



DARLINGTON

Borough Council

Planning Applications Committee Agenda

1.30 pm, Wednesday, 11 May 2022

Council Chamber, 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 16 March 2022
(Pages 5 - 12)
4. Introduction to Procedure by the Assistant Director, Law and Governance's
Representative (Pages 13 - 14)
5. Applications for Planning Permission and Other Consents under the Town and Country
Planning Act and Associated Legislation (Pages 15 - 16)
 - (a) Five Acres, Lime Lane, Brafferton, Darlington (Pages 17 - 40)
 - (b) 309 Woodland Road, Darlington, DL3 9AA (Pages 41 - 50)
6. 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
7. Questions

PART II

8. Notification of Decision on Appeals –

The Chief Executive will report that the Inspectors appointed by the Secretary of State for the Environment have: -

Dismissed the appeal by Mr and Mrs Tyers against this Authority's decision to refuse permission for proposed is creation of 4 Gypsy/Traveller Pitches at Land off Neasham Road/Burma Road, Hurworth Moor, Darlington DL2 1PZ (20/00822/FUL) (Copy of Inspector's decision letter enclosed).

Dismissed the appeal by Mr B Miller of Wynyard Homes against this Authority's decision to refuse permission for proposed erection of 25 no dwellings including 20% affordable (5 no. units) at Newton Grange Farm, Stockton Road, Sadberge, Darlington (20/00891/FUL) (Copy of Inspector's decision letter enclosed).

Recommended – That the report be received.
(Pages 51 - 64)

9. Notification of Appeals –

The Chief Executive will report that:-

Mr Liam Coates has appealed against this Authority's decision to refuse permission for consent to carry out works to protected trees at 16 Cardinal Gardens, Darlington, DL3 8SD (20/01163/TF) (21/00789/FUL)

Mr Donald Jones has appealed against this Authority's decision to refuse permission for consent to carry out works to protected tree at 225 Carmel Road, North Darlington, DL3 9TF (21/00497/TF)

Mr Tim Paver has appealed against this Authority's decision to refuse permission for consent to carry out works to protected trees at Land Adjacent To 20 Freville Grove, Darlington, DL3 9QN (21/01208/TF)

Recommended – That the reports be received.

PART III

EXCLUSION OF THE PUBLIC AND PRESS

10. 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.

11. Complaints Received and Being Considered Under the Council's Approved Code of Practice as of 29 April 2022 (Exclusion Paragraph No. 7) –

Report of the Chief Executive
(Pages 65 - 74)

12. 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
13. Questions



Luke Swinhoe
Assistant Director Law and Governance

Tuesday, 3 May 2022

Town Hall
Darlington.

Membership

Councillors Allen, Clarke, Cossins, Heslop, Mrs D Jones, Laing, Lee, Lister, McCollom, Sowerby, Tait, Tostevin and Wallis

If you need this information in a different language or format or you have any other queries on this agenda please contact Paul Dalton, Elections Officer, Operations 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: paul.dalton@darlington.gov.uk or telephone 01325 405805

This page is intentionally left blank

PLANNING APPLICATIONS COMMITTEE

Wednesday, 16 March 2022

PRESENT – Councillors Mrs D Jones (Chair), Allen, Cossins, Heslop, Lee, Lister, McCollom and Tostevin.

APOLOGIES – Councillors Clarke, Laing, Sowerby, Tait and Wallis.

OFFICERS IN ATTENDANCE – Dave Coates (Head of Planning, Development and Environmental Health), Arthur Howson (Engineer (Traffic Management)), Andrew Errington (Lawyer (Planning)), Lisa Hutchinson (Principal Planning Officer) and Paul Dalton (Elections Officer).

PA96 DECLARATIONS OF INTEREST

There were no declarations of interest reported at the meeting.

PA97 TO APPROVE THE MINUTES OF THE MEETING OF THIS COMMITTEE HELD ON 16 FEBRUARY 2022

RESOLVED – That the Minutes of this Committee held on 16 February 2022, be approved as a correct record.

PA98 APPLICATIONS FOR PLANNING PERMISSION AND OTHER CONSENTS UNDER THE TOWN AND COUNTRY PLANNING ACT AND ASSOCIATED LEGISLATION

A3	<p>Implementation Limit (Three Years) The development hereby permitted shall be commenced not later than the expiration of three years from the date of this permission.</p> <p>Reason - To accord with the provisions of Section 91(1) of the Town and Country Planning Act, 1990.</p>
B4A	<p>The materials used in the external surfaces of the extension hereby permitted shall match those used on the existing building.</p> <p>Reason - In the interests of maintaining the visual amenity of the development in accordance with the requirements of Policy H12 of the Borough of Darlington Local Plan 1997.</p>
CL2	<p>Prior to the commencement of the development 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</p>

	<p>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.</p> <p>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.</p>
<p>CL3</p>	<p>Prior to the commencement of the development 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.</p> <p>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.</p>
<p>CL4</p>	<p>Prior to the commencement of the development 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.</p> <p>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.</p> <p>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</p>

	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.
CL5	<p>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.</p> <p>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.</p>
CL6	<p>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 unless the Local Planning Authority dispenses with the requirement specifically and in writing.</p> <p>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.</p> <p>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.</p>

PA99 LAND OFF BOWMAN STREET, DARLINGTON

21/00869/FUL - Erection of 4 no. three bed residential dwellings together with new access, car parking, boundary treatment, amenity space and associated works (amended plans received 11 January 2022 and 3 March 2022).

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), the nine letters of objection originally received, the withdrawal of the objections of two objectors following the submission of amended plans, and the views of the

Applicant and the Applicant's Agent, whom the Committee heard).

RESOLVED – That Planning Permission be granted subject to the following conditions:

1. A3 – Implementation Limit (Three Years)
2. The development hereby permitted shall be carried out in accordance with the approved plans, as detailed below:
 1. Drawing Number 001 C Ground and First Floor Block Plans Inc Images
 2. Drawing Number 002 A Loft Floor and Roof Plan
 3. Drawing Number 9 – 1 Existing and Proposed Site Plans, Site Location and Boundaries
 4. Drawing Number 21 -1 Proposed Elevations
 5. Drawing Number 90 -1 Site Section Across Bowman Street
 6. Drawing Number 100 – 1 3D Imagery

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

3. Prior to the commencement of the development, a site-specific Demolition and Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan[s] shall include the following, unless the Local Planning Authority dispenses with any requirement[s] specifically and in writing:
 - 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 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.
 - b) Methods for controlling noise and vibration during the demolition and 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".
 - 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

4. CL2 - Phase 2 Site Investigation Strategy
5. CL3 – Phase 2 Investigation Works

6. CL4 - Phase 3 Remediation and Verification Strategy
7. CL5 - Construction/Remediation works
8. CL6 - Phase 4 Verification and Completion Report
9. Notwithstanding the details shown on the approved plans, 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.

10. Notwithstanding the details shown on the approved plans, precise details of the car parking arrangements for the development, including the provision of disabled parking spaces, 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 and the car parking spaces shall be fully implemented and available to use prior to the first occupation of the development.

REASON - In the interests of providing adequate parking for people with mobility issues

11. Notwithstanding the details shown on the approved plans, precise details of the visibility splays at the vehicle access point onto the service lane shall be submitted to and approved in writing by the Local Planning Authority. The details shall also include the means of enclosure and sliding gate on the boundary with the service lane and across the access point. The development shall not be carried out otherwise than in complete accordance with the approved plans.

REASON - In the interests of highway safety.

12. Notwithstanding the details shown on the approved plans, the approved development shall incorporate four bird boxes into the site layout or design of the dwellings. The details of the bird boxes shall be submitted to and approved in writing, by the Local Planning Authority prior to the commencement of the development and they shall be remain in place during the lifetime of the development.

REASON - In the interests of the enhancing the ecological nature of the development and application site.

13. Prior to the commencement of the development, precise details of secure, covered, cycle parking provision for use by the occupants and visitors 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 which shall be fully implemented and available for use prior to the first occupation of the development. The agreed details shall remain in place for the lifetime of the development.

REASON - In the interest of encouraging the use of sustainable modes of transport.

14. The development hereby approved shall not be carried out otherwise than in complete accordance with the materials palette contained within Page 9 of the document entitled "Design and Access Statement. Land to the rear of Harrowgate Hill Methodist Church. Darlington" Version 2 dated December 2021 and produced by Phoenix Design Man.

REASON - In the interests of the visual appearance of the development and the street scene.

15. No construction or demolition activities, including the use of plant and machinery, as well as deliveries to and from the site, shall take place outside the hours of 08.00-18.00 Monday to Friday, 08.00-14.00 Saturday with no activities on Sunday or Bank/Public Holidays without the prior written permission of the Local Planning Authority.

REASON - In the interests of residential amenity.

16. The EV charging points shown on the approved plans shall be a minimum of a single phase 13 amp socket.

REASON - To ensure that the proposed development accords with Policy IN4 of the Darlington Borough Local Plan (2016 – 2036).

PA100 UNITS 4 AND 5, RED BARNES WAY, DARLINGTON, DL1 2RR

22/00008/FUL - Change of Use from storage (unit 4) and former car valeting bay (unit 5) to car MOT station and repairs (sui generis), including demolition of dividing wall to create single unit and alterations to doors on northeast elevation.

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), three letters of representation received highlighting concerns around car parking and congestion on the private road, and the views of the Applicant, one Supporter and one Objector, whom the Committee heard).

RESOLVED – That Planning Permission be granted subject to the following conditions:

1. A3 Implementation Limit (Three Years)

The development hereby permitted shall be commenced not later than the expiration of three years from the date of this permission.

REASON – To accord with the provisions of Section 91(1) of the Town and Country Planning Act, 1990.

2. The development hereby permitted shall be carried out in accordance with the approved plan, as detailed below:-

Drawing Number:-

- 63/P100 - Existing Floor Plans
- 63/P200 - Existing Elevations
- 63/P300 - Proposed Floor Plans
- 63/P400 - Proposed Elevations

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

PA101 14 WOODVALE ROAD, DARLINGTON, DL3 8EZ

21/01333/FUL - Erection of two storey side extension and insertion of bi-fold doors to rear elevation (as amended by plans received 04.02.22).

(In reaching its decision, the Committee took into consideration the Planning Officer's report (previously circulated), three objections initially received, a further two letters of objection received subsequent to the report being placed in the public domain, which were read to Members, and the views of the Applicant, whom the Committee heard).

RESOLVED – That Planning Permission be granted subject to the following conditions:

1. A3 Implementation Limit (3 years)
2. B4a (Materials)
3. The first floor windows formed in the eastern (side) elevation shall be obscure glazed and shall not be repaired or replaced other than with obscured glazing.

REASON - To prevent overlooking of the nearby premises.

4. The first floor window formed in the northern (rear) elevation shall be installed with 50% obscure glazing, in full accordance with the details as shown on drawing no. 2 Rev 1b, and shall not be repaired or replaced other than in full accordance with these details.

REASON - To prevent overlooking of the nearby premises.

5. The wooden gate with fixed panel above, as shown on drawing no. 2 Rev 1b, shall be provided prior to the extension to which it relates being occupied and thereafter it shall be retained permanently to limit the impact of the 'cantilever' on the character and appearance of both the application property and surrounding area.

REASON - To safeguard the residential amenities of the neighbourhood.

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

- Drawing No. 1 Rev 1 – Existing Elevations and Floor Plans
- Drawing No. 2 Rev 1b – Proposed Elevations and Floor Plans
- Drawing No. 3 Rev 1 – Location Plan, Existing and Proposed Site Layout

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

PA102 NOTIFICATION OF DECISION ON APPEALS

The Chief Executive reported that, Inspectors, appointed by the Secretary of State for the Environment, had:

Dismissed the appeal by V. G. Developments (NE) Limited against this Authority's decision to refuse permission for the Erection of 1 no. dormer bungalow at 213-217 Haughton Road, DARLINGTON, DL1 2LD (20/01181/FUL).

The appeal is allowed and planning permission is granted for residential development comprising the erection of 4 no detached bungalows at land to the rear of 21 Barmpton Lane, Darlington, DL1 3HB in accordance with the terms of the application, Ref 21/01149/OUT, dated 1 October 2021, and the plans submitted with it (Location Plan 19004 L01 and Site Access Review JN2052-DWG-0001E), subject to the conditions set out in the attached schedule.

RESOLVED – That the report be received.

PA103 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.

PA104 COMPLAINTS RECEIVED AND BEING CONSIDERED UNDER THE COUNCIL'S APPROVED CODE OF PRACTICE AS OF 4 MARCH 2022 (EXCLUSION PARAGRAPH NO. 7)

Pursuant to Minute PA95/Feb/2022, the Chief Executive submitted a report (previously circulated) detailing breaches of planning regulations investigated by this Council, as at 4 March 2022.

RESOLVED - That the report be noted.

When the time comes for the application to be considered, the Chair will use the following running order:

[This order may be varied at the Chair's discretion, depending on the nature/complexity of the application. The Chair will endeavour, however, to ensure that the opportunity to make representations are made in a fair and balanced way.]

- Chair introduces agenda item;
- Officer explains and advises Members regarding the proposal;
- Applicant or agent may speak;
- Members may question applicant/agent;
- Up to 3 objectors may speak
- Members may question objectors;
- Up to 3 supporters may speak
- Members may question supporters;
- Parish Council representative may speak;
- Members may question Parish Council representative;
- Ward Councillor may speak;
- Officer summarises key planning issues;
- Members may question officers;
- Objectors have right to reply;
- Agent/Applicant has right to reply;
- Officer makes final comments;
- Members will debate the application before moving on to a decision;
- Chair announces the decision.

This page is intentionally left blank

BOROUGH OF DARLINGTON

PLANNING APPLICATIONS COMMITTEE

Committee Date – 11 May 2022

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:-

Address/Site Location	Reference Number
Five Acres, Lime Lane, BRAFFERTON, DARLINGTON	21/00753/FUL
309 Woodland Road, DARLINGTON DL3 9AA	22/00113/FUL

This page is intentionally left blank

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 11 May 2022

APPLICATION REF. NO:	21/00753/FUL
STATUTORY DECISION DATE:	18 May 2022
WARD/PARISH:	Heighington And Coniscliffe
LOCATION:	Five Acres, Lime Lane Brafferton
DESCRIPTION:	Change of use of agricultural land to land to be used as community garden for post 16 yr school leavers with learning difficulties comprising of new vehicle access together with 1 no. day centre/barn with plant room, 3 no. polytunnels, raised walkways and decking, car parking, cycle storage, community and sensory gardens, animal areas with stable block and feed shed and other associated works (additional ecology information received 13 January 2022; amended Design and Access Statement; amended and additional plans received 16 March and 27 April 2022)
APPLICANT:	Five Acres Community Garden

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received, and other background papers are available on the Darlington Borough Council website via the following link:
<https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=Q82CFLFPLCD00>

APPLICATION AND SITE DESCRIPTION

1. The application site is a triangular piece of land consisting of five small fields of horse-grazed pasture, separated by overgrown hedgerows. Lime Lane runs along the northern boundary; the A1(M) runs along the east boundary and the East Coast Main Line railway abuts the western boundary. There are existing trees and hedges on the boundaries and

within the site and there is an existing field access gate off Lime Lane. A small, wooden stable block with corrugated sheet metal roof and an existing track and hardstanding area sit within the centre of the site.

2. The River Skerne is approximately 90m to the south-west, beyond the East Coast Main Line and beneath the A1(M). Surrounding land use is largely agricultural, with large fields of grazing pasture and arable land. Isolated farmsteads and residential dwellings can be found scattered through the fields, whilst the village of Brafferton itself is located 775m to the south-east. Aycliffe Quarry, an active limestone quarry and waste disposal site is situated 500m to the north and the industrial complex at Newton Aycliffe, extends to within 650m of the site.
3. The site is within the ownership of the applicant and the planning application has been submitted in order to redevelop it into a day centre for school leavers with special needs. The facility would seek to benefit the young adults in different ways using therapeutic horticulture and animals and agriculture. The intentions of the project is to establish a centre which will encourage all the young people to flourish, learn practical and new skills while socialising and embracing the outdoors. Five Acres would focus in work skills in preparation for adulthood from the basics of gardening, growing flowers and harvesting edible crops. The Centre would also provide work experience for students whilst still in education. The day centre would operate during the following hours
 - Monday to Friday 0800 to 1800
 - Saturday 0900 to 1800
 - Sundays and Bank Holidays 1000 to 1600
4. The proposal involves the erection of a new modular building, "The Barn", which will be the social area of the site including a working kitchen. This building would be the centre for craft and art and woodwork sessions. Three polytunnels will ensure that the site can be used during bad weather and used all year round. Animals will play a role and will be introduced at the site with an associated stable block and feed shed. There will be areas for chickens, ponies, goats and small animals along with community gardens and sensory gardens. The centre would be operated by experienced and correctly qualified and trained staff and volunteers.
5. In support of the planning application, the applicant has submitted a statement. The following information has been extracted from the Statement:

"My family have operated a Coach Company in Newton Aycliffe since 1975 and have transported the Special Needs Sector to various Schools, Day Centres and Colleges throughout County Durham to this present day. We have seen the decline and closure of many day respite facilities in both Darlington & County Durham and felt we needed to do something drastic to rectify this situation. We have the utmost respect for Parents and Carers who look after a loved one with Learning and Physical Difficulties or Special Needs, it is very hard and exhausting carrying out their daily routine and supporting

them. This is why we wanted to help and create a network to support and offer an alternative day respite experience”

“The members could enjoy looking after the animals and growing their own vegetables whilst learning about ‘field to fork’ and preparing for their adult life”

“We approached John & Julie Finley from ROF 59 Activity Centre in Newton Aycliffe, and they kindly allowed us to open using their venue on what was initially a temporary basis. As a matter of urgency, we opened Five Acres Community Garden in May 2021, we took a ‘Leap of Faith’ and we hit the ground running. We opened with two staff members and two Service Users – We call them our ‘CHAMPIONS’. Nine months on and Five Acres is flourishing – we now have 30+ Champions, 6 Full Time Members of Staff, an Apprentice and Volunteers.”

“This site will allow us to diversify into planting and growing crops and teach our Champions the ‘field to fork’ process, being self- sufficient, using the land in an appropriate way. This new Centre would allow us to give more opportunities to more Champions in our area. We will do our Members proud. We will create more employment opportunities too – Five Acres is now a vital service”

6. Vehicular access would be via the existing field gate and car and cycle parking spaces would be provided within the site.
7. The applicant has advised that the ROF59 premises are an excellent facility for them at the moment and a decision will be made as to whether this proposed facility would run alongside the existing premises or otherwise depending upon need and capacity

MAIN PLANNING ISSUES

8. The main planning issues to be considered here are whether the proposed development is acceptable in the following terms:
 - a) Planning Policy
 - b) Sustainable Location and Connectivity
 - c) Highway Safety and Parking
 - d) Amenity and Site Security
 - e) Impact on Visual Appearance and Character of the Area
 - f) Ecology
 - g) Impact on Trees
 - h) Drainage and Flood Risk
 - i) Contaminated Land
 - j) Archaeology
 - k) Nutrient Neutrality

PLANNING POLICIES

9. The following policies are relevant:

National Planning Policy Framework (2021)

Darlington Local Plan 2016 – 2036

- SD1: Presumption in Favour of Sustainable Development
- DC1: Sustainable Design Principles and Climate Change
- DC2: Flood Risk and Water Management
- DC3: Health & Wellbeing
- DC4: Safeguarding Amenity
- H3: Development Limits
- E4: Economic Development in the Open Countryside
- ENV1 - Protecting, Enhancing and Promoting Darlington's Historic Environment
- ENV3: Local Landscape Character
- ENV4 - Green and Blue Infrastructure
- ENV7: Biodiversity and Geodiversity and Development
- ENV8: Assessing a Development's Impact on Biodiversity
- IN1: Delivering a Sustainable Transport Network
- IN2: Improving Access and Accessibility
- IN10: Supporting the Delivery of Community and Social Infrastructure

RESULTS OF TECHNICAL CONSULTATION

10. The Council's Public Rights of Way Officer; Environmental Health Officer, Highways Engineer, Ecology Consultant have raised no objections to the proposed development
11. The Council's Transport Policy Officer has provided advice on the public transport and accessibility matters which will be considered in detailed elsewhere in the report
12. National Highways; British Transport Police, Darlington Association on Disability, Network Rail, Northern Gas Networks, Northumbrian Water and Northern Powergrid has raised no objections to the principle of the proposed development and planning conditions have been requested.
13. The Architectural Liaison Officer from Durham Constabulary has commented that the site should be secure, possibly with an access barrier to the vehicular access point
14. The Durham County Council Archaeology Team have no archaeological objection to the development

RESULTS OF PUBLICITY AND NOTIFICATION

15. The local planning authority has received 71 letters of support and 4 letters of objection to the planning application.
16. The majority of the letters of support have been submitted by people who directly use, work and benefit from the existing facilities provided by Five Acres Community Garden at ROF59 in Newton Aycliffe or have family members who use and benefit from the enterprise. The comments highlight and highly praise their objectives, services, staff and

qualities and how essential the services are for the people that use them. Other comments include:

- *The proposal is sympathetic to the environment and will enhance the local space*
- *The facility will offer endless possibilities for these “champions” including animal care, horticulture*
- *The proposal will bring environmental benefits to the site*
- *Five Acres will be able to continue to provide an invaluable service to further enhance the lives of these young adults*
- *This will be very therapeutic for people with special needs*
- *There is nothing else like this proposal elsewhere in Darlington*
- *To be able to access a site within a natural rural setting would be beneficial to the social skills, cognitive skills and enhance the mental health of these young adults*
- *The plans will create a great deal of attention for Darlington*
- *This will lead to job opportunities for staff and the young people*
- *The proposal will present opportunities to enhance the lives of the young adults and give them skills for increased independence*
- *The site on Lime Lane will further promote the good working ethics of Five Acres*
- *Darlington is already under served with facilities for young adults with learning difficulties and Five Acres is one of the very few trying to correct this imbalance. This will allow them to grow their offer and provide further opportunities to deserving adults in our communities*
- *This is a wonderful opportunity for so many people with special needs*
- *The uptake for the service, which is temporarily based at ROF, has been very popular, indicating a need for this kind of modern and purpose built provision*
- *This is an excellent opportunity for an inclusive town like Darlington*
- *Excellent location for such a venture*
- *It will not affect anyone, spoil anyone’s view, block out anyone’s light*
- *Darlington needs this facility*
- *The development is sympathetic to its surroundings*
- *The applicant has access to community transportation and therefore access for foot, bicycle and public transport would not be necessary*
- *Young adults will get the opportunity to experience nature*
- *Post COVID, this facility should be embraced and welcomed as a community based opportunity*
- *This will allow more people with disabilities to socialise, develop skills and engage in life enhancing opportunities*

17. Included within the above, are letters of support from the Executive Leader of Pioneering Care Centre (PCP), the Darlington Borough Council’s Mentor and Career Guidance Advisor (People Group); a Durham County Councillor, Town Councillors from Newton Aycliffe, and from the Chairman and Chief Executive of County Durham and Darlington NHS Foundation Trust

18. The four objections to the planning application can also be summarised as follows:

- *The site is on a busy road, close to a quarry/Council tip entrance and will be of detrimental use to an agricultural area*
- *The applicant already has premises that could be used for the proposed purposes*
- *The proposal would be out of character to the surrounding area*
- *Inappropriate location on a busy road, especially at peak times*
- *Detrimental use to an agricultural area*
- *I would be concerned over the safety of the residents due to the close proximity of the A1 motorway and the main line railway*
- *There are no amenities at the site*
- *Close proximity to access for quarry. Dustbin lorries and other large HGVs use the access from early hours of the morning until 6pm*
- *How will residents be transported to the site as there will be a concern over an increase in traffic*
- *No public transport links and poor pedestrian links and therefore all attendees and visitors will have to use the car*
- *Lime Lane will be used for parking which is dangerous*

19. PLANNING ISSUES/ANALYSIS

a) Planning Policy

20. 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 (2021) supports the plan led system providing that planning decisions should be “genuinely plan-led” (NPPF para 15).
21. The application site is located outside the development limits identified on the Policies Map of the Darlington Local Plan and therefore the proposal is classified as taking place in the open countryside (Policy H3). The development limits help to protect the open countryside between settlements and preserve the countryside’s intrinsic character and beauty.
22. Economic development is generally not acceptable in principle outside the development limits unless said development has regard to criteria set out in Policy E4 (Economic Development in the Open Countryside) of the Local Plan. As a charitable community development, the proposed development does not fit easily within the parameters of Policy E4 but Section C of the policy states that proposals for outdoor leisure uses will be supported in appropriate locations, provided their impact on the open countryside is minimised, and they provide satisfactory access arrangements and protect amenity. Furthermore, Policy IN10 (Supporting the Delivery of Community and Social Infrastructure) states that proposals for new community services and facilities will be supported in accessible locations providing that the scale of development is appropriate to the area in which it is proposed.

23. Additionally, Paragraph 85 of the NPPF (2021) states that planning policies and decisions should plan positively for the provision of community facilities and other local services. Paragraph 85 of the NPPF (2021) also states that planning policies and decisions should recognise that sites to meet local community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport.
24. The fact that the proposal is for a community garden/training facility, specifically for the learning and respite needs of post 16-year-old school leavers with learning difficulties, which would require and benefit from a countryside location, is a material planning consideration which carries weight in the determination of this planning application. This consideration has been taken into account as part of the officer recommendation in accordance with S.38(6) of the Planning and Compulsory Purchase Act 2004.

b) Sustainable Location and Connectivity

25. The Council's Transport Policy Officer has confirmed that development site is not accessible by public transport as the site is not within 400m walking distance of a bus stop. There is not a continuous, safe, lit footpath link to the site from the urban area and no formal cycle route and therefore, the site cannot be considered as being accessible on foot or by cycle. As a result, the site is not in a fully accessible and sustainable location and the proposal would not comply with policies IN1, IN2 and IN10 of the Darlington Local Plan
26. The applicant has advised that their "champions" are not capable of being able to use public transport as they are not independent enough to do so. They arrive at the existing premises at Newton Aycliffe via a taxi, parents/carers or via the applicant's transport service.
27. Information has been submitted in support of the planning application which states that a virtual bus stop for the Tees Flex bus service will be used as a way of getting people to and from the site. The location for the Tees Flex pick up and drop off is a safe option. Tees Flex is a publicly subsidised bookable service currently operating on a three year contract, which started in January 2020, and there is no guarantee that the service will continue once the three year contract comes to and end or it may be reduced in areas which may mean that this area may no longer be served. However, the applicant has advised that whilst the service is temporary and whilst not being able to give any guarantees, the Tees Valley Mayor hopes that the service will continue as it has been a needed and successful service. Stagecoach, who deliver the service, are also committed to it continuing due to its need and success.
28. Furthermore, the applicant operates their own coach company. It is a private transport service provided by Five Acres involving the use of two small coaches (8 seater and 8 seater with wheelchair accessible spaces). The coaches would be used to transport the "Champions" to and from the site between the hours of 09:15 and 1500 and one coach would be used for the transporting people from the Darlington area and one for County Durham.

29. The proposed development would include the provision of cycle parking, the precise details of which, can be secured by planning condition.
30. As stated above, the NPPF 2021 states that decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements and development limits, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport).
31. This report will advise that there are no highway objections to the proposed development in terms of impact on local roads and the development would not adversely harm the character and appearance of the rural area. The applicant has provided information which means that access to the site will not be solely reliant on the use of private motor vehicles and other means of transport would be available through the TeesFlex booking system and their own private transport company. By its very nature and purpose, the proposal requires a countryside location for the educational and physical benefits of the users and their learning experiences rather than one which is within or on the edge of the urban area and this is a material planning consideration which carries weight in the determination process. Officers recognise that the proposal is not fully compliant with the local development plan in this particular regard, but in accordance with S.38(6) of the Planning and Compulsory Purchase Act 2004, other material planning considerations have been identified which carry weight and allow officers to support the principle of the proposed development subject to compliance with other relevant national and local planning policies.

c) Highway Safety and Parking

32. The site access is to be via an upgraded existing field access located on Lime Lane which is within a national speed limit (60mph) road. Whilst the site is to be accessed via an existing field access, this proposal is likely to be a significant intensification of use over the historic occasional vehicle movements associated with agricultural use and must therefore be proven to be safe for the life of the development
33. DMRB standards require that visibility splays in line with the speed limit are demonstrated, with 215m x4.5m being appropriate to 60mph speeds. Where the standard visibility requirements cannot be met, a reduction may be considered based on lower actual travelling speeds being demonstrated to be lower, via a speed survey to determine 85th percentile speed, or where the local geometry/topography of the site otherwise governs speed.
34. The plans submitted in support of the planning application demonstrates available visibility splays of 4.5x143m westwards and 4.5x183m Eastwards. With regard to the reduced splay looking Westwards, this equates to a traveling speed of approximately 50mph which is considered to be robust when considering the local geometry of the

highway, where the bend located 150m from the site access is sufficiently sharp to reduce speeds significantly below 60mph. The road forming the approach to the site is also on a significant uphill gradient again having a speed reducing impact on the travelling speed of vehicles heading east towards the site. With regard to the 4.5x183m splay looking east, this a minor reduction in the advised 60mph standard of 4.5x215m and would equate to a travelling speed of 55mph and falls above the DMRB 'one step below Desirable Minimum' of 160m. It is therefore considered acceptable within the context of Lime Lane.

35. The desirable junction spacing of the nearby access located opposite is substantially less than the Design Guide standard of 60m. However, this is considered acceptable as the access only serves a single farm/dwelling and vehicle movements will be limited. The major access of the John Wade site has suitable spacing at 75m and is not considered a highway safety concern.
36. The access location is somewhat fixed owing to the level difference between the site and highway. A properly formed access junction will be needed, constructed to standards required as part of the adopted highway. The submitted plans show an upgraded access with 10m radii kerbs which will ensure servicing vehicles are able to enter the site as well as making the junction more conspicuous within an unlit rural road. Given the steep level change through the access, some internal works will be needed to create an acceptable gradient with the first 12m measured back from the carriageway edge being formed in a sealed material. Gates are also set back from the highway in order for a vehicle to pull off fully of Lime lane for opening and closing. All works within the public highway require the prior approval and consent of the Highways Authority, in a process separate to planning approval. In this case as part of an Agreement under Section 184 of the Highways act 1980.
37. The proposal includes provision for vehicle parking with the submitted plans, indicating 14 spaces which will be used by staff and volunteers. Accessible parking would be delineated within the parking area to the ends of the parking bays nearest to The Barn building.
38. The site is considered sui generis with regard to parking standards and as such does not fit within any particular parking standard within the Tees Valley Design Guide.
39. Overspill parking within a rural high speed road would not be considered acceptable owing to road safety concerns. The number of spaces that are shown on the plan would be acceptable and there appears to be sufficient internal space for vehicles to enter and exit the site in a forward gear.
40. The Council's Highways Engineer has advised that if the application was to be recommended for approval, a condition would need to be imposed to ensure that the upgraded access details submitted with the application are completed prior to the operation of the facility. It is also considered appropriate to secure planning conditions relating to the submission of details of the parking spaces, including accessible spaces,

and that the first 12m of the internal road is constructed from a sealed material in order to prevent detritus spilling onto the public highway.

41. The proposed development would accord with policies. The proposed development would accord with policies DC1, IN1, IN2 and IN4 of the Local Plan in this regard.

d) Amenity and Site Security

42. The site is not located in close proximity to other residential properties and therefore the proposed use would not raise any concerns in residential amenity terms. A 2.1m high livestock/trespass proof fence would be erected along the boundary of the site alongside the A1(M) and the East Coast Railway line in accordance with advice from the the British Transport Police, Network Rail and National Highways who have not objected to the proposed development. A condition is recommended to secure the submission of the precise details of the fencing.
43. Due to the proximity of the proposed development to the operational railway boundary, the developer will need to liaise with the Asset Protection Team of Network Rail prior to any work taking place on site to ensure that the development can be undertaken safely and without impact to operational railway safety. Details to be discussed and agreed with the Team will include construction methodology, earthworks and excavations, use of crane, plant and machinery, drainage and boundary treatments. It may be necessary for the developer to enter into a Basic Asset Protection Agreement (BAPA) with Network Rail to ensure the safety of the operational railway during these works. A planning condition has been recommended for the submission of a Construction Management Plan which will include the need to confirm that the above matters have been discussed with Network Rail.
44. The proposal would accord with policies DC3 and DC4 in the regard.

e) Impact on Visual Appearance and Character of the Area

45. The main additions to the site would be The Barn building; the polytunnels; the stable and feed shed, the parking area and the fencing around the boundary of the site with the A1(M) and the railway line. There would also be a raised timber footpath and enclosures around the various fields
46. The Barn is a single storey elongated building which measures 19.5m long; 9.1m wide within an overall height of 4.9m under a dual pitch roof. The building would be located in close proximity to the access and proposed parking area (north west corner). The building would be constructed from metal cladding painted green.
47. The polytunnels would be standard design tunnels measuring 12m long and 5.1m wide and would be located adjacent to the western boundary of the site.
48. The stable block would be single storey in height measuring 11m long; 5.1m wide with an overall height of 3.6m. The block would comprise of three stables. The feed store would measure 7.5m long; 3.5m wide with an overall height of 3.6m. These buildings

would be sited adjacent to each other quite centrally within the site and be constructed from treated timber cladding that would be allowed to weather over time.

49. The trespass proof fencing would be 2.1m high weldmesh style and run alongside the boundary of the site with the A1(M) and the railway line.
50. The site is at a lower level than Lime Lane on the northern boundary and it is quite well screened from the A1(M) and the main railway line by existing trees and hedges on the boundaries. Also the trees and hedges within the site will provide further screening. The Barn building would be the most visible from Lime Lane as there is not as much existing tree and hedge coverage along this boundary.
51. Further landscaping would occur within the site which will enhance the visual appearance of the site as well the biodiversity of the site (see below) and this would be secured by a planning condition.
52. The buildings that would be located on the site would not have an adverse impact on the character or appearance of the site and they have been designed to respect the rural location. They are of a temporary nature and the type of building that would be found elsewhere in the countryside. Precise details of the fencing around the site and around the fields and paddocks can be secured by planning conditions. A planning condition has been imposed to secure the details of any external lighting for the site.
53. The proposed development would comply with policies DC1, E4 and IN10 of the Local Plan in this regard

f) Ecology

54. A Preliminary Ecological Appraisal has been submitted in support of the planning application which concluded that there would be no impacts on statutory and non-statutory nature conservation sites and no controlled invasive plant species were noted within the site. All buildings and trees within the site were assessed as holding negligible potential to contain roosting bats. The Appraisal advises that the proposals are of a type and scale such that adverse effects are likely to be minimal and whilst they may result in potential impacts on potential badger foraging along the western boundary of the site and by the use of external lighting, these matters can be controlled through mitigation and planning conditions.
55. The Appraisal advises that the railway embankment to the west of the site holds potential for sheltering badgers. Badger setts can extend some distance underground, onto neighbouring land. As a precautionary measure, no excavation of the site will be undertaken within a 30m buffer of the western fence line, so as to avoid the damage or destruction of an active badger sett, should such a structure exist beneath the site. It is understood that each of the buildings to be positioned within the site is a temporary structure (portacabin or similar) and will not require the digging of foundations. The community barn, which will be positioned within the buffer zone, is a prefabricated

building, which is to be lifted onto the existing gravelled area from Lime Lane, without the need for heavy machinery to access the site.

56. The Appraisal also provides advice on an environmental lighting strategy for the site, which can be secured by a planning condition.
57. Projects should seek an overall Biodiversity Net Gain, in order to meet the emerging Environment Bill, which seeks to mandate a 10% biodiversity net gain (BNG), with a view to leaving the natural environment in a measurably better state following development. This is also echoed by local development plan policy. As part of this development, all hedgerows are to be retained in their entirety and hedgerows are to be gapped up (apart from two areas where footpaths cross the hedgerow using a mix of native hedgerow shrubs; there will be a sensory/community garden; the majority of the vegetation around the site will receive no management and therefore, with the cessation of grazing, will develop into neutral grassland and opportunities for further tree planting exist.
58. The Council's Ecology consultant has advised that the information provided is sufficient for the Local Planning Authority to determine that net gains for biodiversity can be achieved on the site. A 30 year management plan for the site will be required, alongside refinement of the landscape proposals which can be secured by planning conditions
59. The proposal would accord with policies ENV7 and ENV8 of the Local Plan in this regard.

g) Impact on Trees

60. An arboricultural Impact Assessment has been submitted in support of the planning application. The Assessment advises that the trees surveyed on site are a moderate and low quality species. None of the trees within or around the site are covered by a tree preservation order.
61. The Assessment confirms that no trees require removal to facilitate the development. Some trees may require pruning to facilitate the construction of The Barn but the level of pruning, if required, would not be significant. The Assessment includes a plan showing the root protection areas for the trees and these can be protected by fencing which can be secured by a planning condition.
62. The proposed development, subject to conditions, will accord with policy ENV4 of the Local Plan

h) Drainage and Flood Risk

63. The application site is within Flood Zone 1 and is at a very low level of fluvial flooding and surface water flooding which accords with the objectives of Policy DC2 of the Local Plan. The application was supported by a Flood Risk Assessment and Drainage Strategy which will need to be amended following the omission of the overnight accommodation from the scheme. However, the FRA stated that surface water from the polytunnels can be collected in water butts via guttering; the surface water from The Barn could be

conveyed to the rain garden to the south west of the site; harvested rainwater could be used for the flushing of toilets and washing machines; with permeable materials to be used for the creation of the parking areas. Foul water would be disposed by a package treatment plant.

64. It is not envisaged that the proposals will impact on current flood risk and will have minimal increase on existing flood risk from any source with minimal impact on causing flooding elsewhere. A planning condition can be imposed which requests the submission of a revised Drainage Strategy prior to the commencement of the development.

i) Contaminated Land

65. The planning application has been supported by a Screening Assessment for Contamination. The Council's Environmental Health Officer has raised no objections to the proposed development. The proposal accords with Policy DC1 in this regard.

j) Archaeology

66. The Durham County Council Archaeology Team have no archaeological objection to the development. The development would accord with policy ENV1 of the Local Plan in this regard.

k) Nutrient neutrality

67. Natural England together with the Department for Levelling Up, Housing and Communities (DLUCH) announced on 16th March 2022 that the administrative area of Darlington Borough Council is now located within the catchment area of the Teesmouth and Cleveland Coast Special Protection Area. Under the Habitats Regulations, those planning authorities falling within the catchment area must carefully consider the nutrients impacts of any projects, including new development proposals, on habitat sites and whether those impacts may have an adverse effect on the integrity of the site that requires mitigation. This impacts on all planning applications, both existing and proposed, which relate to primarily all types of overnight accommodation, such as new dwellings, care homes, student accommodation, holiday accommodation etc. and impacts all developments for one dwelling upwards. It also affects other applications where development may impact upon water quality, including those seeking to discharge planning conditions relating to foul and surface water drainage for a range of development proposals.
68. The planning application has been amended by the removal of four accommodation lodges which were originally proposed for the site, and therefore, the proposal no longer involves development which would generate wastewater from overnight accommodation or use. The hours of operation have been secured by a planning condition. Furthermore, the proposal will involve retaining part of the existing agricultural characteristics of the site and surface and foul water can be disposed of via various means other than into a watercourse. The need for a nutrient assessment in this instance is no longer a requirement.

THE PUBLIC SECTOR EQUALITY DUTY

69. In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. The proposed development is to provide young adults with learning difficulties with an outdoor centre to learn practical and new skills while socialising and embracing the outdoors. Five Acres would focus on work skills in preparation for adulthood from the basics of gardening, rowing flowers and harvesting edible crops. The Centre would also provide work experience for students whilst still in education. The development includes disabled parking spaces and the raised platforms have been designed to create safe access for persons with mobility issues. The buildings would be accessible in accordance with Part M of the Building Regulations. Darlington Association on Disability have been consulted on the planning application and have raised no objections. The proposal would accord with policy IN2 of the Local Plan in this regard.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

70. 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 AND RECOMMENDATION

71. The application site is not located within the development limits identified by the Policies Map of the Darlington Local Plan 2016 – 2036. The local development plan does support the principle of economic development proposals and outdoor leisure uses in appropriate sustainable locations, provided their impact on the open countryside is minimised, and they provide satisfactory access arrangements and protect amenity. The National Planning Policy Framework 2021 recognises that not all local business and community needs proposals in rural areas can be found adjacent to or beyond existing settlements and development limits and are in locations that are not well served by public transport.

72. The application site is not fully accessible by all modes of sustainable transport such as public transport, cycling or walking but those that would use the facility can access the site through the TeesFlex booking service, the applicant's private transport company as well as via private motor vehicles of parents/carers. The fact that a rural location is very beneficial for the proposed use and to the persons that would use the facility is a material planning consideration in this case and having considered all material planning considerations in accordance with S.38(6) of the Planning and Compulsory Purchase Act 2004, the principle of the development can be supported.

73. The proposal does not raise any highway safety objections and will not have an adverse impact on the character and appearance of the rural setting. There are no residential dwellings in the immediate locality of the site and measures can be put in place to secure the site as it is located in close proximity to the A1(M) and East Coast Main Railway line route. The principle of the proposal is acceptable in flood risk terms and biodiversity net gain has been demonstrated. The planning application is recommended for approval subject to the planning conditions listed below.

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS

1. A3 – Three Years (Implementation Limit)
2. The development hereby permitted shall be carried out in accordance with the approved plans, as detailed below:
 - a. Drawing Number 21-010_X_SP (00) 01_XX Rev E Proposed Site Layout
 - b. Drawing Number 21-010_X_GP (00) 03_XX Proposed Day Care Centre/Barn & Plant Plan & Elevations
 - c. Drawing Number 21-010_X_GP (00) 04_XX Proposed Polytunnel Plans and Elevations
 - d. Drawing Number 21-010_X_GP (00) 05_XX Proposed Stable Plan and Elevations
 - e. Drawing Number 21-010_X_GP (00) 06_XX Proposed Feed Store Plan and Elevations
 - f. Drawing Number 21-010_X_GP (00) 07_XX Rev A Proposed Raised Walkway
 - g. Drawing Number 21-010_X_GP (00) 08_XX Rev A Proposed Livestock/Trespass Fencing

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

3. Prior to the commencement of the development, including demolition, a site specific Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority in consultation with Network Rail. The Plan shall include the following, unless the Local Planning Authority dispenses with any requirement[s] specifically and in writing:
 - a. Hours of construction and deliveries
 - 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 phase and shall take account of the guidance contained within

BS5228 "Code of Practice for noise and vibration control on construction and open sites".

- d. Construction Traffic Routes, including parking areas for staff and visitors.
- e. Details of wheel washing.
- f. Road Maintenance.
- g. Warning signage.
- h. Submission of evidence that consultation with the Asset Protection Project Manager at Network Rail has been carried out and a construction methodology has been agreed with Network Rail

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

REASON: In the interests of highway safety; amenity and railway line safety

4. Prior to the commencement of the development, a detailed drainage strategy plan shall be submitted to and approved in writing by the Local Planning Authority . The strategy must also ensure that surface water flows away from the adjacent East Coast Main Line railway; with no ponding of water taking place adjacent to the boundary and any attenuation schemes within 30m of the railway boundary must be approved by Network Rail. There must be no connection to existing railway drainage assets without prior agreement of Network Rail. The development shall not be carried out otherwise than in complete accordance with the approved Plan

REASON: In the interests of preventing flood risk and the safety of the East Coast Main Line railway

5. The use hereby approved shall not operate outside the hours of Monday to Friday 0800 to 1800; Saturday 0900 to 1800 and Sundays and Bank Holidays 1000 to 1600 unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interests of the amenity of the area

6. Prior to the commencement of the development hereby approved, a scheme to protect the existing trees shown within the submitted Arboricultural Impact Assessment to be retained shall be implemented on site. The scheme shall comprise generally the specification laid down within BS 5837 2012 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 fencing shall be erected along the root protection areas shown on Drawing Number Any0_Lime Lane_AIA.1DRAFT (Appendix 1 of the submitted Arboricultural Impact Assessment produced by Dendra). 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.

7. Prior to the commencement of the use, precise details for any external lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. Any lighting scheme shall be carried out having full regard to Section 5.4.3 of the document entitled "Preliminary Ecological Appraisal of: Land to south of Lime Lane Brafferton Darlington" produced by Dendra Consulting Limited and dated April 2021 unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interests of the visual appearance of the development and biodiversity of the site

8. Prior to the commence of the use, precise details of the cycle parking and motor vehicle parking shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the number and dimensions of vehicle parking spaces, the number and location of accessible parking spaces and details of cycle parking provision which accords with guidance contained within Cycle Infrastructure Design – Local Transport Note 1/20 dated July 2020. The agreed details shall be fully completed and available for use prior to the commencement of the use and retained thereafter for the lifetime of the development

REASON: In the interest highway safety; securing accessible parking spaces and encouraging the use of sustainable modes of transport.

9. Notwithstanding the details shown on the approved plans and prior to the commencement of the use, precise details of the livestock/trespass fencing shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the materials, colour scheme, depth of fence posts and confirmation that the fencing will not prevent access to land in the ownership of Network Rail and National Highways for maintenance purposes. The development shall not be carried out otherwise than in complete accordance with the approved plans and the fencing shall be erected prior to the commencement of the use and retained thereafter for the lifetime of the development

REASON: In the interests of the safety of occupants of the site, to allow continued unrestricted access to adjacent landowners and in the interests of the visual appearance of the site and local area

10. Notwithstanding the details shown on the approved plans and prior to the commencement of the use, precise details of all other means of enclosure in and around the site shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the location, design and materials, colour scheme, depth of fence posts. The development shall not be carried out otherwise than in complete accordance with the approved plans and the fencing shall be erected prior to

the commencement of the use and retained thereafter for the lifetime of the development

REASON: In the interests of the visual appearance of the site and local area

11. The development shall not be carried out otherwise than in approved accordance with the document entitled "Preliminary Ecological Appraisal of: Land to south of Lime Lane Brafferton Darlington" produced by Dendra Consulting Limited and dated April 2021 and the further information and guidance, including the "Biodiversity Metric 3:0 Lime Lane" spreadsheet also produced by Dendra Consulting Limited dated 13 January 2022 unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interests of the visual appearance of the development and biodiversity of the site

12. Prior to the commencement of the development, precise details of a scheme for the storage and disposal of waste shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved details. The agreed scheme shall be fully implemented and available for use prior to the commencement of the use

REASON: In the interests of the amenity of the area

13. Prior to the commencement of the use, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority in consultation with Network Rail. The scheme shall have full regard to the document entitled "Preliminary Ecological Appraisal of: Land to south of Lime Lane Brafferton Darlington" produced by Dendra Consulting Limited and dated April 2021 and the further information and guidance, including the "Biodiversity Metric 3:0 Lime Lane" spreadsheet also produced by Dendra Consulting Limited dated 13 January 2022. Any planting and landscaping scheme should not impact on operational railway safety with any trees and shrubs planted adjacent to the boundary positioned a minimum distance greater than their height at maturity from the boundary and within no broad leaf deciduous species planted adjacent to the railway boundary. Any hedge planted adjacent to the railway boundary for screening purposes should be placed so that when fully grown, it does not damage the fencing, provide a means of scaling it or prevents Network Rail from maintaining its boundary fencing. The development should not be carried out otherwise than in complete accordance with the approved details

REASON: In the interests of the visual appearance of the development, biodiversity net gain and the safety of the East Coast Main Line railway

14. Prior to the commencement of the use a 30 Year Biodiversity and Landscape Management plan for the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be implemented otherwise than in complete accordance with the agreed Plan

REASON: In the interests of the visual appearance of the development and biodiversity net gain.

15. The access and visibility work as shown on Drawing Number 21-010_X_SP (00)05_XX) (Proposed - Access & Visibility) must be fully completed prior to the commencement of the use and retained thereafter for the lifetime of the development
REASON: - in the interests of highway safety

16. Notwithstanding the details shown on Drawing Number 21-010_X_SP(00)05_XX) (Proposed - Access & Visibility) the first 12m of the internal access road, measured back from the carriageway edge shall be formed in a sealed material and the access gates shall not open outward over the public highway
REASON: In the interests of highway safety

INFORMATIVES

Highways

Section 184 Crossover

The applicant is advised that works are required within the public highway, to widen an existing vehicle crossing. Contact must be made with the Assistant Director: Highways, Design and Projects (contact Mrs Lisa Woods 01325 406702) to arrange for the works to be carried out or to obtain agreement under the Highways Act 1980 to execute the works.

Environmental Health

Environmental Health enforces Health and Safety legislation at this premises and the applicant is advised to contact this department prior to the undertaking of any work to ensure that all legislative requirements are met.

Network Rail Standard Informatives

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 is electrified, within 3.0m of overhead electrical equipment or supports.

With a development of a certain height that may/will require 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.

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 works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. 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 Rails 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.

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. If required there may be a need to fit bridge protection barriers which may be at the developer's expense.

Abnormal Loads

From the information supplied, it is not clear if any abnormal loads will be using routes that include any Network Rail assets (e.g. bridges and level crossings). We would have serious reservations if during the construction or operation of the site, abnormal loads will use routes that include Network Rail assets. Network Rail would request that the applicant contact our Asset Protection Project Manager to confirm that any proposed route is viable and to agree a strategy to protect our asset(s) from any potential damage caused by abnormal loads. I would

also like to advise that where any damage, injury or delay to the rail network is caused by an abnormal load (related to the application site), the applicant or developer will incur full liability.

Two Metre Boundary

Consideration should be given to ensure that the construction and subsequent maintenance can be carried out to any proposed buildings or structures without adversely affecting the safety of, or encroaching upon Network Rail's adjacent land, and therefore all/any building should be situated at least 2 metres from Network Rail's boundary. This will allow construction and future maintenance to be carried out from the applicant's land, thus reducing the probability of provision and costs of railway look-out protection, supervision and other facilities necessary when working from or on railway land.

ENCROACHMENT

The developer/applicant 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 into Network Rail airspace 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 airspace is an act of trespass and we would remind the council that this is a criminal offence (**s55 British Transport Commission Act 1949**). Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

Access to the 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.

Standard Drainage Requirements

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 suitable 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.

The construction of surface water retention ponds/tanks, SuDS or flow control systems should not take place within 30m of the Network Rail boundary where these systems are proposed to be **above** 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 the surrounding land.

Wayleaves and or easements for underline drainage assets

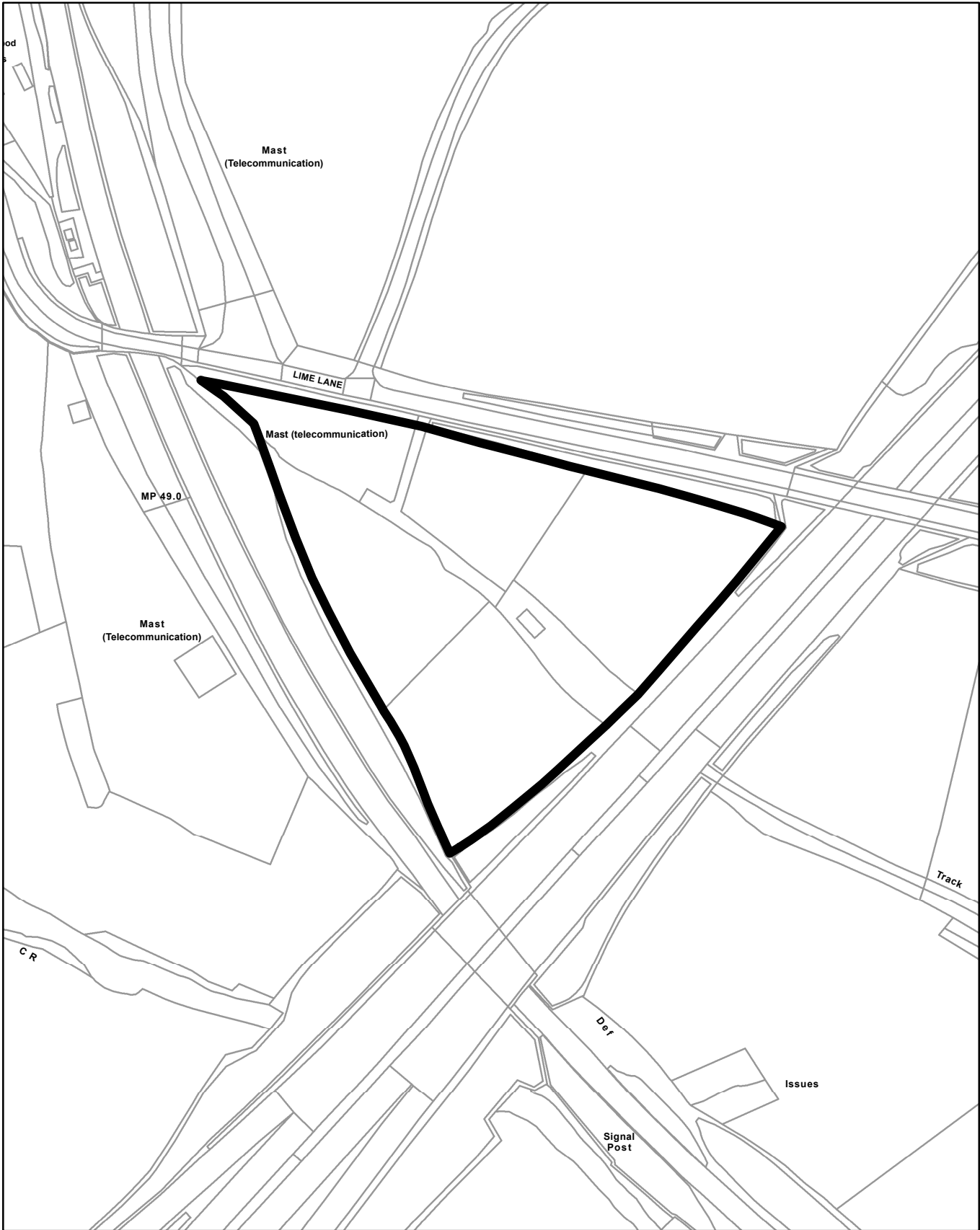
The position of any underline drainage asset shall not be within 5m of drainage assets, sensitive operational equipment such as switches and crossings, track joints, welds, overhead line stanchions and line side equipment, and not within 15m of bridges, culverts, retaining walls and other structures 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 Asset Protection (assetprotectioneastern@networkrail.co.uk) for further information and assistance.

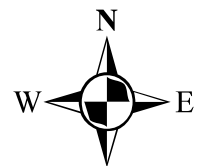


© Crown copyright All Rights Reserved Licence Number 100023728 2022

Planning Ref No: 21/00753/FUL

DARLINGTON BOROUGH COUNCIL

Page 39



SCALE 1:2000

This page is intentionally left blank

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 11 May 2022

APPLICATION REF. NO:	22/00113/FUL
STATUTORY DECISION DATE:	10 May 2022 (extension of time agreed until 13 May 2022)
WARD/PARISH:	COCKERTON
LOCATION:	309 Woodland Road
DESCRIPTION:	Change of use from retail shop (Use Class E) to hot food takeaway (sui generis) and installation of extraction equipment to rear
APPLICANT:	Mr Hussein Hassan

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS (see details below)

Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received, and other background papers are available on the Darlington Borough Council website via the following link: [22/00113/FUL | Change of Use from retail shop \(Use Class E\) to hot food takeaway \(Sui Generis\) and installation of extraction equipment to rear | 309 Woodland Road DARLINGTON DL3 9AA](#)

APPLICATION AND SITE DESCRIPTION

1. The application property is an existing retail shop located within the shopping parade on Woodland Road, Cockerton located to the south of the roundabout which forms the junction of Woodland Road, West Auckland Road and Cockerton Green. The parade includes a number of shops, including a café, fish and chip shop, bakery and Co-op supermarket with Cockerton Library located at its eastern end, with a surface car park located to the rear (south). The application property and shopping parade are located within the Cockerton Conservation Area and are also located within the Cockerton District Centre, as defined by the proposals map accompanying the Darlington Borough Local Plan, 2016 – 2036.

2. Planning permission is sought for the change of use of the property from a retail shop (Use Class E) to a hot food takeaway (Sui Generis). There are no proposed changes to the frontage of the property, although it is proposed to install a flue in the rear elevation serving an extraction system for the premises. A portable access ramp would be available to facilitate disabled access to the property. It is proposed that the takeaway will be open between the hours of 11am and 11pm, 7 days a week, including Bank Holidays.

MAIN PLANNING ISSUES

3. The main issues for consideration are:
 - (a) Principle of development
 - (b) Impact on visual amenity including the Cockerton Conservation Area
 - (c) Impact on residential amenity
 - (d) Highway safety and disabled access
 - (e) Other matters

PLANNING POLICIES

4. Relevant policies of the Darlington Borough Local Plan 2016 – 2036:
 - SD1 - Presumption in Favour of Sustainable Development
 - DC1 – Sustainable Design Principles and Climate Change
 - DC4 – Safeguarding Amenity
 - TC4 – District and Local Centres
 - ENV1 – Protecting, Enhancing and Promoting Darlington’s Historic Environment
 - IN4 – Parking Provision including Electric Vehicle Charging

RESULTS OF TECHNICAL CONSULTATION

5. The Council’s Environmental Health Officer raises no objection subject to conditions.

RESULTS OF PUBLICITY AND NOTIFICATION

6. A total of 3 letters of objection have been received which raise the following points:
 - Potential for takeaway to attract anti-social behaviour
 - Need shops to be open during the day to attract people to the village
 - Oversaturation of food outlets and takeaways in the village
 - Noise and disturbance
 - Impact on appearance of the surrounding area
 - Smell/refuse
 - Diverse range of shops needed in the precinct

PLANNING ISSUES/ANALYSIS

(a) Principle of development

7. The application property is located within the Cockerton District Centre. District and Local Centres serve an important function in terms of meeting local needs, providing food shopping and a range of other local shops, services and leisure uses in accessible locations which help reduce the need to travel.
8. Local Plan Policy TC4 (District and Local Centres) identifies a range of uses considered to be acceptable within the defined District and Local Centres which include shops, financial services, restaurants and cafes, drinking establishments, hot food takeaways, and a range of community and leisure facilities, providing they are physically integrated with the rest of the centre; and where they ensure the vitality and viability of the centre is maintained.
9. The proposed hot food takeaway use would be compliant with Policy TC4. The application property is located centrally within the parade of shops and as such is considered to be physically integrated with the rest of the District Centre. While reference is made within the objections to the application to the number of hot food takeaways and other food outlets within the Cockerton area, the District Centre extends beyond the confines of the shopping parade and includes other shops and facilities on Woodland Road, Cockerton Green and West Auckland Road. Within the wider District Centre there is a range of facilities on offer which include retail shops, food shops including two Co-op supermarkets, a pharmacy, hairdressers and other similar retail and community facilities. As such, the provision of a further hot food takeaway is not considered to undermine the vitality and viability of the wider centre. The principle of development is therefore considered to be acceptable, subject to consideration of the following issues.

(b) Impact on visual amenity including the Cockerton Conservation Area

10. The parade of shops within which the application property is situated is located at the eastern end of the Cockerton Conservation Area, and presents a modern frontage to this part of the Conservation Area. No changes are proposed to the frontage of the property; however, it is proposed to install a flue in the rear elevation to serve the extraction system for the property. A brief Heritage Statement has been submitted with the application which considers the impact of the proposed flue on the Cockerton Conservation Area as required by paragraph 194 of the National Planning Policy Framework, 2021 (NPPF).
11. The proposed flue will protrude through a single storey flat roof off-shoot to the rear of the property to a height of approximately 3.5 metres, and will extend approximately 1 metre above the main two storey element of the building. The main views of the flue will be from the surface car park to the rear of the parade of shops and will be seen in the context of other plant to the rear of the adjacent Cockerton Fisheries property and servicing areas to the rear of the parade of shops. Limited views of the flue will be obtained from Woodland Road given the limited projection above the property and its

position to the rear of the property. As such, the proposed flue is considered to have a neutral impact on the character of the Cockerton Conservation Area and upon the character and appearance of the wider area, and the proposal accords with Local Plan Policies ENV1 and DC1 in this regard.

(c) Impact on residential amenity

12. The application property is located in an established parade of shops within the Cockerton District Centre. The nearest residential properties are located approximately 45 metres to the east at Squires Court. There are no flats above any of the shops within the parade. It is proposed that the takeaway will be open between the hours of 11am – 11pm daily. In this location, within an established commercial area within the centre of Cockerton, and with other premises open later into the evening such as the adjacent Travellers Rest public House and Cockerton Band and Musical Institute it is not considered that the opening of the takeaway until 11pm each day would result in an unacceptable impact on the amenities of residents at Squires Court and beyond in terms of noise, nuisance and disturbance. A condition limiting opening hours to 11.00 to 23.00 Monday to Sunday, including Bank Holidays is therefore proposed.
13. The Council's Environmental Health Officer has raised no objection to the proposal subject to conditions to secure controls over methods for controlling fumes and odours, noise from the extraction system, the fitting of internal grease traps and the storage of refuse and waste to ensure that the operation of proposed hot food takeaway does not adversely impact upon the amenities of nearby residential properties or the general amenity of the surrounding area. The submitted plans show that refuse storage for the premises will take place within an enclosed yard area to the rear of the unit, which is considered to be acceptable, however the condition requires the further submission of details relating to its disposal to ensure this is undertaken regularly to prevent nuisance from the accumulation of refuse. In addition, there are waste bins located to the front of the parade of shops on Woodland Road that can be used by patrons of the premises to dispose of litter arising from the hot food takeaway.
14. Concern has also been expressed regarding the potential for the proposed takeaway to attract anti-social behaviour. However, in this location within an established retail and commercial area, which benefits from good natural surveillance it is not anticipated that the proposed hot food takeaway would be likely to give rise to concerns relating to anti-social behaviour sufficient to warrant refusal of the application on this basis. Durham Constabulary Architectural Liaison Officer has however been consulted on the application and their comments are awaited and will be reported verbally.
15. Subject to conditions seeking to restrict opening hours and addressing those matters set out in paragraph 13 above, it is not considered that the proposed use would adversely impact upon the amenities of nearby residential properties or the general amenities of the surrounding area. The proposed use is considered to comply with Policy DC4 in this regard.

(d) Highway safety and disabled access

16. The parade of shops and wider District Centre are served by an existing surface car park located to the rear (south) of the application property. Servicing of the property also takes place from the rear car park. The property is also located within a highly sustainable location, well served by public transport and accessible on foot from nearby residential areas. Takeaway businesses typically operate with a higher turnover of short duration parking rather than requiring a significant amount of total parking at any one time. Customers may arrive to collect orders and be parked for 5 – 10 minutes, however this may attract several trips per hour.
17. Many customers are likely to be pass by trips i.e., vehicles already travelling on Woodland Road/West Auckland Road or visiting on foot from other residential areas close by, or linked trips from customers visiting the District Centre. Most takeaways also offer a delivery service further reducing vehicle movements and parking demands over customer collection only.
18. Given the availability of parking close by and the sustainable location of the property within the centre of Cockerton, it is not considered that the proposed use is unlikely to generate additional traffic over and above the current retail use of the premises and is therefore unlikely to warrant grounds for refusal on the basis of it creating a severe highway impact, as required by the NPPF.
19. It is proposed that a portable access ramp will be available to allow disabled access to the premises. There is a slight step up into each of the units and to provide level access into the shop would require remodelling of the shopfront and door. A condition is proposed to ensure the ramp is provided on request and assistance is provided, with the ramp to be removed immediately after use to ensure it does not result in a tripping hazard within the highway. In the circumstances, the provision of a portable ramp is considered to be acceptable, and the proposal complies with the requirements of Policy IN4 in this regard.

(e) Other matters

20. Concern about the number of takeaways in the area has been raised by objection. There is currently no development plan policy which seeks to limit the number or location of takeaways within the Borough, rather each application is considered on its merits having regard to its impact on residential and visual amenity and highway safety, and any other material considerations. Obesity in an area has however been found to be a material consideration when deciding on applications for fast food outlets.
21. Information taken from the Darlington Childhood Healthy Weight Plan, 2019 – 2024 shows that within Darlington the rate of childhood obesity sits above the national average at both reception and year 6, but is very slightly below the regional average at reception age and in line with the North East regional average at year 6. Childhood obesity within Darlington is not evenly spread and is concentrated in the central urban and eastern wards and has a strong correlation with deprivation levels. The wards with

the highest rates of obesity in school children in reception and Year 6 are Bank Top & Lascelles, Eastbourne, and Stephenson. Notwithstanding these figures however, in the absence of any development plan policy relating to hot food takeaways within the Borough and their impact on the health and wellbeing of an area, particularly in areas of high obesity, limited weight can be attached to this as a material consideration in the determination of this application.

THE PUBLIC SECTOR EQUALITY DUTY

22. In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. Disabled access to the premises has been considered in paragraph 19 of this report and the impact of the proposal on childhood obesity is set out in paragraphs 20 and 21.

CONCLUSION AND RECOMMENDATION

23. The change of use of the premises, which is located within the Cockerton District Centre, from a retail unit to a hot food takeaway accords with Local Plan Policy TC4 which seeks to direct a range of retail, leisure and community uses to existing Local and District Centres. The unit is well integrated within the District Centre and the proposed takeaway use will not undermine the vitality or viability of the existing Centre. A range of conditions are attached to ensure the operation of the proposed takeaway does not give rise to unacceptable impacts relating to residential and general amenity. The proposal does not give rise to any unacceptable impacts relating to parking and highway safety and makes provision for disabled access. The proposed flue to rear of the property will have a neutral impact on the character and appearance of the Cockerton Conservation Area and the wider area. The proposal therefore also complies with Policies DC1, DC4, ENV1 and IN4.

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 (Standard 3-year time limit)
2. The development hereby approved shall be carried out in accordance with the approved plans as detailed below:
 - (a) Existing and proposed ground floor plan, drawing number 2022/1
 - (b) Elevations proposed, drawing number 2022/1A

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

3. The use hereby approved shall not operate outside the hours of 11:00 – 23:00 Monday to Sunday, including Bank Holidays.

REASON – In the interests of amenity and to comply with the requirements of Darlington Borough Local Plan Policy DC4.

4. Details of ventilation and fume extraction, including a full technical specification by a suitably qualified technical person shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall specify the position of ventilation, fume or flue outlet points; the type of filtration or fume treatment to be installed and shall include details of noise levels generated and any noise attenuation structures to be incorporated. Thereafter the scheme shall be implemented in accordance with the details as approved prior to the use hereby approved commences and shall be maintained for the lifetime of the development.

REASON – In the interests of amenity and to comply with the requirements of Darlington Borough Local Plan Policy DC4.

5. In accordance with the EMAQ report dated 19/4/22 submitted as part of this application a high level of odour control is required:
 - Fine filtration or ESP followed by carbon filtration (carbon filters rated with a 0.2 – 0.4 residence time); or
 - Fine filtration or ESP followed by a UV ozone system to achieve the same level of control as above.

The odour control shall be installed, operated and maintained in accordance with manufacturers recommendations including frequency of replacement filters, for so long as the use continues. No modifications to the approved scheme shall be undertaken without the prior approval of the Local Planning Authority.

REASON – In the interests of amenity and to comply with the requirements of Darlington Borough Local Plan Policy DC4.

6. The drainage system to the premises shall be provided with a suitable grease trap so as to prevent the discharge of grease into the public sewer.

REASON – In the interests of amenity and to comply with the requirements of Darlington Borough Local Plan Policy DC4.

7. A scheme for the secure storage of waste from the premises and the removal of refuse from the site shall be submitted to and approved by the Local Planning Authority in writing and implemented before the use hereby approved commences.

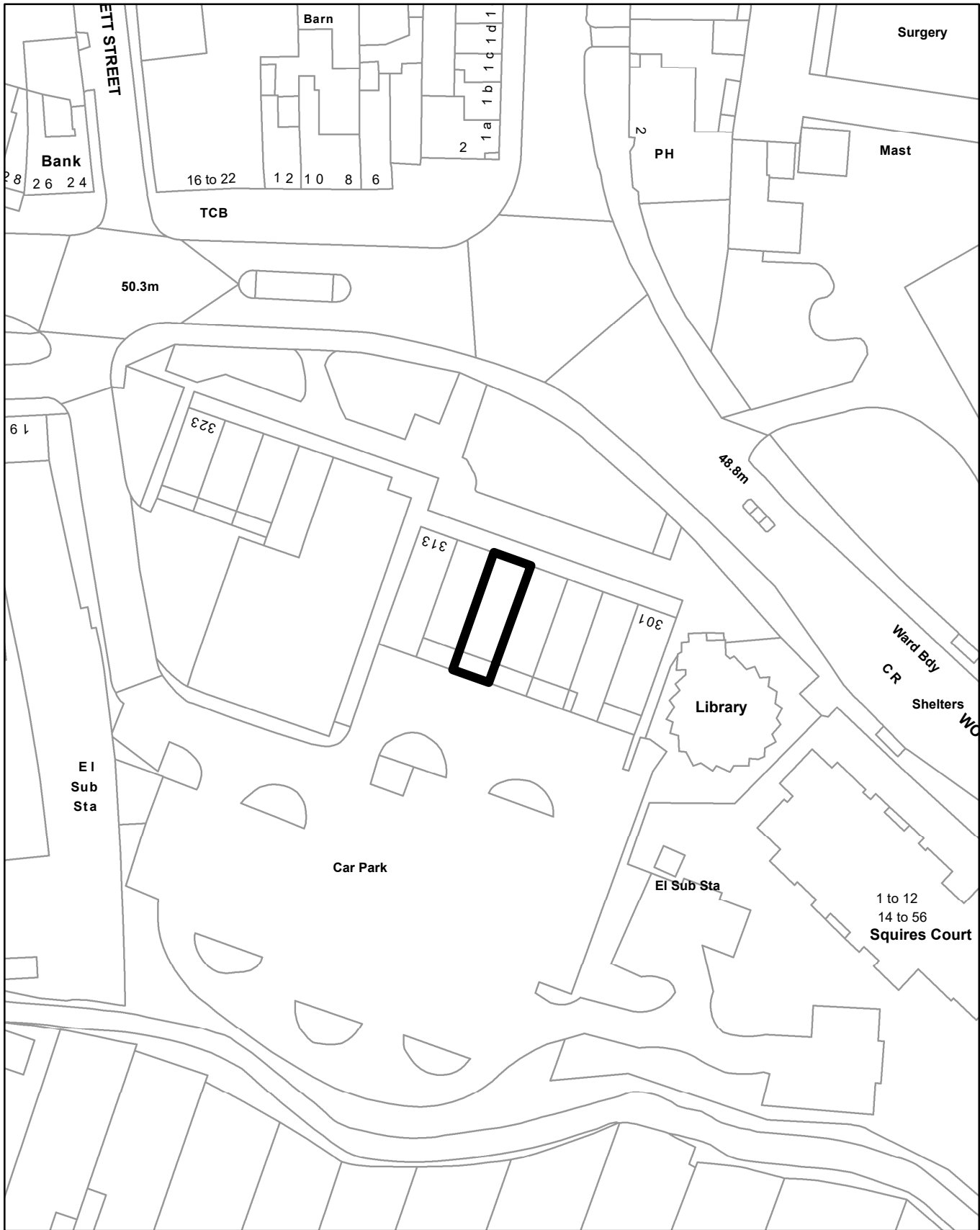
REASON – In the interests of amenity and to comply with the requirements of Darlington Borough Local Plan Policy DC4.

8. For the duration of the approved use, a temporary portable ramp shall be provided and made available for disabled customers to the takeaway, as set out on drawings entitled 'Proposed Floor Plan', received on 16 March 2022 and 'Ramp Details' received on 23 March 2022. The ramp shall be removed from the highway when not in use.

REASON – To provide disabled access to the premises and to comply with the requirements of Darlington Borough Local Plan Policy IN4.

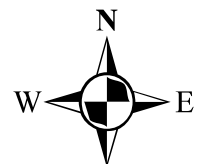
9. Prior to the commencement of the use hereby approved, a sign shall be erected at the entrance of the premises informing any persons unable to enter the premises that a temporary portable ramp is available on request. The sign shall remain in situ unless otherwise agreed in writing by the Local Planning Authority.

REASON – To provide disabled access to the premises and to comply with the requirements of Darlington Borough Local Plan Policy IN4.



© Crown copyright All Rights Reserved Licence Number 100023728 2022

Planning Ref No: 22/00113/FUL



This page is intentionally left blank



Appeal Decision

Site visit made on 1 February 2022

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 March 2022

Appeal Ref: APP/N1350/W/21/3268831

Land off Neasham Road/Burma Road, Hurworth Moor, Darlington DL2 1PZ

- 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 and Mrs Tyers against the decision of Darlington Borough Council.
 - The application Ref 20/00822/FUL, dated 11 September 2020, was refused by notice dated 25 January 2021.
 - The development proposed is creation of 4 Gypsy/Traveller Pitches.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. s70(2) of the TCPA 1990¹ and s38(6) of the Planning and Compulsory Act 2004, require that the determination must be made in accordance with the development plan unless material considerations indicate otherwise. Since the appeal was lodged, the Council has adopted the Darlington Local Plan (2016-2036), adopted 17 February 2022, (DLP) which replaces policies cited on the original decision notice. In the interests of natural justice, the main parties have had the opportunity to make representations. Therefore, I have determined the appeal on this basis.
3. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. In reaching my decision I have had regard to the revised Framework.
4. Prior to the determination of the planning application the appellants submitted plan 'PL04'. The Council did not determine the application on this basis. In support of the appeal, the appellants have included this additional plan showing visibility. The Council has had the opportunity to comment on the plan, and I do not consider that its interests would be prejudiced if I take this plan into account. I shall therefore determine the appeal for planning permission on the basis of the plans at the time of determination, as well as the plan submitted as part of this appeal.

Main Issues

5. The main issues are (i) whether the appeal site is a suitable location for the proposed development; (ii) the effect of the proposal on the character and appearance of the area; and (iii) the effect on highway safety.

¹ The Town and Country Planning Act 1990 (as amended)

Reasons

Suitability of Location

6. The Government's Planning Policy for Traveller Sites (PPTS) states that Local Planning Authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas in the development plan.
7. Policy H9 of the DLP allows new gypsy and traveller sites where the site has satisfactory access to local schools and other amenities. Policy DC1 sets out the sustainable design principles, including that good design will help to reduce carbon emissions and increase the resilience of developments to the effects of climate change. Policy IN1 focuses on delivering a sustainable transport network, encourages greater use of sustainable modes, identifying priorities and actions that all new developments will provide permeability and connectivity for pedestrians and cyclists being the first choice for short journeys.
8. The appeal site lies outside of any defined settlement boundary, within the open countryside and is approx. 1.25km to the south of Darlington. The nearest villages would be Hurworth or Neasham. The DLP identifies the settlement hierarchy including that Hurworth is a service village that offers a range of essential facilities and services and the rural village of Neasham, which offers limited-service provision.
9. There is an absence of formal footways linking the site with the wider area including along Burma Road and Neasham Road, and the highways are devoid of any street lighting. The site is near to an advisory cycle route with connectivity to a wider cycle network. There is a bus stop further along Neasham Road, which operates during the daytime and includes Saturday and Sundays, serving Hurworth. Despite this, access and navigation would be difficult by walking or cycling, given the road conditions and that this would be unrealistic throughout the year, particularly in winter months.
10. As such, the opportunities to use sustainable modes of transport are restricted, and I consider that most journeys to and from the appeal site would be made by private motor vehicles, whether to nearby villages of Hurworth or Neasham, or to the larger urban centres of Darlington. However, these journeys to reach facilities and services within the nearby villages would not be unduly long and Hurworth offers a range of facilities including shops and schools.
11. I am mindful that paragraph 105 of the Framework explains that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. In any event, the provision of a settled base for 4 gypsy households would facilitate access to local facilities, services and schooling, and reduce the likely extent of long-distance travelling, in line with paragraph 13 of PPTS.
12. In consideration of the location, I have had regard to other developments the appellants have drawn my attention to, in respect of location accessibility. Whilst I do not have full details of these cases, they do appear to be similar in distance to the accessibility of local services and facilities. However, in any case I must consider the appeal on its own merits.

13. The appeal site is not in a location away from settlements where traveller sites should be very strictly limited in accordance with PPTS, and it would enable reasonable and satisfactory access to local schools and other amenities. Necessary utilities are capable of provision within the appeal site. On this basis, I conclude that the appeal site is a suitable location for gypsy and traveller accommodation and would accord with DLP policies H9, DC1 and IN4, in locational terms.

Character & Appearance

14. DLP Policy DC1, requires proposals to reflect the local environment and create an individual sense of place with distinctive character, and is supported by Policy ENV3. The policy seeks to protect the character and local distinctiveness of villages and rural areas, and states that development should positively respond to the landscape setting and protect and enhance the natural quality of the rural landscape.
15. DLP Policy H9 allows new sites to be provided for gypsy and traveller sites where, amongst other things, the site is clearly demarcated with pitch boundaries using appropriate boundary treatment and landscaping sympathetic to, and in keeping with the surrounding area.
16. The appeal site is set back from Neasham Road with access from Burma Road. The site is generally flat and identified as a grazing field. It would neighbour an existing approved gypsy and traveller site to the south. Nevertheless, it adjoins extensive areas of open fields and the wider countryside to the west, and the site relates closely to it.
17. In contrast, the proposal would introduce residential use with a new private access road and provision of four plots each with a static unit, tourer caravan space and associated vehicles. Each of the plots would have its own supporting utility / amenity building constructed of brick. The site is constrained by existing overhead power lines to the western part with an area identified as a no build zone. This results in the plots being sited further into the field and resulting in an excessively long private access road.
18. Although the site would be screened to the north and west due to the extensive tree / hedge coverage, the site would still be viewed from the east across the landscape and the layout would erode this open part of the countryside between Darlington and the outlying villages. The existing mounds would do little to protect this, or the proposed layout of plots, given the flat nature of the area and the structures and vehicles associated would also be a notable intrusion.
19. In addition, when viewed in combination with the existing sites it would result in further intrusion, creating an undue negative cumulative impact on this part of the rural landscape. The appellants have referred to the existence of the nearby site and legacy of a municipal tip, but this does not sufficiently justify a visually harmful development, such as this. Moreover, the site would still be directly visible from public views at the access point along Burma Road, and I have no substantive evidence that additional landscaping or boundary treatment would adequately mitigate the proposal in this regard, or that suitably worded conditions could address the harm.

20. My attention has been drawn to an appeal decision², to the south of the appeal site. However, this related to a disputed condition, and the site was already established with landscaping. The scheme also pre-dated the Framework and PPTS. Accordingly, the circumstances are not directly comparable with those which apply in this appeal. I have, in any case, reached my own conclusions on the appeal proposal on the basis of the evidence before me.
21. For the reasons given above, I conclude that the proposal would cause adverse harm to the character and appearance of the area. This would be in conflict with Policies DC1, ENV3 and H9 of the DLP, as I have already set out. It would also be at odds with the principles of the Framework to recognise the intrinsic character and beauty of the countryside.

Highway Safety

22. Policy DC1 of the DLP requires all development proposals to provide suitable and safe vehicular access and suitable servicing and parking arrangements in accordance with Policy IN4. Policy H9 allows new gypsy and traveller accommodation where there is safe access for pedestrians, cyclists and vehicles, including for turning and parking, vehicles towing caravans, emergency services and servicing requirements, including waste collection.
23. The Framework at paragraph 110, requires that in assessing sites for specific applications for development, it should be ensured that b) safe and suitable access to the site can be achieved for all users; c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and d) any significant impacts from development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
24. There is an historic agricultural access that serves the appeal site and would appear to have been underutilised for some time. This would need to be extensively modified due to the intensification of use from the proposal. As I observed at the time of the site visit the access point is heavily overgrown with excessive vegetation. This significantly reduces visibility at the site on either side of the carriageway. Burma Road is narrow in width with minimal space along the carriageway to enable vehicles to pass each other safely. It is restricted due to the road alignment to circa 80m northwards measured from a point 2.4m back from the edge of the carriageway, and further restricted southwards with circa 35m of visibility available.
25. The Council set out that the minimum visibility required would be 2.4m x 215m in both directions based on the national speed limit of 60mph. The Council's position is that safe visibility splays could not be achieved unless it can be demonstrated otherwise with a sound evidence base. To enable two-way passage of vehicles, localised widening of Burma Road would need to be provided inline with Manual for Streets, which advises a width of 4.1m.
26. The width of the access itself, would need to be modified to provide sufficient geometry to enable the delivery of mobile homes, as well as space for a touring caravan and towing vehicles to use the entrance. The width would also need to

² APP/N1350/A/11/2153205/NWF

- be modified for the provision of fire appliance and waste refuse collection vehicles to access the site.
27. The appellants have submitted a speed survey in support of the proposal. Whilst there is no dispute regarding the speed survey methodology undertaken or that speeds would be lower at times than the national limit, the submitted visibility splay plan 'PL04' lacks in detail and does not address highway safety concerns for all road users. I am not satisfied this plan accurately reflects the alignments of the carriageway in both directions due to the road conditions, particularly to the north, nor is it reflective of obstructions including the concrete posts which appear to be on third party land running along the side of the edge of the carriageway. I would also disagree that it is properly kerbed on both sides, there are limited households on Burma Road or that lack of third-party maintenance justifies the acceptability of PL04.
28. Even if, I were to agree with the appellants that 60m splays in either direction would be acceptable on this road. I have no evidence in regard to the modification of the site access width to accommodate vehicles entering and leaving the site, no swept analysis undertaken or indeed how the appellants intend to demonstrate that two-way traffic is possible for safe access and egress for occupants of the site and for other road users along Burma Road.
29. In addition, it is unclear how the appellants would be able to modify the site access or maintain any visibility splay with the hindering vegetation, fencing and concrete posts, given that the land fronting the access does not appear to be within their control. The site edge red does not include the access itself, nor does the blue line represent that the appellants own the access entrance as shown on the submitted plans.
30. Furthermore, I have no substantive evidence that the Council has not responded on highway matters, and it is clear from the emails that consideration was given to the appellant's highway comments. Thus, I would concur with the Council that at the time of determination there was not a sound evidence base to outweigh the highway safety concerns that the proposal would have on occupants of the site and other road users. Or indeed, that suitably worded conditions could satisfactorily address or mitigate this.
31. Therefore, and based on the available evidence, I conclude that the proposal would cause significant harm to highway safety. Consequently, it would be in conflict with Policies DC1, H9 and IN4 of the DLP, which taken together these policies seek developments that provide suitable provision and safe access for all road users, including pedestrians, cyclists and all vehicles.
32. Moreover, the proposal would be contrary to paragraph 111 of the Framework, which requires development to be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.

Other considerations

33. The DLP makes provision for travelling groups at the existing larger council owned sites together with other smaller sites in the borough to accommodate gypsy and travelling groups. The Gypsy and Traveller Accommodation Needs Assessment (2017) and addendum (2020), (GTAA) was carried out and identified in total 162 pitches. The GTAA concluded that the Borough was well catered for with an annual need of 1 pitch per annum between 2017-2022.

Further need for pitches between 2022-2037 has a calculated projection of 46 pitches, with an annual need of 3 pitches.

34. The DLP sets out there are three existing larger council owned sites at Honeypot Lane and Rowan East & West, which are safeguarded to provide for accommodation needs. In addition, there are a significant number of unimplemented planning permissions on private land within the Borough.
35. The Council have set out they have a 5-year rolling supply, including the supply of 25 pitches from the Rowan East extension, and recent developments. There are still transit pitch availability on Honeypot Lane, with the caravan count due to take place again within the year. The appellants disagree with the Council's assessment, and contend that it has a shortfall. However, I have limited evidence to suggest that the Rowan East extension would not be forthcoming following Homes England funding and its allocation in the recently adopted DLP, or that Honeypot Lane could not be a realistic alternative, including suitability needs or acceptability. I have also had regard to a recent appeal³ that the Council has drawn my attention to, which relates to an additional pitch on the adjacent site.
36. From the evidence before me, at present, the 5-year requirement is 13, which can be met at the current time through opportunities to use vacant and allocated pitches on existing sites. The proposed extension would contribute to the ongoing 5-year supply.
37. The appellants confirm they come from a long line of gypsies who continue to live a gypsy lifestyle through choice. The appellants are existing residents on an established gypsy site in a neighbouring borough and the proposal would allow their children, now of adult age to live in the area amongst established families and relatives. I acknowledge the letters of support which the appellants have provided, and that the Council does not dispute the appellants' PPTS status.
38. However, it is unclear whether all plots would be occupied by the appellants adult children. I also have no substantive evidence of alternative sites that may have been sought nearby or in the neighbouring boroughs.
39. The proposed development would not cause any harm in respect of the living conditions of neighbouring residents, contamination and biodiversity. I have no evidence that the proposal would give rise to an increase in fear or rise to anti-social behaviour or crime in the area nor lead to increases in flooding, as the site lies within Flood Zone 1. Suitably worded conditions could address drainage within the site. However, these considerations do not outweigh the harm I have already identified.

Planning Balance

40. The proposal would cause harm to the character and appearance of the area, and I afford this moderate weight. I attach substantial weight to the harm to highway safety and that the safe and efficient operation of the highway network in the vicinity of the appeal site would be compromised to a significant degree. The proposal would be contrary to the development plan in these respects.

³ APP/N1350/C/21/3266271

41. In the overall planning balance the benefits of the proposal, including the provision of 4 additional gypsy and traveller pitches, are not sufficient in this case to outweigh the harm I have identified.
42. I have had due regard to the Human Rights Act 1998 (HRA) and the Public Sector Equality Duty (PSED) under the Equality Act 2010. The appellants and extended adult family, who intend to occupy the site have protected characteristics for the purposes of the PSED. However, after having regard to all material considerations, I am satisfied that the aim of avoiding unacceptable harm to highway safety can only be adequately addressed by dismissal of the appeal. Any interference with the human rights of the appellants, their family and potential occupants of the site is therefore necessary and proportionate.

Conclusion

43. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan.
44. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

K A Taylor

INSPECTOR

This page is intentionally left blank



Appeal Decision

Site visit made on 28 February 2022

by **S Hunt BA (Hons) MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 30th March 2022

Appeal Ref: APP/N1350/W/21/3286318

Newton Grange Farm, Stockton Road, Sadberge, Darlington

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr B Miller of Wynyard Homes against Darlington Borough Council
 - The application Ref 20/00891/FUL, is dated 29 September 2020.
 - The development proposed is erection of 25 no dwellings including 20% affordable (5 no. units).
-

Decision

1. The appeal is dismissed and planning permission for erection of 25 no dwellings including 20% affordable (5 no. units) is refused.

Procedural Matters

2. The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission. Whilst the Council did not issue a decision notice, it confirmed in its statement of case that it would have refused permission for the proposed development for four putative reasons. These were in relation to: i) the location of the site outside of defined development limits; ii) effects on the setting of Sadberge Conservation Area; iii) effects on the character and appearance of the area; and iv) a failure to demonstrate net gains for biodiversity.
3. The proposed layout plan (2023.P.01) was amended numerous times during the application process, with the latest plan (revision F) submitted in October 2021 prior to submission of the appeal. I am satisfied that the relevant consultees had the opportunity to make comments and my decision is based on revision F.
4. Since the submission of the appeal, the Darlington Local Plan (DLP) February 2022 has been adopted. The Borough of Darlington Local Plan 1997 and the Darlington Borough Core Strategy 2011, which are cited in the Council's putative reasons for refusal, no longer form part of the development plan and I make no further reference to them in my decision. Both parties were given the opportunity to make representations following the adoption of the DLP.

Main Issues

5. The main issues are:

- whether the proposed development would be in a suitable location for housing having regard to the development plan and national policy;
- the effect of the proposed development on the character and appearance of the site and the surrounding area;
- the effect of the proposed development on the setting of the Sadberge Conservation Area; and
- whether net gains for biodiversity would be adequately secured as part of the proposed development.

Reasons

Location

6. The appeal site is situated outside of the development limits of the village of Sadberge as shown on map 4 of the DLP, and is therefore situated in the countryside. The supporting text to DLP Policy H3 explains the purpose of development limits in helping to preserve the distinctive identities of existing settlements, protect the open countryside between settlements and preserve the countryside's intrinsic character and beauty.
7. DLP Policy H7 supports new permanent dwellings in the countryside only where the proposals meet a number of exceptions criteria, which are reflective of national policy relating to rural housing set out in paragraphs 78 to 80 of the National Planning Policy Framework (the Framework). There is insufficient evidence before me to demonstrate that any of the criteria within Policy H7 would be met by the appeal scheme.
8. Furthermore, Policy SH1 confirms that Sadberge is a 'rural village' within the settlement hierarchy. This states that on the edges of rural villages, housing development will meet clearly identified local needs, recognising that an element of open market housing may be required to deliver essential affordable units. Whilst the site is closely related to development limits, there is a lack of information before me to indicate that the proposed development would meet local needs. The proposals have not been put forward as a rural exceptions site (DLP Policy H6).
9. The Council can currently demonstrate a 5.3 year supply of deliverable housing land. This differs markedly from the previously published figure of 17 years¹. Nonetheless given the very recent adoption of the DLP, and lack of evidence to suggest that the supply has fallen below 5 years, paragraph 11 of the Framework is not triggered.
10. The site is located within easy reach of local services, and on my site visit I noted the existence of a footway leading the short distance into the village centre. Nonetheless the accessible location of the site does not in itself justify the development of a greenfield site which is contrary to the newly adopted development plan.

¹ As at 1 April 2021

11. To conclude on this main issue, I find that the location of the proposed development beyond the development limits of the rural village of Sadberge is contrary to DLP Policies H3, H7 and SH1 which together seek to restrict inappropriate and unsustainable development in the countryside.

Character and Appearance

12. The appeal site comprises a grassed field bounded on three sides by existing vegetation with the east side continuing into a larger open field. Gardens of modern detached dwellings situated on Abbey Road are separated from the site by an access track and an area of open play space. Elsewhere the site is surrounded by an arable landscape, with the A66 dual carriageway bypassing the village to the south. The site assists in the transition of the village to the rural landscape beyond. On my site visit I found that there is a clear distinction between the eastern end of Stockton Road with its more verdant and rural appearance, and the built up area of the village demarked by the 30mph speed limit and dwellings which have direct access to Stockton Road.
13. DLP Policy DC1 requires the design of new development proposals to demonstrate that they reflect the local environment and create an individual sense of place with distinctive character and to respond positively to the local context. It seeks for the layout to complement and enhance the character of the environment, retaining existing features of interest. More detailed guidance on design principles is contained within the Council's Supplementary Planning Document 'Design of New Development' (the Design SPD). In particular, part 4.5 refers to local distinctiveness.
14. I concur with my colleague² that, spatially, development on the appeal site would 'round off' development on this side of the village between existing development and Stockton Road. However, the openness of the eastern boundary would give rise to longer range views of the site. The existing mature front boundary hedge currently provides a good level of screening, but much of this would be removed to enable the proposed access and required visibility splays. Whilst landscaping could be secured by condition, there is limited space for planted screening and a 'hard' edge to the development would ensue from both the dwellings and the acoustic fence.
15. I acknowledge that there are modern dwellings in the vicinity of the site which are of varying designs. However the submitted design and access statement fails to identify the local context, nor does it explain how local distinctiveness and the surrounding landscape has been considered within the design. The layout appears to respond to the constraints of the site and the location of the access rather than an attempt to provide a sympathetic transition to the countryside beyond, nor does it form an attractive 'gateway' into the village.
16. The development would be inward-facing, with the public view from Stockton Road being dominated by the relatively featureless side elevations of the nearest dwellings. A number of visitor car parking spaces within the area of green space to the front would also disrupt what could otherwise be a pleasant entrance to the site.
17. The Council has referred to a nearby site where the appellant has used identical house types. The details of that scheme are not before me,

² APP/N1350/W/19/3240897

nonetheless the use of generic house types weighs against this proposal where a high standard of design and use of vernacular detailing would be expected in this edge of settlement location.

18. I therefore find that the design and layout of the proposed development would result in harm to the character and appearance of the site and its surroundings, contrary to DLP Policy DC1 and the Design SPD, together with national policy set out in section 12 of the Framework and the National Design Guide which seek to achieve well-designed places.

Conservation Area

19. In compliance with my statutory duty under Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Sadberge Conservation Area (CA).
20. The CA is centred around the historic core of the village of Sadberge. Its rural hilltop location containing a church, public house and traditional cottages and farmhouses grouped around wide green verges contribute to its significance as a whole. The character of the CA evidently alters towards Stockton Road and Norton Road, where mid to late 20th century housing development is located. Here the land lies downhill from the centre of the village, beyond what is described as 'the triangular field', an undeveloped area which positively contributes to the significance of the CA.
21. Glimpses of a small number of buildings within the CA from the eastern end of Stockton Road are possible. However the gently sloping landform and boundary vegetation of the triangular field give the central historic core of the village in the CA a clear visual separation from the appeal site and nearby modern housing development. Consequently, I agree with my colleague's comments in the previous appeal decision that the appeal site does not perform a significant function as a gateway to the CA. I consider the contribution it makes to the significance of the setting of the CA is neutral.
22. Whilst I have found that the design and layout of the proposed development would result in harm to area character and appearance, I do not consider that this harm would extend to the setting of the CA given the lack of inter-visibility. As such, the character or appearance of the CA as a whole would be preserved.
23. The proposal would comply with DLP Policy ENV1(b) in terms of its effects on the setting of the CA. It would also accord with Chapter 16 of the Framework regarding the strong level of protection it affords designated heritage assets, including that great weight should be given to the asset's conservation.

Biodiversity

24. The evidence before me suggests that the habitat conditions of the site and its surroundings, including the presence of a pond and boundary vegetation, have potential for the presence of species protected under the Wildlife and Countryside Act 1981 (WCA) and the Conservation of Habitats and Species Regulations 2017. I have a duty to consider the extent to which the presence of protected species may be affected by the proposed development before planning permission is granted.

25. To facilitate the access and visibility splays on Stockton Road, the pond and a range of boundary vegetation would need to be removed. The appellant has submitted a range of documents³ to support their proposals in this respect. Whilst the original ecological report is now over three years old, update walkover surveys were carried out more recently and noted no significant change. I am satisfied that the site is of low ecological value, being dominated by improved grassland. I acknowledge that the pond has the potential to provide a habitat for great crested newts, however the surveys found it to be of 'poor' suitability to support this particular species. The Council have raised no concerns in this respect. In the absence of definitive recent information to the contrary I am satisfied overall that there is sufficient information to establish the presence of protected species. If I were to allow the appeal, it would be reasonable to impose a condition requiring an updated walkover survey and a finalised ecological management plan to be submitted prior to commencement of development in the event of permission being granted.
26. DLP Policy ENV8 expects development to demonstrate an achievement of biodiversity net gains (BNG) using the Defra Biodiversity Metric. If on-site provision is shown to be insufficient, off-site compensatory measures may be sought where justified. No assessment of BNG, nor a landscape plan to identify the areas for habitat enhancement creation, were submitted as part of the planning application. Furthermore, provision of 10% BNG is now mandatory as part of the Environment Act 2021. A document⁴ has since been put to me as part of the appeal in response to these requirements.
27. The document includes the application of the Biodiversity Metric 3.0 which confirms that the proposed scheme would result in excess of 10% BNG: a 17.63% gain on habitat units and a 20.41% gain on hedgerow units. A landscape plan for BNG is also included to indicate the areas of the site which would accommodate the planned biodiversity enhancements.
28. I am satisfied that the additional information adequately demonstrates that proposed development would not result in an overall net loss of biodiversity. An exceedance of 10% BNG could be achieved on site through implementation of the landscape plan, subject to an appropriately worded condition to secure the detail of the proposed pond and planting together with details of appropriate future management. As such, the proposed development would be in compliance with DLP Policies ENV7 and ENV8 which expect development to minimise the impact on and provide net gains for biodiversity, avoid or mitigate adverse impacts upon protected species, and to provide adequate compensation measures on site. In turn, the proposal would also be in accordance with paragraphs 174(d) and 180 of the Framework.

Other Matters

29. A number of appeal decisions have been put to me. The decisions all have limited bearing on my decision given that they are for varying scales of development in different locations, and they are in the context of the previous development plan.

³ Preliminary Ecological Appraisal Report (June 2018), Tree Survey Report (August 2018), Outline Ecological Management and Monitoring Plan (December 2020)

⁴ Appendix 1, Response to LPA's Case December 2021 – Biodiversity Metric 3.0 and Landscape Plan for Biodiversity Net Gain

30. Numerous other matters have been raised by local residents. As I am dismissing the appeal on the main issues for the reasons given above, I have not addressed these matters further. No details have been provided regarding the Sadberge Plan as mentioned by the Parish Council. It does not appear to form part of the Development Plan therefore I have not made reference to it in my findings.
31. The appellant has submitted a completed and signed Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990. It includes an obligation relating to a sustainable transport contribution which was requested by the Council's Transport Planning Manager and is supported by the Council's SPD on Planning Obligations. Notwithstanding the lack of comments from the Council on the UU, I am satisfied this obligation would meet the tests set out in Regulation 122(2) of the Community Infrastructure Regulations 2010 (as amended) and reiterated at paragraph 57 of the Framework ('the tests').
32. The description of development refers to five affordable housing units (20% as required by DLP Policy H5). However the provision of such housing is not shown on the site layout plan nor secured as part of the UU. Instead, a condition is suggested by both parties for a scheme to be submitted. Even if I were minded to allow the appeal, such a condition is unlikely to meet the tests set out in paragraph 56 of the Framework. I am therefore unable to take the provision of affordable housing into consideration in the planning balance.

Conclusion

33. I am in agreement with the appellant that the proposed development would preserve the character or appearance of the Sadberge CA, and it would meet local and national requirements for BNG. Nonetheless, I have found that the proposal would conflict with the DLP in terms of its location in the countryside and would harm the character and appearance of the site and its surroundings. This harm would not be outweighed by any benefits including those secured by the UU and the stated generic economic and social benefits, even when taken together. The proposal conflicts with the development plan as a whole and there are no other considerations which outweigh this finding. Therefore, for the reasons given, and having had regard to all other matters raised, the appeal is dismissed.

Susan Hunt

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