131 - 134)

10. Notification of Appeals –

The Director of Economic Growth and Neighbourhood Services will report that :-

Mr Paul Gibson has appealed against this Authority's decision to refuse permission for an Application submitted under Section 73 of the Town and Country Planning Act 1990 (as amended) for the removal of conditions 2 (garages to be used incidental to the main dwelling) and 3 (living accommodation not to be occupied, let or otherwise disposed of as a separate dwelling) at The Annexe, Spa Wells, Low Dinsdale, Darlington, DL2 1PL. (18/01064/FUL)

Mr Jesbir Singh has appealed against this Authority's decision to refuse permission for Variation of condition 7 (Opening Hours) of planning permission 14/00563/FUL allowed on appeal APP/N1350/A/14/2228133 dated 23 January 2015 (Change of use from shop (Use Class A1) to hot food takeaway (A5) and external alterations) to permit opening hours from 11.30 - 22.00 Friday and Saturday and 12.00 - 21.00 on Sundays and Bank Holidays, at 15 Belvedere Road, Darlington, DL1 5EP. (18/00376/FUL)

Mr Marcus Nimmo has appealed against this Authority's decision to refuse permission for the Erection of detached garage at Creebeck House, Roundhill Road, Hurworth Moor, Darlington, DL2 1QD. (18/00765/FUL)

RECOMMENDED – That the report be received.

PART III

EXCLUSION OF THE PUBLIC AND PRESS

11. To consider the Exclusion of the Public and Press –

RECOMMENDED - That, pursuant to Sections 100B(5) of the Local Government Act 1972, the public be excluded from the meeting during the consideration of the ensuing item on the grounds that it involves the likely disclosure of exempt

information as defined in exclusion paragraph 7 of Part I of Schedule 12A of the Act.

12. Complaints Received and Being Considered Under the Council's Approved Code of Practice as of 6 March 2019 (Exclusion Paragraph No. 7) –
Report of Director of Economic Growth and Neighbourhood Services
(Pages 135 - 142)
13. SUPPLEMENTARY ITEM(S) (IF ANY) which in the opinion of the Chair of this Committee are of an urgent nature and can be discussed at this meeting
14. Questions



Luke Swinhoe
Assistant Director Law and Governance

Tuesday, 12 March 2019

Town Hall
Darlington.

Membership

Councillors Baldwin, Galletley, Heslop, Johnson, Kelley, Knowles, Lee, Lister, Lyonette, K Nicholson, Storr, C Taylor, J Taylor and Tostevin

If you need this information in a different language or format or you have any other queries on this agenda please contact Shirley Burton, Democratic Manager, Resources Group, during normal office hours 8.30 a.m. to 4.45 p.m. Mondays to Thursdays and 8.30 a.m. to 4.15 p.m. Fridays E-Mail: shirley.burton@darlington.gov.uk or telephone 01325 405998

This page is intentionally left blank

PLANNING APPLICATIONS COMMITTEE

Wednesday, 20 February 2019

PRESENT – Councillors Baldwin (Chair), Galletley, Heslop, Johnson, Knowles, Lee, Lyonette, Storr, C Taylor, J Taylor and Tostevin

APOLOGIES – Councillors Kelley, Lister and K Nicholson,

ABSENT –

ALSO IN ATTENDANCE – Councillor Mrs H Scott

OFFICERS IN ATTENDANCE – Dave Coates (Head of Planning, Development and Environmental Health), Arthur Howson (Engineer (Traffic Management)), Andrew Errington (Lawyer (Planning)), Shirley Burton (Democratic Manager) and Hannah Fay (Democratic Officer)

PA62 TO APPROVE THE MINUTES OF THE MEETING OF THIS COMMITTEE HELD ON 23 JANUARY 2019

RESOLVED – That the Minutes of this Committee held on 23 January 2019 be approved as a correct record.

(1) MOWDEN HALL, STAINDROP ROAD, DARLINGTON

18/00989/FUL - Mowden Hall, Staindrop Road. Proposed residential development consisting of 30 residential units (Additional Geotechnical Report and Phase 1 Ground Investigation Report received 6 and 11 December 2018; amended and additional plans and information received 17 December 2018, 7 January 2019, 10 January 2019, 11 January 2019, 16 January 2019 and 17 January 2019).

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated).

RESOLVED – That consideration of the application be deferred to enable a site visit to take place.

(2) 15 BELVEDERE ROAD, DARLINGTON

19/00002/FUL - 15 Belvedere Road, Darlington. Variation of condition 7 (Opening Hours) of planning permission 14/00563/FUL allowed on appeal APP/N1350/A/14/2228133 dated 23 January 2015 (Change of use from shop (Use Class A1) to hot food takeaway (A5) and external alterations) to permit change of opening hours from 12.00 - 19.00 on Sundays and Bank Holidays to 11.30 - 21.00 (Revised submission).

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated).

RESOLVED – That planning permission be granted subject to the following

conditions :-

1. The use hereby permitted shall not be open to customers outside of the following times :-
11:30 – 21:00 on Sundays and Bank Holidays
Reason – In the interests of residential amenity.
2. The disabled access to the premises shall be maintained in accordance with the details approved under planning reference number 14/00563/CON dated 22 August 2016 for the lifetime of the development hereby approved.
Reason – To ensure that the premises remain fully accessible in accordance with Policy CS2 (Achieving High Quality, Sustainable Design) of the Darlington Core Strategy Development Plan Document, 2011 and the Equalities Act 2010.
3. The storage of refuse and waste associated with the use of the premises hereby permitted shall be maintained in accordance with the details approved under planning reference number 14/00563/CON dated 22 August 2016 for the lifetime of the development hereby approved.
Reason – In the interest of general amenity.

PA63 TREE PRESERVATION ORDER NO 6 2018 1 CHURCH CLOSE, MIDDLETON ST. GEORGE

The Director of Economic Growth and Neighbourhood Services submitted a report (previously circulated) advising Members of an objection which had been received to the making of a Tree Preservation (No. 6) Order 2018 in relation to one semi/mature Pine (*Pinus* spp) tree which was growing in the front garden of 1 Church Close, Middleton St George.

It was reported that the tree was in good form and condition with no visible weakness and the tree was highly visible and of high amenity value to the area and was a good example of its species.

The submitted report set out the legal and procedural background to the making of a tree preservation order as set out in the Town and Country Planning Act 1990, together with a summary of the objector's comments.

In considering the confirmation of the Order, Members considered whether the existing tree could be replaced with another tree of a similar heavy standard and the Council's legal representative advised the Committee of the procedure which would need to be followed by the applicant if this was approved. The applicant confirmed, at the meeting, that he would be willing to make a further application to fell the tree.

(In reaching its decision, the Committee took into consideration the views of the objector whom Members heard and the findings of a site visit which had taken place).

RESOLVED – (a) That Tree Preservation (No. 6) Order 2018 in relation to one semi/mature Pine (*Pinus* spp) tree, growing in the front garden of 1 Church Close, Middleton St George be confirmed without modification.

(b) That, should a further application to fell the tree be received, it be considered by this Planning Committee.

PA64 NOTIFICATION OF DECISION ON APPEALS

The Director of Economic Growth and Neighbourhood Services reported that, Inspectors, appointed by the Secretary of State for the Environment, had dismissed the appeal by Mr D Betteridge against this Authority's decision to refuse permission for demolition of existing garage and erection of detached bungalow, detached single garage and detached single garage for main dwelling at 8 Lazenby Close, Darlington, DL3 9QE (Ref 18/00047/FUL).

RESOLVED - That the report be received.

PA65 TO CONSIDER THE EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED - That, pursuant to Sections 100A(4) and (5) of the Local Government Act 1972, the public be excluded from the meeting during the consideration of the ensuing item on the grounds that it involves the likely disclosure of exempt information as defined in exclusion paragraph 7 of Part I of Schedule 12A to the Act.

PA66 COMPLAINTS RECEIVED AND BEING CONSIDERED UNDER THE COUNCIL'S APPROVED CODE OF PRACTICE AS OF 6 FEBRUARY 2019 (EXCLUSION PARAGRAPH NO. 7)

Pursuant to Minute PA61/Jan/19, the Director of Economic Growth and Neighbourhood Services submitted a report (previously circulated) detailing breaches of planning regulations investigated by this Council, as at 6 February, 2019.

RESOLVED - That the report be noted.

This page is intentionally left blank

BOROUGH OF DARLINGTON

PLANNING APPLICATIONS COMMITTEE

Committee Date – 20 March 2019

SCHEDULE OF APPLICATIONS FOR CONSIDERATION

Background Papers used in compiling this Schedule:-

- 1) Letters and memoranda in reply to consultations.
- 2) Letters of objection and representation from the public.

Index of applications contained in this Schedule are as follows:-

Page	Address/Site Location	Reference Number
7	Mowden Hall, Staindrop Road, DARLINGTON	18/00989/FUL
39	Field At OSGR E425124 N514093, Gate Lane, LOW CONISCLIFFE	18/01151/FUL
77	Field To The East Of Oak Tree Inn, Yarm Road, Oak Tree, MIDDLETON ST GEORGE, DARLINGTON	19/00040/FUL

This page is intentionally left blank

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 20 March 2019

APPLICATION REF. NO:	18/00989/FUL
STATUTORY DECISION DATE:	28 th February 2019
WARD/PARISH:	MOWDEN
LOCATION:	Mowden Hall, Staindrop Road
DESCRIPTION:	Proposed residential development consisting of 30 residential units (Additional Geotechnical Report and Phase 1 Ground Investigation Report received 6 and 11 December 2018; amended and additional plans and information received 17 December 2018, 7 January 2019, 10 January 2019, 11 January 2019, 16 January 2019 and 17 January 2019)
APPLICANT:	Galliford Try Partnership North

Members will recall that this application was deferred at the Planning Applications Committee on 2 February 2019 to enable Members to visit the site prior to determination. The report below is identical to the one that Members considered previously.

APPLICATION AND SITE DESCRIPTION

The application site (approx. 2ha) was formerly occupied by the Department of Education (DfE) prior to their relocation to Bishopsgate House to the rear of the Town Hall. Since the relocation, the large office building on the site has been demolished and a large area of the site has been cleared and hardcored over. The site is accessed from the north east corner off High Green/Staindrop Road and there is a separate pedestrian access to the south east of the site off Mowden Hall Drive. The site is currently owned by Homes England.

The site is located within a predominately residential area. Mowden Hall to the south of the site is a Grade II listed building occupied by Marchbank Free School and the remains of a former garden wall within the site is a curtilage listed building.

There are trees within the site which are covered by a Tree Preservation Order dated 1951. The Council carried out a review of the trees at the Mowden Hall site which were

protected by the 1951 Order which resulted in the removal of some trees from the Order and the addition of further trees that were considered worthy of protection. The Order was varied accordingly in March 2012.

The proposal involves the redevelopment of the site for residential purposes comprising 30 dwellings. The dwellings are all two storey properties and the mix is:

- 18 three bedroom dwellings;
- 12 four bedroom dwellings.

The existing vehicular access off High Green/Staindrop Road and the areas of green space either side of the internal road would be retained with the road upgraded to adoptable standards. This would form the only vehicular access to the site. A pedestrian/cycle access would be created off Mowden Hall Drive with a link from the existing highway to the new development running through an area of open space and a SUDs basin in the south east corner of the site.

The proposal does involve the removal of trees within the site along with a new landscaping scheme, which would be maintained by a private management company.

The majority of the site and the rear gardens of the dwellings would be enclosed by 1.8m high close boarded fencing with 1.8m high brick screen walls positioned in locations alongside the internal road system.

The dwellings would be constructed from two varieties of red facing bricks, concrete interlocking roof tiles (slate grey), grey UPVC windows and rainwater goods soffits, fascias and verge boards.

Affordable Housing

The proposed development would not include any affordable units within the site but the applicant has agreed that an offsite financial contribution would be made to provide affordable units elsewhere within the Borough.

Section 106 Agreement

The applicant has agreed to enter into a Section 106 Agreement to secure financial contributions towards the following:

- Offsite affordable housing (£369,000)
- Sustainable Transport (£25,500)
- Sport & Recreation including 10 year maintenance (£8,988)
- An open space management and maintenance plan

Statement of Community Involvement

A “drop in” session for local residents was held in July 2018 at Mowden Junior Primary School and a Statement of Community Involvement has been submitted in support of the planning application. This document sets out the issues raised by local residents (for example, impact on listed building, loss of trees, highway safety matters) and the applicant’s response to these. In terms of layout the main change has been the

omission of three storey dwellings within the site. This exercise was carried out in accordance with the Council's adopted guidance on such matters.

Application documents including Planning Statement, Design and Access statement, plans, consultation responses, representations received and other background papers are available on the DBC website.

Environmental Impact Assessment Requirements

The Local Planning Authority has considered the proposal against the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The development would not meet the thresholds within the Regulations that require the Local Planning Authority to offer a screening opinion for the proposal.

PLANNING HISTORY

The most relevant entry is:

16/00816/DD In August 2018 the local planning authority considered that the prior approval of the authority was NOT REQUIRED for the demolition of the existing office building

RESULTS OF CONSULTATION AND PUBLICITY

Following the publicity exercises by the Local Planning Authority four objections were received to the original proposal. The comments can be summarised as follows:

- *Whilst we support the scheme, we are very concerned that such a large number of protected trees are to be removed. In particular the Black Pine and Giant Redwood which have enhanced the skyline for many years and now must make way for SUDs and housing*
- *We live at 31 Hallview Grove and behind us the land rises significantly. The proposed development has a row of houses in direct line with our house and garden but at a much greater height and the houses built closest to us are three storey. The new houses will tower above us and we will be very significantly affected by loss of light into the garden and the rear of our property. If the houses were much lower, it would reduce the impact*
- *The land between our gardens (Hall View Grove) and the proposed development would be maintained by a management company but we are not confident how this land will be cared for or used*
- *There are two tall Scots Pine trees situated on the boundary line at the end of Mowden Hall Drive. I strongly object to the proposal of removing these trees as they make a significant natural statement and they are well away from the SUDs basin. The trees are both enjoyed by the local population and birds and animals alike.*
- *The view from the front of our property (No 5 Mowden Hall Drive) is looking directly at a brick wall boundary line and I would like to know what is proposed for this area as this opens into Mowden Hall Drive. I feel the area would still benefit from some form of permanent architectural structure to force people to use the pathway into the estate rather than walk over this area*

Darlington Friends of the Earth also commented on the planning application as follows:

- *Darlington Friends of the Earth welcomes the landscaping proposals including the provision of bird and bat boxes, grassland and wildflower area. The idea of a bug hotel being provided is also welcome. Perhaps an area of well drained poor low-nutrient soils for low lying nectar rich planting for our pollinators could be incorporated into the landscape proposals in addition to the wildflower area. The wild flower area is particularly important as a good number of butterflies are recorded around this area including Purple Hairstreak, an oak loving speciality.*
- *That said FoE are concerned that there is no provision for affordable homes and with the Traffic Assessment findings. This concludes that this development will have no impact on the highway network. Whilst the area enjoys a frequent bus service, (weekdays, circa every 20 mins) the nearest rail station is just over 2.5 miles away. The main roads towards the rail stations and town centre are very busy and not conducive to cycling. It is the nature of this development, 3, 4 and 5 bedroom dwellings that will encourage car usage and will exacerbate existing traffic congestion and degrade air quality further particularly at peak commuter times along the B6279, B6280 and along the A68 in the Cockerton area.*
- *Further, FoE are concerned that the application shows the loss of sixteen individual mature trees and seven groups of trees plus a partial loss of another tree group. FoE would therefore like confirmation of the exact number of trees to be removed. I am sure the Council and the Developer is keen to avoid another Blackwell scenario in terms of tree loss here.*
- *It could be argued that this development in isolation may have only a small impact on the existing public highway in terms of volume and that it is other new housing and retail developments in the area e.g. at Staindrop, Coniscliffe and West Park, that if they come to fruition, will drive transport and infrastructure interventions to address any gaps. FoE would therefore like the Council to produce traffic modelling for the whole picture rather than site by site development.*
- *FoE recognises a need for jobs and housing. Given the small scale of this development and the fact it is seeking to redevelop a largely brownfield site in the borough and the yield of houses is slightly less than originally proposed, FoE supports this development.*

Following the submission of amended plans, two further letters of objection have been received and the comments can be summarised as follows;

- *We are the Secretary to the Company that owns the flats at Nos 101 – 179 Staindrop Road and No 1 to 40 High Green. Our objections are based on the vast increase in traffic (30 homes mean at least 60 vehicles and probably at least 150 passes of vehicles on average through our site every day.*
- *The amended site plans have outlined part of Noreast Mowden Housing Society land as their own. The land, water, drains are all privately owned. The plans need to be changed*
- *The development should consider putting traffic from Mowden Hall Drive*
- *No services should be taken by the applicant from the existing supplies of Noreast Mowden Housing Society without obtaining full permission*
- *A covenant should be applied to the properties restricting the use of vehicles to and from the dwellings*

- *I have major concerns regarding the potentially significant amount of additional traffic that this area cannot simply facilitate. The roads are already congested and the additional homes would only impact on this further. I also have concerns that the area is simply unable to facilitate the demand to general local services. It would be nice to see a community area that could be enjoyed by the local residents within the area as an alternative to seeing homes being built all across town*

The occupants of No 31 Hall View Grove have withdrawn their original objection to the planning application following the submission of the amended plans. The comments are:

- *The amended plans show that plots 12 and 13 on the original plans, which were three storeys have been replaced by a single two storey Cottingham House type on Plot 12. Although we will still be affected by some loss of light, we appreciate that the amended plan goes some way to addressing our concerns and therefore we are prepared to withdraw our objection*

Consultee Responses

The **Council's Sustainable Transport Officer** has raised no objections to the planning application and has advised that a sustainable transport planning obligation should be sought from the development

Following the submission of a landscaping plan and associated amended plans, the **Council's Ecology Officer** has raised no objections to the proposed development subject to the imposition of appropriate planning conditions to secure the submitted ecological features and improvements

Following the submission of the amended plans, **the Council's Highways Engineer** has raised no objections to the proposed development subject to imposition of appropriate planning condition relating to offsite highway works

The **Council's Senior Arboricultural Officer** has recommended the retention of five trees that are marked for removal to facilitate the erection of a dwelling and the creation of the SUDs basin. These comments will be considered in more detail further in this report. It is recommended that, if the application is approved, all trees to be retained need to be protected by fencing.

The **Council's Historic Assets Officer** has advised that the layout of the proposed scheme could be improved in order to mitigate the impact of the development on the setting of the Grade II listed Mowden Hall. However, if the application was to be approved, a number of conditions relating to repair works to the retained garden wall, the choice of materials and the removal of permitted development rights on the dwellings are recommended. The comments will be considered in more detail further in this report.

The **Council's Environmental Health Officer** has raised no objections and has requested the imposition of planning conditions relating to contaminated land, a Construction Management Plan and hours of construction and deliveries

The **Local Lead Flood Authority** has not objected to the planning applications and have requested the imposition of appropriate planning conditions

Northern Gas Networks has raised no objections to the planning application

Northumbrian Water has raised no objections

Northern Powergrid has raised no objections

PLANNING POLICY BACKGROUND

The relevant local and national development plan policies are:

Borough of Darlington Local Plan 1997

E2 - Development Limits

E3 – Protection of Open Land

E12 -Trees and Development

E14 - Landscaping of Development

T8 - Access to Main Roads

Darlington Core Strategy Development Plan Document 2011

Policy CS1 - Darlington's Sub Regional Role and Locational Strategy

Policy CS2 - Achieving High Quality, Sustainable Design

Policy CS4 - Developer Contributions

Policy CS10 - New Housing Development

Policy CS11 - Meeting Housing Needs

Policy CS14 - Promoting Local Character and Distinctiveness

Policy CS15 – Protecting and Enhancing Biodiversity and Geodiversity

Policy CS16 – Protecting Environmental Resources, Human Health and Safety

Policy CS19 - Improving Transport Infrastructure and Creating a Sustainable Transport Network

National Planning Policy Framework 2018

Other Documents

Design of New Development Supplementary Planning Document 2011

Supplementary Planning Document on Planning Obligations 2013

Interim Planning Position Statement 2016

PLANNING ISSUES

The main issues to be considered here are whether or not the proposed development is acceptable in the following terms:

- Planning Policy
- Design and layout and Impact on the Character and Appearance of the Area
- Impact on the Setting of Heritage Assets
- Surface water and flood risk
- Impact on Trees and Landscaping Scheme
- Residential Amenity

- Highway and sustainable transport issues
- Land contamination
- Ecology
- Affordable Housing
- Developer Contributions
- Delivery

Planning Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) comprises up to date national planning policy and is a material consideration in planning decisions.

The Council can demonstrate a five year supply of deliverable housing sites and therefore the local development policies that relate to the supply of housing can be considered up to date and carry significant weight in the determination process of the planning application.

Saved Policy E2 of the Local Plan 1997 states that most new development will be located inside development limits. Policy CS1 of the Core Strategy states that new development will be concentrated on sustainable locations within the main urban area, where there is actual or potential good accessibility for everybody.

The application site is located within the development limits as identified by the Proposals Map of the Local Plan.

The site is allocated as Open Land within the Proposals Map accompanying the Borough of Darlington Local Plan. Saved Policy E3 states that in considering proposals to develop any area of open land within the urban area, the Council will seek to maintain the usefulness and enhance the appearance and nature conservation interest of the open land system as a whole. Permission will not be granted for development which inflicts material net harm on the visual relief afforded by the system in built-up areas; the character and appearance of the locality through loss of openness and greenery; facilities for sport and formal recreation; the internal continuity of the system; or areas recognised for their nature conservation or wildlife interest.

The site was previously occupied by a large office building with associated car parking and hard standing areas with very limited areas of greenspace other than on either side of the internal road and the areas with tree planting. The site is currently cleared. Whilst the proposed development will result in the loss of some existing trees, the existing areas of green space would be retained and new areas would be created along with additional tree planting and a SUDs basin. The development would incorporate ecological enhancements within the built fabric of the new dwellings and this privately owned site would become available for public use. It is considered that the proposed development would accord with saved policy E3 of the Local Plan.

Being located within the main urban area of the town, the scheme is considered to constitute sustainable development. As such the principle of residential development

on this site is considered acceptable subject to consideration of appropriate national and local planning policies, as set out in the NPPF and the development plan.

Design and Layout and Impact on the Character and Appearance of the Area

Policy CS2 (Achieving High Quality, Sustainable Design) of the Core Strategy includes provision that new development should reflect or enhance Darlington's distinctive nature; create a safe and secure environment; create safe, attractive, functional and integrated outdoor spaces that complement the built form; and relate well to the Borough's green infrastructure network.

The site is within a predominately residential area comprising a mix of detached and semi detached two storey dwellings and bungalows. High Green, to the north of the site, is a group of two storey flatted buildings. The site is somewhat isolated from the wider surrounding area.

The layout utilises the existing vehicular access off High Green/Staindrop Road and a footpath/cycleway via an existing access off Mowden Hall Drive. The existing tree lined avenue along the vehicular access would be retained with the open space retained as amenity space. The dwellings have been positioned to back onto the boundary of the site and the mature tree planting areas that are to be retained. An internal access road would run through the centre of the site and provides the dwellings with an acceptable rear aspect and private amenity space. Each dwelling would have amenity space to the frontages. The dwellings on the western section of the site have been positioned to respect the location and the setting of a former garden wall of Mowden Hall, which is curtilage listed, and the dwellings on the southern boundary have been positioned sympathetically to the setting of Mowden Hall, which is a Grade II listed building, to allow views of this building to be retained wherever possible. The dwellings on the eastern section are orientated to face the open space, SUDs basin and footpath link from Mowden Hall Drive in order to enhance the open feel of this area, to create a sense of place and to provide natural surveillance and create visual connectivity with the existing dwellings on the neighbouring street. This is considered to be an important feature of the overall design and layout of this proposal which contributes to a sense of place. Parking will be provided by a mix of detached and attached garages, integral garages and driveways.

The dwellings are all detached and the proposal has been revised to to include 2 storey dwellings. The dwellings would be constructed from a palette of brick types to add some variety to the development, with slate grey roof tiles. The design of the dwellings will include brick soldier window heads and brick sills and some will have brick chimneys, to create visual interest. The doors, windows, soffits and fascias and rainwater goods would be anthracite grey. A detailed landscaping scheme has been submitted in support of the planning application.

The existing gateposts and gatehouse at the site entrance from High Green/Staindrop Road will be demolished. New gateposts will be built designed to match the existing and using facing bricks to match the new houses and re-using existing coping stones. The existing gates and railings on Mowden Hall Drive will be removed and the opening will be bricked up to match existing to create a new footpath cycleway link. The precise

details for the new entrance features at both accesses will be secured by a planning condition.

In view of the above considerations, the redevelopment of the site for residential purposes would not harm the character of this existing residential area. The layout of the development and the design of the dwellings proposed would generally accord with the guidance found within the Council's adopted Supplementary Planning Document – Design for New Development (Character Zone 4 – Outer Suburbs) and Policy CS2 of the Core Strategy.

Impact on the Setting of Heritage Assets

Paragraph 192 of the National Planning Policy Framework 2018 (the NPPF) states that in determining planning applications local planning authority should take account of, amongst other matters, the desirability of new development making a positive contribution to local character and distinctiveness.

The NPPF (para 194) states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, (or from development within its setting), should require clear and convincing justification.

NPPF (para 200) continues that 'local planning authorities should look for opportunities for new development ... within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably'.

Policy CS14 of the Core Strategy 2011 is also promotes the need to protect, enhance and promote the character and local distinctiveness of the Borough, including listed buildings and their setting.

Mowden Hall is a large, red brick Victorian former house and it is a Grade II listed building. The Hall is located immediately to the south of the application site and it is currently occupied by Marchbank School. A section of garden wall is located in the south west section of the site. This is a remnant of the Hall 19th century walled garden and it is a curtilage listed structure.

The proposed development has the potential to effect the setting of the Hall and the wall and therefore the significance of these heritage assets.

The significance of the Hall derives to a large degree from the illustrative and associative historical value of the 19th century building and its history. Constructed in red brick and terracottas, the Hall is in a distinct Victorian Gothic style, and there is a high degree of aesthetic value in the fabric and architectural detail of the asset. The later uses of the building, including by the Department for Education and currently as Marchbank School, has added greatly to its communal value.

Mowden Hall remains physically a large irregular structure of two storeys, with attic levels, constructed in strong red brick with dressings of moulded brick and terracotta to its exterior elevations. The scale, materials and surfaces of the building contribute

vastly to the experience of the designated heritage asset. The curtilage listed garden wall is constructed of red brick in English garden wall bond with a double brick cornice capped with moulded sandstone flags.

The proposed development is to be sited on the former gardens, landscaped grounds and driveway of the Hall. The setting of the Hall has greatly altered and been impacted upon by the previous large office building, its associated hard standing and parking areas and also the existing neighbouring dwellings. The Hall has subsequently gained prominence as a consequence of the office building being demolished and the site clearance. Several key views of the Hall from within the immediate vicinity have been restored and this proposal has been seen as an opportunity to retain views and deliver a high quality and unique scheme within the immediate setting of the listed building.

The Listed Buildings and Conservation Areas Act 1990 contains a statutory duty to pay special attention/regard to the desirability of preserving or enhancing listed buildings and their settings.

The dwellings have incorporated some design features which reference the listed building. These are referenced as projecting single course at mid-level a simple reference to ornate mid-level detail on Mowden Hall, a sloping soffit which references the sharp, angular detailing of the Hall's eaves detail, and window heads comprising a brick soldier course and sloped window sill constructed of bricks to reference the sloping sills of the Hall. The Council's Historic Assets Officer has advised that these design features are acceptable.

Having considered the proposed development, the Council's Historic Assets Officer advised that the layout of the scheme could be improved in order to re-establish and subsequently retain historic views of the Hall that had previously been impeded by the previous large office building. This would result in reducing the overall number of dwellings, the removal or repositioning of any three storey properties, the relocation and reorientation of dwellings and amending the highway layout.

In response to the Historic Assets Officer's concerns regarding the layout of the proposed development, it is considered that the proposed layout will allow for a number of views of the upper sections of the Hall from the open space/SuD's basin at the Mowden Hall Drive entrance and through gaps between the detached dwellings and over single storey garages. The omission of three storey dwellings from the proposal and the diminutive scale of the two storey dwellings in comparison to the imposing scale of the Hall itself will allow views towards the historic entrance of the Hall, the tiled roof, ridge stacks, gable dormers, brick banding and sunflower decoration, large windows of the building which would help to maintain its significance over the development as public pass through the development. The use of detached dwellings rather than semi detached or terraced properties allows for views of the Hall from across the site.

Views of the listed building would be available from a number of points within the site, albeit it predominately of the upper levels of the building, however these views would still enable the historical, architectural and visual significance of the listed building to be acknowledged and appreciated.

The layout has also been designed to have a positive relationship with the open space/SUDs basin to create a frontage onto this area with natural surveillance and to create a welcoming approach from Mowden Hall Drive. Redesigning this element of the layout to create wider views of the Hall would have a negative impact in general design terms and it is considered that the proposal strikes a balance between good design principles and the setting of the heritage asset.

Whilst the applicant has agreed to replace the only three storey dwelling in the north west corner of the site with a two storey dwelling on both residential amenity grounds and in the interests of safeguarding the setting Hall and the garden wall any further reductions in the overall number of dwellings within the site (which would be required to accord with advice from the Council's Heritage Asset Officer) would have an impact on the viability of the scheme and the ability for the site to be developed.

The retained garden wall would become part of the domestic curtilage of the dwelling on Plot 12. This does not raise any concerns from a heritage perspective, and the developer will need to ensure that potential purchasers are aware of the status of the wall and their future responsibilities and the need for obtaining listed building consent for any alterations, maintenance and repairs.

Following the submission of amended plans and further discussions with officers and the Heritage Asset Officer, the applicant has agreed to the use of anthracite grey UPVC windows, rainwater goods, soffits and verge boards (instead of white) throughout the development, the use of two facing bricks to add some variety to the appearance of the scheme, and the imposition of a planning condition which removes permitted development rights for alterations and extension to the dwellings and for structures within their curtilages.

The palette of materials proposed are similar to a recently constructed housing scheme off Haughton Road, Darlington where new dwellings sit comfortably alongside, and within the setting of, a Grade II listed former engine shed. The use of dark grey frames and rainwater goods will complement the proposed use of red bricks, which also be sympathetic to the Hall.

Whilst the Council's Historic Assets Officer remains of the opinion that the layout of the proposal could be improved to maximise views and the significance of the Hall, it is acknowledged that further amendments could have viability repercussions and that the overall extent of the harm on the setting of the Hall by the new development is less when compared to impact that the previous large office block and associated hard standing areas would have had on the heritage asset.

Overall officers consider that proposed development would cause "less than substantial harm" and in accordance with the NPPF (para 196) there are public benefits to this scheme that would outweigh the less than substantial harm. These public benefits include this previously isolated, private site becoming publicly accessible (resulting in the ability to see the Hall from new viewpoints); the creation of additional open space within the area; the reuse of a vacant site in a residential area; the contribution of the site to the Council's five years supply of deliverable housing sites

and the planning obligations towards affordable housing, sport provision and offsite footway improvements.

Surface Water and Flood Risk

Policy CS16 (Protecting Environmental Resources, Human Health and Safety) of the Core Strategy states that new development will be focussed on areas of low flood risk (Flood Zone 1) and it should comply with national planning guidance and statutory environmental quality standards relating to risk from surface water runoff, groundwater and sewer flooding.

Environment Agency flood maps show that the whole site is located within Flood Zone 1. Surface water from the site would be discharges to the existing NWL network in Mowden Hall Drive with restricted flow rates. A SUDS basin will be provided to the east of the site to provide on site attenuation for surface water flows arising from the proposed development and provide an element of treatment for the site. Some porous driveways where possible along with the basin will treat surface water runoff prior to discharge from the site. Foul water flows from the site will discharge to the existing public foul sewer located within Mowden Hall Drive.

The Lead Local Flood Authority and Northumbrian Water raise no objection to the principle of the scheme for the disposal of surface and foul water drainage and the SUDs basin subject to a number of planning conditions to secure precise details of the schemes.

The creation of the basin will require the removal of three protected trees and this will be considered in more detail below.

Impact on Trees and Landscaping Proposals

Policy E12 (Trees and Development) of the Local Plan seeks to ensure that new development takes full account of trees and hedgerows on and adjacent to the development site. The layout and design of the development should wherever possible avoid the need to remove trees and hedgerows and to provide their successful retention and protection during development.

In 2012 a review of the trees protected by the County Borough of Darlington Tree Preservation (No 1) Order 1961 was carried out by the Council which identified that the situation on the ground with regard to the trees protected under the Order had substantially changed. This resulted in the removal of some of the trees from the Order and the addition of further trees to the Order that were considered worthy of protection. The Order was formally varied in March 2012.

This Order covers the whole of the Mowden Hall, including the application site, and also trees within the High Green flatted development.

The Order shows that there are 8 individual trees and 5 groups of trees (containing 55 individual trees) within the application site which are protected.

An Arboricultural Impact Statement submitted with the application states that 16 individual trees and 7 tree groups plus a section of one further group would be removed

in order to facilitate the proposed development. This would equate to approximately 85 trees of varying quality, size and diameter being removed. Thirteen of the trees which are highlighted for removal are protected as by the Tree Preservation Order.

The main area of tree loss would be a belt of moderate value trees which stood between an area of car parking and the former office building. This group of trees has a dense understorey of smaller trees with a few individuals with a 350mm diameter. Whilst some of the trees within this area are covered by the Order (eight), the group as a whole is considered to be of moderate value (Category B) and they are not highly visible from outside of the site. The trees in this area would be removed to facilitate the dwellings on Plots 25 to 30.

Three protected trees, a Yew, Redwood and Sycamore, located in close proximity to the Mowden Hall Drive access would be removed to facilitate the creation of the SUDs basin. The Council's Senior Arboricultural Officer has advised that the trees are still worthy of protection and should, ideally, be retained. The SUDs basin has been located in this part of the site as it is the lowest point and as close as possible to the discharge point, which is on Mowden Hall Drive. The Lead Local Flood Authority has advised that it would be very difficult to construct the SUDs basin without removing the three trees or causing damage to the roots, if they were retained or the basin slightly repositioned further north.

Two protected Lime trees in the south west corner of the site are shown as being removed. These trees are identified as being of moderate quality (Class B) and the Council's Arboricultural Officer has also advised that these trees should ideally be retained. The trees are located alongside the former garden wall and their roots could be impacting upon the wall. The trees are highlighted for removal due to their position in relation to the dwelling on Plot 12. There is a concern that the canopies would grow up against the property and contribute to the shading of the garden area.

A few small groups of trees and small individual trees of low value would be removed to facilitate the development due to their location within or close to proposed driveways. Some self set trees along the entrance drive would be removed. The Senior Arboricultural Officer has raised no objection to the removal of these remaining trees which are not highly visible from outside of the site and/or not worthy of protection due to their condition and form.

The trees around the perimeter of the site are largely unaffected by the proposal and would provide good screening of and from the development. Hedging around the perimeter would be retained but reduced and maintained to a suitable height, approximately between 2 and 3 metres.

All the Category A trees (four) within the site would be retained.

A condition requiring that all trees to be retained on site are protected throughout the construction phase is attached. A landscaping plan for the proposed development the planting of new trees throughout the development and within or on the edge of the SUDs basin and open space at the Mowden Hall Drive entrance.

In view of the number of trees on this site it would be difficult to develop the site without the loss of some trees. While the majority of trees to be removed are not protected, the removal of a number of protected trees (13 in total) is required to facilitate the development. While the removal of protected trees is never ideal in this instance it is considered that, on balance, there are circumstances which would warrant the removal of these trees, including those trees five the Council's Arboricultural Officer has expressed concern about, in order to bring about the benefits arising from the proposed development. These benefits include the provision of an area of open space to be created around the SUDS basin in the south eastern corner of the site, publicly accessible from a new footway/cycleway off Mowden Hall Drive which in turn will allow new public viewpoints of the listed building and the re-use of a vacant site within a residential area.

A comprehensive landscaping scheme is also proposed, which includes tree and shrub planting, hedge planting, species rich grass mix and wildflowers within the development and most notably around the SUDs basin. The species of shrubs and trees has been amended in response to comments made by the Senior Arboricultural Officer and will also include larger containerised species. A condition requiring the implementation of the landscaping scheme concurrently with the development is attached. A landscape management plan and maintenance schedule has been submitted with the application with the open space being transferred to a private management company. The mechanisms of this will be secured by the Section 106 Agreement.

In view of the above considerations it is considered that the proposed development is, on balance, acceptable and that the loss of a number of protected trees can be outweighed by a number of public benefits arising from the proposed development, the securing of a comprehensive landscaping scheme by planning condition and the management and maintenance of the area of open space to be secured by Section 106 Agreement.

Residential Amenity

Policy CS16 (Protecting Environmental Resources, Human Health and Safety) of the Core Strategy seeks to ensure that new developments do not harm the general amenity and health and safety of the local community which echoes one of the core principles of the NPPF (2018) which seeks to create places with a high standard of amenity for existing and future users (para 127). The Council's Design of New Development Supplementary Planning Document (Design SPD) sets out the recommended proximity distances between new and existing dwellings. The proposed dwellings meet the required proximity distances between 2 storey dwellings.

The site sits on higher ground level than the dwellings that bound the site to the north, east and west. At certain parts the existing ground level of the site is 3m to 4m higher but it is well screened by mature trees and hedges that would primarily be retained. The site falls from a high point centrally located on the southern boundary to the east, west and north. It falls steeply along the northern boundary with the lowest point at the north east corner where it is accessed off High Green.

Some regrading of ground levels is proposed to facilitate the proposal. This regrading will both lower and increase the existing ground levels of certain sections of the site, for

example, the ground level would increase by approximately 1m on the western and northern boundary before it slopes down to the rear gardens of the existing properties. Despite the proposed regrading works however the new houses would still accord with the necessary proximity distance requirements when measured from the existing dwellings to prevent unacceptable loss of privacy in terms of overlooking and loss of light and outlook. The existing vegetation and trees along the site boundaries, which will be generally retained, with the neighbouring dwellings will provide a visual screen to the development, although some upper levels of the dwellings may be visible over or through the boundary treatment. The proposed dwellings would not appear overbearing or dominant when viewed from outside of the site.

The proposal has been amended to omit a pair of three storey dwellings in the south west corner of the site. Whilst these properties would have met the proximity distance requirements set out in the Design SPD, the applicant has agreed to substitute these dwellings with one two storey dwelling. As a result an objection from the occupant of the neighbouring dwelling has been withdrawn.

A Construction Management Plan has been submitted with the planning application, which is considered to be acceptable in general amenity terms. Compliance with this plan is to be secured by a planning condition to minimise the impact of the construction phase of the development on surrounding residential properties.

It is not anticipated that there will be any noise issues associated with the operations of Marchbank School. The plant room for the School is within the basement areas and the external space most likely used for play and outside teaching is to the front of the School, the furthest point from the housing development.

The proposed development is considered to be acceptable in residential amenity terms and would accord with Policy CS16 and the NPPF in this regard.

Highways and Sustainable Transport Issues

Policy CS2 (Achieving High Quality Sustainable Design) of the Core Strategy seeks to ensure that new developments provide vehicular access and parking provision that is suitable for its use and location reflecting the standards set out in the Tees Valley Design Guide and Specification.

The site is within 400m walking distance of a bus stop. Frequent service 3 is available on Barnes Road which runs a half hourly service Monday to Saturday and an hourly service on evenings and Sundays. Service 16 is also available running hourly Monday to Saturday, with no evening or Sunday service.

Although the overall scale of this development falls below the threshold for a Transport Statement (TS) one has been submitted in support of this application. The TS concludes that the development would generate a maximum of 16 two-way vehicular movements during the AM/PM peak hours, which equates to one vehicle movement roughly every four minutes. The trip rates used in the calculation are generally in the correct order of magnitude for this type of development. The analysis concluded that the highway network is able to support the additional vehicle movements for the proposed development, so as not to be detrimental to highway safety of road users. As

a result, no mitigation measures are required. The development does not result in an unacceptable impact on highway safety or a residual cumulative impact on the road network that is severe.

The previous office use of the site (11,643m² GFA) would have generated a significantly higher rate of vehicle trips. In order to estimate the vehicular trips associated with the previous use, the TRICS database was used which can be summarised as follows: the AM peak (08:00 -09:00) would generate 185 trips, with the PM peak (17:00-18:00) generating 174 trips. This demonstrates that the proposed residential development will generate roughly 10% of the vehicular traffic associated with the previous office block (It is acknowledged that the majority of traffic generation from the office development would have been during office hours rather than on an evening)

An accident study has also been provided as part of the assessment which shows that there are no road safety concerns with regard to accident history in the immediate vicinity of this proposal. An updated check of Police accident statistics confirms that no collisions have been recorded on the surrounding roads within the last 5 years.

For vehicle access it is proposed to make use of the existing internal private access road directly off High Green/Staindrop Road and it has been demonstrated that the existing road has suitable geometry to serve the magnitude of development.

The Council's Highways Engineer has advised that satisfactory details of the internal road layout have been submitted including a widened 2.0m footway along the existing site access road.

In order for the proposed development to be adopted under a Section 38 agreement the private access road will also need to become adopted highway, as adopted highway (ie the new estate) cannot be accessed via a private road. As the construction makeup of the road is not known at this stage it will be necessary to demonstrate to the Highway Authority's satisfaction that the road is of sufficient robustness to have appropriate longevity to serve the development and not become a future maintenance liability. Given the age of the road it is likely to be well into its expected design life; as such it should be expected that partial or full reconstruction would be needed in order for the road to be considered adoptable. Carriageway drainage will also be required to conform to modern design standards along with a street lighting design and a 2.0m footway on at least one side (which has been shown on the amended plans). The access road will also carry all construction traffic during the build phase; this is highly likely to have a detrimental impact on its condition, therefore reconstruction may be needed afterwards.

The carriageway of High Green is adopted highway, but the adjacent footway is privately owned and as such cannot be considered a guaranteed means of pedestrian access from this part of the site. Whilst pedestrians may still use the High Green entrance (and historically Mowden Hall office workers would have done so) an alternative means of pedestrian and cycle access has been made via Mowden Hall Drive connecting the development to existing footway infrastructure. Minor improvement works are required at the turning head to form a complete footway link into the new

residential development, as small section of new footway with dropped crossings and tactile paving can be done as part of a Section 278 agreement.

Discussions between the applicant and the Highways Authority are ongoing regarding the extent of Section 38 and 278 works required.

Turning facilities at the end of the internal highways are of sufficient size to accommodate refuse and servicing vehicles. Swept path analysis has also demonstrated that the internal network will operate satisfactorily for the expected vehicles entering the housing estate and that the minor junction improvements works at the site access are able to accommodate the largest expected servicing and delivery vehicles, this include an 11.2m long refuse vehicle. Car parking across the site generally accords with the Tees Valley Design Guidance for the type and size of dwellings proposed.

The Construction Management Plan confirms that construction traffic will access and egress the site by the High Green/Staindrop Road access and not from Mowden Hall Drive. This is considered to be acceptable in highway safety terms and compliance would be secured by a planning condition.

A sustainable transport contribution of £25,500 has been agreed, to be secured by Section 106 Agreement, for improvements to pedestrian facilities on Staindrop Road.

The proposed development is in a sustainable location, would not give rise to any unacceptable impact on the local highway network and would accord with Policy CS2 of the Core Strategy.

Land contamination

The planning application has been supported by a number of Ground Investigation reports and assessments which have been considered by the Environmental Health Officer. The Environmental Health Officer has requested the imposition of a number of planning conditions to ensure a means of control over the works. Whilst the information submitted covers some of the requirements of the conditions, the conditions are still necessary as gas monitoring of the site is ongoing and there may be further remediation works required depending on the findings of these investigations.

Ecology

Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity) of the Core Strategy states that the protection, restoration, extension and management of the Borough's biodiversity and geological network will be delivered to help achieve the target level of priority habitats and species set out in the UK and Durham Biodiversity Action Plans by measures including by 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, including public and private spaces and landscaping.

The site comprises amenity grassland, plantation woodland, bare ground, areas of hard standing and trees. The site does not benefit from any wildlife designations and there are no statutory designated sites within 1km of the site boundaries.

The Ecological Assessment submitted with the application confirms that there are no desk top records of great crested newts, common toad, common frog, smooth newt, reptiles, badgers but the trees on site have value for nesting birds. Whilst there are desktop records of water vole, otter and bats in the wider area there are no records within the site boundary. A daytime assessment of the site concluded that the trees on site have a negligible potential to support roosting bats as they lacked potential roosting features.

The Ecological Assessment concludes that appropriate tree protection measures will be required throughout the site; there are no protected plant species within the site boundary; there are no suitable waterbodies within 500m of the site to support breeding amphibians and the site does not provide suitable habitats for such species; the site does not provide suitable habitats for reptiles. The site does offer suitable habitat for badger setts and a possible disused badger sett has been identified on site but there was no further evidence of badgers recorded on site. There are some areas of shrub and trees that may provide nesting opportunities for birds but there are no suitable habitats for otter or water voles. The site is considered to have features of moderate value for commuting and foraging bats to the south and there is a higher value to the north. Recent surveys on the site concluded that the trees on the site are all considered to be of low value to roosting bats.

The Assessment makes recommendations, including:

- The use of protective fencing around trees to create Construction Exclusion Zones;
- All vegetation clearance and demolition of buildings avoids bird nesting season (March to August) otherwise nesting bird checks need carried out by an experienced ecologist;
- Several trees identified as having value for roosting bats are not due to be impacted by the development. Any trees to be removed, which have a low value for bats must undergo a soft fell under supervision to ensure no bats are affected;
- A pre-commencement check for badgers will be required;
- The installation do bird boxes and bat boxes in the development;
- The use of a “bug hotel” mounted on a wall or tree in the vicinity of new of existing shrub planting

A plan has been submitted to show the location of 8 bat boxes/bricks and 7 bird boxes, all integrally provided in the buildings, and the bug hotel.

Subject to a planning condition to secure the recommendations of the Ecology Assessment, the landscaping scheme and the ecological mitigation measures the Council’s Ecology Officer raises no objections to the proposed development.

Affordable Housing

Under the provisions of CS4 of the Core Strategy and the Planning Obligations Supplementary Planning Document (SPD), 20% of the overall development should include affordable units. Following discussions with the applicant, it has been

acknowledged that in this location, having affordable housing on site may not be deliverable and achievable without impacting on the viability of the scheme and the need for affordable units in this area is not particularly high. As a result, the applicant has agreed to make an offsite contribution, based on the formula with the SPD, which would equate to £369,000. This would contribute towards the provision and/or improvement of affordable housing elsewhere within the Borough. This contribution would be secured by the Section 106 Agreement.

Developer Contributions

Where a relevant determination is made which results in planning permission being granted for development, a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

The Heads of Terms that have been agreed with the applicant are:

- Offsite affordable housing (£369,000)
- Sustainable Transport (£25,500). This contribution would be to improve pedestrian facilities on Staindrop Road, in the vicinity of the site
- Sport & Recreation including 10 year maintenance (£8,988). This contribution would be towards improving and maintaining the new sport pitches on Staindrop Road
- An open space management and maintenance plan

Overall, it is considered that these proposals meet the tests set out above, are necessary, directly related to the development, and fairly and reasonably related in scale and kind to the development.

Delivery

To ensure the Council maintains a five-year supply of housing land and to progress to the delivery of dwellings within a short time frame, a condition is recommended which sets a short time scale for the implementation of the application. A period of 18 months is considered appropriate.

Other Matters

In response to the comments from the Management Company for the flatted development to the north which queried the extent of the red line boundary of the planning application site and land and services ownership, the appropriate plans have been amended so that the red line boundary does not extend onto the public highway.

Comments have been submitted on behalf of Marchbank School seeking clarification as to how the proposed development will impact upon their utility services, drainage etc. These comments have been responded to directly by the applicant and have been satisfactorily resolved.

Should permission be granted, the applicant would seek to commence with S278 and S38 highway works within and outside the site (High Green) as early as possible and prior to the need to submit information to discharge any planning conditions. As a result, a number of the planning conditions that would normally require the submission of contaminated land drainage details prior to the commencement of the development have been reworded, with the agreement of the appropriate Officers and statutory undertakers.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

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

CONCLUSION

The application site lies within the development limits for the urban area and in a sustainable location. The layout of the scheme has been amended to ensure that the amenities of existing dwellings are not adversely affected and the proposal raises no highway safety concerns. Ecological enhancements have been secured and the landscaping of the site, which includes tree planting is acceptable and suitable for this location.

The layout and design of the dwellings within the proposed development are acceptable and would accord with the Council's general design guidance.

The comments from the Senior Arboricultural Officer has been considered. Whilst trees, including protected trees, will be felled to facilitate the development, such works have been kept to a minimum and whilst the need to remove any tree is unfortunate it is considered that there are exceptional mitigating circumstances to justify the works and this site would be difficult to develop without impacting on the existing trees. A landscaping scheme for the site does include replacement planting of appropriate tree species which, over time, will mitigate the losses.

The comments from the Historic Assets Officer on the impact of the development upon the setting of the listed Mowden Hall and former garden wall, which is to be integrated in the site, has been considered along with other good design practices and viability concerns. It is considered that whilst there will be some impact it is less than substantial harm and there are public benefits to this development that would outweigh the harm.

When all material planning considerations have been taken into account the new dwellings and the layout of the scheme is acceptable and a recommendation to approve can be made in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, local development plan policies and the NPPF 2018.

RECOMMENDATION

THE DIRECTOR OF ECONOMIC GROWTH BE AUTHORISED TO NEGOTIATE AN AGREEMENT UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING

ACT 1990 WITHIN SIX MONTHS TO SECURE PLANNING OBLIGATIONS THAT ARE APPROPRIATE FOR THE DEVELOPMENT COVERING:

- Offsite affordable housing (£369,000)
- Sustainable transport contribution to improve pedestrian facilities on Staindrop Road, in the vicinity of the site (£25,500)
- Sport & Recreation including 10 year maintenance contribution for improving and maintaining the new sport pitches on Staindrop Road (£8,988)
- An open space management and maintenance plan

AND THE FOLLOWING PLANNING CONDITIONS:

General

1. The development hereby permitted shall be commenced not later than 18 months from the date of this permission
REASON; In the interests of achieving an improved rate of housing delivery in the Borough

Materials

2. The development hereby approved shall not be carried out otherwise than in complete accordance with the document entitled External Finishes Schedule – Document Number E037-GTPN-XX-XX-SC-W-XX-001 and Drawing Number MHD-519-ZZ-XX-D-A-9009 Rev P1 “Proposed Brick Finishes Plan” unless otherwise agreed in writing by the Local Planning Authority.
REASON: In the interests of visual appearance of the development and to safeguard the setting of the Grade II Listed Building (Mowden Hall)

Enclosures

3. No dwellings hereby approved shall be erected above damp proof course until precise details of the new enclosures at Mowden Hall Drive and High Green entrances shall be submitted to and approved, in writing, by the local planning authority. The details shall include the design, location and choice of materials for the new enclosures and the development shall not be carried out otherwise than in complete accordance with the approved details.

REASON: In the interests of the visual appearance of the development and the surrounding area

Flood Risk and Drainage

4. The development hereby approved shall not commence on site other than those works shown Drawing Number P17-542-3E-00-XX-DR-C-0003- Rev P1 Section 38 & 278 “Enabling Works Extents” until a scheme for the implementation, maintenance and management of a Sustainable Surface Water Drainage Scheme has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details, the scheme shall include but not be restricted to providing the following details;

- a) Detailed design of the surface water management system;
- b) A build program and timetable for the provision of the critical surface water drainage infrastructure;
- c) A management plan detailing how surface water runoff from the site will be managed during the construction phase;
- d) Details of adoption responsibilities.

REASON -To ensure the site is developed in a manner that will not increase the risk of surface water flooding to site or surrounding area, in accordance with the guidance within Core Strategy Development Plan Policy CS16 and the National Planning Policy Framework

5. The development permitted by this planning permission shall only be carried out in accordance with the document entitled “Mowden Hall, Darlington. Flood Risk and Drainage Impact Assessment for Galliford Try Partnership North” produced by F Benrley-Gold and dated December 2018 and the following mitigation measures detailed within the FRA
 - a) Attenuate runoff to the greenfield runoff rate of 5l/s
 - b) Discharge location to be NWL surface water sewer

The mitigation measures shall be fully implemented prior to the occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any period as may subsequently be agreed, in writing, by the local planning authority.

REASON -To prevent flooding by ensuring the satisfactory storage of / disposal of surface water from the site and to reduce the risk of flooding to the proposed development and future occupants.

6. The buildings hereby approved shall not be brought into use until:-
 - 1) Requisite elements of the approved surface water management scheme for the development, or any phase of the development are in place and fully operational to serve said buildings;
 - 2) A Management and maintenance plan of the approved Surface Water Drainage scheme has been submitted and approved in writing by the Local Planning Authority, this should include the funding arrangements and cover the lifetime of the development.

REASON: To reduce flood risk and ensure satisfactory long term maintenance are in place for the lifetime of the development.

Trees

7. The development hereby approved shall not be carried out otherwise than in complete accordance with the document entitled “Arboricultural Method Statement (Version 3)” dated January 2019 and produced by The Environment Partnership unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interests of the visual appearance of the development and surrounding area

8. The development hereby approved shall not be carried out otherwise than in complete accordance with the document entitled “Arboricultural Impact Assessment (Version 3)” dated January 2019 and produced by The Environment Partnership unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interests of the visual appearance of the development and surrounding area

Amenity

9. The development hereby approved shall not be carried out otherwise than in complete accordance with the document entitled “Mowden Hall, Darlington, Site Management Methodology” dated December 2018 and produced by Galliford Try Partnerships and Drawing Number SITE SETUP—01 Site Set Up and Traffic Management Plan unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interests of the residential amenity and highway safety.

10. Notwithstanding the information in the Site Management Methodology document by Galliford Try dated December 2018, construction work, including the use of plant and machinery (including generators) as well as deliveries to and the removal of material from the site, shall not take place outside the hours of 08.00 - 18.00 Monday - Friday, 08.00 -14.00 Saturday with no working on a Sunday and Bank/Public Holidays without the prior written approval from the Local Planning Authority.

REASON: In the interests of residential amenity

Highways

11. No dwellings hereby approved shall be erected above damp proof course level until precise details of the works within the public highway on High Green and Mowden Hall Drive have been submitted to and approved in writing by the Local Planning Authority. The details shall include dropped kerbs, footways, tactile paving, and additional signage and road markings. The development shall not be

carried out otherwise than in accordance with the approved details unless agreed in writing by the Local Planning Authority

REASON: In the interests of highway safety

Landscape and Ecology

12. The submitted landscaping scheme, as shown on Drawing Number N771-ONE-ZZ-XX-DR-L-0201 Rev PO7 shall be fully implemented concurrently with the carrying out of the development, or within such extended period which may be agreed in writing by, the Local Planning Authority and thereafter any trees or shrubs removed, dying, severely damaged or becoming seriously diseased shall be replaced, and the landscaping scheme maintained for a period of five years to the satisfaction of the Local Planning Authority.

REASON - In the interests of the visual amenities of the area.

13. The development hereby approved shall not be carried out otherwise than in complete accordance with the details contained within the document "Mowden. Landscape Management Plan" produced by One Environments Limited dated October 2018 unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interests of the visual appearance and enhancing the ecological nature of the site and the surrounding area

14. The development shall not be carried out otherwise than in complete accordance with the recommendations contained within the document entitled "Mowden Hall. Darlington. Ecological Assessment" produced by the Environment Partnership dated July 2018 unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interest of enhancing the ecological nature of the development

15. The development hereby approved shall not be carried out otherwise than in complete accordance with the ecological mitigation measures (location of bird and bat boxes) shown on Drawing Number MHD-519-ZZ-XX-D-A-9001 Rev P18 "Site Plan as Proposed" unless otherwise agreed in writing by the Local Planning Authority. Thereafter the bird and bat boxes as approved shall be maintained on site for the lifetime of the development.

REASON: In the interest of enhancing the ecological nature of the development

Heritage Asset Matters

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-

enacting that Order), no development within Schedule 2, Part 1, Classes A, B, D, E, G, H of that Order shall be carried out without the prior consent of the Local Planning Authority, to whom a planning application must be made.

REASON - In order to safeguard the significance of Mowden Hall which is a Grade II listed building

Contaminated Land

17. The development hereby approved shall not commence on site other than those works shown Drawing Number P17-542-3E-00-XX-DR-C-0003- Rev P1 Section 38 & 278 "Enabling Works Extents" until a Phase 2 Site Investigation works has been conducted, supervised and documented by a "suitably competent person(s)". A Phase 2 Site Investigation and Risk Assessment Report prepared by a "suitably competent person(s)", in accordance with published technical guidance (e.g. BS10175 and CLR11) and shall be submitted to and agreed in writing with the Local Planning Authority unless the Local Planning Authority dispenses with the requirement specifically and in writing.

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. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

18. The development hereby approved shall not commence on site other than those works shown Drawing Number P17-542-3E-00-XX-DR-C-0003- Rev P1 Section 38 & 278 "Enabling Works Extents" until a Phase 3 Remediation and Verification Strategy has been prepared by a "suitably competent person(s)" to address all human health and environmental risks associated with contamination identified in the Phase 2 Site Investigation and Risk Assessment. The Remediation and Verification Strategy which shall include an options appraisal and ensure that the site is suitable for its new use and no unacceptable risks remain, shall be submitted to and agreed in writing with the Local Planning Authority, unless the Local Planning Authority dispenses with the requirement specifically and in writing.

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. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

19. Any contamination not considered in the Phase 3 Remediation and Verification Strategy, but identified during subsequent construction/remediation works shall be reported in writing within a reasonable timescale to the Local Planning

Authority. The contamination shall be subject to further risk assessment and remediation proposals agreed in writing 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. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

20. The Phase 3 Remediation and Verification works shall be conducted, supervised and documented by a "suitably competent person(s)" and in accordance with the agreed Phase 3 Remediation and Verification Strategy. No alterations to the agreed Remediation and Verification Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority. A Phase 4 Verification and Completion Report shall be compiled and reported by a "suitably competent person(s)", documenting the purpose, objectives, investigation and risk assessment findings, remediation methodologies, validation results and post remediation monitoring carried out to demonstrate the completeness and effectiveness of all agreed remediation works conducted. The Phase 4 Verification and Completion Report shall be submitted and agreed in writing with the Local Planning Authority within 2-months of completion of the development or at a time agreed unless the Local Planning Authority dispenses with the requirement specifically and in writing.

The development site or agreed phase of development site, shall not be occupied until all of the approved investigation, risk assessment, remediation and verification requirements relevant to the site (or part thereof) have been completed, reported and approved in writing by the Local Planning Authority.

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. To ensure that risks from land contamination to the future uses of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out without unacceptable risks to receptors, in accordance with the National Planning Policy Framework.

21. The development hereby permitted shall be carried out in accordance with the approved plans, as detailed below:

- a. Drawing Number N771-ONE-ZZ-XX-DR-L-0201 Rev PO7 Landscape Proposals
- b. Drawing Number MHD-519-HT7-XX-DR-A-2001 Rev P2 Proposed House Type Cottingham

- c. Drawing Number MHD-519-HT4-XX-DR-A-2001 Rev P6 Proposed House Type Mountford
- d. Drawing Number MHD-519-HT3-XX-DR-A 2001 Rev P7 Proposed House Type 1001
- e. Drawing Number MHD-519-HT1-XX-DR-A 2001 Rev P5 Proposed House Type 304
- f. Drawing Number MHD-519-HT5-XX-DR-A 2001 Rev P6 Proposed House Type Goodridge
- g. Drawing Number MHD-519-HT6-XX-DR-A-2001 Rev P6 Proposed House Type Mylne
- h. Drawing Number P17-542-3E-00-XX-DR-C-2000 - Rev P1 Proposed Levels Sheet 1 of 2
- i. Drawing Number P17-542-3E-00-XX-DR-C-2001- Rev P2 Proposed Levels Sheet 2 of 2
- j. Drawing Number D7167.001 Tree Constraints Plan Existing
- k. Drawing Number SITE SETUP—01 Site Set Up and Traffic Management Plan
- l. Drawing Number P17-524-3E-00-XX-DR-C-1000 Rev P2 Proposed Drainage Layout
- m. Drawing Number MHD- A519-ZZ-XX-D-A9002 Rev P5 Site Plan Proposed Tree Removal
- n. Drawing Number MHD-519-ZZ-XX-D-A 9004 Rev P5 Proposed Boundary Treatment
- o. Drawing Number MHD-519-ZZ-XX-D-A-9006 Rev P5 Site Sections as Proposed
- p. Drawing Number MHD-519-ZZ-XX-D-A-9001 Rev P18 Site Plan as Proposed
- q. Drawing Number P17-542-3E-00-XX-DR-C-0001 Rev P1 Flood Flow Routes Plan
- r. Drawing Number P17-542-3E-00-XX-DR-C-0002 Rev P1 Drainage Maintenance Plan
- s. Drawing Number MHD-519-ZZ-XX-D-A-9003 Rev P2 Site Location Plan
- t. Drawing Number MHD-519-ZZ-XX-D-A- 9009 Rev P1 Proposed Brick Finishes
- u. Drawing Number MHD-519-ZZ-XX-D-A-9010 Management Company Site Layout
- v. Drawing Number P17-542-3E-00-XX-DR-C-0003- Rev P1 Section 38 & 278 Enabling Works Extents

REASON – To ensure the development is carried out in accordance with the planning permission.

SHOULD THE 106 AGREEMENT NOT BE COMPLETED WITHIN THE PRESCRIBED PERIOD WITHOUT THE WRITTEN CONSENT OF THE COUNCIL TO EXTEND THIS TIME (THE DECISION AS TO WHETHER OR NOT TIME IS TO BE EXTENDED IS DELEGATED TO OFFICERS), THE PERMISSION SHALL BE REFUSED WITHOUT ANY FURTHER REFERENCE TO THE PLANNING COMMITTEE ON THE GROUNDS THAT THE APPLICATION HAS FAILED TO PROVIDE ADEQUATE MITIGATION MEASURES TO PROVIDE A SATISFACTORY FORM OF DEVELOPMENT IN ACCORDANCE WITH THE REQUIREMENTS OF CORE STRATEGY POLICY CS4 (DEVELOPER CONTRIBUTIONS). THE REASON TO REFUSE THE PLANNING APPLICATION WOULD BE AS FOLLOWS:

The proposed development would be contrary to policy CS4 (Developer Contributions) of the Darlington Core Strategy Development Plan Document 2011 as adequate provision has not been made for affordable housing, improving and enhancing walking routes in the vicinity of the application site; and sports provision and improvements in the vicinity of the site in order to mitigate the impact of the proposed development.

INFORMATIVES

Listed Building

- The applicant is advised that any alterations, repairs and maintenance works to the former garden wall, which is a curtilage listed structure, and located adjacent to the dwelling on Plot 12 may require listed building consent. Contact must be made with the local planning authority to discuss such works.

Highways

- Prior to the commencement of the development, the Contractor should contact Assistant Director: Highways, Design and Projects (contact Mr Steve Pryke 01325 406664) to discuss the requirements of a road condition survey covering the existing adopted highway on High Green to ensure no further damage is caused to the highway as a result of the construction of the development.
- The Developer is required to submit detailed drawings of the proposed internal highway and offsite highway works to be approved in writing by the Local Planning Authority and enter into a Section 278/38 agreement before commencement of the works on site. Contact must be made with the Assistant Director: Highways, Design and Projects (contact Mr Steve Pryke 01325 406663) to discuss this matter.
- The applicant is advised that contact be made with the Assistant Director: Highways, Design and Projects (contact Mrs P McGuckin 01325 406651) to discuss naming and numbering of the development.
- An appropriate street lighting scheme and design to cover the new highways and any proposed amendments to the existing lighting should be submitted and approved in writing by the Local Planning Authority. Contact must be made with

the Assistant Director: Highways, Design and Projects (contact Mr. M Clarkson 01325 406652) to discuss this matter.

- The applicant is advised that contact be made with the Assistant Director: Highways, Design and Engineering (contact Mr C Easby 01325 406707) to discuss the introduction of Traffic regulation Orders in connection to a 20mph zone and revised road markings on Staindrop Road.

Environmental Health

- Due to the size and scale of the development it maybe, that instead of a Phase 1 Preliminary Risk Assessment the completion of the Screening Assessment contained within the YALPAG "Development of Land Affected by Contamination" Technical Guidance for Developers, Landowners and Consultants may suffice to meet the requirements of the land contamination planning condition. Please contact the Council's Environmental Health Section for further advice.
- The YALPAG Technical Guidance for Developers, Landowners and Consultants on Development of Land Affected by Contamination, Verification Requirements for Gas Protection Systems and Verification Requirements for Cover Systems provides further advice and information to assist in complying with the requirements of the land contamination planning conditions. The 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 WHEN ARRIVING AT THIS DECISION:

Borough of Darlington Local Plan 1997

E2 - Development Limits
E3 – Protection of Open Land
E12 -Trees and Development
E14 - Landscaping of Development
T8 - Access to Main Roads

Darlington Core Strategy Development Plan Document 2011

Policy CS1 - Darlington's Sub Regional Role and Locational Strategy
Policy CS2 - Achieving High Quality, Sustainable Design
Policy CS4 - Developer Contributions
Policy CS10 - New Housing Development
Policy CS11 - Meeting Housing Needs
Policy CS14 - Promoting Local Character and Distinctiveness
Policy CS15 – Protecting and Enhancing Biodiversity and Geodiversity
Policy CS16 – Protecting Environmental Resources, Human Health and Safety
Policy CS19 - Improving Transport Infrastructure and Creating a Sustainable Transport Network

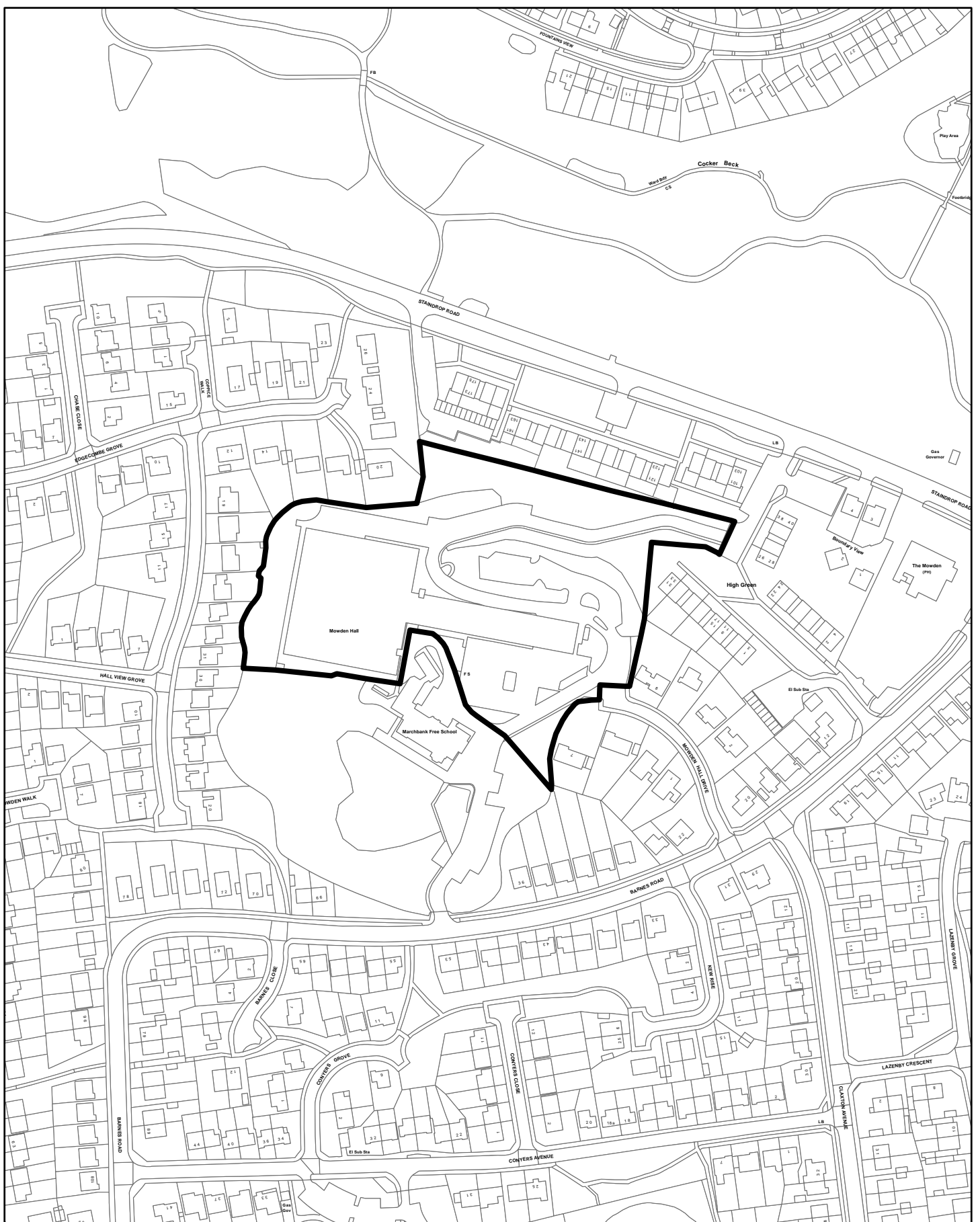
National Planning Policy Framework 2018

Other Documents

Design of New Development Supplementary Planning Document 2011

Supplementary Planning Document on Planning Obligations 2013

Interim Planning Position Statement 2016

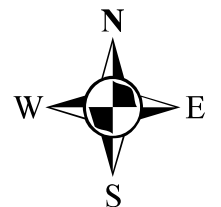


© Crown copyright. All Rights Reserved. Licence Number 100023728. 2019

PLANNING REF. No. 18/00989/FUL

DARLINGTON BOROUGH COUNCIL

Page 37



SCALE 1:2,500

This page is intentionally left blank

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 20 March 2019

APPLICATION REF. NO:	18/01151/FUL
STATUTORY DECISION DATE:	29 March 2019
WARD/PARISH:	HEIGHINGTON AND CONISCLIFFE
LOCATION:	Field At OSGR E425124 N514093, Gate Lane Low Coniscliffe
DESCRIPTION:	Application submitted under Section 73 of the Town and Country Planning Act 1990 (as amended) for variation of condition 24 (Restriction of Permitted Development Rights); condition 35 (accordance with plans) and removal of condition 11 (visibility splays) of planning permission reference number 16/01231/FUL dated 22 February 2018 (residential development comprising of 37 No. detached dwellings (including seven affordable units) and associated access road, car parking and landscaping) to permit the substitution of house types and revisions to the layout, open space, vehicular access arrangements and landscaping scheme (amended plan received 14 February 2019)
APPLICANT:	Robertson Homes

APPLICATION AND SITE DESCRIPTION

The application site comprises two fields to the north and east of Low Coniscliffe. The two fields are separated by an existing field boundary but the overall site measures approximately 3.3 hectares and it is currently used for the grazing of horses. The site is bounded by the A67 to the north; a tributary of the Baydale Beck to the east, the River Tees to the south and the village of Low Coniscliffe to the west. The site is bounded by mature trees and hedges to the north and west and woodland areas to the east and south. The site is accessible off Gate Lane by a field gate and also from the A67 via the entrance to a Public Right of Way (Footpath No 6 - the Teesdale Way) that runs in an east west direction through the site. Five trees within and on the edge of the site are covered by Tree Preservation Order (No. 3) 2017.

Low Coniscliffe lies approximately 3 miles to the west of Darlington town centre. A modern housing development known as Merrybent Drive lies to the north west on the opposite side of the A67 beyond which lies Merrybent village. The Baydale Beck Public House and Broken Scar Water Treatment Works lie to the east.

Planning permission (ref no: 16/01231/FUL) was granted by Members of the Planning Applications Committee subject to a Section 106 Agreement and issued in February 2018, to redevelop the site for residential purposes comprising 37 detached dwellings. This planning permission remains “live” and could be implemented subject to the discharge of the planning conditions.

This planning application has been submitted under Section 73 of the Town and Country Planning Act 1990 (as amended) to vary condition 35 attached to planning permission reference number 16/01231/FUL to seek permission for a number of revisions to the approved scheme. The revised proposal involves:

- Changes to the design of the house types and parking arrangements;
- The removal of detached garages and the use of integral garages;
- Revisions to plot positions and the orientation of dwellings within;
- A new area open space in the north west corner of the site;
- Removal of separate vehicular and pedestrian accesses off Gate Lane to the affordable units;
- Creation of an internal footpath link through open space on the north west corner of the site;
- The extent of potential landscaping in the site and on the route of the Public Footpath has been reduced
- The number of bedrooms within the dwellings has been changed from 2, 3, 4 and 5 bed properties to a mix of 2, 4 and 5 and one 6 bed dwelling.

The elements which remain unchanged are:

- The overall number of dwellings;
- The number of affordable dwellings (seven) within the scheme;
- Main vehicular access point into the site;
- The alignment of the internal spine road;
- The alignment of Public Footpath No 6 through the site;
- The dwellings are two storey and the affordable units are bungalows;
- The retention of the hedgerow on the A67 boundary (north);
- The acoustic fencing on the A67 boundary (north);
- The number of existing trees to be retained;
- An increase in the amount of hedgerow on Gate Lane to be retained;
- The row (north - south) of trees and hedging in the centre of the site;
- The ecological mitigation measures;
- The use of and location of a SUDs basin.

As a result of the revisions, the planning application is also seeking permission to vary the wording of condition 24 and to remove condition 11 attached to the original approval.

Condition 24 quotes the Plot Numbers upon which the dwellings would have their “permitted development” rights removed and condition 11 relates to the need to submit details of visibility splays for private drives off Gate Lane.

Condition 24 would need to be revised to reflect new Plot numbers within the revised layout and condition 11 would no longer be required as the revised layout does not involve the private drives off Gate Lane.

This planning application has been submitted by Robertson Homes rather than H and D Ward who were the previous applicants.

The original proposal was granted subject to a Section 106 Agreement to secure financial contributions towards improving Rights of Way and cycle paths, grass playing pitches and open space in the locality of the application site. If planning permission is granted for the revised scheme, there will be a need to vary the Agreement so that it relates to the new submission. There would be no changes to the agreed Heads of Terms as a result of the proposed changes.

As before, the proposed development includes seven affordable units in the form of two bed bungalows which meets the requirement for 20% of the scheme to be affordable housing on site as set out in local development plan policy (CS4 of the Core Strategy) and the Supplementary Planning Document on Planning Obligations

Statement of Community Involvement

The applicant issued approximately 200 public consultation leaflets and a community consultation event took place in the Baydale Beck public house in December 2018. A Statement of Community Involvement document has been submitted in support of the planning application in accordance with the Council's guidance on such matters. In the document, the applicant has commented on the matters that were raised by residents and they have stated, amongst other issues:

- All proposed dwellings will have a new boundary fence delineating their ownership and they will respect existing boundary features.
- The field gate to the North of 2 Low Coniscliffe will be closed and a new hedgerow planted to complement the existing hedge.
- They will request that double yellow lines are included within the offsite works to be agreed with the local authority. This does not form part of the planning application and must be procured through agreement under the Highways Act.
- The title boundary has been checked and Robertson Homes are comfortable that the proposals can be delivered.
- The facing materials to the entrance wall detail and the bungalows fronting Gate Lane, as well as some of the proposed dwellings within the site, have been amended to reconstituted stone to tie into the village vernacular.

Application documents including Planning Statement, Design and Access statement, plans, consultation responses, representations received and other background papers are available on the DBC website.

Environmental Impact Assessment Requirements

The Local Planning Authority has considered the proposal against the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The development would not meet the thresholds within the Regulations that require the Local Planning Authority to offer a screening opinion for the proposal.

PLANNING HISTORY

05/01230/FUL In February 2006 a retrospective application for the erection of an animal shelter was REFUSED

06/00593/SU In September 2006 NO OBJECTIONS were raised to an upgrading of the Darlington North to Richmond overhead electricity power line that crosses over the east section of the application site

16/01231/FUL In February 2018 planning permission was GRANTED for the residential development comprising of 37 No. detached dwellings (including seven affordable units) and associated access road, car parking and landscaping

RESULTS OF CONSULTATION AND PUBLICITY

A total of 119 letters of objection have been received and the comments can be summarised as follows:

- *The reduction in landscaping will accentuate damage to the highly valued Teesdale Way and surrounding landscape*
- *The repositioning of affordable housing up to 6m closer to Gate Lane will accentuate the damage to the highly valued visual entrance to Low Coniscliffe*
- *The development encroaches upon land in private ownership*
- *The reduction and removal of hedgerow and trees on the east side of Gate Lane damages the nature, character and its twinning with the west side*
- *The proposed design introduces terraced houses but the decision notice to the original application granted permission for 37 detached dwellings*
- *The change in property style to a modern style of modern urban housing is not in keeping with rural development and will accentuate the damage to the historic character of Low Coniscliffe*
- *There is an absence of information on the affordable housing on Gate Lane*
- *The residents of 2, 4, 6, 8 Low Coniscliffe are adversely affected by both an increase in adjacent properties and their closer proximity*
- *The proposed foul drainage route is outside the development boundary and will damage both the Teesdale Way and necessitate closure*
- *The access driveways off Gate Lane to the affordable housing have been removed which will increase safety risks due to parking of delivery vehicles, visitors along this narrow entrance into the village*
- *It is evident that certain variations submitted within the planning application do not comply with the legal concept of materiality and “de minimis”*
- *Planning conditions are to be amended*
- *There are no dimensions for the heights of the dwellings*
- *There appears to be doubts over the red line boundary of the two applications;*

- *The developer intends to remove the mature hedgerow and replace, in part with much reduced hedging of unknown species;*
- *There is a remnant of fencing that allowed a gap between Nos 2 to 8 Gate Lane and the east field. Development must not encroach on this land and cannot form part of the Title Deed of the proposed properties*
- *The south east corner of the site has been amended to show five properties*
- *The extent of the landscaping has been greatly reduced*
- *Detached garages have been replaced with integral garages*
- *Any closure of the Teesdale Way must be the subject of the appropriate legal procedures*
- *The dwellings on plots 28 and 29 are very close to the boundary with No 2 Gate Lane and these plots now occupy a space previously reserved for a single detached dwelling. The dwellings are crammed in behind mature trees which form part of my garden boundary. Prospective owners of the plots may have limited natural light due to these mature trees shading the properties. These two plots should not be built so close to my boundary*
- *There are too many affordable homes and the unit on Plot 33 is too close to No 2 Gate Lane*
- *The occupiers of the new properties have no rights over existing boundaries*
- *The access is through third party land and should not be approved*
- *The developers are intending to encroach upon private land still vested within the original land owners family*
- *A recent appeal for residential development in respect of the west side of Gate Lane stated that that proposal would be contrary to development policies and of the effect of the development on the character and appearance of the village and area*
- *Saved policy E2 of the Local Plan 1997 should carry substantial weight in this application and therefore should be re-submitted as a full new application*
- *In the planning appeal, the Inspector acknowledges that the approved development on this application site will change the character to the approach to Low Coniscliffe as well as the countryside around the village. The Inspector believes the development would be apparent, with subsequent visual harm to the green countryside character of the access route, the village and A67*
- *The design aesthetic of the site has been changed entirely*
- *A five bed + dwelling has been added*
- *The total number of bedrooms have been altered throughout the site*
- *The change in property style to a modern style housing is not in keeping with the rural historic character*
- *The proposal will create two villages detracting from the existing rural built environment and historical character of the village. The development will be an overbearing modern style urban estate upon a rural village*
- *Residents are disadvantaged by the changes despite the proposed retention of 30m of existing hedging and trees that would be lost by the current planning permission mainly due to the style of urban development further exacerbated by the closer proximity of dwellings and terraced dwellings at the entrance of the site*
- *We appreciate the introduction of open space and relocation trees in the north west corner provides a distinctive landscape feature but it is not enough*
- *There is insufficient landscaping for the site and the Teesdale Way*

- *It is very disappointing that no consideration has been given to retaining some part of the Bronze Age archaeological site despite its significance and value in the local community*

A letter objecting to the planning application has been submitted by Maria Ferguson Planning Consultancy on behalf of the Low Coniscliffe and Merrybent Parish Council and the Low Coniscliffe Action Committee. The comments can be summarised as follows:

- *The use of a Section 73 application to secure the proposed development is wholly unacceptable. The development in terms of its scale, its nature is sufficiently different, even to that described on the decision notice to warrant a fresh full planning application;*
- *There is a difference between the red line boundary identifying the original planning application development site and the new proposed site plan, where access has been highlighted from Gate Lane of some 5 metres;*
- *There is a secondary strip of land down Gate Lane located in the east field which abuts the existing hedgerow. This strip has been retained by the Snaith family for the purpose of a public footpath and it is still held as freehold by the Snaiths in succession and pushes the Gate Lane hedgerow strip of land further into the east field and up to the edge of the fence line.*
- *The amended proposal will affect the rural character of the east field boundary adjacent to the road due to the need to provide access and viability. It is also the intention of the developer to reduce or remove the mature hedgerow and create a much smaller hedge;*
- *The affordable units will be up to 6m closer to Gate Lane further encroaching onto third party land and necessitating the need to remove trees and hedgerow*
- *Foul drainage will be under the Teesdale Way which will need to be closed during the construction work. Any closures must go through the proper legal procedure;*
- *All landscaping around the SUDs basin has been removed and the amended plans only show 24 new trees being planted. There are less trees being planted alongside the Teesdale Way*
- *The amendments will represent a greater intrusion in its setting and will harm the countryside*
- *In 1993 there was a planning submission refused for the west side of Gate Lane due to the amount of hedging that would be removed.*
- *No 2 Gate Lane will be adversely affected by the amendments. The new scheme increases the number of dwellings in this location from 5 to 6 and also reduces the distances which exacerbates the harm to amenity in terms of privacy, noise and outlook.*
- *A Section 278 Agreement for highway works cannot be legally fulfilled without the agreement or dedication of the identified freeholder*

The **Campaign to Protect Rural England** has objected to the planning application and the comments can be summarised as follows:

- *The CPRE fully supports the objections of local residents, the Parish Council and Low Coniscliffe Action Committee*

- *The CPRE considers that the changes are no minor and fall outside the remit of Section 73 of the Town and Country Planning Act (as amended). A new planning application is required*
- *The changes will have a much greater detrimental impact on the local area than the original application*

Consultee Responses

The Council's Ecology and Landscape Officer has requested that the previous conditions are imposed on any new planning permission

The Council's Public Rights of Way Officer has raised no objections

The Council's Sustainable Transport Officer has advised that his comments on the original scheme remain valid

The Council's Historic Asset Officer has no comments or objections to the planning application

The **Council's Environmental Health Officer** has raised no objections to the planning application and requested the imposition of planning conditions

The **Council's Highways Engineer** has raised no objections to the revisions to the scheme and to the removal of condition 11

The Council's Senior Arboricultural Officer has advised that the application be recommended for approval and further comments will be made on a landscaping scheme once submitted

The Lead Local Flood Authority has requested that the previous planning conditions are imposed on any grant of planning permission

The Durham Archaeology Team has advised that the revised application does not change their previous advice and the previous conditions still apply

Northumbrian Water has advised that the revised application does not change their previous advice and they have no additional comments to make

Northern Powergrid has raised no objections

The Environment Agency has raised no objections and requested the imposition of a planning condition to ensure that the development is carried out in accordance with the submitted Flood Risk Assessment

Highways England has raised no objections

Northern Gas Networks has no objections

PLANNING POLICY BACKGROUND

In this instance, the relevant local and national planning policies are:

Borough of Darlington Local Plan 1997

E12 – Trees and Development

E14 – Landscaping of Development

Darlington Core Strategy Development Plan Document 2011

CS2 - Achieving High Quality Sustainable Design

CS4 - Developer Contribution

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

National Planning Policy Framework 2019

Other Documents

Tees Valley Design Guide and Specification: Industrial and Estate Development
Supplementary Planning Document - Design for New Development
Supplementary Planning Document - Planning Obligations

PLANNING ISSUES

The main issues to be considered here are whether or not the proposed application is acceptable in the following terms:

- Material Amendment Submission
- Planning Policy
- Planning Application reference number 18/00023/OUT and Appeal
- Land Ownership Matters
- Impact on the Visual Appearance and Character of the Local Area and Design and Layout of the Development
- Highway Safety
- Residential Amenity
- Impact on Trees
- Landscaping Scheme
- Ecology
- Land Stability
- Archaeology
- Impact on the Significance of Heritage Assets
- Flood Risk and Drainage
- Public Right of Way
- Land Contamination
- Affordable Housing
- Planning Obligations
- Delivery

Material Amendment Submission

Section 73 of the Town and Country Planning Act 1990 (as amended) relates to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

Planning Practice Guidance states that an application can be made under Section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. One of the uses of a Section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied.

Planning permission cannot be granted under Section 73 to extend the time limit within which a development must be started or an application for approval of reserved matters must be made.

Where an application under Section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended.

A decision notice describing the new permission should be issued, setting out all of the conditions related to it. To assist with clarity, decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged.

There is no statutory definition of a 'minor material amendment' but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.

The objectors to the planning application, including the Low Coniscliffe and Merrybent Parish Council and the Low Coniscliffe Action Committee, have challenged that the decision that the application should be treated as a Section 73 application due to the range of changes that are being proposed and that the description of the planning permission relates to "37 detached dwellings" whilst the new submission includes semi detached and terraced dwellings (the affordable units). It is the view of the objectors that a new full planning application is the more appropriate method for determining this revised proposal.

It is the responsibility of the local planning authority to determine the definition of 'minor material'. A judgement on "materiality" in any particular case is one of fact and degree, along with taking into account the likely impact of the amendment on the local environment. Materiality is considered against the development as a whole, not just part of it. The basis for forming a judgement on materiality is always the original planning permission.

A recent High Court judgement has confirmed (*Finney v Welsh Ministers* 2018) that a variation under Section 73 can be lawful even if it contradicts the original description of the proposed development. The test is also whether any new planning conditions are ones "which the council could lawfully have imposed upon the original permission in the sense that they do not amount to a fundamental alteration of the proposal put forward in the original application"

Having considered the layout, design and scale of the existing planning permission alongside the proposed scheme, the local planning authority is of the opinion that the changes between the two proposals (listed in the Application and Site Description section of this report) would not fundamentally alter the original planning permission.

The statutory bodies and consultees have been re-consulted on the planning application and their responses have not resulted in significant amendments, if any, to the planning conditions imposed on the original permission.

Officers consider therefore that an application under Section 73 of the Act for the changes proposed to the approved scheme is appropriate in this instance.

Planning Policy

An application made under Section 73 is an application for planning permission and therefore Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise is relevant. The National Planning Policy Framework (NPPF) comprises up to date national planning policy and is a material consideration in planning decisions.

Statute requires that in considering an application under Section 73 a local planning authority “shall consider only the question of the conditions subject to which planning permission should be granted”. This does not automatically rule out consideration of all local and national policy that is not directly relevant to the conditions sought to be varied by the Section 73 application, as, in coming to a balanced judgment as to what conditions ought to be attached to any new planning permission granted under Section 73, the local planning authority may consider matters other than those ‘directly related’ matters, and as such any other relevant policy.

However, in this application, as there is no increase in the number of houses or ‘amount of housing development’, it would not be appropriate for the local planning authority to consider housing allocation policy or limits of development policy simply for the reason that any permission granted would authorise housing development.

Instead, any changes to layout, appearance, site operation, highways and amenity which are affected by local policies are required to be considered against those relevant policies. These are listed in the Planning Policy Background Section of this Report and considered in detail below.

Planning Application reference number 18/00023/OUT and Appeal

Members will recall that a planning appeal for non-determination of a planning application (ref no: 18/00023/OUT) to redevelop the field on the west side of Gate Lane has recently been dismissed by the Planning Inspector and some of the objectors have made reference to the decision and the Inspectors comments on the impact of housing development upon the entrance to the village.

Unlike the original planning application for the field on the east side (16/01231/FUL) the planning appeal was considered against local development plan policies on housing supply rather than the “tilted balance” set out in the National Planning Policy Framework as the Council can now demonstrate a five year supply of deliverable housing sites. The Local Planning Authority recommended refusal and the Planning Inspector dismissed the appeal.

The outcome of the planning appeal is a material consideration but it carries limited weight as, for the reasons set out in the previous section, the scope of matters that the Local Planning Authority can consider is limited to the changes proposed.

Land Ownership Matters

Members will recall that the Parish Council, the Action Group and local residents challenged the validity of the previous planning application (16/01231/FUL) on the

grounds that the incorrect Certificate of Ownership was completed by the applicants due to disputed ownership of the hedges and also the land within the red line boundary. The applicants had submitted Ownership Certificate B naming Mr D Ward and Mr H Ward as owners of the application site and certifying that the requisite notices had been served on them. The onus is on the applicant to accurately complete their supporting Certificate. Completing the Certificate either fraudulently or recklessly with any intent to mislead is an offence under Section 65(6) of the Town and Country Planning Act 1990. Officers were satisfied from the evidence provided by the applicants that their submission was neither fraudulently nor recklessly made.

With regard to this planning application, the red line boundary matches that of the original planning application and Robertson Homes have again signed Ownership Certificate B. The applicants have checked the title boundary and Robertson Homes are confident that the proposals can be delivered. Again officers are satisfied that the submission was neither fraudulently nor recklessly made

The Local Planning Authority is not the arbiter of boundary ownership disputes. Ownership of the hedgerow and verge was and remains a civil matter between the Parish Council, or any other party claiming ownership, and the applicant and is not a material planning consideration. Members will note that the granting of planning permission would not prejudice any legal standing of any of the parties in terms of their ownership interest and their ability to take civil action in respect thereof.

Impact on the Visual Appearance and Character of the Local Area and Design and Layout of the Development

Policy CS2 (Achieving High Quality, Sustainable Design) and CS14 (Promoting Local Character and Distinctiveness) of the Core Strategy includes provision that new development should reflect or enhance Darlington's distinctive nature; create a safe and secure environment; create safe, attractive, functional and integrated outdoor spaces that complement the built form; and relate well to the Borough's green infrastructure network and also seeks to protect, and where appropriate enhance, the distinctive character of the Borough's built, historic, natural and environmental townscapes, landscapes and strong sense of place.

Policy CS14 also seeks to preserve and protect the character and views along the approaches to the urban area, such as along Coniscliffe Road, the openness between settlements, the River Tees Strategic river corridor and the landscape character of the Tees Lowlands.

Policy CS17 of the Core Strategy states the green infrastructure network will be protected and, where appropriate, enhanced and extended to provide a quality, accessible and safe network of well connected, multifunctional green spaces to meet the formal and informal recreation needs of the community, help reduce health inequalities and enhance the visual amenity, biodiversity, landscape and historic character of the Borough. The network includes the River Tees and the general open countryside. The loss of any part of the green infrastructure network will only be considered in exceptional circumstances for the provision of essential infrastructure or where it has been demonstrated that the site no longer has any value to the community in terms of access and usage, is not required to perform an alternative

green infrastructure function, is not required to meet a shortfall in the provision of that open space type or another open space type, and an alternative equivalent or better space in terms of quality, quantity, accessibility, biodiversity, flood storage, attractiveness and functionality is available.

One of the core planning principles of the NPPF is that planning should take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.

The Core Strategy identifies the application site and the wider rural area, including Low Coniscliffe as being within the Tees Lowland character area (Policy CS14) which in fact covers the majority of the rural hinterland within the Borough. The Core Strategy states that the largely undulating Tees Lowland dominates the natural landscape of the Borough providing wide views to the North York Moors and the upland Dales across the urban fringe, surrounding villages and countryside. The land falls in steep sided, wooded banks to the River Tees, which is a significant green corridor at the Borough's southern boundary.

The Core Strategy continues to state that development in these areas should reflect variations on the local landscape and character by enhancing local distinctiveness guided by the principles set out in the Supplementary Planning Document on New Design (which is considered in further detail below). Areas of openness form clear boundaries between the urban area and surrounding villages and that limits to development (Policy E2 and CS1) are integral to the protection of the Borough's green infrastructure network and settlement pattern.

The Darlington Landscape Assessment (2015) has been prepared on behalf of the Council to provide part of the evidence base for forthcoming development planning documents and it provides descriptions and evaluations of the landscape throughout the Borough.

The Assessment recognises Low Coniscliffe as one of the small settlements within the character area which has its own distinctive character. In terms of semi-natural habitats, the River Tees and its wooded banks provides a rich series of habitats, with many sections protected as local wildlife sites. The area is an important green corridor for wildlife species. It is noted in the Assessment that the Teesdale Way follows the north side of the river, linking villages and making use of several footbridges.

Whilst several roads run parallel to the River Tees, along much of the river there is very little development, and there are many intimate and secluded sections of the river banks which have a highly tranquil character. The Tees Valley is generally sensitive to built development along its length, and the Teesdale Way traverses most of this character area, emphasising its importance as a corridor for wildlife and people. Historic character is reflected in bridges and settlements the length of the river, and more recent infrastructure only has a localised influence. The Assessment identifies key sensitivities within this landscape to include:

- Tranquil character along much of the riverside;
- Traditional settlement pattern of nuclear villages related to the river;
- Extensive riparian woodland forms a significant habitat resource;
- Riparian meadow habitats contribute to important wildlife corridor;
- Important historical sites and monuments along the river; and
- Strategic recreational corridor, with the Teesdale Way running the length of the area.

The Assessment states that each of the settlements along the river valley has its own character and sensitivities. The Assessment continues to advise that the riverside villages of Piercebridge, High Coniscliffe, Low Coniscliffe, Neasham and Middleton One Row have little physical room for expansion.

The application site, which is in agricultural use, is in a prominent location on the corner of the A67 and the entrance into Low Coniscliffe (Gate Lane). It is currently bounded by mature hedges and some trees with ranch style timber fencing within the vegetation. A central field boundary comprising hedges and trees splits the two fields and there is an existing timber shed in the western field. The fields can be accessed via a timber stile on the A67 (part of the Teesdale Way); a field gate also off the A67 and a field gate off Gate Lane. The site is in agricultural use and it does provide an open area that separates Low Coniscliffe from the western edge of Darlington.

It is clear that the redevelopment of the land for residential purposes will change the character and appearance of the area. There is an existing planning permission on the site for housing development and the main consideration here is whether or not the changes to the approved scheme are acceptable and will they harm the character and appearance of the area.

The site is part of the wider green infrastructure of the Borough due to it being within the open countryside, consideration has to be given to the fact that the majority of the hedges and trees would be retained (and enhanced in certain areas), the Right of Way would be enhanced and landscaped and there are areas of open space on the north western and eastern edges which would be landscaped and as a result the development will still retain an element of green infrastructure function. The public accessibility and community value of the site via the Public Right of Way would be retained and enhanced. So whilst this proposal would result in the loss of part of the wider green infrastructure network in the Borough, the extent of the developed area within the site has not significantly altered from the existing planning permission.

The hedge line along Coniscliffe Road will be retained and some thinning works undertaken to ensure this is allowed to thrive and there would be some additional planting behind the existing hedge to reinforce the screening of the development. The need for an acoustic fence along this boundary remains unchanged from the existing planning permission but the view of the dwellings from the north would be improved by the introduction of a new section of open space which substitutes two dwellings that would have been positioned closest to the A67. The new dwellings on Plots 10 to 12 would be approximately 5 metres closer than the previous layout to the northern

boundary but they would still be between 18m and 25m from the boundary and their visual impact when viewed from the A67 is considered to be acceptable.

The retained and enhanced hedgerows along the A67 and the position of the proposed dwellings from the edge of the site would help to protect the approach into the urban area from Coniscliffe Road (Policy CS14) and whilst the site is within the Tees Lowland and the Core Strategy seeks to protect and preserve its landscape character, the scheme of this scale when considered in wider context of the Tees Lowland characterisation, would not adversely harm such a setting.

One of the main considerations of the original planning application related to the loss of sections of the hedgerow that forms the western boundary of the site and the impact that the development would have on the entrance to the village. A section of hedge measuring approximately 45 metres would need to be removed to facilitate the access road and the visibility splay as per the original planning permission but this application does not involve the creation of individual vehicular and pedestrian accesses which reduces the extent of hedge removal. Redundant gaps in the hedge could be “filled” and a new hedge line to the rear of the visibility splay to supplement the existing hedge would be planted whilst maintaining the required visibility splay.

The introduction of the area of open space on the north west corner would maintain the “green” appearance and character of the entrance to the village and the relocation of a footway running through this open space rather than through the external highway verge is to protect and retain the hedging and trees on this boundary.

The location of the affordable bungalows at the entrance to the site would help to reduce the visual impact of the development when viewed from Gate Lane and the visual extent and bulk of built form on the frontage has been reduced by the introduction of the aforementioned open space. Whilst these bungalows are approximately 3 metres closer to the west boundary in order to have a vehicular access at their rear, their visual impact on Gate Lane will be negligible and is acceptable, especially as the buildings are single storey and the retained elements of hedging (and any new planting) will provide some visual screening.

The route of the Public Right of Way (Teesdale Way) would be retained and enhanced by a new surface. A landscaped, tree lined verge along one side of the route would be created which is a revision from the existing planning permission which had tree planting on both sides of the route however the practicality of tree planting on both sides is not possible due to the need to run a foul drain along the route. The riverbank would remain unchanged and unaffected by the development.

The landscaped SuDs basin and open space area remain on the eastern edge of the site which along with the existing riverbank and the Beck itself would maintain an open landscaped “break” between Low Coniscliffe and the western edge of Darlington preserving to some extent the detachment and openness between the village and the urban area and the continuing rural nature of the local area (Policy CS14).

There is a mix of housing types, styles, ages and materials within the village which adds to its character and appearance but also gives it a lack of uniformity. The housing types

range from detached and semi-detached dwellings, terraced dwellings, dormer bungalows and bungalows built from a range of materials. The styles of the properties range from the historic traditional buildings to more modern infill developments. The dwellings front onto the circular public highway that forms the pattern of the village with those on Gate Lane positioned behind boundary walls and the properties on Back Lane being a mix of open frontages or low walls, fences and hedges etc. There is a small green where Gate Lane and Back Lane meet and Merrifield Hall and its former Grooms accommodation lie at the entrance to the village.

The design of the proposed dwellings takes a contemporary approach. In terms of the material palette from the existing housing stock this is a mix of render, stonework and brickwork with a range of red, grey and brown clay and concrete roof tiles. A formal entrance feature specified as 1.8m high stone walls with stone coping and piers with stone caps would be located at the site entrance. This is supplemented with low level planting to ensure visibility splays are maintained but creating a high quality entrance. This could also be constructed from stone to reflect the existing walls on the opposite side of Gate Lane. All other rear/side boundaries are specified as 1.8m high timber fencing with associated gates. Plot frontages on the development are a mix of hedges, shrub planting and open frontages provide some variety to the landscape form. Gates are provided to all gabled access points to ensure all dwellings are secure.

Under the provisions of the Council's Design SPD, Low Coniscliffe is located within Character Zone 4 (Outer Suburbs). In general terms, the SPD considers that within this Character Zone, buildings between one and 2.5 storeys are acceptable with parking accommodated to the side or rear of the buildings or in a purpose built court within a block. Garages may be provided externally. Terraced, semi-detached and detached dwellings are seen as being a characteristic of the Zone with areas of defensible space to the frontage. Other design features that are considered appropriate in the Zone are canopies, porches, rectangular windows, bay windows, windows with headers and footers and a variety of roof designs (for example, hipped, pitched, dormers). Brick, render and slate or pantiles for the roofs are considered to be an appropriate choice of materials.

The design of the proposed dwellings would accord with the general guidance contained within the Design SPD for this location and it is considered that they are acceptably designed when adjudged against the existing varied housing stock in the village. In order to integrate the development into the village, the seven affordable units that are located on the west boundary of the site front onto Gate Lane to provide a continuation of the existing street frontage.

The revised internal layout of the scheme which does include some plot layout revisions, is considered to be acceptable with the Teesdale Way with the areas of open space benefiting from some natural surveillance. It is considered that the proposed housing development will accord with the Design SPD and the aforementioned criteria within Policy CS2.

The River Tees Strategic Corridor (Policy CS17) runs along the south boundary of the application site but the riverbank will not be affected by the proposal. Access to the corridor would be unaffected and the proposed dwellings which are on higher ground

would have a 30m woodland buffer as a separating feature in order to protect the corridor and to minimise the visual impact of the new development.

It is considered that the revised layout and designs of the proposed dwellings are acceptable and the impact of the new proposal would not be significantly altered from the existing planning permission, arguably the scheme includes some improvements.

Highway Safety

Policy CS2 (Achieving High Quality Sustainable Design) of the Core Strategy seeks to ensure that new developments provide vehicular access and parking provision that is suitable for its use and location reflecting the standards set out in the Tees Valley Design Guide and Specification: Industrial and Estate Development.

The number of dwellings has not increased and therefore, as previously reported, the proposed development would not generate significant additional trips in the AM and PM peak periods. As the proposed site access is to the North of the village any additional traffic would not have to travel through the village and would have almost direct access to a local distributor road. Police accident records show that there have been no reportable accidents within the previous 5 years data along Gate Lane or its junction onto the A67.

The main vehicular access and spine road remain unchanged from the existing planning permission but the individual pedestrian and vehicular accesses off Gate Lane to the affordable units at the front of the site have been removed from the proposal. Vehicular access and parking spaces for the affordable units would now be located to the rear of those properties accessed from private shared drives off the spine road.

The proposed plans show the location of bin stores on the private shared drives and swept path analysis have been submitted to show that vehicles such as refuse vehicles and emergency vehicles can be accommodated.

The site would be accessed by a T junction.

One of the revisions to the proposal is that a new direct and adopted footway would not continue along the length of the east verge of Gate Lane in front of the development site from the access to meet a section of existing footway on the corner with the A67.

Instead, a new footway leading from the access point along a shorter section of the verge will cut back into the application site and through the new internal area of open space in the north east corner and then back onto Gate Lane to meet the existing footway. The new footway has been designed to take this route in order to reduce the potential need to remove further hedging and trees on the Gate Lane frontage. The footway would be maintained by the private management company that would maintain the areas of open space within the development.

The alternative route is intended to protect and retain the trees and hedging in this locale that may be effected by the creation of a footway within the verge and it would be possible to cross the road to the existing footpath on the western verge of Gate Lane

and then cross back to the existing footway on the east such that there is an indirect route that could be used outside of the site boundary. On balance, it is considered, in planning terms, this situation is acceptable especially as it would reduce the amount of tree and hedge removal.

There may be a requirement for Gate Lane to be widened in some areas in order to achieve a satisfactory width of 5.5m and the shortened footway within the verge from the access point should be a minimum of 2m wide in order to link in with the internal estate road. These details would be secured by a planning condition.

The parking provision would be provided by a mix on private drives, integral garages and detached garages. Overall, the parking provision across the site for the new house types would meet current guidance.

There are no highway objections to principle of the revised development subject to a condition to secure the details of the works within the public highway.

The application seeks to remove condition 11 of the previous permission which requires details of visibility splays for the private drives onto gate Lane to be submitted for approved. As the new proposal does not provide for separate private drives off Gate Lane this condition is no longer necessary on any approval.

Residential Amenity

Policy CS16 (Protecting Environmental Resources, Human Health and Safety) of the Core Strategy seeks to ensure that new development has no detrimental impact on the general amenity and health and safety of the community. One of the core principles of the NPPF is to secure good standard of amenity for all existing and future occupants of land and buildings.

The proximity distances between existing and proposed dwellings are set out within the guidance contained within the Council's adopted Supplementary Planning Document – Design for New Development. The spatial relationships between the proposed dwellings within the development would also need to accord with the SPD.

One of the main changes to the layout is the position and number of dwellings (plots) to the side and rear of Nos 2 to 8 Low Coniscliffe, which are two storey dwellings. The existing boundary with the application site consists of a mix of fencing, hedging interspersed with trees.

The number of new dwellings (plots) around these properties has increased from 7 to 8. The separation distance between the existing and proposed dwellings is in excess of 50m and therefore the proposal will not result in any adverse overlooking conditions between habitable rooms.

The new dwellings would have a garden depth of approximately 10m, excluding the single storey garden rooms at the rear which is not an unreasonable garden depth for new properties. The positions of the dwellings would accord with the Council's SPD in terms of preventing unacceptable levels of loss of privacy.

The proposed dwellings are between approximately 1 metre and 2.5 metres closer to the existing boundary than those previously approved.. The new dwellings are all detached properties which will help to maintain views between them (unlike semi detached or terraced dwellings) and allow daylight to pass around them and it is not envisaged that the ground level of the application site will be significantly raised to facilitate the development. The developer has agreed to the imposition of an additional planning condition to secure the submission of existing and proposed ground levels. It is considered that due to the depth of the rear gardens of the existing dwellings, along with the house types and their gardens that the dwellings would not be overbearing when viewed from the existing properties.

The terrace of the three single storey affordable units (Plots 33, 34 and 35) are approximately 5 metres further away from the boundary to the North side of No 8 Low Coniscliffe. The dwelling on the end of the terrace does not include any habitable openings in its side elevation and the separation distance would accord with the Design SPD. As the terrace is single storey in height, it would not be an overbearing building when viewed from neighbouring dwellings.

The existing planning permission is supported by a Noise Assessment which concludes that the ambient noise climate across the application site is primarily associated with local and distant road traffic noise. The Assessment also concludes that with certain mitigation measures put in place such as specific glazing and trickle vent specifications and the installation of a reflective barrier along the frontage of the A67 to protect rear garden space, the noise levels for internal and external spaces set out in guidance can be met. Having reviewed the revised layout, the houses not significantly closer to the A67 than was previously proposed and the Environmental Health Officer has advised that the mitigation measures included in the Noise Impact Assessment prepared by Environmental Noise Solutions Ltd dated 8 April 2016 (reference NIA/6572/16/6505 v1) will still be sufficient to ensure relevant noise levels in accordance with the guidance will be achieved for the development.

The applicant has confirmed to the neighbouring residents previously that any existing boundaries will remain in their ownership and that they will not be altering them in any way. The proposed 1.8m timber boundary fence will be erected on the development site side of the existing boundary treatments

The planning conditions which were attached to the existing planning permission and which relate to securing the mitigation measures outlined in the Noise Assessment; the details of the acoustic fence to be erected on the A67 boundary; the details of glazing specifications; the submission of a Construction Management Plan and controlling the hours of construction/deliveries and details of any piled foundations if deemed necessary are still relevant.

Impact on Trees

Policy E12 (Trees and Development) of the Local Plan states that development proposals will be required to take full account of trees and hedgerows on and adjoining the site.

Following a previous inspection of the site, the Council's Senior Arboricultural Officer advised that four Ash trees and a Hawthorn tree were worthy of a tree preservation order. The original scheme was revised to realign the internal spine road to retain the hawthorn tree and the four ash trees. The five trees that were considered to be worthy of protection are now subject to a tree preservation order and the new scheme has been designed taking into account the protection of these trees and no further tree removals would be required beyond which was previously approved to facilitate the internal spine road (one tree to be removed)

Planning conditions would once more need to be imposed to ensure that these trees along with any other existing trees to be retained are protected during the construction phase of the development.

Landscaping Scheme

A landscaping scheme for the site would be secured via a planning condition. However the Design and Access Statement states along the trees and hedges fronting Gate Lane are proposed to be retained and enhanced by creating a small village green entrance feature on the corner of Gate Lane/A67, the hedge line along Coniscliffe Road will be retained and some thinning works undertaken to ensure this allowed to thrive and some additional planting behind the existing hedge to reinforce the screening of the development, the SUDs basin area will be designed as a wetland mix to withstand the pressures of the drainage function this offers whilst still being usable as open space during its normal day to day function supplemented by hedge and tree planting where possible and the plot landscaping will consist of smaller tree species, hedge and shrub planting to identify boundaries with lawns to the remainder. The proposal is to place this into a management company to ensure there is no pressure for removal from future residents.

Ecology

Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity) of the Core Strategy states that the protection, restoration, extension and management of the Borough's biodiversity and geological network will be delivered to help achieve the target level of priority habitats and species set out in the UK and Durham Biodiversity Action Plans by measures including by 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, including public and private spaces and landscaping.

Policy CS15 seeks to conserve, restore and enhance the ecological condition of sites that have a high biodiversity value such as the strategic wildlife corridor along the River Tees.

A Preliminary Ecological Assessment submitted with the original planning application advised that the two fields have low ecological value but there is an increased value in the boundary features and the central field boundary, which is of moderate value for foraging and commuting bats.

Overall the site has negligible value for badgers, reptiles, great crested newts and otter and low to moderate value to breeding birds with no roosting value for bats. The

Assessment outlined a number of mitigation measures including timescales for hedge removal, compensatory hedge planting and ecological enhancements such as bird boxes.

The Council's Senior Landscape & Ecology Officer accepts the findings of the Assessment and the layout of the development includes the retention of as much of the central field boundary as possible in order to provide a viable commuter route for bats.

In order to protect the route it was considered appropriate to remove the "permitted development" rights from those plots that share the boundary with this route in order to prevent future development from damaging the hedgerow. The planning condition was imposed but the wording would now need to be amended to reflect the appropriate plot numbers within the revised layout

The future maintenance would be carried out by a private management company as part of the wider maintenance regime of the housing development.

An ecological street lighting scheme would need to be included within the layout to control the location, height and level of luminance in proximity to this "green corridor".

Whilst the site is along the River Tees wildlife corridor, the site itself is considered to be of low ecological value other than the field boundaries. The layout of the development, the landscape features and the mitigation measures to compensate for any loss of ecological features outlined in the Assessment remain appropriate along with the Council's Ecology Officer previous recommendation for some further measures (bat and bird boxes) to be incorporated into the design of the dwellings and the layout.

Land Stability

The dwellings would not be located on the river bank slope and the slope does not form part of the gardens belonging to the dwellings on the south boundary. The rear gardens are fenced off along this boundary by steel boundary railings. Sectional plans through the riverbank show that the angle of repose (maximum area to support the foundation loads) from the proposed foundations do not extend to a zone within the existing embankment slope. These sectional plans have been replicated as part of the revised layout and it is not envisaged that there should be any instability of the slope/bank.

Archaeology

Paragraph 197 of the NPPF requires the effect of an application on the significance of non-designated heritage assets to be taken into account in the determination of planning applications. It goes on to state that in weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Paragraph 199 of the NPPF requires developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible.

A desk based assessment of the site was carried out along with a first phase of archaeological evaluation and an Evaluation Report on these two assessments was submitted with the original planning application and considered by the Durham County Archaeology Team. The analysis identified a feature which may be a burial mound or barrow comprising two sub- circular ditches in the west section of the application site and the Report recommended that a strategy for further investigative studies and recordings of the features through a further evaluation needed to be implemented in mitigation of the proposed development in the west part of the site. The Historic Environment Record Officer from Durham County Council agreed with the recommendations that a strip map and sample exercise should be carried out on the western field of the development area which were secured by appropriate planning conditions.

Further archaeological works have occurred on site but the previously imposed planning conditions need to be attached to any new approval.

Impact on the Significance of Heritage Assets

There are three Grade II listed buildings in the village (Nos 20, 55 and 57 Gate Lane) which are located in the central core of the village approximately 70 and 95m from the application site. The proposed development would not be visible from these heritage assets and would not harm their setting.

Low Coniscliffe and the application site are not covered by a conservation area.

Flood Risk and Drainage

Policy CS16 (Protecting Environmental Resources, Human Health and Safety) of the Core Strategy states that new development will be focussed on areas of low flood risk (Flood Zone 1) and it should comply with national planning guidance and statutory environmental quality standards relating to risk from surface water runoff, groundwater and sewer flooding.

The majority of the site is within Flood Zone 1 but the southern boundary and south-eastern corner of the site are within Flood Zone 2 and 3. The Environment Agency's Flood Maps highlight an area to the west of the site that is at risk of surface water flooding.

A Flood Risk Assessment and Drainage Strategy was submitted in support of the original planning application. The Drainage Strategy submitted with the planning application indicates that SuDS features are to be used to control surface water flows from the proposed development. The Lead Local Flood Authority, the Environment Agency and Northumbrian Water did not object to the original application and each body has requested the re-attachment of the previous planning conditions..

Public Right of Way

The route of the Public Right of Way that currently runs through the site would be retained within the revised layout of the housing development. The existing stiles would be removed to improve access for a wider range of users and the proposed "kissing" gates would installed which need to be designed to BS5709:2006.

The route of the footpath would remain unchanged and whilst it is acknowledged that there will be a material change to the experience of users of the right of way, it is considered that the impact of the development on the route would not be significantly harmful. The route would be resurfaced with gravel which is considered to be beneficial for users and also landscaped with the new dwellings maintaining an acceptable level of natural surveillance. Where the road layout intersects with the footpath, the crossing would need to be designed to the appropriate safety standards, including drop kerbs and sightlines for pedestrians and car drivers.

The proposed foul drainage would need to run under the route of the footpath. In those circumstances a Temporary Traffic Regulation Order would be required for the temporary closure of the right of way to facilitate the works. An Informative has been imposed to advise the applicant accordingly.

It is expected that the route would be maintained by a private management company rather than by the Local Authority and the details of this maintenance scheme would form part of any Section 106 Agreement. The Council's Public Rights of Way Officer has raised no objections to the proposed development and its impact on the Right of Way route.

Land Contamination

Land at the southern perimeter of the site includes a former clay pit believed to have been infilled in the 1950s and thereafter used as agricultural land and a steep wooded escarpment sloping to the River Tees to the south. Whilst the land is not designated as being contaminated land, it would require further investigation and this would once more be secured by appropriate planning conditions. The remainder of the site is considered to be unaffected by contaminants and further investigations and assessments would not be required.

Affordable Housing

Seven affordable units would be provided on site which equates to 20% of the development in accordance with the requirements of the Planning Obligations SPD. The applicant has a preferred partner subject to entering into a contract. A planning condition would be imposed to secure the affordable units, the tenure split and details of the management regime but officers have been informed that units would consist of 5 shared ownership and 2 properties for affordable rent. It is proposed to erect the 5 shared ownership properties as the first phase of development (plots 33-37) with plots 1 and 2 built at a later date. Whilst this would be confirmed through the discharge of condition process, the tenure split is considered appropriate and the fact that the majority of affordable properties would be built in the first phase of development is welcomed.

Planning Obligations

In compliance with the Council's adopted Supplementary Planning Document on Planning Obligations, the existing planning permission was granted subject to a Section 106 Agreement to secure the following planning obligations:

Sustainable Transport

A financial contribution (£36,900) towards improving and maintaining walking routes, the wider Public Right of Way network and cycle paths within the vicinity of the application site.

Green Infrastructure

A financial contribution (£39,900.70) towards improving and maintaining open space within the vicinity of the application site.

Sport Provision

A financial contribution (£10,816) to improve and maintain existing playing fields in the vicinity of the application site.

Open Space/SuDs and Right of Way Maintenance

The open space, SuDs area and the Right of Way that runs through the site would be maintained by a private management company and the details would be secured as part of the Section 106 Agreement.

There would be a need to vary the existing Section 106 Agreement, if this planning application is approved. This can be done by a new Agreement or a Deed of Variation.

Delivery

One of the aims of the Interim Planning Position Statement is to significantly boost housing delivery over the next five years or so to meet the housing need identified

The implementation time limit for the existing planning permission was reduced to two years which means planning conditions need to be discharged and work must commence by 22 February 2020 in order to keep the consent “live”. As this application has been submitted under Section 73, the implementation time limit cannot be extended.

Planning Conditions

Since the previous planning approval was determined, planning guidance has changed and Local Planning Authorities must seek the agreement of the applicant with regard to the imposition of “pre-commencement” planning conditions. Following discussions with offices the some of the previous “pre-commencement” conditions have been revised so that the requested information is submitted before any dwelling is erected above damp proof course

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

Planning permission (ref no: 16/01231/FUL) has been granted, subject to a Section 106 Agreement and planning conditions, to redevelop this site for residential purposes

comprising 37 detached dwellings. This planning permission is “live” and could be implemented.

This planning application has been submitted under Section 73 of the Town and Country Planning Act 1990. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

There is no increase in the number of houses or ‘amount of housing development’, and therefore it would not be appropriate for the local planning authority to consider housing allocation policy or limits of development policy simply for the reason that any permission granted would authorize housing development.

Having considered the layout, design and scale of the existing planning permission alongside the proposed scheme, the changes between the two proposals would not fundamentally alter the original planning permission. The responses that have been received from statutory bodies and consultees have requested the imposition of planning conditions which the council could lawfully have imposed upon the original permission in the sense that they do not amount to a fundamental alteration of the proposal put forward in the original application. Officers consider that, in this instance, an application being submitted under Section 73 of the Act is appropriate.

Having considered the changes within the revised application against the requirements of the appropriate local development plan policies the impact of the housing development upon the character and appearance of the surrounding area and Low Coniscliffe village is acceptable.

The proposal would comply with the proximity distances outlined in the Council’s adopted Supplementary Planning Document – Design for New Development and subject to the imposition of appropriate planning conditions, it will not raise any significantly harmful residential amenity issues.

The development can be implemented without adversely affecting highway safety, the ecological nature of the site and the wider area and the Public Right of Way. The development does not pose any flood risk or drainage issues subject to the imposition of appropriate planning conditions.

The existing Section 106 Agreement attached to the existing planning permission would need to be varied.

Overall, it is considered that the revised development is acceptable and is recommended for approval, subject to planning conditions.

RECOMMENDATION

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE VARIATION OF THE EXISTING SECTION 106 AGREEMENT WITHIN SIX MONTHS. TO SECURE PLANNING OBLIGATIONS THAT ARE APPROPRIATE FOR THE DEVELOPMENT COVERING:

- a) A financial contribution towards improving and maintaining walking routes, the wider Public Right of Way network and cycle paths within the vicinity of the application site.
- b) A financial contribution towards improving and maintaining open space/green infrastructure within the vicinity of the application site.
- c) A financial improvement to improve and maintain existing playing fields in the vicinity of the application site.
- d) Details of a private management company to maintain open space, the Public Right of Way and retained field boundaries.

AND THE FOLLOWING PLANNING CONDITIONS:

1. The development hereby permitted shall be commenced not later than 22 February 2020
 REASON; Due to the planning application being submitted under Section 73 of the Town and Country Planning Act 1990 (as amended) and in the interests of achieving an improved rate of housing delivery in the Borough

2. No dwellings hereby approved shall be erected above damp proof course level until samples and details of the external materials to be used in the construction of those dwellings have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.
 REASON: In the interests of visual amenity

3. Prior to the occupation of any unit, a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The provision will take the form of on-site provision (of not less than 20% of the housing units) in accordance with a scheme to be submitted and agreed in writing by the local planning authority. The scheme shall include:
 - a) The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - b) A plan to show the location of the affordable housing
 - c) The arrangements for the transfer of the affordable housing to an affordable housing provider (or the management of the affordable housing) (if no RSL is involved);
 - d) The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing;
 - e) The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced;
 - f) The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it.

REASON: To comply with local development plan policy

4. The development hereby approved shall not be commenced on site, until a scheme of 'Surface Water Drainage and Management' for the implementation, maintenance and management of the sustainable drainage scheme has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details, the scheme shall include but not be restricted to providing the following details;
 - a) Detailed design of the surface water management system
 - b) A build program and timetable for the provision of the critical surface water drainage infrastructure
 - c) A management plan detailing how surface water runoff from the site will be managed during construction Phase
 - d) Details of adoption responsibilities;
 - e) Management plan for the Surface Water Drainage scheme and any maintenance and funding arrangement;

The building hereby approved shall not be brought into use until the approved 'Surface Water Drainage' scheme has been implemented and the approved scheme shall be maintained in accordance with the Surface Water Management scheme for the lifetime of the development.

REASON: To ensure the site is developed in a manner that will not increase the risk of surface water flooding to site or surrounding area, in accordance with the guidance within Core Strategy Development Plan Policy CS16 and the National Planning Policy Framework.

5. The development permitted by this planning permission shall only be carried out in accordance with the Flood Risk Assessment (FRA) 2017 Reference: H76116/FRA/001 previously approved under planning permission reference number 16/01231/FUL dated 22 February 2019. Limiting the surface water runoff generated by the impermeable areas of the development up to and including the 100 year critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site. This will be achieved by limiting surface water discharge from the development to 13.6l/sec. The mitigation measures shall be fully implemented prior to the occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any period as may subsequently be agreed, in writing, by the local planning authority.

REASON: To prevent flooding by ensuring the satisfactory storage of / disposal of surface water from the site and to reduce the risk of flooding to the proposed development and future occupants.

6. No dwellings should be occupied until the surface water management system for the development or any phase of the development is in place and fully operational. A maintenance plan detailing how the surface water management system will be maintained during the construction phase must also be submitted and approved in writing by the Local Planning Authority.

REASON: To reduce flood risk during construction / development of the site

7. The development hereby approved should not be carried out otherwise than in complete accordance with the drainage scheme contained within the Drawing Number H76116-D-001 Rev C "Drainage Strategy" produced by JNP Group approved under planning permission reference number 16/01231/FUL dated 22 February 2019. The drainage scheme shall ensure that foul flows discharge into the foul sewer at manhole 0901 and ensure that surface water discharges to the existing watercourse

REASON: To prevent increased risk of flooding from any sources in accordance with the National Planning Policy Framework 2019

8. The development hereby approved shall be carried out in complete accordance with the Flood Risk Assessment dated June 2017 approved under planning permission reference number 16/01231/FUL dated 22 February 2019 and the following mitigation measures detailed within the Flood Risk Assessment and Drawing Number L015046-103 Rev C:

- a) No dwellings shall be built within Flood Zones 2 or 3.

9. The mitigation measures shall be fully implemented prior to the occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority

REASON: To reduce the risk of flooding to the proposed development and future occupants.

10. The development permitted by this planning permission shall be carried out in accordance with the Flood Risk Assessment (FRA) approved under planning permission reference number 16/01231/FUL dated 22 February 2018 and the following mitigation measures detailed within the FRA and site plan drawing L05046-103:

- 1) No dwellings shall be built within flood zones 2 or 3.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

REASON: To reduce the risk of flooding to the proposed development and future occupants.

11. No dwellings hereby approved shall be erected above damp proof course level until precise details of a bin storage facilities and location shall be submitted and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved details and shall be permanently retained thereafter.

REASON: in the interests of highway safety

12. Notwithstanding the details shown on the approved plans, precise details of the offsite highway works required to access the site and mitigate the development impact shall be submitted and approved, in writing, by the Local Planning Authority prior to the commencement of the development. The submitted details shall include widening of Gate Lane to 5.5m up to the new access junction, the provision of a new 2.0m wide footway along the frontage of the development on Gate Lane connecting into the surrounding infrastructure and the new site access junction. The development shall not be carried out otherwise than in complete accordance with the approved details.
REASON: In the interests of highway safety
13. No dwellings hereby approved shall be erected above damp proof course level until precise details of secure, covered cycle parking provision shall be submitted to and approved in writing by the Local Planning Authority and the development shall not be carried out otherwise than in complete accordance with the approved details
REASON: In order to encourage the use of sustainable transport
14. The mitigation measures outlined in the Noise Impact Assessment produced by Environmental Noise Solutions Ltd dated 8 April 2016 (reference NIA/6572/16/6505 v1) approved under planning permission reference number 16/01231/FUL dated 22 February 2018 shall be fully implemented prior to the first occupation of the dwellings and thereafter shall be retained and maintained for the life of the development.
REASON: In the interests of the amenities of the occupiers of the development
15. Notwithstanding the mitigation measures outlined within the a Noise Impact Assessment produced by Environmental Noise Solutions Ltd and dated 8 April 2016 (reference NIA/6572/16/6505 v1) approved under planning permission reference number 16/01231/FUL dated 22 February 2018, precise details of the acoustic fence to be installed shall be submitted to and approved in writing by the Local Planning Authority prior to any dwellings hereby approved being erected above damp proof course level. The details shall include the specification and construction of the fence (i.e. density, height, design) and its location. The development shall not be carried out otherwise than in complete accordance with the approved details and the fence shall be fully installed prior to the first occupation of the dwellings, and thereafter shall be retained and maintained for the life of the development
REASON: In the interests of the amenities of the occupiers of the development
16. Notwithstanding the mitigation measures outlined within the Noise Impact Assessment produced by Environmental Noise Solutions Ltd and dated 8 April 2016 (reference NIA/6572/16/6505 v1 approved under planning permission reference number 16/01231/FUL dated 22 February 2018, precise details of the glazing specifications (including details on the $R_w + C_{tr}$ value) and acoustic trickle vents (including their acoustic performance) for all windows for habitable rooms on the road frontage elevation for dwellings within 20 metres of Coniscliffe Road shall be submitted to and approved in writing by the Local Planning Authority prior to any dwellings hereby approved being erected above damp

proof course level. The development shall not be carried out otherwise than in complete accordance with the approved details and the measures shall be implemented prior to the first occupation of the dwellings, and thereafter shall be retained and maintained for the life of the development

REASON: In the interests of the amenities of the occupiers of the development

17. Prior to the commencement of the development, a Construction Management Plan shall be submitted and approved in writing by the Local Planning Authority. The plan shall include the following:

- a) Dust Assessment Report which assesses the dust emission magnitude, the sensitivity of the area, risk of impacts and details of the dust control measures to be put in place during the construction phase of the development. The Dust Assessment Report shall take account of the guidance contained within the Institute of Air Quality Management "Guidance on the assessment of dust from demolition and construction" February 2014.
- b) Methods for controlling noise and vibration during the construction phase and shall take account of the guidance contained within BS5228 "Code of Practice for noise and vibration control on construction and open sites" 2009.
- c) Construction Traffic Routes, including parking areas for staff and visitors.
- d) Details of wheel washing.
- e) Road Maintenance.
- f) Warning signage.

The development shall not be carried out otherwise in complete accordance with the approved Plan

REASON: In the interests of residential amenity and highway safety

18. Construction work, including the use of plant and machinery (including generators) as well as deliveries to and the removal of material from the site, shall not take place outside the hours of 08.00 - 18.00 Monday - Friday, 08.00 - 14.00 Saturday with no working on a Sunday and Bank/Public Holidays without the prior written approval from the Local Planning Authority

REASON: In the interest of the residential amenity of the area

19. If piled foundations are proposed, prior to the commencement of the development 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 not be carried out otherwise than in accordance with the approved details.

REASON: In the interest of the residential amenity of the area

20. Prior to the commencement of the development, a management plan for keeping Public Footpath No 6 The Parish of Low Coniscliffe available for public use during the construction phase of the development. The development shall not be carried out otherwise than in complete accordance with the approved plan.

REASON: To ensure that the Public Footpath continues to be accessible.

21. The proposed development (construction and post development) shall not be carried out otherwise than in complete accordance with the recommendations set out in the document entitled "Preliminary Ecological Appraisal and Bat Survey Report. Land south of Coniscliffe Road, Low Coniscliffe" Version R2 dated 16 August 2016 and produced by Naturally Wild and approved under planning permission reference number 16/01231/FUL dated 22 February 2018 unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interests of mitigating the impact of the development to protected and notable species

22. No dwellings hereby approved shall be erected above damp proof course level, an appropriate street lighting scheme for the development, including for the "Safe Route for School" route on the A67/Coniscliffe Road shall be submitted to and approved, in writing 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 and pedestrian safety

23. Notwithstanding condition 19 and the recommendations set out in the document entitled "Preliminary Ecological Appraisal and Bat Survey Report. Land south of Coniscliffe Road, Low Coniscliffe" Version R2 dated 16 August 2016 and produced by Naturally Wild and approved under planning permission reference number 16/01231/FUL dated 22 February 2018 the street lighting scheme for the site shall include an ecological lighting strategy to be submitted to and approved in writing by the Local Planning Authority . The strategy shall include details, location and level of luminance of the street lighting and external floodlighting on the dwellings in the vicinity of the retained central field boundary and the development shall not be carried out otherwise than in complete accordance with the approved details. No additional street lighting or external floodlighting to the dwellings shall be installed other than agreed without the prior consent of the Local Planning Authority

REASON: In the interests of protected species and their habitats

24. Notwithstanding the recommendations set out in the document entitled "Preliminary Ecological Appraisal and Bat Survey Report. Land south of Coniscliffe Road, Low Coniscliffe" Version R2 dated 16 August 2016 and produced by Naturally Wild and approved under planning permission reference number 16/01231/FUL dated 22 February 2018 a scheme for the installation of bat and bird boxes (within trees and integrated into dwellings) shall be submitted to and approved in writing by the Local Planning Authority prior to any dwellings

hereby approved being erected above damp proof course level. The scheme shall include the type of bird boxes and location throughout the development and the development shall not be carried out otherwise than in complete accordance with the approved details

REASON: In order to compensate for the loss of bird nesting opportunities due to the removal of sections of hedgerow and to enhance alternative bat foraging routes in the general ecological interests of the site.

25. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order), no enlargement, improvement or other alteration of the dwellings on Plots 8, 9, 10, 23 and 24, including any additional structures/building within the curtilage of the site, shall be carried out without the prior consent of the Local Planning Authority, to whom a planning application must be made.

REASON: In order to protect the central boundary hedge for ecological purposes

26. CL1 – Phase 1 Preliminary Risk Assessment

27. CL2 – Site Investigation Strategy

28. CL3 – Phase 2 Investigation Works

29. CL4 – Phase 3 Remediation and Verification Strategy

30. CL5 - Construction/Remediation Works

31. CL6 – Phase 4 Verification and Completion Report

32. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation that has been approved in writing by the Local Planning Authority. The scheme shall provide for:

- a) Measures to ensure the preservation in situ, or the preservation by record, of archaeological features of identified importance
- b) Methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts
- c) Post-fieldwork methodologies for assessment and analyses
- d) Report content and arrangements for dissemination and publication proposals
- e) Archive preparation and deposition with recognised depositories
- f) A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy
- g) Monitoring arrangements, including the notification in writing to the County Durham Principal Archaeologist of the commencement of works and the opportunity to monitor such works

- h) A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications

The archaeological mitigation strategy shall be carried out in accordance with the approved details and timings.

REASON: To comply with paragraphs 197 & 199 of the National Planning Policy Framework 2019 because the site is of archaeological interest.

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

REASON: To comply with paragraph 199 of the National Planning Policy Framework 2019, which requires the developer to record and advance understanding of the significance of a heritage asset to be lost, and to make this information as widely accessible to the public as possible.

34. Prior to the commencement of the development hereby approved (including demolition work), details shall be submitted of a scheme to protect the existing trees shown on the submitted plans to be retained. The submitted details shall comprise generally the specification laid down within BS 5837 and shall include fencing of at least 2.3m high, consisting of a scaffolding frame braced to resist impacts, supported by a weldmesh wired to the uprights and horizontals to dissuade encroachment. The agreed scheme of protection shall be in place before the commencement of any work, including demolition operations. The Local Planning Authority shall be given notice of the completion of the protection works prior to the commencement of any work to allow an inspection of the measurements to ensure compliance with the approved scheme of protection. Notwithstanding the above approved specification, none of the following activities shall take place within the segregated protection zones in the area of the trees:

- a) The raising or lowering of levels in relation to the existing ground levels;
- b) Cutting of roots, digging of trenches or removal of soil;
- c) Erection of temporary buildings, roads or carrying out of any engineering operations;
- d) Lighting of fires;
- e) Driving of vehicles or storage of materials and equipment.

REASON - To ensure that a maximum level of protection in order to safeguard the well being of the trees on the site and in the interests of the visual amenities of the area.

35. No dwellings hereby approved shall be erected above damp proof course level until a landscaping scheme shall be submitted to, and approved in writing by, the Local Planning Authority prior to any works commencing and, upon approval of such schemes, it shall be fully implemented concurrently with the carrying out of the development, or within such extended period as may be agreed in writing by, the Local Planning Authority, and thereafter any trees or shrubs removed, dying, severely damaged or becoming seriously diseased shall be replaced, and

the landscaping scheme maintained for a period of five years to the satisfaction of the Local Planning Authority.

REASON - To ensure a satisfactory appearance of the site and in the interests of the visual amenities of the area.

36. Prior to the commencement of the development hereby permitted, details of the finished floor levels of the dwellings and gardens hereby approved in relation to existing ground levels shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be undertaken in accordance with the details as approved.

REASON – In the interest of visual and residential amenity.

37. The development hereby permitted shall be carried out in accordance with the approved plans, as detailed below:

- a. SBA-4-16 – Planning Floor Plans SBA – 4
- b. SBA – 4 – 05 – 4 Elevations SBA - 4
- c. Gate Lane_000_XX_DR_A_003 Rev E Proposed Site Layout
- d. Gate Lane_000_XX_DR_A_004 Rev B Proposed Materials Layout
- e. Gate Lane_000_XX_DR_A_010 Rev A Proposed Boundary Treatments
- f. Gate Lane_000_XX_DR_A_035 Proposed Site Sections
- g. Gate Lane_000_XX_DR_A_060 Proposed Refuse Vehicle Tracking
- h. Gate Lane_000_XX_DR_A_061 Proposed Fire Tender Tracking
- i. Gate Lane_000_XX-DR_A_090 Rev B Proposed Management Plan
- j. DG-06 Rev A Double Garage Elevations
- k. DG-03 Rev C Double Garage Floor Plan
- l. 18-ST-11-1 Planning FF Plan Stewart
- m. 18-ST-11 Planning GF Plan Stewart
- n. 18-ST-06.02 Elevations - E02 Feature 1 Stewart
- o. 18-ST-06.03 Elevations- E03 Feature 2 Stewart
- p. 18-ST-06.13 Elevations – E03 Feature 2 Stewart
- q. 18-ST-06.12 Elevations – E02 Feature 1 Stewart
- r. 18-NA-GR-11 Planning Floor Plans Nasmyth Garden Room 18
- s. 18-NA-GR-06.02 Elevations – E02 Feature 1 Nasmyth Garden Room 18
- t. 18-NA-GR-06.03 Elevations - E03 Feature 2 Nasmyth Garden Room 18
- u. 18-MI-GR-11 Planning Floor Plans Mitchell Garden Room 18
- v. 18-MI-GR-06.02 Elevations – E02 Feature 1 Mitchell GR18
- w. 18-MI-GR-06.03 Elevations – E03 Feature 2 Mitchell GR18
- x. 18-LE-GR-11 Planning Floor Plans Leonardo & GR 18

- y. 18-LE-GR-06.02 Elevations – E02 Feature 1 Leonardo & GR 18
- z. 18-LE-GR-06.03 Elevations E03 Feature 2 Leonardo & GR 18
- aa. 18-LA-GR-11 Planning Floor Plans Lawrie Garden Room 18
- bb. 18-LA-GR-06.02 Elevations E02 Feature 1 Lawrie Garden Room 18
- cc. 18-LA-GR-06.03 Elevations E03 Feature 2 Lawrie Garden Room 18
- dd. 18-HU-GR-11 Planning Floor Plans Hutton Garden Room 18
- ee. 18-HU-GR-06.02 Elevations E02 Feature 1 Hutton Garden Room 18
- ff. 18-HU-GR-06.03 Elevations E03 Feature 2 Hutton Garden Room 18

REASON – For the avoidance of doubt and to ensure the development is carried out in accordance with the planning permission

SHOULD THE 106 AGREEMENT NOT BE COMPLETED WITHIN THE PRESCRIBED PERIOD WITHOUT WRITTEN CONSENT OF THE COUNCIL TO EXTEND THIS TIME (THE DECISION AS TO WHETHER OR NOT TIME IS TO BE EXTENDED IS DELEGATED TO OFFICERS), THE PERMISSION SHALL BE REFUSED WITHOUT ANY FURTHER REFERENCE TO THE PLANNING COMMITTEE ON THE GROUNDS THAT THE APPLICATION HAS FAILED TO PROVIDE ADEQUATE MITIGATION MEASURES TO PROVIDE A SATISFACTORY FORM OF DEVELOPMENT IN ACCORDANCE WITH THE REQUIREMENTS OF CORE STRATEGY POLICY CS4 (DEVELOPER CONTRIBUTIONS). THE REASON TO REFUSE THE PLANNING APPLICATION WOULD BE AS FOLLOWS:

1. The proposed development would be contrary to policy CS4 (Developer Contributions) of the Darlington Core Strategy Development Plan Document 2011 as adequate provision has not been made for improving Rights of Way and cycle paths, grass playing pitches and open space in the locality of the application site in order to mitigate the impact of the proposed development.

THE FOLLOWING POLICIES AND DOCUMENTS WERE TAKEN INTO ACCOUNT WHEN ARRIVING AT THIS DECISION:

Borough of Darlington Local Plan 1997

- E12 – Trees and Development
- E14 – Landscaping of Development

Darlington Core Strategy Development Plan Document 2011

- CS2 - Achieving High Quality Sustainable Design
- CS4 - Developer Contribution
- 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 a Sustainable Transport Network

National Planning Policy Framework 2019

Other Documents

Tees Valley Design Guide and Specification: Industrial and Estate Development
Supplementary Planning Document - Design for New Development
Supplementary Planning Document - Planning Obligations

INFORMATIVES

Highways

The Developer is required to submit detailed drawings of the proposed internal highway and offsite highway works to be approved in writing by the Local Planning Authority and enter into a Section 278/38 agreement before commencement of the works on site. Contact must be made with the Assistant Director: Highways, Design and Projects (contact Mr S. Brannan 01325 406663) to discuss this matter.

The applicant is advised that contact be made with the Assistant Director: Highways, Design and Projects (contact Mrs. P. McGuckin 01325 406651) to discuss naming and numbering of the development.

An appropriate street lighting scheme and design to cover the new adopted highways and proposed amendments should be submitted and approved in writing by the Local Planning Authority. Contact must be made with the Assistant Director: Highways, Design and Projects (contact Mr M. Clarkson 01325 406652) to discuss this matter.

The applicant is advised to contact the Assistant Director: Highways, Design and Projects (contact Mr. Chris Easby 01325 406707) to discuss the introduction of a 20mph zone

Environment Agency

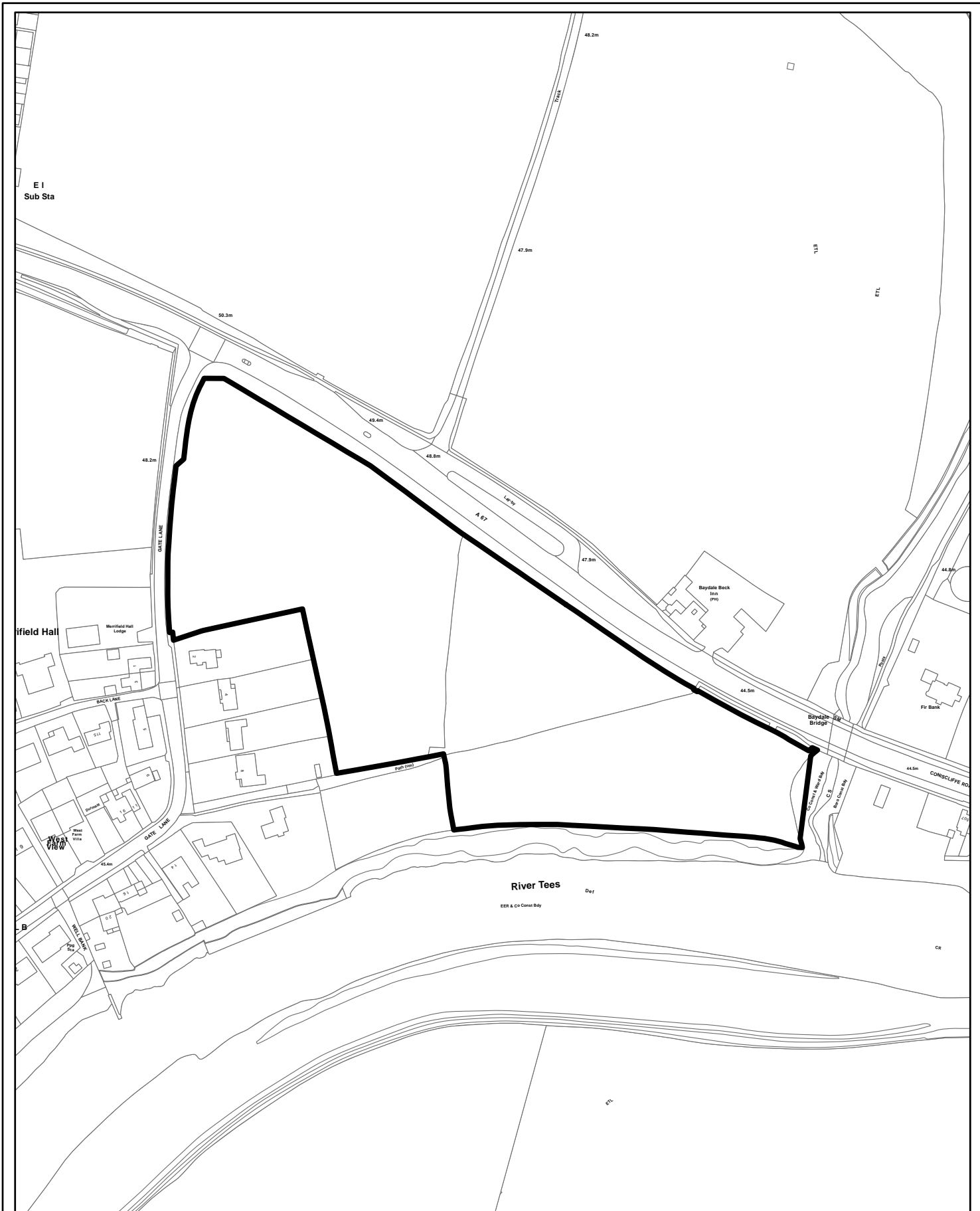
The Baydale Beck watercourse bounds the site to the East and the River Tees bounds the site to the South, both are designated as a 'main river' under the Environmental Permitting Regulations. If any works or structures (such as outfalls) are proposed, in, under, over or within 8 metres of the top of the bank/foreshore of the Baydale Beck or River Tees, you will need to apply for an environmental permit for flood risk activities. You can find more information on permit requirements using the following link:

<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>.

If a permit is required, it must be obtained prior to beginning the works

Public Rights of Way

The applicant is advised that a Temporary Traffic Regulation Order would be required to temporarily close Footpath No 6 – In the Parish of Low Coniscliffe) and contact must be made with the Assistant Director: Highways, Design and Projects (contact Mrs. P. McGuckin 01325 406651) to discuss the matter further.

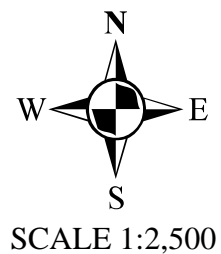


© Crown copyright. All Rights Reserved. Licence Number 100023728. 2019

PLANNING REF. No. 18/01151/FUL

DARLINGTON BOROUGH COUNCIL

Page 75



This page is intentionally left blank

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 20th March 2019

APPLICATION REF. NO: 19/00040/FUL

WARD/PARISH: MIDDLETON ST GEORGE

LOCATION: Land adjacent Oak Tree Pub off Yarm Road
Middleton St George, Darlington

DESCRIPTION: Erect 12 dwellings and access roads and other infrastructure. Variation of condition 3 (approved plans) attached to planning permission 18/00591/FUL to permit the substitution of house types and minor changes to the layout.

APPLICANT: Mandale Homes

APPLICATION AND SITE DESCRIPTION

Middleton St George is a large village located some three miles (six kilometres) east of central Darlington and two miles (three kilometres) from the A66 (T). The separate village of Middleton One Row lies over a mile (two kilometres) south of Middleton St George.

The application site is agricultural grassland and is located in Oak Tree which is a subsidiary settlement of Middleton St George which is located about half a kilometre to the west. It lies between Oak Tree Close and Yarm Road immediately to the east of the Oak Tree public house.

The application site covers an area of some 0.4 hectares of land and would be accessed off Oak Tree Close via a short cul de sac. The density of the development is approximately 30 dwellings per hectare; which is well within normal accepted density limits.

12 dwellings are proposed – 9 three bedroomed and 3 two bedroomed but with two affordable units included in the layout. Some of the properties will share a car parking courtyard with the remainder having private drives.

This application is a Section 73 application which aims to vary condition 3 (approved plans) attached to planning permission 18/00591/FUL to permit the substitution of house types and minor changes to the layout. No other issues are being considered as these were approved under 18/00591/FUL.

SITE HISTORY

16/00059/FUL – 8 apartments and 12 dwellings – Refused permission August 2016 on grounds of density, design, lack of affordable housing provision and road safety issues. No appeal submitted.

16/01256/FUL - Erection of 12 dwellings, associated roads and landscaping – approved 19th June 2018

18/00591/FUL - Erection of 12 dwellings, associated roads and landscaping (amended scheme) – approved 12th December 2018

RESULTS OF CONSULTATION AND PUBLICITY

Letters were sent to occupiers of neighbouring properties advising of the proposal and a site notice was displayed. **3 letters** of objection have been received raising the following issues.

- Proposed plot 6 driveway is too close to the junction.
- Road is narrower than standard and the 3 properties 6/7/8 constitute a potential parking problem should they be holding some type of function causing guests to park outside.

Planning Policy – See below.

Durham Constabulary – No objections to the proposed layout.

Environmental Health – No objections on grounds of contaminated land or noise issues. Advises conditions on previous approval be re-imposed.

Highways Engineer – The Highway Officer raises no objection to the proposal, subject to appropriate conditions being applied as before

Lead Flood Authority – No objections to the final submissions of the applicants relating to surface water run off subject to conditions being attached to any permission granted as before.

Northumbrian Water — Request condition attached relating to submission of final details relating to foul and surface water disposal as before.

Sustainable Transport – The number of dwellings is below the trigger point for contributions towards an improved bus service. Contributions will be required via a S106 Agreement towards improved bus stop facilities, footpath and lighting improvements.

Parish Council – Object for the following reasons :

- Access onto Yarm Road dangerous.
- Access around Oak Tree Close a problem due to narrow nature of the private road.
- Not enough visitor car parking for some dwellings. (Highways Engineer notes that the garages can be used as a parking place).

PLANNING POLICY BACKGROUND

The following policies of the development plan are relevant:

Borough of Darlington Local Plan 1997:

- E2 – Development Limits

Darlington Core Strategy Development Plan Document 2011:

- CS1 – Darlington’s Sub-Regional Role and Locational Strategy
- CS10 – New Housing Development
- CS11 – Meeting Housing Need

The National Planning Policy Framework 2018 is also relevant. The above policies are considered to be compliant with the National Planning Policy Framework.

PLANNING ISSUES

As noted above, this application relates to the variation of house types (no increase in number) approved under a previous planning application. No other issues are being considered except the changes to the layout which have been supported by the Highways Engineer. All the conditions imposed on the earlier approval will be attached to this application if approved.

Planning Policy

As this application relates to a variation of a previous planning permission which is still valid, there are no planning policy implications to be considered in this instance.

Design and scale of the development – impact on character of the locality.

The density of the proposed development is around 30 dwellings per hectare, which whilst higher than the adjacent low density housing estate off Oak Tree Close, is well within what is considered acceptable in planning terms for a small estate of houses. The site plan shows many of the plots having reasonably sized rear gardens and most with spacious open frontages, similar to properties on Oak Tree Close.

Many of the existing dwellings on nearby housing estates share similarities in the design and scale of the proposed dwellings. Officers therefore consider that the proposed design of the new dwellings is appropriate for this particular locality.

In view of the above therefore it is considered that the proposed variation of house types is acceptable and will not result in harm to the locality in terms of visual impact.

Planning conditions are required as before in relation to matters such as materials, landscaping and affordable housing provision.

Highway Safety

The Highways Engineer is aware of the concerns of the Parish Council as noted above and commented in response : *The principle of development has been set and this latest change of house type application has in my view no material difference in highway terms. The existing development will be improved in terms of pedestrian safety and connectivity as a footway will be extended further in to Oak Tree Close and the existing footway will also be widened to 2.0m as is the modern design standard. The drive access to plot 6 meets all required design standards as does the level of parking provision across the site. It is worth noting that a development of up to 300 dwellings may be served from a single access and this development is a modest intensification of use over the existing number of vehicle movements.*

Residential Amenity

The site lies adjacent a public house and its associated car park so there is potential for noise nuisance to be caused from this use, however the likely impacts were considered within the earlier planning applications and were not seen to present a problem in this instance.

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.

A section 106 Agreement was completed on the 3rd January 2018 which contained the following obligations:-

- sustainable transport contribution of £10,800 to be used by the Council towards footpath improvements on Yarm Road
- public transport contribution of £5750 to be used by the Council towards the cost of an inbound bus stop adjacent to the Development on Yarm Road

This Agreement will need to be varied and be attached to this application should it be granted.

Having considered the local development plan policies and all other material considerations in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, the proposal is considered to be acceptable.

RECOMMENDATION

That Planning Permission be granted subject to the completion of a Deed of Variation of the Section 106 Agreement dated 21st December 2018 and subject to the obligations contained therein.

SHOULD THE 106 AGREEMENT NOT BE COMPLETED WITHIN THE PRESCRIBED PERIOD WITHOUT WRITTEN CONSENT OF THE COUNCIL TO EXTEND THIS TIME (THE DECISION AS TO WHETHER OR NOT TIME IS TO BE EXTENDED IS DELEGATED TO OFFICERS), THE PERMISSION SHALL BE REFUSED WITHOUT ANY FURTHER REFERENCE TO THE PLANNING COMMITTEE ON THE GROUNDS THAT THE APPLICATION HAS FAILED TO PROVIDE ADEQUATE MITIGATION MEASURES TO PROVIDE A SATISFACTORY FORM OF DEVELOPMENT IN ACCORDANCE WITH THE REQUIREMENTS OF CORE STRATEGY POLICY CS4 (DEVELOPER CONTRIBUTIONS). THE REASON TO REFUSE THE PLANNING APPLICATION WOULD BE AS FOLLOWS:

The proposed development would be contrary to policy CS4 (Developer Contributions) of the Darlington Core Strategy Development Plan Document 2011 as adequate provision has not been made for improving sustainable transport and public transport

facilities in the locality of the application site in order to mitigate the impact of the proposed development.

Conditions :

1. A3 – Implementation
2. B4 – Materials
3. The development shall be carried out in complete accordance with the approved plan(s) as detailed below:

Site layout plan – 1853/001F Revision F

House detail plans – 1853/003, 1853/004A and 1853/005A

Any material change to the approved plans will require a formal planning application to vary this condition and any non-material change to the plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.

Reason

In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

4. E2 – Landscaping
5. Prior to the occupation of any unit within the development, a scheme for the provision of affordable housing shall be submitted to and approved in writing by the local planning authority. This shall include a plan showing the location of the units. The provision will take the form of on-site provision (of not less than 20% of the housing units) in accordance with a scheme to be submitted and agreed in writing by the local planning authority. The scheme for the development shall include:
 - a. The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - b. The arrangements for the transfer of the affordable housing to an affordable housing provider (or the management of the affordable housing) (if no RSL is involved);
 - c. The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing;
 - d. The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced;
 - e. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it.

REASON – To comply with the requirements of the local Development Plan.

6. Precise details of the off site highway works required to access the site and mitigate the development impact shall be submitted and approved by the Local Planning Authority prior to the commencement of the development. The submitted details shall include widening of the existing footway along the north-south section of Oak Tree Close to 2.0m wide, the addition of a new footway along the frontage of the development on the east-west section of Oak Tree Close at 2.0m wide (measured between restraints) connecting into the surrounding infrastructure and the new site access junction and linking footways. The development shall not be carried out otherwise than in complete accordance with the approved details.

REASON – In the interests of highway safety

7. Prior to the commencement of the development, a Construction Management Plan shall be submitted and approved in writing by the Local Planning Authority. The Plan shall include details for wheel washing, a dust action plan, the proposed hours of construction, vehicle routes, road maintenance, and signage. The development shall not be carried out otherwise than in complete accordance with the approved detail.

REASON – In the interests of residential amenity.

8. Development shall not commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and the Lead Local Flood Authority.

REASON – To prevent the increased risk of flooding from any sources in accordance with the NPPF.

9. The development hereby approved shall not be commenced on site, until a scheme for 'the implementation, maintenance and management of a Sustainable Surface Water Drainage Scheme has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details, the scheme shall include but not be restricted to providing the following details;

- I. Detailed design of the surface water management system;
- II. A build program and timetable for the provision of the critical surface water drainage infrastructure;
- III. A management plan detailing how surface water runoff from the site will be managed during the construction phase;
- IV. Details of adoption responsibilities.

REASON: To ensure the site is developed in a manner that will not increase the risk of surface water flooding to site or surrounding area, in accordance with the guidance within Core Strategy Development Plan Policy CS10 and the National Planning Policy Framework.

10. The buildings hereby approved shall not be brought into use until:-

- I. Requisite elements of the approved surface water management scheme for the development, or any phase of the development are in place and fully operational to serve said buildings;

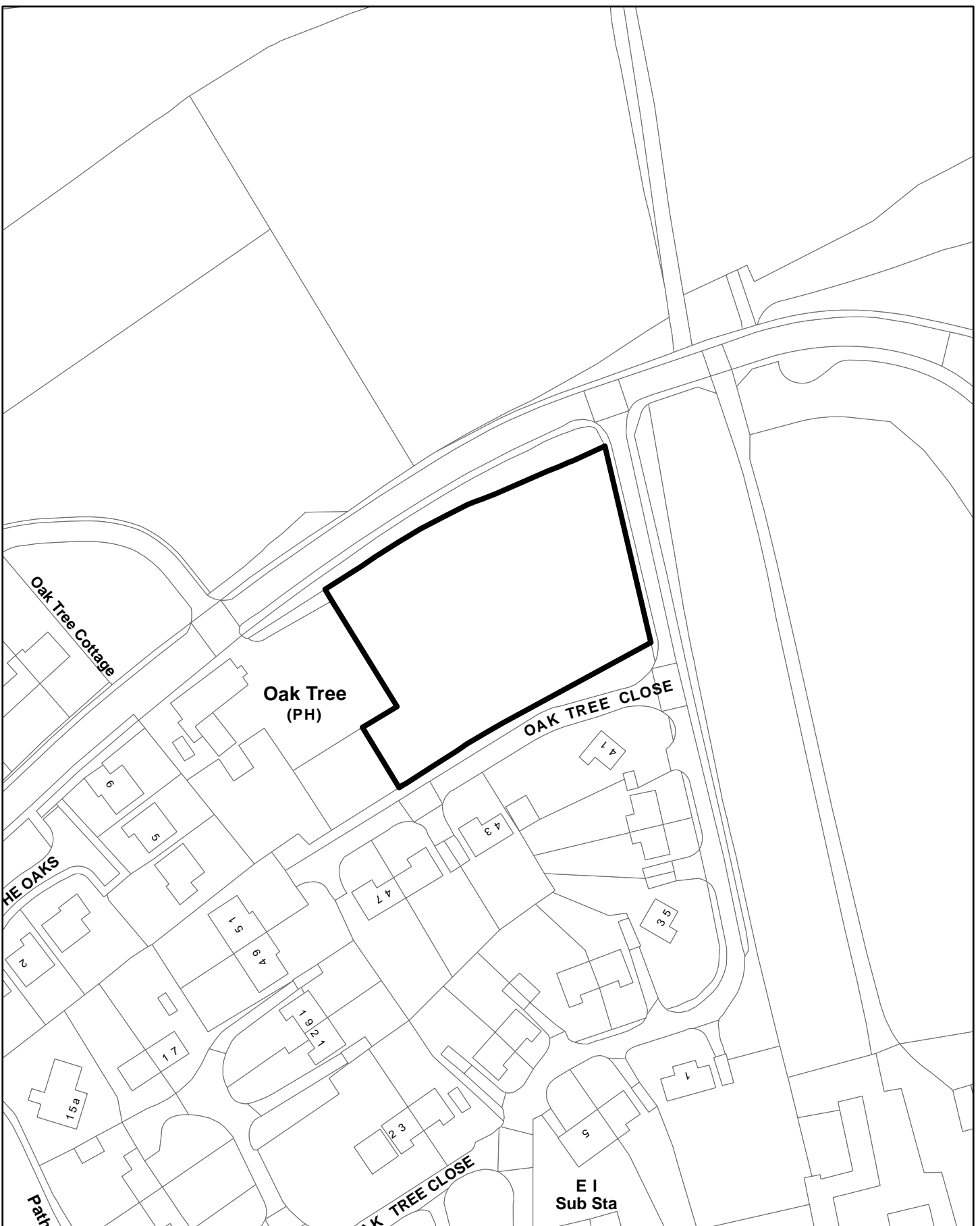
- II. A Management and maintenance plan of the approved Surface Water Drainage scheme has been submitted and approved in writing by the Local Planning Authority, this should include the funding arrangements and cover the lifetime of the development.

REASON: To reduce flood risk and ensure satisfactory long term maintenance are in place for the lifetime of the development.

Informative - The Developer is required to submit detailed drawings of the proposed internal highway and off site highway works to be approved in writing by the Local Planning Authority and enter into a Section 278/38 agreement before commencement of the works on site. Contact must be made with the Assistant Director: Highways, Design and Projects (contact Mr S. Brannan 01325 406663) to discuss this matter.

The applicant is advised that contact be made with the Assistant Director : Highways, Design and Projects (contact Mrs. P. McGuckin 01325 406651) to discuss naming and numbering of the development.

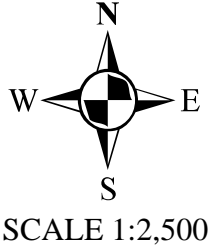
An appropriate street lighting scheme and design to cover the new adopted highways and proposed amendments should be submitted and approved in writing by the Local Planning Authority. Contact must be made with the Assistant Director: Highways, Design and Projects (contact Mr M. Clarkson 01325 406652) to discuss this matter



© Crown copyright. All Rights Reserved. Licence Number 100023728. 2019

PLANNING REF. No. 19/00040/FUL

DARLINGTON BOROUGH COUNCIL



This page is intentionally left blank

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 20 March 2019

APPLICATION REF. NO:	17/01195/OUT
STATUTORY DECISION DATE:	6 th April 2018
WARD/PARISH:	SADBERGE AND MIDDLETON ST GEORGE
LOCATION:	Field at OSGR E435307 N513463 Yarm Road Middleton St George Darlington
DESCRIPTION:	Outline planning application for the erection of up to 330 residential dwellings with associated landscaping and engineering works, 3 retail units and provision of a new single form Primary School
APPLICANT:	ALBERT HILL PROPERTIES

Members were minded to grant outline planning permission for this development at the meeting of the Planning Applications Committee on 23 January, subject to the satisfactory completion of the Section 106 agreement.

At the meeting, Members requested the provision of a bus pass for each dwelling, for a 2-3 year period. The bus pass referred to in the Planning Obligations section of this report relates to the usual 7-day 'taster ticket' which seeks to encourage occupiers to use more sustainable modes of transport. The full cost of the taster ticket for the entire development would be approximately £8,000.

The provision of a full bus pass for each dwelling for a 2 – 3 year period, as requested by Members, would be a cost to the developer of between £858,000 and £1,287,000. This would be in addition to the sustainable transport contribution that the developer has agreed to pay of £297,000, and the strategic network contribution of some £276,000 towards the Little Burdon and Morton Palms roundabouts.

As the Heads of Terms already includes a financial contribution of £297,000 towards sustainable transport, which will be used towards increasing the frequency of the existing Service 12 for five years, the provision of a bus pass for 2-3 years for each dwelling is considered to be 'double-counting' and would not meet the tests set out in the Community Infrastructure Levy Regulations 2010 and the policy tests in the National Planning Policy Framework that they must be: necessary to make the development acceptable in planning terms; and, directly related to the development; and fairly and

reasonably related in scale and kind to the development. The proposal put forward by Members at the Planning Applications Committee would mean that the developer would be bearing the cost of a) a contribution to increase the frequency of the existing bus service, and b) providing free travel for 330 residents for up to three years for that bus service. A bus pass beyond the 7-day taster ticket has not been requested for any other developments in the surrounding area. A planning obligation that does not meet the above tests, is ultra vires.

As this was agreed at the Planning Applications Committee, Officers are unable to vary the requirement put forward, without reporting back to members for their approval. This report seeks to resolve this issue and to invite members to agree that the developer should fund a 7-day taster ticket for each dwelling on occupation which the household would be invited to apply for within three years, meaning that a new occupier of a house on the site would have three years to claim a one week bus pass. The advantage of this is that residents can claim the bus pass once the improved service is up and running efficiently, rather than at the start when they would only have the benefit of using their taster ticket on the existing hourly service.

The application remains the same as previously considered, in all other respects.

APPLICATION AND SITE DESCRIPTION

The application site, which extends to some 15ha in size, is situated to the south of Yarm Road beyond the railway embankment and to the east of Chapel Street. The site comprises a mixture of grassland and pasture and haulage yards comprising areas of hardstanding, warehouse units and an office building and is divided into two parcels of land by the highway (Middleton Back Road).

The site is bounded by the Tees Valley Railway line to the north, with Yarm Road beyond, agricultural fields to the east and south and existing residential properties to the west. The majority of the site is bounded by existing mature hedgerow. A public right of way (public Footpath No. 3) in the Parish of Middleton St George, runs north / south through the centre of the western section of the site. An unnamed watercourse crosses the site.

Planning permission is sought for the development of the site for up to 330 residential dwellings with associated landscaping and infrastructure, together with the provision of a new single form Primary School and retail units. The application is submitted in outline with all matters reserved except for access. Details of appearance, layout, scale and landscaping would be agreed through a future reserved matters application.

Access would be taken from Middleton Back Road running north / south on the eastern boundary of the site, for the western part of the site, and from both Middleton Back Road and Yarm Road, for the eastern part of the site which lies on the eastern side of Middleton Back Road.

An indicative masterplan is included within the application to demonstrate how the proposed development could be accommodated on the site, and the plan includes the following design principles:

- The provision of a range of house types within the development which will likely include a range of 2, 3, 4 and 5 bedroom properties across a range of densities;
- Dwellings in keeping with the character of the surrounding area including the use of materials predominant in the area;
- The inclusion of an east west walking route to introduce permeability and allow the site to be connected to the village and the doctors surgery site;
- New roundabout to replace the Yarm Road / Middleton Back Road junction to assist in reducing vehicle speeds and providing better flow for traffic travelling north from Middleton Back Road;
- The retention of trees and hedgerows, where possible;
- The retention of the existing public right of way and Cycle route;
- The provision of SuDs areas with associated amenity space to provide focal points to the development;
- A Comprehensive landscaping scheme to enhance the appearance of the site and the surrounding area and to enhance the ecological value of the site;
- Three new retail units (1,500m²);
- Land provided for a new single form primary school.

Application documents including Planning Statement, Design and Access statement, plans, consultation responses, representations received and other background papers are available on the DBC website.

Environmental Impact Assessment Requirements

The Local Planning Authority has considered the proposal against the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

It is the opinion of the Local Planning Authority, that the proposal is development for which an Environmental Impact Assessment is not required as the development would not be likely to have significant effects on the environment by virtue of factors such as its nature, size or location.

PLANNING HISTORY

In November 2016, planning permission was granted for the change of use of part of the site to enable the enlargement of the existing parking area of garage repair workshop (Stanway Commercials).

RESULTS OF CONSULTATION AND PUBLICITY

A total of 6 letters have been received from local residents as a result of the consultation exercise undertaken, raising the following concerns:

- *Existing problems with surface water drainage;*
- *Proposal will create severe traffic problems in the area; School traffic will create a bottle neck;*
- *Extra large population surrounding a quiet community for older people – roads will be more dangerous for pedestrians and older people using the bus service;*

- *The potential large number of children will provide a security problem for the Middleton Hall Site;*
- *Extent of requests for new developments around the village are unbalanced, being too numerous and will fundamentally change the nature of the village, pedestrian safety, and the removal of both surface and foul water;*
- *This should remain an area of conservation to maintain the split between the two villages, maintaining local residential amenity;*
- *Concern regarding the safety of the area near the existing lorry park; Line of sight for traffic turning off Yarm Road is poor – the width of the road is narrow at this point, there is no pedestrian footpath on one side of the road and the rail bridge is narrow both for pedestrians and vehicles; There is bound to be a high number of vehicle movements at certain times of the day and with heavier vehicles delivering to the retail unit and the school; Suggest that this area should have a 30mph speed limit and that the proposed mini-roundabout constructed, and footpaths and lighting installed along the lane up to the entrance of Middleton Hall to also serve the residents of the retirement village who will be at increased risk due to the extra traffic generated by the development; A new separate path should be constructed through a pedestrian only tunnel opened under the railway alongside the existing bridge which would then allow for pedestrians and traffic to be kept away from each other at this squeeze point; The footpath between the rail bridge and Virginia Estate is narrow and unlit for much of its length, lighting and speed restrictions would aid safety; Road between site and Middleton Hall should be widened and resurfaced;*
- *Object to footpath leading from Chapel Street through the planned estate existing opposite Acorn Close; As plan shows the entrance / exit at Chapel Street would open up onto the lane which is not adopted by DBC and is shown on residents property deeds as their responsibility and must be kept clear for the Chapel Street residents to access the rear of their properties; This area is also used by DBC refuse collectors for the weekly refuse collections, and is used as a turning point for vehicles – this would therefore be a dangerous place for a footpath to begin and end;*

One letter was received on behalf of residents of Middleton Hall Retirement Village raising the following issues:

Road Safety;

- *The additional traffic on both Yarm Road and the unnamed road are of significant concern for our 190 elderly residents and 180 staff many of whom live in Middleton St George. For pedestrians and car users, a lowered speed limit of 30 mph on both roads is essential from 3/400m before the site access;*
- *The junction of Yarm Road and the unnamed road needs to be carefully planned for – we would support the additional roundabout. However the access under the railway bridge remains a concern, perhaps solved by widening the access under the bridge, by providing a separate pedestrian tunnel;*
- *Street lighting should be added to the unnamed road approaching the site from the west to improve visibility for vehicles, cyclists and pedestrians;*

Bus Service;

- *The proposed bus stop on the unnamed road is only on one side of the road. There are existing bus stops on both sides of the road outside Middleton Hall that are only 200-250m further to the west. Suggest that the footpath on the west*

side of the road is extended to reach those bus stops (that have recently been upgraded with platforms at the request of Darlington Borough Council) rather than an additional stop;

- *Suggest that the developer provides some financial support to extend the bus timetable to make it easier to access Darlington and St George's Medical Centre opposite the Virginia Estate at the start of the development to mitigate against the additional traffic that the development will generate;*

Pedestrian Access / Street Lighting

- *The pre-application consultation stated that there would be a footpath connection under the railway bridge. As mentioned above, the route from the development to Middleton St George would be better served by a separate pedestrian access under the bridge via an additional tunnel or widening under the railway bridge alongside the road access; This would provide a far safer route from Middleton St George to the proposed site and from Middleton St George to the Medical centre;*
- *There should be a widened footpath and street lighting on Yarm Road to improve the access from Virginia Estate and St Georges Medical Centre to Middleton St George. The proposed footpath on Yarm Road to be extended to the end of the development site and street lights added;*

Recreation / greenspace

- *There should be green space for children to use for informal sport – space for kicking around a football for example. This would alleviate concern from Middleton Hall residents about intrusion onto Middleton Hall land;*
- *To alleviate concern from residents in the Waterside at Middleton Hall, the further east corner of the proposed development should maintain the same distance from the hedge as the road running west / east (there appears to be a road running up to the hedge in the far corner). This is important as the hedge boundary appears to be closer to the Waterside than the site plan indicates.*

General

- *The new school and shops are welcomed and will enhance the facilities for the town that Middleton St George has become.*

The **Campaign to Protect Rural England** has objected to the proposed development on the following grounds:

- *Site lies outside of the development boundary and is contrary to saved policy E2 (Development Limits) and H7 (Areas of Housing Development Restraint) of the Borough of Darlington Local Plan, and Core Strategy Policy CS1 (Darlington's Sub-regional Role and Locational Strategy) and CS14 (Promoting Local Character and Distinctiveness);*
- *The proposal does not meet any identified rural needs;*
- *The proposal will not positively contribute to the character of Middleton St George or its local area and to its sense of place;*
- *Darlington now has a five-year housing supply meaning that policies relating to housing carry full weight – any proposals that enhance that housing supply should comply with the development plan; This proposal clearly conflicts with the development plan and according to paragraph 12 of the NPPF it should therefore be refused;*

- *The proposal cannot be considered to be sustainable development and there are no substantial and demonstrable benefits which outweigh this position.*

Middleton St George Parish Council has objected to the proposed development on the following grounds:

- *Contrary to policy;*
- *Highway impacts;*
- *Footpath from Chapel Street not appropriate;*
- *Cumulative impact on safety and amenity of development in village;*
- *Pressure on drains and sewerage system;*
- *Breaches of conditions on other housing developments;*
- *Premature as Local Plan still under development;*
- *Inadequate bus service.*

The Council's **Environmental Health Officer** has raised no objections to the proposed development subject to planning conditions requiring submission, agreement and compliance with a Construction Management Plan, noise and contaminated land.

The **Local Lead Flood Authority** has raised no objections to the proposed development subject to planning conditions requiring submission, agreement and compliance with a scheme of Surface Water Drainage and management, and that the development is carried out in accordance with the submitted Flood Risk Assessment and Drainage Strategy.

Northumbrian Water has raised no objections to the proposed development subject to the planning conditions to secure submission, agreement and compliance with details of a scheme for the disposal of foul and surface water from the development.

The **Ecology Officer** has recommended a number of planning conditions / S106 items regarding retention of trees, compliance with proposed mitigation, timing of surveys, and net gain in biodiversity (full comments included within the report).

The Council's **Public Rights of Way Officer** has raised no objections to the proposed development subject to access to along Footpath No. 3 which runs north / south through the centre of the site, being maintained during construction, which can be secured through submission and agreement of a Construction Management Plan. Also requested is a contribution from the developer to improve the condition of the path given the likely increased use of the route.

Highways England has raised no objections to the proposed development subject to S106 contributions towards the Strategic Road Network relating to Little Burdon and Morton Palms Roundabouts.

The Council's **Highways Officer** has raised no objections to the proposed development subject to planning conditions to secure submission and agreement of, and compliance with a Construction Management Plan, together with a planning condition to secure submission and agreement of details of works within the public highway, a Road Safety Audit and Vehicle Swept Path Analysis.

The Council's **Transport Policy Officer** has requested a planning condition to secure submission and agreement of a site specific travel plan for the school and retail elements of the scheme. Also requested is a public transport contribution to improve Service 12 frequency / availability.

The **County Archaeologist** has been consulted and has requested further pre-determination field evaluation and trial trenching.

The **Police Architectural Liaison Officer** has provided advice on the principles of designing out crime, which would be taken into account in a detailed reserved matters submission. The crime risk assessment for this development (based on recorded incidents in the surrounding area) is considered to be low.

Network Rail has raised no objections to the proposed development subject to a number of conditions and informatives to be attached to any approval.

Northern Gas Networks has raised no objections to the proposed development.

Northern Powergrid has raised no objections to the proposed development.

PLANNING POLICY BACKGROUND

National Planning Policy Framework 2018 (NPPF)

Borough of Darlington Local Plan 1997

E2 – Development Limits

E12 – Trees and Development

H7 – Areas of Housing Development Restraint

Darlington Core Strategy Development Plan Document 2011

CS1 – Darlington's Sub-Regional Role and Locational Strategy

CS2 – Achieving High Quality, Sustainable Design

CS3 – Promoting Renewable Energy

CS4 – Developer Contributions

CS10 – New Housing Development

CS11 – Meeting Housing Need

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 a Sustainable Transport Network

Tees Valley Minerals and Waste Development Plan Document

Policy MWC4: Safeguarding of Minerals Resources from Sterilisation

Other Documents

Design of New Development Supplementary Planning Document, July 2011
Planning Obligations Supplementary Planning Document, January 2013

PLANNING ISSUES

The main issues to be taking into consideration are:

- Planning Policy
- Principle of the development
- Impact on the character and appearance of the countryside
- Loss of agricultural land
- Highways and Sustainable Transport
- Surface Water and Flood Risk
- Design and Layout
- Ecology
- Trees
- Impact on non-designated Heritage Assets (Archaeology)
- Residential Amenity
- Contamination
- Developer Contributions
- Delivery

Planning Policy

Planning law (S.38(6) of the Planning and Compulsory Purchase Act 2004) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (2018) supports the plan led system providing that planning decisions should be “genuinely plan-led” (NPPF para 15).

Five year housing land supply position

In relation to housing, the NPPF (2018) requires local authorities to plan positively for housing development to meet the needs of their area.

The Ministry for Housing Communities and Local Government have recently announced that Councils should start using the government’s new standard method for assessing housing need immediately when determining applications. National Planning Policy Guidance has also very recently been updated to reflect this. Paragraph 30 of the guidance states, housing requirement figures identified in strategic policies should be used as the starting point for calculating the five year land supply figure for the first five years of the plan and where the strategic housing policies plans are more than 5 years old, but have been reviewed and are found not to need updating. In other circumstances, the starting point for calculating the five year land supply will be local housing need using the standard method. Utilising the local housing need figure for Darlington (122 dwellings per annum), which factors in the latest 2016 household

projections, the Council considers that a 48.9 year supply of deliverable housing land can be demonstrated. This being the case, as Darlington Borough Council can demonstrate a five year supply of housing land, relevant policies for the supply of housing should be considered up to date and the titled balance in para 11 of the NPPF (2018) is not engaged.

A 20% buffer has been applied to this figure due to previous under delivery. However, if considered against local housing need of 122 dwellings per annum, delivery has exceeded this figure.

The Council has produced a Five Year Housing Land Supply Position Statement (October 2018) which sets out the housing land supply position for the period 1 April 2018 to 31 March 2023, when measured against the local housing need figure.

It is relevant to note that this housing supply includes a number of sites which are located beyond development limits but have been assessed and are considered as being suitable and deliverable for housing development in the emerging Local Plan.

Principle of the development

Residential

The aim of policy E2 is to direct new development to within the development limits of the village and to safeguard the character and appearance of the countryside. The application site is located beyond the development limits of the village and therefore residential development would be contrary to saved policy E2 (Development Limits) of the Darlington Local Plan 1997 and Policy CS1 (Darlington's Sub-Regional Role and Locational Strategy) of the Core Strategy (2011).

As stated above the application must be determined in accordance with the development plan unless material considerations indicate otherwise. Although the application is contrary to policy E2 there are other material considerations which should be considered in the planning balance.

The Council is currently preparing a new Local Plan and a draft version has been consulted upon. Evidence base work to support the emerging Local Plan included an update to the Strategic Housing Market Assessment which was published in Oct 2017. This work, which should be considered as a material consideration, indicated that 8,440 dwellings will be required over 2016 to 2036, an average of 422 dwellings per year. This housing requirement is significantly higher than the Government's local housing need figure for Darlington. The Council considers that there is strong evidence to justify the higher housing requirement figure which has been used to assist preparation of the emerging Local Plan.

The application site is considered to be suitable for housing in the emerging Local Plan and is proposed for allocation. In line with Government policy and guidance, the emerging Local Plan can only be afforded limited weight at this stage in its preparation. As outlined above, the Council can comfortably demonstrate a five year housing land supply at this point in time against the local housing need figure (122), which does

include the application site. However, once the new Local Plan is adopted, the housing land supply will be assessed against the Council's housing requirement of 422. As such, it is important that the Council continues to support and grant planning permissions on sites which have been identified as suitable for residential development and are proposed allocations in the emerging Local Plan. If this approach is not taken, there is the danger that the Council will not be able to demonstrate a five year housing land supply when the new Local Plan is adopted. In effect the tilted balance of paragraph 11 of the NPPF would once again apply and the Council would have limited control on the location of new housing development.

Retail

With regards to the retail element of the scheme the proposed unit is approximately 1500sqm (gross). It is also located beyond the development limits of the village and is not within an existing centre. Paragraph 86 of the NPPF (2018) states local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up to date Local Plan.

The nearest existing centre is at Middleton St George to the west. This centre is referenced in Core Strategy policy CS9 and is mapped in the Interim Planning Position Statement. The defined retail centre is tightly drawn and comprises of two storey premises with no open land for development potential. It is not considered that a sequentially preferable site is available.

There are no local thresholds for an impact assessment within the Core Strategy and the proposed unit is below the threshold set out in paragraph 89 of the NPPF (2018) (2,500sqm). Consequently an impact assessment is not required.

Policy CS9 also states that individual local shops which meet the day to day needs of nearby residents without the need to use a car will be protected and promoted. Proposed new shops in such circumstances will be limited to a maximum 100sqm gross floorspace unless a qualitative need to remedy a geographical deficiency in the distribution of food shopping can be demonstrated, in which case convenience shops up to 400 sqm gross floor space will be permitted. The proposal is for three units with a combined floor space of 1,500sqm (gross), consequently there is conflict with policy CS9. There is also no indication of the type of retail unit proposed.

A convenience store has recently been approved on land to the north of the application site (ref 18/00509/FUL) and there is a concern that further retail uses could detract from the existing centre. Middleton St George, is however one of the large serviced villages in the borough and the Council are proposing a number of housing allocations in the area in the emerging Local Plan, including the application site. Further need for retail uses could therefore arise in the future. The proposal would help to meet these needs and also offer further choice to local residents in addition to the existing constrained centre.

In view of this context, on balance, there are no policy concerns with this element of the scheme. It is however suggested that the retail units are conditioned to prevent them

from being combined into one large unit and to ensure that their uses fall within either Class A1 (shops), Class A2 (Financial and Professional) or A3 (Restaurants and Cafes).

Primary School

There are no policy concerns with regards to land being reserved on the site for a new primary school as this will address future provision if the need arises.

Impact on the Character and appearance of the countryside

One of the Core Planning Principles of the NPPF is that planning should take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.

Policy CS14 (Promoting Local Character and Distinctiveness) of the Core Strategy seeks to protect, and where appropriate enhance, the distinctive character of the Borough's built, historic, natural and environmental townscapes, landscapes and strong sense of place. This includes protecting and enhancing the separation and the intrinsic qualities of the openness between settlements. Saved Local Plan Policy E2 (Development Limits) relates to the protection and character of the countryside. The reasoned justification to this policy seeks to maintain well-defined settlement boundaries and safeguard the character and appearance of the countryside by strictly controlling development outside of development limits.

The site adjoins the eastern edge of the built form of the village. Although it is physically separated from the village by the Darlington to Middlesbrough railway line and by Yarm Road, the development would be seen in the context of surrounding residential properties to the north and west and other committed development to the north and north east. The existing site provides limited visual relief, due to its position in relation to existing buildings, and the railway line. Overall, although the proposal will result in the loss of some open grassland, it will also result in an improvement in visual amenity in terms of the removal of the existing haulage element.

Issues relating to the layout of the development, the scale, the appearance of the dwellings and the landscaping are all reserved matters that will be considered at a later stage. These matters will however be given full consideration when any application(s) for reserved matters are submitted.

Overall, the proposal is considered to be acceptable in respect of its impact on the character and appearance of the countryside.

Loss of Agricultural Land

Paragraph 170 of the NPPF states that local planning authorities should take into account the economic, and other, benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in

preference to that of a higher quality. In cases where there is doubt about the quality of the land, the applicant would be asked to submit further information. In this case, the land the subject of this application is considered to be moderate in terms of its agricultural land quality due to its position and constraints. A recent appeal decision has determined that the development of less than 20 hectares of land, is not significant in the context of paragraph 170 of the NPPF . In this context it is considered that the impact of the proposal on the loss of agricultural land is not significant.

Highways and Sustainable Transport

A Transport Assessment (TA) prepared by SAJ Transport Consultants (December 2017) has been submitted in support of the application. The assessment concludes that the proposed residential units would generate in the order of 315 two way trips in the AM peak hour and 326 in the PM peak hour. The proposed primary school is (based on 210 pupils) predicted to generate 101 two way trips in the AM peak hour and 30 in the PM peak hour. The retail centre development is predicted to generate 59 two way trips in the AM peak hour and 121 vehicle movements in the PM peak hour.

The performance of all new priority junctions has been assessed and it is demonstrated that they would all operate satisfactorily. Similarly, the proposed new compact roundabout on Yarm Road has been assessed for both the AM and PM peak periods and the results demonstrate that it would operate satisfactorily.

Existing priority junctions and roundabouts have also been assessed for operational performance (this includes Woosington Drive / Yarm Road Roundabout, Station Road / Yarm Road / Middleton Lane Mini-roundabout, the A67 / Mill Lane / Yarm Road Roundabout, the A67 / Sadberge Road Roundabout and the A67 / Station Road Priority junction. This demonstrates that generated traffic from the development would not have a significant operational impact on the surrounding local road network.

An accident study has been provided as part of the assessment which shows that there were 14 recorded incidents within the defined study area, within the last five years, of which 13 were classed as slight, 1 serious and 0 fatal. It is shown the 12 (86%) of the incidents happened at junctions and the remaining 2 (14%) occurred on the link roads between junctions. This result is not unexpected as there are always more hazards at junctions than on links.

It has been proposed to take access to the development from Middleton Back Road, which is an adopted unclassified road and presently subject to a 60mph speed limit. It is anticipated that the speed limit will be reviewed and likely reduced to 40mph pending consultation with Durham Police. Two separate access junctions are proposed on Middleton Back Road, with an additional access taken off the southern side of Yarm Road. The junctions are designed to adoptable standards with visibility splays appropriate to a 40mph speed limit. Removal of some hedgerow at these points will be essential on the ground of road safety. A footway of a minimum width of 2m with tactile paving and drop kerbs where appropriate should be provided at the site access and run the length of the development frontage and be connected to form suitable links to the surrounding infrastructure.

The principle of the new roundabout to replace the Yarm Road / Middleton Back Road junction is acceptable and will be useful in reducing vehicle speeds and providing better flow for traffic travelling north from Middleton Back Road. Pedestrian connectivity between the proposed development and the village is poor and there are concerns raised by objection that a proposed link from Chapel Street will require the passage of 3rd party land as the back lane running past no's 26 and 27 is not adopted highway.

Further consideration of this should be undertaken and this matter should be addressed in any future reserved matters applications as the plan submitted is indicative only. A possible solution to improve pedestrian permeability and provide a safe route to school would be to dedicate the existing farm track leading from High Scrogg Farm to Yarm Road, solely to pedestrians and cycle users, with suitable improvements to the surface and provision of street lighting as required by safe routes to school criteria. Farm traffic could be diverted to the southern boundary where an existing track exists to provide the necessary vehicle access. A suitably worded planning condition can be attached to any approval to secure submission and agreement of the links through the site, further to additional consideration given to how these can be achieved in the best interests of all users.

Subject to a number of conditions the Council's Highways Officer has raised no objections.

It should be noted that internal consultees considered that it would be desirable to have a footway running from Middeton Hall Retirement village to the village centre, with a suitable street lighting design included. Whilst this is considered to be desirable, it is not considered that this would meet the tests of being reasonable or necessary to mitigate against the impact of the development.

Highways England has been consulted and have liaised with the developer and the Highway Authority to agree a Strategic Network Contribution, based on a contribution model used for other significant developments, to both Little Burdon (£68,218.38) and Morton Palms (£208,008.45) roundabouts.

Service 12 operates a one way loop past the site, with the current closest bus stop being at Acorn Close. This is an hourly service Monday to Saturday with no evening or Sunday service. The proposed bus stops on Yarm Road and Middleton Back Road would help to reduce walking distances to a bus stop and also offer residents who are unable to walk the 600m to the relocated Doctors surgery, an alternative.

Dinsdale Railway Station is approximately 1km from the site providing links along the Bishop Line (Saltburn to Bishop Auckland). This northern service is half hourly. A contribution of £297,000 is sought to contribute to the enhancement of public and sustainable transport within the village. This will ensure that the development is served by a half hourly bus service Monday to Saturday and that services within the village are accessible by sustainable modes.

A Residential Travel Plan prepared by SAJ Transport Consultants Limited (December 2017) has been submitted in support of the application. The document seeks to provide a framework of measures to encourage a reduction in private car useage, an increase

in the use of sustainable modes of travel, and to improve the overall accessibility of the development.

The Council's Sustainable Transport Officer advises that the school and retail sites would need to provide a site specific Travel Plan and that this should be secured by planning condition. The residential travel plan should include more measures to encourage a modal shift in residents and these can be secured by planning condition. To encourage more public transport use, the applicant proposes to provide each residential dwelling with a bus pass, and this is included in the list of planning contributions below.

Cycle parking should be provided for the residential, school and retail elements of the scheme and details of this can be secured by planning condition.

Surface Water and Flood Risk

The proposed development is situated within Flood Zone 1. The Environment Agency's surface water flood maps highlight areas of the site to be at medium and low risk of surface water flooding. SuDs areas are identified within the indicative layout.

A Flood Risk Assessment and Surface Water Management Strategy undertaken by ID Civils Design Limited (December 2017) was submitted in support of the application. This identifies the current site drainage characteristics and also that there are no other significant sources of flood risk at the site. The report proposes a surface water and foul water drainage strategy.

Stockton Borough Council, who acts as the Council's technical advisors for SuDs as Local Lead Flood Authority (LLFA), has assessed the level of information submitted with this application and has indicated that careful consideration should be given to existing blue / green corridors and surface water flooding when determining the site layout and the location of surface water attenuation structure. The applicant proposes to discharge into the unnamed watercourse that crosses the site. The LLFA do not raise concerns to the development subject to a condition being attached to any forthcoming approval that requires the developer to submit a full Surface Water Drainage and Management scheme for the whole site that must include detailed design of the surface water management system, build program for the provision of the critical surface water drainage infrastructure, management plans, details of adoption responsibilities and management plans / maintenance and funding arrangements.

Design and Layout

Policy CS2 (Achieving High Quality, Sustainable Design) of the Core Strategy includes provision that new development should reflect or enhance Darlington's distinctive nature; create a safe and secure environment; create safe, attractive, functional and integrated outdoor spaces that complement the built form; and relate well to the Borough's green infrastructure network.

Issues relating to the layout of the development, the scale, the appearance of the dwellings and the landscaping are all reserved matters that will be considered at a later

stage. These matters will however be given full consideration when any application(s) for reserved matters are submitted.

Ecology

Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity) of the Core Strategy states that the protection, restoration, extension and management of the Borough's biodiversity and geological network will be delivered to help achieve the target level of priority habitats and species set out in the UK and Durham Biodiversity Action Plans by measures including by 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, including public and private spaces and landscaping.

Saved Policy E21 (Wildlife Corridors) states that development which would materially harm the wildlife habitat value of linear features providing corridors within which wildlife can move and live, including the open land network within the urban area where it forms continuous corridors, rivers and streams, road and rail corridors, woodlands, hedgerows and green lanes will not be permitted. It goes on to state that harm will be assessed according to the impact of development on the value of the feature in terms of its continuity and ecological structure and diversity; and that the landscaping of new development within or adjacent to wildlife should, where appropriate, incorporate semi-natural habitats which contribute to maintaining the wildlife value of the corridor.

This is in general accord with paragraph 170 of the NPPF, which states that the planning system should contribute to and enhance the natural and local environment by; protecting and enhancing valued landscapes, geological conservation, interests and soils; and, recognising the wider benefits of ecosystems services; and, minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

Paragraph 175 of the NPPF states that when determining planning applications, local planning authorities should apply a number of principles, including ; a) if significant harm to biodiversity from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort compensated for, then planning permission should be refused; b) development resulting in loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and c) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

A Preliminary Ecological Assessment (September 2017) prepared by Naturally Wild, was submitted with the application and a further revised Ecological Impact Assessment (September 2018) was submitted further to requests for further surveys.

The report makes a number of observations, including the following;

- A. That the site comprises a mixture of semi-improved grassland, unmanaged semi-improved grassland, hardstanding and buildings;
- B. A number of trees on the site were considered suitable for roosting bats; The majority of trees were of low suitability for roosting bats although some were assessed to be of moderate and high suitability; The XPO office building on site was considered to be of low suitability; As this building is expected to be demolished as part of the proposed works, further survey effort to confirm the presence of likely absence of roosting bats is required;
- C. Bordering hedgerows were considered suitable for foraging and commuting bats due to the high levels of insect activity that would be attracted by the vegetation and the direct connectivity to linear features extending off site; It is expected that the majority of existing trees and hedgerows will be retained and incorporated into the new development, however some of this habitat will be lost in order to facilitate the works, therefore appropriate mitigation and compensation would be needed to be incorporated into the works in order to minimise the potential impact to commuting and foraging bats;
- D. Results of survey work indicate that the XPO office building is used on an occasional basis by small number of common pipistrelle (likely to be only a single bat) but is not a roost of significant conservation value; The demolition of the building would result in the loss of the roost present which is considered likely to have a moderate to high negative impact at site level, but due to the presence of only an individual bat of a common species present, a low impact at a wider level;
- E. Trees and hedgerows on site were considered to offer moderate to high value for nesting birds, with the XPO buildings also offering some potential for nesting and roosting; The demolition of the XPO buildings and the loss of any trees and hedgerows would have a negative impact at site level on nesting birds;
- F. The area of unmanaged semi-improved grassland on site would be considered of suitable foraging value for reptiles, however due to the lack of open basking areas and sheltering value, alongside poor connectivity to other suitable habitats, the site is considered to offer low risk to the presence of reptiles (with no records of reptiles in the 1km area around the site according to desktop data);
- G. The unmanaged semi-improved grassland was considered suitable for foraging Great Crested Newts but there was limited refugia for shelter; The grassland did provide some sheltering structure in patches but would generally be of low value; The nearest pond to the application site is 30m to the east but appears to be ephemeral and was dry at the time of survey; The nearest inundated pond was 200m to the east. The railway line to the north and the residential areas to the north and west act as barriers to dispersal from ponds to the north and west. The closest record of Great Crested Newt in the desk top data provided is from a pond 570m to the west of the site, but there is very little favourable habitat between that pond and the application site; Overall it is not considered that the proposed development will incur any impact to Great Crested Newts providing appropriate mitigation measures are adopted;
- H. No evidence of presence of the western European Hedgehog was noted on site;
- I. There is very limited connectivity to the Local Nature Reserve beyond the housing to the north;

- J. The railway embankment adjacent to the northern boundary would present suitable habitat for a badger sett, however there was no evidence to suggest a sett was present; the semi-improved grassland areas would also be considered of foraging value for badger, but no evidence of badger activity was recorded on the site; the closest and most recent record of badger is 310m from the site and so badgers are likely present in the local vicinity; Overall, it is not considered that the development will have a significant impact on badgers;

As a result, the report makes a number of recommendations to mitigate the development including:

- a. Appropriate mitigation measures for bats during demolition works (mitigation licence will need to be obtained from Natural England to allow works to the XPO office building to proceed), with appropriate mitigation measures then implemented during the demolition works; This would be provided in the method statement which forms part of the licence application however would include; removal of the roofing features in the roost location following the soft-strip protocol and under the supervision of a qualified and licenced ecologist; suitable compensatory roosting habitat would also need to be incorporated;
- b. Recommendation for the retention of trees assessed to be of suitability for bats, and to incorporate these features into the landscaping; If not possible, further assessment of the high and moderate suitability trees would be required to ensure the loss of these trees does not significantly impact roosting bats;
- c. Trees, shrubs and hedgerows to be retained are to be protected using appropriate root protection methods in accordance with the British Standard;
- d. Works to buildings to be carried outside of the bird nesting season;
- e. Due to suitable foraging habitat for badgers, any trenches or excavations that are created during the works should be back-filled or covered the same working day that they are created; if this is not feasible a suitable means of escape should be provided in the form of a ramp at least 300mm wide and at an angle of no greater than 45 degrees;
- f. In the unlikely event that Great Crested Newts and Reptiles are encountered, it is a legal requirement to stop work and contact an ecologist to discuss an alternative approach;
- g. Any hedgehogs found during site works should be carefully moved to a safe location away from the works, or allowed to move of their own accord;
- h. A sensitive lighting scheme to be implemented during and after construction to avoid disturbance to foraging and commuting bats and other nocturnal wildlife;

The report makes a number of recommendations to compensate, including;

- Bat boxes to be installed at a suitable location on site, or a suitable bat brick incorporated into one of the new buildings;
- Planting of appropriate, complimentary tree and shrub species should be carried out along the site boundaries, planting up gaps in the existing hedgerows to provide a more robust, species-rich habitat for commuting and foraging bats and other species;
- Nesting boxes to be provided;

The Ecology Officer has been consulted and has made the following comments:

As usual, I would recommend conditioning of all the mitigation, compensation and enhancements of the report, which includes a lighting strategy, construction methodology, etc.

As per the report, a strong recommendation has been made to retain the most important trees within a landscaping scheme. I would concur that this is an essential element of the design, as these constitute high and medium bat roost value and migration corridor function. The boundary trees seem to be protected on the site boundary, but the internal tree corridor running north / south, located in the western part of the site should be protected and enhanced within an approximate 25m buffer zone and connected to other habitat or landscaping. Presently this area is to be lost and housing built.

Lowland Farmland birds would seem to be one of the most significantly impacted biodiversity features. Although hedgerows and their retention protects nesting and courtship function, foraging areas within fields would not be, which would like lead to the decrease in population sizes. I would like this to be re-examined for a solution on site, but if this is no possible, S106 may be required to offset this residual impact.

As the application stands, I believe that not all planning obligations have been met, as further solutions are required.

Further comments received from the Ecology Officer state:

I would recommend conditioning a metric (Warwickshire model) applied to assess residual impacts on biodiversity, to ensure a net gain. A net loss of biodiversity would trigger the need for S106 to deliver habitat creation off site. The exact values and costs of this can only be done once final layouts have been submitted.

All survey information should be within two years of commencement date.

The above comments have been considered alongside the conclusions and recommendations of the Ecology report, and in the context of national and local policy. The Ecology report concludes that as part of the compensation provided for the loss of the existing bat roosts, the compensation measures offered should be sufficient to also provide an overall enhancement in the provision of roosting habitat to provide an overall net gain in biodiversity, in accordance with the National Planning Policy Framework. The report also acknowledges the potential impact on the breeding bird population.

However the report goes on to make a number of other recommendations for enhancements including the measures to bats being applicable to providing suitable compensation / enhancement for nesting birds; and the use of native plant species and or species of known wildlife value that will enhance the ecological value of the site, for local populations of invertebrates, birds, bats and small mammals, in the landscaping scheme to be agreed as part of any future reserved matters application.

It should be noted that the 'Warwickshire model' as referenced by the Council's Ecology Officer, relates to a pilot run by DEFRA where a number of local authorities were chosen to pilot net gain policies in 2012. At present, whilst good practice guidance is available, there is no policy guidance at national level and the concept is not enshrined in local policy, nor the principles of ensuring net gain incorporated in any local supplementary planning document.

In addition, the National Planning Practice Guidance states that Biodiversity offsets are measurable conservation outcomes resulting from actions designed to compensate for residual adverse biodiversity impacts arising from a development after mitigation measures have been taken. The goal of biodiversity offsets is to achieve no net loss and *preferably* a net gain of biodiversity. As above, the submitted ecology report concludes that if implemented in accordance with recommendations for mitigation, compensation and enhancement, the scheme will deliver net gain.

Overall, it is considered that subject to a condition to secure submission and agreement of the above details, together with a condition to require compliance with the recommendations, it is considered that the proposed development will conserve and enhance the natural environment, providing an overall net gain for biodiversity, in accordance with the National Planning Policy Framework.

Trees

Saved Policy E12 (Trees and Development) of the Local Plan states that development proposals will be required to take full account of trees and hedgerows on and adjoining the site.

An Arboricultural Impact Assessment undertaken by Elliott Consultancy Limited (December 2017) was submitted in support of the application. None of the trees within the site are protected but the intention is to retain existing trees and hedgerows where possible.

The report identifies that the construction of the illustrative masterplan would necessitate the potential removal of six individual trees, two groups of trees and some hedgerows. It also identifies that the development of the illustrative masterplan would result in potential conflicts relating to damage to trees within the site during demolition and construction. However, it should be noted that this layout is indicative and serves to demonstrate how the site might be developed and the overall arboricultural impact of the development can only be established once a detailed scheme has been produced, which should take into account the need to retain as many natural features as possible, particularly taking into account the conclusions of the Ecology report (above) which require a number of trees be retained due to their nature conservation value.

It is recommended that a planning condition be attached to any approval to require submission and agreement of a Tree Survey, together with details of adequate tree protection, to ensure that those trees to be retained in the eventual final layout (which would be subject to a future reserved matters application to include additional landscaping), are sufficiently protected.

Impact on non-designated Heritage Assets (Archaeology)

Paragraph 197 of the NPPF requires the effect of an application on the significance of non-designated heritage assets to be taken into account in the determination of planning applications. It goes on to state that in weighing applications that directly or indirectly affect a non-designated heritage asset, a balanced judgement will be required having regard to the scale of any harm of loss and the significance of the heritage asset.

Paragraph 199 of the NPPF states that Local Planning Authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.

Durham County Archaeology Team has been consulted and requested that pre-determination field evaluation following by trial trenching would be required to allow the archaeological impact of the development to be fully understood.

In this case, due to part of the site being an operational haulage yard, and therefore there exist limitations to any pre-determination works, and the likely phasing of any development, officers have agreed with the applicant that a planning condition can be attached to any approval to require post-determination evaluation works, which would include mitigation if necessary.

Residential Amenity

Residential amenity in terms of the layout of the site and achieving an acceptable level of amenity for existing and future residents will be given full consideration when any application(s) for reserved matters are submitted.

The application has been submitted with an Air Quality Assessment prepared by Miller Goodall Consultants (2018). The report considers the impact of vehicle exhaust emissions associated with the proposed development on receptors in the surrounding area. It has concluded that the impact of the development on the prevailing air quality in the area will be negligible, largely because of the predominantly good air quality which currently exists in the vicinity of the development.

The Council's Environmental Health Officer has been consulted and agrees with the conclusions of the report, which demonstrates that the impact of the development will be significantly below air quality standards designed to safeguard health. It is therefore considered that mitigation measures to offset the impact of the development on air quality are not required.

The report also assesses the potential impacts of construction dust (an air pollutant) created during the construction phase of the development. The report has recommended a number of measures to minimise the impact of construction dust from the development on the surrounding area. The Council's Environmental Health Officer

has reviewed this information and has recommended that a condition be attached to any approval to require submission and agreement of a full Construction Management Plan, which would include the assessment of potential impacts of construction dust, but would also consider such issues as construction traffic routes, parking, details of wheel washing and proposed hours of construction.

A Noise Impact Assessment prepared by Apex Acoustics (February 2018) was submitted with the application. Noise measurements were taken at three locations around the site and the resultant levels have demonstrated that noise at the site would not prohibit the site from being developed as set out in the plans. The Environmental Health Officer has been consulted and has indicated that once more detailed plans are known (at reserved matters stage) further noise assessments will be required to more accurately determine suitable glazing and ventilation strategies for the dwellings, school and retail elements across the site.

To this extent, the Environmental Health Officer has recommended a planning condition be attached to any approval to require submission and agreement, and subsequent compliance with, a noise impact assessment for each phase of development.

Contamination

A Phase 1 desktop study and site walkover prepared by CGL (December 2017) was submitted with the application. The report identifies that historically, the site has been used as a railway line and spoil mounds, slag works, a depot and a garage. These past and current activities could have given rise to land contamination and recommends that further site investigation is undertaken.

The Council's Environmental Health Officer has been consulted and is satisfied that the Phase 1 report is sufficient to satisfy the first part of the standard planning conditions (CL1 which requires a site investigation strategy). It is recommended that should planning permission be granted, standard contamination conditions CL2-CL6 be attached to any approval. These deal with site investigation works, a remediation and verification strategy, Construction / remediation works and a Verification and Completion report.

Developer Contributions

Where a relevant determination is made which results in planning permission being granted for development, a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

The agreed Heads of Terms proposes the following:

- i) £208,008.45 Morton Palms Network Contribution;
- ii) £68,218.38 Little Burdon Network Contribution;

- iii) £297,000 to contribute to enhancement of public and sustainable transport within the village;
- iv) Transfer of land for the construction of a school in lieu of an Education Contribution;
- v) One bus pass to be provided to each residential dwelling constructed on the site to encourage more sustainable modes of transport.

The developer has agreed that 20% affordable housing will be provided on-site and that this will be dealt with by way of a planning condition.

The above were considered with reference to the Planning Obligations SPD and in close liaison with internal consultees. Overall, it is considered that these proposals meet the tests set out above, are necessary, directly related to the development, and fairly and reasonably related in scale and kind to the development.

The Council's Transport Policy Officer has also requested that given the size and proximity of the development in relation to the Dinsdale Railway Station, there may be significant impacts on the station, with a contribution required towards station facility improvements, which could include waiting facilities, additional customer information facilities, additional security, or additional cycle facilities. The station is within easy walking distance of the proposed development site and provides sustainable transport links by rail to Darlington in one direction and Eaglescliffe in the other providing connections to mainline destinations. Whilst the above has been given consideration, it is not considered that this meets the tests set out above and this therefore has not been included in the above Heads of Terms.

Delivery

To ensure the Council maintains a five-year supply of housing land and to progress to the delivery of dwellings within a short time frame, a condition is recommended which sets a short time scale for the submission of the reserved matters application. A period of 18 months is considered appropriate.

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

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (2018) supports the plan led system providing that planning decisions should be "genuinely plan-led" (NPPF para 15).

Despite the conflict with Saved Policy E2 (Development Limits) of the Borough of Darlington Local Plan 1997, the application site is in an area which the Council considers to be suitable for housing development and are proposing for allocation in the emerging Local Plan. When considered in the context of the emerging Local Plan and the contribution that the proposal will make to the 5 year supply of housing land, the principle of residential development is considered to be acceptable on the application site in this instance.

The proposal does not result in any adverse impacts on highway safety, surface water drainage or on residential and visual amenity, with appropriate mitigation measures in place to be secured by planning conditions. Appropriate planning obligations have also been negotiated and would be secured by a Section 106 Agreement, to mitigate against the impacts of the development.

RECOMMENDATION

THE DIRECT OF ECONOMIC GROWTH BE AUTHORISED TO NEGOTIATE AN AGREEMENT UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 WITHIN SIX MONTHS TO SECURE PLANNING OBLIGATIONS THAT ARE APPROPRIATE FOR THE DEVELOPMENT COVERING:

- i) STRATEGIC NETWORK IMPROVEMENTS;
- ii) GIFTING OF SCHOOL SITE TO THE COUNCIL FOR PROVISION OF A SINGLE FORM PRIMARY SCHOOL IN LEIU OF A FINANCIAL EDUCATION CONTRIBUTION;
- iii) SUSTAINABLE TRANSPORT CONTRIBUTION;
- iv) PROVISION OF ONE BUS PASS PER DWELLING.

THAT UPON SATISFACTORY COMPLETION AND SIGNING OF THAT AGREEMENT, PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS AND REASONS:

SHOULD THE 106 AGREEMENT NOT BE COMPLETED WITHIN THIS PRESCRIBED PERIOD WITHOUT WRITTEN CONSENT OF THE COUNCIL TO EXTEND THIS TIME, THE MINDED TO APPROVE STATUS OF THE PERMISSION SHALL BE CONSIDERED TO BE A REFUSAL ON THE GROUNDS THAT THE APPLICATION HAS FAILED TO PROVIDE ADEQUATE MITIGATION MEASURES TO PROVIDE A SATISFACTORY FORM OF DEVELOPMENT IN ACCORDANCE WITH THE REQUIREMENTS OF CORE STRATEGY POLICY CS4 (DEVELOPER CONTRIBUTIONS), WITHOUT ANY FURTHER REFERENCE TO THE PLANNING COMMITTEE. THE REASON TO REFUSE THE PLANNING APPLICATION WOULD BE AS FOLLOWS:

The proposed development would be contrary to Policy CS4 (Developer Contributions) of the Darlington Core Strategy Development Plan Document 2011 as adequate provision has not been made for strategic highway network improvements, sustainable transport and education in order to mitigate the impact of the proposed development.

CONDITIONS

1. Approval of the following details ("the reserved matters") in respect of the development shall be obtained from the Local Planning Authority in writing before the development is commenced:
 - a) layout
 - b) scale
 - c) appearance
 - d) landscaping

The development shall not be carried other than in accordance with the approved plans. Application(s) for the reserved matters for any building/s or phase of development shall be made to the local planning authority before the expiration of eighteen months from the date of this permission.

REASON – To accord with the provisions of Section 92(1) of the Town and Country Planning Act 1990 and to ensure the speedy provision of this site for the approved development.

2. The development hereby permitted shall be begun either before the expiration of;
 - (a) three years from the date of this permission, or
 - (b) one year from the date of approval of the last of the reserved matters to be approved; whichever is the later.
3. PL (Accordance with plans)
Y81:1054.06 Revision D Developable areas
Y81.1054.05 Revision D Illustrative masterplan
4. E3 Landscaping (Implementation)
5. No development shall take place on the western section of the application site (to the west of Middleton Back Road) until the existing industrial / haulage uses have fully ceased operation.

REASON – In the interests of residential amenity and highway safety.

6. The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
 - a) the numbers, type, tenure and location on the site of the affordable housing provision to be made, which shall consist of not less than 20% of housing units;
 - b) The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;

- c) The arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing] (if no RSL involved);
- d) The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- e) The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

REASON – To comply with Council Housing Policy

5. The development hereby approved, as it affects that part (or phase) of the site to be developed, shall not be commenced on site, until a scheme of ‘Surface Water Drainage and Management’ for the implementation, maintenance and management of the sustainable drainage scheme has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. The scheme shall include, but not be restricted to providing the following details:
 - i. Detailed design of the surface water management system including design water levels and finished floor levels demonstrating a suitable freeboard;
 - ii. A build program and timetable for the provision of the critical surface water drainage infrastructure;
 - iii. A management plan detailing how surface water runoff from the site will be managed during the construction phase;
 - iv. Details of adoption responsibilities;
 - v. Management plan for the Surface Water Drainage Scheme.

The building hereby approved shall not be brought into use until the approved ‘Surface Water Drainage’ scheme has been implemented and the approved scheme shall be maintained in accordance with the Surface Water Management scheme for the lifetime of the development.

REASON – To ensure the site is developed in a manner that will not increase the risk of surface water flooding to site or surrounding area, in accordance with the guidance within Core Strategy Development Plan Policy CS10 and the National Planning Policy Framework.

6. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) and Drainage Strategy dated 11th December 2017 and the following mitigation measures detailed in the FRA.
 - Limiting the surface water run-off generated by the impermeable areas of the development up to and including the 100 year critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of

flooding off-site. This will be achieved in accordance with section 10.6 and 10.7 stating a post development discharge limit of 224.3l/s (subject to condition below.

- Further, the applicant shall demonstrate that the existing positive drainage network is currently operable. Otherwise, the existing impermeable area shall be considered as greenfield for the pre-development run-off calculations.

The mitigation measures shall be fully implemented prior to the occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any period as may subsequently be agreed, in writing, by the Local Planning Authority.

REASON – To prevent flooding by ensuring the satisfactory storage of / disposal of surface water from the site and to reduce the risk of flooding to the proposed development and future occupants.

7. No dwellings should be occupied until the surface water management system for the development or any phase of the development is in place and fully operational. A maintenance plan detailing how the surface water management system will be maintained during the construction phase must also be submitted and approved in writing by the Local Planning Authority.

REASON – To reduce flood risk and ensure satisfactory long term maintenance for the lifetime of the development.

8. Development, as it affects that part (or phase) of the site to be developed, shall not commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved, has been submitted to and approved in writing by, the Local Planning Authority. Thereafter, the development shall not take place otherwise than in complete accordance with the approved details.

REASON – To prevent the increased risk of flooding from any sources in accordance with the NPPF.

9. Prior to the commencement of the development, as it affects that part (or phase) of the site to be developed, a Demolition and Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plans shall include the following:
 - a) Methods for controlling dust from the construction activities on site. These have already been outlined in the Miller Goodall Air Quality Assessment submitted with the application and should be incorporated into the CMP as part of the measures necessary to control dust on the site;
 - b) Dust Assessment Report which assesses the dust emission magnitude, the sensitivity of the area, risk of impacts and details of the dust control measures to be put in place during the demolition and construction phases of the development. The Dust Assessment Report shall take account of the guidance contained within the Institute of Air Quality Management 'Guidance on the assessment of dust from demolition and construction' February 2014;

- c) Methods for controlling noise and vibration during the demolition and construction phase7. which shall take account of the guidance contained within BS5228 'Code of Practice for noise and vibration control on construction and open sites' 2009;
- d) Construction Traffic Routes, including parking areas for staff and visitors;
- e) Details of wheel washing;
- f) Road Maintenance;
- g) Warning signage;
- h) Details of parking for show homes.

REASON – In the interests of highway safety and residential amenity.

10. Prior to the commencement of the development as it affects that part (or phase) of the site to be developed and any site investigation works or at a time agreed in writing by the Local Planning Authority a Phase 2 Site Investigation Strategy (Sampling and Analysis Plan) shall be designed and documented by a "suitably competent person(s)" in accordance with published technical guidance (e.g. BS10175 and CLR11) and be submitted to and agreed in writing with the Local Planning Authority, unless the Local Planning Authority dispenses with the requirement specifically and in writing. The Phase 2 Site Investigation Strategy (Sampling and Analysis Plan) shall be sufficient to fully and effectively characterise and evaluate the nature and extent of any potential contamination sources, hazards and impacts. No alterations to the agreed Phase 2 Site Investigation Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority.

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.

11. Prior to the commencement of the development as it affects that part (or phase) of the site to be developed, or at a time agreed in writing by the Local Planning Authority a Phase 2 Site Investigation works shall be conducted, supervised and documented by a "suitably competent person(s)" and carried out in accordance with the approved Phase 2 Site Investigation Strategy (Sampling and Analysis Plan). A Phase 2 Site Investigation and Risk Assessment Report prepared by a "suitably competent person(s)", in accordance with published technical guidance (e.g. BS10175 and CLR11) and shall be submitted to and agreed in writing with the Local Planning Authority unless the Local Planning Authority dispenses with the requirement specifically and in writing.

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

12. Prior to the commencement of the development as it affects that part (or phase) of the site to be developed, or at a time agreed in writing by the Local Planning Authority a Phase 3 Remediation and Verification Strategy shall be prepared by a "suitably competent person(s)" to address all human health and environmental risks associated with contamination identified in the Phase 2 Site Investigation and Risk Assessment. The Remediation and Verification Strategy which shall include an options appraisal and ensure that the site is suitable for its new use, and shall be submitted to and agreed in writing with the Local Planning Authority, unless the Local Planning Authority dispenses with the requirement specifically and in writing. No alterations to the Remediation and Verification Strategy or associated works shall be carried out without the prior written agreement of the Local Planning Authority.

The Phase 3 Remediation and Verification works shall be conducted, supervised and documented by a "suitably competent person(s)" and in accordance with the approved Phase 3 Remediation and Verification Strategy.

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

13. Any contamination not considered in the Phase 3 Remediation and Verification Strategy, but identified during subsequent construction/remediation works shall be subject to further risk assessment and remediation proposals agreed in writing 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

14. A Phase 4 Verification and Completion Report shall be compiled and reported by a "suitably competent person(s)", documenting the purpose, objectives, investigation and risk assessment findings, remediation methodologies and validation results obtained to demonstrate the completeness and effectiveness of all approved remediation works conducted. The Phase 4 Verification and Completion Report shall be submitted and agreed in writing with the Local Planning Authority within 2-months of completion of the development **as it affects that part (or phase) of the site to be** developed unless the Local Planning Authority dispenses with the requirement specifically and in writing.

The development site or agreed phase of development site, shall not be occupied until all of the approved investigation, risk assessment, remediation and verification requirements relevant to the site (or part thereof) have been completed, reported and approved in writing by the Local Planning Authority.

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

15. For each phase of development, prior to, or at the same time as any reserved matters application, relating to layout, scale, appearance and landscaping, a noise impact assessment and a scheme to protect any noise sensitive receptors from excessive noise, undertaken by a suitably qualified acoustic consultant shall be submitted to and approved in writing by, the Local Planning Authority. The scope of the report, including the relevant noise sources to be considered and noise sensitive receptors shall be agreed in advance with the Local Planning Authority. Any works which form part of a mitigation scheme outlined in the noise impact assessment shall be completed prior to any part of the development being first occupied or used, or within an alternative timescale to be agreed with the Local Planning Authority. This requirement can be dispensed with if it is demonstrated and agreed in writing with the Local Planning Authority that no adverse noise impacts will arise for each phase.

REASON – In the interests of residential amenity.

16. Construction and demolition work shall not take place outside the hours of 08:00-18:00 Monday to Friday, 08:00-13:00 Saturday with no working on a Sunday and Bank / Public Holidays without the prior written permission from the Local Planning Authority.

REASON – In the interests of residential amenity.

17. No development shall be carried out unless and until vehicle swept path analysis has been undertaken to support the movement framework for emergency vehicles, refuse vehicles and buses, for the internal network and, where appropriate, in respect of the off-site highway proposals, details of which shall be submitted to, and approved by the Local Planning Authority.

REASON – In the interests of highway safety.

18. Prior to the commencement of the development, as it affects that part (or phase) of the site to be developed, precise details of car parking and secure cycle parking and storage details shall be submitted and approved in writing by the Local Planning Authority. The details shall include the number,

location and design of the cycle stands and the development shall not be carried out otherwise than in complete accordance with the approved details.

REASON- In the interests of highway safety

19. Precise details of the off-site highway works required to access the site and mitigate the development impact shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development. The submitted details shall include dropped kerbs, footways to the development frontage to connect into the surrounding infrastructure, tactile paving, improvements to visibility splays, junctions, roundabout, bus stops traffic calming and signage / road markings. The development shall not be carried out otherwise than in complete accordance with the approved details.

REASON – In the interest of highway safety.

20. Prior to the commencement of any development on the western section of the application site (to the west of Middleton Back Road) details of the footpath entrance from Chapel Street, including details of the timing of the works to implement the link, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter the development shall be implemented fully in accordance with the approved details.

REASON – To achieve satisfactory pedestrian access provision in the interests of connectivity.

21. A Road Safety Audit shall be carried out for all of the works within the public highways and the scope of the Audit shall be agreed in writing with the Local Planning Authority. The development shall not be carried out unless in complete accordance with the approved Audit.

REASON – In the interest of highway safety.

22. Unless otherwise agreed in writing by the Local Planning Authority, no part of the development shall be occupied until a Travel Plan, to help reduce dependency on the use of the private car has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan should include clear and unambiguous objectives and modal split targets, together with a time-bound programme of implementation, monitoring and regular review and improvement; Thereafter, the development shall not be carried out otherwise than in accordance with the terms of the approved Travel Plan.

REASON - To encourage the reduction of journeys made to and from the development by private motor vehicles by the promotion of more sustainable forms of transport.

23. Prior to the commencement of the development hereby approved, as it affects that part (or phase) of the site to be developed, details of pedestrian links within the site to connect to existing surrounding infrastructure, to

improve the permeability of the site, shall be submitted to, and approved in writing by, the Local Planning Authority.

REASON – To ensure a satisfactory form of development.

24. No development, as it affects that part (or phase) of the site to be developed, shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation that has been approved in writing by the Local Planning Authority. The scheme shall provide for:

- i) Measures to ensure the preservation in situ, or the preservation by record, of archaeological features of identified importance;
- ii) Methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts;
- iii) Post-fieldwork methodologies for assessment and analyses;
- iv) Report content and arrangements for dissemination, and publication proposals;
- v) Archive preparation and deposition with recognised repositories;
- vi) A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy;
- vii) Monitoring arrangements, including the notification in writing to the County Durham Principal Archaeologist of the commencement of archaeological works and the opportunity to monitor such works;
- viii) A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications.

The archaeological mitigation strategy shall be carried out in accordance with the approved details and timings.

REASON – To comply with para 197 and 199 of the NPPF because the site is of archaeological interest

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

REASON – To comply with para 199 of the NPPF, which requires the developer to record and advance understanding of the significance of a heritage asset to be lost, and to make this information as widely accessible to the public as possible.

26. Prior to the commencement of the development, as it affects that part (or phase) of the site to be developed, details of the proposed surface water and foul water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority, in conjunction with Network Rail. Such a scheme shall be designed to ensure that all surface water and foul water drainage from the development area shall be directed away from Network Rail's retained land and structures into suitable drainage systems. Thereafter

the development shall be carried out in accordance with the details as approved.

REASON – To ensure the safety, operational needs and integrity of the railway.

27. Notwithstanding any details of the proposed boundary treatment submitted as part of the application, details of trespass proof fence to be built adjacent to Network Rail's boundary, shall be submitted to and approved in writing by the Local Planning Authority, in conjunction with Network Rail, prior to the commencement of development, as it affects that part (or phase) of the site to be developed. Thereafter the development shall be carried out in accordance with the details as approved.

REASON – To ensure the safety, operational needs and integrity of the railway.

28. Prior to the commencement of the development, as it affects that part (or phase) of the site to be developed, details of a scheme to prevent vehicular access from the development northwards underneath the railway structure shall be submitted to, and approved in writing by the Local Planning Authority, in conjunction with Network Rail. Thereafter the development shall be carried out in accordance with the details as approved.

REASON – To ensure the safety, operational needs and integrity of the railway.

29. In the event that external lighting is to be used either during the construction or operational phases of the development, details shall be submitted to and approved in writing by the Local Planning Authority, in conjunction with Network Rail prior to the commencement of development. Thereafter the development shall be carried out in accordance with the details as approved.

REASON – To ensure the safety, operational needs and integrity of the railway.

30. In the event that excavations/piling/buildings are to be located within 10 metres of the railway boundary a method statement shall be submitted to and approved in writing by the Local Planning Authority, in conjunction with Network Rail, prior to any works commencing on site. Thereafter the development shall be carried out in accordance with the details as approved.

REASON – To ensure the safety, operational needs and integrity of the railway.

31. Prior to the commencement of the development hereby permitted, as it affects that part (or phase) of the site to be developed, details of the finished floor levels of the dwellings and gardens hereby approved in relation to existing ground levels shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be undertaken in accordance with the details as approved.

REASON – In the interest of visual and residential amenity.

32. The mitigation measures set out in the Ecological Impact Assessment prepared by Naturally Wild (SHA-17-06 September 2018) shall be implemented in full. In addition, no development shall take place until precise details of a landscaping scheme to mitigate for the loss of habitat on the site and for the provision of bat roosting and bird nesting opportunities on the site have been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved scheme shall be implemented in full prior to first occupation of any of the dwellings on site and maintained for the lifetime of the development.

REASON – To comply with Core Strategy Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity).

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

REASON – In the interest of nesting birds.

34. Prior to the commencement of the development, as it affects that part (or phase) of the site to be developed, a detailed survey of trees to be affected by the development (both within the site and adjoining its boundary) shall be carried out. The survey shall include the identification of measures to protect existing retained trees in order to protect them from damage by compaction, severance and material spillage, in accordance with BS5837, and shall be submitted to, and approved in writing by, the Local Planning Authority. No demolition or site clearance shall be commenced until the agreed measures are in place and have been inspected by the Council's Arboricultural Officer. The approved measures shall remain in place through the carrying out of this planning permission. Notwithstanding the above approved specification, none of the following activities shall take place within the segregated protection zones in the area of the trees:

- a) The raising or lowering of levels in relation to existing ground levels;
- b) Cutting of roots, digging of trenches or removal of soil;
- c) Erection of temporary buildings, roads or carrying out of any engineering operations;
- d) Lighting of fires;
- e) Driving of vehicles or storage of materials and equipment;

REASON – To ensure a maximum level of protection in order to safeguard the well-being of the trees on the site and in the interest of the visual amenities of the area.

35. The retail floorspace shall comprise three self-contained units of 500 square metres gross each, and thereafter no amalgamation to larger units shall take place without the prior written approval of the Local Planning Authority, to whom a planning application must be made.

REASON – To ensure that the proposed retail units meet local needs.

36. The retail units hereby approved shall only be used for A1 (Shops), A2 (Financial and professional services) or A3 (Restaurants and Cafes) of the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other use without the prior written approval of the Local Planning Authority, to whom a planning application must be made.

REASON – To ensure that the proposed retail units meet local needs and to allow the Local Planning Authority to retain control over the uses within the site in the interests of residential amenity.

37. The use of the retail units hereby permitted shall not commence until details of the arrangements for the storing of waste or refuse have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the details as approved.

REASON – In the interest of residential amenity.

38. No development in connection with the retail units hereby approved shall take place until a Servicing Management Plan, which shall limit the size of service vehicles visiting the site and make and providing for the management of the car parking in connection with service vehicles has been submitted to and approved in writing by the Local Planning Authority. Thereafter all vehicle servicing shall take place in accordance with the approved Servicing Management Plan.

REASON – In the interest of highway safety.

39. No external plant, equipment or machinery shall be installed as part of the proposed retail units without the prior written approval of the Local Planning Authority. Where external plant, equipment or machinery is proposed details shall be submitted in writing to the Local Planning Authority prior to its installation and must include the type of plant, equipment or machinery to be installed and the proposed locations, and if deemed necessary by the Local Planning Authority, appropriate noise mitigation measures shall be implemented prior to the plant, equipment or machinery first becoming operational and thereafter shall be retained and maintained for the life of the development.

REASON – In the interest of residential amenity.

40. Deliveries to and the collection of waste from the retail units hereby permitted shall only be permitted whilst the premises is open and in any event only between the hours of 07.00 and 19.00 Monday to Saturday and 10.00 and 18.00 on Sundays and Bank Holidays.

REASON – In the interest of residential amenity.

INFORMATIVES

The proposed development must not increase the risk of surface water runoff from the site or cause any increased flood risk to neighbouring sites. Any increase in surface water generated by the proposed development or existing surface water / groundwater issues on the site must be alleviated by the installation of sustainable drainage system within the site.

If the application proposed to discharge surface water into an ordinary watercourse a land drainage consent will be required from the Lead Local Flood Authority (LLFA). A land drainage consent is a separate application that could take up to 8 weeks for completion and no works on the watercourse can proceed until consent has been approved by the LLFA.

The updated guidance states the new allowance for climate change now require both +20% scenario and a +40% scenario. Therefore the new surface water drainage scheme designed within the Flood Risk Assessment / Drainage Strategies require at least three sets of calculations:

1. 1 in 30 year event;
 2. 1 in 100 year event plus 20% climate change;
 3. 1 in 100 year event plus 40% climate change;
- New development drainage systems should be designed to include a 10% uplift to runoff to account for 'urban creep'.
 - Finished floor levels should have a minimum freeboard (distance to flood water level) of 600mm.
 - A sensitivity test against the 40% allowance is required to ensure that the additional runoff is wholly contained within the site and there is no increase in the rate of runoff discharged from the site. It must be demonstrated that there are no implications to people from the increased flood hazard (volume between 30% and 40% allowance). It is crucial that the additional runoff from the 40% is contained within the site and does not contribute to an increased flood risk to people / property / critical infrastructure / third parties elsewhere.
 - If the flows cannot be contained within the site without increasing risk to properties or main infrastructure a 40% allowance must be provided.

The applicant must consider local guidance detailed in the 'Tees Valley Local Standards for Sustainable Drainage'. It is recommended that the applicant contacts the Flood Risk Management Team at an early stage to discuss surface water management requirements and their proposed surface water drainage solution for this proposed development.

The developer should develop their surface water drainage solution by working through the Hierarchy of Preference contained within Revised Part H of the Building Regulations 2010. Namely:

- Soakaway;
- Watercourse
- Sewer.

If sewer is the only option the developer should contact Northumbrian Water to agree allowable discharge rates and points into the public sewer network. This can be done by submitting a pre-development enquiry to Northumbrian Water. Full details can be found at <https://www.nwl.co.uk/developers/predevelopment-enquiries.aspx> or telephone 0191 419 6646.

Please note that the planning permission is not considered implementable until the condition has been discharged. Application can then be made for a new sewer connection under Section 106 of the Water Industry Act 1991.

For information, we can inform you that a public sewer and water main cross the site and may be affected by the proposed development. Northumbrian Water do not permit a building over or close to our apparatus and therefore we will be contacting the developer direct to establish the exact location of our assets and ensure any necessary diversion, relocation or protection measures required prior to the commencement of the development.

Prior to the commencement of the development the contractor should contact the Assistant Director: Highways, Design and Projects (contact Mr Steve Pryke 01325 406664) to discuss the requirements of a road condition survey covering the existing adopted highway to ensure no further damage is caused to the highway as a result of the construction of the development.

A Road Safety Audit shall be carried for all of the works within the public highway and the scope of the audit shall be agreed in writing with the Local Planning Authority. The development shall not be carried out unless in complete accordance with the approved audit.

The developer is required to submit detailed drawings of the proposed internal highway and off-site highway works to be approved in writing by the Local Planning Authority and enter into a Section 278/38 agreement before commencement of the works on site. Contact must be made within the Assistant Director: Highways, Design and Projects (contact Mr S Brannan 01325 406663) to discuss this matter.

The applicant is advised that contact must be made with the Assistant Director: Highways, Design and Projects (contact Mrs P McGuckin 01325 406651) to discuss naming and numbering of the development.

An appropriate street lighting scheme and design to cover the new highways and any proposed amendments to the existing lighting should be submitted to and approved in writing by the Local Authority. Contact must be made with the Assistant Director: Highways, Design and Projects (contact Mr M Clarkson 01325 406652) to discuss this matter.

The applicant is advised that contact be made with the Assistant Director: Highways, Design and Engineering (contact Mr C Easby 01325 406707) to discuss the Introduction of Traffic Regulation Orders in connection to a 20mph zone and relocated speed limit.

Network Rail

Railway Bridge DSN/10

The proposed development site sits directly to the south of the railway which includes a public footpath passing under the railway bridge DSN1/10 which would provide pedestrian links to Yarm Road and the nearby amenities in the village. We are concerned that the proposed development may impact on the infrastructure and in particular that it may become a vehicular route providing a short cut to Yarm Road from the site. Given the narrow width of the structure, this may result in vehicle strikes that may impact on operational railway safety. It is also imperative that the development does not impede our ability to inspect and maintain the structure (for which 24/7 access is required).

Further to this, we note that at present the footpath surface at the site is uneven and should improvements to this be proposed as part of this development, this should be discussed and agreed with our Asset Protection Team (details below) prior to any work taking place to ensure that it can be undertaken safely and without impact to operational railway safety and the bridge structure itself.

We ask that all surface and foul water drainage from the development area be directed away from Network Rail's retained land and structures into sustainable drainage systems, the details of which are to be approved by Network Rail before construction starts on site.

Water must not be caused to pond on or near railway land either during or after any construction-related activity.

The construction of soakaways for storm or surface water drainage should not take place within 20m of the Network Rail Boundary. Any new drains are to be constructed and maintained so as not to have any adverse effect upon the stability of any Network Rail equipment, structure, cutting or embankment.

The construction of soakaways within any lease area is not permitted.

The construction of surface water retention ponds / tanks, SuDs or flow control systems should not take place within 20m of the Network Rail Boundary where these systems are proposed to be below existing track level. Full overland flow conditions should be submitted to Network Rail for approval prior to any works on site commencing.

If a Network Rail-owned underline structure (such as a culvert, pipe or drain) is intended to act as a means of conveying surface water within or away from the development, then all parties must work together to ensure that the structure is fit for purpose and able to take the proposed flows without risk to the safety of the railway or surrounding land.

Wayleaves and or easements for underline drainage assets

The position of any underline drainage asset shall not be within 5m of drainage assets, sensitive operational equipment such as switches and crossings, track joints, welds, overhead line stanchions and line side equipment, and not within 15m of bridges, culverts, retaining walls and other structures supporting railway live loading.

Protection of existing railway drainage assets within a clearance area

There are likely to be existing railway drainage assets in the vicinity of the proposed works. Please proceed with caution. No connection of drainage shall be made to these assets without Network Rail's prior consent to detailed proposals. Any works within 5m of the assets will require prior consent. There must be no interfering with existing drainage assets / systems without Network Rail's written permission. The developer is asked to ascertain with Network Rail the existence of any existing railway drainage assets or systems in the vicinity of the development area before work starts on site. Please contact Matthew Shelton (matthew.shelton@networkrail.co.uk) for further information and assistance.

Fail safe use of crane and plant

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 line is electrified, within 3.0m of overhead electrical equipment or supports.

Excavations / earthworks

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. If temporary work compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken. Network Rail will not accept any liability for any settlement disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or vibration arising from the normal use and / or maintenance of the operational railway. No right of support is given or can be claimed from Network Rail's infrastructure or Railway land.

Security of mutual boundary

Security of the railway boundary will need 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 Asset Protection Project Manager.

Armco Safety Barriers

An Armco or similar barrier should be located in positions where vehicles may be in a position to drive into or roll onto the railway or damage the lineside fencing. Network Rail's existing fencing / wall must not be removed or damaged. Given the considerable number of vehicle movements, likely provision should be made

at each turning area / roadway / car parking area adjacent to the railway. This is in accord with the new guidance for road / rail vehicle incursion NR/LV/CIV/00012 following on from DfT advice issued in 2003, now updated to include risk of incursion from private land / roadways.

Fencing

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 / Fail Safe / Possessions

Method statements may require to be submitted to Network Rail's Asset Protection Project Manager at the below address for approval prior to works commencing on site. This should include an outline of the proposed method of construction, risk assessment in relation to the railway and construction traffic management plan. 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 Asset Protection Project Manager 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.

OPE

At least 6 weeks prior to works commencing on site the Asset Protection Project Manager (OPE) MUST be contacted, contact details as below. The OPE will require to see any method statements / drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the railway.

Demolition

Any demolition or refurbishment works must not be carried out on the development site that may endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures. The demolition of buildings or other structures near to the operational railway infrastructure must be carried out in accordance with an agreed method statement. Approval of the method statement must be obtained from Network Rail's Asset Protection Project Manager before the development can commence.

Vibro-impact Machinery

Where vibro-compaction machinery is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Local Planning Authority acting in consultation with the railway

undertaker prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.

Scaffolding

Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed.

Bridge strikes

Applications that are likely to generate an increase in trips under railway bridges may be of concern to Network Rail where there is potential for an increase in 'Bridge Strikes'. Vehicles hitting railway bridges cause significant disruption and delay to rail users. Consultation with the Asset Protection Project Manager is necessary to understand if there is a problem particularly if large construction vehicles are to access the site via a route that takes them under the adjacent Yark Road railway bridge which has a 4.1m height restriction. If required there may be a need to fit bridge protection barriers which may be at the developers expense.

Cranes

With a development of a certain height that may / will require the use of a crane, the developer must bear in mind the following. Crane usage adjacent to railway infrastructure is subject to stipulations on size, capacity, etc. which needs to be agreed by the Asset Protection Project Manager prior to implementation. .

Encroachment

The developer / application must ensure that their proposal, both during construction and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure, or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing onto Network Rail air-space and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicant's land ownership. Should the applicant require access to Network Rail land then must seek approval from the Network Rail Asset Protection Team. Any unauthorised access to Network Rail land or air-space is an act of trespass and is a criminal offence. Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

Noise / soundproofing

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.

Trees / shrubs / landscaping

Where trees / shrubs are to be planted adjacent to the railway boundary they 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. Network Rail would wish to be involved in the approval of any landscaping scheme adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved and ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below.

Acceptable

Birch (Betula), Crab Apple (Malus Sylvestris), Field Maple (Acer Campestre), Bird Cherry (Prunus Padus), Wild Pear (Pyrus Communis), Fir trees – Pines (Pinus), Hawthorne (Cretaeagus), Mountain Ash – Whitebeams (Sorbus), False Acacia (Robinia), Willow Shrubs (Shrubby Salix), Thuja Plicatata Zebrina.

Not Acceptable

Acer (Aver pseudoplatanus), Aspen – Poplar (Populus), Small-leaved lime (Tilia Cordata), Sycamore – Norway Maple (Acer), Horse Chestnut (Aesculus Hippocastanum), Sweet Chestnut (Castanea Sativa), Ash (Fraxinus excelsior), Black poplar (Populus nigra var, betulifolia), Lombardy Poplar (Populus nigra var, italic), Large-leaved Lime (Tilia platyphyllos), Common Lime (Tilia x europea).

A comprehensive list of permitted tree species is available upon request.

Lighting

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.

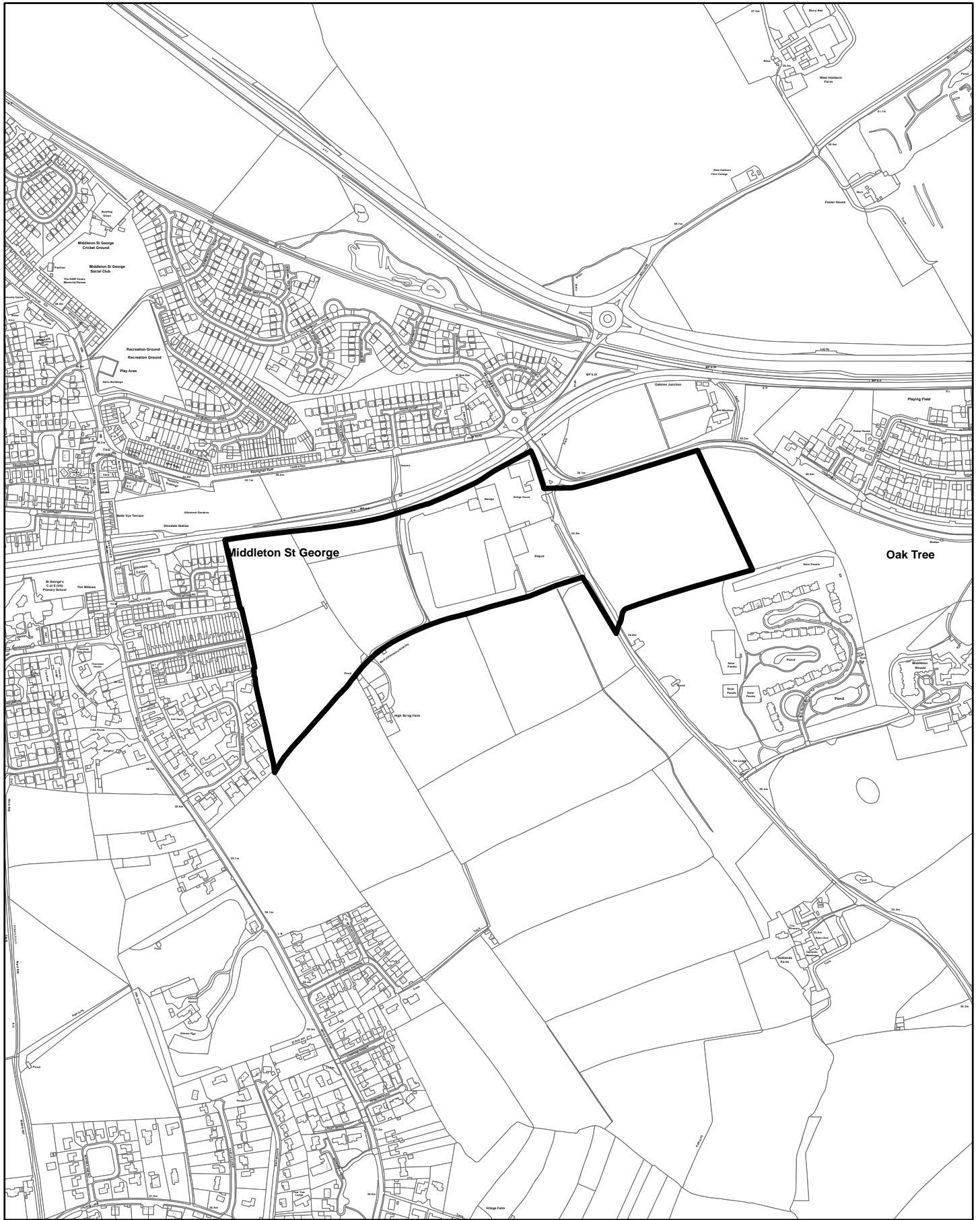
Access to Railway

All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development. In particular, our access to inspect and maintain structure DSN/10 should remain clear and unrestricted at all times both during and after construction.

Children's Play areas / Open Spaces / Amenities

Children's play areas, open spaces and amenity areas must be protected by a secure fence along the boundary of one of the following kinds; concrete post and panel, iron railings, steel palisade or such other fence approved by the Local Planning Authority acting in consultation with the railway undertaker to a minimum height of 1.8 metres and the fence should not be able to be climbed.

Network Rail is required to recover all reasonable costs associated with facilitating these works.



This page is intentionally left blank



Appeal Decision

Site visit made on 12 February 2019

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th March 2019

Appeal Ref: APP/N1350/W/18/3213878
201 Greenbank Road, Darlington DL3 6EY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr J Singh against the decision of Darlington Borough Council.
 - The application Ref: 18/00672/FUL, dated 25 July 2018, was refused by notice dated 25 September 2018.
 - The development proposed is a change of use of the ground floor of 201 Greenbank Road to form a local convenience store.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - The effect of the proposed development on the living conditions of the occupiers of nearby residential properties, with particular regard to noise and disturbance; and
 - The effect of the proposed development on the character and appearance of the area.

Reasons

Living conditions of nearby residents

3. The appeal building is a two-storey end of terrace house located at the junction of Greenbank Road and Craig Street. The surrounding area largely consists of terraced dwelling houses with a scattering of small shops and commercial premises amongst the residential properties. A short distance to the south west of the appeal building is a primary school and Darlington Memorial Hospital.
4. Policy CS16 of the Darlington Local Development Framework Core Strategy 2011 (Core Strategy) expects, amongst other matters, that new development should ensure that there is no detrimental impact on the environment, general amenity and the health and safety of the community. The National Planning Policy Framework (the Framework) also seeks to ensure that new development provides a high standard of amenity for existing and future users.

5. Whilst it is proposed that the opening hours of the proposed shop would be limited to 07:00 to 21:00 Monday to Saturday and 08:00 to 21:00 on Sundays and Bank Holidays, its presence would undoubtedly lead to a greater number of pedestrian and vehicle movements in the area, although I accept that the latter may be fewer in number due to the small-scale nature of the premises. Nonetheless, the proposed shop would lead to a greater number of movements and larger presence of people in a predominantly residential area. This would occur both during the day and into the evening when residents might reasonably expect the area to be quieter. This would lead to increased noise and disturbance for existing nearby residents.
6. At the time of my site visit, the area around the appeal building was busy, which was in part due to parents taking their children to the nearby school both on foot and by vehicle. The presence of the school will, consequently, result in an increased degree of disturbance to local residents at certain times of the day. The presence of a corner shop would increase the length of these periods of disturbance, due to the potential for linked trips, and would also extend these periods of increased activity and disturbance into the evening.
7. Although there are other commercial properties interspersed with residential buildings in the area, from what I saw on my site visit, I would agree with the Council's position that these are long established commercial uses and that anyone taking up residence nearby would do so in the knowledge that they were there. Consequently, I do not consider that these existing commercial uses indicate that further commercial uses would be acceptable or would not harm the living conditions of existing residents.
8. The Council and Durham Constabulary have concerns in respect of antisocial behaviour being encouraged by the presence of the proposed shop. A nearby park and play area is identified as the main focus for antisocial behaviour, and I saw on my site visit that there is an entrance to a park close to the appeal building at the north end of Greenbank Road.
9. There is conflicting evidence in respect of the level of anti-social behaviour in the area. There is little substantive evidence from the Council or Durham Constabulary to support their concerns. Although the appellant's evidence shows that there were few instances of antisocial behaviour reported by particular premises, this is limited in its scope to reports made by operators of specific shops, and to identifying current concentrations of reported antisocial behaviour. Whilst I share the Council's concerns that a new retail premises that was open in the evening may have the potential to encourage congregation, there is no evidence before me that would show a direct correlation between the presence of a retail premises of the type proposed and increased anti-social behaviour. However, this does not overcome the other harm that I have previously identified.
10. I therefore conclude that the proposed development would cause harm to the living conditions of the occupiers of nearby residential properties, with particular regard to noise and disturbance. It would conflict with the relevant requirements of Core Strategy Policy CS16 and the Framework.

Character and appearance

11. The appeal building is located in an area that consists primarily of two storey terraced housing. It is one of a group of six end of terrace properties that face

onto Greenbank Road but are physically attached to the terraces which line the streets running perpendicular to it. Although the furthest north of these, number 203 Greenbank Road has been much altered, the remaining five are largely unaltered and form an attractive visual group at the north end of the street.

12. The proposed alterations to the building itself are relatively minor and I note that the Council have not raised any concerns in respect of the proposed extension to the rear of the property. From what I have read and from what I saw when I visited the site I have no reason to disagree with this. The proposal would, however, also involve the removal of the front boundary wall to the property and the creation of a cycle parking area within the former front garden area. In the immediate vicinity, the houses on Greenbank Road have small front garden areas enclosed by a variety of boundary treatments, including low walls, fences and hedges. This differentiates it from the streets running perpendicular to it, where the buildings are located directly behind the footway, and provides a unifying characteristic to the street.
13. Whilst the front boundary wall of the appeal building is not the original wall, it retains the character of the street and forms a strong feature on the corner at the junction with Craig Street. I recognise that the appeal building is not Listed, nor is it within a Conservation Area. Nonetheless, it is part of an attractive grouping of buildings that make a positive contribution to the appearance of the area. The removal of the wall, and effective creation of an open forecourt area, would erode this through the loss of a garden area, loss of a characteristic feature, and the visual weakening of the corner. This would be harmful to the character and appearance of the area.
14. I accept that the removal of the wall could be carried out without planning permission, however, it is part of the appeal proposal and there is no evidence which would indicate that, were the appeal proposal not to proceed, the wall would be removed regardless.
15. My attention has been drawn to the removal of the front boundary walls at 189/191 Greenbank Road, to the south of the appeal building. I saw when I visited the site that the absence of boundary treatments at these two properties is inconsistent with the prevailing character of the street, where the rest of the properties retain enclosed frontages. I do not consider that this justifies the removal of the boundary wall at the appeal building as it would reinforce this inconsistency and further erode the existing characteristics of the street.
16. I conclude that the proposed development would cause harm to the character and appearance of the area. It would be contrary to the relevant requirements of Core Strategy Policy CS2 which seeks to ensure that development reflects or enhances the distinctive natural, built, and historic characteristics that positively contribute to the character of the area and its sense of place.

Other matters

17. I have noted the comments made in support of the proposal including the lack of convenience stores in the area, the potential to increase competition and reduce prices, and the creation of local jobs. I saw when I visited the site that there is a convenience store located on Hollyhurst Road to the west and a small supermarket on Corporation Road to the south. Both premises are a short walk

from the appeal site and, whilst Hollyhurst Road is reasonably well trafficked, none of the roads in the area would act as a deterrent to pedestrians accessing these shops. Competition between businesses is not a matter that I can take account of in this appeal and although the appeal proposal will create some local employment opportunities, due to the small scale of the premises the benefit of this would be modest. None of these factors would lead me to a different conclusion on the main issues.

18. Concerns have been raised by third parties in respect of highway safety and increased parking in the vicinity of the appeal building. I note that the Highway Authority did not raise objections to the proposal and that the Council have not raised this as an issue. Whilst the appeal building is located next to a junction, there are no parking restrictions in the area. When I visited the site, I saw that although the available on-street parking was relatively well used there were, nonetheless, opportunities to park safely near the appeal building on Greenbank Road and Craig Street. Whilst I appreciate that there will be different parking demands at other times of the day, the small scale of the proposed shop would not generate significant numbers of car borne patrons. I am satisfied that any additional car parking demand could be accommodated in the vicinity without compromising highway safety.
19. I have had regard to Policy CS9 of the Core Strategy which states that individual local shops which meet the day to day needs of the nearby residents without the need to use a car will be protected and promoted, and to the Framework, which is also supportive of small businesses. However, neither the Core Strategy, nor the Framework, prioritises this over considerations such as the living conditions of residents, or the character and appearance of the area. Whilst the appeal proposal would not conflict with Core Strategy Policy CS9, this does not outweigh the other harm that I have identified.

Conclusion

20. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR

By virtue of paragraph(s) 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank